



An
Bord
Pleanála

Inspector's Report

ABP-309392

Development	Demolition of 2 houses as granted under reg ref 07/1136 and the construction of 35 houses.
Location	Park Gate Shillelagh Road, Tullow Co. Carlow.
Planning Authority	Carlow County Council
Planning Authority Reg. Ref.	20298
Applicant(s)	Smartisan Construction Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First v. Refusal
Appellant(s)	Smartisan Construction Ltd.
Observer(s)	
Date of Site Inspection	11 th October 2021
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1. The site of 1.748 ha is part of a larger housing development – Park Gate which is located at the eastern periphery of Tullow town on the north side of the R725 from which there is a single vehicular access. The site is situated to rear of the development and access is via a circuitous spine route that extends southeast of the existing estate before extending north and west in the direction of the site. It is about 550m from the R275 whereas the site at its nearest point is less than 250m. Park Gate presently consists of 98 detached house sites on which 92 houses have been constructed and the majority of which are occupied. The undeveloped sites are overgrown and number of dwellings are boarded up.
- 1.2. The roads have been substantially completed although the top surfacing does not appear to be finished. Fencing and boundaries enclosing the private curtilages are varied in style and non-existent in many cases.
- 1.3. Within the subject site part of road network has been laid out and extends around a green space that has not been landscaped. There is a pair of boarded up semi-detached houses ('unoccupied and unfinished') within the site facing a row of partly boarded up houses external to the site. The road fronting these houses is fenced off to the north but partly collapsed to the south.
- 1.4. There is a separate housing development to the west which is walled off and accessed off the Dublin Road. Open fields are to the north.
- 1.5. In addition to photographs of my site inspection, the submitted photographs by residents of Park Gate are considered by the Planning authority to accurately portray the environs of Park Gate. .

2.0 Proposed Development

- 2.1. The proposed development seeks to demolish a pair of two storey semi-detached houses (totalling 251 sq.m.) and to construct 35 two storey houses (3490.7 sq.m.) with 5 house types ranging in sized from 96sq.m. to 106 sq.m. They comprise a mix of 16 semi-detached houses and 19 terraced houses. It is proposed to retain the basic site layout with the road encircling a central green space and houses overlooking.

2.2. The density is at rate of 20 units per hectare and the public spaces account for 24.4% of the site. Site coverage is 3.1 % and plot ratio is to 0.19.

2.3. The submitted details substantially comprise drawings. These include:

- A site layout which shows; the house site layout in context, off street parking which includes 'nose-in' perpendicular parking at a rate of 2 spaces per dwelling and addition parallel parking of around 30 spaces around the central open space, open space of 2334.5sq which includes play area and the secondary space of 1336sq.m. which surrounds the pumping station .
- House plans,
- Water mains layout
- Roads layout plan
- Typical details for surface water attenuation, public lighting, road section and surface, permeable car parking
- foul drainage longitudinal sections
- Site surveys which includes photographs

2.4. Supporting reports include:

- A Design Statement
- An Engineering report resubmitted as FI dated April 2020 states that specific arrangements for surface water are contained in the section titled Surface Water Drainage and are stated to have been assessed against the Council's SUDs policy and the following is stated:
 - $Q_{bar} + 0.5l/s$
 - Allowable discharge = $Q_{bar} \times 0.95$ and since this is less than the $2l/s/ha$ then $2l/s/ha$ is used. The maximum allowable discharge rate is therefore $3.5 l/s$. Storage requirements are based on the 100 year storm event and based on a equivalent impermeable site area of 3681 sq.m. The critical event is the 4 hour storm which requires storage of 131 sq.m. . A 20% climate change allowance is added and a total of 153 cubic metre is proposed for the max discharge rate.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Following a request for information and the response to same, the planning issues a notification of decision to **refuse** permission for the stated reasons:

- The proposed development as presented together with insufficient information submitted as requested and its location to the rear of and adjoining an unfinished existing residential development would contravene stated policies 4.10 Unfinished Housing Estate's and 5.4.6 Unfinished estates as contained within the Carlow County Development Plan 2015-2021 and the Tullow Local Area Plan 2017-2023 respectively, would not accord with the stated zoning objective for existing residential infill lands as contained within the Tullow LAP 2017-2023 which seeks to protect and improve existing residential amenity to provide for appropriate infill residential development and to consider the proposed development in isolation from the existing adjoining unfinished residential development (Park Gate) would constitute premature, haphazard and piecemeal development and would if permitted set an undesirable precedent in the area for further such inappropriate non-integrated development and would therefore be contrary to the proper planning and sustainable development of the area
- Insufficient information for the PA to carry out a complete assessment of the viability /feasibility and capacity or otherwise of the network infrastructure/services and pump station available to cater for the existing and proposed development. Accordingly to permit the proposed development in the absence of detailed consideration and agreements in relation to same would be premature, would be prejudicial to public health and would therefore be contrary to the proper planning and sustainable development of the area.
- In the absence of detailed proposals in relation to essential services such as roads, public lighting, footpaths, amenity areas and compliance or otherwise of the proposed development with DMURS it is considered that to permit the proposed development in the absence of detailed considerations and agreements in relation to same would be premature, would be prejudicial to public health and

safety and would therefore be contrary to the proper planning and sustainable development of the area.

- The proposed development is located in close proximity to the River Slaney Valley SAC (Site Code 000781) and where it is the policy of the Council 'to only authorise development after the competent authority has ascertained, based on scientific evidence that the plan or the project will not give rise to significant adverse direct, indirect or secondary effects on the integrity of any European Site.' In the absence of the required Appropriate Assessment – Screening information together with the required Construction Environmental Management Plan which needs to be provided in order to allow an adequate appropriate assessment, the planning authority is not satisfied that the applicant has demonstrated that the proposed development would give rise to ecological impacts and would not significantly affect the river Slaney Valley SAC and its conservation objectives. Accordingly the proposed development would contravene the provisions of the Carlow Development Plan 2015-2021 and the Tullow Local Area Plan 2017-2023.

3.2. Planning Authority Reports

3.2.1. **Planning Report (16/7 /20)** The report raises concerns about the following issues and Further Information was accordingly requested:

- The proposed access through lands – it is noted to be outside the ownership of the applicant (and outside the site as delineated) and not in charge by the council.
- The need for a master plan for the entire development with particular reference to unfinished elements by way of a resolution plan with detailed proposals for roads, lighting, footpaths, piped services, amenities and boarded up houses together with a detailed time frame for completion . To consider the development in isolation would be haphazard and piecemeal
- The need to demolish in context of HP18 which discourages this approach
- Car parking layout and encroachment on public open space and access roads.
- The open space details and hierarchy of spaces with appropriate linkages and provision for active and passive amenities
- Boundary details

- Separation distances between dwellings
- Play area
- Enclosure of pumping station
- Integration of footpaths and cycle paths
- Traffic calming and avoidance of long straight roads.
- Integration with site – lack of Sections and levels and contiguous drawings showing proposed in context
- Compliance with development management standards
- Landscaping/paving/lighting details – e.g. complete proposals for softening the scheme, numbers/ types of trees and shrubs, method statement , written consent of property owners to carry our works to boundary/walls where required. , full details of surface finished, street furniture.
- Appropriate Assessment information
- Lack of a CEMP
- Irish Water concerns and details required.
- Discharge of surface water to an existing s.w. outfall. The existing Park Gate is stated to drain by gravity to an existing stream north east of the estate and SW sewers within the proposal site have been completed following the road network. Drawing 930-261-C)3 refers.

3.2.2. **Planning Report (8/1/21): Further information was received on 7/12/20 .This further information was deemed insufficient.**

- The applicant explains that the reference to adjacent lands ‘not under the applicant’s ownership’ was a typing error and a map delineates the applicant’s interests. It is noted the applicant seeks an acknowledgement of the ownership that is reflected as part of a grant of permission and further **suggests that the works outlined in the request for further information can be carried out prior to occupation of the proposed development in accordance with a condition of permission.** This is reiterated in respect of all levels of details requested regarding incomplete works. This is wholly inadequate and **not acceptable to the planning authority.**
- The site is noted to be zoned as existing residential infill where the objective is to protect and improve existing residential amenity, to provide for appropriate infill

residential development, to provide for new and improved ancillary services. Reference is also made to the **policy of the council to seek the completion of unfinished schemes** to ensure public health and safety is maintained and to ensure the provision of essential services to satisfactory standard. The **onus is on the developer to demonstrate completion** and that it is of a high standard.

- The lack of detail, as requested, is considered to contravene policies 4.10 and 5.4.6 **regarding unfinished housing estates** in the Carlow CDP and Tullow LAP respectively and would **not accord with the objective to protect and improve existing residential amenity.**
- The **lack of detail** fails to meet with the requirements of the Development Management standards for residential development.
- To enable a complete and informed assessment of the proposed development these **details are required to be submitted prior to a decision being made to ensure a high standard of development and high-quality living environment.**
- The need for an AA is disputed by the applicant having regard to the absence of such a requirement for the original larger scheme. The PA is not satisfied due to the **lack of a stage 1 screening report and CEMP which are both needed in order to allow an adequate appropriate assessment** and to ensure that the proposed development would not give rise to ecological impacts and not significantly affect the River Slaney SAC. The need for a CEMP is further endorsed by the Senior Engineers in the Environment section. The need for clarification for FI is noted.
- The applicant has **not demonstrated that the 3rd party network and pumping station are capable of taking the existing and proposed development in accordance with Irish Water's standards and requirements for both networks and pump station(s).**

3.2.3. In view of the overall lack of detailed information and the recommendations of the Water Services Division, Transportation Section, Environment Section and the Tullow Municipal District Area Engineer to refuse permission in the absence of adequate detail to allow for a proper assessment of the viability and feasibility or otherwise of the proposed development, a refusal of permission is recommended.

Furthermore there is insufficient information to screen for Appropriate Assessment. Permission cannot therefore be granted.

3.2.4. Other Technical Reports

Transportation Section:

- The Senior Engineer's initial report confirms that the estate, of which the site was originally a part of, has not been taken in charge in respect of roads and services. The adjacent site through which the site must be accessed was not stated to be in the applicant's ownership yet a resolution is needed to complete the works. It is suggested that the applicant be provided with an opportunity to submit such details and declare relevant interests.

(Report 5/1/21)

- In respect of the further information it is highlighted that the lands outlined in blue contain a section of roadway that will provide access to the site, as outlined, from the R725. **This road is not in charge and forms part of the access road to the existing estate and sections of the roadway, footpaths and public lighting are not completed to taking in charge standard.** It is also pointed out the planning permission to construct this part of the development including roads and services has now lapsed. The applicant would require a new planning application to complete the unfinished works in the area outside the site outlined in red. The proposal is considered premature pending the taking in charge of the estate.
- A grant can only be considered when the roads and services are constructed to Taking-In-Charge standard and then taken-in-charge by the Council. It is considered that the applicant has, notwithstanding the opportunity, failed to address the multiple issues relating to the unfinished condition of the estate.
- **The layout is not in keeping with DMURS** - The existing network is not acceptable due to risk of excessive speed. The applicant has not submitted details demonstrating that the roads and footpaths including corner radii are in accordance with DMURS. The applicant has failed to submit retrofitting measures to ensure provision of safe zones. There is little or no provision for cyclist or pedestrian priority. The networks need a redesign at intersections to provide for

cyclists together with details of cycle lanes. **Alternative layouts should be considered and such is beyond the scope of a planning condition.**

- The reference in the submitted Engineering Report carried out by Molony Millar to completing some works on the unfinished estates is noted but the details are inadequate. They are also considered to be contradictory with respect to ownership.
- Ultimately the transportation section is of the view that the proposed development is premature and requires the applicant to declare his interest in the roads from the existing public road through the estate and to submit a site resolution plan to complete works for TIC.
- The lighting details are inadequate and have failed to address the issues. It cannot be confirmed as to how or where the applicant proposed to connect to same. The existing network may not be adequate for additional loading. Suitable lighting design is required to connection point in accordance with specified standards for consideration by the roads department.

Environment Division (22/12/20)

- **A Construction Environmental Management Plan (CEMP) is required. Following failure to submit details in respect of request for FI, CFI required. In respect of the surface water layout and proposal as submitted in further information, the applicant has not submitted the required information:**
 - The detailed design of the attenuation pond, hydrocarbon interceptor, silt trap, and hydrobrake serving the existing surface water network of the Park Gate Estate.
 - Complete as-constructed drawings of the surface water network constructed in the adjacent field from where the pipeline enters the adjacent property to the river.
 - A right of way and wayleave in favour of Carlow County Council over the entire surface water network constructed in the adjacent field from where the pipeline enters the adjacent property to the rivers
 - Design proposal for the surface pipeline where the surface water pipelines enters the river on the adjacent property

- **The existing s.w pipelines have not been taken in charge. The attenuation pond has not been constructed to serve the development (existing and proposed). The applicant has not attempted to address any of the vital further information required which is critical to the design and operation of the surface water system and therefore a refusal of permission is recommended.**

Water services. (5/1/21)

- The applicant has not provided details demonstrating that the 3rd parties network and pumping station are capable of taking the existing and proposed development in accordance the standards of IW . The applicant proposal to address this by condition is not acceptable as it is not possible to recommend a grant of permission unless the adequacy of existing capacity is confirmed or alternative design proposals are submitted for assessment. It is not possible to condition this . If they do not have capacity , additional design proposals for new infrastructure will be required which may themselves require additional lands/infrastructure or consent. As the applicant has failed to demonstrate capacity, the water services engineering division is not in a position to recommend a grant of permission. It is further noted that the applicant denotes 8 hour storage capacity in the current pumping station whereas Irish Water standards require 24 hours storage capacity. **The required storage is therefore insufficient and there are no proposals to increase it.**
- The letter of offer pre-connection enquiry from IW refers to completion date of 2021 for the Tullow WWTP which is overloaded at present. Works have not commenced and completion date is revised to 2023.
- Furthermore, in the absence of design details as required by Irish Water, a grant of permission cannot be recommended.
- **As no information has been submitted a refusal of information is recommended on the basis of insufficient information and a lack of capacity of existing infrastructure both, on site and at Tullow WWTP.**

Fire Authority:

- Further information required which relates substantially to building regulations. One matter relates to calculation of expected flows in pressures at the furthest hydrant along a pipeline from the where it is tapped into the public mains. If it fails, alternative means of firefighting water sources must be provided.

3.3. Prescribed Bodies

- 3.3.1. **Irish Water:** (3/7/20) Tullow WWTP currently uploaded but upgraded works expected to be completed by end 2021.

Park Gate Housing Estate is not in charge but there is a pumping station on the site. Capacity of the pumping station should be assessed to ensure it can cope with the existing and proposed loadings. FI required:

The applicant is requested to demonstrate to IW that the 3rd party network and pumping station is capable of taking the existing and proposed development in accordance with Irish water's standards and requirements for both networks and pump stations. The developer is also required to provide an arterial routes deed of easement over the infrastructure to service the development should planning permission be granted. The outcome of the assessments shall be submitted as a response to RFI.

- 3.3.2. **DAU:** 18/6/20 Archaeological conditions required as groundworks are in close proximity to a zone of Archaeological Potential around the historic town of Tullow. (RMP No.SW008-045-Historic Town.

Appropriate Screening is required in view of the proximity to the Slaney River Valley SAC Site code000781. The site has potential, either by itself or cumulatively, to have an impact.

3.4. Third Party Observations

- 3.4.1 There were a number of submissions to the planning authority from residents in Park Gate and these issues have been summarised in the planning report(s). Issues relate to:

- Unfinished state of existing estate over a protracted time with no completion date if any. Existing estate should be completed before building on a new site.

- Intensification of access and substandard roads in the estate and use for construction.
- Inadequate traffic calming and safety measures through estate
- No street lighting - presently unsafe particular in view of road surface condition.
- Insufficient fencing off of undeveloped sites,
- Responsibility for Sewerage system and its management is unknown
- Communal areas are part of the drainage system and are believed to be not to standard.
- Overall lack of confidence in the developer in completing a development that would not be a threat to health and safety of existing residents. The unfinished matters should be rectified prior to permission.

4.0 Planning History

- 4.1. PA ref. 04/438 refers to permission for low density housing [in accordance with the prevailing Development Plan at that time] - 99 houses and associated site works. This was subject to 34 conditions which included inter alia the requirement of prior agreement for landscaping and services and maintenance plans.
- 4.2. PA refs. 06/498 and 06/1025 refer to permissions for alterations (modification of house types with no change in overall number of house units) to previous grant of permission (04/438) for development of the site. The subject site is depicted with playing pitches. – one large football type pitch and two smaller pitches/courts and sites for 14 houses.

Conditions required compliance with original conditions (Condition 2) and compliance with standards in 'Recommendations for Site Development Works' (condition3). Other conditions provided for financial contributions and bond or security for €161,240 to secure the provision and satisfactory completion and maintenance until taken in charge of roads, footpaths, watermains car parks, public

open space and other services required in connection with the development. This was required prior to commencement of development.

- 4.3. PA ref. 07/1136 refers to permission for 26 semi-detached houses in place of 13 detached houses as permitted. Plots denoted as 20-32 In this plan the site outlined in red replates only to the plots 20-31. The subject site partly overlaps and is denoted as the location for part V housing and open space. It also shows plots 41 and 42 of the original plan retained in the subject site.

All conditions of parent permission apply in addition to conditions relating to specific contributions and security and part V Housing to be agreed.

5.0 National and Local Policy Context

5.1. Carlow County Development Plan 2016-2021

- 5.1.1. Tullow is a prominent district town in the county along with Bagenalstown – both are level 2 below Carlow town. The population of the town was 3,972 in the 2011 census and is targeted to increase to by 180 during 2015-2021 with a housing unit growth requirement of 64 projected over the same period. Policy CS1 seeks to target the growth of Tullow as part of the settlement hierarchy in line with the RPGs.
- 5.1.2. Section 4.10 refers to unfinished housing estates of which there are 44 in the county. Following a survey conducted by the Department of the Environment, Community and Local Government in 2013, Carlow has a total of 44 unfinished housing estates. Carlow County Council will continue to implement a range of powers available to it under planning, building control and other relevant legislation in an integrated way and will work proactively with developers, financial institutions and local communities in securing satisfactory resolution of unfinished housing developments. Carlow County Council will assess and monitor unfinished housing developments and will play a key role in the co-ordination of Site Resolution Plans with other key stakeholders.
- 5.1.3. Section 5.3.2 seeks integration of land use and transportation.
- 5.1.4. Section 11.3 refers to residential development standards.

5.2. Tullow LAP 2017-2023

- 5.2.1. The site in MAP 6 is identified as a key infill site and the zoning map Fig4.4 identifies it as Existing Residential/Infill where it is an objective 'To protect and improve existing residential amenity; to provide for appropriate infill residential development; to provide for new and improved ancillary services.' The primary aims of this zoning objective are to preserve and improve residential amenity and to provide for further infill residential development at a density that is considered suitable to the area and to the needs of the population.
- 5.2.2. Section 5.4.5 and 5.46 refer to good property management and unfinished estates. 'There are five unfinished estates in Tullow and planning permissions remains valid on two schemes. Where appropriate the Council will seek the completion of unfinished schemes to ensure public health and safety is maintained and that essential services such as roads, public lighting, footpaths, piped services and amenity areas are satisfactorily completed. The onus is on the developer to demonstrate that the completion of any unfinished estate complies with the principles of sustainable development and is of a high quality standard.'
- 5.2.3. **HP3** seeks to facilitate where appropriate residential development on **appropriate infill / regeneration and town centre sites** in accordance with the principles of proper planning and sustainable development.
- 5.2.4. Section 5.4.8 **discourages demolition** of houses and **HP 18** applies in this regard.
- 5.2.5. Section 5.4.2 requires sustainable residential development based on the **neighbourhood concept** rather than just housing estates... 'people should be able to access many of the requirements of daily living within easy reach of their home. Varied housing typologies will also be sought within neighbourhoods in order to encourage a diverse choice of housing options in terms of tenure, unit size, building design and to ensure demographic balance in residential communities.
- 5.2.6. **HP16** restricts apartments to location in the town centre or connected to public transport and subject the high architectural standard, HP 17 also applies to quality.

5.3. Carlow Draft Development Plan 2022-2028

- 5.3.1. Tullow is a District Town at level 2 of the settlement tier. The core strategy objectives CS 05, 06 and 07 all refer to such towns and seeks to comply with the national

planning framework and RSES for the southern region and strengthen the role of the settlement hierarchy and deliver compact growth and sustainable development. The aim of core strategy is ‘ To direct and facilitate appropriate levels of growth and development throughout the County that promotes sustainable development, a more consolidated urban form, a high-quality living and working environment with supporting infrastructure that meets the needs of all residents, in accordance with the National Planning Framework and the Regional Spatial and Economic Strategy.’

- 5.3.2. Tullow with a population increase from 3972 to 4673 (2011-2016) had over 17% change achieving one of highest growth levels in the county. It has a projected household allocation of 404 to accommodate projected population change of 919 . the quantum of undeveloped zoned land is 4.31ha in the town that can accommodate an element of residential.
- 5.3.3. **Regeneration RA-01:** to encourage and facilitate the appropriate development of sites and areas in need of development and renewal in order to prevent:
- Adverse effects on existing amenities in such areas, in particular as a result of the ruinous or neglected condition of any land
 - Urban blight or decay
 - Anti-social behaviour, or
 - A shortage of habitable houses or of land suitable for residential use or a mixture of residential and other uses
- 5.3.4. Section 3.3.3 refers to Regeneration Areas: In recognition of the need to promote and facilitate compact growth and the consolidation of development in urban areas, this Plan has identified lands on which regeneration proposals will be supported. Such regeneration projects will assist in the creation of more sustainable neighborhoods and communities through enhancements to the public realm and built environment which will make the areas more attractive for economic investment. These regeneration areas are set out in Chapter 15.
- 5.3.5. Housing provision reflects the aims of the core strategy and principles set out in statutory guidance. Policy TVP seeks to Enhance and develop the fabric of existing urban and rural settlements in accordance with principles of good urban design
- DPP1 P(DMURS) 2 P3 and P4 (maximizes daylight) also refers.
 - Density is guided at 20-30 units per hectare in Edge of centre location for Tullow. Policies DN P1, P2 promote and encourage compact growth and higher

residential densities and high quality sustainable development in towns such as Tullow

5.4. **Regional Planning Guidelines for southeast**

5.4.1. Tullow is one of two towns in Carlow with a population of over 1500 and recognised as providing a housing function. It acts as District town serving the wider rural hinterland.

5.4.2. The guidelines seek to:

- Support Town centre led regeneration, and the development of underutilised lands with improvements to the public realm, investment in infrastructure together with sustainable transport solutions.
- Deliver new homes on **urban infill and brownfield land** to support urban regeneration with at least 30% of all new homes targeted in settlements (other than the Cities and their suburbs) shall be delivered within their existing built-up footprints.(RPO 35).

5.5. **National Planning Framework (2018)**

5.5.1. This document sets out the overall policy framework for development in a national context. A key focus is the consolidation of population and employment centres in a sustainable. For example by,

- building “centers of scale” with a focus on Dublin (25% of growth) and the cities of Cork, Galway, Limerick and Waterford (accommodating a further 25% of growth);
- achieving Remaining 50% of growth to occur in key regional centres (Athlone, Sligo, Letterkenny and cross border networks of Letterkenny-Derry and Drogheda-Dundalk-Newry), towns, villages and rural areas;

5.5.2. The format of development envisaged is to secure compact and sustainable growth with a focus on reusing previously developed “brownfield” lands together with the development of infill sites and buildings.

5.5.3. Carlow as part of the south east is identified as having a strong urban structure as well as some of Ireland’s most productive agricultural land.

5.5.4. To this end a range of National Policy Objectives set specific targets such as

- NPO 11 states that in meeting urban development requirements, there will be a 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
- NPO 4 refers to attractive, well-designed liveable neighbourhoods;
- NPO 5 refers to sufficient scale and quality of urban development; and
- NPO 27 refers to ensuring the integration of safe and convenient alternatives to the car into the design of communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.
- NPO 33 refers to prioritising the provision of new homes where they can support sustainable development at an appropriate scale.
- NPO 35 refers to increasing residential density in settlements, through a range of measures including reductions in vacancy, reuse of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.6. Sustainable Residential Development in Urban Areas (Guidelines for Planning Authorities), 2009.

- 5.6.1. The Guidelines set out the key planning issues to be considered in the provision of new housing development in terms of sustainable development. Chapter 6 refers to Smaller Towns and Villages: Advice contained in this chapter states that;
- Development in smaller towns and villages must be plan led.
 - New development should contribute to compact towns and villages,
 - Higher densities are appropriate in certain locations,
 - Offer alternatives to urban generated housing,
 - The scale of new residential schemes for development should be in proportion to the pattern and grain of existing development.
- 5.6.2. Section 6.9 states that 'Within a given smaller town or village, there can be marked variations in development context which affect the density of development and external space standards needed to take account of those contexts. Because of the variety of contexts and the probability of mixed use developments, it is difficult to be

prescriptive about the level of density recommended. However, within centrally located sites, densities of 30-40+ dwellings per hectare for mainly residential schemes may be appropriate or for more mixed use schemes. There is also the potential for schemes of particularly high architectural and design quality to suggest densities higher than the range suggested above. S. 6.10 states: 'The emphasis in designing and considering new proposals should be on achieving good quality development that reinforces the existing urban form, makes effective use of premium centrally located land and contributes to a sense of place by strengthening for example the street pattern or creating new streets. While acknowledging the need for infill residential development it is also stated that 'The design approach should be based on a recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area and its amenities.' **The density for edge of small town is considered appropriate in certain circumstances to be as low as 15-20 dwellings per hectare as long as it does not represent more than 20% of new planned housing stock.**

5.6.3. Section 6.11 refers to Density – Edge of centre sites:

- Densities to a range of 20-35 dwellings per hectare will be appropriate.

5.7. **Design Manual for Urban Roads and Streets (2013).**

5.7.1. The use of this document is mandatory. This provides detailed design criteria for street layout and movement. A phased use of auditing tools is required in reaching an optimal design. The DMURS Street Design Audit is primarily concerned with four major aspects of street design: Connectivity , Self-Regulating Street Environment , Pedestrian and Cycling Environment and Visual Quality.

- The DMURS Street Design Audits consists of a series of short tables that can be used to cross check a design against the principles, approaches and standards contained within DMURS.

5.8. **Urban Development and Building Height Guidelines 2018.**

5.8.1. SSPR 4 states: 'It is a specific planning policy requirement that in planning the future development of greenfield or edge of city/town locations for housing purposes, planning authorities must secure: 1. the minimum densities for such locations set out

in the Guidelines issued by the Minister under Section 28 of the Planning and Development Act 2000 (as amended), titled “Sustainable Residential Development in Urban Areas (2007)” or any amending or replacement Guidelines; 2. a greater mix of building heights and typologies in planning for the future development of suburban locations; and 3. avoid mono-type building typologies (e.g. two storey or own-door houses only), particularly, but not exclusively so in any one development of 100 units or more.’

5.9. Development Management Guidelines

- 5.9.1. Section 35 of the Planning Act as amended provides for a planning authority to have regard to past performance of an applicant e.g. where it forms the opinion that there is a real and substantial risk that a proposed development would not be completed in accordance with the permission being sought, it may refuse permission without prior authorisation from the Courts, to a person or company who has failed substantially to comply with a previous permission (subject to giving the applicant prior notification and an opportunity to respond). This provision effectively reversed the burden of proof that applied in this provision in the 2000 Act. Where a planning authority refuses permission under section 35 of the Act, the applicant can apply to the High Court to have the refusal annulled. Where the High Court confirms the decision of the planning authority, there is, of course, no provision for the applicant to appeal to the Board. Planning authorities should consider the use of section 35 in the case of developers with a history of substantial non-compliance, both as an effective deterrent and as a means of strengthening public confidence in the efficacy of the enforcement process.

5.10. Natural Heritage Designations

- 5.10.1. There are no designations site with the development site. The closest designated site in the River Slaney Valley SAC (Site Code 000781).

5.11. Planning and Development Act 2000, as amended

- 5.11.1. Section 35 provides for refusal of permission subject to a specific process involving application to the High Court as described above.

5.11.2. Section 180 provides for taking in charge of estates:

(2A) (a) Notwithstanding *subsections (1) or (2)* , where a development referred to in *subsection (1)* has not been completed to the satisfaction of the planning authority and either —

(i) enforcement proceedings have been commenced by the planning authority within 4 years beginning on the expiration, as respects the permission authorising the development, of the appropriate period, or
(ii) the planning authority considers that enforcement proceedings will not result in the satisfactory completion of the development by the developer, the authority may in its absolute discretion, at any time after the expiration as respects the permission authorising the development of the appropriate period, where requested by a majority of the owners of the houses in question, initiate the procedures under **section 11** of the **Roads Act 1993**.

5.11.3. The Fourth Schedule sets out the reasons for refusal which do not attract compensation. They include a range of scenarios relating to infrastructure and also to an applicant's association with previous development.

Section 23A (as inserted to the Principal Act in October 2020)

23A. (1) The proposed development is by an applicant associated with a previous development (whether or not such previous development was within the functional area of the planning authority to which the proposed development relates) which —

(a) in the opinion of the planning authority in whose functional area the previous development is situated, has not been satisfactorily completed in the ordinary course of development, or

(b) the estate to which the previous development relates has not been taken in charge by the local authority concerned because the estate has not been completed to the satisfaction of that authority.

(2) In this paragraph ' associated ' , in relation to a previous development, means a development under the *Planning and Development Acts 2000 to 2018* to which *section 180* relates and in respect of which the development has not been satisfactorily completed or taken in charge by the

local authority concerned due to the actions (whether of commission or omission) of —

(a) the applicant for the proposed development,

5.12. EIAR Screening

5.12.1. An Environmental Impact Assessment Screening report was not submitted with the application.

5.12.2. Class (10)(b)(i) 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,

5.12.3. It is proposed to construct 35 houses with associated site works and landscaping. The number of dwellings proposed is well below the threshold of 500 dwelling units noted above. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage. The issue of appropriate assessment is addressed separately. The proposed development would use the public water and drainage services of Irish Water and Carlow County Council, upon which its effects would be marginal subject to compliance with connection requirements and completion of upgrade works in the treatment plant which I note are expected to be completed by 2023. In such circumstances the proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the vicinity. While there are issue that need to be addressed in terms of the localised environmental impact an residential development may further compound outstanding matters in relation to I do not consider the scale of the development would necessitate not have an adverse impact in environmental terms on surrounding land uses subject to compliance with normal developemtn standards I do not consider the development to be of a nature that would give rise to a risk of major accidents or risks to human health.

5.12.4. 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 zoned for 'Residential' uses under the provisions of the Tullow LAP, and the results of the strategic environmental assessment of the Carlow County Development Plan, undertaken in accordance with the SEA Directive (2001/42/EC),
- The location of the site which is served by public infrastructure,
- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended),
- 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 ABP-309915-21 Inspector's Report Page 23 of 40
- 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)

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The applicant has lodged a first party appeal. The points made can be summarised accordingly:

- Regarding reason , it is clarified that the applicant owns the lands with the access road, footpaths, services and open space and this is clarified in FI. The reference to not owning the lands is explained as a typing error.
- The applicant is endeavouring to complete an unfinished section of an existing estate and provide much needed housing for the area. Section 5.4.6 of the Tullow LAP supports this. If permitted the applicant would seek to commence on site

without delay which would achieve the objective regarding unfinished estates. This should be welcomed rather than the deterioration of the site.

- It is explained that following the request for additional information the applicant discussed the possibility of submitting revised site area to include the existing estate and had proposed that all outstanding matters be addressed by condition but this was discouraged by the planning authority. This, it is submitted, would ensure completion of works.
- It is also clarified that the triangular strip of ground between the site and the public road is owned by the council.
- With respect to reason 2 and infrastructure it is pointed out that pre-connection agreement with Irish Water was submitted by the consulting engineers for the applicant.
- With respect to footpaths and roads, they will only be replaced where required and the proposed layout has been designed to conform to the original planning specification in the interest of retaining continuity of the existing estate character as stated in the consulting engineers report.
- The applicant would request that the above required works would be included as a condition of planning and could be carried out prior to the construction works stage of the proposed development.
- The existing pumping station is within the ownership of the applicant and calculations proposed by the consulting engineers indicate that there is capacity for both the existing and proposed new development.
- In respect of reason 3 it is disputed that there is insufficient detail in relation to roads public lighting , footpaths, amenities and essential services having regard to the details submitted under the original application. If further information is required by the Board the applicant would welcome the opportunity to submit same.
- No Appropriate Assessment report was required for the previous application on site. It is therefore unclear why it is now needed given that it is a smaller scaled development than previously permitted.
- It is not piecemeal. The works associated with completion could be carried out as a condition of permission.

6.2. Planning Authority Response

6.2.1. No further comments are made.

6.3. Prescribed Bodies.

6.3.1. There were no further submissions.

7.0 Assessment

7.1. Introduction

7.1.1. This proposal is an extension of an existing unfinished housing estate, Park Gate, which in terms of houses has been substantially constructed but there are a number of significant outstanding matters in relation to its completion, the provision of infrastructure and its ongoing management. Access is proposed through Park gate estate, notwithstanding the incomplete road network. It is proposed to demolish a pair of vacant semi-detached dwellings and construct a crescent of terraced and semi-detached houses around the periphery of the site as an extension to a row of detached houses external to the site. It is at a location that backs onto a separate development, 'Ash Lane' and undeveloped land between the Shillelagh Road and the site. A row of housing is also proposed along a fenced off access road (outside the site) and diagonally opposite a row of houses that are mostly boarded up and also outside the site. The issues relate to the quality of housing, infrastructure and residential amenity, orderly development, principle of demolition and Appropriate Assessment.

7.2. Quality of housing layout – overall layout

7.2.1. The proposal is for two storey family houses in an enclave solely accessed via Park Gate estate and at a density of 20/hectare which is higher than that of the adjacent detached house layout. While the site is a specified infill site in the development plan, the scale, notwithstanding the objections by the local residents to higher density, is at the lower end of current guidance for density in towns. By reference to the statutory guidance for housing development in towns such as Tullow and the core strategy for same, the overall approach to the housing layout is I consider a missed opportunity to increase density, for example by incorporating 3 storey units

on a smaller footprint and to interconnect in a more permeable way with existing fabric.

- 7.2.2. In terms of density I do however note the context which includes low density housing in accordance with the development plan low density policy prevailing at time of the original permission for Park Gate. I also note the current development plan policy which not unreasonably channels apartments into the town centres in a plan led approach. I also note that site works which include an incomplete road around a central square and which are pursuant to a previous permission in 2004 as amended up to 2007. The core green space encircled by the road was previously part of the public open space for the entire scheme as outlined in blue. Accordingly I accept that there are constraints in revisiting an entirely new layout. I do however note that the proposal will increase density by increasing the number of units than previously permitted from 26 to 35 on a reduced site and this is a positive step and on balance I consider the overall density to be broadly acceptable. However there are other urban design issues of concern.
- 7.2.3. Connectivity: The site is presently only accessible via the more c.550m circuitous route to the south as the more direct straight route of c. 250 from the main road is fenced off and not part of the site. In addition, there is little or no opportunity for interconnectivity with surrounding sites external to Park Gate as exist to the west. This is further compounded by the absence of fully integrated cycle paths and footpaths in order to maximise permeability and minimise car usage for local trips. The planning authority sought to address this issue within the estate in a request for further information regarding open space, hierarchy of spaces and appropriate linkages for active and passive amenities. The applicant proposes that these issues be addressed by condition of permission which is not acceptable to the planning authority. The layout further restricts the potential for future interconnection with the estate to the west despite the adjoining road and footpath layout abutting the site. While houses could be omitted, I consider this would be an inappropriate way to address the integration of the development.
- 7.2.4. In terms of more detailed aspects of urban design there are issues in terms of overall road layout – such as extensive stretches of straight roads, particularly as a consequence of extending the existing alignment and failure to integrate traffic calming measures by design. The layout, by itself and by extension of the network

which issues raised by the Transportation Division, also fails to meet other DMURS principles and standards. For example the roads are quite wide (greater than 5.5m). I also consider the car parking layout is overly dominant in terms of landscaping. Shared spaces could for example, be provided through more considered and detailed hard and soft landscaping. The encroachment on the perimeter of the open space with continuous stretches of parallel parking for extensive visitor parking in addition to the 2 private spaces per each dwelling should be revisited in terms of providing shared and attractive spaces. I do not consider this can be addressed by condition. The layout in terms of access and movement and creating a sense of place fails to provide for a high quality environment and accordingly is contrary to the development plan housing policies and standard, and I refer in particular to Section 11.3 of the Carlow county Development Plan which refers to Best Practice Design Guide which are supported by statutory guidelines.

Housing layout internally:

- 7.2.5. By reference to Quality Housing for Sustainable Communities- Best Practice Guidelines for delivering homes (Department of Environment, Heritage and Local Government) which provide room sizes for houses, the layout is for the most part is just about within acceptable standards. I refer to Table 5.1 which sets out space provision and room sizes for typical dwellings. For 3 bed 5 person houses the main living room living area should be 13sq.m. the aggregate living area 34sq.m., and the aggregate bedroom area 32 sq.m. with storage at 5 sq.m.. In the case of Type A the living room is 15.8sq.m. but the aggregate living is 34.6 sq.m., bedroom area is 32.7 sq.m. and storage is 5 sq.m. I note the storage for the two bed Type B is 3.4 sq.m. cumulatively which is below 4 sq.m. for two bed / 4 person house. This is a marginal breach and could be addressed by condition. Having regard to the layout, height and separation distances I do not consider sunlight and daylight is a material consideration.

7.3. Infrastructure

- 7.3.1. One of the key areas of dispute centres on the standard of completion of the existing housing estate. The issues are manifold and underline three of the four the reasons for refusal of permission. The issues relate primarily to services and amenities intended to serve the proposed development in that they remain incomplete and

substandard for the purposes of taking in charge and are also outside the application site as outlined in red. The applicant's approach is simply that all these matters can be dealt with by conditions and subsequently addressed prior to completion of the proposed housing. The planning authority however has detailed quite specifically how this is not acceptable.

7.3.2. Roads: At a practical level the road network intended to serve the site has been excluded from the development site and is neither complete nor taken in charge. The road surfaces are unfinished and the traffic calming measures have not been comprehensively addressed. While the applicant, in further information, confirms ownership and intention to complete, I consider, particularly in view of the planning history, that the completion of such to an acceptable standard cannot be guaranteed. The separation from the application site makes enforcement difficult. This is further complicated by the absence of detailed works for both existing and proposed schemes. On this basis alone, I consider that the development is piecemeal, disorderly and ultimately premature pending the completion of the road network serving the development site from the public road.

7.3.3. Drainage: Notwithstanding the outlined proposal in the Engineer's report accompanying the application, the situation is that the planning authority has insufficient information to be satisfied that the proposal will comply with required standards. This relates to the provision of infrastructure in the existing unfinished Park Gate estate which is not in charge and not assessed nor are there details for Carlow County Council to confirm adequacy of for example, outfall and on-going maintenance. Details of attenuation pond, hydrocarbon interceptor silt trap and hydro brake serving the existing s.w. network of the Park Gate estate are also required.

7.3.4. It is explained in the applicant's engineering report that the management of the surface water will be designed in accordance with the policies and guidelines outlined in GDSDS and the requirements of the council which will include SUDs, attenuation to greenfield run off rate, accommodation of rainfall events of up to 1:100 year events and climate change. It is proposed to retain sewers and only construct or replace new ones where they are non-existing or undersized.

7.3.5. However the Council engineering divisions have been quite comprehensive in their appraisal and dissatisfaction with the level of detail provided. For example it is

explained how the attenuation tank is undersized. There is also concern about the capacity of the pumping station and its storage capacity which is for 8 rather 24 hours and therefore significantly undersized. This has a potentially significant impact on the water supply for the residents of existing and future development in terms of public health. It also has implications for fire safety.

7.3.6. The inadequacy of the information in Park Gate may also have knock on implications for land requirements and layout including landscape proposals . In view of the incomplete and unsatisfactory nature of the development. I consider it not unreasonable that the planning authority seeks a more detailed proposed from the applicant so as to ensure that infrastructure can be provided to a satisfactory standard.

7.3.7. WWTP Capacity: At a broader strategic level I note concerns about the capacity of the Tullow Wastewater Treatment Plant. Imminent upgrading works are intended to be completed by a revised date of 2023 (originally indicated as 2021 in correspondence from Irish Water) and supports the case capacity is likely to be available. The fact that the site is a part of an unfinished estate and included as Infill site in the current Draft Plan for Tullow further supports the principle of permitting development . The issues however in this case relate to the adequacy of the sewer network in Park Gate and for this reason the development is premature pending its satisfactory completion and operation.

7.3.8. Public lighting: This has not been resolved in terms of capacity of supply and ultimately the residents have been left without safe lighting . The security issues are compounded by the incomplete nature of the road surfaces and lack of traffic calming.

7.3.9. Such detailed proposals as referred to above are the responsibility of the applicant to design based upon site survey and up to date information of specification of completed and intended works. The details however are non-specific – it is not clear based on the information by the application what has actually been constructed to standard and for example to what extent pipe networks need to be replaced. More detailed proposals will enable a clearer and more transparent process for the purposed of monitoring and enforcing of an adequate standard of development. In view of the incomplete and unsatisfactory standard of infrastructure – and I refer to the Taking in Charge standard in particular I consider it reasonable that the council

takes a more precautionary approach to avoid a cumulative development management problem. .

- 7.3.10. While I accept that sometimes elements of design detail are left for agreement, in this case there are a lot of details that may have a material bearing on the both the nature and scale of ancillary works and layout and landscaping details and in view of this, a permission in absence of resolving design details could further compound a substandard development.

7.4. Orderly Development

- 7.4.1. Aside from the infrastructural issues and prematurity of development, the planning authority is concerned about conflict with its policies regarding completion of unfinished estates. Park Gate is an unfinished housing estate and this was identified in the preparation of the current LAP in 2017.
- 7.4.2. With respect to visual amenities, while the majority of houses in Park Gate are occupied and well-presented within their respective curtilages, the public realm lacks cohesion . The existing estate lacks consistency in terms of boundary finishes and many of the external public facing boundaries are constructed of timber that has not been maintained. The planning authority has invited proposals in this regard. The issue in this case relates to the principle of permitting an extension to the estate where the original part remains unfinished and may become further degraded in the absence of a cohesive plan. As the land is private and may encroach on third parties this needs to be addressed by the landowner. I concur with the planning authority in that this cannot be addressed by condition.
- 7.4.3. Moreover, in the context of sequential development, the planning authority raises concerns about the incomplete nature of the existing housing scheme and piecemeal approach. In this regard I consider the planning authority is clear in its requirements for good property management. HP14, for example, requires compliance with its policy on taking-in-charge of residential developments. This is a reasonable policy in the context of the council's aim in its core strategy to achieve a high-quality living environment.
- 7.4.4. I note that there are a number of vacant sites remaining within Park Gate and there are also a number of boarded up houses overlooking the site. Notwithstanding the

request in further information in this regard there are no concrete proposals for the completion of these sites and this is compounded by the outstanding infrastructural issues. To permit the developer, who is associated with Park Gate, permission for a new housing development without such proposals would be directly inconsistent with the council's policy in Section 5.3 to encourage uptake of vacant units in its endeavours to provide quality housing. It also conflicts with policies H6 and H8 which seek:

- To encourage and foster the creation of attractive mixed-use sustainable neighbourhoods which contain a variety of housing types and tenures with supporting community facilities, public realm and residential amenities
- To require larger schemes to be developed in a phased manner ensuring that necessary community infrastructure is delivered in tandem with residential development.

Accordingly I concur with the planning authority that the development would be piecemeal and disorderly. I also consider that the status of the existing estate with which the developer is associated is grounds in itself to refuse permission and in this regard I refer to the insertion of section 23(A) of the Fourth Schedule (inserted on 11th October 2018 by the amendment Act 2018(16/2018), SI no.436 of 2018) into the PDA 2000 as amended. This states that a reason for refusal within the scope of the Fourth Schedule may be where 'The proposed development is by an applicant associated with a previous development (whether or not such previous development was within the functional area of the planning authority to which the proposed development relates) which —

(a) in the opinion of the planning authority in whose functional area the previous development is situated, has not been satisfactorily completed in the ordinary course of development, or

(b) the estate to which the previous development relates has not been taken in charge by the local authority concerned because the estate has not been completed to the satisfaction of that authority.

7.4.5. While I do not have the full details of the planning history and enforcement I am satisfied based on the submissions on file and the provisions of the Act that section 23(A) of the Fourth Schedule applies. As an aside I note that the planning authority, notwithstanding its dissatisfaction with the level of adherence with standards does

not appear to have invoked the provisions of section 35 which allows refusal on grounds of past permission. This should not however preclude the Board from considering the above matters.

7.5. Demolition

- 7.5.1. The proposal incorporates the demolition of a pair of boarded up semi-detached houses that were constructed pursuant to a 2007 permission and at the latter stage of development of Park Gate and are I estimate to be, at most, 12 years old. Notwithstanding the opportunity to justify the demolition in the response to the request for further information, the applicant does not make any demonstrable case for the demolition. I note the houses proposed are not dissimilar in type from those to be demolished other than providing for a more finely grained terrace of housing and it is difficult to see how the clearance will enhance the quality of the overall proposal. I note the applicant, as with other outstanding matters, similarly states that this can be addressed by condition – however no revised layout plans demonstrating this were submitted. In the context of the development plan policy to discourage demolition of habitable houses, I refer to HP 18: ‘To discourage the demolition of habitable housing unless streetscape, environmental and amenity considerations are satisfied’, I consider it reasonable to seek the retention of the dwellings which appear to be substantially complete and not declared derelict. It would be preferable to have revised plans incorporating this revision in addition to phasing of the development such that they are completed prior to construction or occupancy of other dwellings. In the absence of revised plans I consider the demolition works are grounds for refusal.

7.6. Appropriate Assessment - Screening

- 7.6.1. No Appropriate Assessment Screening report was submitted to the planning authority notwithstanding a request for further information in this regard.
- 7.6.2. Notwithstanding the comments by the applicant in respect of the approach by the planning authority in previous applications for Park Gate, adherence to the following steps is required as part of the screening process for appropriate assessment as recommended in both EU Guidance and by the Department of Environment, Heritage and Local Government:

1. Description of the plan or project and local site or plan area characteristics.
2. Identification of relevant Natura 2000 sites and compilation of information on their qualifying interests and conservation objectives.
3. Assessment of likely significant effects-direct, indirect and cumulative, undertaken on the basis of available information.
4. Screening statement with conclusions.

Project Description and Site Characteristics

- 7.6.3. The proposed development is as described in section 2 report. While it is proposed to incorporate SUDs measures including an overflow Attenuation tank there are no details of this system regarding its exact location and capacity. The surface water discharge is stated to be into the stream north east of the site which I note is about 1km upstream of the River Slaney and therefore provides a direct hydrological pathway between the development site and the European Site.
- 7.6.4. The foul effluent discharge relies on a connection to the Tullow Waste Water Treatment Plan – a facility licensed by the EPA and subject of upgrading to be completed by 2023. The connection details to this are unknown.

Relevant Natura 2000 Sites, Qualifying Interests and Conservation Objectives:

- 7.6.5. The site is not located within any European site. There is one site which is I consider potentially within the zone of influence of the proposed development based on proximity and potential hydrological links. The Slaney River Valley SAC (Site Code 000781) and is about 1km away at its nearest point but south of the Shillelagh Road. The site is about 600m from the stream to which s.w. outfall is proposed for the estate but no details are provided. This stream is about 1km upstream of the River Slaney.

Site Code, Site Name and Designation	Approx. Distance from Site	Conservation Objectives; Qualifying Habitats and Species
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Slaney River Valley SAC Site Code 000781	1km directly east and s.w. discharge point 600m from site and at a point that is approx 1km upstream from the SAC site.	To maintain and/or restore the favourable conservation condition of the species and habitats listed as Special Conservation Interests for this SAC: Estuaries [1130] Mudflats and sandflats not covered by seawater at low tide [1140] Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330] Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410] Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation [3260] Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0] Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>) [91E0] <i>Margaritifera margaritifera</i> (Freshwater Pearl Mussel) [1029] <i>Petromyzon marinus</i> (Sea Lamprey) [1095] <i>Lampetra planeri</i> (Brook Lamprey) [1096] <i>Lampetra fluviatilis</i> (River Lamprey) [1099] <i>Alosa fallax fallax</i> (Twite Shad) [1103] <i>Salmo salar</i> (Salmon) [1106] <i>Lutra lutra</i> (Otter) [1355] <i>Phoca vitulina</i> (Harbour Seal) [1365]
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Assessment of likely Effects:

- 7.6.6. There is potential for contamination of a nearby watercourse. This may arise from demolition and construction works and an increase in sediment load by feeding into an existing network that discharges to the stream to the north east. There is also the potential for air borne pollutants

- 7.6.7. The surface water drainage is stated by the technical department of the planning authority to be incomplete and details are insufficient to ascertain its capacity and feasibility in attenuation and discharging of run-off.
- 7.6.8. In terms of loading of the WWTP this is due to be upgraded by 2023 and in a strategic context, capacity in the plant is unlikely to be an issue. However in the absence of satisfactory foul sewer network details, connection to the foul sewer cannot be ruled out as a potential source of impact.
- 7.6.9. In the absence of a detailed and adequate drainage system, a construction environmental management plan and evidence of incorporation of Best Practice Measures, the necessary precautions cannot be ascertained let alone guaranteed.
- 7.6.10. In view of the foregoing it is therefore considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site
- 7.6.11. In terms of cumulative impact, there is insufficient detail of the infrastructure serving Park Gate. Having regard to the foregoing, it cannot be concluded with reasonable certainty that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of the Slaney River Valley SAC Site Code 000781

Screening Statement and Conclusions:

As significant effects cannot be ruled out on the Slaney River Valley SAC Site Code 000781 Appropriate Assessment is required.

In conclusion having regard to the foregoing, it is reasonable to conclude that on the basis of the information provided with the application and appeal the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not result in adverse effects on the integrity of River Slaney Valley SAC (Site Code 000781) in view of the site's Conservation Objectives and having particular regard to the hydrological connection of the proposed drainage system serving the proposed development to the Site.

8.0 Recommendation

- 8.1.1. I recommend that permission be refused for the proposed development for the following reasons set out below.

9.0 Reasons

1. The proposed development is reliant on infrastructure in an existing housing estate which has not been completed to the satisfaction of the planning authority and which remains in private ownership. The Board is therefore not satisfied that that proposed development can be adequately serviced in terms of water supply, surface water and foul drainage and a structurally safe and adequality lit road network. The proposed development would accordingly pose a risk to public health and safety and would be premature pending the satisfactory resolution of such matters and would therefore not be in accordance with the proper planning and sustainable development of the area.
2. Having regard to the unfinished status of the existing estate which includes vacant sites and boarded up houses it is considered that the further extension of the estate as proposed, in the absence of satisfactory plans to complete the existing development in Park Gate would undermine the provision of a high quality living environment, would further compound a pattern of piecemeal and disorderly development and would be contrary to policies in the Carlow County Development Plan 2015-2021 and the Tullow Local Area Plan (LAP) 2017-2023 regarding unfinished housing estates. Furthermore, the proposed development would be contrary to zoning objective of the Tullow LAP, 'to protect and improve residential amenity'. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The proposed development relies on a road network that is incomplete and a layout that lacks connectivity and is overly car dominant and dependent. It is considered that the extension of the existing road network in its present form would pose a risk to the safety of road users in the absence of adherence to principles of DMURS. The Board is not satisfied that adequate measures have been incorporated into the overall design to address traffic calming and pedestrian/cyclist safety. The proposed development would therefore be

prejudicial to public safety by reason of traffic hazard and would not be consistent with the proper planning and sustainable development of the area.

4. The proposed development is by an applicant associated with a previous development which, based on the submitted details, has not been satisfactorily completed and which has not been taken in charge by Carlow County Council for this reason. Permission in these circumstances would not be consistent with the proper planning and sustainable development of the area.
5. The proposed development relies on demolition of a pair of dwellings. In the absence of any justification for the demolition and any demonstrable reason otherwise, permission would therefore be contrary to policy HP18 of the Tullow Local Area Plan 2017-2023 which seeks 'to discourage the demolition of habitable housing unless streetscape, environmental and amenity considerations are satisfied', a policy that the Board considers reasonable. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
6. On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement, the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on River Slaney Valley SAC (Site Code 000781) or any other European site, in view of the site's Conservation Objectives and having particular regard to the hydrological connection of the proposed drainage system serving the proposed development to the site. In such circumstances the Board is precluded from granting permission.

Suzanne Kehely

Senior Planning Inspector

29th October 2021