



An
Bord
Pleanála

Inspector's Report

ABP-307561-20

Development	Construction of 42 residential units. Alterations to existing road network and demolition of plant building before construction of new plant building.
Location	Whitehall, Paulstown , Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	19608
Applicant(s)	John Staunton.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	John Staunton.
Observer(s)	Whitehall Residents Group.
Date of Site Inspection	12 th January, 2021.
Inspector	Stephen Kay

1.0 Site Location and Description

- 1.1. The Appeal site is located within the village of Paulstown and is located to the west of the village centre and within the development boundary for the village. The site comprises two distinct parcels of land that are located on either side of an existing residential estate (Whitehall). The site is located approximately 500 metres to the east of Junction 7 on the M9 motorway.
- 1.2. The western part of the site adjoins the R712 regional road that connects the village with junction 7 on the M9. Housing within the existing Whitehall development bounds the site to the north east and south west of this western part of the site, and there is a detached house located at the far south west corner of this part of the site.
- 1.3. The area of land to the east is bounded by the Whitehall development to the west and north west and largely undeveloped lands to the south east and south west. This site is relatively flat and is currently in agricultural use. The effluent treatment system that serves the Whitestown development is located at the southern end of this part of the site.
- 1.4. The existing Whitehall development is accessed via a local road (L-2625) that connects the R712 with the village centre approximately 300 metres to the east. The main area of residential development in the vicinity of the site lies to the east and south east of the appeal site and to the south of the village centre.
- 1.5. The stated combined area of the site is 0.8492 ha.

2.0 Proposed Development

- 2.1. The proposed development comprises a residential development of 42 no. residential units located on two parcels of land located to the north west and south east of the existing Whitehall estate. The residential mix proposed is as follows:
 - 22 no. three bedroom semi-detached units,
 - 2 no. three bedroom detached,
 - 4 no. four bedroom semi-detached,
 - 5 no. four bedroom detached,

- 2 no. three bedroom terraced and
- 3 no. two storey apartment buildings each containing two one bedroom apartments. A total of 6 no. one bed apartments is therefore proposed.

2.2. With the exception of 4 no. detached houses that are proposed to front onto the local road to the east of the existing Whitehall estate, access to the development is proposed to be via the existing estate access to the Whitehall development from the local road to the north and then via the proposed vehicular access points from the existing estate road. A pedestrian access between the residential development on the eastern side of the site and the local road located to the north of the site is proposed.

2.3. As initially submitted to the Planning Authority, the development is proposed to be connected to the existing foul drainage and water supply networks. The development as initially submitted also proposes the demolition of the existing foul drainage plant building located on the eastern part of the site and the construction of a new plant building to be located towards the northern end of the eastern side of the site. During the course of the assessment by the Planning Authority revised proposals for the installation of an on site water supply were submitted. As part of the first party appeal, proposals for the installation of an on site effluent treatment system have also been submitted.

3.0 Planning Authority Decision

3.1. Further Information

Prior to the issuing of a Notification of Decision the planning authority requested further information on a total of 15 no. issues which include the following. Address issues regarding a lack of foul drainage and water supply capacity and the proposed use of a temporary water supply borehole given the previous problems with bored water supply on the site.

- Proposals for the re routing of a section of sewer of c.65 metres in length that runs through the existing Whitehall estate and which would form part of the network serving the proposed development.

- Schedule of the rear gardens and private amenity spaces to all units.
- Proposals for compliance with section 51.3 of the plan regarding positive aging and the provision of at least 2 no. units suitable for the elderly.
- A number of specific concerns regarding the proximity of proposed and existing houses and the impact on residential amenity.
- Noted that the proposal, together with the existing development, would bring the number of houses to 77 no. and therefore above the threshold for a childcare facility. Compliance with section 5.8.1.1 of the plan is required.
- Letters from local national school and childcare providers regarding capacity,
- Details of elevation and presentation to the R712.
- Lack of public open space for phase 1 of the development noted. This is not acceptable and proposals for public space for this phase required.
- Details of turning movements within the sites fronting the local road at the north east corner of the site,
- Submission of swept path analysis for refuse vehicles and also for access to car parking spaces. Submission of a parking assessment is required and also potential for connection of the site to the adjoining playground.
- Noted that the surface water attenuation calculations do not take account of the entire surface area of the development and revised calculations are required.

Note, the correspondence on file does not contain all items of the FI request and I have supplemented the available information with the copy available on the Kilkenny Co Co website.

The following is a summary of the main revisions to layout and information submitted in response to the request for further information.

- Report from Kilgallen and Partners Consulting Engineers indicating that the services are sufficient to cater for the proposal. Report also submitted indicating that the proposed new borehole will not adversely impact on other water supplies.

- Report and drawings indicate that the existing foul sewer is located under the public footpath and not within private gardens or under dwellings.
- That the original application included a Housing Quality Assessment which includes the schedules of areas of open space. A revised assessment submitted with the FI showing compliance of all open space areas.
- Units 18 and 23 designed to comply with the policy regarding old age housing.
- The overall number of units proposed is reduced to 39 no. which, added to the existing 35 no. houses in Whitehall brings the total to 74. A childcare facility is not therefore required.
- Letter from principal of local national school indicates that the number of students is predicted to fall slightly over coming years.
- Details of the frontage to the R712 presented which comprises a 800mm high plastered wall with 300mm high railing on top. Contiguous elevation presented.
- Detailed schedule of boundary treatments presented on Drgs. 1707-P-040/041/042/043/044/045.
- That public open space to serve the existing houses is shown on the submitted drawings and exceeds the 10 percent of site area requirement.
- Site plans submitted showing minimum 22 metre separation distances, and also shadow projection diagrams presented which show that there will not be any significant impact on light.
- Detail of brick type / specification submitted.
- Swept path analysis showing access presented. Details of car parking showing compliance with plan also presented and increased site area to front of houses facing the local road proposed to enable turning within the sites.
- Revised surface water calculations presented by Kilgallen and Partners that accounts for the entire site area.

3.2. Decision

The Planning Authority issued a Notification of Decision to Refuse Permission for two reasons that can be summarised as follows:

1. That the proposed development is located within the smaller settlement of Paulstown where council policy (section 3.3.5.3 and Objective 3G of the Kilkenny County Development Plan, 2014-2020) is for the orderly provision of housing and improved village facilities depending on the capacity of the existing services in the settlement. The water and wastewater services are currently at capacity in Paulstown with no clear timeline for completion of the upgrade works required and such that the proposed development would be premature pending the completion of the upgrade works necessary.
2. That the applicant has failed to demonstrate that the temporary borehole to serve the development would not result in a negative impact on neighbouring wells and water supplies in particular Choill Rua and Tobergoorlick in the vicinity of the site. It is also considered that the proposed waste water treatment connection would result in the Paulstown WWTP becoming non-compliant with its discharge licence and emission limit values and therefore being contrary to the EC Environmental Objectives (Surface Water) Regulations, 2009 and impacting on the River Barrow and River Nore SAC.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The initial report of the Planning Officer notes the content of the third party submissions and reports on the development, including those from the Environment Section and Irish Water. A significant number of issues of concern are raised including around drainage, water supply, layout, access, and open space provision. Second report subsequent to the submission of further information recommends refusal of permission consistent with the Notification of Decision which issued.

3.3.2. Other Technical Reports

Road Design – Initial report recommends further information. Second report recommends conditions relating to lighting, sight lines at site entrance, signage, and a road safety audit.

Environment Section – Initial report recommends further information on surface water drainage calculations and proposed water supply borehole. Environment Section reports on file subsequent to the submission of further information indicate no objection on issues of wastes, storm and wastewater, storage of materials and noise. Second report recommends refusal of permission on the basis of prematurity and the impact of the proposed private water supply / borehole on other public water supply sources and the Gowran water supply upgrading works.

Parks Department – No objection. Consider the landscaping proposals to be to a high standard. Note that a contribution towards additional play equipment could be required.

3.4. Prescribed Bodies

Irish Water – Initial report on file recommends that further information is required regarding the alignment of drainage network within existing private areas (houses within the existing Whitehall estate) and also that the existing water and sewerage networks are at capacity.

3.5. Third Party Observations

The following is a summary of the main issues raised in the 28 no. third party submissions received by the Planning Authority:

- Unsuitable development for the village. Specifically, apartments unsuitable and not in keeping with existing estate.
- Development not on zoned land. No plan for the area.

- That the existing infrastructure cannot cope with additional development (water, sewerage, schools, childcare specifically mentioned). Noted that Irish Water state that inadequate capacity regarding both water and foul drainage.
- That permission was previously refused for the development on the basis of water and drainage provision and this remains an issue.
- That the existing estate was developed to a poor standard and has not been taken in charge by the council.
- Traffic hazard and inadequate capacity on the existing estate road.
- Concern around proposed landscaping and impact of trees on existing houses.
- Negative impact on amenity of existing residents including overlooking and overshadowing.

4.0 Planning History

Kilkenny County Council Ref. 00/1712 – Permission granted for the construction of 35 no two storey houses on lands located between the two parts of the current appeal site and which comprises the Whitehall estate.

Kilkenny County Council Ref. 04/1566 – Permission granted for change of house type of units 12-35 permitted under Ref. 00/1712.

Kilkenny County Council Ref. 06/639 – Split decision issued. Permission granted for retention and completion of type of units 12-35 in the Whitehall estate development. Permission refused for an extension to the existing development comprising 36 no. residential units. Permission refused for reasons relating to prematurity pending the adoption of local area plan for the area, sub standard residential layout and inadequate open space and that the layout proposed failed to protect the form and character of the existing settlement.

5.0 Policy Context

5.1. Development Plan

The appeal site is located in Paulstown which is identified in the *Kilkenny County Development Plan 2014-2020* as being a 'small town / village' in the settlement hierarchy for the county, (see Table 3.1 of the Plan).

There is no LAP in effect for Paulstown.

It is noted that while the Figures to the main Volume of the Development Plan include maps that indicate a development boundary for some settlements identified in Table 3.1, including some that are in the 'Smaller Towns and Villages' category, these do not include Paulstown.

The plan does not contain a land use zoning map for such settlements and the settlement has not been the subject of a local area plan. In respect of such towns and villages where there is no LAP and no identified development boundary, Paragraph 3.3.5.1 of the Plan states that '*..... for development management purposes it will be considered as part of the County's rural area i.e. there is no change in its status.*'

Paragraph 3.3.5.3 of the Plan sets out the development objectives for smaller towns and villages and includes that the scale and density of development will depend on a number of factors including:

- Availability of infrastructure including appropriate waste water treatment facilities, water supply,
- Contribution to the enhancement of the village form by reinforcing the street pattern or assisting in the redevelopment of backlands
- Contribution to the protection of the architectural and environmental qualities of the village,
- Capacity of the existing services in the village to accommodate the proposed development.

Objective: 3G of the plan (relating to smaller towns and villages) states that it is an objective:

To facilitate development of housing, economic development, services and infrastructure in the smaller towns and villages of the county at a scale and character which is appropriate in order to sustain and renew population and services in these areas.

Development Management

- For smaller towns and villages, no one proposal for residential development should increase the existing housing stock by more than 12.5% within the lifetime of the plan.
- For villages of under 400 in population, any individual scheme for new housing should not be larger than about 10-12 units.
- The Planning Authority may limit the extent of development on any one site within the smaller towns and villages having regard to the overall water services capacity and the availability of land for development within the village.

Draft Kilkenny City and County Development Plan, 2021

A draft plan covering the city and county areas is currently on public display. Under this draft plan a settlement boundary is identified on a map of Paulstown and it is noted that this indicates that the appeal site is within this identified boundary.

5.2. Natural Heritage Designations

The site is not located within or close to any European sites. The closest such site is the River Barrow and River Nore SAC site (site code 002162) which is located c.3.3km to the south east of the appeal site at the closest point.

It is noted that the existing waste water treatment system for Paulstown discharges to the River Barrow to the east of Paulstown.

5.3. EIA Screening

Having regard to the limited scale relative to the relevant threshold for EIA and to the design and layout of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The following is a summary of the main issues raised in the first party appeal against the Notification of Decision to Refuse Permission:

- That the proposed development would result in an increase in housing within the village of 39 no. units or approximately 11.7 percent increase in the existing village housing stock numbers. This is less than the figure cited in the core strategy in the development plan (12.5 percent) and within the 10-15 percent range set out in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009).
- That the proposed development has addressed all of the reasons for refusal set out in Ref. P06/639, including residential layout, presentation of development to the R.712 and the quality and design of open space areas.
- Noted that the principle of a private water supply and the connection of the proposed development to the foul drainage network was not considered an issue in 2006.
- That no significant development has occurred in Paulstown since 2006 (refusal of Ref. P06/639) other than the construction of the motorway service area permitted under Ref. PL10.243782.
- Submitted that there are no grounds for objection to the proposed development if solutions to the water and wastewater issues can be found.

- That the initial consultation with Irish Water indicated that there was capacity in the foul drainage network and that a connection was feasible without any upgrades. It was only subsequently that Irish Water changed their position and determined that the development could not be accommodated without exceeding ELVs. Submitted that it is unclear if it is a capacity issue, a treatment quality issue or both.
- That the only development since 2006 was the motorway services and this was granted following permission to connect to the Irish Water network following on site treatment and a loading estimated at 97 p.e. per day. It is assumed that this development absorbed the capacity that existed in 2006.
- Noted that permission was granted by the council for a motorway services development in Mullinavat, (Ref. 17/456) subject to connection of the development to the public sewer. It subsequently emerged that the capacity in the sewerage network was not capable of taking the additional loading and permission was therefore granted (Ref. 18647) for a temporary on site treatment system with conditions requiring a waste water discharge licence (Condition No. 3) and connection to the upgraded sewer within 12 months of permission (Condition No. 7).
- Having regard to this, the Board is requested to consider a similar approach in the subject case with permission granted on the basis of a temporary on site waste water treatment system. Permission should be subject of conditions requiring site suitability tests and, where feasible, design and install a temporary waste water treatment system which would, subject to a waste water discharge licence, discharge to ground. On completion of the upgrade of the public system the development would be connected to the public mains.
- The Board is also requested to grant permission for a period of 10 years that would address the issue of a possible delay in the upgrade of the Paulstown WWTP in the event that temporary on site treatment is not feasible.

- The appeal is accompanied by a supplementary hydrology report (prepared by O’Callaghan, Moran and Associates) which addresses the issues raised by Irish Water regarding the potential impact of the on site water supply on other public supplies. The report concludes that the proposed temporary well poses no risk to the Chill Rua and Tobergorlick water supplies.
- Submitted that the request for further information and subsequent response adequately addresses the issues raised in the third party submissions. Noted that the Planning Authority had no concerns with regard to the scale, layout, and design of the proposed development.
- That permission can be granted on the basis of a temporary on site treatment system or alternatively that permission be conditioned such that it can only proceed following the upgrading of the public waste water treatment system in the village.

6.2. Planning Authority Response

The initial response of the Planning Authority to the grounds of appeal were returned due to being received after the specified date for receipt of submissions. On foot of a s.132 request, the following response to the grounds of appeal was received from the Planning Authority:

Waste Water Treatment

- That the nature of the motorway service development is different to that of the proposed development on the appeal site and any failure / non compliance is confined to the developer.
- The potential environmental implications of failure of a privately run scheme are significant.
- Historically private wastewater treatment systems such as that proposed have not been a success. Significant bonding would be required to ensure a replacement system in the event of failure.
- That the site is not serviced by a municipal waste water treatment plant and should be refused.

Water Supply

- That the provision of a private water treatment plant for housing at this location should not be considered.
- That the supplemental hydrological report submitted is considered to be a desk exercise and does not provide a sufficiently robust assessment to enable a grant of permission to be considered.
- Notwithstanding this, the provision of a private water supply to serve the development would require substantial bonding and the possibility of an alternative water supply.
- Overall, submitted that the planning authority consider that the development is premature pending the upgrading of water and wastewater facilities and particularly as there is no definitive timescale within which these deficiencies can be expected to be remedied.

6.3. Observations

An observation has been received from the residents of the Whitestown Estate and the following are the main issues raised in this submission:

- That the principle of development of these lands has not been established and it is noted that there is no LAP in place for Paulstown. The site is not zoned for any specific use.
- That the facilities in Paulstown are not adequate to cater for the proposed development. This includes the capacity of the local school and availability of creche / childcare spaces.
- That Irish Water have confirmed that there is not adequate capacity in the Paulstown systems to facilitate the proposed development.
- That no proposals for temporary treatment systems were made with the application and to make such proposals at this stage is a significant departure from the original application. Any such system needs to be subject to relevant EPA assessment and local authority licence.

- That contrary to the statement of the first party, no pre connection enquiry was made to Irish Water. Irish Water has confirmed this and that Paulstown WWTP does not have capacity for the proposed development.
- That Irish Water have confirmed that there are no plans for the upgrading of the Paulstown plant. Correspondence confirming this submitted with objection to the planning authority.
- Reference in the appeal to a temporary waste water treatment plan being permitted for a service station at Mullinavat is noted, however this proposal was the subject of EPA site assessment as well as other relevant ecological assessments. It is not appropriate for the first party to request the Board to grant permission subject to condition requiring such site assessments.
- It should also be noted that in the Mullinavat case, the applicant was a commercial operator and there was a clear basis for maintenance of the proposed system.
- Noted that a 10 year permission is sought, however Irish Water have not given any indication that the Paulstown WWTP would be upgraded within that timeframe.
- That no detailed hydrological investigation has been presented that indicates that the proposed temporary borehole for water supply will not have an adverse impact on existing water supplies at Chill Rua and Tobergorlick.
- That the drawdown and yield testing undertaken was in February 2020, a month of very high rainfall. The results do not therefore reflect a worst case scenario and testing should have been undertaken during the summer months.
- That laboratory testing of the boreholes indicates a high level of contamination. It is proposed to provide a cryptosporidium and coliform treatment system that would treat the water which is not considered appropriate for a system owned by private property owners.
- That the sample results indicate high levels of nitrate in the single sample collected. Analysis of nitrate levels should be based on multiple samples.

- Elevated nitrate levels can be very difficult to treat with resulting costs and obligations for the residents in the future.
- That contrary to the statement of the first party appeal, not all of the issues raised in the objections to the development (other than water supply and drainage issues) have been addressed. Concerns remain about the use of the existing estate access road and traffic safety, the lack of a plan for the area, and the fact that an application for development of the lands was refused in 2006 for the reason that there was no LAP for the site. The reasons for refusal in this case (Ref. 06/639) remain valid.

6.4. Further Submissions

An observation on the appeal was received from Irish Water however this submission was returned by the Board as it was received outside of the period for receipt of observations. The comments of Irish Water were requested by way of s.132 request however no response was received within the time period specified in this notice (15th February, 2021).

7.0 Assessment

7.1. The following are considered to be the main issues in the assessment of this case:

- Principle of Development and Compliance with Zoning / Core Strategy
- Design, Residential Layout, and Impact on Amenity
- Traffic and Access Issues
- Drainage and Water Supply,
- Other Issues
- Appropriate Assessment.

7.2. Principle of Development and Compliance with Zoning / Core Strategy

- 7.2.1. The appeal site is located in Paulstown which is identified in the Kilkenny County Development Plan 2014-2020 as being a '*small town / village*' in the settlement hierarchy for the county, (see Table 3.1 of the Plan). The lands that comprise the appeal site are not zoned for any particular purpose and there is no settlement boundary identified in the development plan. With regard to such areas, Paragraph 3.3.5.1 of the Development Plan states that '*..... for development management purposes it will be considered as part of the County's rural area i.e. there is no change in its status.*'
- 7.2.2. Paragraph 3.3.5.3 of the Plan sets out the development objectives for smaller towns and villages and includes that the scale and density of development permitted will depend on a number of factors including the availability of infrastructure, contribution to village form, protection of existing amenities and the capacity of existing services to accommodate development. Considerations relating to infrastructure are addressed in later sections of this report and form the basis for the Notification of Decision to refuse Permission issued by the Planning Authority. The appeal site is located contiguous to the existing developed part of the village and is within what could be considered to comprise the development boundary of the village as identified by the approach on the R712. It is also noted that the recently published *Draft Kilkenny City and County Development Plan, 2021* includes a map of Paulstown which shows the appeal site as within an identified development boundary. For these reasons I consider that, in principle, the appeal site is suitable for residential development.
- 7.2.3. I note the fact that permission was refused in 2006 for the development of the appeal site (Ref. 06/639) for reasons that included the absence of a local area plan. At the time of the assessment of Ref. 06/639, the report of the Planning Officer indicates that the preparation of a local area plan was in progress and that to grant permission in advance of the finalisation of such a plan would therefore be premature. From a review of the Kilkenny County Council website, it does not appear that any LAP for Paulstown was ever adopted and the preparation of such a plan is not an objective of the current County Development Plan. For these reasons, and having regard to the fact that the appeal site is included within the development boundary for Paulstown as identified in the *Draft Kilkenny County Development Plan 2021*, it is not

considered appropriate that permission would be refused on the basis of prematurity pending the adoption of a LAP for the area as requested by the observers to the appeal.

- 7.2.4. Plan policy indicates that no one residential proposal should increase the existing housing stock by more than 12.5% within the lifetime of the plan. In the case of Paulstown, the 2016 Census indicates that the recorded population was 905 persons and the number of houses was 334. At 11.6 percent of the existing housing stock, the proposed development of 42 no. residential units (reduced to 39 on foot of the further information response) is therefore consistent with the requirements of the development plan. As noted by the first party, the scale of the proposed development in terms of number of units is also consistent with the maximum 10-15 percent increase in units in smaller towns and villages specified in the Sustainable Residential Development Guidelines for Planning Authorities (2009).

7.3. Design, Residential Layout, and Impact on Amenity

- 7.3.1. The basic design involves the use of the existing Whitehall estate road and access onto the L-2625. In principle, this is considered acceptable and I note the fact that the layout of the Whitehall estate as constructed has provided for vehicular access to the adjoining lands that form the current appeal site.
- 7.3.2. **Finishes** to the proposed units comprise a mix of render with elements of brick to the facades and are considered to be acceptable and generally consistent with the existing form of development in the Whitehall estate.
- 7.3.3. The overall **mix of units** varies from that already constructed in the Whitehall estate with 8 no. four bed units, 22 no. three bedroom units, 6 no. two bedroom and 6 no. one bedroom units. When combined with the existing development that contains a mix of three and four bedroom units and having regard to the location of the development in a smaller town / village setting, I consider that the proposed residential mix is acceptable and consistent with the principles set out in Sustainable Residential Development Guidelines for Planning Authorities (2009).

- 7.3.4. The overall **density of development** is indicated on the Site Layout Plan submitted as part of the response to further information (Drg. No. 1707-P01) as being approximately 20.7 units per ha. and that the overall density of the proposed development taken together with the existing Whitehall estate would equate to approximately 22.7 units per ha. These densities are low even for an edge of centre location such as the general environs of the appeal site and it is noted that the Sustainable Residential Development Guidelines for Planning Authorities (2009) recommend a density range of 20-35 units per ha. for such sites.
- 7.3.5. **Public amenity space** is proposed to be provided in both parts of the appeal site and an additional area of open space is indicated to the immediate south of the existing Whitehall estate access road which is indicated as being for the use of the existing Whitehall estate which currently has no open space provision. This area of open space is completely separate from the existing houses and would be of a poor standard in terms of amenity and passive surveillance and is also not within the boundary of the existing application. Similarly, the area of public open space located at the southern end of the western parcel of land is also considered to be poorly laid out and of poor amenity value. Open space provision on the eastern parcel of land is greater relative to unit numbers, however this large area is bounded by estate roads and parking reducing its amenity value. Overall, while the area of public amenity space proposed constitutes approximately 11.5 percent of the total site area (existing Whitehall and proposed new development) and is therefore above the 10 percent minimum set out in the Sustainable Residential Development Guidelines, I have concerns with regard to the quality and usability of some of this space. The issue of the layout and quality of public amenity space is not specifically raised in the grounds of appeal and is such that I consider it would constitute a new issue in the assessment of this case. Therefore, given the substantive reasons for refusal relating to water supply and drainage, it is not recommended that permission would be refused on this basis.
- 7.3.6. With regard to **private amenity space**, the response to the request for further information included a schedule of areas which shows that all units meet the requirements of the development plan and the Sustainable Residential Development Guidelines.

- 7.3.7. Internal layouts of the proposed units are considered to be acceptable and consistent with the requirements of the Apartment Guidelines and with the provisions of the development plan.
- 7.3.8. In terms of **overlooking** and potential impacts on **residential amenity** arising from the proposed development, a number of specific issues were identified in the request for further information and revisions made to the site layout as a result. Drg. No. 1707-P-010 shows this revised layout. Back to back separation distances between existing and proposed houses on the eastern part of the site are generally above the 22 metre minimum although the separation between proposed unit No.18 and the existing houses at the south east corner of the site is in my opinion excessively close notwithstanding the oblique relative angles of the houses and would require some revision by way of condition in the event that a grant of permission was being considered. On the western side of the site, separation distances between existing and proposed dwellings are considered to be acceptable and are in excess of 22 metres where directly opposing windows are proposed. The relationship between units within the proposed development are considered acceptable in terms of overlooking and amenity.
- 7.3.9. I note the fact that the decision to refuse permission for residential development on the site under ref. 06/639 included a reason relating to the visually prominent location of the site on the approach to the village and to the fact that the suburban style of layout proposed would fail to protect the setting form and character of the existing village. The planners report in the case of Ref. 06/639 notes the fact that on opening of the M9 (since completed) the frontage onto what is now the R712 to the west of the site has the potential to become a street rather than the national route that it was in 2006. I consider that the proposed layout could have more presence onto this R712 road frontage which would significantly improve the entrance to the village from the M9 junction 7 direction. While the proposed layout has units facing towards the R712, these units are accessed via the internal estate road. Had some units been sited directly fronting the R712 it would in my opinion have resulted in more animation to the R72 and a better entrance to the village from the M9. This issue is not directly raised in the grounds of appeal and would therefore constitute a new issue in the assessment of this appeal. Given the substantive reasons for

refusal relating to drainage and water supply it is not therefore recommended that permission would be refused on this basis.

- 7.3.10. The issue of service provision in the form of ***schools and childcare*** was raised as part of the request for further information issued by the Planning Authority. A letter from the local national school was submitted which indicates that while the number of students enrolled is projected to fall slightly in coming years, the school will remain very busy. With regard to childcare, as part of the response to further information, the first party reduced the number of units proposed by 2 no. units (from 42 no. to 39 no.) and such that when combined with the existing Whitehall development the overall number of units in the development would be 74 no. It is contended by the first party that the proposed development does not therefore require the provision of a childcare facility as the number of units would be less than 75 no. This is noted as is the rather limited information submitted with the application regard to the existing childcare / creche provision in Paulstown and surrounding towns and villages. While the first party is correct that the scale of development does not require a dedicated childcare facility to be provided it is my opinion that in the event that a grant of permission was being considered, more information regarding existing availability is required, notwithstanding the referenced issues regarding the compilation of this information in the current environment. The issue of inadequate provision of childcare facilities and lack of school places is raised by the observers to the appeal and is not therefore a new issue in the assessment of the subject appeal.

7.4. Traffic and Access Issues

- 7.4.1. Access to the site for vehicular traffic is proposed to be via the existing Whitehall estate road and via the L-2625 local road to the north east of the site. The observation on file raises a number of concerns with regard to the use of the proposed access in terms of its capacity to accommodate the additional traffic proposed. In terms of carriageway width, the road has the capacity to accommodate no. residential units that would result from a grant of permission. The access to the adjoining lands to the Whitehall estate that comprise the appeal site is in my opinion acceptable and these access points have been designed as part of the initial phase of the Whitehall estate to serve the adjoining lands.

- 7.4.2. **Parking** is proposed to be provided at a rate of 2 no. space per residential unit and the existing Whitehall development has a general provision of 2 no. spaces per unit with some additional visitor parking. In the proposed development, the western side of the site indicates a total of 36 no. spaces (all located outside the curtilage of the houses) to serve the proposed 17 no. units. Given the 6 no. one bedroom units, this allocation is considered to be acceptable. On the eastern side of the site, 2 no. spaces per residential unit are proposed with an additional 7 no. visitor spaces.
- 7.4.3. Visibility at the access from the site to the L-2625 is acceptable and consistent with the requirements of DMURS for a minimum sight line of 49 metres in each direction. Pedestrian connections that connect with the existing footpath network within the Whitehall development are proposed and this links with the existing footpath network on the L-2625.
- 7.4.4. I note the fact that pedestrian connections from the proposed development to both the R712 and from the eastern part of the site to the L-2625 are proposed. I also note a number of concerns raised in the third party observation on file regarding these connections, specifically relating to security and the creation of a pedestrian route or shortcut through the proposed enlarged Whitehall estate. I do not have any issue with regard to these proposed pedestrian connections and consider that they are desirable from the perspective of pedestrian permeability and overall amenity. From an inspection of the plans, I do not see that the concerns regarding the creation of a through route via the housing development connecting the R712 and the L-2625 would be likely to materialise and the route is such that travelling around the perimeter of the site via the R712 and L2625 would be a shorter and more direct route.

7.5. **Drainage and Water Supply,**

- 7.5.1. The basis for the refusal of permission issued by the Planning Authority relates to the fact that firstly, there is considered to be inadequate foul drainage capacity to accommodate the proposed development on the site and secondly, that the proposed bored water supply on the site would have a negative impact on existing public water supplies in the area and specifically on the water supplies at Choill Rua and Tobergoorlick in the vicinity of the site. It is also considered that the proposed

waste water treatment connection would result in the Paulstown WWTP becoming non-compliance with its discharge licence and emission limit values and therefore being contrary to the EC Environmental Objectives (Surface Water) Regulations, 2009 and impacting on the River Barrow and River Nore SAC.

- 7.5.2. Before proceeding to consideration of the foul drainage and water supply issues arising in the proposed development and the submissions related to these issues, I note that the first party appeal highlights the fact that the principle of a private water supply and the connection of the proposed development to the foul drainage network was not considered an issue in 2006. It is also stated by the first party that no significant development has occurred in Paulstown since the 2006 refusal of permission on the appeal site (Ref. P06/639) other than the construction of the motorway service area to the west of the site permitted under ABP Ref. PL10.243782. Regarding this point firstly, it is the circumstances regarding water and drainage applying at the time of assessment that are relevant and, in this case, what has to be considered is the current information before the Board with regard to capacity in the public foul drainage and water supply systems. This is undertaken in detail below. It would indeed appear that foul drainage capacity was not raised as a reason for refusal of permission on the site in 2006, however I do not see that this is directly relevant to the current assessment. In addition, based on the available CSO census figures, it would appear that the population of Paulstown has risen from 598 no. persons in 2006 to 905 no. persons in 2016 which is an increase of more than 50 percent. Together with the motorway services development constructed in the interim, this would indicate to me that the loading on the Paulstown wastewater treatment infrastructure has clearly increased since the time of the 2006 application on the appeal site.

Water Supply

- 7.5.3. With regards to water supply, the application as initially submitted to the Planning Authority proposed the connection of the development to the public water supply. On foot of a request for further information, the proposed source of water supply was changed to an onsite bored well as the existing water supply network in Paulstown is at capacity. Subsequent to the submission of further information, correspondence from Irish Water identified that connection to the public water supply is dependant on a proposed upgrade to the Gowran water supply which is scheduled to commence in

2022. No date for the completion of these upgrade works is available. On the basis of the information presented and on file, and specifically the comments of Irish water, I am satisfied that there is not an adequate public water supply available to serve the development. On the basis of the available information, it is also my opinion that there is a lack of clarity regarding the likely timescale within which the identified deficiency in the public water supply can be expected to be resolved such that a grant of permission on the basis of connection to the public water supply would be premature. During the course of the assessment of the application by the Planning Authority the first party has proposed that water supply for the development would be by means of a new bored well and water treatment on site and this option is considered in the sections below.

7.5.4. With regard to the proposal for the use of a borehole as a temporary supply pending the upgrading of the public supply, Irish Water note that the hydrology report submitted with the further information does not take account of the potential impact of the new borehole on Irish Water sources at Choill Rua immediately to the north west and Tobergoorlick Pool to the south. Permission was refused (Reason for Refusal No. 2 attached to the Notification of Decision issued) particularly on the basis of the potential impact of the proposed temporary borehole on these two identified Irish Water supplies.

7.5.5. The first party appeal includes a brief assessment prepared by O'Callaghan Moran and Associates regarding the potential impact on the Irish Water sources. This assessment notes that the Choill Rua source is located c.0.5km to the north west of the appeal site and that the pump house for the Tobergoorlick source is located c. 1.7km to the south of the site. It is contended that the zone of contribution of the proposed temporary borehole extends c.175 metres to the south of the site and such that it would not therefore impact on the Choill Rua supply. From the information available however it is not apparent to me how this conclusion has been reached. Specifically, there is no detail as to how the zone of contribution of the proposed borehole on site was calculated / assessed. Specifically, while one bore hole was drilled on the site, there do not appear to have been any pump tests undertaken or investigative boreholes drilled to confirm the statements regarding the zone of contribution and the impact on the Choill Rua supply.

- 7.5.6. Similarly, with regard to the Tobergoorlick source, the first party appeal notes that the proposed temporary borehole on the appeal site would be located within the identified zone of contribution for that source. Based on the OSI information, it is contended by the first party that there is an average supply of c.5400 cubic metres of water to the springs, that the current yield is c.2250 cubic metres per day, and therefore that there should be ample remaining supply to serve the proposed temporary borehole (estimated at 17 cubic metres per day). The information presented would appear to show that a temporary source would likely have a limited impact on the Tobergoorlick public supply, however the analysis presented is relatively basic and has not been verified as acceptable by either Irish Water or the local authority. The response received from the local authority specifically states that the information submitted '*does not provide a sufficiently robust assessment of the impacts in order to allow a grant of permission*'. It is also noted that, with both supplies, the area in question is characterised by karst and the impacts are likely therefore to be difficult to model accurately.
- 7.5.7. I also note the comments contained in the reports on file from the Water Services Section of the council that the existing Whitehall residential development was the subject of contamination and poor maintenance and such that it had to be connected to the public supply. The quality of the supply that would be available was the subject of some discussion in the response to further information at Planning Authority stage, with particular issues raised regarding the potential for contamination which was previously experienced on the site. The solution as presented involves the use of a water treatment system on the temporary borehole including UV treatment, filtration, and chlorination (see water treatment plan submitted as Appendix E to the engineering report submitted as part of the response to further information). The level of infrastructure and associated investment required for the proposed temporary borehole is therefore significant and, in addition to the potential impacts on other sources, it is my opinion that valid questions regarding the viability of the proposed solution have been raised by the third party observers. The issue of viability of the proposed solution and the need for substantial bond requirement to cover the risk of failure is also raised by the Planning Authority in its submission and is in my opinion a significant concern.

7.5.8. Overall, on the basis of the information presented and the information available on file, I am not satisfied that the proposed development can be served by the existing public water supply and that the proposed development is premature pending the upgrading of the water supply network in the vicinity of the site. In addition, on the basis of the information presented and the information available on file I am not satisfied that the proposed temporary water supply would not have potential negative impact on existing public water supply sources in the vicinity of the site or that the proposed solution and associated level of infrastructural works and investment is proportionate to the scale of development proposed and can be successfully undertaken to serve a relatively small scale private residential development.

Foul Drainage

7.5.9. The initial report from Irish Water on file notes that there is inadequate foul drainage capacity available to serve the proposed development and that the required upgrades are included in the Irish Water Programme for Works 2020-2024 which is still the subject of approval from the Commission for Regulation of Utilities and therefore for which it is not possible to give a likely date for completion.

7.5.10. With regard to the drainage issues that are limiting the scope for additional connections to the public system, I note that the first party appeal raises the issue of whether the limitation on additional development arises from capacity issues in the drainage network and / or capacity at the waste water treatment plant (wwtp). On this issue I note the content of correspondence attached with a number of the third party observations submitted to the Board. This indicates that the design PE of the existing Paulstown wwtp is 1,000 and that the current (2017) pe is 1,200. The Irish Water correspondence also indicates that the dry weather design flow at the wwtp is 225 m³/day and that (in 2017) the actual dry weather flow was 219 m³/day. It is estimated by Irish Water that in the event of the completion of the proposed development of 42 no. units (and assuming an occupancy of 2.75 persons per unit average) then the plant would be over dry weather flow capacity by approximately 6 percent. It is further noted that while the plant was compliant with its EPA licence conditions in 2017 that there have subsequently been some non compliances and that capacity is described as sometimes being '*on a knife edge*'.

- 7.5.11. These comments are supported by a second Irish Water submission on file dated 10th June, 2020 (subsequent to the submission of further information) which states that based on a recent re assessment of capacity that *‘Irish water is not satisfied that the proposed waste water connection would not result in the Paulstown WWTP becoming non-compliant and in breach of its licenced emission limit values’* with resulting implications for compliance with the EC Environmental Objectives (Surface Water) Regulations, 2009 and the River Barrow and River Nore SAC. On the basis of the information available, I consider that the proposed development cannot satisfactorily be accommodated within the existing foul drainage system and that to permit development would not be permissible having regard to the provisions of the 2009 Surface Water Regulations and specifically the requirement that public bodies shall not undertake their functions in a manner that knowingly causes or allows the deterioration of a surface water. As set out at section 7.7 of this assessment below, there are also in my opinion appropriate assessment implications arising from discharge to the foul drainage network being permitted in this instance.
- 7.5.12. The solution presented by the first party in the first party appeal submitted against the refusal of permission incorporates the provision of an on site effluent treatment system that would allow for the treatment of effluent from the development on a temporary basis prior to the capacity of the existing Paulstown WWTP being increased such that the development could be accommodated. The first party appeal submission states that it is proposed that this system would discharge to ground, and that permission would be granted subject to conditions requiring site suitability tests and a waste water discharge licence. In my opinion there are a number of issues of concern with regard to the approach proposed by the first party.
- 7.5.13. Firstly, I note the reference of the first party to the approach taken in the case of the permitted offline motorway services at Mullinavat to the south of the appeal site at Junction 11 on the M9 where permission was granted subject to a temporary on site effluent treatment system with conditions requiring a waste water discharge licence and connection to the public sewer when available. This precedent case is noted, however it would appear from the details presented by the first party and my more detailed examination of the case, that an initial proposal for onsite effluent treatment on the site was not considered appropriate and that an alternative proposal for connection to the public drainage system was subsequently made which formed the

basis for the grant of permission in that case. It was only subsequent to the grant of permission on the basis of a connection to the foul drainage network and when it was discovered that the drainage network did not have capacity to accommodate the permitted development that the alternative temporary on site approach was permitted. I do not therefore consider that the Mullinavat case is a strong precedent for the granting of a permission on the appeal site with a temporary on site effluent treatment system.

7.5.14. The approach proposed as per the Mullinavat case also requires the granting of permission subject to the granting of a waste water discharge licence by the local authority. In the case of the appeal site, no system specification, layout, or design is presented with the appeal. There is no detail of the layout of any such system or where it would be accommodated relative to the proposed development and no results of any site suitability tests are presented. In the absence of any such details it is my opinion that the proposed development is premature pending the upgrading of the Paulstown WWTP. In any event, I would have significant reservations with regard to the appropriateness of a grant of permission for what is a significant residential development in the context of the existing Paulstown settlement subject to a temporary drainage solution.

7.5.15. It is noted that the first party appeal requests the Board grant permission for a period of 10 years in order that a permission could accommodate a potential delay in the upgrade of the Paulstown WWTP and to account for the event that temporary on site treatment is not feasible. Firstly, this is recognising that the whole idea of a temporary onsite wastewater treatment solution is only a concept and subject to significant uncertainty, therefore in my opinion demonstrating its prematurity. Secondly, the correspondence on file from Irish Water indicates that it is unlikely that any upgrade to the Paulstown WWTP would be complete within the lifetime of any permission issued (assuming that this is a 5 year permission). The granting of a 10 year permission as sought would, in my opinion, act to sterilise residential development in Paulstown for the duration of the permission. Not just that, but it would account for an element of the population allocation assigned in the Kilkenny County Council core strategy to smaller towns and villages when there are likely other settlements where this additional population could be accommodated in a shorter timeframe. For these reasons, and on the basis of the information

presented, I do not consider that the first party has made a convincing case as to why a 10 year permission is warranted in this case.

- 7.5.16. Finally, the approach proposed by the first party with regard to a temporary on site waste water treatment solution raises significant uncertainty with regard to environmental considerations, including the potential impacts on the River Barrow and River Nore SAC, and these issues are set out and discussed in more detail in section 7.7 of this report below under the heading of Appropriate Assessment.

7.6. Other Issues

- 7.6.1. The scale of development is such that Part V of the Planning and Development Act regarding social and affordable housing is applicable. No clear specific proposals with regard to compliance with this part of the act is presented in the application and in the event of a grant of permission a condition requiring compliance with Part V is required.

7.7. Appropriate Assessment - Screening

Compliance with Article 6(3) of the Habitats Directive

- 7.7.1. The requirements of Article 6(3) as related to the screening the need for appropriate assessment of a project under Part XAB, Section 177U of the Planning and Development Act, 2000 (as amended) are considered fully in this section.

Background to the Application

- 7.7.2. The application as submitted to the Planning Authority was not accompanied by a Screening Report. The screening assessment has therefore been carried out de novo.
- 7.7.3. The project is not directly connected with or necessary for the management of any European site and therefore it needs to be determined if the development is likely to have significant effects on a European site.

Location and Description of Proposed Development

- 7.7.4. The site of the development the subject of this appropriate assessment screening exercise is located in the village of Paulstown, Co. Kilkenny. The site is split into two distinct parcels of land, both of which adjoin an existing area of residential development.
- 7.7.5. The proposed development as amended on foot of a request for further information issued by the Planning Authority relates to the proposed development of 39 no. residential units comprising 8 no. four bed units, 22 no. three bedroom units, 6 no. two bedroom and 6 no. one bedroom units. Access is proposed to be via the existing Whitehall estate and the development is proposed to be connected to the public drainage system and to be served by a private bored water supply. It is noted that as part of the first party appeal the appellant has put forward a revised foul drainage solution which involves the use of a temporary on site effluent treatment system that would discharge to ground and that this system would remain in position until such time as the constraints on the capacity of the Paulstown WWTP were resolved. Both of these drainage options are considered in this Appropriate Assessment screening.
- 7.7.6. Taking account of the characteristics of the proposed development in terms of its location, nature and the nature of potential emissions or discharges , the following issues are considered to be relevant to an examination of the potential for likely significant effects on European sites.
- Potential for the discharge of foul effluent to the public drainage system to exceed the capacity of the system and to result in emissions to watercourses.
 - Potential for the development of an on site effluent treatment system to result in the contamination of ground and / or surface waters such that it would impact on European sites,
 - The potential of an on site water supply to result in changes to groundwater such as would impact on European sites.

Submissions / Observations

7.7.7. The third party appellants highlight the following issues that are relevant to an assessment of the potential impact of the development on European sites:

- That the submission of alternative proposals for an on site effluent treatment system without adequate details is unacceptable and that it is not appropriate that details in the form of a discharge licence or consideration of the detailed specification of the system would be considered after a grant of permission.
- That the submissions on file from Irish Water clearly indicate that there is inadequate capacity in the public foul drainage network to accommodate the proposed development.

7.7.8. The submission on file from Irish Water highlights the following issues that are relevant to an assessment of the potential impact of the development on European sites:

That the public water supply and drainage networks are at capacity and that the existing waste water treatment plant cannot accommodate the proposed development.

European Sites

7.7.9. The appeal site is not located immediately adjacent to or within any European sites. The following European sites are located within a 15km radius of the appeal site:

- River Barrow and River Nore SAC (site code 002162)
- River Nore SPA (site code 004233)

Of these sites, the only one that has potential to be impacted by the proposed development in terms of the identified conservation objectives is the River Barrow and River Nore SAC. The potential pathways between the appeal site and the proposed development and this European site comprises discharges from the Paulstown WWTP which discharge to the River Barrow to the east of Paulstown within the SAC and secondly, and related to the proposal submitted by the first party as part of the first party appeal, the potential for discharges to ground from the proposed temporary on site waste water treatment plant to impact on water quality within the SAC.

River Barrow and River Nore SAC (site code 002162)

7.7.10. The following is the list of species and habitats which comprise the qualifying interests of the River Barrow and River Nore SAC site:

- Estuaries
- Mudflats and sandflats not covered by seawater at low tide
- Reefs
- Salicornia and other annuals colonising mud and sand
- Atlantic salt meadows (*Glauco-Puccinellietalia maritima*)
- Mediterranean salt meadows (*Juncetalia maritimi*)
- Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation.
- European dry heaths.
- Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels.
- Petrifying springs with tufa formation (*Cratoneurion*)
- Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles.
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*)
- *Vertigo moulinsiana* (Desmoulin's Whorl Snail)
- *Margaritifera margaritifera* (Freshwater Pearl Mussel)
- *Austropotamobius pallipes* (White-clawed Crayfish)
- *Petromyzon marinus* (Sea Lamprey)
- *Lampetra planeri* (Brook Lamprey)
- *Lampetra fluviatilis* (River Lamprey)
- *Alosa fallax fallax* (Twite Shad)
- *Salmo salar* (Salmon)

- Lutra lutra (Otter)
- Trichomanes speciosum (Killarney Fern)
- Margaritifera durrovensis (Nore Pearl Mussel)

Conservation objectives listed in the site specific conservation objectives document published by the NPWS require the restoration to favourable conservation condition the above listed species and habitats as defined by a number of listed attributes and targets including habitat area, distribution, vegetation and physical structure and population characteristics that are detailed in the conservation objectives document.

Identification of Likely Effects

7.7.11. The proposed development has the potential to result in contamination of water within the River Barrow and River Nore SAC arising from either discharges from the Paulstown WWTP or from the proposed on site effluent treatment system. A deterioration in water quality has the potential to impact negatively on the identified conservation objectives relating to the following species in particular:

- Vertigo moulinsiana (Desmoulin's Whorl Snail)
- Margaritifera margaritifera (Freshwater Pearl Mussel)
- Austropotamobius pallipes (White-clawed Crayfish)
- Petromyzon marinus (Sea Lamprey)
- Lampetra planeri (Brook Lamprey)
- Lampetra fluviatilis (River Lamprey)
- Alosa fallax fallax (Twaite Shad)
- Salmo salar (Salmon)
- Lutra lutra (Otter)

7.7.12. In the case of the option of connection of the proposed development to the existing Paulstown WWTP, the information presented with the application, including the information provided by Irish Water indicates that there is inadequate capacity available in the existing treatment plant to cater for the scale of development proposed. The proposed development would therefore result in emissions from the water treatment plant to the River Barrow within the SAC and such that it could not be concluded that the proposed development would not be likely to have significant effects on the River Barrow and River Nore SAC in light of its conservation objectives.

7.7.13. With the on site waste water treatment option as proposed by the first party in the appeal, there is the potential for the on-site system to impact on water quality within the SAC. No details of the nature of the proposed on site system have been provided and no site assessment of existing on site ground conditions or the capacity of the site to accommodate the on site system proposed have been submitted with the appeal. In the absence of this information, it is not possible to conclude that the proposed development would not have significant effects on the River barrow and River Nore SAC in light of its conservation objectives.

Mitigation Measures

7.7.14. No measures designed or intended to avoid or reduce any harmful effects of the project on a European site have been relied upon in this screening exercise.

On the Basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement, the Board cannot be satisfied that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on European site No.002162, or any other European site, in view of the site's conservation objectives. In such circumstances, the Board is precluded from granting permission.

8.0 Recommendation

- 8.1. Having regard to the above, it is recommended that permission be refused based on the following reasons and considerations:

9.0 Reasons and Considerations

Water supply

1. On the basis of the information presented with the application, the Board is not satisfied that the proposed development can be served by the existing public water supply or that the proposed temporary on site water supply would not have negative impacts on existing public water supply sources in the vicinity of the site or that the proposed solution and associated level of infrastructural works and investment is proportionate to the scale of development proposed. The proposed development would therefore be premature pending the upgrading of the public water supply in the vicinity of the site and the timeline within which this constraint may reasonably be expected to cease, would be prejudicial to public health, and would be contrary to the proper planning and sustainable development of the area.
2. On the basis of the information presented with the application, the Board is not satisfied that there is adequate capacity available in the Paulstown waste water treatment plant to cater for the scale of development proposed. The proposed development would therefore be premature having regard to these existing deficiencies and the timeline within which this constraint may reasonably be expected to cease, would be contrary to article 5 of the European Communities Environmental Objectives (Surface Waters) Regulations, 2009, which requires that a public authority, in performance of its functions, shall not undertake those functions in a manner that knowingly causes or allows 'deterioration in the chemical or ecological status of a body of surface water', and would be prejudicial to public health.

3. On the basis of the information presented with the application and appeal, and specifically the absence of a detailed specification and layout for the proposed temporary on site waste water treatment system and information regarding site conditions, the Board is not satisfied that the option of on site treatment and disposal of effluent would be capable of being satisfactorily accommodated on the site without adversely impacting on the surface and groundwater sources in the vicinity of the site including the River Barrow. The proposed development would therefore be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

4. Both the connection to the public foul drainage system and the proposed on site treatment system are such that, in the absence of mitigation, the proposed development is considered likely to have significant effects on the River Barrow and River Nore SAC (site code 002162) in light of the conservation objectives of the site. Specifically, the proposed development would result in an exceedance of the authorised discharge from the Paulstown WWTP which discharges to the SAC and, in the absence of details regarding any temporary on site wastewater treatment system, it is considered that the proposed development has the potential to give rise to pollution of the SAC such that likely significant effects on the conservation objectives of the site cannot be ruled out. In such circumstances the Board is therefore precluded from granting permission.

Stephen Kay
Planning Inspector

1st March, 2021