



An
Bord
Pleanála

Inspector's Report

ABP-308137-20

Development	Construction of a residential development comprising 97 no. residential units and one crèche
Location	Geraldine Road/L4007 and L40071, Prusselstown Townland, Athy, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	19/764
Applicant(s)	Andrew Bergin
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v Refusal of Permission
Appellant(s)	Andrew Bergin
Observer(s)	1. Emma O'Brien & Bernadette McFadden 2. Edward & Eileen Wynne

3. Prusselstown
Residents

Concerned

Date of Site Inspection

04.02.2021

Inspector

Anthony Kelly

1.0 Site Location and Description

- 1.1. The site is located in the north east area of Athy town in south west Co. Kildare.
- 1.2. The site comprises the north west section of a larger field and there is no physical on-site boundary to the south east/rear boundary of the site. The site has frontage on two local roads: Geraldine Road to the north west (L4007) and the L40071/Clanard Road to the south. There is a footpath on the opposite side of Geraldine Road. There is an existing agricultural vehicular access located off Geraldine Road, adjacent to the agricultural structure it is proposed to demolish. This is the only structure on site. The site boundary also includes a narrow strip of land along the L40071 to the south east of the main body of the site. The L40071 is a relatively narrow road linking Geraldine Road and the R418. The site has a slight slope down in a north east to south west direction. The site is in agricultural use. There is a grass verge and timber fence along the Geraldine Road boundary and hedgerows along the southern and northern site boundaries. There is an ESB line across the western part of the site. There is a two storey house on the L40071 surrounded on three sides by the site. There is a two-storey house adjacent to the north of the site along Geraldine Road. There is sporadic housing elsewhere in the immediate vicinity with agricultural land to the north. Athy Golf Club is approx. 400 metres to the north east and the Clanard Court Hotel is approx. 250 metres to the south east.
- 1.3. The site has a stated area of 3.45 hectares.

2.0 Proposed Development

- 2.1. Permission is sought for:
 - Demolition of an agricultural shed.
 - Construction of 97 no. residential units comprising:
 - 40 no. semi-detached and terraced two-storey houses,
 - 57 no. apartments and duplexes in 4 no. two – three storey blocks.
 - A single storey creche.

- Other works including new vehicular access from Geraldine Road, new vehicular access from the L40071 to serve future phase(s) of development, cycle path/footpath on both roads and ESB sub-station.

In addition to standard planning application plans and particulars the application was accompanied by:

- A 'Planning and Environmental Report' prepared by Tom Phillips & Associates dated 04.07.2019.
- An 'Athy Design Statement' prepared by Duignan Dooley Architects and Planning Consultants.
- An 'Athy Residential Landscape Report' prepared by Doyle & O'Troithigh Landscape Architecture.
- A 'Condition Assessment of the Tree and Hedge Vegetation' prepared by Arborist Associates Ltd. dated 20.06.2019.
- An 'Ecological Impact Assessment' prepared by Altemar Marine & Environmental Consultancy dated 25.06.2019.
- A 'Residential Development at Athy Traffic and Transport Assessment' prepared by Transport Insights dated June 2019.
- An 'Outdoor Lighting Report' prepared by Parkbourne Consulting Engineers dated 26.06.2019.
- A 'Construction Waste Management Plan' prepared by Barrett Mahony dated 10.06.2019.
- A 'Civil Engineering Infrastructure Report' prepared by Barrett Mahony dated 10.06.2019.
- An 'EIA Screening Assessment Report' prepared by Tom Phillips & Associates dated 04.07.2019.
- An 'Appropriate Assessment Screening' prepared by Altemar Marine & Environmental Consultancy dated 25.06.2019.

2.2. Further information was submitted on 20.12.2019 including, inter alia:

- A revision to the site layout, reduction in overall height of the three-storey blocks and alterations to roof profiles, justification for the three-storey height at the locations proposed, alterations to the boundaries of the creche and justification of the quantum and location of open space.
- The incorporation of natural stone in boundary treatments, design alterations to Blocks 3 and 4, introduction of an additional house type, universally accessible shower room and increased storage provision in the houses.
- Justification for not retaining the hedgerow along the southern boundary of the site and locating the proposed footpath and cycle path inside the hedgerow.
- Justification for the position of the pumping station and it not being 50 metres away from residential units. Irish Water's code of practice requires a 15 metres separation, and this is provided. Pumping station detail is submitted.
- Landscaping including additional detail for the proposed play area.
- Provision of 1 no. one-bed unit in Blocks 2, 3 and 4 and revised Part V proposals (8 no. apartments and 2 no. houses).
- It has not been possible to get the written agreement of the owner of the property to the south in order to extend the footpath and cycle path across that property. Detail of proposed upgrade works to both roads are submitted but it is not feasible to include footpaths and cycleways on both sides of both roads or provide a 6 metres carriageway on both roads.
- A letter of consent from the Council to make the application on land in Council ownership.
- Detail in relation to car parking quantum, the orientation of spaces to the road, electric vehicle charging, kerb radii, sightlines, swept path analysis, bicycle parking, signage etc.
- Updated public lighting proposals.
- Surface water detail.

The further information response was accompanied by:

- A cover response prepared by Tom Phillips & Associates dated 20.12.2019.

- An 'Engineering Further Information Response' prepared by Barrett Mahony dated 19.12.2019.
- A 'Civil Engineering Infrastructure Report' prepared by Barrett Mahony dated 19.12.2019.
- An 'RFI Traffic and Transport Response' prepared by Transport Insights dated 20.12.2019.
- A 'Pavement Assessment – Visual Inspection Report' prepared by Transport Insights dated December 2019.
- Part V proposals and costings prepared by Tom Phillips & Associates and P.K. O'Brien & Associates Chartered Quantity Surveyors.
- 2 no. 'Outdoor Lighting Report'(s) prepared by Parkbourne Consultancy dated 09.12.2019 and luminaire details.
- A 'Schedule of Accommodation'.

2.3. Clarification of further information was submitted on 17.07.2020 including, inter alia:

- Some upgrades to the local road network on land within the applicant's control though not to the extent set out in the clarification of further information request, electric vehicle charging points, an increase in car parking provision, autotrack layouts and signage.
- Public lighting details.
- Surface water discharge detail and justification for the pumping station location.
- Retention of a landscape consultant and arborist, submission of a landscape masterplan and landscape details.
- Revisions to residential units to provide adequate storage.

The clarification of further information response was accompanied by:

- An 'Engineering Request for Clarification of Further Information Response' prepared by Barrett Mahony dated 02.07.2020.
- A 'CFI Traffic and Transport Response' prepared by Transport Insights dated 07.07.2020.

- An 'Outdoor Lighting Report' prepared by Parkbourne Consultancy dated 02.07.2020.
- An 'Athy CFI Request – Landscape Response' prepared by Doyle & O'Troithigh Landscape Architecture.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused by Kildare County Council for the following reason:

1. The proposed development accesses directly onto the Geraldine Road, Local Road L4007, at a point that is considered substandard in terms of safe Vulnerable Road User facilities, structural strength, surface condition and water drainage, capacity, alignment and width, in addition the Local Road L40071 south of the site lacks the necessary infrastructure for Vulnerable Road Users. In the absence of proposals to upgrade this local road network to the extent required, it is considered that the existing road network is unsuitable to carry the increased road traffic likely to result from the development. Consequently, the traffic movements generated by the proposed development would endanger public safety by reason of a traffic hazard and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. Three Planning Reports form the basis of the Council's decision. The final report concludes that, having regard to the application and responses received to further information requests, third party submissions and reports from internal sections and referral bodies, due to the lack of capacity of the road network in the vicinity of the site and the deficiency of proposals to appropriately upgrade the L4007 and L40071 to the extent required, the development would fail to safely accommodate vulnerable road users, would create a traffic hazard and the application should be refused.

3.2.2. Other Technical Reports

Area Engineer – The L40071 to be completely upgraded before any building works take place.

Roads and Transportation and Public Safety Department – Following the clarification of further information response, refusal is recommended. There will be a strong desire line for traffic from the development to travel to the R418, N78, M9 via the L40071. There is missing road infrastructure to enable this development to safely take place. There is an absence of road safety improvement detail for both L4007 and L40071 necessary to provide for an intensification of vehicular traffic and provision for vulnerable road users. The proposed development is not suitable and would create hazards due to the increased number of vehicles using narrow roads, the submitted Road Safety Assessment was too preliminary to adequately consider or mitigate the effect of the development on the L4007 and L40071, the roads are substandard in terms of safe vulnerable road user facilities, structural strength, surface condition, water drainage, capacity, alignment and width. Third party agreement would be needed to carry out extensive works. The infrastructure proposals are inadequate to justify the intensification of traffic. The development is premature pending the necessary safety improvements, including third party agreement.

Water Services Section – Following the clarification of further information response the report sets out issues with existing foul sewerage infrastructure on this side of Athy, the proximity of the pumping station to residential units, the absence of surface water gullies on Geraldine Road or the L40071, resizing of the on-site attenuation and low pressure in the area's water supply. Notwithstanding, in the event permission is granted, conditions are set out. These include conditions relating to Irish Water issues and surface water.

Environment Section – No objection subject to conditions relating to foul and surface water, bunding of storage tanks, noise control, construction practices and waste control.

Environmental Health Officer – The proposal is acceptable subject to conditions relating to noise levels, bin storage, air quality, pest control, lighting and ventilation.

Parks Superintendent – Following the clarification of further information response, the proposals are satisfactory subject to certain undertakings relating to a landscape consultant, landscape design, an arborist and boundary treatments.

Heritage Officer – No further comment or objection, based on the further information response.

Housing Section – Following the clarification of further information response Housing is satisfied with the mix of units and the design being proposed. A condition should be applied.

Building Control – No objection. Observations made including apartments to be under a management company, pumping station to be in land for taking-in-charge and not within management company land, storm attenuation system must be accessible, grit/debris not to enter attenuation system and car parking spaces between footpaths and road edge to be taken-in-charge.

Chief Fire Officer – No objection subject to conditions.

3.3. Prescribed Bodies

Irish Water – Following the clarification of further information response, Irish Water requests that any grant of permission includes four conditions. The four conditions are the same as some of those contained within the Water Services Section report. They relate to a connection agreement, drainage systems, watermains and services to be provided in accordance with Irish Water publications and provision of connection points for existing houses to connect to the foul sewer in future. In relation to the connection agreement, the condition states that there are deficiencies in the foul and water supply networks which require upgrading prior to the commencement of development and which may possibly be addressed in the connection process and without such improvements may dictate that the development is not permitted to commence. The applicant shall provide all detailed designs and drawings with the application together with an assessment of the capacity of the sewer where the rising main connection is taking place and shall address existing flow and odour problems in the sewer.

3.4. Third Party Observations

20 no. submissions were received from local residents and residents' associations, a councillor and the Clanard Court Hotel. The issues raised are largely covered by the observations received on foot of the grounds of appeal with the exception of the following:

- Flooding.
- The Moneen River floods every year.
- Location of pumping station.
- Inadequate car parking on-site.
- Impact on renewable energy on the adjacent residential site to the north.
- The creche interferes with an established right of way in use for over 22 years. The creche will not be able to be delivered as shown.
- Security of adjacent residential property through a penetrable hedge boundary.
- Light pollution to adjacent property from on-site traffic.
- Pollution to an existing well.
- Concern about impact on an existing adjacent septic tank.
- Litter and vermin.
- The scheme does not comply with the Urban Design Manual.
- No Archaeological Assessment submitted.
- Project splitting to avoid an SHD application.
- Status of the Town Development Plan and the Local Area Plan which is in preparation.
- Inappropriate housing mix; 60% apartments and 90% of houses being three-bedroom.
- The specific number of units proposed is unclear.
- The Clanard Court Hotel was not permitted three-storey development.

- Potential for adverse impact on the operation of the Clanard Court Hotel.
- Photographs are attached to some submissions showing traffic issues.

4.0 Planning History

- 4.1. P.A. Reg. Ref. 06/300065 / ABP Reg. Ref. PL 35.224773 – In 2008 permission was refused for 179 no. residential units (reduced to 121 no. during the application process including omission of all apartments) and a creche on a site of 7.72 hectares of which the site subject of the current application forms part, because the development would be premature pending the determination of a final route for the Athy Northern Distributor Road.
- 4.2. P.A. Reg. Ref. 07/300067 / ABP Reg. Ref. PL 35.228121 – In 2009 permission was refused for 107 no. residential units and a creche on a site of 6.96 hectares of which the site subject of the current permission forms part, because, notwithstanding the emergence of a preferred Northern Distributor Route, in the absence of the route being approved or formally adopted, development would be premature.

5.0 Policy Context

5.1. Kildare County Development Plan 2017-2023 (as varied)

- 5.1.1. Chapter 2 (Core Strategy), Chapter 3 (Settlement Strategy), Chapter 4 (Housing), Chapter 15 (Urban Design Guidelines) and Chapter 17 (Development Management Standards) of the Plan are relevant to the application. Athy is designated as a 'Self-Sustaining Growth Town' in the Plan. These are towns with a moderate level of jobs and services, which adequately cater for the people of its service catchment with good transport links and capacity for continued commensurate growth.
- 5.1.2. Variation No. 1 of the Plan states that Kildare County Council will prepare a Local Area Plan for Athy to provide more detailed planning policies for the area. This has not been carried out to date though a Draft Plan has been prepared.

5.2. Athy Town Development Plan 2012-2018 (as varied)

- 5.2.1. The site is in an area zoned 'C31 – New Residential'. C31 has an overall approximate area of 7.2 hectares. The zoning objective is 'To provide for new residential development, associated residential services and community facilities'. Residential development is permitted in principle on this zoning. A creche is also permitted in principle. The Land Use Zoning Map is marked to indicate 'Improvements to existing Road Network' along the L40071 and this general road area was also marked as 'Northern Distributor Road Study Area' in the zoning map. However, the 'Northern Distributor Road Study Area' was removed from the Plan and zoning map in Variation No. 1 of the Town Development Plan 2012-2018.
- 5.2.2. Chapter 2 (Core Strategy), Chapter 4 (Housing), Chapter 7 (Movement and Transport), Chapter 8 (Water, Drainage and Environmental Services), and Chapter 15 (Development Management Standards) of the Town Development Plan are relevant to this application.

5.3. Draft Athy Local Area Plan 2021-2027

- 5.3.1. I would draw the Board's attention to the fact that the site subject of the current planning application has been excluded from the Draft Local Area Plan boundary i.e. the site is not zoned in the Draft Plan. The Draft Plan was on display from 17.12.2020 to 08.02.2021.

5.4. Urban Development and Building Height Guidelines for Planning Authorities (2018)

- 5.4.1. These guidelines are relevant to the application.

5.5. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) and the Urban Design Manual (2009)

- 5.5.1. These guidelines are relevant to the application.

5.6. Childcare Facilities Guidelines for Planning Authorities (2001)

5.6.1. These guidelines are relevant to the application.

5.7. Natural Heritage Designations

5.7.1. The closest heritage area is River Barrow and River Nore SAC approx. 1.4km to the south west.

5.8. EIA Screening

5.8.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, which is a fully serviced and zoned edge-of-urban location, 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 stage, and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The main points made can be summarised as follows:

- The Council's decision does not take into account the Traffic and Transportation Assessment (TTA), the Pavement Assessment or the Stage 1 Road Safety Audit. The Council's demands to provide road infrastructure on third party lands are not only unnecessary but also wholly unreasonable. A Traffic and Transport Submission accompanies the grounds of appeal.
- The Council's concerns in relation to road infrastructure have been comprehensively addressed in both the further information and clarification of further information responses. Despite this, the Council's Roads and Transportation Department persisted with their view that the development will

result in a traffic hazard. No evidence has been presented to support this claim or refute the assessments undertaken.

- The TTA prepared for the application concluded that the development would result in a very limited increase in traffic on key links within the site's vicinity. Substantial improvement works are proposed including a two metre wide footpath to both roadside boundaries, an adjacent two metres wide cycle path and traffic calming measures comprising two raised pedestrian crossings on Geraldine Road. These upgrades will result in continuous vulnerable road user (VRU) facilities from the main site access to the town centre. Setting back the site boundary on Clanard Road/L70041 will significantly improve the safety of this road which currently has poor forward visibility and an absence of space for VRUs.
- The first factor in the reason for refusal states the development accesses directly onto Geraldine Road at a point that is considered substandard in terms of safe VRU facilities. Excellent VRU facilities are proposed and a continuous safe operating environment for cyclists and pedestrians will be available.
- The second factor in relation to the reason for refusal relates to structural strength, surface condition and drainage conditions of Geraldine Road. A 'Pavement Assessment Report', carried out by a suitably qualified civil engineer, found all sections of Geraldine Road and Clanard Road to be in good condition. There is no evidence to suggest that Geraldine Road, or any road in the vicinity, is of a standard to warrant refusal of the development.
- The reason for refusal also raised concern about the capacity, alignment and width of Geraldine Road. Comprehensive traffic surveys were undertaken as part of the TTA and concluded all junctions continue to operate satisfactorily. Suggestions of a capacity issue are unsupported and contrary to the results of detailed analysis. Geraldine Road has a relatively uniform vertical and horizontal alignment and the site access fully accords with visibility standards. Alignment concerns are unfounded. The width of Geraldine Road is approx. 5 metres, and will remain so. The Design Manual for Urban Roads and Streets

state the standard carriageway width on local streets should be between 5-5.5 metres. There is no substance to concerns about the width.

- The final factor in the reason for refusal relates to the lack of necessary VRU infrastructure on Clanard Road. Upgrades are proposed as part of the development, made possible by setting back the site boundary which will dramatically improve road safety as there is currently poor forward visibility on the road. Infrastructure upgrade is proposed to the entire length of Clanard Road under the applicant's ownership. Two other landowners have frontage on the northern side of Clanard Road; the owner of Clanard Court Hotel east of the site and a private householder in the centre of the application site. Upgrades to these frontages are not proposed as they are outside the applicant's control. ABP Reg. Ref. ABP-307230-20 stated 'Having regard to the importance of housing delivery the subject development should not be dependent on the development of third-party lands'.
- Condition No. 18 of P.A. Reg. Ref. 02/1774, the hotel permission, required a footpath along its Clanard Road frontage. The hotel owner is obligated to provide a footpath from Dublin Road to the proposed footpath on this site. It is entirely unreasonable to expect the applicant to deliver infrastructure upgrades to this portion of Clanard Road.
- The road frontage to the front of the private house equates to 30 metres/5% of the Clanard Road frontage. It is not a location that represents a desire line for the majority of the development. The key desire line to/from the development will be along Geraldine Road. When it is the desire line the new pedestrian link to Clanard Road to the south east of the existing house is the most convenient. As there is no direct vehicular access to Clanard Road and it is not a VRU desire line, a footpath to the front of the house is not necessary to accommodate the development.
- Though not considered necessary, an approx. 1 metre x 30 metres strip exists between the boundary wall of the house and Clanard Road and a pedestrian link could be provided. An estimate of the cost of this has been sourced as €2,837. The applicant has engaged with the landowner, but consent was not

forthcoming. However, the Council could utilise a compulsory purchase order (CPO) mechanism to deliver upgrades and would be wholly appropriate.

- The Council has a duty to facilitate the development of the site which they have zoned for residential use. It is extremely unreasonable for the local authority to cite minor alleged infrastructural deficiencies as a reason for refusing a large scale residential development on appropriately zoned land.
- The grounds of appeal are accompanied by a 'Residential Development at Athy, Co. Kildare – First-Party Appeal, Traffic and Transport Submission' prepared by Transport Insights and dated 09.09.2020. This forms the basis of the cover letter prepared by Tom Phillips & Associates. It includes an overview of the receiving environment, traffic characteristics of the proposed development, local road network enhancements and a response to the reason for refusal. It also addresses comments made in the Roads and Transportation and Public Safety report the Council's decision was based on. The Traffic and Transport Submission concludes that the reason for refusal is unsupported by evidence and it is apparent that the proposed road improvements will not only accommodate the needs of proposed residents but also benefit existing road users.

6.2. Planning Authority Response

The main points made can be summarised as follows:

- Kildare County Council's main comments on the appeal are as outlined in the Roads Report dated 04.08.2020 which highlighted serious concerns that traffic movements generated by the development would endanger public safety by reason of traffic hazard, the development is premature without necessary Highway Safety Measures for both Geraldine and Clanard Roads and there is an absence of VRU infrastructure on Clanard Road.
- The proposed footpath and cycle path and two raised pedestrian crossings on Geraldine Road either side of the Geraldine/Clanard Road junction are noted. There will be a desire line for vehicular traffic to use Clanard Road from the development to the R418, N78 and M9. The additional traffic would be using a

road where the carriageway width is inadequate and too narrow in places and where there is no public lighting. There will also be a desire line for VRU movements from the proposed development to the hotel and retail units on the R148 on a road with no proper VRU facilities and public lighting in place.

- It is noted no agreement was reached with the owner of the house on Clanard Road where VRUs will have no footpath and where there could be a conflict of manoeuvres between the property owner and VRUs. It is accepted that the necessary upgrade of Clanard Road will require land acquisition from third parties by agreement or CPO. There is currently no funding in place where other road projects have been prioritised. Upgrading works will have to be delivered by developers in the short term to provide proper and safe access for all road users to developments at this location.
- Kildare County Council's Roads, Public Safety and Transportation Department and Athy Municipal District Office do not accept their concerns have been addressed in the further information and clarification of further information responses. The proposed road upgrades will not safely accommodate the needs of future residents and existing road users, in particular VRUs.
- Kildare County Council's Roads, Public Safety and Transportation Department and Athy Municipal District Office recommends the Council decision remains unchanged.

6.3. Observations

Three observations were received on foot of the grounds of appeal from:

- Emma O'Brien & Bernadette McFadden, Tara, Prusselstown, Athy R14 CY62 (opposite side of Geraldine Road/L4007).
- Edward & Eileen Wynne, Lorg na Greinne, Prusselstown, Athy R14 X211 (the house surrounded on three sides by the development).
- Prusselstown Concerned Residents c/o Mary Fennin Byrne, Gallowshill, Athy.

I consider that the main points made can be collectively grouped and summarised as follows:

Roads and Traffic

- The concerns of the Council's Roads and Transportation Department are shared.
- It is obvious the Council fully assessed all information furnished but still concluded that the development poses a significant traffic hazard for VRUs.
- It is not unreasonable to require necessary works to be undertaken where existing infrastructure is inadequate and if an applicant is unwilling or unable to undertake works on land outside their control then it must be deemed premature.
- The existing road network already poses a significant hazard to road users on a daily basis.
- The statement that a footpath and cycle path along the site boundaries will result in continuous VRU facilities from the site to the town centre is untrue.
- Upgrade works along the L40071 will increase traffic hazard as users will be moving from limited sections of footpath and cycle way to long expanses of road where there is no footpath or cycleway.
- The footpath along Geraldine Road south of the crossroads to the town centre is of poor quality, on only one side of the road and there is no cycle way.
- Submitted documentation considers Geraldine Road to be in good condition. The Council, whose remit is to monitor and maintain these roads, disagrees.
- Despite submitted analysis of traffic volumes, the L40071 is heavily used by vehicles and pedestrians. Continuous footpaths and cycleways are imperative. It is too narrow for current traffic volumes, lacks margins, has poor sightlines and overhanging vegetation. It has a high volume of heavy agricultural machinery because of Liffey Mills less than 100 metres from Boheranouca Crossroads. There is also a high volume of haulage trucks.
- The relevant landowners (Edward & Eileen Wynne) state, in relation to the footpath across their property, that the applicant did consult with them prior to the submission of the application but at no time during the application or prior

to the appeal being lodged did the applicant contact them to discuss any issues of concern. The suggestion there was an attempt engage in a meaningful way is untrue. Exception is taken to the CPO suggestion. The landowners are seriously concerned that the discontinuation of the footpath and cycle path across their property will cause a considerable hazard to themselves and the general public.

- Notwithstanding the removal of the previously proposed Northern District Route from the Town Development Plan 2012-2018 it is understood that there is a possibility that this proposed distributor road is still a realistic and necessary route and in light of this the application should be considered premature and permission refused.
- The proposed vehicular access is 70 metres from Boheranouca Cross. Traffic travels well in excess of the 50kph speed limit, despite speed ramps and existing sightlines at the Crossroads are poor. Additional units accessing only 70 metres from the crossroads will create a significantly greater danger.
- The proposed access will in effect become a four-way junction with the house on the opposite side of Geraldine Road. It is already a considerable hazard accessing this house.
- The location of the creche pick-up and set-down area is unacceptable and will pose a significant danger to occupants of the house across the road and road users in general.
- The L40071 is listed in the Town Development Plan 2012-2018 for future road improvement works. Its inclusion indicates the importance of the road to the road network. Pending these works, the development is premature. It is also premature pending the provision by the Local Authority of footpaths and cycle tracks to and from the town on the L4007.
- The nearest convenience shop to the site is Centra on the R418 and the nearest bar and restaurant is the hotel. Residents will access these by the L40071, increasing volumes of pedestrians and cyclists.

- The extent of footpaths and cycle tracks proposed are inadequate. There is no provision on opposite sides of the two roads or continuation to the N78.
- The site zoning is predicated on improvements to the carriageways. Any other conclusion would illogically suggest that the Council had envisaged the local road network could accommodate several hundred new residential units in its current condition and that it did not contemplate improvements before such schemes could occur.

Location

- The site is 1.5km from Athy on a road where permission has been granted for 135 no. units in three separate developments, P.A. Reg. Refs. 17/751, 18/921 and 19/54 refer. Permission has also been applied for 136 no. units, P.A. Reg. Refs. 19/233 and 19/234 refer. The Town Development Plan 2012-2018 and County Development Plan 2017-2023 seek to encourage sequential development. This peripheral and more rural greenfield site cannot be considered sequential development and does not accord with the strategic objectives governing new residential development.
- The development fails to comply with DoEHLG Guidelines in terms of excessive suburbanisation, greenfield sites, need for infrastructural investment and access to services and facilities.
- There are over 80 hectares of undeveloped residentially zoned land closer to the town centre.
- Granting permission would set an undesirable precedent for other peripheral schemes. The Board refused an application for, inter alia, a peripheral residential-zoned site, under ABP Reg. Ref. PL 27.241799 in Ashford, Co. Wicklow. It was also considered by the Board that Ashford was over-zoned.
- The fact a site has been zoned for residential development does not automatically render it suitable.

Scale, Layout, Design and Density

- There should be no three-storey development, only single and two-storey.

- Removal of the boundary hedgerows and trees will change the character of the area and particularly the setting of the Wynne property. This would also be contrary to Policy RH9(v) of the County Development Plan. The application must be refused because of the removal of approx. 460 metres of hedgerow.
- The use of brick is totally out of character with the locality and will create a sense of urban development.
- While the density of 30 units per hectare is in line with Development Plan standards it is at variance with a number of Development Plan objectives e.g. HC02 and HC03 (appropriate densities, established character of the area etc.)
- The ratio of apartments within the development is excessive (58.7% as opposed to 11% as per the Athy housing stock in the 2016 Census). There is no justification for apartments in this area given the number of apartments (70 no.) granted in the immediate locality closer to the town centre. Duplex and apartment units are inappropriate in this rural area.

Impact on Residential Amenity

- Because of the scale, nature and proximity of the development to observers' homes in this rural setting it would seriously injure the enjoyment of those homes.
- Overlooking from Block 2 to the opposite side of Geraldine Road. Block 2 should be replaced with single storey houses.
- A 20 metres buffer zone between any proposed unit and the Wynne property would not be unreasonable. The siting of Block 1 is unacceptable and there will be overlooking to the Wynne property. There will also be overlooking from the proposed houses. Only single storey houses should be permitted in this area.
- Noise and dust pollution during construction. Mitigation measures should be detailed.
- Observers have been advised that the proposed development will considerably devalue their property.
- Overshadowing.

- Disturbance and anti-social behaviour on open space to the rear of an existing house.

Services

- There are significant ongoing issues in the area in relation to water pressure.
- There are significant ongoing issues in relation to the wastewater network including odour.
- Solutions to the water and wastewater issues should be agreed prior to the grant of planning permission.
- There is amazement that the Pre-Connection Enquiry Response from Irish Water to the developer dated 19.05.2019 stated the existing network can supply the number of units proposed. There is concern that the number of units mentioned is 350 no. and this must be clarified.
- The Board should consider whether it would be more appropriate to consider the overall potential development of 248 no. units, or 350 no. quoted, at this stage.
- It is imperative that all detailed studies required to be undertaken would be submitted prior to any grant of planning permission being considered.
- Concern about surface water run-off onto the L4007.
- Concern about malfunction of the surface water system and flooding of the site and surrounding properties.
- Locating any part of the surface water attenuation and filtration system in proximity to the Wynne house is unacceptable.
- Concern about loss or disruption to services during construction. Of particular concern in the Wynne observation is disruption to ESB and water supply.

Miscellaneous

- The future phase proposal adjacent to the east is of huge concern. Clarity and detail is required as part of the current application. The total potential needs to be taken into account in consideration of this application.

- It was incorrect of the Council to endorse a piecemeal and ad hoc proposal. The development of the site in isolation from the remainder of the landholding is project splitting. Plans for the remainder of the landholding have already been prepared and the Board is invited to consider whether permission should be granted in the manner presented. This approach constrains the Board's assessment to the degree that the omission of the remainder of the holding prevents development of the overall tract being considered even though a grant of permission would be used as a springboard for any analysis of future proposals. The application should be viewed as a stalking-horse for an ultimate scheme of up to 350 no. dwellings, as contemplated in the Irish Water correspondence.
- The Board is requested to satisfy itself whether the development accords with the Core Strategy in the County Development Plan 2017. Reference is made to ABP Reg. Ref. ABP-302216-18 in Bearna, Co. Galway i.e. Heather Hill Management Company CLG v An Bord Pleanála. It has not been shown that this application is needed to meet the housing targets in the Local Area Plan 2012. It is suggested development of this site is held in abeyance pending a new Town Plan. The Board is also requested to satisfy itself that the development accords with Variation No. 1 of the County Development Plan 2017-2023 which seeks to limit the number of houses which can be built in Athy between 2020 and 2023 to 289 no.
- The use of uPVC and aluminium in the development conflicts with Council policy to encourage the use of sustainable materials.
- The 2016 Census recorded 544 no. vacant residential units in Athy.

6.4. Further Responses

None sought.

7.0 Assessment

Having examined the application details and all other documentation on file, including all of the observations received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Zoning
- Site Layout, Density and Design
- Impact on Adjacent Residential Amenity
- Site Location/Sequential Development
- Core Strategy
- Roads and Traffic
- Services
- Creche

7.1. Zoning

- 7.1.1. The proposed development is located in an area zoned for residential use. Both residential development and a creche are permitted in principle under this zoning in the Athy Town Development Plan 2012-2018. The principle of development is therefore acceptable, subject to the detailed considerations below.

7.2. Site Layout, Density and Design

- 7.2.1. The observations received refer to, inter alia, the density, proposed height of the development, the number of apartment units proposed, the 'project splitting' of the development, removal of boundary vegetation and use of brick.

Site Layout

- 7.2.2. The site layout itself was considered acceptable by the planning authority and was not raised as a concern in the observations, notwithstanding general issues about impact on residential amenity.

7.2.3. I consider the layout to be acceptable. Culs-de-sac are generally avoided, there are a number of smaller open space and play areas through the site, ample future links are provided for both to the remainder of the applicant's landholding and to other third-party land and four separate pedestrian access points, in addition to the vehicular access, are provided to the site boundaries to accommodate various desire lines. Active edges are provided to the streets including by way of dual frontages to houses and front and rear accesses to the duplex units and there is good permeability through the site. The creche is located at the front of the site which avoids the need for vehicular traffic to enter the site while being in short walking distance for residents of the development. The applicant's 'Athy Design Statement' outlines the development in the context of the twelve criteria in the Urban Design Manual (2009) and this is also briefly referenced in the submitted Planning and Environmental Report.

7.2.4. I consider the site layout to be acceptable.

Density

7.2.5. The development provides for 97 no. residential units on a 3.45 hectare site, a density of approx. 28 units per hectare. The planning authority Planning Report considers that the 'net site area is 3.22 hectares' and therefore there is a density of 30 units per hectare. The applicant's 'Planning and Environmental Report' also cites a 30 unit per hectare density. It is unclear how this 'net' site area was calculated.

7.2.6. Table 4.2 (Indicative Residential Densities) of the Athy Town Development Plan 2012-2018 gives a general density parameter of 30-50 units in 'Outer suburban/Greenfield. Generally new residential zoning area' locations. Another category is 'Outer edge of urban-rural transition' where the general density parameters are 20-35 units. This relates to residentially zoned sites which transition from central areas to areas at the edge of the town. The Town Plan states these densities are indicative only.

7.2.7. The 30-50 density parameter is also set out for 'Outer Suburban/Greenfield' locations in large towns in Table 4.2 (Indicative Density Levels) of the County Development Plan 2017-2023. Section 5.11 of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) refers to 'Outer Suburban/'Greenfield' sites' on the periphery of larger towns. The Guidelines encourage a general range of

35-50 units per hectare and 'development at net densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency'.

- 7.2.8. Having regard to the foregoing density parameters it is clear that the proposed development is at the very lower end of what would be considered an acceptable density at this location.

Building Design

- 7.2.9. The design of the proposed buildings was considered acceptable by the planning authority and was not raised as a concern in the observations, notwithstanding general issues about impact on residential amenity.

- 7.2.10. There were amendments made to some roof profiles by way of further information but the proposed houses, duplex apartments and the creche are largely as originally applied for. Houses have straight gables and straight lines with proportionate fenestration and some gable features. Roofs are blue/black concrete tiles with brick or rendered block work. There is a uniformity in design throughout the development, though I do not consider it to be overly monotonous given the mixture of houses and duplex apartment blocks and the general mix of semi-detached and terraced units. Third parties have raised issues about the use of brick, uPVC and aluminium. While specific finishing materials should be agreed in writing with the planning authority should permission be granted, I have no objection in principle to the use of these materials.

- 7.2.11. I consider the proposed building designs to be acceptable.

Building Heights and Apartments

- 7.2.12. The three storey height of the proposed duplex blocks is considered in the third party documentation to be excessive, out of character with the area and should be omitted.

- 7.2.13. As set out above, the proposed density is at the very lower end of what would be considered acceptable at this location. A further reduction in unit numbers by the omission of some blocks or removal of units from these blocks would not be in accordance with density requirements. Policy HP21 of the Athy Town Plan 2012-2018 states that it is policy to generally restrict apartment developments to town centre locations or adjacent to public transport connections. The subject site is neither in the

town centre nor adjacent to public transport connections. I do not consider that the duplex apartment buildings proposed are the type of apartment schemes being referred to in Policy HP21. The Town Plan considers that an apartment is a dwelling accessed from an internal lobby or hallway. The Sustainable Urban Housing: Design Standards for New Apartments Guidelines (2018), consider an apartment to be 'a self-contained residential unit in a multi-unit building with grouped or common access'. The type of units proposed in the duplex apartment blocks are a mixture of own door (39 no.) and common access (18 no.). Therefore, while the proposed blocks do contain some common access units (in particular Block 1 where 9 no. of 15 no. units are common access) I do not consider them apartment buildings of the type envisaged in the Town Plan or Guidelines.

7.2.14. The Urban Development and Building Height Guidelines for Planning Authorities (2018) are relevant. Section 1.9 states that the guidelines require that the scope to consider general building heights of at least three to four storeys outside what would be defined as town centres, and which would include suburban areas, must be supported in principle at development management levels. Section 3.4 states that newer housing developments on the suburban edges of towns, typically now includes 3-4 storey duplexes and Section 3.7 states that such development patterns are generally appropriate on the suburban edges of towns, including for greenfield development.

7.2.15. I consider that the three storey duplex units on the perimeter of the site, including adjacent to the Boheranouca Crossroads (which also appear to be called Prusselstown Crossroads) and proposed vehicular entrance, provide urban character and defined edges and would be in consistent with the provisions of the Building Height Guidelines.

Housing Mix

7.2.16. Observations consider that there is an excessive number of apartment-type units proposed i.e. 57 no. of the overall 97 no. units and the mix of units is not appropriate.

7.2.17. Policy HP9 of the Athy Town Development Plan 2012-2018 seeks to secure the development of a mixture of house types and sizes throughout the town. Section 4.5.2 states that a key aim in the provision of new housing is to encourage diversity rather

than uniformity and an appropriate mix of dwelling types will be encouraged. The 40 no. houses comprise 5 no. four-bed semi-detached houses, 1 no. three-bed detached house, 31 no. no. three-bed semi-detached houses (three different house types) and 3 no. three-bed mid-terrace houses. The 57 no. duplex/apartments comprise 3 no. one bed units, 33 no. two bed units and 21 no. three bed units. There are 39 no. own-door apartments/duplexes and 18 no. communal entry units. In total, in the overall scheme, there are 5 no. four bed units, 56 no. three bed units, 33 no. two bed units and 3 no. one bed units in a mix of houses, duplexes and apartments.

7.2.18. I consider the housing mix proposed to be acceptable.

Project Splitting

7.2.19. Observations refer to the fact an application has only been made on part of the applicant's landholding. One of the observations considers the development to be piecemeal and ad hoc and considers Kildare County Council were incorrect in endorsing the proposal.

7.2.20. I do not have any planning-related concern with the fact that an application for 97 no. residential units and a creche was submitted, and not an application for a residential development on the entire landholding. The proposed development is a stand-alone and self-contained development with its own vehicular access and open space. The applicant would not avoid any required environmental, or other, threshold by only applying on approximately half the landholding. An applicant is entitled to make a planning application for a development of whatever scale they wish.

7.2.21. I do not consider project splitting to be an issue. This assessment considers the planning application on the merits of application made. No comment is made on the merits or otherwise of any potential future development.

Removal of Boundary Vegetation

7.2.22. The removal of boundary vegetation is raised as a concern in the observations.

7.2.23. Vegetation on site is largely along the L40071/Clanard Road boundary and the northern/side boundary. The site is zoned for residential development. The L40071 is an important link between the Geraldine Road/L4007 and the R418. There is an objective to improve this road in the Athy Town Plan 2012-2018. It is a narrow road

and traffic impact on this road forms a core issue in the application. It is inevitable that any works to improve this road will require the removal of roadside hedgerow and trees. The applicant proposes to remove the roadside hedgerow within his ownership to accommodate a footpath and cycle path. Given the narrow width of the existing road, the zoned nature of the site and the objective in the Town Development Plan, I have no issue with the boundary vegetation removal in terms of the impact on the character of the area.

7.2.24. The removal of the boundary vegetation on the L40071 is acceptable in principle.

7.3. Impact on Adjacent Residential Amenity

7.3.1. Impact on the amenity of adjacent properties is an issue raised in the observations.

7.3.2. I do not consider undue overlooking occurs to any property on the opposite side of Geraldine Road/L4007. While there are three-storey duplex apartment blocks on this boundary they primarily overlook a public road. The creche is a single storey building and therefore does not result in overlooking to the adjacent property. Block 3 does not directly overlook the existing house adjacent to the creche but indirect overlooking would occur. However, there is an approx. 28 metres separation distance between Block 3 and the boundary of the existing house. There is an agricultural field to the north of the site and the remainder of the applicant's landholding to the south east. The house along the L40071 is surrounded on three sides by the proposed development. The eastern boundary of this property has a low hedge, and the house is relatively exposed to the site. Direct overlooking would occur from the rear elevations of House Nos. 94 and 95. However, a separation distance of 17 metres to the boundary is provided, in excess of the standard 11 metres generally required, and I consider this to be acceptable. Overlooking would not occur from Nos. 93 and 96, the closest houses to the east, because these C2 house types have no first floor side elevation windows and no habitable room windows to the rear at first floor level. Block 1 is to the west of the existing house. An opaque glazed first floor landing window is the only window on the elevation closest to the property boundary at a separation distance of 16 metres. First and second floor bedroom windows with direct overlooking of the existing property are approx. 35 metres from the boundary. Therefore, I do not

consider the development would result in any undue adverse overlooking impact on adjacent properties.

- 7.3.3. Given the relatively limited scale of the proposed buildings and the separation distances provided to the site boundaries, no undue shadowing or overbearing impact will occur.
- 7.3.4. The proposed development would result in a change to the current rural aspect enjoyed by surrounding properties. However, the site is zoned for residential development and is on the urban edge of a 'Self-Sustaining Growth Town'.
- 7.3.5. Nuisance to surrounding properties is an inevitable consequence of any development. The proposed development would have a significant impact on the area both during the construction and operational phases. However, in the event of a grant of permission these nuisances would be controlled in so far as possible by way of a Construction Management Plan outlining permitted working hours, mitigation for dust and noise etc.
- 7.3.6. The observations raise the issue of devaluation of property as a result of the proposed development. While I note the concerns raised, having regard to the zoned nature of the lands and the assessment and conclusions set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.
- 7.3.7. Having regard to the foregoing, I do not consider that the proposed development would result in significant undue adverse overlooking, shadowing or overbearing impact, nuisance during the construction period can be reasonably controlled and there would be no undue impact on property values.

7.4. Site Location/Sequential Development

- 7.4.1. The observations state that permission should not be granted on this site because of its location on the periphery of the town, and that land closer to the town centre should be developed before this site is developed.
- 7.4.2. The appropriate development of urban areas in a sequential manner from the town centre is a standard planning principle. National and regional guidelines encourage

the development of urban brownfield sites and areas adjacent to public transport corridors and this is also noted in the Athy Town Development Plan 2012-2018. The Aim of the Housing Chapter in the Town Development Plan includes ensuring that there is adequate land in appropriately zoned locations for residential development. It states that the strategy for housing incorporates, inter alia, the Sustainable Residential Development in Urban Areas Guidelines. Policy HP1 refers to sufficient and suitably zoned land. Section 4.4.4 of the Plan refers to 'Existing Greenfield Sites'. There is no mention in this section about sequential development or leapfrogging. The sequential development of land is cited in Section 16.2 (Strategy) of the Plan as one of the issues taken into consideration in the zoning strategy. Policy LU1 states that it is policy 'To ensure that a logical and sequential approach is adopted for development within the Athy Town Plan area (i.e. prioritising the development from the core area outwards)'.

7.4.3. It is clear that sequential residential development was considered in the preparation of the Athy Town Development Plan 2012-2018. Notwithstanding, the Plan does not contain any policy or objective or any phasing stipulation which would restrict the development of certain zoned land until such time as other land has been developed. The site subject of the application is not the furthest zoned residential area from the town centre in the Plan. There are other 'New Residential' zoned sites that are a similar distance and indeed further away from the town centre zoning than the site subject of the application e.g. C34 on the opposite side of Geraldine Road and C30 immediately adjacent to the north, C28 to the south of the town and C33 to the south east.

7.4.4. Having regard to the foregoing, I do not consider that it would be reasonable to refuse permission for the proposed development because of its location on the edge of the urban area.

7.5. Core Strategy

7.5.1. The compliance of the proposed development with the Core Strategy has been raised in one of the observations.

7.5.2. Since the making of the Town Plan 2012-2018, Athy Town Council was dissolved, and the County Development Plan incorporated the area of the former Town Council. Chapter 2 (Core Strategy) and Chapter 3 (Settlement Strategy) of the Kildare County

Development Plan 2017-2023 are relevant. Table 3.3 (Settlement Hierarchy – Population and Housing Unit Allocation 2016-2023) states that the 2016 population estimate for Athy was 10,482. A ‘new dwellings target’ for Athy of 1,560 units was set between 2016-2023 with a population forecast of 13,152 in 2023. The ‘Core Strategy Allocation 2016-2023’ of 1,560 is reiterated in Table 3.4 (Development Capacity in Kildare).

- 7.5.3. A critical element of Variation No. 1 of the Kildare County Development Plan 2017-2023 is the core strategy and settlement strategy. Amendment No. 13 includes Table 3.3 (Settlement Hierarchy – Population and Housing Unit Allocation 2020-2023) which replaces Table 3.3 of the 2017-2023 Plan. This Table states that the 2016 census population for Athy was 9,677. The ‘Dwellings Target 2020-2023’ is cited as 289 no. to accommodate a population growth of 810 no.
- 7.5.4. The observations set out five planning applications granted in the area (P.A. Reg. Refs. 17/751 (ABP. Reg. Ref. ABP-301242-18), 18/921, 19/54, 19/233 and 19/234). The combined number of units permitted is 255 no. Of these, 120 no. were granted in 2020 and the other 135 no. in 2018 and 2019. Therefore, for the purpose of Table 3.3 these are discounted. A search of residential planning applications in Athy on the Kildare County Council website produced several other relevant planning applications including P.A. Reg. Refs. 20/1397 (38 no. apartments currently on further information), 20/1274 (88 no. houses currently on further information) and 20/1101 (5 no. apartments, decision due on 23.03.2021).
- 7.5.5. The County Development Plan 2017-2023, as varied, sets a target of 289 no. residential units for Athy between 2020 and 2023. It appears that approx. 120 no. units have been permitted to date since the start of 2020. Should the current application be permitted, that would increase the number of granted residential units to approx. 217 no. which is substantially below the target set.
- 7.5.6. Therefore, having regard to the foregoing, I do not consider the development would contravene the core strategy or settlement strategy for Athy as set out in the Kildare County Development Plan 2017-2023, as varied.

7.6. Roads and Traffic

- 7.6.1. This is a core issue in third party documentation and was the basis for refusal of the application by Kildare County Council.
- 7.6.2. The proposed vehicular access is onto the L4007/Geraldine Road. The site also has frontage onto the L40071 which links the L4007 and the R418. The L40071 is also used to connect to the N78 and M9 without having to go further into the town so it is an important link. The L40071 is much narrower than the L4007 and there is limited development on it.
- 7.6.3. The application proposes a two metres wide footpath and two metres wide cycle path along the roadside boundaries between the site and the existing road edge. The paths extend further along the L40071 than the main development body of the site and include provision for a vehicular access off this road to serve potential future development. Raised pedestrian crossings are also proposed on the L4007 either side of Boheranouca Crossroads. A detailed Traffic and Transport Assessment was submitted with the application which included an independent Stage 1 Road Safety Audit. This states the width of the L4007 adjacent to the site is approx. 5.5 metres, it is in a 50kph zone and there is a footpath on the opposite side. The width of the L40071 varies between 4-7 metres “with a number of small changes to its horizontal alignment noted”. There is a 50kph speed limit along the western end of the road with an 80kph limit in the central and eastern sections. The development would be expected to generate 48 no. additional two-way vehicle trips during the weekday AM peak hour (8-9am) and 54 no. additional two-way vehicle trips during the weekday PM peak hour (5-6pm). Overall, 65 no. total vehicle and 2 no. heavy vehicle trips on the L40071 from the Boheranouca Crossroads are anticipated in the AM peak hour at Year of Opening (stated as 2021 in the Assessment) (56 no. total vehicles and 2 no. heavy vehicles are forecast if no development occurs). 91 no. total vehicle and no heavy vehicle trips on the L40071 from the Boheranouca Crossroads are anticipated in the PM peak hour at Year of Opening (82 no. total vehicles and no heavy vehicles are forecast if no development occurs). The Assessment concludes that there will be a limited impact on the performance of the road network which will continue to operate in a satisfactory manner.

- 7.6.4. Further information was sought, and the request contained a number of transportation-related issues including requests to provide footpaths and cycle paths on both sides of both roads including a minimum 6 metres carriageway on both roads, and a Stage 2 Road Safety Audit. The applicant's response included an 'RFI Traffic and Transport Response' and a 'Pavement Assessment – Visual Inspection Report'. Additional footpaths and cycle paths did not form part of the response because of landownership reasons and technical challenges. Specifically with regard to the possibility of widening the L40071, the RFI Traffic and Transport Response states on Page 7 that “due to the absence of consent from third-party land owners, provision of footpaths, cycle tracks and road widening to the specification outlined ... is not feasible having regard to the extent of lands in the ownership of the Applicant, and not deemed necessary to serve the proposed development”. This statement is inconsistent with other documentation such as RSM Drawing No. 2018 C322 v1.4 Sheet 01 of 02 contained within Appendix C of the Traffic and Transport Assessment dated June 2019 submitted with the application which, apart from the short distance in front of the third party property to the south, shows a 6 metres road width along the entirety of the applicant's L40071 boundary. In addition, the Site Layout Plan (Drawing No. 18-005-P-1.003) submitted as part of the further information response is marked as 'L40071 Road to be widened to 6m on applicant's side as part of this application'.
- 7.6.5. The Pavement Assessment – Visual Inspection Report cites the width of the L40071 as varying between 3.8 metres and 7.3 metres. However, Table 2.1 (L40071 Carriageway Width Overview) of the Pavement Assessment cites a width of 3.6 metres at the 150 metres chainage. Of the 12 no. chainage locations (50 metres apart and excluding the wide junction flares at both ends of the road), half of them were 4.0 metres or less in width and half were wider than 4 metres with the wider areas being closer to the R418 junction. The road width does not exceed 4 metres in width on the L40071 between chainage 150 and chainage 400. A number of additional responses relating to a letter of consent from Kildare County Council, electric vehicle charging, car parking, sightlines, signage etc. were also submitted. A Stage 2 Road Safety Audit was not submitted because the development was still at preliminary design stage and not at completion of detailed design stage, as required by Transport Infrastructure Ireland for a Stage 2 Audit.

- 7.6.6. Clarification of further information was sought, and transportation issues again comprised a substantial part of the request. A 'CFI Traffic and Transport Assessment' was submitted with the applicant's response. Further support for the development was set out relating to traffic generation, VRU connections, desire lines etc. It is stated on Page 14 of the CFI Traffic and Transport Assessment that Clanard Road "will be widened to 6.0 metres from ca. 4.5 metres at present" and Section 6.2 also states that "it is proposed to provide a 6.0 metre-wide carriageway on ... L40071 Clanard Road on sections of the road adjacent to lands within the Applicants control". No supporting layout plan, at an appropriate scale and to appropriate detail, has been submitted supporting these statements. It appears to be contradicted by Section 8.2 which states, in relation to the non-submission of a Stage 2 Road Safety Audit, that "For reasons detailed elsewhere in this note, there has been no change to road improvement works that can be delivered by the Applicant as part of the proposed development..."
- 7.6.7. The application was refused by Kildare County Council for the reason as set out in Section 3.1 of this Report. The grounds of appeal, and the Council's response to the grounds of appeal, are set out in Sections 6.1 and 6.2 of this Report.
- 7.6.8. Having regard to the foregoing, I consider that the impact of the development on the L4007 would be acceptable. I do not consider that it would be reasonable to refuse permission for the proposed development because of the condition of the L4007 given its width, location and condition and the improvement in VRU facilities in the immediate vicinity that would result. I do not consider junction capacities to be a concern.
- 7.6.9. I acknowledge the zoned nature of the site and its location on the edge of the urban area. However, I do consider that there would be a significant adverse impact on the L40071 as referenced in the documentation from the County Council. The L40071 exhibits the characteristics of a rural road. There are no footpaths or cycle paths, it is narrow with limited pull-in opportunities when necessary. The road is as narrow as 3.6 metres in places. It is used as a walking route, as noted at the time of the site inspection. The road is a desire line for vehicular traffic to the R418, N78 and M9 and traffic on this road would increase as a result of the proposed development. The road is used by agricultural machinery and heavy goods vehicles. Pedestrian activity would

also increase as a result of the development to access the hotel and some other commercial development on the R418.

7.6.10. Though the provision of a 2 metres wide footpath and cycle path is welcome, the application is unclear as to the widths of the road between its junction with the R481 and Boheranouca Crossroads. The information in this regard is generally contradictory and there is no clear, unambiguous detail on file as to the widths of this road post-development. No detailed survey layout of this road has been provided and no appropriate layout plan has been provided showing, at an acceptable scale, the exact proposed layout of the L40071, or its layout in the context of the existing house, should permission be granted. While the applicant has stated in the clarification of further information response, and briefly in the Traffic and Transport Submission submitted with the grounds of appeal, that the road width will be increased to 6 metres along the roadside of his property, I do not consider this has been adequately demonstrated by way of an appropriate layout plan. I consider there is a vacuum of clear, unambiguous detail. The other section of the L40071, while slightly wider, would remain without VRU facilities. It has been shown in the application that additional traffic generated by the development would be 9 no. movements at peak hours. While I do not dispute this figure, I consider it is a conservative estimate and would be the minimum anticipated, given the proximity of the R418/N79/M9. I do not consider that the application clearly set out that the proposed development, with its attendant increase in traffic movements, would not result in pinch points and other hazards that may cause risk. An alternative construction traffic route that would avoid the L40071, as suggested in the CFI Traffic and Transportation Assessment, would direct construction traffic further into the town which already has a congestion problem as acknowledged in the Town Development Plan 2012-2018.

7.6.11. The proposed development is the first construction project to directly affect the L40071 given it shares a boundary. I consider the condition of the L40071 is the fundamental issue in this application. I note it is an objective of the Town Development Plan 2012-2018 to improve this road, as shown on Map Ref. 16.1 and Objective RP9 (To carry out the improvement of the local road from Prusselstown Cross Roads to the N78 Dublin Road). I consider that the substantial improvement of this road is necessary in order to accommodate a development of the scale proposed at this location.

7.6.12. In conclusion, I do not consider that it has been clearly demonstrated that the proposed development would not have any adverse impact on the capacity of the L40071. I consider the increased traffic likely to result from the proposed development would render the road network unsuitable to carry the increased road traffic likely to result. I recommend permission be refused on this basis.

7.7. Services

7.7.1. Water and foul water have been cited as concerns in the observations received.

7.7.2. Irish Water is the body responsible for water and wastewater infrastructure. The Irish Water report prepared on foot of the clarification of further information response requested conditions be included in any grant of permission. One of the requested conditions notes that there are deficiencies in both the water and wastewater networks which require upgrading prior to commencement of development and “without such improvements may dictate that the development is not permitted to commence”. There are significant issues to be addressed in terms of compliance with Irish Water requirements.

7.7.3. Notwithstanding, in so far as it relates to this planning application, given the content of the report from Irish Water, I consider that the proposed development would be acceptable in terms of water and wastewater.

7.8. Creche

7.8.1. A creche is proposed as part of the application. The Childcare Facilities Guidelines set out an appropriate threshold of one childcare facility for every 75 no. residential units and this is also provided for in Policy HP23 of the Athy Town Plan 2012-2018. Larger new housing developments are an appropriate location for such development. I consider the creche to be a welcome element of the proposed development.

8.0 **Appropriate Assessment**

- 8.1.1. The requirements of Article 6(3) of the Habitats Directive, as related to 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

- 8.1.2. The applicant has submitted a screening report for Appropriate Assessment as part of the planning application. The 'Appropriate Assessment Screening' was prepared by Altemar Marine & Environmental Consultancy and is dated 25th June 2019. The report examines the likely significant effects of the project and considers whether, on the basis of objective scientific evidence, it can be concluded, in view of best scientific knowledge and the conservation objectives of the relevant European sites, that there are not likely to be significant effects on any European site. The Screening concluded that "It is the professional opinion of the author of this report that there will be no adverse effects on the integrity of any Natura 2000 sites from the proposed development".
- 8.1.3. Having reviewed the documents I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

Screening for Appropriate Assessment – Test of Likely Significant Effects

- 8.1.4. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development would have any possible interaction that would be likely to have significant effects on a European Site(s).

Brief Description of the Development

8.1.5. The applicant provides a description of the project on Pages 7 and 8 of the Appropriate Assessment Screening. In summary, the development comprises:

- Demolition of an existing agricultural shed
- Construction of 97 no. residential units comprising 40 no. semi-detached and terraced two-storey houses and 57 no. apartments and duplexes in 4 no. two – three storey blocks.
- A single storey creche.
- Other works including new vehicular access from Geraldine Road, new vehicular access from the L40071 to serve future phase(s) of development, cycle path/footpath on both roads, and ESB sub-station.

8.1.6. The site is an agricultural, greenfield site on the urban edge of Athy. Taking account of the characteristics of the proposed development in terms of its location and scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European Sites:

- Construction related pollution
- Habitat loss/fragmentation
- Habitat/species disturbance (construction and/or operational)

Submissions and Observations

8.1.7. None of the third party submissions or observations refer to appropriate assessment.

European Sites

8.1.8. The development site is not located in or immediately adjacent to a European site. The nearest European site is River Barrow and River Nore SAC approx. 1.4km to the south west.

8.1.9. I consider that only the River Barrow and River Nore SAC falls within a possible zone of influence having regard to the scale of the proposed development, the separation distances involved and the absence of identified pathways. The next closest European site is Ballyprior Grassland SAC approx. 11km to the west. A summary of the River Barrow and River Nore SAC is presented in the table below. Where a possible

connection between the development and the European site has been identified, the site is examined in more detail.

Summary of European Sites Within the Possible Zone of Influence of the Development

European Site (Code)	List of Qualifying Interests / Special Conservation Interest	Distance from Proposed Development (km)	Connections (source, pathway, receptor)	Considered Further in Screening?
River Barrow and River Nore SAC (002162)	Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Reefs [1170] Salicornia and other annuals colonising mud and sand [1310] Atlantic salt meadows [1330] Mediterranean salt meadows [1410] Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260] European dry heaths [4030]	1.4	None	No

	<p>Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]</p> <p>Petrifying springs with tufa formation [7220]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior [91E0]</p> <p>Desmoulin's Whorl Snail [1016]</p> <p>Freshwater Pearl Mussel [1029]</p> <p>White-clawed Crayfish [1092]</p> <p>Sea Lamprey [1095]</p> <p>Brook Lamprey [1096]</p> <p>River Lamprey [1099]</p> <p>Twaite Shad [1103]</p> <p>Salmon [1106]</p> <p>Otter [1355]</p> <p>Killarney Fern [1421]</p>			
--	---	--	--	--

	Nore Pearl Mussel [1990]			
--	-----------------------------	--	--	--

Identification of likely effects

- 8.1.10. In relation to construction-related pollution, I note the site is not within or adjacent to any European site. The closest European site is 1.4km from the site. There are no watercourses on site that could provide a pathway from this site to the SAC which is in the centre of Athy. As there are no watercourses there is no possibility of construction-related pollution.
- 8.1.11. In terms of habitat loss/fragmentation, no part of the site is located within or adjacent to a European site and there will be no loss or fragmentation of habitat.
- 8.1.12. I also do not consider there is any possibility of habitat or species disturbance during construction or during the operational stage having regard to the absence of any hydrological or ecological corridor and the distance from the SAC.
- 8.1.13. In terms of the ‘in combination’ issue, I do not consider this is a concern. The application is a stand-alone residential development. As the proposed development itself will not have any effects on the conservation objectives of any European sites, there is no potential for any other plan or project to adversely affect the integrity of any European sites in combination with the proposed development.

Mitigation Measures

- 8.1.14. 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.

Screening Determination

- 8.1.15. The proposed development was considered in light of the requirements of section 177U of the Planning and Development Act 2000 (as amended). Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project, individually, or in combination with other plans or projects, would not be likely

to give rise to significant effects on European Site No. 002162 (River Barrow and River Nore SAC), or any other European site, in view of the site's conservation objectives, and Appropriate Assessment including the submission of Natura Impact Statement is not, therefore, required.

8.1.16. This determination is based on the distance of the proposed development from the European site and absence of any hydrological or ecological connections.

9.0 Recommendation

I recommend that the planning application be refused for the following reasons and considerations.

10.0 Reasons and Considerations

1. Having regard to the scale of the proposed development and the traffic to be generated by it, it is considered that the additional traffic associated with the proposed development would endanger public safety by reason of traffic hazard on the Local Road L40071 and would lead to conflict between road users, that is, vehicular traffic, pedestrians and cyclists.

Anthony Kelly

Planning Inspector

01.03.2021