



An
Bord
Pleanála

Inspector's Report ABP-309424-21

Development

Demolition of buildings on site and the construction of a 3-storey building accommodating an office/retail unit and 2 apartments. The proposed development also provides for 11 townhouses.

Location

Main Street, Donaghcumper,
Celbridge, Co. Kildare.

Planning Authority

Kildare County Council

Planning Authority Reg. Ref.

20/1369

Applicant(s)

NL Dublin Estate Property Holdings
Ltd.

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party vs. Refusal

Appellant(s)

NL Dublin Estate Property Holdings
Ltd.

Observer(s)	<p>June Stuart</p> <p>Celbridge Tidy Towns</p> <p>Nuala Walker</p> <p>Celbridge Action Alliance</p> <p>Suzanne and Brian Miller</p> <p>Celbridge Community Council</p> <p>Penny Woods</p> <p>Irish Georgian Society</p> <p>Celbridge Tourism & Heritage Forum</p> <p>Inland Fisheries Ireland</p> <p>Cecilia & Patk J. Kehoe</p> <p>Vanessa Liston</p> <p>An Taisce</p>
Date of Site Inspection	10 th September 2021
Inspector	Stephen Ward

1.0 Site Location and Description

- 1.1. The site is located between Main Street, Celbridge (to the west) and the River Liffey (to the east). It has a stated area of 0.34 hectares and is generally of regular shape. The site levels fall gradually but significantly (by c. 4 metres) from the front portion of the site towards the Liffey to the rear. The site contains an existing 2-storey office/retail building along Main Street with attached storage sheds to the rear. The rear of the site is densely overgrown and undeveloped save for a small derelict stable building. Access to the site is provided via a narrow laneway off Main Street.
- 1.2. The adjoining section of Main Street consists of a largely intact streetscape of mainly 2-storey terraces with slated pitched roofs. The street is mainly in commercial (retail/office) use at ground floor but includes a mix of residential and other uses. To the immediate south of the existing access lane is a retail unit and a small residential unit known as 'The Laurels Mews'. The property known as 'The Laurels' is located to the south and west of the site along Main Street and is a Protected Structure in residential use with garden/parking to the rear. The immediately adjoining lands to the south comprise the rear garden grounds of Finey House (Protected Structure along Main St), which is separated from the appeal site by a boundary wall and the Toni River (also referred to in the appeal file as the Toney/Crippaun river/stream).
- 1.3. To the north of the site there is a mix of residential/commercial development along Main Street, including Kildrought House (Protected Structure). To the rear of Kildrought House is a large, landscaped garden and a 'pavilion' building, which are separated from the appeal site by a high stone boundary wall. Documentation submitted on the appeal states that Kildrought House (including the pavilion building) is in private residential use but is open to the public for visits for at least 60 days of the year or by appointment.

2.0 Proposed Development

- 2.1. In summary, permission is sought for the following:
 - Demolition of the existing office/retail building, storage sheds and stables (total of 335.2 sq.m.)

- Construction of 3-storey building on Main Street consisting of an office/retail unit (85.5m²) at ground floor and 2 apartments above (1 no. 1-bed and 1 no. 2-bed).
- Construction of 11 no. townhouses in 2 terraced blocks consisting of 7 no. 3-beds and 4 no. 4-beds.
- Access to the site will be off Main Street.
- 25 no. car-parking spaces and 15 no. bicycle parking spaces will be provided.
- Associated works include landscaping, boundary treatment, refuse/storage areas (20.4m²) and signage. The levels of the site will be raised significantly (up to c. 2 metres) and supporting retaining walls installed.
- Sustainable Urban Drainage Systems (SUDS) will be used to limit, retain and treat surface water from the development prior to discharge to the River Liffey to the east. It is proposed to connect to the existing foul sewer and water supply infrastructure along Main Street to the west.

2.2 In addition to the normal documentation and drawings, the application includes the following reports:

- Appropriate Assessment (Screening)
- Archaeological Assessment
- Heritage Impact Assessment
- Flood Risk Assessment
- Engineering Services Report.

3.0 Planning Authority Decision

3.1. Decision

By order dated 14th January 2021, Kildare County Council (KCC) issued notification of the decision to refuse permission. The reasons for refusal can be summarised as:

1. The design of the proposed 3-storey replacement building in terms of its scale, massing, roof pitch and colonnade feature is considered to be out of

character with the streetscape of Main Street and the proposed Architectural Conservation Area (ACA), would have a negative visual impact on views and prospects to and from the proposed ACA, would contravene Policy BH3 and Objective BHO3.3 of the Celbridge Local Area Plan 2017-2023 and would therefore be contrary to the proper planning and sustainable development of the area.

2. The proposed development, i.e. the raising of site levels and construction of 11 townhouses, would have a negative visual impact on the curtilage, attendant grounds and setting of the adjacent Protected Structures; Kildrought House and 'The Laurels'. In particular, it is considered that the proposed height, roof pitch and elevation treatment of the proposed townhouses would result in an overly obtrusive development when viewed from a number of locations within Kildrought House and 'The Laurels'. Furthermore, the proposed first floor windows and balconies would overlook the grounds of these properties and would undermine their settings and negatively impact on amenities. The proposed development would therefore contravene policies PS3 and PS16 of the CDP, Policy BH2 and Objective BHO2.1 of the Celbridge LAP and thus would be contrary to the proper planning and sustainable development of the area.
3. Having regard to the proximity of the proposed development to the watercourse to the southwest of the site and the proposal to raise site levels, the Planning Authority is not satisfied that the proposed development is not in an area at risk of flooding or that will not displace that flood risk to adjoining lands.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The KCC planner's assessment can be summarised as follows:

- Having regard to the office/retail and residential nature of the proposed development, and to the 'town centre' zoning and density proposed, the proposed development is acceptable in principle at this location.

- The floor areas for the proposed apartments appear to comply with the requirements of the CDP and Section 28 Guidelines. However, the storage rooms exceed 3.5m² which is contrary to section 17.4.6 of the CDP.
- The proposed location for open space is not ideal but is acceptable having regard to the linear nature of the site and its proximity to the Liffey and the town centre.
- It is proposed to raise the site by 2-3 metres. Very little information has been submitted in this regard and this will increase overlooking impacts and will impact on existing walls along the boundary.
- The report highlights the location of the site within a proposed ACA and Protected Structures in the vicinity, some of which are rated as 'Regional importance' in the NIAH.
- The existing building on Main Street is a vernacular building in good condition and contributes to the character of the street. The height, scale, massing, roof pitch and colonnade feature of the proposed building will negatively impact on the streetscape and contravene the policies and objectives of the LAP.
- With regard to the impact of the proposed townhouses on Kildrought House and 'The Laurels' (Protected Structures), it is stated that the proposal would be excessive in scale and overly obtrusive when viewed from a number of locations within these properties, and that overlooking from 1st floor windows and balconies would undermine their settings.
- It would appear that a biodiversity protection zone of not less than 15m is achieved from the River Liffey as per Objective GIO1.6 of the LAP. However, the requirement for a 10m zone of 10m from the Toni River does not appear to be achieved.
- It is proposed to fell existing trees but no tree survey/arboricultural report has been submitted with the application.
- Following the KCC 'Water Services' department report and further discussions with that section, serious concerns were raised about the flood risk for the proposed block of dwellings to the southwest and potential flood impacts of displaced water through the raising of the site. The application has not

adequately addressed these risks and should be refused for reason of flood risk.

- Archaeological testing should be conditioned if permission is granted.
- Part V proposals are acceptable subject to the reduction of storage rooms to a maximum of 3.5m².
- Appendix 2 of the Planner's report contains an Appropriate Assessment Screening Report. On the basis of the requirement for the importation of material on site and its proximity to the River Liffey, which is hydrologically connected to the Rye Water Valley / Cartron SAC, it is recommended that the applicant undertakes a Natura Impact Statement.
- Refusal is recommended in accordance with the terms of the KCC decision.

3.2.2. Other Technical Reports

Water Services: Requests further information in relation to the following:

- Tanks are not permitted for attenuation purposes as they do not comply with the Water Framework in terms of water quality and health and safety issues are a problem. Revised proposals are requested for ground infiltration with overflow storage system with isolator row.
- Clarification is required in relation to access to the main sewer by gravity and the provision of an appropriate fall for the pipes proposed.
- Clarification is required on whether it is proposed to culvert the Toni River and permission for same. Clarification is also requested on the maintenance and ownership of the river.

Area Engineer: No objections subject to conditions.

Chief Fire Officer: Requests further information on turning facility for fire appliances.

Environmental Health Officer: No objections subject to conditions.

Housing Section: No objection to Part V proposals subject to the reduction of storage area to less than 3.5m².

Transportation: Requests further information in relation to the following:

- Concerns about traffic volume

- Sightlines from the entrance onto Main Street
- The provision of footpaths and existing accesses onto the entrance road
- Road layout details including dimensions, surfacing, kerbing etc.
- Inadequate car-parking proposals, including that for the office/retail use
- Details of swept path analysis, public lighting proposals, Road Safety Audit and Construction Management Plan.

3.3. Prescribed Bodies

Irish Water: No objections subject to standard connection agreement conditions.

An Taisce: The grounds of the submission are covered in Section 6.4 of this report.

3.4. Third Party Observations

A number of submissions were received in objection to the development. The issues can be summarised as follows:

- Impacts on architectural heritage
- Impacts on rights of way
- Traffic volumes, capacity, parking and safety
- Security and privacy concerns
- Sewage capacity and overflow
- Demolition waste disposal (including asbestos) and construction management
- Flooding from the adjoining watercourses
- Precedent for undesirable backland development
- The previous refusal of an application on the site
- Tree removal
- Disturbance to ecology and riparian / green zone along the River Liffey
- Misleading images in the application
- Negative impacts on neighbouring properties

- Infrastructure capacity in the area
- Shortcomings in archaeological and heritage assessment
- Concerns about infilling of the site
- Impacts on the tourism value of the area
- Open space is incidental and not sufficiently overlooked
- The availability of documents for public inspection.

4.0 Planning History

4.1. The following applies to the subject site:

ABP Ref. PL09.126634: Permission refused (13th March 2002) for 4 no. commercial units with 4 no. 2 bed apartments over & 9 no. 2 bed courtyard houses & 4 no. duplex units over 4 no. 2 bed apartments to rear of site. The reasons for refusal were as follows:

- 1. The site is located in the historic town centre of Celbridge, within an area containing a number of protected structures, and adjoining the River Liffey, an Area of High Amenity. The proposed development, by reason of its scale, design and layout, would be out of character with the existing pattern of development in Celbridge, would constitute overdevelopment of the site, would seriously injure the amenities of the area and of property in the vicinity and would, therefore, be contrary to the proper planning and development of the area.*
- 2. The proposed development would be premature pending the preparation of an Action Area Plan for the riverside area and the determination by the planning authority of a road layout for the area.*

4.2. There have been some large-scale developments permitted in recent years in Celbridge under the Strategic Housing Development (SHD) process. The developments have been on the outer edges of Celbridge as follows:

ABP Ref. 307100-20: Permission granted for 467 residential units, shop, gym, café, and creche (8th September 2020).

ABP Ref. 306504-20: Permission granted for 372 residential units, childcare facility and associated works (3rd September 2020).

ABP Ref. 303295-18: Permission granted for 251 residential units, creche and associated works (12th April 2019).

5.0 Policy Context

5.1. National and Regional Policy / Guidance

5.1.1 The **National Planning Framework (NPF)** is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains several policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (c) aims 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;
- NPO 4 promotes attractive, well-designed liveable communities;
- NPO 6 aims to regenerate towns and villages of all types and scale as environmental assets;
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards;
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking;
- NPO 27 promotes the integration of safe and convenient alternatives to the car in the design of communities, by promoting walking and cycling access;
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location;
- NPO 35 aims to increase residential density in settlements through a range of measures including infill development and site-based regeneration.

5.1.2 The **Regional Spatial and Economic Strategy (RSES)** for the Eastern and Midland Region includes a Dublin Metropolitan Area Strategic Plan (MASP) with the aim of

managing the sustainable and compact growth of Dublin. The MASP area covers 7 local authorities, including Kildare. A sequential approach to development is supported and policies of relevance under the RSES / MASP include:

- RPO 5.4: Future development of strategic residential development areas within the Dublin Metropolitan area shall provide for higher densities and qualitative standards as set out in the 'Sustainable Residential Development in Urban Areas', 'Sustainable Urban Housing; Design Standards for New Apartments Guidelines' and 'Urban Development and Building Heights Guidelines for Planning Authorities'.
- RPO 8.8: Supports the delivery of rail projects including the possible expansion of the DART to Celbridge-Hazelhatch.

5.1.3 **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (DoEHLG, 2009)**, hereafter referred to as 'the Sustainable Residential Development Guidelines', sets out the key planning principles which should guide the assessment of planning applications for development in urban areas. Section 1.9 recites general principles of sustainable development and residential design, including the need to prioritise walking, cycling and public transport over the use of cars, and to provide residents with quality of life in terms of amenity, safety and convenience. Section 5 includes 'City and town centres' as areas where increased densities should be encouraged and section 5.6 states that there should, in principle, be no upper limit on densities for such sites, subject to safeguards relating to design and layout. A design manual accompanies the guidelines which lays out 12 principles for urban residential design relating to context, connections, inclusivity, variety, efficacy, distinctiveness, layout, public realm, adaptability, privacy and amenity, parking and detailed design.

5.1.4 Following the theme of 'compact urban growth' and NPO 13 of the NPF, the **Urban Development and Building Heights, Guidelines for Planning Authorities (2018)** outlines the wider strategic policy considerations and a performance-driven approach to secure the strategic objectives of the NPF.

5.1.5 The guidance document '**Quality Housing for Sustainable Communities**' (**DoEHLG, 2007**), identifies principles and criteria that are important in the design of housing and highlights specific design features, requirements and standards.

Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities, (December 2020) outlines the location and density suitability for apartment developments and contains several specific design and floorspace requirements with which compliance is mandatory.

5.1.6 **The Planning System and Flood Risk Management Guidelines (DoEHLG, 2009)**, hereafter referred to as ‘the Flood Risk Guidelines’, require the planning system to avoid development in areas at risk of flooding unless appropriately justified and mitigated; adopt a sequential approach based on avoidance, reduction and mitigation; and incorporate flood risk assessment into the decision-making process.

5.1.7 The **Architectural Heritage Protection Guidelines for Planning Authorities**, hereafter referred to as the ‘Architectural Heritage Guidelines’, sets out detailed guidance to support planning authorities in their role to protect architectural heritage when a protected structure, a proposed protected structure or the exterior of a building within an ACA is the subject of development proposals. It also guides those carrying out works that would impact on such structures.

5.2. **Development Plan**

5.2.1. The operative plan for the area is the Kildare County Development Plan 2017-2023. CDP Variation No. 1 was adopted in June 2020 to reflect the changes arising from the NPF and RSES and to revise the Core Strategy, including population and housing unit allocation. In accordance with the adopted variation, Celbridge is now identified as a ‘Self-sustaining Town’ (previously a Moderate Sustainable Growth Town).

5.2.2. The Core Strategy of the Development Plan allocates 10% of Kildare’s housing growth to Celbridge over the period 2020-2023 out of a total housing allocation of 6,023 units for the County. Table 3.3 of the CDP variation identifies a ‘dwellings target’ of 603 units from 2020 to 2023, whereas the original CDP forecast the addition of 3,250 units over the longer period of 2017-2023.

5.2.3. I am conscious that CDP Variation no. 1 has been challenged in the High Court, which has made various interim orders as to whether, how and where the varied provisions of the development plan should be applied (Ardstone Residential Partners

Fund ICAV and Ardstone Homes Limited v. Kildare County Council, High Court 2020 No. 538JR refers).

- 5.2.4. Section 3.4.6 of the CDP outlines that all settlements should be developed in a sequential manner, with suitable undeveloped lands closest to the core and public transport routes being given preference for development in the first instance. Retail policy R16 aims to progress the delivery of the integrated expansion of Celbridge Town Centre while taking account of its Georgian streetscape and historic setting and to facilitate town centre consolidation, through the re-use and regeneration of backlands and other key lands and buildings around the town centre.
- 5.2.5. Section 4 of the CDP deals with 'Housing' and aims to facilitate the provision of high-quality residential developments at appropriate locations in line with the settlement strategy, and to provide appropriate densities, mix of house sizes, types and tenures in order to meet a variety of household needs and to promote balanced and sustainable communities. Table 4.2 sets out indicative density levels and states that those for 'town centre' sites in 'large towns' will be site specific and subject to the design principles outlined in the Plan.
- 5.2.6. Section 12 deals with 'Architectural & Archaeological Heritage' and aims to protect, conserve and manage heritage and to encourage sensitive sustainable development. It outlines the inclusion of the Record of Protected Structures (RPS) within the Plan, the value of vernacular architecture, and the Architectural Conservation Areas (ACAs) that apply to some settlements (Celbridge is not included). The appeal site does not include any Protected Structures, but it is noted that the following are included on the RPS:
- Kildrought House (B11-23) to the north of the site.
- House (B11-27) to the west of the site (a.k.a 'The Laurels' or 'Barry House').
- Finey House (B11-97) to the south of the site.
- 5.2.7. Relevant architectural heritage policies and objectives can be summarised as follows:
- VA1** Encourages the protection, retention, appreciation and appropriate revitalisation of vernacular heritage.

VA2 Resists the demolition of vernacular architecture and encourage their sensitive reuse having regard to intrinsic character.

VA5 Protects vernacular buildings where they contribute to the character of areas and/or where they are rare examples of a structure type.

PS3 Requires the maintenance and reuse of buildings of architectural, cultural, historic and aesthetic merit which make a positive contribution to the streetscape/landscape and sustainable development.

PS11 Promotes the maintenance and re-use of buildings of architectural, cultural, historic and aesthetic merit which make a positive contribution to the character, appearance and quality of the streetscape or landscape and the sustainable development of the county.

PS16 Protects important elements of built heritage including historic gardens, stone walls, landscape and demesnes, and curtilage features.

ACA1 Investigate the designation of further ACAs at appropriate locations, including Celbridge.

5.2.8. Section 13 'Natural Heritage and Green Infrastructure' aims to protect natural heritage in accordance with legislative requirements and to develop a green infrastructure network. Section 13.10.2 recognises the salmonoid importance of the River Liffey and states that the maintenance of rivers and streams in an open, semi-natural conditions can provide effective biodiversity and flooding measures whilst supporting a multi-functional green network generating multiple benefits for the environment, tourism and society.

5.2.9. Section 14 'Landscape, Recreation and Amenity' classifies the River Liffey 'Character Area' as 'Class 4 Special Sensitivity' where there is low capacity to accommodate uses without significant adverse effects on the appearance or character of the landscape. Views of the Liffey from Celbridge Bridge are protected (view reference RL 3). Relevant policies include the following:

WC 1 Seek to locate new development in the water corridor landscape character areas towards existing structures and mature vegetation

WC 3 Control development that will adversely affect the visual integrity of distinctive linear sections of water corridors and river valleys and open floodplains

WC 8 Contribute towards the protection of waterbodies and watercourses, including rivers, streams, associated undeveloped riparian strips, wetlands and natural floodplains, from inappropriate development. This will include buffers free of development in riverine and wetland areas, as appropriate.

LV 2 Pursue the creation of a Liffey Valley Regional Park together with Fingal and South Dublin County Councils within the lifetime of the Plan

- 5.2.10. Section 15 'Urban Design' aims to create vibrant settlements where residents can benefit from quality urban living. It sets out guidance in relation to infill development (15.4.1), backland development (15.5.1), and includes guiding principles and detailed considerations for urban design and layout. Section 17 sets out 'Development Management Standards' relating to a wide variety of issues and development types.

5.3. **Celbridge Local Area Plan 2017-2023**

- 5.3.1. The appeal site is zoned as 'A – Town Centre', the objective for which is '*To protect, improve and provide for the future development of town centres*'. The site is included within an area surrounding Main Street that is proposed as an Architectural Conservation Area and is also within the Zone of Archaeological Potential surrounding the historic core. Appendix 1 of the Plan (Character Areas) notes the manner and importance in which houses on the south side of the street, and Kildrought House in particular, respond to their setting on the banks of the Liffey. It states that their contribution to the landscape setting of the River Liffey is as important as their relationship with the main street.
- 5.3.2. Policy TC1 aims to protect the town centre and objectives are included to ensure an appropriate mix of uses; a high standard of urban design; and to facilitate the regeneration of vacant/underused sites, including backlands. The Plan recognises that town centre expansion is an opportunity to strengthen the centre and a specific opportunity site is identified at St Raphael's (Oakley Park). Objective PRO1.1 aims to ensure that all new development in the town centre contributes positively to the streetscape.
- 5.3.3. Section 7.4 of the Plan recognises that heritage-based tourism is a key economic driver for Celbridge that has the potential to generate employment across a number

of sectors. Policies and objectives of the LAP support the protection and development of built and natural heritage attractions, including the historic core and the River Liffey corridor.

- 5.3.4. Section 10.3 of the LAP outlines the architectural heritage value of Celbridge, including details of Protected Structures and role of the River Liffey in connecting the landscape character of the town. In order to preserve the architectural value of the historic core (including Main Street and the appeal site), it is an objective of the plan to initiate the process of designating the area as an Architectural Conservation Area (ACA). Relevant policies and objectives can be summarised as:

BH2 Preserve and enhance buildings on the RPS and carefully consider any proposals for development that would affect their special value, including historic curtilage, both directly and indirectly.

BHO2.1 Protect and preserve all protected structures (or parts of) and their immediate surroundings including the curtilage and attendant grounds.

BH3 Preserve the historic character of proposed ACAs and carefully consider proposals that would affect their special value.

BHO3.3 Ensure that new development within or adjacent to ACAs preserve and enhance their special character and visual setting, including views and vistas, streetscapes, building lines, fenestration patterns and architectural features.

- 5.3.5. Section 11 'Green Infrastructure' highlights that the River Liffey is part of the Regional Green Infrastructure Network and the importance of establishing an integrated network that extends from the river and the surrounding historic demesne landscapes. It includes several objectives to protect and enhance the green network, including Objective GIO 1.6 which aims to maintain a biodiversity protection zone of not less than 15m from the top bank of the River Liffey and not less than 10m from smaller watercourses, with the full extent to be determined on a case-by-case basis. Whilst the overarching objective is to maintain the integrity of the Liffey Valley and to provide essential recreational space for the wider region, sensitively designed and appropriate development in certain areas provide an opportunity to develop / improve access to amenity areas.

5.4. Natural Heritage Designations

The site is not located within a designated Natura 2000 site. The nearest Natura 2000 site is the Rye Water Valley/Carton SAC (Site code 001398), located approximately 4 kilometres to the north/northeast of the appeal site.

5.5. Preliminary Examination Screening for Environmental Impact Assessment

5.5.1. An Environmental Impact Assessment (EIA) Screening Report was not submitted with the application. With regard to EIA thresholds, 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.)

5.5.2. It is proposed to construct a mixed-use development containing 13 dwelling units. Therefore, the number of dwellings proposed is well below the threshold of 500 dwelling units. The site has an overall area of c. 0.34 ha and is located within the existing town centre which would be consistent with the definition of a ‘business district’. The site area is still well below the applicable threshold of 2 ha.

5.5.3. The site is largely undeveloped but contains an existing commercial building and storage/stable buildings to the rear. It is largely surrounded by similar commercial development along Main Street and undeveloped lands to the rear along the River Liffey. The introduction of a mixed/residential development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is located within a proposed Architectural Conservation Area, a Zone of Archaeological Protection, and is within close proximity to a number of Protected Structures, but I am satisfied that these issues can be satisfactorily addressed as part of the normal planning assessment process.

5.5.4. I also note the location of the site adjoining the River Liffey and the potential implications regarding biodiversity, water quality and flooding. Having regard to the

limited scale of the development, I am satisfied that these issues are not particularly unique or complex and can be addressed as part of the normal planning assessment. The proposed development is not likely to have a significant effect on any European Site (as outlined in Section 8.0 of this Report).

5.5.5. Apart from the importation of infill material on site, the proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing/mixed-use development in the area. 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 minimal.

5.5.6. 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 'Town Centre' under the provisions of the Kildare County Development Plan 2017-2023 and the Celbridge Local Area Plan 2017-2023, and the results of the accompanying Strategic Environmental Assessments 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 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 avoid significant effects by reason of 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 and scale of the proposed development and the location of the subject site, that the proposed development

would not be likely to have significant effects on the environment and that, on preliminary examination, an Environmental Impact Assessment Report (EIAR) or a determination in relation to the requirement for an EIAR was not necessary in this case (See Preliminary Examination EIAR Screening Form).

6.0 The Appeal

6.1. Grounds of Appeal

The applicant has appealed the decision of KCC to refuse permission. The grounds of appeal can be summarised as follows:

- The appeal requests that the Board consider that the proposal on this town centre infill site will integrate with the streetscape and surrounding uses, while bringing a 'sense of liveliness' and addressing the current demand for housing.
- The appeal addresses the reasons for refusal as outlined below.

Reason No. 1

- The Heritage Impact Assessment submitted with the application outlines that the existing building has an undistinguished aesthetic / lack of character and it is submitted that its replacement is acceptable and does not materially contravene the CDP/LAP.
- The design of the proposed replacement building has been carefully considered in the context of the streetscape and adjacent Protected Structures. It maintains the building line and inserts a contemporary structure to deliberately avoid pastiche. The proposed design references older buildings on Main Street, including the mill and commercial buildings at the bridge end of the town, as well as examples of historic structures in other towns. Design/reference elements include the set back at street level; window / opening proportions; wet dash finish; and roof design.
- The design results in a balanced and proportioned contemporary façade that sits comfortably in its context, while quietly announcing a new modern addition to the streetscape.

- The proposed building, in line with Policy TCO1.5 of the LAP, facilitates the regeneration of this underutilised site. It complies with the architectural heritage policies of the Planning Authority and would not be out of character with the area or be seriously injurious to the visual amenities of the area.
- There is no report on file from the Conservation Officer.

Reason No. 2

- The proposal does not obscure the principal elevations of Protected Structures.
- The raised ground floor levels of the proposed townhouses are dictated by dictated by foul drainage requirements.
- Screen planting will be provided along the northern site boundary to protect the privacy and amenity of existing and proposed properties, including impacts on the setting of the Protected Structure (Kildrought House).
- The proposal will not impact or alter the boundary treatments of neighbouring properties.
- The appeal includes an additional Heritage Impact Assessment which concludes that Main Street will not be unduly affected and that the design is informed by suitable precedents in other towns; the relationship of 'The Laurels' to the backlands is not important and will not be unduly affected; 'Kildrought House' will be affected by raised site levels but will not be unduly compromised due to the landscaping mitigation measures.
- The proposal for this infill town centre site is in accordance with planning policy, including the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009), while appropriately protecting the character and amenities of adjoining properties.
- It will provide much needed mixed tenure housing and secures a compact high-density development in the town centre and close to urban transport networks.

- Concerns regarding overlooking at first floor level can be addressed through landscaping and screening without impacting on the character and setting of Protected Structures.
- If the Board feels that any matters require modification, this should be done by way of condition or a request for revised plans.

Reason No. 3

- The Site-specific Flood Risk Assessment submitted with the application concluded that the proposal was in accordance with Guidelines and the likelihood of onsite flooding from the hydrogeological conditions are deemed to be within acceptable levels.
- The Council reports did not recommend refusal and clarification could have been sought by way of a request for further information. The appeal is accompanied by a letter from CS Consulting Engineers which contends that the outstanding flooding issues could have been resolved through further information.

6.2. Planning Authority Response

The Planning Authority's response to the appeal can be summarised as follows:

- There was sufficient competency to assess the impact on Protected Structures and the ACA, the conclusion of which is supported by local planning policy.
- A report from a Grade 1 consultant Conservation Architect (Michael O'Boyle Architecture & Conservation) is included with the response, which outlines that:
 - The applicant's Heritage Impact Assessment is deficient with regard to the analysis of the date and fabric of the existing building.
 - The existing building is typical of the nineteenth century stock that the ACA seeks to protect. It cannot be regarded as 'undistinguished', and its removal would result in a significant loss to architectural fabric and the visual coherence of Main Street.

- The proposed new building (including mansard/dormer roof design, ground floor setback and elongated windows) would be entirely out of character with the streetscape and would have a significant negative impact on the ACA.
 - The widened entrance to the site would be an inappropriate and unacceptable erosion of the building line along Main Street.
 - The setting of 'The Laurels' will be significantly compromised by the proposed development, with the widened access diminishing the visual impact of the set-back façade.
 - The erosion of the integrity of the streetscape along Main Street would have a significant negative impact on the setting of Kildrought House. The proposed townhouses would have a profound negative impact on the setting of the historic gardens to the rear, would be the first such development between Main Street and the river, and would negatively impact on views of the river from within Kildrought House.
- While the 3rd reason for refusal may have been addressed through further information, reasons 1 & 2 were fundamental issues with the proposed development.
 - Pre-planning discussions raised strong concerns about the contemporary design of the building along Main Street and the amenity/overlooking impacts from the townhouses on Kildrought House. It is stated that the pre-planning file was available to the case planner but that any such consultations are limited by the provisions of Section 247(3) of the Act of 2000.
 - It is requested that the Board upholds the decision of KCC to refuse permission.

6.3. Observations

6.3.1 A total of 11 no. 3rd Party observations have been received in objection to the proposed development from the following:

- June Stuart
- Celbridge Tidy Towns

- Nuala Walker
- Celbridge Action Alliance
- Suzanne and Brian Miller
- Celbridge Community Council
- Penny Woods
- Irish Georgian Society
- Celbridge Tourism & Heritage Forum
- Cecilia & Patk J. Kehoe
- Vanessa Liston

6.3.2 The issues raised in the individual observations are similar and can be summarised under the following headings:

Heritage

- The important history and heritage of Celbridge
- Non-compliance with the policies and objectives of the CDP and LAP
- Negative impacts on the character of the ACA, the Main Street, and Protected Structures
- The existing building is in good condition and contributes to the heritage and character of the area
- The proposed design is not appropriate at this location and the precedents used for inspiration are unsuitable
- Construction impacts on site boundaries
- Overlooking of Kildrought House and 'The Laurels' and impacts on views from within these properties and their relationship with the gardens/grounds
- The screening mitigation measures contained in the appeal are not adequate
- Overlooking impacts associated with the existing Parochial House are not comparable to the proposed development.
- Impacts on the Kildrought House 'pavillion' building have not been considered
- The importance of protecting natural and built heritage for tourism and economic purposes

- Although un-utilised, the site plays an important role in the protection of the natural and built heritage of the area
- The archaeological significance of Celbridge.

Traffic

- Associated traffic movements will further clog the busy main street
- Visibility and other arrangements at the junction with Main Street
- Clarification required in relation to access road width
- Inadequate parking provision and management
- Inadequate information on construction traffic impacts
- Inadequate details regarding swept path analysis and servicing movements
- No Road Safety Audit has been completed
- Pedestrian access is unsafe.

Site alterations

- Inadequate information, justification and analysis on the impacts of site infilling
- Raised levels and tree removal would detract from the amenity of the site.

The River Liffey and Toni River

- The development would dominate the river and set a dangerous precedent for further backland development
- The need to protect a green corridor and guard its biodiversity and habitats
- The lack of access to the river should be redressed by future developments
- The proposed retaining walls, infill material and stormwater tank impinge on the riparian buffer zones for the Liffey and the Toni River
- Views from Celbridge Bridge may be jeopardised
- Opportunities for recreation, tourism and economic development would be compromised

- The Toni River is an EPA Protected Drinking Water source and access needs to be provided
- Infill proposals are contrary to IFI guidelines.

Flooding / surface water

- There is a long record of flooding in the area
- Potential impacts related to the release of water from the hydro-electric station at Poulaphouca
- The raised levels may result in ponding and run-off to adjoining properties
- It is not clear whether the Justification Test in the LAP SFRA passed for part of the site
- The applicant's FRA is not in accordance with Flood Risk Management Guidelines; has not considered recent pluvial flooding events; has underestimated the extent of flood zones; and has not adequately considered the potential for flooding of adjacent properties and impeding existing flow paths
- The Toni River has been subject to upstream flooding and there are concerns about the proposal to channel it into a narrow space
- The use of attenuation tanks is contrary to Flood Risk Guidelines and best practice in SUDS
- Potential impacts on the basement in 'The Laurels'.

Planning History

- The previous reasons for refusal have not been addressed.

Housing

- There is currently 600+ residential units being built or in process in Celbridge and it is important that every scheme is judged on its merits
- Such dense housing does not contribute to healthy housing needs.

Ecology

- Bat populations have been recorded in the immediate vicinity and within a 5km radius of the site. No survey has been conducted for the site. Where

present, there are implications for lighting, flight paths, tree preservation and roosting sites

- A Natura Impact Statement should have been carried out and there are implications for the Rye Water valley/Carton SAC.

Residential amenity

- Overlooking and overbearing of adjoining properties and gardens
- Overshadowing and light impacts on adjoining properties
- Noise and light pollution for adjoining properties.

Other Issues

- Impact on access to other properties and rights of way
- Failure to indicate existing right of way on the site location map
- The appeal submission has not addressed the concerns raised in the KCC Internal Departments Reports. Any response to these concerns is likely to significantly change the development and a request for further information would not be appropriate
- The planning application determination is not bound by pre-planning discussions
- Inaccuracies and inadequate information contained in the application documents and drawings
- Implications for existing sewer pipe connections.

6.4 Prescribed Bodies

6.4.1. A submission by Inland Fisheries Ireland (IFI) makes the following observations:

- The River Liffey and tributaries are exceptional in supporting Atlantic Salmon (listed under Annex II and V of the Habitats Directive) and resident Brown Trout. The Liffey also supports Freshwater Crayfish and Lamprey (listed under Annex II of the Habitats Directive). This highlights the sensitivity of the catchment and IFI is opposed to any development on floodplain lands.

- Groundworks and construction works, including large scale topographic alteration and infilling (as proposed) have significant potential to release sediments and pollutants to watercourses. IFI is concerned about the proposed infill of the site and its proximity to the river.
- Concerns are raised about topsoil storage and associated drainage treatment.
- The proposed retaining wall along the Toni stream does not comply with IFI and LAP policy for a 10m buffer zone. This will cause stream fragmentation, will remove the stream from its natural flood zone, and any additional works within the riparian zone will further diminish its ecological status.
- All discharges must be in compliance with the European Communities (Surface water) Regulations 2009 and the European Communities (Groundwater) Regulations 2010.

6.4.2. A submission from An Taisce can be summarised as follows:

- A previous proposal (ABP Ref. PL09.126634) was refused by both KCC and the Board. There has been no significant change and it may be the case that the site is not suitable for development.
- Having regard to the architectural heritage of the area, the replacement of the existing building is not justified and is contrary to CDP objectives to preserve the historic character and fabric of the main street. It is also contrary to UN Sustainable Development Goals aimed at reusing existing buildings.
- The excessive extent of surface car-parking is contrary to sustainable development principles and would be seriously damaging to village character, amenities and environment; would upset drainage patterns and contribute to biodiversity loss; and would reduce the capacity to absorb toxins in this urban village context.
- The proposed development would seriously compromise the setting (existing and original) and integrity of Protected Structures in this important historic village context, and would reduce their amenities, outlook and re-sale value.
- The existing 'green' character of the site should be maintained to preserve the amenities and character of the main street and Conservation Area, the River

Liffey, Protected Structures, and ecological sensitivities. As such, the proposed development should be refused.

7.0 Assessment

7.1. Introduction

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

- Zoning & Policy
- Design & Layout
- Built Heritage & Visual Amenity
- Residential Amenity
- Flooding & Surface Water
- Biodiversity
- Traffic

7.2. Zoning & Policy

- 7.2.1. The site is zoned as 'A – Town Centre' in accordance with the Celbridge LAP, the objective for which is '*To protect, improve and provide for the future development of town centres*'. The LAP confirms that 'dwellings', 'offices', and 'shops' are 'Permitted in Principle' under the 'town centre' zoning objective, which means that the uses are generally acceptable, subject to compliance with those objectives set out in other chapters of the Plan. Accordingly, I am satisfied that the proposed mix of residential and retail/office uses is consistent with the zoning objective for the site.
- 7.2.2. The policies and objectives of the CDP and LAP, including R16 and TC1 as outlined in Section 5 of this report, generally reflect the aims of the NPF with regard to promoting more compact and sustainable forms of development and increasing residential densities within settlements through infill development and regeneration.

It is considered that the development of an infill/backland town centre site would, in principle, be consistent with that approach.

- 7.2.3. I am conscious of the Board's decisions to grant Strategic Housing Developments in Celbridge totalling 839 units between 2 developments (ABP Refs 307100-20 and 306504-20) since the CDP Variation No. 1 was adopted. While these permissions have already exceeded the reduced 'dwellings target' for Celbridge (i.e. 603 units), I am satisfied that the current proposal for just 13 units would not have a significant impact on housing targets and would not materially contravene the Development Plan, irrespective of whether the legal challenge to Variation No. 1 is upheld or not.
- 7.2.4. The proposal for 13 residential units on a site area of 0.34 hectares equates to a density of c. 38 units per hectare. Section 6.2.2 of the LAP states that housing allocations are generally based on an average density of 30 units per hectare, but Table 4.2 of the CDP clarifies that those for 'town centre' sites in 'large towns' will be site specific and subject to the design principles outlined in the Plan. I note that the Sustainable Residential Development Guidelines do not place any lower or upper limit on densities for town centre sites like this, but it is confirmed that increased densities should be encouraged at such locations. Under normal circumstances I would consider that densities higher than 38 units per ha would be appropriate for an infill/backland town centre site like this. However, I would acknowledge that the subject site is constrained by its proximity to the adjoining rivers, Protected Structures, the Main Street (a proposed ACA), and the inclusion of other commercial uses. The suitability of the proposed density will therefore be considered further in the context of the overall assessment of the development.
- 7.2.5. With regard to the housing type/mix, it is proposed to provide 2 no. apartments (1 no. 1-bed and 1 no. 2-bed) and 11 townhouses comprising 7 no. 3-beds and 4 no. 4-beds. I consider that this provides a suitable mix of house types for the nature of development proposed.
- 7.2.6. Having regard to the above, I consider that this relatively small-scale proposal for a mixture of residential and commercial uses on an infill/backland 'town centre' site would be consistent with the zoning for the site, as well as applicable local, regional and national policies aimed at consolidating town centres and promoting compact development. However, the suitability of the character, design and layout of the

proposed development requires further assessment in its context, as is outlined in the following sections.

7.2. Design and Layout

- 7.2.1. The application includes an Urban Design Assessment which attempts to demonstrate how the proposed development responds to the 12 criteria contained in the Urban Design Manual accompanying the Sustainable Residential Development Guidelines. My concerns in relation to some of those criteria are outlined in the following paragraphs.
- 7.2.2. In relation to the '*context*' criterion and the design response to its surroundings, I am conscious of the historic and distinctive pattern of development at this location. It is notable that development has largely been restricted to Main Street and is well set back from the River Liffey. Any significant modern development of the backlands has been limited (e.g. surface level parking). The existing pattern of development has generally retained a north-south axis, much of which addresses both the Main Street (to the west) and the Liffey (to the east). The proposed development adopts a conflicting approach, along a roughly east-west axis and extending close to the river (i.e. to the maximum extent allowable given the requirement for a 15m riparian protection zone). The proposal to significantly raise the site levels also conflicts with the natural levels of the river and its adjoining lands to the north and south of the appeal site. Therefore, having regard to the sensitivities of this site between the River Liffey and the historic Main Street (containing a number of Protected Structures and a proposed ACA), and to the existing and historic pattern of development at this location, I am not satisfied that the proposed layout successfully responds to its surroundings.
- 7.2.3. On the question of '*distinctiveness*' and the creation of a 'sense of place', there are foremost issues about the replacement of a long-standing vernacular building along Main Street (within a proposed ACA) and its impact on the existing 'sense of place' in Celbridge. This is discussed further in section 7.3 of this report. Otherwise, it is proposed to construct 11 townhouses in 2 terraced blocks on the remainder of the site. Apart from the asymmetrical roof profiles, I consider that the design and layout of the scheme lacks a distinctive character. It is largely suburban in character and

fails to appropriately address this distinctive location between the historic town centre buildings and the River Liffey.

- 7.2.4. I would also have concerns in relation to the criteria of '*layout*' and '*public realm*'. I consider that the layout is largely dictated by the creation of the proposed entrance and access road along the northern portion of the site. And while I acknowledge that the proposal includes measures for traffic calming, it is still largely dominated by the access road and associated car-parking, particularly when viewing and entering the site from Main Street. A shared surface 'homezone' approach is included but I consider that it would have limited benefits given the fundamental deficiencies in the overall approach to the design and layout of the scheme. Furthermore, the proposed open space area is located on the eastern margin of the site along the River Liffey. The space is largely obscured by the proposed townhouses and is only marginally overlooked by the side elevation of one dwelling. While I would acknowledge that the riverside is the appropriate location for open space on this site, I consider that the proposed houses do not suitably relate to the space or contribute to the creation of a safe and enjoyable area.
- 7.2.5. In conclusion, I do not consider that the proposed design and layout appropriately responds to its context and setting between the historic Main Street and the River Liffey. The proposal is largely suburban in character, is inconsistent with the established character and pattern of development at this location and does not provide a suitable level of amenity for public areas.

7.3 Built Heritage & Visual Amenity

Impacts on Main Street

- 7.3.1. It is proposed to demolish the existing building along Main Street and the adjoining outbuildings to the rear. I note that the buildings are not included on the RPS or the NIAH survey. They are included within the proposed ACA as per the Celbridge LAP and I acknowledge that this proposed ACA is yet to be formally adopted in the County Development Plan in accordance with Section 81 of the Act of 2000 (as amended). Notwithstanding this, I accept that Objective ACA1 of the CDP aims to investigate the designation of an ACA in Celbridge and the LAP has progressed that

process by formally recognising the architectural value of the Main Street and including reasonable and relevant policies and objectives to protect its character.

- 7.3.2. The Heritage Impact Assessment submitted with the application acknowledges the fine character of buildings on the Main Street. However, it considers that the outbuildings to be demolished are of no interest and that the main building is of an undistinguished aesthetic and considerably altered. It acknowledges that there is a limited charm in the simplicity of its form and that it is in quite good condition and retains some of its original fabric. The assessment concludes that the buildings are of vernacular type and exhibit some basic 20th century architectural and civil engineering heritage, that they are of limited architectural interest, and that the demolition is acceptable and will not compromise nearby buildings.
- 7.3.3. The applicant's appeal includes an updated Heritage Impact Assessment to address the issues raised in the KCC decision. It accepts that the proposed new building has a distinct expression in terms of height and form but highlights the similar palette of proposed materials. It contends that there is a diversity and variety of buildings on Main Street which allows it to absorb disparate interventions, and that the potential negative impact of the building is overstated in the KCC decision. I note the contents of the appeal submissions by An Taisce and 3rd parties, which generally highlight the good condition of the main building and the contribution it makes to the character of the Main Street, as well as the unsuitability of the proposed new building.
- 7.3.4. Having inspected the site and the appeal documentation, I accept that the outbuildings to the rear of the main building are of no conservation value and I have no objection to their demolition. The main building along Main Street maintains a subtle and simple vernacular form, comprising a low-profile 2-storey building with a pitched roof and gable-ended chimneys. And while the façade has been significantly altered through openings and shopfronts, I note that this is not untypical of many similar buildings on Main Street, and I consider that these interventions could be satisfactorily addressed quite readily. I acknowledge that variations in height and style exist in the wider Main Street area, but I consider that the modest scale and simple form of the subject building is consistent with the vernacular character and uniformity of style at this location and that it makes a modest yet cumulative contribution to the value of the proposed ACA and the setting of surrounding Protected Structures.

- 7.3.5. The proposed replacement building is of a contrasting form and character, with a significantly increased height, scale and depth, together with a significantly reduced street frontage due to the increased width of the proposed entrance. Other notable design features include the recessed ground floor frontage and adjoining colonnade along the Main Street and proposed access road; the elongated proportion of the first-floor fenestration; and the steeply hipped roof with box dormers.
- 7.3.6. Notwithstanding that the proposed ACA has not yet been formally incorporated into the CDP, I consider that the guidance outlined in the Architectural Heritage Protection Guidelines is relevant and applicable in this case. While I have outlined my view that the existing building does contribute to the architectural character of the area, if the Board considers it to be an 'undistinguished building' the Guidelines outline that the proposed replacement should not be of a lesser quality or interest and should not adversely affect the character of the area. With regard to 'new development' proposals within an ACA, the Guidelines advise to minimise visual impact; favour harmonious design in uniform settings; avoid replication; encourage a high standard of contemporary design in areas of mixed style; comply with the general scale of the area, not its biggest buildings; and to reinforce the area's character through materials and façade details.
- 7.3.7. Having regard to above criteria, I consider that the combined effect of the proposed building form and its increased height and scale would detract from the largely uniform character of the surrounding streetscape. It would also detract from the setting of the adjoining Protected Structure to the south ('The Laurels') by obscuring its prominence when viewed from the northern approach along Main Street. Furthermore, I consider that the street-level colonnade, the fenestration proportions at first-floor level, and the steeply hipped roof and dormers would contrast with the uniformity and simplicity of the established streetscape and would detract from the character of the area. I note that the applicant's justification for the use of these design features is based on more prominent heritage buildings in other towns, but I do not consider that they are appropriate references for the vernacular of this streetscape.

Impacts on the setting to the rear of Main Street

- 7.3.8. While the built heritage value and visual sensitivity of many historic towns, including those within ACAs, often centres on the street frontage rather than backlands, I would acknowledge that Celbridge and its relationship with the River Liffey is a different case. As outlined in Appendix 1 of the LAP:

‘Of note is the manner in which houses on the south side of the street, and Kildrought House in particular, respond to their setting on the banks of the River Liffey. These buildings were designed to address both the Main Street and their formal gardens, which slope down to the River Liffey. Their contribution to the landscape setting of the River Liffey is as important as their relationship with the main street.’

- 7.3.9. As well as Kildrought House directly north of the site, the rear of other Protected Structures further to the north (Landscape House (B11-40) and the Parochial House (B11-93)) include substantial undeveloped grounds in an attractive riverside setting, as does the rear of Finey House (B11-97) to the south. Furthermore, from the observations submitted in connection with the appeal I am satisfied that the appeal site itself would have historically formed similar grounds associated with ‘The Laurels’ (B11-27) to the west, albeit that the appeal site appears to have been severed c. 20 years ago.
- 7.3.10. In addition to the surrounding protected structures and the proposed ACA, the River Liffey valley itself is designated in the CDP as ‘Class 4 Special Sensitivity’ where there is low capacity to accommodate uses without significant adverse effects on the appearance or character of the landscape. Policies within the CDP seek to locate new development in the water corridor landscape character areas towards existing structures and mature vegetation (WC1) and to control development that will adversely affect the visual integrity of distinctive linear sections of water corridors and river valleys (WC3).
- 7.3.11. I consider that the provisions outlined in the preceding paragraphs highlight the distinctive heritage and landscape characteristics relating to this location. Therefore, notwithstanding the ‘town centre’ zoning for the site and the desirability of developing backlands to achieve compact sustainable development, the development potential of these lands requires a sensitive approach.

- 7.3.12 In Section 7.2 of this report, I have already outlined my concerns relating to the interface between the proposed development and the River Liffey, particularly in terms of its proximity, the proposal to significantly increase the site levels, and the orientation of the proposal which does not appropriately address the river. Furthermore, I consider that the proposed development would detract from the visual relationship between properties on Main Street and the river, particularly because of the proximity of development to the river and its elevated ground levels. This concern should not be confused with the protection of any private views from these properties, but rather is rooted in the need to protect the existing natural, open setting. The Architectural Heritage Protection Guidelines acknowledge that the setting of an ACA or Protected Structure, together with views in and out of it, can contribute greatly to its overall character, and that development proposals outside the curtilage and attendant grounds of Protected Structures can have an adverse impact.
- 7.3.13 The Guidelines and CDP policy also highlight the need to protect the curtilage and attendant grounds of Protected Structures. This is particularly relevant to Kildrought House given the quality and extent of its gardens adjoining the subject site and the fact that the grounds have traditionally been open to the public as a cultural tourism resource for the town. I would share the concerns of the planning authority and the appeal observations that the site levels would be raised above the level of the existing dividing boundary wall and that the proposed townhouses would form an imposing and obtrusive feature when viewed from the gardens. I acknowledge that the appeal contains proposals to address this impact through screening and landscaping. However, I do not consider that the boundary section drawings submitted by the applicant accurately represent the full extent of infill proposed (i.e. at the eastern end of the site) and, in addition to the visual impact, I would have concerns that the extent of infill material and landscaping works could impact on the structural integrity of the boundary wall (which is also protected through association with Kildrought House).
- 7.3.14 In conclusion I acknowledge the suitability of the zoning and convenient location of these backlands, and I do not contend that development should be entirely precluded on the lands. However, for the reasons outlined in sections 7.2 and 7.3 of this report, I consider that the proposed design and layout would seriously detract

from the Main Street (proposed ACA) and the setting of surrounding Protected Structures (particularly Kildrought House), as well as the visual relationship between the historic core and the River Liffey corridor, which is of 'special sensitivity' as per the CDP. The impacts of the development would be unacceptable and should be refused accordingly. Furthermore, I do not consider that a request for further information or revised plans would satisfactorily address the fundamental issues of concern.

7.4 Residential amenity

Proposed Townhouses

- 7.4.1. The gross floor areas for each of the proposed townhouses comfortably exceed the target areas as set out in '*Quality Housing for Sustainable Communities*'. While there are some minor deficiencies in relation to the individual and aggregate bedroom areas for the 4-bed house types, I am satisfied that the overall quantity and quality of internal floorspace offered in the townhouses is acceptable. There is, therefore, no objection in this regard.
- 7.4.2. Regarding private open space, rear gardens are proposed for all townhouses and some units have additional balcony space. The areas generally meet the minimum requirements as per Table 17.7 of the CDP (i.e. 60m² for 3-bed units and 75m² for 4-bed units).

Proposed Apartments

- 7.4.3. The proposed apartments exceed the gross floor area requirements as per Appendix 1 of the Apartments Guidelines, as well as the minimum requirements for internal rooms/widths, ceiling heights and room areas. The minimum requirements for private amenity space are also met in the form of balconies. I note that some internal storage spaces exceed the maximum floor area of 3.5 m² but I consider that this issue could be easily resolved.

Communal Amenity Space

- 7.4.4. I note that no dedicated communal amenity space is provided for the proposed apartments. However, given that only 2 apartments are proposed at an urban infill location like this, I am satisfied that requirements could be relaxed in whole in accordance with Section 4.12 of the Apartments Guidelines.

- 7.4.5. The applicant proposes the main open space area (465.2 m²) at the eastern end of the site along the River Liffey. A narrow, peripheral space (88.9 m²) is also included along the northern site boundary, resulting in a stated total of 554.1 m² or 16% of the site area. However, I note that a large portion of the riverside area is fenced off and is inaccessible due to its steep gradient. The areas along the northern site boundary are also largely unusable due to their size, location and proposed planting.
- 7.4.6. Section 17.4.7 of the CDP sets out the requirements for public open space in residential developments, which is stated to be a minimum of 15% for greenfield sites, 20% for institutional sites, and 10% in all other cases. The provisions also outline that steep gradients or other impractical areas will not be acceptable; narrow or 'left over' tracts are not acceptable; and spaces should be functionally accessible to and overlooked by as many houses as possible. I note that the CDP standards and guidance is consistent with the Sustainable Residential Development Guidelines, which also state that a more flexible approach should be taken with emphasis on qualitative rather than quantitative standards, and that where developments are close to town centres a relaxation in standards could be considered.
- 7.4.7. The site could be considered 'greenfield', which would have a requirement for 15% open space, although I acknowledge that its infill/backland nature and 'town centre' proximity would warrant consideration of a relaxation of standards. Due to limitations in gradient and the location and configuration of some areas, I consider that only the flat section of the site to the immediate east of the townhouses would qualify as usable open space, and I estimate this area to amount to just c. 250 m² or 7% of the site. While acknowledging this deficiency in the quantity of usable open space, I would also have concerns about the quality of the space. Notwithstanding its attractive riverside setting, I consider that its peripheral, obscured location and the absence of appropriate overlooking results in a substandard quality of space for the prospective residents.

Impacts on adjoining properties

- 7.4.8. On the question of **overlooking and privacy**, I note that Section 17.2.4 of the CDP generally requires a minimum distance of 22m between opposing above-ground floor windows for habitable rooms and 35m for overlooking living room windows and

balconies at upper floors. The Sustainable Residential Development Guidelines advise that such requirements should be applied flexibly, particularly in cases of infill development and central sites.

- 7.4.9. I am satisfied that the proposed replacement building along Main Street does not include habitable windows or balconies that would directly overlook any adjoining properties or private spaces. As regards the proposed townhouses, I note that the separation distance from the northern site boundary ranges from 11.1m to 16.6m and that the north-facing front elevations include bedroom windows and small balconies at first floor level. The proposed windows/balconies are therefore at least 11 metres from the Pavillion building and gardens of Kildrought House, and c. 30m from Kildrought House itself. The appeal documentation indicates that the Pavillion building is in residential use. On inspection of site I noted that it includes south-facing rooflights, but I consider that the angle of the windows avoids any overlooking impacts. I acknowledge that the gardens of Kildrought House are mainly private, but I consider that the proposed development will be adequately setback to avoid any seriously adverse overlooking impacts. And while I have previously raised concerns about the raised site levels and the unsatisfactory impacts on the setting of the property from an architectural heritage perspective, I do not consider that this would extend to seriously detract from its residential amenity having regard to the extent of the garden and the significant separation distance involved.
- 7.4.10. To the south of the proposed townhouses, the separation distance from the upper floor balconies/windows and the adjoining lands (including the Toni River width) ranges from 9 – 10 metres. It should be noted that the balconies serve bedrooms in this case and are unlikely to be used so intensively as to warrant the CDP 35m requirement for living rooms/balconies. The adjoining lands to the south appear to be a large backland space associated with Finney House, but the area does not appear to be in use as private amenity space. I am satisfied that the proposed development is adequately separated from the property to the south and would not seriously detract from its residential amenity by reason of overlooking. Furthermore, I consider that any future development on the adjoining lands could be appropriately designed to achieve an appropriate relationship with the proposed development.
- 7.4.11. To the west of the site, I note the proximity of the proposed development to 'The Laurels' property and the privacy concerns raised in the 3rd party observations. The

western elevation includes a protruding bedroom window and an en-suite bathroom window at first floor level, as well as a high-level rooflight. The protruding bedroom window would be located at the northwest corner of the dwelling and would not directly oppose 'The Laurels' house or its rear garden space. Any overlooking from this window would be limited to an acute angle and I am satisfied that impacts from the bathroom window and rooflight would also be appropriately limited. Accordingly, I do not consider that any overlooking impacts would be seriously injurious to the privacy of the property. If the Board has any outstanding concerns in this regard, I suggest that the matter could be appropriately resolved and that a refusal would not be warranted on these grounds. I acknowledge that I have previously outlined my concerns about the impact of the development on the setting between Main Street and the River Liffey. While these concerns relate to an architectural heritage and landscape perspective, I do not consider that the scale and proximity of the proposed development would seriously detract from residential amenity by reason of overbearing impacts.

7.4.12. On the issue of **overshadowing and light**, Section 17.2.5 of the CDP states that development proposals of a significant height in close proximity to existing development may require daylight and shadow projection diagrams, and that the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BRE 1991) or Lighting for Buildings Part 2 1992: Code of Practice for Day Lighting B.S. 8206 and any updates to these documents should be followed as a minimum in this regard. I note that the applicant has not submitted an analysis of daylight and sunlight impacts but I do not consider the proposed development to be of 'significant height' as referenced in the Development Plan and, accordingly, it is not a mandatory Development Plan requirement.

7.4.13. I would highlight that the BRE guidelines allow for flexibility in their application, stating in paragraph 1.6 that '*Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design*'. The BRE Guide notes that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc., and states that industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones.

I also note that the BS (2008) document has been replaced by the updated British Standard (BS EN 17037:2018 'Daylight in buildings').

- 7.4.14. With regard to '*light from the sky*', Section 2.2.4 of the BRE guide outlines that loss of light to existing windows need not be analysed if the distance of each part of the new development is three or more times the height above the centre of the existing window. Using the proximity of the proposed western elevation to 'The Laurels' as a worst-case scenario for properties along Main Street and using the 'BPM Surveys Ltd' drawings submitted on behalf of the owners of 'The Laurels', I estimate that the distance between the proposed western elevation and the closest existing window is c. 17m. Using estimated levels of 52.5m OD for the centre of the closest existing window and 56.2m OD for the highest point of the proposed western gable, the proposed height above the existing window can be taken as 3.7m. Given that the separation distance (17m) is c. 4.5 times the height, I am satisfied that further assessment in this regard is not required.
- 7.4.15. To the north of the site, I note that the only proximate windows facing the proposed development are the south-facing rooflights within the Pavilion building. The windows are angled at an estimated level of 54m OD and are separated from the ridge line of the proposed townhouses (59.5m OD) by a distance of c. 18 metres. Therefore, given that the separation distance is c. 3.3 times the height difference (c. 5.5m) I am satisfied that further analysis is not required in this case.
- 7.4.16. On the question of '*sunlight*', Section 3.2.7 of the BRE Guide confirms that a full calculation of sunlight potential for existing rooms/windows is not necessary if the test outlined in paragraph 7.4.14 above is met. On the basis of the preceding paragraphs, I am satisfied that further assessment is not required and that existing rooms / windows are not likely to experience significant adverse sunlight impacts as a result of the development.
- 7.4.17. Regarding sunlight for gardens and open spaces, the BRE guide recommends that at least half of a garden or amenity area should receive at least 2 hours of sunlight on 21st March. It also states that, if as a result of the development, the area which can receive 2 hours of sunlight on 21st March is less than 0.8 times its former value, then the loss of sunlight is likely to be noticeable. The application does not include a detailed calculation in this regard. However, considering that the proposed

townhouses are generally located to the east of 'The Laurels', I am satisfied that sunlight impacts on that garden space would be limited to the early hours of the day and that the space would still benefit from good sunlight throughout the day from the south, southeast and southwest. And while the proposed townhouses are located to the south of Kildrought House, I am satisfied that the space would still receive adequate sunlight having regard to the extensive area of the gardens and the limited angle of obstruction caused by the proposed development. Accordingly, I do not consider that the proposed development is likely to reduce sunlight levels for any adjoining gardens to less than 2 hours on the 21st March or to less than 0.8 times its former value for any such measurement.

- 7.4.18. I note that the appeal submissions have raised various other residential amenity concerns relating to increased noise, light and general disturbance. However, I consider that any such impacts would be an inevitable and unavoidable impact of development within the town centre, and I would have no objections in this regard.

Conclusion on Residential Amenity

- 7.4.19. I consider that the internal design and floorspace provided for the proposed apartments and townhouses is generally acceptable and I have no objection in this regard. However, consistent with my overall concerns about the scheme design and layout, I consider that the design of the proposed communal open space is lacking in terms of its quality and quantity of usable space, as well as its unsuitable relationship with the proposed units. While I have previously raised concerns about the adverse impact of the development on the setting of surrounding properties from an architectural heritage perspective, I do not consider that these impacts would be to the extent that they would seriously detract from the residential amenities of surrounding properties by reason of overlooking, overshadowing/loss of light, overbearing, or otherwise.

7.5 Flooding and surface water

- 7.5.1 The application includes a 'Flood Risk Assessment' prepared by CS Consulting Group in response to the Flood Risk Guidelines and CDP/LAP policy. The assessment notes that the Celbridge Strategic Flood Risk Assessment includes the majority of the lands within Flood Zone C, with approximately 30% located within

Flood Zones A & B. Given the 'highly vulnerable' nature of the proposed development, a 'justification test' has been carried out by the applicant as follows:

- The lands are zoned for the development in a development plan that has been adopted taking account of the Flood Risk Guidelines.
- Storm water from the site will be restricted to 2l/sec/ha in accordance with the Greater Dublin Strategic Drainage Study; attenuation will be sized for a 1 in 100-year storm event, with an increase of 20% to cater for climate change; and a compensatory flood storage tank will retain storm volumes (280m³) for the 1 in 100-year fluvial event and to replace the volume which would otherwise have been removed due to site development works.
- Finished floor levels will be above 48.65m OD (the current flood level), plus an additional freeboard of 500mm (i.e. 49.14m OD) as per the requirements of the KCC SFRA.
- The proposed floor levels are above the 1 in 1000-year flood levels for the Liffey (48.27m OD) and the Toni (48.83m OD) and evacuation to the west of the site is available in the highly unlikely event that it is required.
- The proposed development is otherwise in accordance with planning objectives and guidelines.
- The site passes the Justification Test for Development Management.

7.5.2 The applicant's FRA contends that tidal flooding does not affect the site and that historical flood mapping does not indicate that pluvial flooding affects the area. In relation to off-site flooding, it states that the attenuation measures will control the release of storm water and mitigate the potential to adversely affect the public drainage system or contribute to downstream flooding. It is also stated that the proposal will not increase the potential for groundwater flooding.

7.5.3 I note that the planning authority is opposed to the use of water tanks for attenuation purposes on the grounds of water quality and health and safety concerns. Clarification was also required on whether it is proposed to culvert the Toni River and legal consent to do so, as well as future proposals for the maintenance of the river. The applicant's appeal contends that these matters could have been addressed through the submission of further information and that the applicant was not afforded

an opportunity to do so. However, while the appeal has confirmed that no works are proposed outside the 'redline boundary' of the site, which would clarify that no works are proposed to the Toni River, it should be noted that no further information has been submitted to address the planning authority's concerns regarding the tank attenuation proposals.

- 7.5.4 In addition to the above, I have noted that the observations on the appeal have raised concerns in relation to the proposal to raise the site levels; the proximity of development to the adjoining rivers; the history of flood events in the area; the lack of justification for the zoning and development of the site; the potential for flooding of adjoining lands/property; and non-compliance with the Flood Risk Guidelines and SUDS best practice.
- 7.5.5 Having regard to the above and having considered the 'CFRAM River Flood Extents' mapping, I am satisfied that a significant portion of the south and eastern end of the site is within 'Flood Zone B'. This area extends to c. 40 metres from the River Liffey and overlaps the footprint of the proposed eastern block of 5 houses. A smaller area of the site immediately adjoining the banks of both the River Liffey and River Toni is located within 'Flood Zone A'. However, it would appear that 'Flood Zone A' does not overlap the footprint of any of the proposed dwellings.
- 7.5.6 The Flood Risk Guidelines outline that development within Flood Zone A should only be considered in exceptional circumstances where the 'justification test' has been applied, and that only water-compatible development is considered appropriate. The guidelines also state that dwellings would be considered inappropriate in Flood Zone B unless the 'justification test' can be met. Given that the proposed residential development constitutes a 'highly vulnerable use' and is located within Flood Zones A and B, the 'Justification Test' must be passed in accordance with section 5.15 of the 'flood risk guidelines'.
- 7.5.7 In response to point 1 of the test, I acknowledge that the site is zoned for 'town centre' uses, including those of the nature proposed. I am also satisfied that the lands were zoned in accordance with the Development Plan which included a SFRA that has taken into account the provisions of the Guidelines.
- 7.5.8 Point 2 (i) of the test requires demonstration that the development will not increase flood risk elsewhere and, if applicable, will reduce overall flood risk. In this regard I

note that substantial filling of the site is proposed to raise the road/floor levels, and this has the potential to alter flow paths and increase flooding elsewhere. In order to mitigate this potential, the applicant has proposed an on-site compensatory flood storage tank to retain storm volumes (280m³) from the 1-in-100 year fluvial event. As previously outlined, the planning authority is not satisfied with this proposal from a water quality and health and safety perspective. I also note that the proposals to raise site levels and install the flood storage tank involves substantial works within the 15m riparian buffer required along the Liffey as per the Development Plan and IFI guidance. The proposed tank would also impact on the riparian zone for the Toni River, and I note that a retaining wall is also proposed along the length of this watercourse. The proposed wall would impact on the extent of Flood Zone A associated with the Toni River and has the potential to impact on flows towards the River Liffey, albeit to a limited extent. In conclusion, having regard to the extent of development proposed within the flood zones associated with the Toni River and the River Liffey, together with the inappropriate design and location of flood storage proposals within the riparian zone, I am not satisfied that appropriate mitigation measures have been proposed to demonstrate that the proposed development will not significantly impact on existing flow paths or that it will not increase flood risk elsewhere.

- 7.5.9 Point 2 (ii) requires measures to minimise flood risk to people, property, the economy and the environment. I acknowledge that the proposal includes appropriate measures to minimise flood risk on the site including raised floor levels to exceed 50.0m OD, which I consider to be acceptable from a flood risk perspective. Surface water will be attenuated, controlled and treated prior to discharge and I consider that the proposals are acceptable in principle. However, having regard to the concerns outlined in the previous paragraph, I am not satisfied that flood risk has been adequately minimised for other surrounding properties having regard to the potential for displacement, or for the environment having regard to the extent and proximity of development proposed adjoining the Toni River and the River Liffey.
- 7.5.10 Point 2 (iii) requires measures to ensure that residual risks can be managed to an acceptable level. I note that the applicant's FRA outlines that evacuation can be achieved by safe passage to the west to higher ground. However, in light of the more

substantive concerns that I have outlined, I do not propose to discuss 'residual' risks any further at this point.

7.5.11 Point 2 (iv) requires that the development addresses the above in a manner that is consistent with the achievement of wider planning objectives relating to urban design. I consider that the design and layout of the proposed development is adversely affected by the requirement to achieve raised floor levels above the predicted flood levels. I have previously outlined concerns in this regard and its impact on the setting of the site, both in relation to surrounding built heritage and the landscape character of the Liffey valley. Accordingly, I do not consider that the proposed development would achieve flood risk management measures in a manner that is consistent with good urban design principles.

7.5.12 Having regard to the above, I do not consider that the proposed development would pass the 'justification test' as per the Flood Risk Guidelines. Accordingly, the proposed development is considered to be unacceptable from a flood risk management perspective.

7.6 Biodiversity

7.6.1 The CDP aims to protect natural heritage in accordance with legislative requirements and acknowledges the importance of watercourses and riparian habitats in supporting the species and ecosystems that contribute to the unique biodiversity of Kildare. Section 13.10.2 recognises the salmonoid importance of the River Liffey and states that the maintenance of rivers and streams in an open, semi-natural conditions can provide effective biodiversity measures. Furthermore, Objective GIO 1.6 of the Celbridge LAP aims to maintain a biodiversity protection zone of not less than 15m from the top bank of the River Liffey and not less than 10m from smaller watercourses, with the full extent to be determined on a case-by-case basis.

7.6.2 While the planning authority's decision did not raise specific biodiversity concerns, it did object to the proximity of the development to the Toni River on grounds of flood risk. The KCC Planner's report appears to be satisfied with the 15m biodiversity protection zone provided for the River Liffey but notes that the proposed development would encroach on the required 10m zone for the River Toni.

- 7.6.3 I note that several observations have raised concerns regarding the adverse impact of the development on the adjoining rivers and riparian zones. This includes a submission from Inland Fisheries Ireland (IFI) that highlights the importance of the importance of the Liffey and its tributaries in supporting Atlantic Salmon, Brown Trout, Freshwater Crayfish, and Lamprey. The IFI is opposed to any development on floodplain lands and considers that groundworks and construction works, including large scale infilling (as proposed), have significant potential to release sediments and pollutants to watercourses. Concerns are raised about topsoil storage and associated drainage treatment. The IFI submission also outlines that the proposed retaining wall along the Toni stream does not comply with IFI and LAP policy for a 10m buffer zone; will cause stream fragmentation; will remove the stream from its natural flood zone; and any additional works within the riparian zone will further diminish its ecological status. I have also considered the IFI guidelines on 'Planning for watercourses in the urban environment' (November 2020).
- 7.6.4 While the applicant has proposed a 15m riparian zone along the River Liffey, it should be noted that significant works are proposed within this zone. I consider that the application contains limited information in the form of site section drawings that would clearly demonstrate existing and proposed levels and the precise footprint of the fill area. It is not clear if any of the riverbank area will be maintained in its natural state, but if so, it would certainly not be to any significant extent. In comparing the 'existing site survey' (drawing no. D072-001) to the proposed 'site layout & sections' (drawing no. D1707-P05), I am satisfied that site levels will be raised by at least 2 metres within the proposed 'riparian zone'. This includes a vertical retaining wall at the end of the access road (as per section A-A); a steeply sloping embankment (as per Section B-B); the removal/covering of existing vegetation including the mature Beech tree in the northeast corner of the site; fencing parallel to the river; and an underground flood storage tank. I also note that site levels will be raised within 10 metres of the Toni River and it is proposed to construct a retaining wall along the length of the site boundary.
- 7.6.5 According to the IFI guidelines on 'Planning for watercourses in the urban environment', the 'riparian zone' refers to the 'bank and the vegetation running along a watercourse'. The guidelines also describe the 'riparian buffer zone' as a 'strip of vegetated land running parallel to the river, which acts as a buffer against negative

human development or activity'. Accordingly, I consider it clear that the intention of such a buffer zone is to maintain the natural state of the riverside area for ecological reasons as well as other environmental considerations relating to flooding and water quality.

- 7.6.6 While the applicant's intention appears to be solely to avoid the construction of any dwellings within 15m of the River Liffey, I consider that the proposals to significantly alter the site levels and install other structures and infrastructure within the riparian zone is fundamentally contrary to the purpose of the zone. The extent of development proposed within the zone would significantly alter and fragment its vegetation and natural characteristics and would be contrary to the policies of the CDP and LAP which seek to protect the biodiversity value of such zones. This also applies to the proposed works within the 10m buffer zone adjoining the Toni River. Furthermore, I would share the concerns expressed by the IFI that the proposed works and infill material has the potential for the release of sediments and pollutants to the adjoining rivers, which could adversely impact on water quality and the habitats and species associated with the river.
- 7.6.7 I note that the application includes an Appropriate Assessment (Screening) report which outlines that the appeal site contains common habitats of local biodiversity interest. It states that best practice methods would prevent pollutants entering the adjoining watercourses and that the proposal would not have a significant negative impact on the Natura 2000 network. My assessment of the potential impacts on Natura 2000 sites is outlined in Section 8 of this report.
- 7.6.8 However, separate to the Natura 2000 network, which is significantly distanced from the appeal site, I would have outstanding concerns about the localised impacts of the development. Notwithstanding that the biodiversity interest of the site may be limited to a local level, I consider that the protection of riparian zones is of a cumulative importance and is warranted in accordance with the policies previously outlined. The proposed development certainly encroaches on the riparian zones to a significant extent, although there is an uncertainty as to exactly what extent due to the limited detail submitted. There are also no details of the measures intended to prevent pollution of the watercourses and the flood storage proposals have raised concerns relating to water quality impacts. In light of these outstanding concerns, I consider that the proposal conflicts with the LAP policy to maintain biodiversity zones along

watercourses and fails to demonstrate that the water quality of the rivers will not be adversely affected by the development.

- 7.6.9 I note that one of the observations contends that bat populations have been recorded in the immediate vicinity and within a 5km radius of the site. No bat survey has been submitted with the application and I acknowledge that the removal of trees and derelict buildings has the potential to impact in this regard. However, having regard to the limited scale of potential roosting and foraging sites, together with the relative abundance of other suitable sites in the vicinity, I do not consider it likely that bat populations will be significantly affected through the loss of roosting / foraging sites. I also acknowledge the potential for new development to impact on the flight paths and lighting environment for bats. However, given the location of the site adjoining the existing built-up town centre, I do not consider it likely that significant effects will occur.
- 7.6.10 In conclusion, I consider that the proposed development fails to demonstrate that the biodiversity value of the adjoining watercourses and riparian habitats will be appropriately protected. This is contrary to the requirements of the CDP and LAP and I consider that the proposal should be refused on this basis. Given that this issue was not specifically referenced in the KCC decision to refuse permission, the Board may wish to consider it a **new issue**. However, in light of the other substantive concerns that I have raised, the Board may not wish to pursue the matter any further.

7.7 Traffic

- 7.7.1 The applicant's 'Engineering Services Report' assesses the trip generation associated with the proposed 11 houses and predicts that there will be a total of 22 trips in both the AM and PM peak periods. It also states that 25 car-parking spaces (including 2 per house) and 15 bicycle parking spaces will be provided, which are stated to be compliant with the CDP parking standards. It is stated that the proposed 5m wide access will allow 2-way traffic flows as well as pedestrian and cyclist access. The report also contends that servicing vehicles can be accommodated within the site, although I note that the 'swept path analysis' drawing referred to (D072/006) does not, in fact, contain such an analysis.

- 7.7.2 I note that the planning authority's Transportation section had requested further information in relation to traffic volumes; sightlines, Road Safety Audit, and entrance arrangements; parking proposals; materials and construction details; and a 'swept path analysis'. The observations on the appeal raise similar concerns.
- 7.7.3 The existing access to the site has a restricted width of c. 2.5 metres and would appear to serve 2 residential units (i.e. 'The Laurels' and 'The Laurels Mews') and other adjoining commercial/storage properties. It is proposed to significantly widen the existing access to 5 metres, and I have previously outlined that this has an impact on the existing streetscape. However, streetscape impacts aside, I consider that the widened entrance would improve safety for traffic turning movements to and from the site. And while it is clear that there would be a significant intensification of traffic movements, I do not consider that this would be excessive for a town centre location. I would agree that further details would be required in relation to the precise details of the entrance and tie-in arrangements with Main Street but, in principle, I would have no objection to the additional traffic proposed at this location.
- 7.7.4 I note that the applicant has not accounted for traffic generated by the proposed apartments and retail/office building and that no car-parking is proposed for these units. However, given the central location of the building on Main Street and policies to promote more sustainable forms of transport, I consider it generally acceptable to omit car-parking for these units. Otherwise, 2 car-parking spaces have been provided for each house and 3 visitor spaces have been included, which I consider to be acceptable.
- 7.7.5 While the planning authority has raised outstanding issues relating to the specifics of road construction details and materials, I am satisfied that there should be no fundamental objection on traffic grounds. In the event that the Board is minded to grant permission, I consider that any outstanding issues could be addressed by condition.

7.8 Other Issues

- 7.8.1 I note that some of the observers have raised concerns in relation to inaccuracies and a lack of information in the drawings and details submitted with the application. However, I note that the Planning Authority deemed the application to be valid in

accordance with the Planning and Development Regulations 2001 (as amended) and I consider that it contains sufficient information for assessment.

- 7.8.2 The appeal raises concerns about the planning authority's procedures, including the nature and extent of pre-planning consultation and lack of opportunity for the application to address issues through the submission of further information. I would highlight that Section 247 (3) of the Planning and Development Act 2000 (as amended) outlines that the carrying out of pre-planning consultations shall not prejudice the performance by a planning authority of any other of its functions and cannot be relied upon in the formal planning process. Furthermore, I consider that the outstanding issues of concern are of such a fundamental nature that a further information request would not be appropriate in this case.
- 7.8.3 I note that the planning authority required further information in relation to access to the main sewer by gravity and the provision of an appropriate fall for the pipes proposed. I am satisfied that this issue could be satisfactorily addressed in the event that the proposal was being favourably considered.
- 7.8.4 Some of the observations have raised concerns about the impact of the development on established access points to properties to the south of the proposed access road (i.e. 'The Laurels' and 'The Laurels Mews'). While such questions of 'rights of way' are generally a civil matter for resolution outside the planning process, I acknowledge that a storeroom is proposed directly in front of the existing vehicular gate access to the rear of 'The Laurels'. Landscaping proposals, including a new tree, would also appear to impede access along the front (northern) side of 'The Laurels Mews'. If the Board is minded to grant permission, I would recommend that these proposals be omitted in the interest of preserving existing access arrangements.

8.0 Appropriate Assessment – Screening

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

8.1 Background to the application

8.1.1 As part of the application, an 'Appropriate Assessment (Screening)' was compiled by Mary Tubridy & Associates in February 2020. In summary, the report includes the following:

- Background, legislative/policy context, and methodology
- Identification and description of relevant Natura 2000 sites and connectivity
- Description of the existing environment and the development proposal
- Identification of impacts and their significance
- The impact of other plans and projects.

8.1.2 The applicant's report identifies 2 Natura 2000 sites within 15km of the site (Rye Water Valley / Carton SAC and Glenasmole SAC). It states that there is no potential for ecological connectivity between the appeal site and the Natura 2000 sites, noting that the Rye Water Valley SAC is situated in a different catchment on a tributary of the Liffey.

8.1.3 The report states that the appeal site is principally covered in common habitats of local biodiversity interest. It is stated that the most important part of the site is the river boundary and its environs, and that the stream course has potential for improvement.

8.1.4 In terms of impacts on Natura 2000 sites, the applicant's report outlines the following:

- Direct impacts should not occur as the site is not connected.
- There is potential for indirect impacts on the water quality of the Liffey, but these will not occur as best practice construction practices will be followed.
- There will be no reduction or loss of any habitats within Natura sites or annexed habitats outside it.
- The site is not used by qualifying species.
- Best practice construction measures will avoid pollutants entering the adjoining watercourses.
- SUDS measures will be in place to deal with climate change impacts.

- Other projects are managed under objectives within the relevant CDPs and other local and regional policies.

8.1.5 The applicant's AA Screening Report concluded that '*the proposal will not have a significant negative impact on the Natura 2000 network*'. However, having considered the applicant's AA screening report, the KCC Planner's report concluded that, having regard to the requirement for the importation of material on site and its proximity to the River Liffey, which is hydrologically connected to the Rye Water Valley / Cartron SAC, it is recommended that the applicant undertakes a Natura Impact Statement.

8.1.6 Having reviewed the documents, drawings and submissions included in the appeal file, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

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

8.2 **Brief description of the development**

8.2.1 As previously outlined, the application involves the demolition of existing buildings on site; construction of a mixed-use building with office/retail unit and 2 apartments; construction of 11 townhouses in 2 terraced blocks; and provision of new access road, parking, open space and associated siteworks. Sustainable Urban Drainage Systems (SUDS) will be used to limit, retain and treat surface water from the development prior to discharge to the River Liffey to the east. It is proposed to connect to the existing foul sewer and water supply infrastructure along Main Street to the west.

8.2.2 Consistent with the applicant's AA Screening report, I note that the existing site is covered in a diversity of habitats consisting of dry meadows and grassy verges; bramble scrub; buildings and hard surfaces; limestone walls; and spoil and bare ground which is revegetating.

8.3 Submissions and observations

8.3.1 Several 3rd party observations on the appeal have raised concerns about the impact of the development on biodiversity and it has been submitted that Appropriate Assessment should be carried out because of potential impacts on the Rye Water Valley/Carton SAC. I also note that the prescribed body submissions from Inland Fisheries Ireland and An Taisce have raised concerns about ecological sensitivity and the impact of the development on adjoining watercourses. I have had regard to these submissions in the carrying out of this AA screening exercise.

8.4 European Sites

8.4.1 A summary of European Sites that occur within the possible zone of influence of the development is presented in the table below. Having regard to the scale of the proposed development; the separation distances involved; and the absence of identified pathways; I do not consider that any other European Sites (including the distant downstream sites within Dublin Bay) fall within the possible zone of influence.

Summary of European Sites within a possible zone of influence of the development

European Site (Code)	List of Qualifying Interests / Special conservation interest	Distance from proposed development (km)	Connections (source, pathway, receptor)	Considered further in screening (Yes/No)
Rye Water Valley/Carton SAC (001398)	Petrifying springs with tufa formation (Cratoneurion) [7220] Vertigo angustior (Narrow-mouthed Whorl Snail) [1014] Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]	4km	Indirectly connected via River Liffey	Yes
Glenasmole Valley SAC (001209)	Semi-natural dry grasslands and scrubland facies on calcareous substrates (Festuco-Brometalia) (* important orchid sites) [6210] Molinia meadows on calcareous, peaty or clayey-silt-laden soils (Molinion caeruleae) [6410] Petrifying springs with tufa formation (Cratoneurion) [7220]	14km	None. Located within the River Dodder catchment.	No

8.5 Identification of likely effects

- 8.5.1 Having regard to the above and the nature and scale of the proposed development, I consider that the potential for impacts on Natura 2000 sites is limited to the potential for emissions from the proposed development being hydrologically linked to the Rye Water Valley/Cartron SAC via the River Liffey.
- 8.5.2 At construction stage, the potential emissions from the proposed development include the release of construction materials and substances; the release of pollutants associated with machinery and vehicles, and sediment associated with the proposed groundworks and the importation of fill material. I acknowledge that all these sources have the potential to adversely impact on water quality and consequently to impact on protected habitats and species. The applicant's report states that the potential for any such effects will be satisfactorily addressed through best practice construction methods. I have previously outlined my concerns about the lack of clarity provided in the applications drawings about the interface between the proposed development and the adjoining rivers. Accordingly, it is difficult to definitively exclude the potential for the release of construction materials to watercourses, particularly given that no detail is provided on the best practice measures to be implemented.
- 8.5.3 With regard to operational stage effects, I consider that the surface water outfall to the River Liffey has the potential to impact on water quality. However, I note that the surface water outfall will be treated with an interceptor and I consider that such best practice measures will satisfactorily address any such potential impacts. Wastewater emissions will connect to the Leixlip WWTP which discharges to the River Liffey and has a recently upgraded PE capacity of 150,000. In light of the minor scale of the proposed development I consider that any effects on the WWTP will be minimal. There is also the potential for flooding events at operational stage and this report has previously outlined outstanding concerns about the proposed flood storage tank and its potential adverse impact on water quality.
- 8.5.4 Having regard to the above, I consider that there is potential for effects on the adjoining watercourses given the uncertainty of the extent of construction works and the management of the interface with the watercourses, and also having regard to the inappropriate flood storage proposals. However, it should be acknowledged that

the scale of the proposed works is relatively minor and that the hydrological link along the River Liffey extends to a distance of c. 4.5km to the northeast where it meets the Rye Water Valley/Carton SAC at Leixlip. Furthermore, the SAC covers the Rye River which is an upstream tributary of the Liffey. Therefore, while Section 7.6 of this report does outline concerns about potential biodiversity impacts, including those relating to water quality, I consider that any such impacts are likely to be localised and I do not consider that any emissions associated with the proposed development are likely to assimilate with the SAC or cause adverse impacts on its water quality.

8.5.5 With regard to cumulative effects, the development must be considered in the context of various other projects in the area. I have considered other major projects in the area, including the previously mentioned SHD developments, all of which have been subject to AA Screening and findings of no significant effects. As previously outlined, the proposed development would not be considered to have a significant cumulative impact in respect of the existing wastewater and surface water loading. Similarly, it is not considered that any disturbance as a result of the construction works or operational stage would be significant due to the limited scale of the development and the hydrological buffer between the Rye Water Valley/Carton SAC. Similarly, I do not consider that the development is likely to have any such cumulative impact with other developments.

8.6 Mitigation measures

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

8.7 Screening Determination

8.7.1 The proposed development was considered in light of the requirements of section 177U of the Planning and Development Act 2000 (as amended). Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project, individually, or in combination with other plans or projects, would not be likely to give rise to significant effects on any European Sites in view of the sites' conservation objectives, and Appropriate Assessment including the submission of a Natura Impact Statement is not, therefore, required.

8.7.2 This determination is based on the following:

- The limited scale and duration of the proposed works;
- The distance of the proposed development from European Sites and the hydrological assimilative capacity of the River Liffey drainage system; and
- The location of the Rye Water Valley/Cartron SAC upstream from the River Liffey.

9.0 Recommendation

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

10.0 Reasons and Considerations

1. The site is located within a proposed Architectural Conservation Area as per the Celbridge Local Area Plan 2017-2023 and is in close proximity to several Protected Structures as per the Kildare County Development Plan 2017-2023. It also adjoins the River Liffey corridor, which is characterised as 'Class 4 Special Sensitivity' in the Development Plan. Having regard to the existing character and prevailing pattern of development, it is considered that the proposed townhouses, by reason of their overall layout and design, including significantly raised site levels, inappropriate orientation and proximity to the River Liffey, would seriously detract from the architectural character of surrounding properties and the landscape setting along the river. Furthermore, the proposed new building along Main Street would seriously detract from the character of the existing streetscape by reason of its inappropriate form, scale and design, and would not justify the demolition of the existing building. The proposed development would, therefore, adversely affect the architectural character and setting of surrounding properties, would seriously injure the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.

2. The proposed development involves the construction of dwellings and other significant works in areas that are at risk of flooding. Having regard to the inappropriate flood mitigation measures proposed, including the excessive raising of site levels and the inappropriate design and location of the flood storage measures, the Board is not satisfied that the proposed development adequately addresses the risk of flooding either on the proposed development site itself, or on other lands. The proposed development would, therefore, constitute an unacceptable risk of flooding to future occupants and adjoining lands, would be prejudicial to public health and safety, and would be contrary to the proper planning and sustainable development of the area.
3. Objective GIO 1.6 of the Celbridge Local Area Plan 2017-2023 aims to maintain a biodiversity protection zone of not less than 15 metres from the top bank of the River Liffey and of not less than 10 metres from the top bank of smaller watercourses in Celbridge. This objective is considered reasonable having regard to the characteristics and sensitivities of the site. Having regard to the significant extent of works proposed within these zones along the River Liffey and Toni River, it is considered that the proposed development would be contrary to the aims of the Celbridge Local Area Plan to protect local biodiversity value and would be contrary to the proper planning and sustainable development of the area.

Stephen Ward
Senior Planning Inspector

29th September 2020