



An
Bord
Pleanála

Inspector's Report ABP309367-21

Development	Construction of 58 houses, 33 apartments and the construction of creche facility with access off the Brooklands Housing Estate.
Location	Capdoo, Clane, County Kildare.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	20808.
Applicant	Westare Investments Limited.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party -v- Grant.
Appellant	Councillor Pádraig McEvoy.
Observers	Clane Community Council
Date of Site Inspection	24 th May, 2021.
Inspector	Paul Caprani.

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1.0 Introduction

ABP309367-21 relates to a single third-party appeal against the decision of Kildare County Council to issue notification to grant planning permission for the construction of 58 houses and 33 apartments in five separate blocks adjacent to the existing Brooklands Housing Estate on the eastern outskirts of the village of Clane in North Kildare. The grounds of appeal argue that the proposed development is premature, will result in the over provision of housing in the Clane Area, without the commensurate services within the town and will give rise to unsustainable commuting patterns to Dublin City. An observation was also submitted by Clane Community Council supporting the grounds of the third-party appeal.

2.0 Site Location and Description

- 2.1. The appeal site comprises of two rectangular fields currently under grass which are located on the eastern outskirts of the town of Clane approximately 35 kilometres west of Dublin in North Kildare. The site is located contiguous to the Brookdale Housing Estate a relatively recently constructed estate in the townland of Capdoo which is accessed off the R403 to the north (Clane/Celbridge Road). The existing dwellings at Brooklands comprise of blocks of two-storey terraced dwellings with each block containing four units. Small front gardens and communal car parking spaces are provided to the front of each of the dwellinghouses. Lands to the immediate west of the site accommodate two blocks of three storey apartments. Lands to the immediate east of the site adjacent the western banks of the River Liffey were at the time of site inspection undeveloped. The Board have recently granted planning permission for 333 residential units (121 houses and 212 apartments together with a crèche and associated works under SHD application Reg. Ref. ABP308943-20). The application under ABP 308943 incorporates the subject site. Planning permission was granted on 12th April, 2021.
- 2.2. Lands along the northern boundary of the site are currently undeveloped and in agricultural use. The southern boundary of the site contiguous to the Brooklands Housing Estate is bounded by c.2 metre high palisade fencing. There is an existing

truncated access road leading directly to the site from the main distributor road serving the Brooklands Housing Estate at the south-western corner of the site. The site has a stated area of 3.6 hectares and is located at less than a kilometre from Clane Main Street.

3.0 Proposed Development

- 3.1. The planning application went through a number of iterations during the course of being determined by the Planning Authority.
- 3.2. The original drawings submitted on 23rd July, 2020 proposed a total of 91 units in five separate blocks. A three-storey apartment block together with a crèche was located at the south-western corner of the site facing onto the existing Brooklands Housing Estate. The remainder of the units are set out in four separate blocks, surrounded by roads which ran around the perimeter of the site and a large area of linear open space was located in the centre of the site.
- 3.3. The Planning Authority on the 11th September, 2020 requested that the applicant incorporate a significant number of design changes into the original layout. Further information was submitted on 19th October 2020 which incorporated the same general layout with slight alterations to the layout and orientation of the houses. The layout still incorporated five blocks of units in total surrounded by roads along the perimeter of the site and a landscaped green area centrally located within the site.
- 3.4. On 10th November, 2020 the Planning Authority requested that the applicant submit clarification of further information on the basis that it considered that the revised layout did not address all the concerns raised by the Planning Authority.
- 3.5. The final layout was submitted to the Planning Authority on 4th December, 2020 and incorporates, for all intents and purposes the same layout as that granted permission under ABP 308943-20¹. The proposed scheme is described in more detail below.
- 3.6. Planning permission is sought for the construction of 91 units on this 3.6 hectare site.

¹ There are some very slight alterations in the garden sheds and cycle parking provision etc.

However the layout and house-types proposed appear to be identical.

- 3.7. **Block No.1²** comprises of an apartment and crèche development at the south-western corner of the site. This three-storey block is to face south-westwards onto the main distributor road serving the Brooklands Estate. A new internal access road together with grouped car parking is to be provided to the front of the building adjacent to and parallel to the existing road. The ground floor is to accommodate a crèche facility and 1 no. two-bedroomed apartment 90 square metres in size. An additional four apartments (88 to 90 square metres in size) are to be located at first floor and second floor level. The living rooms of each of the apartments incorporate a private recessed balcony ranging from 8.9 to 10.7 metres in size. A small area of open space is to be provided adjacent to the north-western gable of the apartment.
- 3.8. **Block No. 2** is located to the immediate rear of the apartment block. It comprises of 14 houses and an small two-storey apartment block. The block is arranged so that houses face outwards onto the surrounding perimeter roads with areas of private open space (rear gardens) located to the rear of the dwellings centrally within the blocks. 11 different house types are proposed comprising of two and three storey terraced dwellings, two and three bed terraced units and three bed semi-detached units. A small two-storey block of one bedroomed apartment is also located at this location. A total of four one-bedroomed apartments are provided on two levels within the apartment block.
- 3.9. **Block No. 3** is located in the south-eastern corner of the site. It comprises of 21 houses with a two-storey block of maisonettes in the north-western corner. These units back onto each other with larger four-bed two-storey dwellings facing south-west onto a new proposed internal access road adjacent to the south-west boundary of the site. Smaller terraced two-storey three-bed dwellings are located along the northern edge of this block facing onto an internal access road and northwards onto the central area of open space. Four maisonettes are located in a two-storey block at the north-eastern corner. As in the case Block 1&2, group parking is provided to the front of each of the units.
- 3.10. **Block No. 4** is located in the north-eastern corner of the site and comprises of 15 dwellings together with a two-storey maisonette block comprising of four two-

² The blocks referred to relate to my personal numbering, they do not correspond to any naming/numbering on the layouts on the drawings submitted.

bedroomed units. The residential houses comprise of two and three storey semi-detached and terraced dwellings accommodating two and three bedrooms. As in the case of Block 1, the units face outwards with private open space (rear gardens) to the rear, backing onto each other. The units face onto internal access roads with areas of grouped parking to the front of the units.

- 3.11. Block No. 5 is located in the north-eastern corner of the site and comprises of 16 semi-detached and terraced dwellings two to three storeys in height. A block of four one-bedroomed apartments are also located within the layout. As in the case of Blocks 2 to 4, the units on Block 5 face outwards with areas of private open space located centrally within the blocks.

A breakdown of the units proposed are set out in the table below:

Accommodation Type	No. of Units Provided
4 Bed semi-detached	12
3 Bed semi-detached (Type A)	08
3 Bed detached	01
3 Bed semi-detached (Type B)	14
2 Bed terraced (2 Storey)	11
3 Bed terraced (3 storey)	10
3 Bed terraced (3 storey)	10
2 Bed Maisonette	08
1 Bed Maisonette	08
Apartment Block	09
Total	91

Housing Mix	1 Bed	2 Bed	3 Bed	4 Bed	Total
Total Units	08	28	43	12	91
% Mix	9%	31%	47%	13%	100

- 3.12. The proposed buildings range in height from 8.5 to 10.7 metres with the larger apartment block and crèche building rising to 9.8 metres in height.
- 3.13. Boundary treatments comprise of a 1.8 metre high concrete post and timber fence between the rear gardens. A 2 metre high block wall with a plaster finish runs along the rear garden boundary separating the dwellings. The rear gardens are generally between 8 and 12 metres in length.
- 3.14. Details of the proposed hard and soft landscaping is set out in the Landscape Masterplan submitted on 4th December, 2020. A central spine of public open space approximately 150 metres in length and 40 metres in depth is located centrally within the site. It is proposed to retain part of the hedgerows which currently separate the two existing fields on site. A formal playground area is located centrally within the open space provision with more informal kickabout areas located on either side of the playground. Incidental areas of open space are also located around the perimeter of the site.
- 3.15. With the exception of the internal access road serving the apartment block and crèche facility, only one access is proposed to serve the development. This access is located at the south-western corner of the site and runs adjacent to the site's western boundary. This main road is to connect with future developments to the north. Smaller internal access roads run around the perimeter of the site and also between the blocks of units described above.

4.0 Planning Authority's Decision

4.1. Decision

- 4.1.1. Kildare County Council issued notification to grant planning permission subject to 41 conditions.

4.2. Documentation Submitted with the Planning Application

- 4.2.1. The planning application was accompanied by the following documentation.

A **Planning Report** prepared by Hughes Planning and Development Consultants. It sets out details of the planning history of the subject site and adjoining land and

details of the proposed development. It goes on to assess the proposed development in the context of national policy documents relating to housing provision. It also sets out the proposed development in relation to the Development Management Standards set out in the Design Standards for New Apartments – Guidelines for Planning Authorities (2018). The report then goes on to assess the proposal in the context of the Kildare County Development Plan and in particular the settlement hierarchy and core strategy before assessing the proposal in the context of the standards set out in the development plan. It is noted that the subject site is not located in a flood risk area and the proposal sets out policies in relation to childcare facilities. Finally, the report sets out details in respect of Part V proposals.

Also submitted with the application was:

- A Planning Design Statement.
- An Arboricultural Report.
- A Traffic Impact Study.
- An Outdoor Lighting Report.
- A Road Safety Audit (Stage 1 of 2).
- A Statement of Consistency with DMURS.
- A letter from Irish Water stating that a connection to Irish Water infrastructure can be facilitated.

4.3. Initial Assessment by the Planning Authority

- 4.3.1. A report from the **Executive Parks Superintendent** requested further information in relation to landscaping and landscaping design.
- 4.3.2. A report from the **Environment Section** stated that there was no objection subject to a number of conditions.
- 4.3.3. An appropriate assessment screening report stated that it is considered that there is no potential for significant effects on the Natura 2000 network.
- 4.3.4. The initial planner's report states that the proposed development complies with the land use zoning objective and considers the density to be generally acceptable. A number of concerns are expressed in relation to the overall design.

4.3.5. It is noted that the development would meet the qualitative standards set out in the recently published Apartment Guidelines and that the layout as proposed will not give rise to any undue overlooking or overshadowing. It is noted that further information is required on biodiversity particularly in relation to bats. Further information is also requested in relation to traffic, transport and parking.

4.4. It is concluded therefore that prior to determining the application that the planning authority should seek further details in relation to:

- The overall design and layout.
- A statement of housing mix.
- Details as to how it is proposed to provide a neighbourhood park as part of the zoning objectives for the lands.
- Further details in relation to the protection of trees and hedgerows during construction work.
- A further comprehensive landscape design.
- Further details of the dimensions and quantity of the proposed private open space for the Part V housing units.
- Further details in relation to car parking provision.
- Further alterations to the road design layout and pedestrian routes through the site and cycle parking.
- Further details in relation to surface water arrangements.
- The submission of a draft construction management plan.

4.5. **Additional Information Response**

4.5.1. Additional information was submitted on behalf of the applicant on 19th October, 2020. It comprised of:

- Revised drawings incorporating alterations to the layout and design.
- A Planning Report detailing the revisions as required by the planning authority. This also provides details of the housing mix and how it relates to the demographic profile of Clane.

- A consulting engineer's report by Brian Conley Consulting Engineers specifically dealing with the following:
 - A preliminary construction and environmental management plan.
 - A preliminary Construction Waste Management Plan
 - The incorporation of the recommendations of the road safety audit.
 - Detailed site lines at all junctions.
 - Further details in relation to footpaths and kerbs.
 - Further details in relation to cycle tracks on the road networks.
 - Further details in relation to raised speed tables etc.
- Further Information from Landmark Designs providing details of the Landscape Master Plan, Boundary Treatments and Tree Planting and details of the Playground areas.
- A Further Report from the Consultant Arborist details the hedges and trees to be retained and cleared from the site, A tree Survey a Tree Management Plan and An Arboricultural method Statement.
- A revised traffic and transport assessment prepared by DBFL Consulting Engineers.
- A separate Mobility Management Plan from Road Plan Consulting was also submitted.

4.6. Clarification of Additional Information issued by Planning Authority

- 4.6.1. Kildare County Council noted the further information submitted and had particular regard to the changes in a layout and design, including the revised landscaping plan. Details of the housing mix statement is also assessed. It is considered that the proposal provides a variety of building forms which can cater for different family sizes which is an appropriate response to the demographic profile.
- 4.6.2. With regard to the provision of a public park, it is stated that the applicant retains ownership of all the lands within the key development area boundary and will include a linear public park running east to west.

- 4.6.3. The applicant also submitted further information in respect of tree and hedgerow protection measures. The planner's report notes that, in relation to this matter, further information was requested from the Parks Department.
- 4.6.4. Further details in relation to road design, footpaths, cycle paths, parking and traffic calming measures were also submitted as per the drawings submitted. Further details are also submitted with regard to the revised bin storage arrangements and car parking arrangements. It is noted that the crèche will accommodate 11 staff and 50 children and 18 spaces will be provided to serve the crèche. It is noted that all this information was assessed by the Transportation Section of Kildare County Council with no objection subject to conditions.

4.7. Clarification of additional information

- 4.8. The planner's report concludes that there are a number of outstanding issues that need to be addressed relating to:
- The excessive level of side boundary walls addressing the open space area.
 - Further revised design with regard to the railing balustrade on the balconies to be removed and replaced with glazing.
 - Clarification that there will be no plant or mechanical units on the roof of the mixed-use building.
 - The applicant is requested to confirm the retention of the services of a qualified landscape architect.
 - Further details in relation to the playground design.
- 4.9. Further information was submitted by the applicant on 4th December, 2020 addressing the concerns raised above.
- 4.10. A further planner's report noted the further information submitted and considered the proposed development to be acceptable. Therefore, having regard to the residential zoning objective on the site it is considered that the proposed development is acceptable and planning permission was therefore granted.

5.0 Planning History

- 5.1. No appeal files are attached.
- 5.2. Detailed planning history associated with the site and its surroundings is contained in the original planner's report submitted to Kildare County Council with the planning application on 23rd July, 2020.
- 5.3. Two files are particularly pertinent to the current application and appeal. Under Reg. Ref. ABP305905-19 An Bord Pleanála refused planning permission on the subject site for a strategic housing development comprising of 305 residential units comprising of 112 houses, 20 maisonette units, 139 apartments and 34 duplex units in 8 three storey blocks and the construction of a 340 square metre childcare facility. An Bord Pleanála refused planning permission on design grounds primarily on the basis that the proposed development did not comply with the key criteria set out in the "Urban Design Manual" on the basis that the proposed development was dominated by roads and surface car parking and results in a poor design concept for the site. It was also considered that the development fails to respond satisfactorily to the requirements of the Design Manual for Urban Roads and Streets as it does not promote a high quality street layout that prioritises people rather than vehicular movement. The site related to a larger 10 hectare site which included the current site.
- 5.4. A more recent decision by the Board under ABP 308943-20 on a 10 ha site which includes the subject site was made in April, 2021. Under this strategic housing application, the Board granted planning permission for the provision of 333 residential units (121 houses and 212 apartments). As already stated, the layout of the for that part of the site under ABP 308943-20 which corresponds with the subject site, incorporates an almost identical layout to that currently before the Board. The current application, which is below the threshold of 100 units for SHD, was lodged with Kildare Co Council (July 2020) prior to the lodgement of ABP 308943-20 (December 2020). Thus ABP 309843-20 was lodged subsequent to, but determined before the current application.
- 5.5. The GIS map viewer also includes a reference to ABP304410-19. This application related to a strategic housing development consultation for 300 dwellings on the

subject site. The decision according to the An Bord Pleanála website states that the proposal requires further consideration/amendment.

6.0 Grounds of Appeal

- 6.1. The decision was the subject of a single third-party appeal. The decision was appealed by Councillor Padraig McEvoy a member of Kildare County Council. The grounds of appeal are outlined below.
- 6.2. It is argued that the planning application is premature. Reference is made to the policies and objectives contained in the National Planning Framework and land use policies contained within the Eastern and Midlands Regional Assembly Regional Spatial and Economic Strategy which requires land use plans within the Greater Dublin Area to show consistency with the National Transport Authority's Transport Strategy.
- 6.3. Clane is reliant on other settlements for employment opportunities.
- 6.4. Reference is made in the grounds of appeal to the various policy provisions contained in the Kildare County Development Plan 2017 – 2023 and the Clane Local Area Plan 2017 – 2023. It emphasises that the future development of Clane is based on its role as a small town in the context of the Kildare Settlement Hierarchy.
- 6.5. The applicants of the current application sought to have the town designated as “a self-sustaining town” during the preparation of the proposed variation to the County Development Plan. The Chief Executive's response notes that, having regard to Clane's high commuter levels, private car dependency and lack of access to high quality public transport, it is not considered to be a self-sufficient town at this stage. It is noted that Clane has high levels of population growth and a weak employment base.

New policies contained in the EMRA Regional Spatial and Economic Strategy seek to curtail car dependent growth located distances from cities.

The ERSI has reduced the housing target for Kildare from 2,007 units to 1,335 units. If this were appropriately apportioned to the settlement of Clane, it would result in the provision of 37 units on an annual basis giving rise to an additional 108 units for the settlement of Clane during the plan period.

- 6.6. It is argued that policies have superseded the Clane Local Area Plan at a higher strategic level that seek to bring a change to the delivery of growth and better integrate land use with transport investment. There is no land use transport strategy or local transport plan developed for the settlement of Clane.
- 6.7. Details of the amount of residential units applied for in Clane in recent years specifically in the Key Development Areas³ (KDAs) are set out in the appeal. The current application should not be seen in isolation and the Board should seek to co-ordinate the delivery of housing into its serviced areas. The national priority is to slow housing growth in areas where there are poor transport links. Therefore, the application must consider issues beyond the immediate environs of the site and look at wider strategic implications of delivering housing in areas that do not have key infrastructural facilities to support such housing.
- 6.8. On this basis the current application should be rejected.

7.0 Appeal Responses

- 7.1. A response was submitted on behalf of the applicant by Hughes Planning and Development Consultants. The response is outlined below.
- 7.2. The response sets out details of the site location and description and also details the various bus services available within close proximity of the site.
- 7.3. Details of the infrastructure and services available within the town are also set out with specific reference to retail (5 supermarkets), education where the two existing school facilities have either recently undergone expansion or have secured planning permission for expansion. Details of childcare facilities, healthcare facilities, finance, sports and other social services are set out in the response. Details of road infrastructure and sewage infrastructure improvements are also set out, as are details of employment opportunities in the vicinity and the wider area. It is concluded that Clane has appropriate infrastructure to cater and support for further residential development.
- 7.4. The grounds of appeal go on to outline various policy statements contained in National Planning Framework and it is argued that the proposal sits comfortably with

³ Five Key Development Area's have been designated for the settlement of Clane.

the various policy objectives referred to (3a, 3c, 11, 13 and 35). Reference is also made to the Regional Spatial and Economic Strategy for the Eastern and Midlands Region and it is noted that Clane designated as a self-sustaining growth town as set out in Section 4.7 of the Regional Strategy. The proposal will provide housing within appropriately zoned lands to accommodate the residential population for Clane.

- 7.5. It is noted that the Kildare County Development Plan designates Clane as a “small town”. The population and housing allocation indicates that 780 additional residential units are earmarked for the town up to 2023. The only major development which is granted (under ABP304632-19) was for 456 units in September, 2019. This leaves a total of 324 units to be developed within the town. The proposed development of 91 units is within this allocation.
- 7.6. The proposal also follows the sequential approach of progressively developing lands closest to the town centre. The development site forms part of Key Development Area 1 (KDA-1) one of five key development areas in Clane.
- 7.7. The Clane Local Area Plan identifies KDA-1 with an estimated residential capacity of 161 units (at a density of 26 units per hectare). It was submitted therefore to the Board that the proposed development in accordance with the unit allocation of the development plan (which has been updated in line with the National Planning Framework and the Regional Spatial and Economic Strategy under Variation No. 1 of the Development Plan). The subject site remains zoned for residential development under the variation to the development plan and the proposal to construct 91 units accords with the housing allocation of 145 units envisaged for Clane over the next 18 months.
- 7.8. The proposed development also complies with the requirement to provide mixed tenure and integrated communities and provides for a variety of housing mix on the subject site. The proposal also incorporates a crèche which will be open to members of the wider community and is located in proximity to a variety of local services. The regional guidelines also support the “10 minute” settlement concept whereby a range of community facilities and services are accessible in short walking and cycling distance from residential development. The proposal is fully in accordance with this “10 minute” concept, as all services within the town are located within 10 minutes of the subject site.

- 7.9. With regard to local transport plans, the regional guidelines suggest that such plans should be prepared for key towns and other higher order towns. In the absence of such a plan the Board are guided by the various objectives relating to transport contained in the Clane Local Area Plan.
- 7.10. The proposal is also in compliance with the Design Manual for Urban Roads and Streets. It is reiterated that the site also benefits from an excellent public transport network. It is respectfully suggested that the Board can make a decision in the absence of any local transport plans for Clane.
- 7.11. With regard to the settlement boundary, it is stated that the Census Map highlighting the CSO census boundary for Clane makes it clear that the subject site is located within the existing built-up footprint of the town of Clane.
- 7.12. It is argued that the applicant's submission to the variation of the development plan does not accurately reflect the key tenant of the submission. The primary focus of the submission was to request the full implementation of regional planning policy at local level as prescribed. The Regional Spatial and Economic Strategy recognises that not all growth can take place within Dublin City itself and that 70% of this growth will be outside Dublin City.
- 7.13. It is reiterated that the proposed development does not exceed the housing unit allocation set out in the development plan and it is unlikely that these units will be attained before 2023.
- 7.14. Reference is made to ABP307013-20, which related to a residential development on the settlement of Kill Co Kildare, where the Board satisfied itself that the reason for refusal which specifically referenced the National Planning Framework and the Regional and Spatial Economic Strategy are not applicable as there are no specific objectives or population targets for the town of Kill.
- 7.15. It is stated that there was a clear and urgent need for housing at national level within Ireland which is particularly prevalent within towns. The policy for increased housing and residential accommodation is highlighted in various national strategy documents adopted by Government in recent years.
- 7.16. The response to the grounds of appeal takes issue with some of the figures presented in respect of completed housing developments in Clane since 2017, and it is suggested that the figures presented in some cases (Aughmore, Hemmingway

Park and Abbotfield are overestimated). It is also suggested that some of the applications submitted since 2017 were for change of house types to permitted developments granted prior to 2017 as opposed to new planning permissions.

8.0 Observations

8.1. An observation was submitted by Clane Community Council.

8.2. This observation expresses concerns that the proposed development when viewed in the context of recent approvals and parallel applications before the Board will result in housing units far exceeding the numbers set out in the development plan and would result in development exceeding the housing densities in the development plan. The observation notes that the town's population has more than quadrupled in less than 30 years. As public and social infrastructure has not kept pace with the rate of population growth the Board are requested to adhere to the provisions of:

- The Regional Spatial and Economic Strategy for the Eastern and Midland Regional Assembly.
- Variation No. 1 of the Kildare County Development Plan.
- The Clane LAP.
- The further reduction in growth set out for Kildare in the Ministerial letter (18th December, 2020) structural housing demand in Ireland and housing supply targets.

8.3. It is stated that there is considerable pressure on infrastructure and services in the Clane area.

8.4. The observation goes on to reiterate many of the concerns set out in the grounds of appeal. Reference is made to the submission made by the applicant in the variation to the County Development Plan and the Chief Executive's response in relation to the same.

8.5. The submission emphasises the need to curtail car dependent growth in satellite towns outside the Greater Dublin Area. It is argued that Clane has not progressed to a self-sustaining town due to the underdevelopment of services.

- 8.6. It is reiterated that in December 2020, the Department of Housing issued a new set of housing targets for each local authority and the number of units projected for County Kildare was reduced from 2,007 units to 1,535 units. Proportionally it is suggested that 108 of these units could be apportioned to Clane.
- 8.7. Reference is also made to permissions granted in Clane since the adoption of the LAP in 2017. The proposal goes on to detail current residential projects in the Clane area. It is suggested that a total of 789 homes are either already built, nearing completion, or are approved for construction. Furthermore there are currently applications for a total of 558 homes. The substantial increase in housing is not being accompanied by provision for additional school places or public transport.
- 8.8. The observation goes on to describe the capacity issues associated with the local school, public transport and public road infrastructure. It is considered that the number of car parking spaces associated with the proposed 91 units will generate a significant number of local movements that are car dependent.
- 8.9. The Clane LAP makes provision for a ring road to be built in phases around Clane. Only part of this link road has been built. It is submitted that no development should start on the subject site until this link road is complete and that the subsequent development of KDA-1 adheres strictly to the limitations set out in the Clane LAP.
- 8.10. It is also submitted that any development allowed in the KDA-1 area should be required to include a substantial and sufficient area of public parkland.

9.0 Relevant Planning Policy

- 9.1. The following documents are relevant to the current application and appeal before the Board.
- 9.2. **National Planning Framework (NPF)**
- 9.2.1. There are a number of key national policy objectives in the National Planning Framework which are relevant to the current application and appeal.
- 9.2.2. National Policy Objectives 3(a) seeks to deliver at least 40% of all new homes nationally within the built-up footprint of existing settlements.

- 9.2.3. National Policy Objective 3(c) seeks to deliver at least 30% of all new homes that are targeted in settlements other than the five cities and their suburbs, within their existing built-up footprints.
- 9.2.4. National Policy Objective 11 states that in meeting urban development requirements, there will be presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.
- 9.2.5. National Policy Objective 13 states that in urban areas, planning and related standards, including in particular height and car parking will be based on performance criteria that seeks to achieve well designed high quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.
- 9.2.6. National Policy Objective 27 seeks to ensure that integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.
- 9.2.7. National Policy Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relevant to location.

9.3. **Rebuilding Ireland**

- 9.3.1. Pillar 3 of this national strategy (2016) seeks to build more homes by increasing the output of private housing to meet demand at affordable prices. In terms of housing supply requirements, it is noted that current completion levels must double in the next four years. It is also noted that there is a significant requirement to expand the build to rent sector which is not being catered for in the current construction levels. There is also a need to increase the level of social housing. The Rebuilding Ireland Policy emphasises the need to supply and build more homes with delivery of housing across the four Dublin Local Authorities.

9.4. Sustainable Urban Housing Design Standards for New Apartments

9.4.1. These guidelines note that in the short term to 2020 the Housing Agency has identified a need for at least 45,000 new homes in Ireland's five major cities more than 30,000 of which are required in Dublin City and suburbs. This does not include the additional pent-up demand arising from undersupply of new housing in recent years. In broader terms, there is a need for an absolute minimum of 275,000 new homes in Ireland's cities up to 2040 with half of these located within built up areas. This necessitates a significant and sustained increase in housing output and apartment type development in particular. Specifically, there is a need:

- To enable a mix of apartment types that better reflects contemporary household formation and housing demand patterns and trends, particularly in urban areas.
- Make better provision for building refurbishment and small-scale urban infill schemes.
- Address the emerging build to rent and shared accommodation sectors.
- Remove requirements for car parking in certain circumstances where there are better mobility solutions to reduce costs.

9.5. Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands Regional Assembly (EMRA) (June 2019)

- Section 4.7 designates Clane as a "self-sustaining town". It is noted that Clane has seen a growth of over 32% in terms of population in the last 10 years. Clane is one of six towns in Kildare designated for Level 3 retail (town centre/district centre and sub-county town centre) (key district centre).
- Appendix 1 figures indicate that the Osberstown Wastewater Treatment Plant has a capacity of 130,000 PE with an additional 39,144 headroom (this wastewater treatment plant serves Newbridge, Naas, Clane and Sallins).

10.0 Development Plan Policy

10.1. The site is governed by the policies and provisions contained in the Kildare County Development Plan 2017 – 2023. Variation No. 1 of this development plan was adopted by Kildare County Council on 9th June, 2020. The changes in Variation No.

1 reflect the changes in national and regional policy primarily contained in the National Planning Framework and the Regional Spatial and Economic Strategy for the Eastern and Midlands Regional Assembly. The policies and provisions contained in the varied development plan which are relevant to Clane are summarised below.

- Clane is defined as a “town” in the settlement hierarchy for Kildare.
- According to Table 3.1 which sets out details of the settlement hierarchy, Clane is listed in the fourth tier of this settlement hierarchy.
- In terms of population and housing unit allocation for the period 2020–2023 Clane is allocated a growth of 2.4%. The dwellings targeted for the period 2020 – 2023 is 145 down previously from 780.
- In terms of economic development, Table 5.2 sets out the economic development hierarchy. In respect of towns, these settlements are designated as local service and employment functions near higher order urban settlements. The towns seek to attract small scale industry, diversification of the rural economy, new economic opportunities arising from digital connectivity and indigenous innovation and enterprise as well as more traditional, natural and resource assets e.g. food, energy and tourism.
- In terms of density, the plan seeks to ensure that densities are in line with national guidance for sustainable residential developments, promote residential densities appropriate to location and surrounding context.
- Table 4.12 of the Plan gives indicative density levels. In the case of large towns (population in excess of 5,000), outer suburban/greenfield sites set out general density parameters of 30 to 50 units per hectares. In small towns and villages edge of centre sites within small towns and villages have general density parameters of 20 to 35 units per hectare.

10.2. Clane Local Area Plan

10.2.1. The Clane Local Area Plan covers the same period 2017 – 2023. The site is located in Key Development Area 1 – ‘Dublin Road’. The site is entirely governed by the Zoning Objective C – ‘new residential infill’ which seeks to provide for new residential development. Section 12 of the Plan sets out details in relation to Key Development Areas. Section 12.2.1 specifically relates to Key Development area 1 – Dublin Road.

The vision is the extension of the urban area of Clane through new residential development and open space and amenity with a high quality permeable urban form, which protects the natural heritage and delivers important connectivity to the River Liffey and future town park. The plan goes on to set out design briefs for KDA-1 in respect of:

- Connectivity and movement.
- Built form.
- Landscape and open spaces.
- Access is to be provided from existing residential developments from the south.
- Providing future access to future development of strategic land reserves to the north.
- Provide passive surveillance of road cycleways, footpaths and open spaces.
- Create legible development with a sense of place having regard to residential amenity of existing dwellings at the southern edge.
- Provide a minimum of 15% of new residential lands as public open space and retain natural heritage and green infrastructural features.

10.2.2. In terms of childcare, a pro rata childcare provision of a rate of 0.13 childcare spaces per dwelling. In terms of density standards Key Development Area 1 – Dublin Road identifies a quantum of land for housing with an estimated residential capacity of 161 units with an estimated density per hectare of 26 units.

10.2.3. In terms of more general policies, HCO1 seeks to require new developments to comply with national guidance and standards.

- HCO1.2 seeks to facilitate the phased development of the KDAs in accordance with guidance set out in Section 12.
- HCO1.3 seeks to secure the provision of social infrastructure and community and recreational facilities in tandem with residential development in accordance with the implementation strategy.

10.2.4. In terms of open space Objective OSO1.5 seeks to secure the delivery of a neighbourhood park in conjunction with development at KDA-1 including a multi-use games area.

10.2.5. Details of the scheduling of phasing for each of the key development areas are set out in Section 13.2.1.

10.3. Preliminary Examination Screening for Environmental Impact Assessment (EIA)

10.3.1. An Environmental Impact Assessment Screening report was not submitted with the application (and I have had regard to same).

10.3.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)

10.3.3. It is proposed to construct 91 residential units and a creche. The number of dwellings proposed is well below the threshold of 500 dwelling units noted above. The site has an overall area of 3.6 ha and is located contiguous to the built-up area of Clane. The site is not located in a business district and currently constitutes a greenfield site. The site area is therefore well below the applicable threshold of 10 ha or a built-up area and 20ha in the case of a site contiguous to the built-up area. The introduction of a predominantly residential development with an associated commercial creche will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not located within an area of landscape sensitivity or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any European Site (as discussed below in section 13 of my report) and there is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site/or other). The proposed development would not give rise to waste, pollution or

nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Kildare County Council, upon which its effects would be marginal.

10.3.4. Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are governed by the zoning objective C 'new residential infill' under the provisions of the Kildare County Development Plan, and the results of the strategic environmental assessment of the Kildare County Development Plan, undertaken in accordance with the SEA Directive (2001/42/EC),
- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case (See Preliminary Examination EIAR Screening Form).

11.0 Planning Assessment

I have had regard to the decision of the Planning Authority in respect of the proposed development and the issues raised in both the grounds of appeal and the observation submitted to the Board. I have visited the subject site and its surroundings, have had particular regard to the policies and provisions contained in the County Kildare Development Plan including the variation to the development plan and the revisions in respect of the projected housing figures for the Kildare area and the Clane area in particular. I have also had regard to the planning history pertaining to the site and more recent planning applications submitted to An Bord Pleanála for the Clane area and the subject site in particular. I consider the critical issues in determining the current application and appeal before the Board are as follows:

- Principle of Residential Development on the Subject Site
- Core Strategy Issues
- Urban Design Issues
- Density of Development
- Compliance with Housing Targets set out in the Core Strategy
- Recent Housing Permissions in the Clane Area

Each of these issues are dealt with under separate headings below.

11.1. Principle of Residential Development on the Subject Site

- 11.1.1. The principle of development is acceptable on the subject site on the basis that the site is zoned for residential development and is earmarked as a key development area in the Clane Local Area Plan. The design brief for the site which forms part of KDA-1 sets out a number of prescriptive measures relating to the overall key development area which includes the subject site. It is clear from Figure 12.2(b) of the KDA-1 analysis map that the lands which form part of the subject site are specifically earmarked for residential development. (Whereas the eastern part of the site is earmarked for open space/riverside walkway).

11.1.2. Finally, I would refer the Board to its previous decision pertaining to the site which was recently granted planning permission under ABP 308943-20. This decision permitted the construction of 333 dwellings on a 10.36 hectare site of which the current site forms part. The Board have clearly therefore accepted the principle of residential development on the subject site.

11.2. Core Strategy Issues

11.2.1. The purpose of the core strategy is to articulate a medium to longer term quantitatively based strategy for the spatial development of the Kildare Area and to ensure that policies adopted in the plan are consistent and comply with national and regional development objectives. Some of the key development objectives set out in the core strategy within which, the proposed development sits comfortably include the following:

- Consolidation of development within the existing urban footprint, by ensuring that 30% of all new homes are targeted within the existing built-up areas to achieve compact growth of urban settlements.
- Supporting the achievement of more sustainable climate resilient communities in towns and villages through residential and employment opportunities with a focus (inter alia) on compact growth together with supporting social and community facilities.

The core strategy in the development plan has been the subject of variation No.1 of the Kildare County Plan. The variation has resulted in a significant reduction in the number of dwellings allocated to the settlement of Clane. The issue of the detailed compliance with the core strategy is dealt with in more detail in section 11.6 of this assessment.

11.3. Urban Design Issues

11.3.1. While not raised as a matter in the grounds of appeal but in the interests of a comprehensive assessment and having regard to the previous reason for refusal by An Bord Pleanála under ABP305905 where permission was refused primarily on design grounds, it is considered appropriate to address this issue in more detail. It is also appropriate to address this issue on the basis that the planning application and appeal should be considered de novo by the Board.

11.3.2. It is clear that the original application submitted to the Planning Authority was the subject of various iterations in design on foot of the Planning Authority's request for additional information and clarification in respect of the additional information submitted. It was clear that the Planning Authority on receiving the original application was not satisfied with the overall design and identified some perceived shortcomings in relation to same. The Planning Authority requested detailed revisions in relation to:

- Open space layout.
- The orientation and outlook of the dwellings in the context of the overall design and to provide more passive surveillance of open spaces.
- Elevational changes to the main apartment block to the south-west of the site fronting onto the Brooklands Housing Estate.
- Further details in relation to the overall mix of units to be provided on site.

11.3.3. The Planning Authority requested very detailed information in relation to landscaping including layout and design of open spaces, how the proposed open space provision links into an overall neighbourhood park, further details with regard to tree and hedgerows protection and retention, further details in relation to soft and hard landscaping throughout the scheme.

11.3.4. The Planning Authority also requested very detailed information in relation to road and footpath layout, cycle parking provision including storage, the allocation and number of car parking spaces to be provided throughout the scheme and details of pedestrian pathways based on desire lines and details regarding traffic calming measures.

11.3.5. In response the applicant submitted further information which addressed the above concerns to the satisfaction of the Planning Authority. The applicant also submitted the final design to the planning authority in early December 2020, 2 weeks an SHD application was submitted to the Board which incorporated virtually the exact same design and layout for the lands in question; and the Board in granting planning permission, considered that the layout and design under the SHD application was acceptable.

11.3.6. The proposal provides details of appropriate connectivity with adjoining areas and also allows ease of access into the development in terms of pedestrian, cycle and vehicular movement. The proposal creates an appropriate sense of place centred and focused on an accessible and centrally located area of public open space which is well conceived and well landscaped. The overall layout offers an appropriate level of amenity and privacy for occupants and the proposal complies with the requirements of DMURS in relation to road hierarchy and movement throughout the scheme. The unit mix to be provided caters for a wide demographic profile. The buildings to be provided on site incorporate the palette of materials which are aesthetically suitable and pleasing and introduce an appropriate level of variety in design ranging from two to three storeys in height. On this basis of the above I consider the overall scheme to be acceptable in urban design terms.

11.3.7. Finally, in relation to this matter I note that the Clane LAP sets out a reasonably detailed design brief in respect of KDA-1 lands. The overall vision seeks to provide new residential development in open space with high quality permeable urban form which protects natural heritage and delivers important connectivity with the River Liffey and the future town park. It is apparent from the design that the proposal seeks to protect to an acceptable extent natural heritage in the form of tree and hedgerow retention. It provides important connectivity to the lands to the east and north and the central area of open space is to be developed to connect with the River Liffey and the largescale neighbourhood park. The proposal incorporates ease of access to exiting residential developments to the south and provides strong pedestrian and cycle links eastwards towards the open space along the River Liffey. The roads and streets have been designed in accordance with the Design Manual for Urban Roads and Streets. In terms of built form, the proposal respects the requirements of the design brief by providing buildings to the three storeys in height and provides a density development in the order of 25 to 30 units per hectare. The density at just over 25 units per hectare falls within this standard. The design brief also requires a minimum of 15% of the lands to be given over to open space. The proposal in this instance provides 18%. On the basis of the above I am satisfied that the design of the proposal is acceptable.

11.4. Density of Development

- 11.4.1. With regard to the issue of density, I would have some concerns that the overall density of the proposal is somewhat low in the context of the policies and provisions set out in the National Planning Framework and Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (May 2009). While the National Planning Framework does not set out prescriptive densities for urban settlements it does however emphasise the need to provide more compact development at higher densities than traditionally applied. Higher density more compact development will, it is argued in the National Planning Framework enhance the attractiveness, viability and vibrancy of smaller towns and villages and rural areas as a means of achieving more sustainable patterns and forms of development.
- 11.4.2. The Sustainable Residential Development in Urban Areas is more prescriptive in terms of the density provision. In the case of small towns and villages it states that development in areas that are predominantly residential in character should have densities in the range of 20 to 35 dwellings per hectare. In the case of smaller towns and villages densities of 15 to 20 dwellings per hectare may be permitted. In terms of the settlement hierarchy, Clane is designated as a town and therefore the former density requirements of 20 to 35 dwellings per hectare may be more suitable. A density of 25 units per hectare as proposed in the current application would in my view be at the lower end of the density standards for edge of town centre sites. However, it does fall within the density standards set out in the development brief for the KDA-1 area. Furthermore, the Board will be aware from the planning policy provision relating to the site that the number of dwellings earmarked for the town of Clane has been considerably reduced without a commensurate reduction in the size and area of zoned residential land. In the absence of any reduction in the amount of zoned residential land, new development in order to comply with the housing requirements set out in the core strategy of the County Development Plan, will inevitably result in lower densities.
- 11.4.3. Finally, in relation to this matter I would refer the Board to Circular Letter NRUP 02/2021 issued by the Department in April, 2021 with regard to residential densities in towns and villages as set out in the Guidelines for Planning Authorities on

Sustainable Residential Development in Urban Areas. The Circular emphasises the necessity to adapt the scale, design and layout of houses in towns and villages to ensure that suburban or high-density urban approaches are not applied uniformly and that development responds appropriately to the character, scale and setting of the town or village. It emphasises that residential development at a lower level than would be considered appropriate in a city or large town should be considered at the edges of smaller towns. The Circular cautions against largescale, rapid development that may overwhelm and detract from the quintessential character of towns and villages which are developed slowly and organically over time. On this basis the Circular suggests that nett densities of 30 to 35 dwellings per hectare may be regarded as acceptable in certain large town context and nett densities of less than 30 dwellings per hectare are not precluded in large town locations. Large towns range from 5,000 people up to 50,000 people. And as Clane is at the lower end of this range (c.7,000 people) it may not be unreasonable to permit nett densities of less than 30 dwellings per hectare on the edge of this town.

11.4.4. It is assumed that the above arguments were taken into consideration when the Board granted planning permission for ABP 308943-20 which incorporated a similar density standard for the 333 units on the 10.36 ha site.

11.4.5. On the basis of the above I consider that the Board could come to the conclusion that a density of 25 units per hectare in the current application is acceptable.

11.5. Other Design and Layout Issues

Daylight and Sunlight Issues

11.5.1. With regard to daylight and sunlight issues, I note that no daylight or sunlight report was submitted with the current application. I further note that no such report was submitted with the previous application on the larger 10 ha site, of which the current site forms part, whereby the Board granted planning permission under SHD Application Reg Ref 308943. Having regard to the low density of the development which comprises of primarily two and some three storey elements and the fact that there are generous separation distances between the buildings proposed, that daylight and sunlight penetration will be more than adequate in the case of each of

the units proposed. I am satisfied having regard to the layout that the proposed height and scale of the buildings proposed are reflective and do represent a significant departure from scale, height and layout of existing residential units at the Brooklands housing estate to the immediate west. All units are dual aspect, which in itself will ensure good quality daylight and sunlight penetration. Furthermore, the separation distance between structures is in the region of 20m to 22m in all cases where habitable rooms face each other. While this separation distance mitigates against the potential for overlooking, it also provides an appropriate separation distance to ensure that adequate daylight and sunlight penetration occurs in the case of habitable rooms. Such a separation distance will ensure that requirements in respect of the vertical sky component (VSC) are met. Any windows in the gable ends of the buildings which incorporate a separation distance of less than 22m either do not serve habitable rooms or are not the sole source of natural illuminance to the habitable room in question and therefore are not required to meet BRE Standards in respect of Daylight and Sunlight.

- 11.5.2. I would therefore be satisfied, having regard to the layout, design and separation distance between the buildings proposed, together with the fenestration arrangements incorporated into each of the buildings, that the overall development would achieve the minimum daylight provision set out in Table NA.1 'Values of Target Illuminance for Room Types in UK Dwellings' as per the BS EN 17037 2018 'Daylight in Building' and would also accord with the required design principles set out in 'Site Layout – Planning for Daylight and Sunlight – A Guide to Good Practice' BRE (2nd Ed – 2001).
- 11.5.3. If the Board have any concerns in respect of daylight and sunlight issues, I recommend that information in respect of this issue is sought prior to determining the application.

Traffic Issues

- 11.5.4. With regard to traffic, the application was accompanied by a Traffic Impact Statement, the contents of which has been read and noted. Again, I would refer the Board to the fact that issues for traffic was rigorously assessed for a significantly larger development encompassing the 10.36 ha site. The traffic impact from the construction phases was described in the EIAR submitted with ABP 308943-20 to be

'short-term and slightly negative' which would be reduced to an 'imperceptible effect' with the implementation of appropriate mitigation measures. During the operation phase the study identifies two junctions which are most likely to be affected and these are:

- The R403/Brooklands/Capdoo Park Crossroads and
- R403/Alexandra Walk /The Avenue Roundabout.

11.5.5. The analysis evaluates the potential impact of the SHD proposal on the junctions above. The assessment concludes that in the case of both junctions there will be minimal delays and queues and delays up to 2037, thereafter, and in the absence of infrastructure improvements⁴, the junction will operate at capacity with queues and delays⁵.

11.5.6. The Inspectors report prepared in respect of application ABP 308943-20 concluded that the traffic generated by the larger SHD development comprising of 333 residential units and a creche would be acceptable in terms of the impact on the surrounding road network. The Board in granting planning permission for the SHD development, it is assumed agreed with this conclusion. The Board are invited to agree that the development currently before, comprising of fewer residential units, were it to proceed, is likely to have a lesser impact on the surrounding road network than the extant permission granted under ABP 308943-21, and therefore can be considered acceptable from a transportation and traffic perspective.

11.5.7. The application was accompanied by a Statement of Consistency with DMURS. The statement refers to the design features including local street roads, 5.5m local roads and home zones. Connectivity is provided from the existing residential areas to the south and provisional connection for the future development of lands to the north. Information submitted with the application highlights the fact that the design and development of the street network, cycle and pedestrian linkages were prioritised around the development to link and integrate in a permeable manner with existing developments to the southwest. It is considered that the proposed development complies with the overall design principles set out in DMURS.

⁴ An upgrade of the traffic signals R403/Brooklands /Capdoo Crossroads are proposed.

⁵ See EIAR p125 submitted with SHD application ABP 308943-20

11.5.8. While the planning authority sought further information in traffic, transport and road design issues in the additional information request of 11/09/2020⁶. Further information was provided in these matters by the applicant to the satisfaction of the planning authority⁷.

11.5.9. Biodiversity Issues

Details in relation to appropriate assessment issues are dealt with under a separate heading below. No major issues were raised in respect of biodiversity in either the grounds of appeal or the observation submitted. It did not form a central consideration in Kildare Co Council's assessment of the planning application either. It is noted that a Bat Survey and report was submitted with the originally application⁸. Further information was requested from Heritage Officer with regard to Tree Protection and measures (Report on file dated 25 August 2020), further information was submitted by the applicant which included an Arborists Report, a Tree Protection Plan and a Landscape Master Plan, after the clarification of some of the aspects of the information submitted, the information was considered acceptable from the planning authority.

The site in questions comprises of improved agricultural grassland interspersed with high quality dense hedgerows (the majority of which are to be retained and incorporated into the layout), the remainder of the improved agricultural grassland is considered to be of low ecological value. Based on the information submitted, I am satisfied that the proposal will not give rise to any significant impact or result in any material loss of biodiversity on site.

I note that biodiversity issues were not a material consideration in the assessment of the larger SHD application on site.

⁶ See Section 12 (a-s) and Section 13 of the Planning Authority's request for additional information.

⁷ See p16 of the planning officers report dated 15/11/2020 where it is stated that 'an updated report has been received from the Transportation Section of Kildare Co Council with no objection subject to conditions'.

⁸ This report is not contained on file and was requested from Kildare o Council.

11.6. Compliance with Housing Targets set out in Core Strategy.

- 11.6.1. Prior to the adoption of Variation No. 1 of the Kildare County Development Plan which came into effect on 9th June 2020 the dwelling allocation for the town of Clane was 780 dwellings over a six year period (lifetime of the Plan). The Clane Local Area Plan includes a total of 49.1 hectares of undeveloped residentially zoned land which the Plan states has a housing capacity of 1,026 units. The Plan acknowledges that the housing provision provides a level of headroom in case some of the identified housing lands do not come forward for development during the Plan period.
- 11.6.2. The variation of the development plan which sets out new dwelling targets from 2020 to 2023 based on National (NPF) and Regional Population Forecasts. The new dwelling targets were reduced to 6,023 units for the entire county which equates to just over 2,000 units per year. Table 3.3 of the variation entitled Settlement Hierarchy classes Clane as a designated town and the number of dwellings to be allocated to this settlement is reduced from 780 dwellings over the six year period (2017 – 2023) to 145 units over the three year period (2020 – 2023). Section 3.6 of the variation states that zoning surpluses (or shortfalls) will be reviewed through the relevant land use plans.
- 11.6.3. Furthermore, the housing supply target methodology for development planning in Guidelines for Planning Authorities issued under Section 28 of the Planning and Development Act 2000 (December, 2020) includes Appendix 1 which sets out the projected housing demand for each local authority between 2020 and 2031. In the case of Kildare (Table 5) the forecasting predicts an annual average housing demand between 2020 – 2031 of 1,535 units which is again lower than the anticipated demand under Variation No. 1 of the Kildare Development Plan which predicts an annual housing demand of just over 2,000.
- 11.6.4. In conclusion therefore it is apparent that the original housing allocation for Clane has been pared back considerably since the adoption of the original Kildare County Development Plan and the Clane Local Area Plan both adopted in 2017. The allocation anticipated for Clane is reduced from 780 to 145 in the adopted variation of the Plan and this appears to be further reduced in the housing supply target methodology prepared in Appendix 1 of the Housing Supply Target Methodology for development planning for the entire county by approximately 25%. This suggests

that the flexibility of providing additional housing supply within the Clane area has become somewhat more restricted in order to comply with the housing requirements set out in the Core Strategy. The potential implications of this are assessed in the final section below.

11.7. Recent Housing Permissions in the Clane Area

11.7.1. As mentioned previously in my report the Clane LAP envisaged that c.95% of all housing within the settlement boundary would take place within the designated five key development areas within the town.

11.7.2. Applications pertaining to the five key development sites are set out below.

KDA-1

The Board will be aware from the planning history referred to above that under ABP308493-20 planning permission was granted for 333 units (121 houses and 212 apartments) in April, 2021. This strategic housing application related to a larger 10 hectare site of which the current application forms part. The layout, as already mentioned is almost identical to that already granted. A very relevant precedent exists for granting permission for the current application before the Board. However, in the interests of assessing the development de novo and from first principles, it is appropriate to assess all aspects of the proposal, notwithstanding any previous decisions made by the Board in respect of SHD applications. This decision by the Board has been the subject of Judicial Review, no decision in respect of the judicial review has been made at the time of writing this report.

KDA 2

In respect of KDA-2 the Board also granted planning permission for a strategic housing development under Reg. Ref. ABP304632. Planning permission was granted for 366 residential units (184 houses and 182 apartments) in the northern environs of the town. Permission was granted for this development on 20th September, 2019.

KDA 3 & 4

Having consulted both Kildare County Council's website and the Board's website, it appears that no large planning applications for housing have been granted on KDA-3

or KDA-4. In the case of KDA-3 permission was granted for 87 houses in 2009 however this application has subsequently expired.

KDA 5

In the case of KDA-5 the Board granted planning permission for a SHD under Reg. Ref. ABP309087 for 192 residential units (114 houses and 78 apartments). This strategic planning application was granted planning permission by the Board on 22nd April, 2021. This application was the most recent application granted planning permission for housing development in the Clane area by An Bord Pleanála. The Board will note that Condition No. 2 of this permission required that Unit Nos. 149 to 182 and duplex block E (50 units in total) shall be omitted from the proposed development. The reason for this condition as inter alia, "*in order to comply with the core strategy of the Kildare County Development Plan 2017 – 2023 (as varied)*". It would appear from the inclusion of this condition therefore, that the Board was satisfied that the housing provision for the Clane area as set out in the variation of the development plan had been met in accordance with the housing limits set out in the core strategy (145 units).

The current application is somewhat unusual in that the original application was made to Kildare County Council in July, 2020. It related to a 3.6 hectare site which formed part of a larger 10 hectare site which was the subject of a subsequent strategic housing application made to the Board 5 months later in December, 2020 (ABP 308943-21). The Board granted planning permission for this larger development in April, 2021 while the Board have yet to determine the current smaller development of 91 units on the subject site.

As previously mentioned, the entire housing allocation for the settlement of Clane from 2020 – 2023 is an additional 145 units. The grant of planning permission under ABP309087 permitted 142 units which to all extent and purposes used up the allocation of the housing provision for the settlement. The Board in granting planning permission for ABP308943 (which was decided prior to ABP309987) fully accepted that the proposal for 333 units would materially contravene the core strategy of the development plan and the housing allocation density and heights for KDA-1 as stated in the local area plan.

The Board will note that in the current application before it, neither the density nor the heights as prescribed in the development brief for KDA-1 under Section 12.2.1 of the Clane Local Area Plan are being contravened in this instance as the buildings proposed are two to three stories in height and the density at 25.2 units per hectare is in accordance with the 25 to 30 units per hectare stipulation in the development brief. However, in conjunction with the extent grant of planning permission under ABP 309087-21 the provision of an additional 91 units would exceed the housing allocation set out in Variation 1 of the Development Plan.

In the case of the grant of 333 units under ABP 308943-20, the Board considered having regard to the provisions of Section 37(2)(b) that a material contravention would be justified on reasons and considerations relating to:

- The proposed development is considered to be of strategic or national importance by reason of its potential to contribute to the achievement of government's policy to increase delivery of housing as set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July, 2016. It is also considered that the proposed development should be granted having regard to government policies as set out in the National Planning Framework in particular Policies Objectives 3a (11 and 33), the Regional Spatial and Economic Strategy for the Eastern and Midland Regional Assembly in particular Section 5.7 which relates to housing delivery, the Sustainable Residential Development in Urban Areas and the Sustainable Urban Housing Design Standards for New Apartments all of which contain policies and objectives which support the delivery of residential development in appropriate locations together with the fact that the proposed development is located on a serviced site identified as a key development area in the Clane Local Area Plan (2017 – 2023). It is considered that the current application before the Board satisfies the criteria set out in Section 37(2)(b)(i) have been satisfied in the case of the current application.*

It is my considered opinion that if the Board accept the arguments that a material contravention of the development plan is justified under the criteria set out in Sections 37(2)(b) for the construction of 333 dwellings, the Board can be satisfied that a similar conclusion can be reached in the case of the current application and appeal, particularly on the basis of the provisions of S37(2)(b)(i)&(ii). The Board will

be fully aware from policy documents in relation to the provision of housing, that supply of units throughout the State is of great strategic and national importance and this is espoused in Rebuilding Ireland (DHP&LG 2016) and in particular Pillar 3 of this strategy, and The National Planning Framework, with particular reference to NPO 3(a), 3(c), NPO 11,13 and 33. Furthermore the recently published 'Housing for All – A New Housing Plan for Ireland' clearly acknowledges that there is not enough houses to buy or rent in the private sector. Similar concerns in respect of residential supply are referred to in the Sustainable Urban Housing Design Standards for New Apartments.

It is clear therefore having regard to the policy objectives contained in the Guidelines, some of which have been adopted under the provisions of S28 of the Act, that the provision of housing and residential units more generally, is a key strategic objective of national importance thus fully complying with the criteria set out under S37(2)(b)(i)&(iii).

It can be also reasonably argued in my view, that the provisions of S37(2)(b)(iv) may also apply, in that the proposed development should be granted having regard to the pattern of development and permissions granted in the area, most notably the Boards grant of permission under SHD application ABP 309843, which relates to the subject site. The Board in granting planning permission clearly accepted arguments in favour of any material contravention of the plan under this application. I currently understand that this application is under judicial review at the time of writing and that no judgement has made by the Courts as of yet. For this reason, the Board may not wish to rely on the provisions of S37(2) (b) (iv) for the purposes of material contravention.

Finally, in relation to this matter the Board will be fully aware that in the case that planning permission is granted for two separate developments on the subject site (albeit one of which is currently subject to judicial review), the applicant can only carry out one or other of the developments granted. It cannot choose or 'cherry-pick' between both applications notwithstanding the fact that two extant permissions exist. The Board can therefore grant planning permission for the proposed development in the full knowledge that only one or other development can be carried out on the subject site.

12.0 Conclusions and Recommendation

Arising from my assessment above therefore I consider that the Board having regard to the zoning objectives pertaining to the site, together with the precedent decision under ABP308493-20, that planning permission should be granted for the proposed development. While the provision of an additional 91 units may contravene the revised housing allocation for the settlement of Clane as contained in the variation to the Kildare County Development Plan (2017 – 2023), it is considered that the provisions of Section 37(2)(b)(i) apply in this instance as the proposed provision of housing on serviced lands that are zoned for residential development is of strategic or national importance.

13.0 Appropriate Assessment

13.1. AA Screening

- 13.1.1. An AA screening report accompanied the application. It concludes a finding of no significant effects. The development is not in or immediately adjacent to any Natura 2000 site. The development description and receiving environment are as outlined in section 2 of this report and in the applicant's AA screening report (pp.6 to 8). Four European sites are located within a 15 kilometre radius of the site. Ballynafagh Lake SAC (Site Code: 001387), the Ballynafagh Bog SAC (Site Code: 000391) which are located 6.3 and 7.4 kilometres to the west of the subject site respectively.
- 13.1.2. The Ryewater/Cartron SAC (Site Code: 001398) is located 12.7 kilometres to the north-east of the subject site while the Mouds Bog SAC (Site Code 002331) is located 11.6 kilometres to the south-west of the subject site.
- 13.1.3. The River Liffey flows along the eastern boundary of the site. While this river is not subject to any Natura 2000 designations, it does discharge into the Irish Sea at Dublin Bay which accommodates a number of Natura 2000 sites including the River Tolka Estuary SPA (Site Code: 004024), the South Dublin Bay SAC (Site Code: 000210), the North Dublin Bay SAC (Site Code: 000206), the North Bull Island SPA (Site Code: 004006) and the South Dublin Bay and Tolka Estuary SPA (Site Code: 004020). As the crow flies, the separation distance between the subject site and the

SACs in question is over 30 kilometres. The distance via the river flow is in excess of this distance.

- 13.1.4. Surface water discharge from the proposed development will ultimately discharge into the River Liffey. Details SuDS measures are to be incorporated into the scheme. The surface water management system has been designed to ensure that the quality and quantity of run-off are maintained at a greenfield standard. It is noted that these SuDS systems are now standard in all new developments and are not included to avoid or reduce the impact on European sites but are mainly designed as flood attenuation measures.
- 13.1.5. Wastewater from the proposed development will pass into the Osberstown wastewater treatment plant which is currently being upgraded under the Upper Liffey Valley contract (to be) with works on site due to be completed by the end of 2021. The Osberstown Plant discharges treated wastewater into the River Liffey under an existing Waste Discharge Authorisation Licence issued by the Environmental Protection Agency. The development will be the subject of a connection agreement with Irish Water and will be connected once the proposed upgrade is complete.
- 13.1.6. The European sites referred to above including their qualifying interests are set out in the table below.

European Site (code)	List of Qualifying interest (QI) /Special Conservation Interest (SCI)	Distance from proposed development (Km)	Conservation objectives
SAC			
Ballynafagh Lake SAC (side code: 001387)	Alkaline fens [7230] Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016] Euphydryas aurinia (Marsh Fritillary) [1065]	c.7.1km to the north west of the site	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected
Ballynafagh Bog SAC (side code: 000391)	Active raised bogs [7110] Degraded raised bogs still capable of natural regeneration [7120] Depressions on peat substrates of the	c.6.1km to the west of the site	To restore the favourable conservation condition of Active raised bogs in Ballynafagh Bog SAC The long-term aim for

	Rhynchosporion [7150]		Degraded raised bogs still capable of natural regeneration is that its peat-forming capability is re-established; therefore, the conservation objective for this habitat is inherently linked to that of Active raised bogs (7110) and a separate conservation objective has not been set in Ballynafagh Bog SAC
Rye Water/ Carton SAC (side code:001398)	7220 Petrifying springs with tufa formation (Cratoneurion)* * denotes a priority habitat 1014 Narrow-mouthed Whorl Snail <i>Vertigo angustior</i> 1016 Desmoulin's Whorl Snail <i>Vertigo moulinsiana</i>	c.12.3km to the north east of the site	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected
Mouds Bog SAC (side code: 002331).	Active raised bogs [7110] Degraded raised bogs still capable of natural regeneration [7120] Depressions on peat substrates of the Rhynchosporion [7150]	c. 11.4km south west of the site	To restore the favourable conservation condition of Active raised bogs in Mouds Bog SAC, which is defined by the following list of attributes and targets The long-term aim for Degraded raised bogs still capable of natural regeneration is that its peat-forming capability is re-established; therefore, the conservation objective for this habitat is inherently linked to that of Active raised bogs (7110) and a separate conservation objective has not been set in Mouds Bog SAC
South Dublin Bay SAC (0210)	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]	c. 31.1km to the east of the site	To maintain the favourable conservation condition of habitats *See South Dublin Bay SPA also
North Dublin Bay SAC (0000206)	1140 Mudflats and sandflats not covered by seawater at low tide 1210 Annual vegetation of	c. 33.7km to the north east of the site.	To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low

	drift lines 1310 Salicornia and other annuals colonising mud and sand 1330 Atlantic salt meadows (Glaucopuccinellietalia maritima) 1410 Mediterranean salt meadows (Juncetalia maritimi) 2110 Embryonic shifting dunes 2120 Shifting dunes along the shoreline with Ammophila arenaria (white dunes) 2130 Fixed coastal dunes with herbaceous vegetation (grey dunes) 2190 Humid dune slacks 1395 Petalwort Petalophyllum ralfsii		tide, Atlantic salt meadows (Glaucopuccinellietalia maritima), Fixed coastal dunes with herbaceous vegetation, Petalwort. To restore the favourable conservation condition of Annual vegetation of drift lines, Salicornia and other annuals colonizing mud and sand, Embryonic shifting dunes, Humid dune slacks.
SPA			
South Dublin Bay and River Tolka Estuary SPA [004024]	Light-bellied brent goose <i>Branta bernicla hrota</i> [A046] Oystercatcher <i>Haematopus ostralegus</i> [A130] Ringed plover <i>Charadrius hiaticula</i> [A137] Grey plover <i>Pluvialis squatarola</i> [A141] Knot <i>Calidris canutus</i> [A143] Sanderling <i>Calidris alba</i> [A149] Dunlin <i>Calidris alpina</i> [A149] Bar-tailed godwit <i>Limosa lapponica</i> [A157] Redshank <i>Tringa totanus</i> [A162] Black-headed gull <i>Chroicocephalus ridibundus</i> [A179] Roseate tern [A193] Arctic tern [A194] Wetland and waterbirds [A999]	c.32km to the east of the site.	To maintain the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA
Poulaphuca Reservoir SPA (site code: 4063).	A043 Greylag Goose <i>Anser anser</i> A183 Lesser Black-backed Gull <i>Larus fuscus</i>	c.16.9km to the south east of the site	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA

13.2. Assessment of Likely Significant Effects

- 13.2.1. With regard to direct impacts, the application site is not located adjacent or within a European site therefore there is no risk of habitat loss, fragmentation or any other direct impacts. I am satisfied having regard to the nature and scale of the proposed development of 91 units on zoned serviced lands, the separation distance between European sites, the intervening uses, the absence of direct source – pathway – receptor linkages, that no appropriate assessment issues arise in relation to the European sites listed above.
- 13.2.2. Any potential indirect impacts on European Sites from the development would be restricted to the discharge of surface or foul water from the site. I note the proposed drainage system discharging to the River Liffey ultimately drains into Dublin Bay. The installation of surface water attenuation and SuDS systems will ensure that there will be no negative impact on water quality or quantity arising from the change in land use from agricultural to residential. I note the proposed SuDS system is a standard system incorporated in all new developments and it is not included specifically to avoid or reduce an impact on a European site. With regard to hydrological pathways via wastewater, I note that water flows to Dublin Bay via the Osberstown Wastewater Treatment Plant and the River Liffey. The Osberstown Plant is licenced to discharge treated effluent to the River Liffey under (EPA Waste Discharge Authorisation Licence No. D0002-01). I consider having regard to the significant distance of over 30 kilometres between the subject site and the European sites identified that the proposal will not impact on any of the qualifying interests associated with the Natura 2000 sites in Dublin Bay. In relation to fish species presence in the River Liffey, I note that they are not listed as species of Special Conservation Interest in any European sites listed above. This aside, I consider proposed connections to the public infrastructure and the proposed treatment of surface water as detailed above will prevent any potential significant negative impact on water quality in the River Liffey.

13.2.3. Cumulative impacts have been considered. Future developments in the area are likely to be residential in nature and are unlikely to give rise to cumulative impacts on any European sites in the vicinity.

13.3. Conclusion

Having regard to the nature and scale of the proposed development on fully serviced lands, to the intervening land uses and distances from other European sites, and lack of direct connections with regard to the source – pathway – receptor model, it is reasonable to conclude on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the above listed European sites or any other European site, in view of the said site's conservation objectives and a Stage 2 Appropriate Assessment is not therefore required.

14.0 Decision

Grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below.

15.0 Reasons and Considerations

Having regard to the following:

- (a) The policy and objectives set out in the National Planning Framework and the Regional Spatial and Economic Strategy for the Eastern and Midlands Regional Assembly,
- (b) The policies and objectives set out in the Kildare County Development Plan 2017 – 2023 as amended by Variation No. 1 (June, 2020),
- (c) The policies and objectives set out in the Clane Local Area Plan 2017 – 2023,
- (d) The Rebuilding Ireland Action Plan for Housing and Homelessness, 2016,
- (e) The Design Manual for Urban Roads and Streets (DMURS) 2013 (as amended),

- (f) The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009),
- (g) The Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments (2020),
- (h) The nature, scale and design of the proposed development,
- (i) The availability in the area of a range of social, community and transport infrastructure,
- (j) The pattern of existing and permitted development in the area,
- (k) The planning history associated with the site including the Board's grant of planning permission under Reg. Ref. ABP308943-20 for 333 residential units of which the subject site forms part,
- (l) The grounds of the third-party appeal and the observations submitted in respect of the application,
- (m) The residential zoning objective relating to the site,
- (n) The report of the inspector,

it is considered that subject to conditions set out below the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be in accordance with the proper planning and sustainable development of the area.

The Board considered that the proposal would result in a material contravention of the Kildare County Council Development Plan Core Strategy as amended by Variation No. 1 and the Board considered that the proposal satisfied the criteria in Section 37(2)(b)(i) on the basis that the proposed development is of strategic and national importance.

16.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the plans and particulars received by the planning authority on 19th day of October, 2020 and the 4th day of December, 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The development shall be carried out on a phased basis. A total of 50 residential units together with the crèche facility and the main area of public open space associated with the development shall be fully completed within the first phase. Phase 2 of the development shall only proceed after the first phase is fully completed unless otherwise agreed in writing with the planning authority.

Reason: In the interest of clarity and the proper planning and sustainable development of the area.

3. Details of the materials, colours and textures of all external finishes to the proposed dwelling/building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. In default of the agreement any matter in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interests of visual amenity.

4. Prior to the commencement of development, details of the proposed boundary treatment around the perimeter of the site shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity.

5. The landscaping works schemes as indicated in the Landscape Masterplan submitted to the planning authority on the 4th day of December, 2020 as part of the application shall be carried out within the first planting season following substantial completion of the external construction works. In addition to the proposals in the submitted scheme the following shall be carried out:

- (a) The site shall be landscaped, using only indigenous deciduous trees and hedging species and there should be no encroachment during the construction on those hedgerows to be maintained as part of the works to be carried out.
- (b) Play facilities shall be provided within the communal areas of the apartment development in line with the requirements of Section 4.1.3 of the Sustainable Urban Housing Design Standards for New Apartments – Guidelines for Planning Authorities (2018 and 2020).
- (c) All details of the play facilities of passive recreational facilities shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. The details shall include a multi-games area provided as part of the strategic open space zoned lands and delivered through the required phased development.
- (d) Compliance with the requirements and standards of the planning authority in relation to lighting and tree planting within the public open space.
- (e) The services of a qualified arborist and arboricultural consultant shall be retained for the entire period of construction activity. Details of the appointment shall be agreed in writing with the planning authority prior to the commencement of development.
- (f) A dedicated place space shall be provided for the crèche facility.
- (g) All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the

completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

7. Each dwelling shall be used as an individual residential unit and shall not be subdivided into separate living units.

Reason: In the interest of clarity and residential amenity.

8. The crèche shall be used as a single crèche facility and shall not be subdivided into separate units without the benefit of a separate grant of planning permission. Prior to the commencement of the operation of the crèche the developer shall submit for written agreement details of the opening hours of the crèche.

Reason: In the interest of clarity and residential amenity.

9. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Thereafter, all estate and street signs and house numbers shall be provided in accordance with the agreed scheme. The proposed names shall be based on local, historical or topographic features or other alternatives acceptable to the planning authority. No advertisement/marketing signage relating to the names of the development shall be erected until the developer has obtained the planning authority's written agreement for the proposed

names.

Reason: In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.

10. (i) Water supply and drainage arrangements including the attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and service.
- (ii) Prior to the commencement of development, the developer shall submit plans, cross-sections and maintenance details for the treatment of all drainage ditches on site including any proposal to culvert along the south of the site.
- (iii) Prior to the commencement of development, the developer shall submit to the planning authority for written agreement a Stage 2 – detailed design stage stormwater audit.
- (iv) Upon completion of the development a Stage 3 completion stormwater audit to demonstrate sustainable urban drainage system measures have been installed and are working as designed and there has been no misconnections or damage to stormwater drainage infrastructure during the construction of the proposal, shall be submitted to the planning authority for written agreement.

Reason: In the interest of public health and surface water management.

11. The developer shall enter into water and wastewater connection agreements with Irish Water prior to the commencement of development.

Reason: In the interest of public health.

12. Prior to the commencement of development, the applicant shall submit for written agreement of the planning authority a site layout plan at a scale to be agreed with the planning authority showing the areas of the development that would be taken in charge by Kildare County Council. This layout shall identify the structure and services that are to be taken in charge by the planning authority.

Reason: In the interest of proper planning and sustainable development of

the area.

13. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination:

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

14. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

15. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

and

- (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.

The assessment shall address the following issues:

- (i) the nature and location of archaeological material on the site, and
- (ii) the impact of the proposed development on such archaeological material.

A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

16. The developer shall submit a revised layout plan drawing at a scale of 1:500 indicating the following:
- 16 car parking spaces to serve the apartment development located in the south-west of the site.
 - Electric car charge points which are to be the subject of the written agreement of the planning authority.

Reason: In the interest of the proper planning and sustainable development of the area.

17. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards set out in DMURS. In default

of agreement the matters in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interests of traffic safety.

18. The findings of the Stage 1/2 Road Safety Audit which was received by the planning authority on the 23rd July, 2020 shall be closed out, signed off and incorporated into the development at the developer's expense. Stage 3 Audits shall be conducted. Exact details of any improvement measures shall be submitted to the planning authority for the written agreement prior to the commencement of development.

Reason: In the interest of amenity and of traffic and pedestrian safety.

19. Details of the layout, marking and security provisions for the cycle spaces, cycle infrastructure shall be submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with the planning authority prior to the commencement of development.

Reason: To ensure that adequate bicycle parking provision is available to serve the proposed development in the interest of sustainable transportation.

20. Prior to the commencement of development, the applicant shall submit to the planning authority a detailed design for a signalised four-arm junction of the R403 Regional Road/Brookland/Capdoo Link Road, including vulnerable road users (VRU), crossing facilities in line with current standards. The costs of the design, supervision and delivery of these works shall be borne by the applicant. These works shall be completed prior to the residential units being occupied in Phase A of the development. The developer shall liaise with the Traffic Management Section of Kildare County Council with regard to these requirements.

The upgrade works and junction improvements shall be in accordance with the planning authority's specification including:

- (a) The upgrade of existing traffic signals.
- (b) The upgrade of the existing controller to ELV and LED signals.

- (c) The installation of CCTV cameras and pole at the junction to assist the monitoring of traffic flows.
- (d) The installation of MOCA technology.
- (e) The upgrade of existing public lighting.
- (f) The upgrade of the road layout and markings.

Reason: In the interest of proper planning, sustainable development and traffic safety.

21. Prior to the commencement of development, the developer shall submit a final construction management plan containing the following information:

- Details of all haul routes to and from the site for the delivery of the upgrade of the junction at the R403 Regional Road /Brooklands/Capdoo Link Road to that of a signalised four-arm junction.
- Construction related traffic is not permitted through Clane Main Street. The plans shall also contain mitigation measures to minimise the effects that the proposed development would have on the immediate road network and existing traffic movements.
- Wheel wash arrangements for the construction phase.
- Locations of the construction compound, use of cranes, parking and storage areas within the construction site.
- Details of all construction site warning signs.
- A final construction waste management plan.

Reason: In the interest of the proper planning and sustainable development of the area.

22. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays.

Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the

planning authority.

Reason: In order to safeguard the residential amenities of properties in the vicinity.

23. Prior to the opening or occupation of the development, a mobility management strategy including an interim or temporary strategy reflecting any requirements or adjustments relating to Covid-19 movement and traffic patterns shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and car pooling by residents, occupants and staff employed in the development and to reduce and regulate the extent of parking. Details may include the provision of centralised facilities within the development for bicycle parking, shower and changing facilities associated with policies set out in the strategy. The interim or temporary strategy where applicable should reflect the requirements of the Design Manual for Urban Roads and Streets Interim Advice Note – Covid Pandemic Response (May 2020). The Mobility Strategy shall be prepared and implemented by the management company for all units within the development.

Reason: In the interest of encouraging the use sustainable modes of transport and reflecting the needs of pedestrians and cyclists during the Covid-19 pandemic.

24. Public lighting shall be provided in accordance with a scheme which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interest of amenity and public safety.

25. The developer shall pay to the planning authority a financial contribution of €483,561 (four hundred and eighty-three thousand five hundred and sixty-one euro) in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or

intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

26. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.



Paul Caprani,
Senior Planning Inspector.

29th September, 2021.