



An  
Bord  
Pleanála

## Inspector's Report

### ABP-309626-21

#### Development

Demolition of existing agricultural/industrial buildings and structures, excluding the Mill Building which is a protected structure, and the single storey annex building abutting Castlecomer post office (also a protected structure) and the construction of the following: 1 no. single storey anchor convenience store, to include off-licence use, with gross floor area of 1,798sqm and associated signage including erection of 3no. free standing double-sided internally illuminated sign. 9 no. retail units including convenience, comparison and retail service outlets, all at ground floor; conservation of existing Mill building, a protected structure, and change of use to provide a café/restaurant at ground floor and first floor with mezzanine gallery exhibition space at second floor and conversion of kiln to kitchen servery at ground floor; with alteration and extension to the north, in a

separate block to include main stairs and lift core, kitchen to the rear of kiln servery, small retail outlet at ground floor and office at first floor; salvage and reinstatement on-site of equipment/materials of heritage value from the Mill building ; re-instatement of 3 no. windows to annex single-storey building, abutting post office, and use of same by management company for storage; 8 no. office units at ground, first and second floors; 4 no. two-bed apartments at first floor; 9 no. two-storey dwelling houses; vehicular access road from junction of High Street and Chatsworth Street; new access road and bridge from Ballinakill Road; pedestrian access route from Chatsworth Street and pedestrian and cyclist priority connections with town centre; an electricity sub-station; 54 no of bicycle stands; 228 no. car parking spaces; all associated site development works and all associated landscaping works. A Natura Impact Statement (NIS) has been prepared in respect of the proposed development and wi

**Location**

The Former Glanbia Site (Off) High Street , Castlecomer , Co. Kilkenny

**Planning Authority**

Kilkenny County Council

**Planning Authority Reg. Ref.**

20112

<b>Applicant(s)</b>	Greenstripe Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Castlecomer Stores Ltd
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	27 <sup>th</sup> of April 2022
<b>Inspector</b>	Angela Brereton

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## 1.0 Site Location and Description

- 1.1. The site is centrally located within the town of Castlecomer. It encompasses the former Glanbia site to the south and greenfield agricultural land to the north and west. It extends from the entrance between the former Post Office and Creamery house, at the junction of High Street and Chadwick Street, towards Ballinakill Road (L1829) to the north, parallel with Chatsworth Street (R426) to the east. The site extends to the west behind Barrick Street (R694) and extends to the rear (north-west) of the dwellings along Love Lane.
- 1.2. The southern part of the site forms part of the old walled Glanbia Site (now vacant) and is accessed via High Street. Creamery House and the Post Office historic buildings adjoining either side of the existing entrance to the south are Protected Structures. There is a gated entrance to the former Glanbia site, and there are a number of now derelict buildings - former industrial/agricultural buildings within the southern part of the site, that appear in poor condition and are now proposed for demolition. A disused silo lies within the southern portion close to the protected old mill building. The Mill Building to be retained, within the site is a P.S. and is currently in poor condition.
- 1.3. It is of note that Creamery House (adjoining to the south-east of the site), adds to the streetscape and is in operation as a restaurant, and offices. The house appears well maintained and includes a formal landscaped railed garden to the front facing High Street, with the vehicular access to the onsite parking area from Barrack Road. It is a three -storey house and forms a focal point in the town especially when seen from High Street/Barrack Street.
- 1.4. The Post Office building has been vacant for some time. As a P.S it forms a feature on the north-eastern side of the access to the former Glanbia site. The side and rear elevations are to Chatsworth Street. There is also a pedestrian access from Chatsworth Street (No.25). This is between dwellings and is currently gated and closed off to the public. However, a surfaced area adjoins the subject site.
- 1.5. The greenfield area to the north and west, is undulating and is separated from the southern area by a wall. The levels on site fall substantially from west to east, with higher levels at the end of Love Lane and in the western part of the site. The Cloghogue River is at a lower level within an embankment and runs through the

northern part of the site to the rear of the houses facing the Ballinakill Road. The greenfield area of the site is traversed diagonally from southwest to northeast by the former railway embankment. This embankment is raised above existing ground levels.

- 1.6. It is proposed to provide a new vehicular entrance to serve the site from the Ballinakill Road to the north. This will necessitate the demolition of an old barn type structure. There is an entrance to the 'Introsport' building to the east of the proposed entrance. There is a house (which appears unoccupied) and barn to the west of the site. There are additional houses further to the north-west with access to the Ballinakill Road. The river runs to the rear of these houses and forms a natural boundary to the north of the site.
- 1.7. There is a narrow footpath along the southern side of the Ballinakill Road (L1829). There is a Stop Sign to the junction with the R426 to the east. This is a fast busy road and a number of HGV's and tractors were seen travelling via Castlecomer town centre and along the Ballinakill Road at the day of the site visit.
- 1.8. The north-western part of the site adjoins the northern end of Love Lane. There is a gated entrance to the site, alongside another gated entrance to adjoining agricultural land. The site is higher here and falls to the east. There are hedgerows along the north-western and western site boundaries. There are single storey houses along the eastern side of Love Lane, the southern end of which adjoins Barrack Street.
- 1.9. There is restricted parking along Chatsworth Street. Having regard to other retail, I noted a 'Eurospar' and a 'Londis' facing The Square, High Street to the south-east of the proposed development site. I did not note any other significant convenience grocery stores within Castlecomer. Rowes Hardware Ltd is on the opposite side of Chatsworth Street. The town is served by Castlecomer Community School.

## 2.0 Proposed Development

Permission is sought for the following:

- Demolition of existing agricultural/industrial building and structures, excluding the Mill Building which is a Protected Structure, and the single storey annex building abutting Castlecomer post office (also a Protected Structure);

- The Construction of the following:
  - 1 no. single storey anchor convenience store, to include off-licence use, with g.f.a of 1,798m<sup>2</sup>;
  - Associated signage including the erection of 3no. free standing double-sided internally illuminated sign;
  - 9 no. retail units including convenience, comparison and retail service outlets, all at ground floor;
  - Conservation of existing Mill building, a Protected Structure, and change of use to provide a café/restaurant at ground floor and first floor with mezzanine gallery exhibition space at second floor and conversion of kiln to kitchen servery at ground floor, small retail outlet at ground floor and office at first floor;
  - Salvage and reinstatement on-site of equipment/materials of heritage value from the Mill building;
  - Re-instatement of 3no. windows to annex single-storey building abutting post office and use of same by management company for storage;
  - 8no. office units at ground, first and second floors;
  - 4no. two-bed apartments at first floor;
  - 9no. two-storey dwelling houses;
  - Vehicular access road from junction of High Street and Chatsworth Street;
  - New access road and bridge from Ballinakill Road;
  - Pedestrian access route from Chatsworth Street and pedestrian and cyclist priority connections with town centre;
  - An electricity sub-station;
  - 54no. of bicycle stands;
  - 228 no. car parking spaces;



- All associated site development works and all associated landscaping works.

All works to take place at the former Glanbia site (off) High Street, Castlecomer. This has a stated area of c.3.36ha.

2.1. The Site Notice provides that a Natura Impact Statement (NIS) has been prepared in respect of the proposed development.

2.2. Documentation submitted with the application includes the following:

- Architectural Heritage Impact Assessment
- Architectural Design Statement
- Architectural Visualisation
- Urban Design Statement
- Retail Impact Statement
- Archaeological Impact Assessment
- Landscape Design Report
- NIS – Ecology & Appropriate Assessment Screening
- Site-Specific Flood Risk Assessment
- Stage 1 & 2 Road Safety Audit
- Civil Engineering Infrastructure
- Traffic Impact Assessment
- Maps/Drawings

### 3.0 **Planning Authority Decision**

#### **Decision**

On the 8<sup>th</sup> of February 2021, Kilkenny County Council granted permission for the proposed development subject to 48no. detailed conditions. These are grouped under headings and generally concern - Development Contributions and provision of a Cash Bond; Water Services; Management Company; Waste Management; Storm

and Wastewater discharges; Noise; Air & Odour; Ecological Clerk of Works; Environmental Management; Archaeology; Conservation – works to the Protected Structures; Visual Amenity including regard to external finishes; Landscaping including playground; Roads Design including details of access arrangements and internal road network and parking and that Road Safety Audits be carried out; Construction and Traffic Management Plan and Mobility Management Plan be submitted; Phasing; Part V; Taking in Charge; Commercial relative to signage and opening hours.

### 3.1. **Planning Authority Reports**

#### Planning Reports – No.1

The Planner's Report had regard to the locational context of the site, planning history and policy, to the interdepartmental reports, to the submissions made and to the documentation submitted. Their Assessment includes regard to the background history of the site, the proposed design and layout, impact on protected structures and the character of the area, infrastructural issues including access and roads layout, provision of services - drainage, construction and environmental issues and screening for AA. They noted a number of issues outstanding and recommended that detailed F.I be submitted.

#### Further Information request

The Council's F.I request is detailed and is listed under 14no. separate Items in the Planner's Report. In summary this includes the following:

- To address the observation received by the Planning Authority from Irish Water (25<sup>th</sup> of February 2020). This has regard to capacity restraints.
- Third Party Submissions - To address the issues raised.
- Potential Impacts on Natura 2000 site - To expand on the potential impacts on the Natura 2000 site in an NIS and to include impacts from construction works and surface water disposal to the Cloghogue River.
- Ecology - To carry out an Ecological Assessment of the proposed development. To include a Bat Survey and a Tree Survey.

- Proposed Dwellings - To revise the layout for the proposed detached dwellings to the north-west of the site. The potential for a pedestrian link to Love Lane should be considered.
- Public Open Space - To provide further details relative to public open space, including the treatment of the railway embankment. To provide landscaping details and details of the playground area.
- Aldi Store and eastern site boundary - To submit further details relative to the impact of the proposed Aldi Store and signage on the residential amenities and character of the area.
- Site Boundaries – Details to be submitted on a site layout plan to include the proposed ground levels, and detailed cross-sections at these locations.
- Pedestrian Links - Proposals to address the third-party concerns relating to the proposed pedestrian link with Chatsworth Street. Also, the potential for other pedestrian links, including to Love Lane.
- To clarify sufficiency of interest to carry out the works including regard to legal rights and the status of pedestrian links and vehicular access.
- Environment - To provide details on the disposal of waste including recycling and provision of a Bring Centre.
- Conservation - To clarify issues pertaining to the impact of the proposed development on Protected Structures both within and adjoining the site. This includes the Mill Building and Tower setting.
- To provide details of demolition methodology and history recording.
- Traffic Impact Assessment - To re-submit a revised TIA to address concerns raised in the items listed.
- To address the issues raised relative to the Stage 1/2 Road Safety Audit.
- Other traffic issues to be addressed in general include sightlines at the proposed entrance and the Ballinakill Road/R426 junction; the Chatsworth entrance; pedestrian link through Chatsworth Street; internal junction priority; cycleway provision Mobility Management Plan; Lighting; the proposed Bridge design.

- Sufficiency of Interest - To demonstrate this and consent from any affected third parties or landowners, to carry out the proposed works, including achievement of sightlines and connections to existing roads or streets.
- Phasing and Construction - To provide details of proposed Phasing and an outline of Construction works.

#### Further Information response

Kilgallen and Partners Consulting Engineers Ltd. submitted a response on behalf of the Applicants to each of the items (1 -14) raised in the Council's F.I request and in summary this, includes the following:

- They refer to discussions with Irish Water regarding the pre-connection enquiry and any specific design requirements to be considered.
- They note the need for a borehole well for water supply and that a Hydrogeological Assessment was undertaken by O'Callaghan Moran together with pump test results and water quality analysis has been submitted.
- They refer to both an Ecological Impact Assessment report by Sean Meehan, Meehan Ecology and Independent Tree Surveys, Tree Survey Report.
- They refer to drawings showing the proposed service locations at the bridge crossings. No utility services are proposed to traverse the river bed or channel.
- They refer to 3D visual drawings submitted relative to the bridge design.
- They reference the Digby Brady Landscape drawings/reports.
- They note that a detailed review of boundary treatment has been completed and refer to the drawings. This includes relative to the Aldi store and to the southwest of the site.
- Brian Dunlop Architects drawings for details on boundary treatment and Kilgallen & Partners Consulting Engineers drawings - roads layout.
- Provision for waste collection and storage, including relative to Aldi, is incorporated within the masterplan layout. They note details of grease traps to be provided and refer to the relevant drawings.

- They note details of a Kingspan/Klargester by-pass separator proposed upstream of the attenuation system, approximately 80m upstream of the proposed surface water outfall to the Cloghogue River.
- They refer to Demolition Methodology in an Outline Construction and Construction Waste Management Plan. Also, relative to details on access, noise and duration of works.
- The Traffic Impact Assessment has been updated to address the items raised. They refer to a preliminary design for a priority junction and a traffic signalled controlled junction at the N78/Chatsworth Street/Barrick Street Junction.
- Details relative to the Road Safety Audit Stage 1/2 carried out.
- Pedestrian crossing and cycle lane details and revised drawings have been submitted.
- Details relative to the change of height proposed to the existing bridge parapet, and regard to its architectural heritage (P.S).
- Details concerning junctions and sightlines including at the existing L1829 junction are shown on the revised drawings.
- Drawings showing sightlines at both the development entrance with the Ballinakill Road and the junction of the Ballinakill Road and R426 Clogh Road. Regard to DMURS.
- Details regarding any development on third party lands needed for access purposes.
- They note the provision of a footway link on the R426 and L1829 Ballinakill Road and details of this shown on the drawings submitted.
- They have regard to the Chatsworth Road entrance and note that the lands within the ownership of the applicant extend to the red line boundary only.
- Proposed improvement works to the priority junction at Chatsworth Street/development entrance and the public realm are shown on the revised drawings.

- Details are given of proposed pedestrian links and cycleway provision throughout the scheme.
- Details are provided of onsite car parking spaces and the internal road network. This includes regard to and improvement of priority controlled junction to provide connectivity to Chatsworth Street.
- The proposed priority at the junction of Road 2 and Road 3 has been revised and details are shown on the drawings submitted.
- Reference is had to the on-site parking to be provided and to cycleways and cycle parking provision.
- A Mobility Management Plan has been submitted.
- A lighting design has been prepared and they refer to drawings.
- They provide details of the new bridge crossing the Cloghogue River, which is to be constructed and installed in accordance with the NRA Guidelines.
- Phasing - They refer to the proposed phasing of the works and a phasing layout drawing, to indicate which works and buildings will be included in each phase. The provisions for access will be provided as part of phase 1 of the development and includes the construction of the Cloghogue River Bridge to allow access to/from the Ballinakill Road during construction stage.
- They refer to the Outline Construction and Construction Waste Management Plan prepared by Kilgallen & Partners for details on access, noise and duration of works.

#### Planner's Response – Planning Report No.2

The Planner had regard to the F.I submitted and their detailed response noted the revisions made and the drawings and documentation submitted and to the submissions made. In summary this includes the following:

- Water Services – they note the further details submitted, including relative to Groundwater Assessment. Pending the upgrade of public infrastructure by Irish Water, the private water supply is to be constructed to current EPA standards with all details for water treatment and infrastructure to be agreed

with the Council's water services and environmental department prior to commencement.

- Potential Impacts on Natura 2000 site – The NIS concludes that provided mitigation measures are implemented in full, there will be no significant direct, indirect or cumulative negative effects on the qualifying interests and conservation objectives of the River Barrow and River Nore SAC.
- Ecology – They have regard to the recommendations of the Ecological Impact Statement submitted and note that the Ecologist holds an NPWS bat licence. They also refer to a Tree Survey Report recommendations.
- Design and Layout of the proposed dwellings – They refer to the amended layout for the residential development to the north-west of the site, which includes reorientation and variation of the house types. They note that no pedestrian connection is proposed to Love Lane.
- Conservation – They refer to the written response relative to the revised proposal for protected structures. Note is had of the Mill Building and tower setting, along with photographic records and history recording of the other historic buildings on site. Regard is had to the demolition of buildings on site to take account of demolition of structures and the sensitive demolition surrounding the Mill Building.
- Public Open Space – Amended drawings and cross-sections of ground levels and open space submitted. Details are provided of the provision of and linkages to public open space and reference to the railway embankment and interface of the bridge with the surrounding area. Note is also had of the playground and landscaping proposals.
- Aldi Store and east site boundary –they note the revised plans submitted relative to the design and layout of the Aldi Store. Also, to the Overshadowing/Loss of Daylight Analysis, Environment Noise Impact Assessment Report and external signage.
- Site Boundaries – Revised proposals have been submitted to address the boundary treatment.

- Pedestrian Links – A document has been submitted to address pedestrian links and a Solicitors letter to address right of way issues.
- Environmental – An Outline Construction and Construction Waste Management Plan has been submitted. They note details of a Bring Centre recycling facility on site.
- Roads – A revised Traffic Impact Assessment has been submitted. This considers the design of the proposed road network, including access arrangements. Also, the impact of vehicle movements generated by the proposed development on the surrounding road network.
- Details are given of the Stage 1/2 Road Safety Audit submitted. Reference is had to Appendix which contains the Designers Response to the audit. Revised proposals have been submitted showing sightlines for the Ballinakill Road development entrance and the Ballinakill Rd/R426 junction.
- Third Party Submissions – They note the written response prepared by Brian Dunlop Architects, to address their concerns. Also, the details relative to the Sufficiency of Interest and consent from third party landowners.
- Details are provided of car parking within the site, noting that it is proposed to incorporate a public carpark to serve both the site and the town centre. Cycleway provision is also noted.
- Proposals show the entry only, Chatsworth entrance and pedestrian connectivity to Chatsworth Street.
- A Mobility Management Plan has been submitted.
- An External Lighting Design Report has been submitted.
- Phasing and Construction – Details are given of such and note is had, of the drawing submitted. They note the response proposes the delivery of the bridge link to the Ballinakill Road as part of the first phase of the development.
- They provide that the applicant agree a construction traffic management plan with the Council prior to the commencement of development.



## Conclusion

The Planner's Report had regard to the details submitted, and concluded that having regard to the policies and objectives of the Kilkenny CDP and the Castlecomer LAP and the relevant policy guidelines, and the documentation submitted including in the F.I., the submissions made and the referral responses that subject to conditions the proposed development would not seriously injure the amenity of the area and would be in accordance with the proper planning and development of the area.

### **3.2. Other Technical Reports**

#### Road Design

They noted concerns regarding the Traffic Impact Assessment submitted and recommended revisions and amendments. They noted some issues relative to the Stage1/2 Road Safety Audit submitted. They recommended a detailed F.I request.

In their detailed response to the F.I submission they note that an updated TIA has been submitted. They also provide recommendations regarding the revised junction layout and the design and layout. They advise that a detailed design assessment of the N78/Chatsworth Street /Barrack St junction be carried out and relative to the provision of a signal controlled junction. Also, that a Stage 3 RSA be conditioned. They note issues relative to the proposed roads layout to serve the development including junction layouts and compliance with DMURS. They do not object and recommend conditions relative to roads infrastructure, including parking, mobility, pedestrian/cycleways etc.

#### Conservation Officer

They note that the proposed development is partially within the Castlecomer ACA and the Historic Town of Castlecomer, while the site also contains a number of structures of note: a Mill building included in Kilkenny County Council's Record of Protected structures and that it also borders a number of protected structures. Details of these are noted and they have regard to the locational context.

They have concerns that the mill building and tower, a P.S and the last remaining standing structure of the former industrial complex, will be lost in the new development and will be engrossed by it.

They refer to the Archaeological Impact Assessment submitted and consider it appropriate that the development adhere to the recommendations in Section 7 - AIA.

They note a number of issues and make recommendations having regard to the architectural visualisations and the impact on the PS and advise that F.I be sought.

They have regard to the F.I submitted and do not object to the overall development.

They provide a detailed response relative to Conservation issues and impact on Protected Structures. They make recommendations including relative to the Mill Building PS. to ensure the retention of as much historic fabric as possible. They are concerned about the removal of the second floor of this building. They request C.F.I to provide a commitment stating that the P.S will form part of the initial phase of the development and relative to the proposals for the Mill Building.

### Environment Section

They recommend F.I be submitted including in summary relative to the storage and arrangements for disposal of waste, grease traps, separator location and details on a revised drainage plan, silt interception on the storm water system, a bring centre recycling facility within the proposed Aldi carpark etc.

In response to the F.I they provide that they note that the provision of a well is not their preferred option, they recommend that the development be served by a public water supply from Irish Water within an agreed time period as the proposed water supply is temporary. They recommend conditions that a Management Company be set up and a Waste Management Plan be prepared. Also, conditions relative to Storm & Wastewater Discharge and to Construction Management issues. These include Noise, Air & Odour and that an Ecological Clerk of the Works be appointed.

### Parks Section

They provide that they are generally satisfied with the proposed landscaping arrangements but make recommendations for further planting throughout the site. They provide recommendations regarding the grading down of the railway embankment and the use as a biodiversity area. They also welcome the proposed natural playground area and seek to ensure that it complies with planning policies whilst retaining as many natural elements as possible.

In response to the F.I submission and while generally in favour of the landscaping proposed, they note concerns about the layout and boundary treatment of the playground area. They recommend landscaping conditions.

#### Fire and Rescue Service

They recommend a Fire Safety Certificate before works commence on site.

### **3.3. Prescribed Bodies**

#### Irish Water

They recommended that F.I be sought to address the concerns of IW and, so as to allow the applicants to connect to the public water supply in Castlecomer.

In response to the F.I submission they note that the Castlecomer Water Supply is severely constrained and has no capacity currently available. An alternative water supply solution is required between the applicant and the PA. They note that they have wastewater services in the area to cater for this development.

#### An Taisce

They consider that the proposed development should integrate better and is inappropriate for the heritage town of Castlecomer for the following reasons:

- The ancillary facilities to the proposed supermarket will draw business from the main streets of the town, although in principle they would have no objection to the provision of a new supermarket in this location.
- There is an overemphasis on parking and vehicular circulation. A development which extends the grain of Castlecomer's existing streets should be more pedestrian friendly.
- The Greenstripe site should be the subject of much smaller development proposals as required, when and if demonstrably viable.
- The proposed buildings should reflect the existing important architectural qualities of Castlecomer and not just typical placeless shopping and residential complexes that can disfigure county towns.

## Department of Culture Heritage and the Gaeltacht

They provide that given the scale and location of the proposed development within the Historic town of Castlecomer – Recorded Monument No. KK005-082, they concur with the archaeological mitigation strategy outlined in Section 7 of the Archaeological Impact Assessment that Archaeological Monitoring. They recommend that this be included as a condition of planning permission. That this be in line with the Department’s published policy outlined in the *Framework and Principles document* published in 1999.

### 3.4. **Third Party Observations**

Submissions made are considered in the Planner’s Report and are noted further in the applicant’s F.I response and relative to the Grounds of Appeal and in the context of the Assessment below. In summary the main issues raised include the following:

- Traffic considerations during construction and operational phases,
- This application is premature pending a Traffic Management Plan for Castlecomer,
- Concerns about traffic congestion issues, including at the existing and proposed junctions,
- Pedestrian links and right of way issues including relative to pedestrian access/safety at Chatsworth Street,
- Impact on Protected Structures, including basement cellar of Creamery House,
- Concern about the overall quality of the design and layout in the scheme,
- Impact of additional retail on the town centre. Over emphasis on retail and lack of mixed use proposed within the development,
- Lack of quality open space within the proposed development,
- Boundary treatment,
- Privacy and security issues and anti-social behaviour,

- Sunlight/daylight issues relevant to the impact of the supermarket on the rear of properties in Chatsworth Street.

## 4.0 Planning History

The following recent planning history is relevant to the site:

- ABP - 302235-18 – The Board in accordance with section 11(5) of the Urban Regeneration and Housing Act 2015 and based on the reasons and considerations set out in their Decision, determined that the Site at Chatsworth Street, Castlecomer, shall remain entered on the vacant Sites Register. The Notice was confirmed on the 25<sup>th</sup> of February 2019.
- Reg.Ref.10/209 – Permission subject to conditions granted by the Council to Comerway Developments Ltd for a mixed-use development on part of the current application site. It included an anchor store, 10 no. retail units, 11 no. office units, 13 no. residential units, café/restaurant, gallery/multi-purpose exhibition space, public carpark, public plaza and courtyard, new access roads. The total retail floor area extended to 2642sq.m (excluding café/restaurant use). This permission was granted on the 13<sup>th</sup> of May 2011 and expired on the 12<sup>th</sup> of May 2016. It was never enacted and has expired. It does not appear to have been the subject of an appeal to the Board.

### Adjoining site to the West

- ABP-303560-19 - The Board in accordance with section 9(3) of the Urban Regeneration and Housing Act 2015 and based on the reasons and considerations as set out in their Decision, determined that the Site at Love Lane Castlecomer was not a vacant site within the meaning of that Act for the period concerned. The Notice was confirmed on the 13<sup>th</sup> of August 2019.

## 5.0 Policy Context

### 5.1. National Planning Framework

The National Planning Framework addresses the issue of ‘making stronger urban places’ and sets out a range of objectives which it considers would support the

creation of high-quality urban places and increased residential densities in appropriate locations while improving quality of life and place.

Relevant Policy Objectives include:

National Policy Objective 3a: Deliver at least 40% of all new homes nationally, within the existing built-up footprint of existing settlements.

National Policy Objective 3c: 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.

National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

National Policy Objective 16: Target the reversal of rural decline in the core of small towns and villages through sustainable targeted measures that address vacant premises and deliver sustainable reuse and regeneration outcomes.

National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

National Policy Objective 57: Enhance water quality and resource management by ... ensuring flood risk management informs place making by avoiding inappropriate development in areas at risk of flooding in accordance with 'The Planning System and Flood Risk Management Guidelines for Planning Authorities'.

National Policy Objective 63: Ensure the efficient and sustainable use and development of water resources and water services infrastructure in order to manage and conserve water resources in a manner that supports a healthy society, economic development requirements and a cleaner environment.

## 5.2. Section 28 Ministerial Guidelines

The following includes a list of relevant Section 28 Ministerial Guidelines referenced in the Assessment Section of the Report:

- 'Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas' including the associated Urban Design Manual, 2009
- Retail Planning Guidelines for Planning Authorities and companion Retail Design Manual (DECLG, 2012)
- 'Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities' (DECLG, 2020)
- 'Design Manual for Urban Roads and Streets' (DMURS) 2019
- 'The Planning System and Flood Risk Management' 2009 (including the associated 'Technical Appendices')
- 'Architectural Heritage Protection Guidelines' (Dept. of Arts, Heritage, Gaeltacht and the Islands, 2011)
- 'Framework and Principles for the Protection of Archaeological Heritage' (Dept. of Arts, Heritage, Gaeltacht and the Islands, 1999)

## 5.3. Regional Spatial and Economic Strategy for the Southern Region

The RSES 2020-2032 is a strategic document, which primarily aims to support the delivery of the programme for change set out in Project Ireland 2040, the National Planning Framework (NPF) and the National Development Plan 2018-27 (NDP). As the regional tier of the national planning process, it seeks to ensure coordination between the City and County Development Plans (CCDP) and Local Enterprise and Community Plans (LECP) of the ten local authorities in the Region.

Table 3.2 provides the Settlement Typology for the Region. County Kilkenny is included in this Plan and Kilkenny is a Key Town. Towns and Villages above 1,500 are to be identified in Development Plans and Local Area Plans.

#### 5.4. **Kilkenny City and County Development Plan 2021-2027**

It is of note that the Planning Authority decision is based on the Kilkenny County Development Plan 2014-2021. As the Board is considering this appeal 'de novo', the application and appeal are being considered under the current Kilkenny City and County Development Plan 2021-2027 which supersedes the Kilkenny County Development Plan 2014-2020. The current Development Plan (adopted October 2021) sets out the Council's policies and objectives for the proper planning and sustainable development of the City and County from 2021 to 2027.

##### Core Strategy

Chapter 4 provides the Core Strategy. Table 4.3 provides the County Settlement Hierarchy in accordance with the NPF and RSES. Castlecomer is included as one of the Towns > 1,500 in population and in Table 4.4 as one of the District Towns. Section 4.4 notes that Local Area Plans for the District Towns of Callan, Castlecomer and Thomastown were reviewed and adopted by the Council between 2017 and 2019. This section includes that provided that, water capacity issues can be addressed for Castlecomer, an additional population of 100 is considered appropriate over and above the adopted Local Area Plan.

Table 4.5 provides the District Towns Allocation under the Core Strategy.

It is also noted that: *The Local Area Plans for Callan, Castlecomer and Thomastown, will be reviewed to ensure consistency with the Core Strategy and policy promoting regeneration, sequential development and compact growth and will identify regeneration, brownfield and opportunity sites that will contribute to compact growth. The reviews will be carried out within 12 months of the coming into effect of this Plan, subject to resources.*

##### Economic Development

Table 5.3 'Retail Hierarchy' notes that Castlecomer is a Level 3 District/sub county town. Section 5.6.5.1 refers to Figures 5.2 to 5.5 which show the Core Retail Areas in the four District Towns.

Table 5.4 provides a 'Summary of Appropriate Level of Retail Development'. Castlecomer is listed as Tier 3 - Smaller towns and villages. The appropriate level of Retail Development is given as '*Local shopping destination serving the surrounding*



*hinterland with a limited offer of convenience and comparison goods, and retail and leisure services.'*

#### Infrastructure & Environment

Section 10.1.4 refers to Water Supply and Treatment. This notes that there are deficiencies at present in water supply schemes serving Castlecomer and 3 other settlements. *Of the four settlements mentioned Irish Water will consider, on a case by case basis, solutions from developers who wish to provide wells as a temporary solution to their proposed development.*

*The provision of such temporary facilities shall only be considered where the solution is environmentally sustainable and would not affect the quality status of water sources. Proposals for such facilities must clearly demonstrate they would not singularly or cumulatively adversely affect the ecological integrity of any European Site. Adequate provision shall be made by the developer for the operation and maintenance of the proposed temporary facility for the duration of its required existence and thereafter for its decommissioning and removal from site.*

Section 10.1.6 has regard to Wastewater networks and treatment.

Section 10.1.8 to Water Quality and compliance with the Water Framework Directive.

#### **5.5. Castlecomer Local Area Plan 2018 -2024**

This LAP outlines a strategy for the proper planning and sustainable development of the town of Castlecomer. This notes that the town is situated 20km to the north of Kilkenny City in North-East Co. Kilkenny. It is an important market and service centre for the agricultural hinterland, which is one of the most densely populated rural areas in the County.

#### Land use zoning

As shown on the Land Use Zoning Map 2019, the site is within the 'Mixed Use Zoning' within Key Development Area 1. A very small strip of the northern part of the site, adjacent to the Castlecomer Road to the north of the Clohogue River is zoned 'Open Space'. The dashed line indicates road proposals through the site. The site also contains Objectives T2 and T3.

## Transport Objectives

Chapter 9 refers to Transport - Section 9.5 Transport Objectives

T2 - *To create a new street from Chatsworth Street to the Ballinakill road via the old Creamery site with co-located pedestrian and cycle lanes and public lighting.*

T3 - *To link the Old Creamery site to central Chatsworth Street via a pedestrian link only with public lighting.*

## Urban Design Framework

Section 10.3.1 refers to Key Development Area 1 – Old Creamery Site (Town Centre). The vision for the site is: *To create, by means of a new street which will extend from Chatsworth Street to the Ballinakill road, a mixed use extension to the town centre which could cater for both day and night time uses such as retail, office, residential, parking, amenity and community uses.*

Connectivity: *The development of this area will require the establishment of a new street with access point from Chatsworth Street, linking across the site and via a bridge across the tributary of the Dinin to the Ballinakill Road. Pedestrian/cycle linkages are also required to ensure permeability through the entire site. The key opportunity in terms of connectivity is the potential to improve permeability in the town.*

Objectives are included relative to Urban Design Principles and Mandatory Objectives. This also includes: *Development can take place in a phased approach, provided that accesses to the Square and Ballinakill road are included in phase 1. This is to ensure that the site is opened up completely during phase 1.*

Figure 10.1 is of note in that it shows an Indicative Layout for Development Area 1.

Site 1: Required infrastructure to be delivered in tandem with the development (See objective T2):

- New Street from Chatsworth Street to the Ballinakill road
- Bridge linking site to the Ballinakill Road
- Pedestrian and cycle ways from the square as part of the new street
- Water and Wastewater connections

## Infrastructure and Environment

Section 8.1.1 notes that Irish Water has identified a need to augment the capacity of the water supply to Castlecomer and to upgrade the current water supply systems to achieve this capacity.

Section 8.1.2 has regard to Wastewater Services. This notes that Castlecomer WWTP has recently been upgraded. That the upgraded plant includes nutrient removal and the design capacity is 2,500pe. *The upgraded pumping station and treatment plant have been in operation since completion of the process proving period in January 2017 and are treating wastewater to a high standard and in compliance with the Wastewater Discharge Licence, prior to discharge to the receiving waters.*

### **5.6. Natural Heritage Designations**

The River Cloghogue runs along the northern boundary of the site. This flows into the River Dinin which part of the River Barrow and River Nore SAC approx. 400 metres south east of the site.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

David Mulcahy Planning Consultants Ltd has submitted a Third Party Appeal against the Council's decision to grant permission subject to conditions on behalf of Castlecomer Stores Ltd of Eurospar, Castlecomer. This includes regard to the locational context of the site, planning history and policy and to the design and layout of the proposed development and impact on the character and amenities of the area. The Grounds of Appeal includes in summary the following:

- The absence of Environmental Impact Assessment.
- The poor quality urban design in the central and northern portion of the proposed development.
- The low density nature of the housing element at the edge of the town centre.

- The fundamental flaws in the traffic assessment submitted with the application.
- The unreasonable conditions imposed concerning traffic.
- The lack of independence in the conservation approach and the amount of issues to be decided post-planning which omits third party review.

### Environmental Impact Assessment

- They submit to the Board that the justification for concluding that a mandatory EIAR does not apply in this instance is flawed.
- They refer to Schedule 5 Part 2 (Annex II development) of the Planning and Development Regulations. They submit that the site for the proposed development is described as 'Town Centre' in the Castlecomer LAP and at 3.35ha exceeds the mandatory 2 ha. threshold in the case of a business district. An EIAR is therefore required.
- In the event that the Board disagree, they submit that the Planner's Report does not involve an assessment of the proposed development in respect of subthreshold EIAR as per the requirements under Schedule 7 and 7a of the Planning and Development Regulations, 2001.
- They submit that the proposal on this sensitive site, in particular the northern part relative to the proximity of the stream, the direct link to a Natura 2000 site and the construction of a new bridge is likely to have a significant effect on the environment, and that this cannot be ruled out.
- The applicant has not provided an EIA Screening Report which is highly unusual for an application of this size and scale.
- There are specific issues which need to be addressed as part of the EIA Screening and indeed the preparation of an EIAR which are fundamentally missing from the application, both on behalf of the applicant and the Council.
- There is no interaction of the foregoing or summary of mitigation measures. A typical example is how does the flood risk associated with the site interact with the potential risk of pollution of the river during construction stage.

- They submit that the proposed development should be refused on account of the absence of any EIAR.

### Urban Design

- They contend that the proposed convenience store and detached dwellings represent poor quality urban design which departs significantly from the southern element of the proposed development and is entirely inappropriate in a town with such high quality built heritage and urban design qualities.
- They are concerned that the proposed carparking in front of the convenience store will be a dominant feature of the proposed new scheme, dominating the central area and detracting from the visual amenity of the area.
- The retail store should be 'flipped' in order that the retail building can provide an active frontage to the street and serve to enclose same, in the same manner as the new street to the south. The car parking would then be hidden behind the retail building. They consider that this represents a significant change and is not something that can be addressed by planning permission.
- The proposed detached dwellings are entirely inappropriate in this location. They would be out of context with the tight urban grain that characterises the existing town centre and provide no sense of enclosure along the new street.
- They submit that a terrace or duplex dwellings or even apartments would be a far more suitable form of development for this portion of the site in terms of achieving a proper street edge in line with urban design principles.
- It is in total contrast to the urban design approach taken to the southern portion of the site and should be refused in the interest of the proper planning and development of the area.

### Low Density Housing

- The proposed development involving 9 detached dwellings represents a notably low density for a town centre. It is government policy to increase residential density in the town centre locations to avoid urban sprawl at the edge and create more compact urban settlements. They refer to National Policy Objectives NPF 3a, 3c and 35.

- They are concerned about low density proposed within the CSO settlement boundary, the need for more compact urban forms and an under utilisation of lands on a key town centre site being contrary to national planning policy and the proper planning and sustainable development of the area.

### Traffic

- They refer to the Report they had prepared by Trafficwise Ltd submitted as a separate enclosure with the Appeal. This concludes that the arrangements to provide access are poorly formulated, based on unreliable supporting data and fail to provide a balanced approach to the provision of access, servicing and public welfare and would result in significant traffic hazard and endangerment of public safety.
- There is no idea as to what works will need to be undertaken by the Planning Authority or the developer to make appropriate and safe provision for the servicing of the proposed development in the operational phases.

### Conservation

- They refer to the Conservation Assessment prepared by a Grade III Conservation Architect submitted as a separate enclosure to the appeal. This concludes that the proposal falls short in terms of Architectural Heritage Impact of the development on the Historic buildings on and adjoining the site, as a direct result of a failure to engage an independent Conservation Expert to prepare and AHIA for the current development.
- They consider that the Council's conditions relative to Conservation are inadequate. Many of the items are left un-clarified and are subject to future agreement. Conditions are unenforceable, and vague and lacking in clarity.
- They submit that the proposal does not accord with the proper planning and development of the area. They request the Board to overturn the Council's decision to grant permission.

## **6.2. Applicant Response**

There is no First Party Response to the Third Party Appeal noted on file.

### 6.3. Planning Authority Response

The Planning Authority in Kilkenny County Council comments include the following:

#### EIA

- It is clear from the location of the site its configuration and historical use that the site while within the town boundary is not town centre.
- The main commercial activity in the town is located along Kilkenny Street and on 'The Square'.
- For EIAR purposes it is evident that the site is not located within an area where the predominant land use is retail or commercial use.
- The site is bound to the north by a small river/stream, which is a tributary of the River Dinin and the Ballinakill Road. Of the entire 2.7ha site, when excluding the stream, only approx. 2.3ha is developable.
- An EIAR screening was carried out in the Planner's Report. They note that 17no. of the conditions of the Council's permission relate to further details of the design and items to be agreed. They submit that these types of conditions are not unusual and are necessary to ensure satisfactory implementation of the principles of the proposal under planning decisions.

#### Urban Design

- The LAP identifies the site as a key development area (Section 10.3.1 of the LAP). There are a set of key urban design principles set out that are considered appropriate to the scale and character of the site in the context of its setting within the District Town of Castlecomer. The Planning Authority considers that these key design principles are achieved.
- The consider that the overarching objectives of the NPA and the NPF and the Castelcomer LAP are achieved. The Core Strategy of the LAP does make allowance for residential development in mixed use zoning within the Plan area.
- The provision of the detached dwellings in conjunction with the apartments along the proposed street does satisfy the requirements of the core strategy

and accords with the policy of making provision for and targeting residential development at effective density within the settlement hierarchy.

### Traffic

- The traffic issues were addressed comprehensively in the further information request issued by the Planning Authority.
- A detailed response was provided by the applicant. Following assessment of that the Road Design Section do require details of the design at the level where construction details would be required to ensure an effective tie into the existing infrastructure.
- In the longer term there is the possibility that a fully signalised junction may be required when the development is fully built out and occupied. However, this is not a requirement for Phase 1 of the development.
- They refer to Condition no.27 of the Council's permission in this respect. They also refer to the concept of a Part 8 if the Board is of mind to grant permission and allow for greater third-party observations on these future requirements.

### Conservation

- The built heritage of the application was assessed by the Council's Conservation Officer and the F.I request sought a number of different conservation issues to be addressed.
- A full report was prepared by the Conservation Officer on the F.I received and the two remaining outstanding issues were included in Conditions nos. 14, 15 and 16 of the Council's permission.
- The Council consider this proposed development a significant stimulus for the District Town of Castlecomer, that it is plan led in the context of the existing LAP adopted by the Council in 2018.
- The proposal accords with National, Regional and Local Policy in seeking to regenerate existing towns and villages in accordance with the concept of compact growth.
- The Council requests the Board to grant permission with appropriate conditions as outlined in their submission.



#### 6.4. **Observations**

Note noted on file

#### 6.5. **Further Responses**

None noted on file.

### 7.0 **Assessment**

7.1.1. I have reviewed the proposal in the light of the National Planning Framework: Project Ireland 2040, National Planning Guidelines, Regional Spatial & Economic Strategy for the Southern Region (RSES) 2020 – 2032, the relevant Section 28 Ministerial Guidelines, the Kilkenny County Development Plan 2021 – 2027, Castlecomer Local Area Plan 2018-2024, relevant planning history, the submissions of the parties and the observers, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Principle and Policy Considerations,
- (ii) EIAR Screening considerations,
- (iii) Design and Layout,
- (iv) Density and Design Standards,
- (v) Archaeology,
- (vi) Conservation issues,
- (vii) Public Open Space and Landscaping,
- (viii) Retail Impact Assessment,
- (ix) Access and Roads,
- (x) Parking, Permeability and Mobility,
- (xi) Infrastructure – Drainage and Water Supply,
- (xii) Flood Risk Assessment
- (xiii) Outline Construction and Phasing,
- (xiv) Other issues,

- (xv) Ecology,
- (xvi) Appropriate Assessment.

## 7.2. Principle and Policy Considerations

### National and Regional

- 7.2.1. Project Ireland 2040: National Planning Framework (NPF) is concerned with securing compact and sustainable growth. This seeks consolidation of town centres and advocates growth in serviced areas and the relevant National Policy Objectives are noted in the Policy Section above. These include having regard to the broader principle of the proposed mixed-use development:

*National Objective 6: Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity and design quality, in order to sustainably influence and support their surrounding area.*

- 7.2.2. The Third Party has referred in particular to National Policy Objectives 3a, 3c and 35 which are quoted in the Policy Section above. More of relevance to the residential element, these seek to prioritise the provision of new homes within the built-up footprint of existing settlements and at locations that can support sustainable development and to increase densities in settlements, through a range of measures.
- 7.2.3. The Regional Spatial and Economic Strategy for the Southern Region includes County Kilkenny. Table 3.2 provides the Settlement Typology for the Region. While not specifically referred to, Castlecomer, which is a Town with a population above 1500, provides a housing, employment and service function. This category is broad and ranges from large commuter towns to more remote towns and village. Policies and Objectives are referred to in the Kilkenny CDP 2021-2027 and the Castlecomer LAP 2018-2024.
- 7.2.4. I would consider that the proposal for a mixed-use development within the urban boundaries of the town can be seen in the context of the aforementioned policies and objectives in the National Planning Framework and in the RSES. However, I would be concerned that the proposed density of the housing element would not

comply with the NPOs 33 and 35 of the NPF relative to appropriate scale and increase in urban density. This issue is discussed further in this Assessment below.

### Section 28 Guidelines

- 7.2.5. Reference is had in the Policy Section to the Section 28 Guidelines, including the: Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities and associated Urban Design Manual (2009), Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities' (2020). All support a qualitative design and layout and increased density at appropriate locations that integrates with the proper planning and sustainable development, in order to ensure the efficient use of zoned and serviced land.
- 7.2.6. Section 6 of the *Sustainable Residential Developments in Urban Areas* refers to the creation of sustainable patterns of development in Small Towns and Villages in the range of 400 to 5000 persons. As such, it is noted that development must strike a balance in meeting the needs and demands of modern life but in a way that is sensitive and responsive to the past. A diversity of design and successful integration is needed between the old and the new. It is also provided that new development can be prioritised on sites that either re-use brownfield development land such as central sites and backlands or through the development of acceptable 'green-field' sites at suitable locations within the immediate environs of the small town or village concerned. In addition, that development should be compact and in the case of backlands should maximise permeability and connectivity.
- 7.2.7. Regard is had to the Retail Planning Guidelines 2012, relevant to the retail mixed use element of the proposed development and to the sequential approach. Also, the Architectural Heritage Guidelines 2011 relevant to the Protected Structures and ACA and to the Archaeological Guidelines relevant to archaeology. The Assessment below includes further regard to these Section 28 Guidelines where relevant.

### Local Plans

- 7.2.8. The proposed development is assessed in the context of the policies and objectives of the Kilkenny City and County Development Plan 2021-2027 and more specifically the Castlecomer Local Area Plan 2018-2024. These provide a detailed framework for the management and regulation of spatial development and more specific use of land. They support regeneration and renewal and include policies and objectives for

the sustainable planning and development of the area. It is considered that the principle of the development and regeneration of the town centre for a mixed use generally complies with these policies and objectives.

- 7.2.9. Castlecomer is included as a District Town in the Core Strategy of the Kilkenny CCDP. Table 4.5 provides the District Towns Allocation under the Core Strategy. This includes that: *The Council will ensure that the District Towns will in so far as practical be self sufficient incorporating employment activities, sufficient retail services and social and community facilities.*
- 7.2.10. The Castlecomer LAP provides the Land Use Zoning Map and the majority of the site is zoned for 'Mixed use development' with a small strip zoned 'Open space' in the north western part of the site, proximate to the river. The Objective for the former seeks: *To improve the vitality and viability of the town centre by encouraging a variety of uses in town centre locations and supporting the reuse of derelict and underutilised sites and buildings.* It is of note that the site contains such buildings. Also, regard is had to the Protected Structure within, and proximate to the site. As shown on Figure 10.1 of the LAP, 'Indicative Layout' the southern part of the site which contains the former Glanbia buildings is within the ACA.
- 7.2.11. As shown on the Land Use Zoning Map the site, is within 'Key Development Area 1 – Old Creamery Site (Town Centre)'. The Vision in Section 10.3.1 of the LAP seeks: *To create, by means of a new street which will extend from Chatsworth Street to the Ballinakill road, a mixed use extension to the town centre which could cater for both day and night time uses such as retail, office, residential, parking, amenity and community uses.* Therefore, the vision for the regeneration/development of this town centre site is in accordance with the LAP and is included in the Indicative Layout.
- 7.2.12. The site is zoned for mixed use development where 'Permissible Uses' include retail, office and residential. The proposal includes the provision of an anchor retail store, referred to in the documentation as 'Aldi', and additional retail/office and is within the historic town centre. I consider that the site location, on appropriately zoned land which includes that previously used as part of the former Glanbia site, and is partly brown/greenfield, would serve to consolidate the commercial area of the town rather than create further sprawl. Therefore, having regard to its scale and nature, and the mixed-use zoning as per the LAP, the proposed development would be compatible

with its location and surroundings, and the principle would not conflict with the provisions of the Kilkenny County Development Plan or the Castlecomer LAP or National/Regional Policy Guidance.

7.2.13. It is of consideration to ensure, that the proposed development would integrate well with surrounding development and would not have an adverse effect on the environment including the P.S and ACA, traffic, infrastructure and the vitality and viability of the existing town centre and would be in accordance with the proper planning and sustainable development of the area. Consideration is had further to these issues in the Assessment below.

### **7.3. EIAR Screening Considerations**

7.3.1. An Environmental Impact Assessment (EIA) Screening report was not submitted with the application. The Third Party's concerns about this matter, have been noted in their Grounds of Appeal.

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

- Construction of more than 500 dwelling units.
- Construction of a car-park providing more than 400 spaces, other than a car-park provided as part of, and incidental to the primary purpose of, a development.
- Construction of a shopping centre with a gross floor space exceeding 10,000 sq. metres.
- 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).

7.3.3. It is proposed to construct a mixed-use development including supermarket (c. 1,798sq.m) /anchor convenience store, 9no. retail units, office units, residential units,

café/community units, public/customer car parking, new access roads etc. The southern part of the site comprises the former Glanbia site and the northern part of the site is greenfield and undeveloped. The number of residential units proposed is limited (4 apartments and 9no. detached houses) and is well below the threshold. Similarly, the floor area of the proposed retail element is more than 50% below and the parking is well under the threshold.

7.3.4. The site has an overall area of c. 3.35 ha and is located within the development boundary of Castlecomer town but not in a 'business district'. The Third Party Grounds of Appeal are concerned about this and submit the proposed development site at 3.35ha exceeds the mandatory 2 ha threshold in the case of a business district. The submit that an EIAR is therefore required.

7.3.5. The Castlecomer Local Area Plan, shows the site as within the 'Mixed Use Zoning' within Key Development Area 1. However, the former Glanbia site remains vacant and dis-used and the northern part of the subject site is greenfield and has not been developed for commercial or as a business district. As noted in the Planning History Section above (Ref. ABP-302235-18) the Board has determined that the site remains a vacant site within the meaning of the Urban Regeneration and Housing Act, 2015, as amended. Therefore, the site cannot be considered as being within a 'business district'. The site area is well below (more than 50%) the applicable threshold of 10 ha and therefore a mandatory EIA is not required.

#### Sub-Threshold

7.3.6. In the event that the Board disagree that a mandatory EIAR is required the Third Party submit that the proposal should be considered sub-threshold development and an EIAR required as per the requirements under Schedule 7 and 7a of the Planning and Development Regulations, 2001.

Schedule 7 provides the Criteria for determining whether Development listed in Part 2 of Schedule 5 should be subject to an EIA. These have regard to the following:

#### The characteristics of the proposed development

7.3.7. The description and characteristics of the proposed development have been provided in the details submitted and as noted above. This includes regard to the plans and documentation submitted with the original application and submitted in

response to the further information submission. In addition, to the detailed Prescribed Bodies, Council and inter-departmental responses to issues raised.

- 7.3.8. The site area is more than 50% below the relevant threshold, as is the proposed no. of units and retail floor area. The parking is also well below the threshold for a mandatory EIA.

#### Location of the proposed development

- 7.3.9. The Town Centre location of the proposed development which includes the former Glanbia site and the lands to the north and west has been noted in the details submitted. It has also been noted that the proposed development accords in principle with the land use zoning and is within the boundaries of the Castlecomer LAP and the principle of the development is in accordance with local planning policy and objectives. That specific objectives have been included in Section 10.3.1 of the LAP, relative to the mixed-use development and regeneration of this site.
- 7.3.10. It is noted that the southern part of the site is located within an Architectural Conservation Area and contains and adjoins Protected Structures. The site is not located in an area designated for Nature Conservation.

#### Characteristics of Potential Impacts

- 7.3.11. The mixed-use nature, scale and design and layout of the proposed development project, has been detailed and is as shown on the plans submitted. Note has been had of the limited scale of the development and the Characteristics of Potential impacts have been outlined in the documentation and drawings submitted and also in the details relative to the F.I submitted. These include relative to the Urban Design Impact, Conservation Impacts, Archaeology, Retail Impact Statement and Traffic Impact Assessment.
- 7.3.12. Note is also had of the Infrastructural Reports submitted, the use of SuDS and surface water attenuation. In this respect it is noted that a Groundwater Assessment and pumping test results have been submitted, relative to the need to provide a private water supply to serve the development. A Site Specific Flood Risk Assessment has also been submitted. Regard is had further to these issues in the discussion under the relevant headings in this Assessment below.

### Other issues

- 7.3.13. Regard is had to the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development' 2003, issued by the Department of the Environment, Heritage and Local Government. This includes relative to Sub-Threshold Development that there is a requirement to carry out EIA where the competent/consent authority considers that a development would be likely to have significant effects on the environment. Regard is also had to cumulative impacts, and relative to the phasing of the proposed development.
- 7.3.14. It is also of note that a Strategic Environmental Assessment Statement was carried out and accompanies the Kilkenny City and Council Development Plan 2021-2027. Section 1.4 of the Castlecomer LAP 2018-2024 notes that a SEA Screening report was carried out for this LAP and it was considered that a full SEA was not required.

### Summary

- 7.3.15. Having regard to the scale and location and the type of development as proposed, I would not consider that a Sub -Threshold EIA is necessary or warranted in this case. The introduction of the proposed mixed-use development on appropriately zoned lands within the Castlecomer LAP boundaries will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of significant natural or cultural heritage. While as documented there are some Protected Structures on and proximate to the site and the southern part is within an ACA, these issues are noted relative to the Conservation Reports submitted.
- 7.3.16. The proposed development is proximate to and has a hydrological connection to the River Barrow and River Nore SAC. Impacts on the European Site are discussed below/i.e as per AA screening para's and the NIS submitted. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other such mixed-use development in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development will provide for water supplies and would use the wastewater drainage services of Irish Water and Kilkenny County Council, upon which its effects would be marginal.



### Schedule 7A

7.3.17. Schedule 7A details Information to be provided by the Applicant or Development for the Purposes of Screening Sub-threshold Development for EIA. However, in this case as been noted relative to Schedule 7, a sub-threshold EIA is not warranted. Therefore, consideration of Schedule 7A of the Planning and Development Regulations 2001 (as amended) is not applicable in this case.

### Conclusion

7.3.18. Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are zoned for 'Mixed Use' under the provisions of the Kilkenny City and County Development Plan 2021-2027, and the Castlecomer Local Area Plan 2018 – 2024 and the results of the strategic environmental assessment for the former undertaken in accordance with the SEA Directive (2001/42/EC), and the SEA Screening Report for the LAP,
- The location of the site within the development boundaries of the town of Castlecomer, which is served by public infrastructure, and the existing pattern of residential and mixed-use development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- The guidance set out in the "Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development", issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

While the Appellant's grounds of appeal relative to their concerns as to the need for EIAR have been noted, I have concluded having regard to the documentation submitted, that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case.

#### **7.4. Design and Layout**

##### Description – Existing and Proposed

- 7.4.1. The application site, including the former Glanbia premises, is in a central location in Castlecomer, northwest of the Market Square/High Street, and currently has access at the junction of High Street and Chatsworth Street. The existing site is partly brownfield as the southern part of the site contains buildings and service yards that were in use formerly by Glanbia. This area of the site is walled, but access has been broken through, to the greenfield part to the north. Development on this backland site, is also, proposed on the zoned greenfield lands, to the north of the former Glanbia premises.
- 7.4.2. The southern part of the site currently contains a number of buildings formerly associated with the operation of the Glanbia Co-operative. These include the Mill Building (a Protected Structure) and adjoining stores; the Post Office annex structure; the Glanbia Store and other ancillary structures associated with the industrial operation of a mill including a grain silo and sheds. In general, the now defunct buildings on site are in poor condition.
- 7.4.3. The proposed development includes the demolition of existing agricultural/industrial building and structures, excluding the Mill Building, and the single storey annex building abutting the former post office (also a PS). Note is had further of these buildings which are in the Castlecomer ACA in the Conservation Section below. Adjoining land uses with road frontage are mixed use and include commercial (High St, Chatsworth St) and residential and light industrial (Ballinakill Road). To the south of the former Glanbia site (adjoining but not part of the subject site) is Creamery House, and the former Post Office, both of which are Protected Structures.

- 7.4.4. The overall proposed development comprises a mix of retail, office and residential development. As shown on the plans submitted the mixed-use development is to include supermarket/anchor convenience store, 9 no. retail units, office units, residential units, café/ community units, public/customer parking, new access road from the Ballinakill Road, bridge over the Cloghogue River in the northern part of the site, amendments to the former Glanbia access (off High Street) etc. together with associated site development works. It is proposed to provide public open space in the north-eastern part of the site, close to the access road. The site also contains the embankment of the decommissioned former Castlecomer railway line.
- 7.4.5. Access to this backland site is currently restricted. The Site Layout Plan shows that it is proposed to provide a link road through the site with a new access (two way) from the Ballinakill Road to the north of the site, and to have a one-way access (entry only) located at the entrance to the former Glanbia access (located off High Street/Chatsworth Street) in the southern part of the site. The new street at the southern end of the scheme is to use the existing and to be upgraded access from the junction of High Street and Chatsworth St. and extend westward before curving north to intersect the new link road enclosing the main anchor retail unit and carpark. Issues concerning Access/Traffic and Parking/Permeability are discussed in the relevant sections in this Assessment below.
- 7.4.6. The Architectural Design Statement submitted, provides that the site offers an opportunity to provide a development that can act as an appropriate extension to the town, providing permeability and much needed vehicular, pedestrian and cyclist links between the centre and the Ballinakill Road, all while integrating appropriately into its surrounding context. It is noted that the development is to be phased in accordance with the requirements of the Castlecomer LAP and the Council.

#### Accommodation Description

- 7.4.7. Drawings include a Colour Coded Site Layout Plan showing the proposed development and providing a Schedule of Accommodation relevant to the uses and floor area of each of the buildings. The series of buildings proposed along the new street leads to the anchor store and future buildings(s) and housing, are to comprise a mix of town centre office, café, community and retail uses. The plaza area around

the café and community building and mixed-use building opposite with ground floor retail, are to provide outdoor seating and assembly.

- 7.4.8. It is of note that a revised Schedule of Accommodation has been submitted as part of the applicant's F.I response, which provides details of the floor areas relative to the uses of each of the buildings. In accordance with the Architectural Design Statement and having regard to the colour coded drawings and the F.I submission, a brief description of the proposed buildings and their uses is provided in summary below.

*Southern Section of the Site – New Street*

*Building A*

- 7.4.9. This is to be located in the southernmost part of the scheme and is described as a two-storey single use (to building B) office building with own front door to the street and internal stair well providing 174sqm of accommodation over two levels. This is to have dual aspect with the northwest corner addressing the new street entrance from High Street and to have a single aspect facing towards the northeast.

*Building B*

- 7.4.10. This is shown as a two-storey stepping up to three storey mixed use attached to building A comprising three retail units with own front doors at ground level, stairwell with access from main street serving two first floor (2no. bedroom c.80sq.m) apartments; stairwell with access from side street serving first and second floors (office units). The first floor apartments are to have private amenity space in the form of south west facing balconies at the rear. The retail units are to have active street frontage and a service area at the rear. The proposed parking area is to the rear of the units. The total floor area is given as 636sq.m. There is a shared service area shown to the rear of Building A and a parking area shown to the rear of Building B. This is to accommodate storage and refuse for the units and apartments which is accessible from the street and car park.

*Building C*

- 7.4.11. This is shown as a three-storey detached L-shaped flat roofed building proposed for commercial use with two retail units on ground floor and 4no. office units on first and second floors. It is to have central stair and lift core access from the new street. All

aspects are to provide active frontage to new streets and car parking and service area at the rear. The total floor area of this building is 835sq.m. It is to have its own service area to the rear to accommodate storage and refuse for the units which is accessible from the street and adjoins the carparking area.

#### *Building D*

- 7.4.12. A single storey detached small retail unit (56sq.m) with south facing aspect and vernacular form with pitched hipped roof and lantern light. The structure maintains the primary access into the site from the post office and single storey annex and provides a balance and scale with the retained annex structure at the entrance to the new curved street. It is proposed to locate a separate building to provide a plant room to the rear (north) of this building, with access to the service yard area.

#### *Building E*

- 7.4.13. This is to comprise a two-storey mixed use detached building comprising two retail units with own front doors at ground floor; stairwell with access from new street serving two first floor 2no. bed apartments (74 and 77sq.m). There is a shared service area proposed to the rear of these units. The residential units have private open space in the form of side balconies at first floor with dual aspect overlooking the street. This building is to have a total floor area of 438sq.m.
- 7.4.14. The building is to have a pitched and hipped slate roof behind curved parapets to main roof with concealed level roof to balconies. Shared service area to the rear to accommodate storage and refuse for the units and apartments which is to be accessible from the street and car park in an unobtrusive secure yard enclosure.

#### *Building F*

- 7.4.15. The building comprises the existing to be retained and refurbished three storey Mill building with kiln to the rear. Proposed accommodation includes café/restaurant at ground and first floor with servery in kiln to rear at ground floor; gallery/display at second floor. Existing machinery elements retained in situ for heritage display. This building is a P.S and is referred to in more detail in the Conservation Section below.

#### *Building G*

- 7.4.16. This is to comprise a two-storey flat roofed building abutting the Mill. Accommodation includes: Main entrance and stair/lift core, in glass fronted link to the Mill with

sanitary facilities serving the Mill and extension; kitchen and retail unit at ground floor; office accommodation at first floor. It is be linked to the Mill but will appear separate to that building which is a Protected Structure.

#### *Building J*

- 7.4.17. This building comprises the retained and refurbished single storey Annex structure to the Post Office. P.S. 3no. windows are to be reinstated to the front façade facing 'Creamery House' and square. It is proximate to the entrance to the site and to proposed single storey building 'D'.

#### Comment – New Street

- 7.4.18. The Architectural Design Statement submitted provides that the street is designed with a strong sense of enclosure with a similar scale and width to Chatsworth Street which promotes pedestrian activity and maintains intimacy and overlooking, from the new buildings and existing Mill building, whilst providing sufficient intermittent gaps and variety in design and soft landscaping. That the proposed street is of a similar scale and width to Chatsworth Street which promotes pedestrian activity and maintains intimacy and overlooking, from the new buildings and existing Mill, whilst providing sufficient intermittent gaps and variety in design and soft landscaping.
- 7.4.19. I would consider that the proposed new street offers an improvement on the derelict buildings that are currently on the former Glanbia site and are proposed for demolition. The curved street approach generally accords with planning objectives in the Castelcomer LAP. Figure 10.1 provides an Indicative Layout for Key Development Area 1 although there are some differences. In this respect it is noted that the proposal, does not include the looped access to the backland or a continuation with the buildings shown on the Indicative Layout to the south of the Aldi Store, rather there is a greater parking area.
- 7.4.20. It is noted that a considerable amount of onsite parking is proposed both within the Aldi carpark and at the southern end of the proposed development. I would consider that it would be preferable to omit some of the latter and provide a larger landscaped outdoor plaza area at the south-eastern end of the site to serve and add to the amenities of the new street area. I would recommend if the Board decide, to permit that this be conditioned.

- 7.4.21. The design and layout includes a mix of two and three storey units of varying building types and I would consider that the proposal, will provide for a mixed-use development of the new street and an extension of the town centre offer and improvement to the currently disused site. I note that there is some concern in the submissions made that there be a mix of uses and would recommend that in the interests of clarity, that there be a condition that the proposed uses be agreed with the Council prior to their commencement.
- 7.4.22. Having regard to the Visual Assessment submitted, which includes photomontages, to the contiguous elevations and the low-profile nature of the buildings and the backland nature of the site, I would consider that the development of the new street as proposed would not detract from the visual amenity of the area or the ACA. Traditional materials with modern detailing have been chosen to offer definition to the scheme with the range including render, stone and brickwork. It is important that quality external finishes are used which do not detract from the Protected Structures both on and adjoining the site. If the Board decides to permit, I would recommend that a condition regarding external finishes be included.

#### Retail Anchor Store

##### *Building H – Aldi store*

- 7.4.23. As shown on the Site Layout Plan this is to be located in the eastern part of the site, which is currently greenfield. It is to be orientated with the front elevation facing west and the rear facing east i.e. the rear boundaries of properties in Chatsworth Street. The proposed 'Aldi' retail store forms the largest element and is to comprise of the main single storey anchor retail unit as shown on the plans. As noted on the Schedule of Accommodation this is proposed as a single storey building (1798sq.m) to the northeast of the proposed new street. The floor plans show a retail floor area of 1315sq.m. and to include ancillary office and storage areas.
- 7.4.24. It is to be a steel framed building, with composite concrete floors to be a mix of concrete and bespoke cladding. The design shows a flat roofed building with a variation in height from generally 5.5m to 8.2m (as shown on the elevations). In this instance due to the topography of the site, there will be an element of cut and fill and the higher level is as shown on the sections and elevations submitted. The proposed design and layout is for a standard utilitarian type building typical of the low-profile

type of design for this type of convenience retail store. As shown on the drawings the loading bay is to the north of the building and to be accessed via road no.3 to the north. It is also noted that a 'Bring Centre' for recycling is to be located to the north of the building. In view of its low profile and backland location it is not envisaged that it will be very visible from the surrounding streetscape/road network.

7.4.25. There is an extensive parking area proposed to the west of the store. As noted in the details submitted this is to provide parking for the anchor store and to act as a town centre carpark. Regard is had to the Retail Impact Assessment and Car Parking Sections below.

7.4.26. Details of the proposed standard type signage for Aldi are shown on the drawings submitted. The elevations show the signage attached to the building and the free-standing sign to be provided. The latter is shown 5.5m in height and 2.2m in width, is located adjacent to 'Building D' at the Chatsworth Road entrance and is to be non-illuminated. If the Board decides to permit, I would recommend, that it be conditioned that any additional signage require separate planning permission.

#### Comment – Aldi store

7.4.27. It is noted that the rear (eastern elevation) of the proposed Aldi building is set c.5-7m to the rear of the properties along Chatsworth Street. As seen on site there is a wall along the boundary and proximate buildings mainly comprises sheds to the rear of these properties. The drawing showing boundary treatment as submitted with the F.I shows (4) that the existing 1800mm random rubble stone wall is to be kept and made good where necessary. This also refers to Engineers details regarding a new retaining wall. In the interests of privacy and separation if the Board decides to permit, I would recommend, that this wall be retained/maintained and the new building be set a minimum of 5m from the eastern site boundary.

7.4.28. The Third Party are concerned that the proposed carpark to the front of the convenience store will be the dominant feature of the proposed new scheme when complete, dominating the central area and significantly detracting from the visual amenity of the area. They submit the retail building and the car parking should be 'flipped' in order that the building can provide active frontage to the street and serve to enclose same, in the same manner as the new street proposed to the south. That the car parking would then be hidden behind the retail building out of view.



7.4.29. I note that the location currently proposed for the Aldi, is similar to that shown on Figure 10.1 'Indicative Layout', in the Castlecomer LAP, so therefore this part of the layout would appear to correspond with that envisaged. As suggested above, I would consider that such a relocation and revision of the orientation of the unit and the car parking area would constitute a substantial change to the layout as submitted and would not correspond to the 'Indicative Layout'. The merits of this have not been ascertained and I would consider that the existing proposal is more in keeping with that envisaged in the LAP.

## 7.5. Density and Design Standards

### Apartments

7.5.1. In total 4no. apartments are proposed (2no. 2 bedroom apartments in Buildings B & E) as part of the mixed use development in the new street complex in the southern end of the scheme. The Floor Plans, provide details of floor areas for the apartment units. It is noted that the apartments in the proposed scheme exceed the minimum standards as per the Sustainable Urban Housing Guidelines. It is provided that all apartments have been designed in accordance with the Kilkenny CDP, the Castlecomer LAP and the *Sustainable Urban Housing: Design Standards for New Apartments 2020* complying with or exceeding the minimum standards.

7.5.2. In terms of quantitative standards, I consider that the proposed development relative to the apartments, as amended in the F.I submitted, generally complies with all relevant requirements for unit size, room size, storage provision, dual-aspect, private open space – balconies. Size wise as noted in the aggregate floor areas given for apartments B1, B2, E1 and E2, all 4no. apartments proposed appear to be in accordance with the standards in the Apartment Guidelines.

### Housing

7.5.3. The Site Layout Plan shows that 9no. two storey four bedroom houses are proposed in the north western part of the site. It is noted that these are designed and located to provide a low density rural urban edge in the north-western part of the site. In view of the site levels being higher in this part of the site, they will be visible from Love Lane and the existing housing outside of the site, to the north and have views over the surrounding countryside.

- 7.5.4. It is noted that the F.I submission included revisions to the proposed layout of these houses. Originally 4no. were shown with access from the main road through the site (road no.3). The revised plans show that this has been reduced to 2no. houses, with the remainder facing and with access from the cul-de-sac. The revised plans also show some variation to the design of the proposed 4 bedroom detached houses but does not include a mix of smaller 2 and 3 bed unit types. I would consider that there is a lack of variety of unit type within the mixed-use scheme and the proposed density in the north-western part of the site will be very low taking into account the mixed land use zoning and the proximity to the town centre. This would not be in accordance with planning policy and guidelines.
- 7.5.5. The Third Party note that the lands are within the CSO settlement boundary area and that therefore there should be an emphasis on higher density residential development to generate compact urban forms. They are concerned that this proposal for low density housing represents an underutilisation of these lands on a key town centre site- and is contrary to national planning policy and the proper planning and sustainable development of the area.
- 7.5.6. The 'Sustainable Residential Development in Urban Areas' 2009 Guidelines in Section 6.12 promote densities of no less than 15 – 20 dwellings per hectare along or inside the edge of small towns/villages. Section 2.4.2 of the Castlecomer LAP relates to the residential zoning and notes that a small allocation for residential development on 'mixed use' lands is also made to facilitate town centre residential units. However, these 9no. detached houses are suburban in nature and could not be envisaged as town houses or as development suited to the town centre.
- 7.5.7. I would consider that while this is a mixed-use development, the proposed residential density envisaged in the north-western part of the site is very low (c.11units per hectare) taking into account the proximity to the town centre and the land use zoning. It is noted that this area of the site was not included in Figure 10.1 – Indicative Layout in the Castlecomer LAP. These lands are not zoned for low density development, rather they are included within the mixed-use zoning. I note the undeveloped lands to the west of and outside the site (now in agricultural use) are zoned for 'New Residential'.

- 7.5.8. While I note the revisions made at F.I stage, I would have concerns about the design and layout of the detached housing element. In particular, the two no. houses now proposed to access the main link road (no. 3) and would overlook and be in proximity to the entrance to the Aldi carpark. I would consider that an alternative design and layout that would have a greater density compliance (e.g - to include terraced and semi-detached houses) should be considered in this part of the site. In addition, it could also include relative to the zoning, a mixed-use element and it would be preferable that the layout show the houses/units all accessing via the cul de sac arrangement rather than from the main access road.
- 7.5.9. I am also concerned about the lack of permeability to this part of the site and would consider that it has not been shown that it will be well integrated, with existing development in the town. Pedestrian linkage to Love Lane would be preferable in this part of the site. This issue is discussed further under the heading Permeability in this Assessment below.
- 7.5.10. In view of these issues, in particular the low density and the lack of variety in unit types and the non-compliance with planning policy and guidelines, if the Board decides to grant permission for the overall scheme, I would recommend, that the 9no. detached houses in the northern part of the scheme be refused permission. A revised layout for this part of the site, would need to be submitted by way of a new application.

#### Daylight, Sunlight and Overshadowing

- 7.5.11. A Report by Digital Dimensions entitled: 'Daylight & Sunlight Assessment of a Mixed Use Development in Castlecomer, Co. Kilkenny' has been included with the F.I submitted. This report assesses the impact of the proposed development on Daylight and Sunlight on neighbouring buildings, adjacent to the proposed Aldi store. It finds that any impact on the adjacent residential would be minimal. That the proposed development meets the recommendations of the BRE guidelines.
- 7.5.12. It refers to the use of the BS 8026-2 2008 and BRE guidance document 2011 'Site Planning for daylight and sunlight'. It notes that the recommendations of the BRE Guide are not suitable for rigid application to all developments in all contexts is of particular importance in the context of national and local policies for the consolidation and densification of urban areas. It also has regard to use of the Vertical Sky

Component relevant to loss of light in their Assessment. The proposed project is analysed in plan & section and building use. The rooms are assessed for Average Daylight Factor (ADF).

- 7.5.13. Figure 1 provides an aerial view of the greenfield part of the backland site, behind the buildings to the northwest of the crossroads in Castlecomer. The residential neighbours that would be pertinent to this report are houses at 10-16 Chatsworth Street, No.17 Chatsworth Street is a vacant site. These houses lie to the east of the site, with their rear windows and amenity spaces facing the proposed development.
- 7.5.14. The Preliminary Assessment of adjoining dwellings notes that the BRE guideline recommends that loss of light to existing windows need not be assessed if the distance of each part of the new development from the existing window is three or more times its height above the centre of the existing window. As shown on Figure 2 the zone of influence from the proposed Aldi Store does not reach the rear of dwellings along Chatsworth Street indicating there will no impact on available daylight.
- 7.5.15. Section planes perpendicular to the window wall of the properties facing the proposed development are indicated in blue. The planes at locations A&B extend and intersect the proposed development. The proposed development does not subtend the 25 degree section line at any of the locations assessed in Figure 3 indicating that no further assessment is required.
- 7.5.16. A detailed assessment is carried out at the rear of the houses from A to F (i.e as shown on Figure 2 houses to the east nos. 14 -18 Chatsworth Street). Table 1 is provided relative to Vertical Sky Component for the rear of these houses. It is concluded that all windows either retain a VSC in excess of 27% or are not reduced below 80% of their former value. That the proposed development meets the requirements of the BRE Guidelines and any impact will be negligible.
- 7.5.17. Table 2 provides details of Annual Probable Sunlight Hours to the windows to the rear of these properties. It is concluded that there will be minimal reduction in available sunlight and any reduction not perceivable. That the proposed development meets the recommendations of the BRE guidelines and any impact will be negligible. Table 3 provides a Calculation of Sun on the Ground of Adjacent Amenity Spaces (nos. 10 – 18 Chatsworth Street). Regard is also had to the

proposed radiation maps in Figures 7 & 8. It is concluded that there is a minimal reduction to some of the amenity spaces but all retain a VSC in excess of 0.8 times their former value. That the proposed development meets the recommendations of the BRE guidelines for gardens and open spaces.

- 7.5.18. Section 6 includes the Shadow Casting Diagrams and notes that the BRE guidelines recommend using the 21<sup>st</sup> of March for plotting shadow diagrams. The March and September Equinox will have the same results. They include Shadow Diagrams for Existing and Proposed Scenarios for 21<sup>st</sup> of March, 21<sup>st</sup> of June and 21<sup>st</sup> of December. These show that the proposed low profile Aldi store will not have an adverse impact on the aforementioned properties.
- 7.5.19. Therefore, having regard to this Assessment, the results show that the proposed Aldi/Building will not impact adversely on daylight or sunlight on the rear windows or amenity spaces of houses to the east in Chatsworth Road. It is noted that other aspects of the development have not been assessed, but this is a low-rise development of 2/3 stories and is generally sited some distance away from existing low profile residential properties. It is not considered that impact on daylight/sunlight or overshadowing is a significant issue in this application.

## 7.6. **Archaeology**

- 7.6.1. The Castlecomer LAP (Section 6.1.3) notes that the National Monuments Service has designated a large portion of the town as a zoned of archaeological potential. It is noted that the south-eastern part of the site is adjacent to the Zone of Archaeological Potential. The extent of the zone of potential in addition to the register of historic monument is illustrated in Figure 6.6.
- 7.6.2. An Archaeological Impact Assessment has been submitted with the application and updated as part of the F.I response. This has regard to the known archaeological features on the site, noting that it is not possible to undertake test excavations in the south-east of the development area as this part of the site is currently covered by a working concrete surfaced car park and standing buildings (many of which are currently proposed for demolition). Figures showing trench investigations in the greenfield part of the site have been submitted and trench test results given.

- 7.6.3. They note that the first edition OS map shows a lime-kiln in the south-west of the development area and a now infilled millstream is also shown traversing the site on this map and the subsequent 25 inch map (1899). This mill stream serviced a series of former mill buildings in the south-east of the development area, the most recent of which is a c. 1920 corn/animal feed mill (RPS ref. C.696 NIAH 12301022) and operated as part of the Castelcomer Co-operative Creamery Society, which operated until c.1970. It was then acquired by Avonmore, now Glanbia. In 2009 Glanbia moved to a new premises.
- 7.6.4. Details given include reference to a mid-eighteenth century townhouse, known as Creamery House to the south of the proposed development area which was rebuilt following the 1798 rebellion. They have regard to the mill race and mill buildings. It also notes that the site contains a partially a railway embankment which was built c. 1930 for a railway that served the Castelcomer collieries.
- 7.6.5. Section 7 provides Archaeological Impact Statement and Recommendations. This notes that given the location of the development in proximity to RMP KK05-082 --- historic town, it is recommended that a condition be placed on planning permission for the development to the effect that all groundworks associated with the proposed development be architecturally monitored to mitigate against any potential architectural impact. That, an archaeological monitoring methodology be agreed prior to commencement with the architectural licensing section of the National Monuments Service of the Dept. of Culture, Heritage and the Gaeltacht.
- 7.6.6. It is also of note that the F.I response includes a letter that Kilkenny Archaeology are to be retained to record the social history of the Creamery complex and the role played by the rail line in the history of Castlecomer and nearby coalmines. That the Mill Building (P.S) is to be retained as café/community spaces along with elements of original machinery or public display purposes. They contend that this is a suitable location for any further industrial archaeological/historical display pieces be that photographic or written. They also note the external public seating adjacent to the Creamery house site and that this could be a location for some written/photographic public display. I would concur with this and would recommend that if the Board decides to permit that it be conditioned that a public artwork to reflect the historical nature of the site, be commissioned and included on site as part of the scheme.

7.6.7. It is noted that the submission from the Development Applications Unit, of the Department of Culture, Heritage and the Gaeltacht recommends conditions regarding archaeological monitoring. If the Board decides to permit, I would recommend that archaeological monitoring conditions be included.

## 7.7. Conservation issues

### Architectural Conservation Area

- 7.7.1. Reference is had to the 'Architectural Heritage Protection Guidelines for Planning Authorities' 2011. These include guidelines under S.52(1) for the protection of structures, or parts of structures, and the preservation of the character of architectural conservation areas. Section 3.4.1 notes the influence of the setting of groups of structures on the character of the group on the wider area should be considered when identifying character. That the contribution of setting to the character of the architectural heritage should not be underestimated. As has been noted the southern part of the site is within Castlecomer ACA.
- 7.7.2. Section 3.10.2 of these Guidelines, provides that when it is proposed to demolish an undistinguished building in an ACA, the proposed replacement should not be of a lesser quality or interest than the existing one and should not adversely affect the character of the area. Also, that such demolition works should not have a negative impact on the ACA or on the curtilage of a P.S. It is also of note that Section 6.1.2 of the Guidelines encourages the promotion of the reuse of redundant P.S for their own economic benefit as well as that of the area in which they are located.
- 7.7.3. Section 9.3.3 of the Kilkenny City and County Development Plan has regard to the special character of Architectural Conservation Areas (ACA's) and the need for new development to be appropriate in form and use. Table 9.2 notes that Castlecomer is within an ACA. Section 6.1.2 of the Castlecomer LAP 2018-2024 provides a description of this ACA which includes part of High Street and Market Square. The town centre and urban pattern principally comprises two and three storey street front terrace buildings of vernacular character and scale. The retention and restoration of existing buildings and streetscape within the ACA is encouraged in a manner which respects its special character and consolidates that character with appropriate new developments, when opportunities arise.

- 7.7.4. Reference is had to Built Heritage and to the Record of Protected Structures and Castlecomer ACA. Figure 6.1 shows a map of the area, which it is noted encompasses the southern part of the site i.e the area that contains the former Glanbia site. This notes the visual prominence of Creamery House P.S providing historical and architectural merit in the ACA and at the end of High Street.
- 7.7.5. Regard is had to the Visual Assessment submitted and it is considered that the visualisation document highlights the architects desire to create the new street leading from the ACA and gives an integrated impression of how the development would look, notably the impact on the P.S in View 2 – View 6 inclusive. Support is had to the retention and restoration of the existing buildings and streetscape within the ACA being encouraged in a manner which respects its special character and consolidates the character with appropriate new developments.

#### Demolition works

- 7.7.6. It is proposed to demolish the other buildings within the former Glanbia site, which are within the ACA in the southern part of the site. Regard is had to Appendix 1 of the Architectural Heritage Impact Assessment (AHIA) submitted. This includes a Site Location Plan showing the existing buildings on the site. Details submitted provide a description of the buildings on site and note that the only other building of significance (apart from the Mill building P.S) is the double pile, gable fronted former Glanbia store visible on entry to the site from High Street/Chatsworth Street. This adjoins the former post office and is not proposed for demolition.
- 7.7.7. The Council's Conservation Officer does not object to the demolition provided it is undertaken in a controlled manner in accordance with Demolition Methodology. This methodology to detail demolition methods and the necessary protection and stabilisation of the P.S before and during all site works. Regard is had to the demolition of Building no. 7 (former Glanbia store) at the entrance to the site, noting the need to ensure that it would not impact on the cellars of Creamery House.
- 7.7.8. A random rubble stone wall is present on the northern side of Creamery yard, this wall is currently breached around the mid-section, which allows access to the greenfield part of the site to the north. Originally it separated the creamery yard from the green field site to the north, which contains a railway embankment connected to



the Deerpark Mine. This is not protected and will also have to be demolished to facilitate the proposed development.

#### Impact of Proposed Works

- 7.7.9. It is of note that the Council's Conservation Officer while they had no objections to the principle of the proposal made a number of recommendations and that these were included in the Council's F.I request. In their detailed response to the F.I on Conservation submitted they recommended a number of conditions.
- 7.7.10. The Third Party Appeal considers that the development as proposed falls short in terms of Architectural Heritage impact of the development on the Historic buildings both on and adjoining the site. This includes reference to conditions nos. 14, 15, 16, 17 and 18 (Conservation Section) of the Council's permission, which they consider are inappropriate and lacking in clarity. They conclude that from their review relative to conservation issues, that the decision to grant and the conservation conditions imposed by the Council fall short of the Architectural Heritage Impact of the development of the Historic buildings onsite and adjoining the site.
- 7.7.11. Regard is had to the impact on Protected Structures and to the need to ensure that the proposal enhances rather than detracts from the ACA in this Assessment below,

#### Protected Structures

- 7.7.12. The site contains a significant historic structure, namely the former Mill Building.
- 7.7.13. This is a P.S ref/ C696 (NIAH ref.12301022) and is adjacent to another P.S, the Post Office ref C496 (NIAH ref. 12301014) and associated annex (building J). In addition, immediately adjacent to the south of the site at the main entrance is Creamery House, P.S ref.C500(NIAH ref: 12301031).

#### *Mill Building*

- 7.7.14. This P.S is within the subject site, and it formed part of the former Glanbia site. It is described in the NIAH in summary as a detached three-bay three storey creamery c.1925, possibly incorporating fabric of an earlier corn mill c.1875, on site with single-bay two stage 'kiln tower' (north-east) on a square plan. The Appraisal provides that it is a mill representing an integral component of the early 20<sup>th</sup> century industrial heritage of Castlecomer. The Architectural Heritage Impact Assessment submitted

provides details of the history and current state of the building. While externally it is of some note, internally it is generally in poor repair.

7.7.15. The proposals include for the retention/restoration and reuse of the existing mill building which is a protected structure (P.S), located within the application site. The principle of this is to be encouraged. The Council's Conservation Officer while positive about the restoration and reuse of the building, had concerns relative to the proposals originally submitted. In response revised drawings have been submitted showing revisions to the floor plans. These include that it is now proposed to fully remove the existing second floor and open up a double height open-plan community space at first floor level, which will expose the roof trusses to view and provide for a significantly enhanced space for use. The applicants consider that this approach will add to visitor appreciation of the existing building and its former function. It noted that the proposed lift is not to be housed within the P.S itself but located in the proposed adjoining Building G which in turn provides access to the P.S through proposed openings within the existing gable walls.

7.7.16. The Conservation Officer's detailed response to the F.I generally accepts the rationale as to the usage of the building as part of the new scheme and new street. They consider the revised proposal to show the removal of the first floor from Building G opens up a vista of the Tower when viewed from the north. They have however, some concerns about the proposed removal of the second floor of the Mill building. It is noted that condition no. 15 of the Council's permission includes: *The second floor shall not be removed, either in full or in part without assessment under a separate grant of planning permission.* If the Board decides to permit, in the interests of the preservation of the internal layout and features of the P.S. I would recommend that such a condition be included.

#### *Creamery Building*

7.7.17. Creamery House is a landmark Georgian building positioned for maximum visual impact at the end of High Street. In summary the NIAH describes this as a detached five bay three-storey over basement house, built 1750, on a T-shaped plan. It is visually prominent in the streetscape and includes an important civic space located in front of Creamery House, including space both inside and outside the railings, which define the eastern curtilage boundary. This building adjoins but it not within the

subject site. There is a wine cellar that runs beneath the yard alongside that forms part of the subject site. The F.I response notes that no building work shall occur above or within a reasonable distance of the basement and full details will be included in Contractor Method Statement prior to any works on site. Appropriate structural monitoring and supervision during demolition and construction works is also to take place on site.

7.7.18. Section 10.3.1 of the Castlecomer LAP refers to Key Development Area 1 – Old Creamery House (Town Centre). Urban Design Principles includes of note: *To minimise visual impact on the existing townscape through the use of visual impact assessment. New buildings visible from the square should respect the character of Creamery House.*

7.7.19. The re-development of Creamery House P.S, as permitted under Reg.Ref. 06/178, has significantly improved the quality of this space adding to the overall quality of the public realm as seen from the streetscape. This landmark building is in use as restaurant and office/meeting rooms. It is outside of the subject site and, in view of its proximity it is important to ensure that the proposed development including the works to the access from Chatsworth Street, do not impact on its curtilage. It is also noted that the gate piers associated with Creamery House are of significant artistic and technical merit and are listed in Kilkenny CCDP Protected Structures.

#### *Post Office*

7.7.20. The former Post Office is a 19<sup>th</sup> century building located to the south-eastern corner of the site adjacent to the former Glanbia entrance to the site (opposite side of the entrance to Creamery House, also adjoining the site). It is described in the NIAH as a detached five bay two-storey post office, c.1825, possibly originally RIC Barracks on a corner site. It has a hipped roof. The adjoining annex is within the site and is to be retained. These buildings add to the overall setting of the ACA. In view of its proximity, it is important to ensure that the proposed development including the access works do not impact on either of these protected structures.

#### *No.15 Chatsworth Street*

7.7.21. This is a four-bay two-storey house, c.1825, with square-headed carriageway to right ground floor. It is of note that while the curtilage of this site adjoins the subject

site to the north-east, the house is located to the east of and outside of the site with frontage to Chatsworth Street.

#### *The Chatsworth Street Bridge*

- 7.7.22. In summary the NIAH describes this as a single arch rubble stone road bridge over river, c1800, with random rubble stone walls with cut limestone stringcourse supporting parapet having inscribed cut-limestone plaque and cut limestone coping. As noted in the Castlecomer LAP- 'Record of Protected Structures' it incorporates a single segmental arch with decorative string course and decorative voussoirs carries Castelcomer- Clogh road over tributary of Dinin River with grass banks to the river.
- 7.7.23. The parapet along the existing bridge on Chatsworth Street is to be raised to increase the height for public safety considerations (a parapet height of 1.25m is required). This is to be achieved through the removal of the existing cut limestone coping and raising the stone parapet approx. 370mm with the use of sourced matching stone of equal and consistent grade to match that of the original parapet wall and resetting the copping stone on completion where statutory consents are obtained. It is noted that this bridge is located to the northeast of the site at the junction of Chatsworth Street and the Ballinakill Road and is outside of the site boundaries. It is provided that all works are to be undertaken from the bridge.
- 7.7.24. These works are necessary, and it is noted that the Council's Road Design Section recommend that the applicant be conditioned to carry out parapet height improvement works on the existing Cloghogue bridge in consultation with the Council's Conservation Officer to provide a 1.25m parapet over the finished footway level. Condition no.35 of the Council's permission refers.

#### Comment on impact on Protected Structures

- 7.7.25. It is of note that the Council's Conservation Officer is supportive of the Mill building being reused as part of the initial development (Phase 1) and considers that the P.S should be valued and be at the core of the development. They have regard to the need to ensure that demolition works do not impact adversely on the existing P.S. They recommend that the applicant ensure provision of vibration monitoring of the protected Mill building and tower pre, during and post demolition. They also note that a commitment has been given to survey Building 7(as shown on Appendix 1 of the AHIA submitted) pre-works by A Grade 1 Conservation architect.

- 7.7.26. The applicant was requested to revise the partial removal of the second floor of the Mill building, and the F.I submission now proposes the removal of an entire second floor. The Conservation Officer is concerned that this will lead to large scale loss of original fabric in order to provide for double height space. They consider that the second floor could feasibly be utilised as an area for show casing the industrial machinery as included by the archaeological consultant's submission. That the fabric, form and character of Kilkenny's industrial and architectural heritage warranted protection in this development and the wholesale removal of the second floor in the building is contrary to that. They request that the applicant revise this element to ensure retention of as much historic fabric as possible.
- 7.7.27. The Third Party concerns relative to Conservation issues are noted. They have included a Conservation Assessment prepared by a Grade III Conservation Architect. This notes that the elements of the development (in as far as it impacts on the historic fabric) relate to the Mill building. This is proposed to be repurposed and materially altered. That the works will also have a potential impact on the neighbouring P.S, most notably the Post Office and Creamery House. They are concerned that there is no independent Conservation Expert engaged for the application. That the applicant has not procured a new and independent Architectural Heritage Assessment in respect of the development now in hand. That they are relying on an older AHIA prepared for a previous application (Ref.10/209). They contend that this is a deficiency in this application, and which has resulted in significant and material short comings in the design and subsequent assessment and resultant decision to grant permission.

### Conclusion

- 7.7.28. Having regard to these issues, I would have no objection to the demolition of the former industrial buildings associated with the former use on the site (as shown on Appendix 1 of the AHIA) that are not protected and are in poor repair and are not buildings of note which add to the ACA. This is provided the works can be carried out so that they would not adversely impact on the P.S both within and adjacent to the site. In this respect regard is had to Demolition Methodology and History recording.
- 7.7.29. In view of the backland nature of this site, the proposed anchor store and future buildings will not be very visible from the existing streetscape in the context of the

ACA and Castlecomer town centre. The access to the southern end of the site, is adjacent to Creamery House and the former Post Office and it is important to ensure that any changes proposed (including to the road design and width) to this former Glanbia access will not impact on the curtilage of these adjoining protected structures. Having regard to the revised plans submitted at F.I stage, while there will be additional traffic into the site, it is provided that when taking into account the proposed one-way system and the narrow width of the access road that there will not be a negative impact on conservation.

7.7.30. As noted, regard is had to the Architectural Visualisations submitted. The proposal has the potential to create a new street and lead to the rejuvenation of the area, which currently contains derelict disused buildings and is not visually attractive or accessible to the public. I would consider that provided safeguards in accordance with current standards for demolition and conservation works are complied with that the proposed development will improve rather than detract from the ACA and will not impact adversely on the Protected Structures. Rather their reuse and incorporation into the scheme provided it is done in accordance with current standards for such works is seen as a positive. If the Board decides to permit it is recommended that such conservation issues be conditioned.

## **7.8. Public Open Space and Landscaping**

7.8.1. As shown on the Site Layout Plan/Masterplan the proposed development includes the provision of open space. A larger area of open space is shown located in the north-eastern more elevated area of the site, which includes the former railway embankment. This is to include a playground area, an area of open space and a moulded embankment. It is noted that the river runs in an embankment along the northern site boundary.

7.8.2. Castlecomer LAP includes objectives to allow for amenity/open space/green links/biodiversity. Section 7.1.2 refers to public parks and playgrounds. This includes facilities associated with active recreation uses. Such open spaces are permissible in the mixed-use zoning. It is considered that the increased amenity and public open space to include playground will be a beneficial addition to the town.

- 7.8.3. The Council's Parks Department, note that the railway embankment is to be graded down to ground level, retaining some of the summit and this area is to be proposed as a biodiversity area managed as a meadow. They advise that it maintain more of the natural habitat towards the river. More detailed proposals including landscaping drawings were submitted in response to the Council's F.I request. This included the response from Digby Brady Landscape Design. Reference is had to the undulating nature of the site, to topography and to the embankment adjacent to the river at the north-east corner of the site.
- 7.8.4. It is proposed that in the interests of safety the portion of the embankment to be retained near the north-eastern corner of the site, will be fenced off and is to be no longer accessible to the public. Due to the reduction of the existing railway embankment to be retained on site, it is proposed to increase the provision of public open space at the base of the retained embankment and to contour the sloped areas to provide passive supervision. This is in response to concerns about potential for anti-social behaviour between the Aldi building and the embankment due to the levels of the embankment to the north of the proposed store. As shown on the landscape drawings the modified embankment is to be retained as a bio-diversity meadow.
- 7.8.5. The playground is an addition to the scheme to be constructed in accordance with current standards. This is shown adjacent to the main road and if the Board decides to permit in the interest of safety and amenity, I would recommend, that it be conditioned the western boundary of the playground with the road be fenced off and that the southern boundary of the open space i.e with the Aldi carpark be fenced off, with gated pedestrian access.
- 7.8.6. A pathway including seating is proposed in an area close to the 9no. detached houses, benefitting from being near the river and good passive supervision. This area is to be agreed with the Council and the intention is for a light intervention in the biodiversity area. While it would be desirable to develop a walkway within the site along the southern side of the river, it is understood that this may only be partial as there is a safety issue due to the embankment, topography and lack of access at the north-eastern corner of the site.

7.8.7. I note that the proposed public open space is to be located in the north-eastern part of the scheme and other areas of open space or landscaping within the scheme appear incidental. This is particularly so at the southern end of the site, where a very small space is shown to the rear of proposed Building C. It would be beneficial in the interests of amenity to increase the size of this area, relative to the removal of some of the car parking spaces. Regard is had further to this issue in the Parking Section below.

#### Landscaping – Tree Survey

7.8.8. Mature agricultural hedgerows and treelines occur along the western and northern boundaries of the site. Note of existing landscaping includes that there are three notable specimen trees close to the river along the northern boundary of the site, these include two beech and an oak. The remains of a former railway embankment occur on the site, running from the south of the site to the northeast corner most of this feature is to be retained and incorporated within the open space and into the projects landscaping plan. The Cloghogue River provides a riparian zone in the northern part of the site.

7.8.9. Independent Tree Surveys have submitted a Tree Survey Report and Arboricultural Impact Assessment, Method Statement and Tree Protection Plan, which they provide are in compliance with current standards and guidelines. These reports have been prepared to provide an arboricultural assessment of significant trees and hedgerows on site and to input into the design and layout of the project.

7.8.10. The Findings note that the bulk of the survey area has been in use as pastureland between the old creamery yard to the south and Castlecomer Stream running along the northern boundary. The field is bisected by the old railway embankment, which increases in height as the land drops away to the northeast. The elevation of the site ranges from 124m AOD in the south, sloping to 115m AOD in the northeast corner. They note that there is little woody vegetation across much of the site, with patches of naturally regenerated scrub (Hawthorn, Sycamore Ash and Willow) having developed along the sides of the railway embankment, around the old yard and to the south of the stream. The dominant arboricultural features on the site are concentrated along the stream bank and the area between the old embankment and stream. These include (as shown on the Tree Survey drawing) three large old



mature specimen trees (two Beech and one Oak) and the linear group of younger trees (mostly Sycamore, Beech and Ash) forming a riparian strip along the southern bank of the stream.

- 7.8.11. They note the condition of these trees and provide recommendations relative to their retention and tree works needed. They have regard to the mature Oak and Beech (T189 and T190) shown within the proposed area of public open space, which they categorise as a B2 on the basis that they could be retained on site for another 20 years if managed appropriately. They provide that remedial works will be needed if the trees were to be incorporated into the new layout and there would need to be a substantial buffer zone exempt from ground disturbance if they are to be successfully retained. It is noted that the Landscape Masterplan shows 'Existing soil levels unmodified in the vicinity of existing mature trees'. It also shows existing trees to be selectively retained along the north-western riparian boundary of the site.
- 7.8.12. The Arboricultural Assessment considers that the proposed development will have very little impact on the existing arboricultural value of the site, and with the associated landscape planting and improved management of the trees and hedges should bring about an overall improvement in value in the coming years. They provide that the trees and vegetation requiring clearance to facilitate the development are of comparatively low value, mostly premature small sized young plants. It is noted that the proposed new link road into the site from the north will run within the RPA of tree 191 (Beech) and they provide that it is in poor condition and it would be prudent to fell or reduce substantially this tree for safety reasons. They note that there is potential for the works to impact on trees intended for retention unless the project is carefully managed, that particular care will be needed to prevent root damage to the mature Oak and Beech trees (189 and 190) and riparian tree groups G1 and G2 and trees tagged 192-200.
- 7.8.13. Preliminary management recommendations for the trees assessed are listed in the tree survey schedule in the appendices; they pertain to current site conditions unless otherwise stated. Section 9.0 of their Report includes an Arboricultural Method Statement. This includes regard to Tree Work Operations and Tree Protection Measures. It is recommended that all tree work be carried out by qualified and experienced tree surgeons and be in accordance with *BS3998 (2010) Tree Work –*

*Recommendations.* The retained trees are to be assessed by a qualified arborist following completion of the works.

### Conclusion

- 7.8.14. Site Photographs are included showing the trees and hedgerows on site. It is noted as seen on my site visit that the trees and vegetation are contained primarily in the northern portion of the site, proximate to the stream and within the area now proposed as public open space. The majority of the hedgerows are to be removed to facilitate the development, although it is noted that the hedgerow along part of the western boundary is to be retained. It is shown that groups of trees and hedgerows are to be removed to facilitate the contouring of the embankment area. As noted in the F.I submitted in the interests of safety this area is to be fenced off and an embankment area formed.
- 7.8.15. If the Board decides to permit, I would recommend, that a landscaping condition be included and that the trees of note as mentioned in the Tree Survey and Arboricultural Assessment be retained as they add to the visual amenity and biodiversity within the scheme. Where possible trees and hedgerows along the site boundaries should be retained. Also, that landscaping and tree planting as shown on the Landscape drawings submitted including at F.I stage be incorporated within the scheme.

### Boundary Treatment

- 7.8.16. It is of note that in response to the Council's F.I request, a drawing showing 'Existing and Proposed Site Boundary Survey and Treatment' has been submitted. This drawing provides details of boundary treatment (boundary wall legend 1 -19) and includes photographs showing the areas relative to the boundaries of the site as a whole. Where privacy of adjoining properties is an issue, it is provided that these proposals will allow for the provision of appropriate boundary treatment.
- 7.8.17. This drawing notes that (1) the: 'Existing stream boundary is maintained as is with any proposed ground works adjacent suitably graded and to landscape architect's specifications'. I would recommend that any works be restricted along the riparian northern boundary in view of the hydrological connection to the River Barrow and River Nore SAC.

- 7.8.18. The eastern site boundary with the Aldi Store (no.4) and the rear gardens of the adjoining properties in Chatsworth Road is described as: 'Existing 1800mm random rubble stone- wall to be kept and made good where necessary' – reference is also had to a new retaining wall to Engineer's details. Appropriate boundary treatment is considered important relative to the privacy of these properties.
- 7.8.19. Also note is had of the southwestern boundary (14) with the elevated detached house seen from the Glanbia end of the site is to have 'new painted render masonry walls to agreed height with neighbours'.
- 7.8.20. I would be concerned relative to the boundary treatment proposed at the current agricultural gated entrance to Love Lane (18) i.e: 'Existing informal hedging removed and replaced with new painted render retaining masonry walls ensuring no connection from Love Lane into proposed development'. As has been noted in my Assessment, I would consider that if the Board decides to permit the housing in this part of the site, that in the interests of connectivity and permeability there should be pedestrian access from the site to Love Lane.
- 7.8.21. As noted on the 'Boundary Survey' drawing submitted the site is enclosed by a mix of boundary treatments, including stone and blockwork walls of varying heights to the south and east, hedgerow to the west and northwest and a riparian stretch along the Cloghogue River to the north. I note the issues raised in the Landscaping Section above, and if the Board decides to permit, I would recommend, in the interests of retention of the character of the site, that it be conditioned that as far as possible existing old stone walls and boundary hedgerows be retained.

## 7.9. Retail Impact Assessment

- 7.9.1. Regard is had to the Retail Planning Guidelines 2012. The aim of the guidelines is to ensure the planning system continues to play its role in supporting competitiveness and choice in the retail sector commensurate with promoting the vitality and viability of city and town centres. Note is had, among other issues of compliance with the sequential approach, the requirement for both a retail impact assessment and a town centre health check and the impact on the existing convenience retail in the town.
- 7.9.2. Section 2.2.5 of these Guidelines refers to Small Towns (pop 1,500 – 5,000) in rural areas being in the fourth tier of the hierarchy. These provide basic convenience

shopping either in small supermarkets or convenience shops in some cases, also provide comparison shopping e.g small-scale hardware, retail pharmacies and clothes shops. Annex 1 provides a Glossary of Terms and this includes Supermarket i.e. *Single level, self service store selling mainly food, with a net retail floorspace of less than 2,500sq.m.*

- 7.9.3. Chapter 5, Table 5.3 in the Kilkenny CDP 2021-2027 sets out the Retail Hierarchy. Castlecomer is included as Level 3 – District/sub county town. This notes that for the District Towns, in general the retail offer does not warrant a Core Retail Area in the same way that is appropriate for Kilkenny City. That there is some value in some form of designation for a retail area within the District Towns. Figures 5.2 to 5.5 show the Core Retail Area in the four District Towns. Figure 5.3 relates to Castlecomer, and this includes the southern (former Glanbia) part of the subject site. Table 5.4 – Summary of Appropriate Level of Retail Development includes Castlecomer in Tier 3 i.e. Small towns and villages. This is described as: *A local shopping destination serving the surrounding hinterland with a limited offer of convenience and comparison goods and retail and leisure services.*
- 7.9.4. The Castlecomer LAP (2018) recognises Castlecomer’s classification as a small town in the retail hierarchy (fourth tier) as described in the former Kilkenny CDP. It does not define the town centre or the extent of the prime shopping area. Currently the town’s retail activity is generally centred on the Square and comprises predominantly of basic convenience shopping and lower order comparison shopping. Regard is had to the past use of the Glanbia site and the mixed-use zoning - which seeks to improve the vitality and viability of the town centre. It is noted that the application site, is considered a town centre location for the purposes of the retail study and the sequential approach to site selection.
- 7.9.5. Section 4.2 of the LAP notes that in accordance with the sequential approach in the Guidelines, the focus of the retail strategy will remain the town centre and associated opportunity site, such as the Co-op site which has the potential to act as a town centre extension. This would accord with the appropriateness of the proposal to include retail development in mixed use zoning for the subject site. This is supported by the LAP’s acknowledgement of the site as part of the town centre – section 10.3.1 – Key Development Area 1 – Old Creamery site.

- 7.9.6. A Retail Impact Statement has been submitted with the application. This provides a schedule for the 9no. retail units to be provided in the new street area and the Aldi Store. A total retail floor area of 2694sq.m (1774sq.m convenience floor space -Aldi). These retail units are to contain a mix of convenience and comparison outlets as well as retail service outlets (i.e beautician, chemist, florist, newsagent, banks etc). Tenants/end users for the retail units have not been confirmed to date. It is provided that the following mix is expected, excluding the anchor unit and café/community units – 33% each (approx. 307sq.m) for convenience, comparison and retail services. Table 2 provides Gross and Net Retail Floor Areas for Buildings B – H.
- 7.9.7. The Retail Impact Assessment has regard to National, Regional and Local Policy supporting retail development in appropriate locations. This includes that the Retail Planning Guidelines are clear that the key planning consideration is the impact of a proposed development on retail centres as a whole and not on individual retailers within the centre. That it is not a valid consideration to consider the impact of the proposed development, including the anchor convenience store, on particular individual retailers.
- 7.9.8. Section 4.4 of the RPG 2012 notes that where the location of the proposed retail development submitted in a planning application has demonstrated to the satisfaction of the planning authority that it complies with the policies and objectives of a development plan and/or relevant retail strategy to support the town centre, additional supporting background studies such as to demonstrate compliance with the sequential approach are not required. In this case, therefore, I would consider that the site location complies with the sequential test.

#### Health Check

- 7.9.9. The RIA provides a Qualitative Assessment of Castlecomer to include a Health Check. This includes regard to the City and County Retail Strategy Review adopted in 2008 (Table 3 refers). Noting, this was updated relative to Castlecomer in 2010 to reflect the situation noted in planning application Reg.Ref. 10/209 (since expired). The RIA provide details of this, noting the vacancy rates. The County Retail Strategy (2008) identifies the capacity of Castlecomer to expand its retail offer. It highlights the need for Castlecomer to redress its lack of new retail investment and the current application site is noted as the preferred and strategic priority site for the town.

7.9.10. It is noted that an updated town centre health check was undertaken in July 2019, involving an update of the retail vacancy rate. This noted more recent vacancy rates in the town. Also, that both the existing convenience stores on The Square continued to operate and had regard to new developments within and proximate to the town. Since then, there does not appear to be any notable new retail development in the town.

#### Quantitative Assessment

7.9.11. The purpose of a quantitative assessment is to assess the capacity for additional convenience and comparison retailing provision with regard to the population of the catchment area and the percentage of expenditure diverted to the proposed development. The RIA notes that the quantitative assessment of convenience retailing within the catchment area of the proposed development, includes regard to Eurospar, located on The Square, which is described as a local supermarket (estimated to be 150sq.m) and the principal convenience shop in Castlecomer. Londis is located on High Street and is also described as a relatively small supermarket (estimated to be 50sq.m), including off-licence. Castlecomer has a number of other small convenience stores trading in the town including local grocers and a fruit and vegetable shop. The RIA provides that within Castlecomer there is currently 1,381sq.m of convenience floor space provided in small more traditional retail units located in the town centre area. It provides that there is c. 1,383sq.m of comparison floor space provided in the town. Limited off-street parking is available and this is relevant to both comparison and to convenience retailing.

7.9.12. The RIA provides that Application Reg.Ref. 10/209 demonstrated to the satisfaction of the planning authority that the then retail development involving a supermarket/anchor convenience store and a range of retail units, that 39% of convenience shopping expenditure was being spent in Kilkenny City and Carlow town. Then Eurospar accounted for only 29% of convenience spending. Since that time there have been no new retail developments in the town and retail vacancy rates in the town have increased: indicative of further retail leakage. In terms of trade diversion, this will be from existing centres, in particular Kilkenny City and Carlow Town which are currently absorbing leakage from Castlecomer.

- 7.9.13. Since granting this permission Reg.Ref. 10/209 there have been significant changes in planning policy towards retailing in general, including regard to the Retail Planning Guidelines, 2012 and in local retail planning policy including the Kilkenny CCDP 2021-2027 and the Castlecomer LAP 2018-2024. The RIA submits that the proposal to provide retail is compatible with this mixed-use development in this town centre site is fully consistent with retail policies and guidelines.
- 7.9.14. The RIA notes a lack of choice in the range of retail and that an absence of the multiples reflects on the vitality and viability of the town centre and in turn the appeal of the town as a shopping destination for residents in the catchment. That lack of convenient parking, particularly serving the convenience shops, does not assist the appeal of the centre. They submit that the town has much potential and with the appropriate mix and quantum of retailing will complement the existing retailers while providing modern format retailing and multiples and will not undermine existing retail provision. Other local stores in the catchment provide a top up shopping offer. The RIA submits that the proposals will have no adverse impact on these local stores which will continue to provide the top up shopping facility to the local community, with or without the proposed development. That competition also promotes innovation and productivity.

#### Conclusion

- 7.9.15. It is concluded that the potential is evident in Castlecomer for the town to expand its retail offer and with the appropriate mix and quantum of retailing, the proposed new development will support existing and traditional retailers in the town while accommodating modern format retailing for multiples. Currently there is a lack of quality convenience floor space in the town and a lack of choice.
- 7.9.16. On my site visit I noted that there is no similar scale supermarket/anchor convenience store to that proposed in Castlecomer. It along with the other smaller retail units proposed, will therefore offer a complementary retail provision and improve choice for customers. As submitted in the RIA and having regard to the RPG 2012 guidelines and local policy and land use zoning, I would consider that the proposal complies with policy and guidelines and the sequential approach.
- 7.9.17. It is submitted that the key to success of new development will be access, linkages and parking and I note this is to be provided. The town centre location and the

provision of pedestrian and cycle links will ensure that linked trips are made by customers between existing retailing and the proposed development. This will ensure a more integrated development.

7.9.18. As provided in the RIA, which I would consider to be robust, this proposal by increasing the range and diversity of the retail offer will benefit the vitality and viability of Castlecomer by attracting consumers from within the catchment back into the town to shop and assist in town centre renewal and improvement. Therefore, this proposal will offer a wider choice and a town centre rejuvenation and has the potential to have positive beneficial impacts in making Castlecomer more of a local shopping destination.

## 7.10. Access and Roads

### Traffic Impact Assessment

7.10.1. A Traffic Impact Assessment (TIA) by Kilgallen & Partners Consulting Engineers, has been submitted with the application. This notes that the site is surrounded by three roads. The first and most highly trafficked is the N78 National Secondary Road, which can be regarded as the Main Street through Castlecomer. The second road is Chatsworth Street which starts at a priority junction with the N78 and runs in a northward direction to the east of the Site. Approximately 200m north of the N78, Chatsworth Street forms the southern arm of a crossroads junction. Thirdly the Local Road L1829 (Ballinakill Road) lies to the north of the site. The R426 Regional Road (Clogh Road) forms an extension to Chatsworth Street to the east of the site. A cul-de-sac (Love Lane) adjoins the lands to the north-west of the site. This has access from the R694 (Barrack Street) which is further south and not adjoining the site.

7.10.2. The TIA provides details of Data Sources, Traffic Surveys, Trip Generation and Assignment. Tables are including showing the results of the traffic modelling. Detailed calculation of the TRICS database, traffic modelling etc are provided in these Appendices. Reference is had to Assessment Year and Growth Rates to be in line with the relevant TII guidance. An Assessment is made of Junction Capacity at AM and PM peaks. Junctions include the following:

- Existing Junction of the N78 and Chatsworth Street



- Existing Junction of the N78 and the R694/Barrack Street
- Assessment of Proposed Junction on Chatsworth Street
- Assessment of Existing Crossroads Junction of R426 and L1829/Ballinakill Road
- Assessment of the Proposed Junction on the L1829 Ballinakill Road.

7.10.3. The PICADY analysis for with and without development scenarios is included in the Tables and the results are presented in the Appendices of the TIA. A conclusion relative to the capacity of each junction is provided. These results show that while in general the existing junctions operate within capacity, there will be some slight increases including at the proposed junctions. They provide that mitigation measures are not considered necessary.

7.10.4. The proposed development includes two junctions onto the public road network. The first is in the vicinity of the existing entrance to the site from Chatsworth Street, immediately north of its junction with the N78. This is to be entry only, there will be no departures from this junction. It is provided that the proposed junction will only have a slight impact on Chatsworth Street and mitigation measures are not considered necessary. It is proposed that this be a priority-controlled junction and that it be one-way solely to serve as an entrance to the site and the proposed development.

7.10.5. It is noted that this has been used as the entrance to the former Glanbia site and is currently the entrance to the site. As shown on the drawings this entrance is narrow. This is to allow for the paving on either side of the adjoining Protected Structures, Creamery House and the former Post Office. While it might be preferable to widen this access road so as to avoid creating a pinch point at this entrance, it is restrained by the pedestrian access to the side of the Post Office and the pillar and grass verge to the north of Creamery House, both P.S. I note the Stage 1/2 RSA has regard to problems and provides recommendations including relative to paving at this entrance. They recommend that a two-way cycle facility be provided with clear delineation and that the contra flow cycle lane be on the building side and not on the carriageway side.

7.10.6. The second junction is to be located on the L1829/Ballinakill Road. There is currently an agricultural shed type building in this area that is to be removed to facilitate this entrance. This is to form a new two-way access and all departures from the proposed development are to use this junction. The TIA advises that the junction type proposed is to form a simple priority junction. The results show that the proposed junction on the L1829/Ballinakill Road will operate within capacity during the AM and PM peaks and will only have a slight impact on delays experienced by traffic on this road.

7.10.7. It is proposed to construct a new vehicular road through the site from its entrance at the southern end of Chatsworth Street which is to extend to the Ballinakill road to the north with a bridge constructed over the Cloghogue River. The TIA provides that the internal roads layout is to be in accordance with DMURS and note that details relative to this are included in conditions in the Council's decision.

#### Revised TIA

7.10.8. On foot of the Council's F.I request, the applicant has submitted a Revised TIA to address the items (1) to (xi) concerning roads related issues. This includes a number of Appendices providing Traffic Survey results, Trip Generation and results of Traffic Modelling. This notes that in addition to the two new junctions originally proposed, the development also proposes to provide greater definition to traffic movements through the N78/Chatsworth Street and the N78/Barrack Street Junction. The general layout of these improvements is shown on the drawings provided and in Appendix VIII. Regard is also had to the revised drawings submitted including 'Streets - General Layout' which includes the junction layouts, existing and proposed footpaths and cycleways and parking areas.

7.10.9. The TIA provides details of their assessment year (2022) and growth rates. They note that the proposed development will be assessed for the opening year of 2022 and for 5,10 and 15 years thereafter. Using these growth rate factors to be applied to light vehicles (LV) and heavy vehicles (HV) - Table 4.2 refers. The results of the PICADY analysis for with-development and without-development scenarios in the Assessment Years are summarised in Tables 5.5 and 5.6 respectively and presented in Appendix IV.

7.10.10. The Revised TIA had regard to the AM and PM peaks of all the aforementioned junctions. This includes a possible signalisation of the R426/N78 Junction. Their Conclusion notes that while operating within capacity there will slight impacts on these junctions (details are given), however they have regard to traffic modelling and provide that mitigation measures to improve the capacity of these junctions are not considered necessary. Details of the junctions include relative to the proposed works as noted below.

*Chatsworth Street Junction*

7.10.11. The junction to serve the proposed development from Chatsworth Street will be entry only. The reason for this is due to its narrow width which is constrained because of the Protected Structures on either side. This is an existing junction that formally served the former Glanbia site. There are to be no departures from this junction, with the majority of traffic entering from the south, i.e via the N78; this is a left-in movement and so will not impose delays on Chatsworth Street traffic. Traffic entering the proposed development from the north will be much lower, being only 25% of arrivals from the R426/Clogh Road. It is noted, that platooning of this traffic flow may result in a queue for traffic turning right into the proposed development however this will be occasional and not significant in terms of the general operation of the junction. The TIA provides that the proposed junction will only have a slight impact on Chatsworth Street and mitigation measures are not considered necessary. The impact of the proposed development on the Degree of Saturation on Chatsworth Street junction is slight for the AM peak, approximately 3%, but more significant for the PM Peak, reaching approximately 11%. That in all cases up to and including the 2037PM Peak, Chatsworth Street operates within capacity.

*Proposed L1829/Development Junction and Bridge*

7.10.12. Results show that the proposed L1829/Development Junction will operate within capacity during the Am and PM peaks and will have only a slight impact on delays experienced by traffic on the L1829/Ballinakill Road. Drawings showing this access and sightlines have been included. Drawings showing the proposed bridge construction, including cross-sections over the Cloghogue River and a 3 D view of the proposed Cloghogue bridge crossing have been submitted. The proposed bridge has a length of c.17m with a clear span of 15m, and a width of 13m and c.1m deep.

### *Signalisation of N78/R426 Junction*

7.10.13. The TIA includes that at the request of the Roads Authority, a preliminary design for signalisation of the N78/R426 Junction was prepared and its operation assessed for the without-development and with-development scenarios in the longer term. The assessment was conservative and provided for comparison purposes only. That the results show that for both the AM and PM Peaks, a signalised junction would provide a low level of service with or without the development. Junction delays would occur without-development scenario; the impact of the proposed development would be to cause a significant increase in junction delay during the AM and PM Peaks.

### *Stage 1/2 Road Safety Audit*

7.10.14. It is noted that a Stage 1/2 RSA was submitted with the application and updated in the F.I submitted. This notes that the speed limit on the N78, R426, R694 and the L1829 at the proposed junction location is 50km/hr. Problems were noted (Appendix B refers) and safety issues considered and recommendations made. Drawings are included/updated showing the proposed amendments. The drawing showing 'Streets – General Layout', as submitted with the F.I shows details of the scheme. Consideration is had to pedestrian and cyclist movements including pedestrian crossings, provisions of ramps, footpaths and cycle lanes.

### Council's response

7.10.15. The Council's Road Design Section has regard to revised TIA and provides a detailed response to the F.I submission. This includes having regard to the junctions, internal road layout, traffic calming, proposed footpath works, cycleways etc. They noted that the updated TIA included a preliminary design proposal and suggested that a proposed traffic light solution on the N78/Chatsworth St/Barrack St junction, would provide a poor level of service. However, this design assessment was based on a single lane entry to the signals. They consider that there is adequate scope to provide double lane entries to junction signals which will significantly improve traffic movements at this location particularly at peak times and school opening/closing times. In addition, incorporating controlled pedestrian crossing phases will regularise and improve pedestrian mobility between the Square, Chatsworth St, Barrack St, and the proposed development.

- 7.10.16. They note that the applicant has proposed a revised junction layout based on the existing traffic patterns and road geometry as indicated on the drawings. While this will provide some improvement in terms of layout as per the guidance in DMURS by improving lane definition, particularly for right-turning vehicles, the potential for improvement in junction capacity and traffic movements is limited.
- 7.10.17. Public realm works have been proposed in the vicinity of the Square including in front of the Creamery House and the Post Office as shown on the revised drawings. However, the level of the detail in term of layout finishes, levels and extent is limited. They recommend that the applicant be conditioned to carry out a detailed design assessment of the N78/Chatsworth St/Barrack St junction in consultation with the Council and other relevant parties for the provision of a signal control junction and associated junction improvements, public realm works and parking arrangements. That this include, a review of alternative traffic proposals for evaluation as part of the design process to optimise the layout to facilitate the existing and proposed traffic from the development and any other committed development in the area. Condition no.27 of the Council's permission is of note relative to approval of details regarding the access arrangements to the development from the junction with Chatsworth St/The Square/Barrack St.
- 7.10.18. They note that junction improvement works are to be designed in accordance with the TII Design Manual for Roads and Bridges (DMRB) standards and specifications and with DMURS. That a Quality Audit as per DMURS is to be carried out for the junction treatment with recommendations arising incorporated into the design layout. That this Audit be updated on completion of each subsequent phase of the overall development and submitted to the Council for consideration. Condition no.28 of the Council's permission refers.
- 7.10.19. The new street is to extend from Chatsworth St to the Ballinakill Road and that this is to be the primary spine road of the development. At the junction of Road 2 and Road 3 priority is given to Road 3 which includes the access to the car parking. The applicant was requested to review the layout/design of this junction and re-assign the priority for traffic travelling from Chatsworth St to the Ballinakill Road. They recommend that the applicant be conditioned to submit this revised detail for the agreement of the Council. They also request that a revised entrance detail from

Road 3 to the Aldi carpark be provided to afford greater privacy and definition for pedestrians and cyclists.

- 7.10.20. They recommend that a Stage 3 RSA be carried out on the completion of the first phase of the development. That the applicant be conditioned to incorporate the recommendations of the Audit into the development with associated costs funded by the developer. Condition no.29 of the Council's permission refers. Their recommendation includes conditions relative to roads infrastructural issues. These include the Mobility Management Plan and Public Lighting and that a Construction and Traffic Management Plan be submitted. The Council's permission refers to Road Design issues, and condition nos. 27 to 41 refer.

#### Traffic Response – Third Party

- 7.10.21. The Grounds of Appeal includes relative to access and traffic. The Third Party have submitted a report prepared by Trafficwise Ltd as a separate enclosure with their appeal. This includes that the application documentation identifies significant network capacity impacts arising directly from the proposed scheme and identifies future problems with the development of local infrastructure. That neither the Applicant nor the Planning Authority has engaged with formulating an agreed plan to mitigate any adverse consequences. They are concerned that adequate mitigation measures have not been presented and that the P.A. imposes conditions expressly leaving these engineering matters over for post-consent agreement. They consider that some of these including alterations to the internal road network etc are material considerations which will have a direct impact upon the transport network in Castlecomer and on the operation of the National Road and are not suitable to be left for post-consent agreement between the developer and the local authority.
- 7.10.22. They contend that the proposed development is not consistent with DMURS and will result in fundamental and material alterations to the proposed development. They are concerned about the internal roads layout, that the proposed development includes one long street connecting to and from the town centre to the more remote Ballinakill Road to the north. That the TIA submitted is more of a junction capacity assessment, does not provide for an integrated approach and ignores the critical matter of the safe and efficient movement of all users to and from the receiving road network by all modes of transport.

- 7.10.23. The TrafficWise Report considers that the TIA that accompanies the application is not a TTA and is mainly a junction capacity study focusing on the capacity of the direct access to the development and immediate junctions on the receiving road network. That its scope is inadequate and that it ignores the critical matter of safe and efficient movement of all users to and from the receiving road network by all modes of transport. They are concerned that in the TIA assessment scenarios the addition of the traffic arising from the proposed development is shown to exceed the capacity of the junctions in all years and all the scenarios. That it can be concluded that the proposed development has a direct and significant impact upon the operation of the N78/Chatsworth St./Barrack St. junction on the National Road network. They consider that significant mitigation measures are warranted to ensure that the proposed development can be accommodated and to ensure that roads, junctions and other transport infrastructure in the vicinity of the development remain fit for purpose. They are concerned that as per the conditions, mitigation of such identifiable significant impacts is left over by the Planning Authority to be agreed with the developer post consent.
- 7.10.24. They consider that the assessment of junctions in the TIA and by the Planning Authority is inadequate and that the proposals are limited with respect to a meaningful improvement on junction capacity. They refer to the Council's decision and conditions, relative to detailed design to be agreed post consent including no.27. This includes the Council's reference to a detailed design assessment to be carried out relative to the provision of a signal-controlled junction with respect to the N78/Chatswoth St./Barrack St. junction.
- 7.10.25. Reference is had to Sections 7.9 and 7.10 of the 'Development Management Guidelines to Planning Authorities' (2007) and they consider that the proposal does not comply with these. These concern 'Conditions requiring matters to be agreed' and 'When are compliance conditions appropriate'. This includes that such conditions should be avoided in cases where the matters involved are of a fundamental nature or such that third parties could be affected. Also, that while as a general principle compliance conditions should be kept to a minimum, that they can be of value in certain circumstances.
- 7.10.26. They are concerned that the proposed development is likely to result in significant increases in traffic movements including HGV in concentrated patterns to and from

Chatsworth Street and the N78 especially during peak periods where congestion has been identified. That the volume and characteristics of traffic generated by the proposed development and the interaction with the receiving road environment and existing traffic has not been properly considered including in the TIA. That the proposed development is poorly formulated, mitigation measures are not properly considered and that traffic hazard would ensue.

#### Regard to DMURS

- 7.10.27. As shown on the revised drawing 'Streets - General Layout' this road (Road 3) is to be 6m wide, with a 2m footpath and 1.5m cycle lane on either side. Section 3.2 of DMURS has regard to Movement and Place. This includes reference to Arterial, Link and Local Streets. Arterial Streets are described as the major routes via which major centres/nodes are connected. They may also include orbital or cross metropolitan routes within cities and larger towns. Link Streets provide the links to Arterial streets, or between Centres, Neighbourhoods and/or Suburbs. Local Streets are the streets that provide access with communities and to Arterial and Link Streets. DMURS indicates that 6 - 6.5m is the standard carriageway width for 'Arterial and 'Link' streets. Figure 4.55 refers to carriageway widths. The Third Party consider that the proposed road is a 'Local' street where in accordance with the carriageway width with a shared surface carriageway is 5 -5.5m.
- 7.10.28. If the Board decides to grant permission, I would recommend, the inclusion of a condition regarding road widths to comply with DMURS. They also raised a consideration regarding radius of the junction serving the proposed Aldi store and other internal junction radii being too wide and being inconsistent with DMURS. As above, if the Board decides to permit, I would recommend a condition that all such road/junction layouts shown as part of the proposed development be in accordance with DMURS.
- 7.10.29. Reference is had to the issue of Quality Audits as per DMURS (Advice Note 4) and this advises that such be submitted for major developments including development proposals prepared under Part 8 of the Planning and Development Regulations 2001, as amended. It is of note that Condition no. 28 of the Council's permission requires the developer to carry out a Quality Audit prior to the commencement of development. Also, that the Audit be updated on commencement of each phase of



development. If the Board decides to permit, I would recommend, that such a condition be included.

7.10.30. I would consider that taking into consideration the narrow width and one-way entry nature of the entrance to Road no.1 (existing entrance to the former Glanbia site) which, is located in the town centre, that it would not be suitable or accommodate HGV vehicular traffic, including that associated with the Aldi and that it is envisaged that all such traffic would enter via the new access from the Ballinakill Road. If the Board decide to permit, it is recommended that it be conditioned that signage be put in place to this effect.

### Conclusion

- 7.10.31. It is noted that the principles, approaches and standards set out in DMURS apply to the design of all urban roads and streets which are defined as those roads and streets with a speed limit of 60km/h or less. The subject site is a backland site and is a brownfield/greenfield site, on appropriately zoned land with constrained access, within a town centre location. This proposal is to be accessed with improvements to the Chatsworth Street junction (formerly used by Glanbia) and including the provision of a new vehicular access to the site from the Ballinakill Road. The proposal is to be integrated so that it ties into the local road networks and is within the 50kph.
- 7.10.32. The proposal is within Key Development Area 1 of the Castlecomer LAP 2018-2024. As noted in the Policy Section above Section 10.3.1 applies to the Old Creamery site in the Town Centre. The creation of a new road through the site from Chatsworth Street to the Ballinakill Road complies with the objectives for this site (Figure 10.1 of the LAP refers). Objectives also include a bridge linking the site to the Ballinakill Road and pedestrian and cycle ways from the square as part of the new street. The proposal complies with these general principles for the development of this site.
- 7.10.33. It is noted that the Council's Road Design Section provide a detailed response to but does not object to the proposed development. The Council's response to the Grounds of Appeal provides that the traffic issues arising were addressed comprehensively in the F.I request issued. They note the detailed response provided by the applicant and that following assessment of that the Road Design Section requires details of the design at the level where construction details would be required to ensure an effective tie into the existing infrastructure.

- 7.10.34. They also refer to the possibility that a fully signalised junction may be required when the development is fully built out and occupied. However, this is not a requirement for Phase 1 of the development. They submit that in order to address this the PA inserted Condition no.27 which seeks the full details on access arrangements, levels pavement treatment etc and at the same time seeks to provide for the potential of a signalised junction into the future. That this element can be made conditional to a formal planning application or other appropriate concept such as a Part 8 if the Board is mindful to grant permission and allow for greater third-party observations on these future requirements. I would consider that this is a matter for the Council.
- 7.10.35. As documented in the TIA and advised by the Council's Road Design Section the proposal, would not generate significant additional traffic onto the local road network including N78 National Secondary Route to such extent as to endanger public safety to pedestrians and road users, particularly having regard to compliance with DMURS and other relevant Guidelines and to the technical details to be submitted the Council for agreement prior to the commencement of development.
- 7.10.36. I would consider that having regard to the documentation submitted and to the scale and nature of the development, and its location within the development boundaries and urban area of Castlecomer and in the 50 kph speed limit zone of the town, that the proposal is acceptable. While the Third Party considerations have been taken into account, I would consider that the issues raised are generally addressed in the F.I response submission and are not insurmountable in the context of the overall need as identified in the Castlecomer LAP for this mixed use development scheme. Accordingly, having regard to the details provided including in the Revised TIA and to the Council's response including to the Appeal, it is reasonable to conclude that the proposed development, will not give rise to any significant impact upon the existing road network and junctions in the vicinity of the site. If the Board decides to permit, I would recommend, the inclusion of appropriate roads related conditions.

## 7.11. **Parking, Permeability and Mobility**

### Parking

- 7.11.1. The development entrance from Chatsworth Street is a one-way entry comprising a c.3m wide road and contraflow cycleway. Provision has been made for 7 short term

parallel parking spaces and a loading bay. There are nine retail units, four apartments, eight office units and a café situated on this one-way entrance (Road 1). The units on the new street, have their parking area located to the rear of the buildings off Road 3. However, the parking for buildings A, D and E is more remote. The Council's Road Design Section are concerned that given the width of the access road this may give rise to unauthorised parking on the contraflow cycleway or footpath. They recommend that it be conditioned to identify the access and parking arrangements for the apartments, retail units and service areas to ensure orderly parking arrangements in this location and this be submitted to the Council for review.

- 7.11.2. As has been noted a new road is to be built through the site linking the Ballinakill Road to Chatsworth St/High St. Entry only is to be provided at the Chatsworth Street access point. Customer vehicles for Aldi will also be able to access and exit the store car-park via a new access point off the Ballinakill Road. As shown on the Site Layout Plan the majority of the car parking spaces are shown to the west of the proposed Aldi Store. Condition no.33 of the Council's permission relates to entrance details to the Aldi carpark.
- 7.11.3. It is noted that the Castlecomer LAP includes an objective for Key Development Area 1 to: *Incorporate a public carpark to serve both the site and the town centre.* As shown on the revised Layout the overall development comprises approx. 213 surface level parking spaces. Approximately 72 of these are to be associated with the proposed Aldi retail/foodstore. Some 54no. bicycle stands are to be provided within the development. In view of the mixed-use nature of the development, many of the journeys to the site are likely to be dual purpose. It is proposed that the public carpark serve both the site and the town centre.
- 7.11.4. The surface car parking to be provided is in excess of the car parking requirement set down by the Kilkenny CDP 2014-2021. The no. of spaces required based on the floor area for the mixed uses proposed (as colour coded on the Site Masterplan) is given as 205 with 213 to be provided. It would appear that the additional spaces are relevant to the LAP Objective to incorporate town centre car parking. However, it is considered that many of the trips made to the development will be multi-purpose and that the parking provision is adequate. That ample parking is available to serve the uses and to incorporate town centre parking.

- 7.11.5. Note is had, of the current Kilkenny CCDP 2021-2027, which includes in Section 12.3.2 'Objectives for the Integration of Land Use and Transport' that: *All non-residential development proposals will be subject to maximum parking standards as a limitation to restrict parking provision to achieve greater modal shift.* Table 12.3 provides the Car Parking Standards. It is noted that these standards are similar to that shown for each of the uses on the revised Masterplan.
- 7.11.6. The issue concerning the need for a plaza area to serve the units in the southern part of the site has been raised in the Open Space Section above. In the interests of amenity if the Board decides to permit, I would recommend, that it be conditioned that revised plans be submitted to show the triangle of open space to the rear of Building C enlarged and parking spaces nos. 66 – 69 be omitted. That this area, now shown within the proposed parking area to the rear of the buildings in the new street be used as a landscaped plaza/open space area.
- 7.11.7. If the Board, decides to permit, I would recommend that a revised parking scheme be submitted showing the omission of these 4no. spaces and the allocation of spaces for the units in the southern part of the site. If there is any shortfall, I would consider that some of these spaces should be shown allocated within the southern section of the extensive Aldi carparking area.

#### Mobility Management Plan

- 7.11.8. This has been submitted in response to the Council's F.I request. This notes that Kilkenny Railway Station is located c.19km from the site and provides rail services to Dublin and Waterford. A limited and infrequent public bus service by private operators connects to public transportation, to the train service in Kilkenny. They note that ring a link bus services operate a Castlecomer Town bus service. This public service operates a schedule but has no fixed route dependent on demand. They note privately operated public bus services to and from Kilkenny, Athy, Dublin, Waterford and Portlaoise that stop at Castlecomer. These bus stops are located within 150m from the development.
- 7.11.9. The predominance of the car as a mode of transport is noted and the Mobility Management Plan includes Options for Sustainable Transport. These include regard to pedestrian links and cycleways. Condition no. 34 of the Council's permission refers to the maintenance and updating of the MMP as phases of development are

completed. If the Board decides to permit, I would recommend, a condition regarding the implementation of the Mobility Management Plan be included.

#### Permeability

- 7.11.10. As noted in the LAP objectives include relative to Connectivity to maximise the potential of existing linkages and to encourage new linkages through the site to improve permeability in the town. It is proposed that cycle paths and footpaths follow the line of the new street which extends from Ballinakill Road to the entrance from Chatsworth Street/The Square. Details submitted provide that this new street will be developed in full as part of Phase 1, before any permitted uses within the development are occupied. This is necessary given the proposed one-way traffic arrangement along the southern part of the site.
- 7.11.11. In addition to the new street connection between The Square/High Street and the Kilkenny Street/Chatsworth Street junction out onto Ballinakill Road and associated cycle ways and footpaths, there is to be a new pedestrian walkway into the centre of the site from Chatsworth Street. It is proposed to provide pedestrian access to the site to the north of no. 25 Chatsworth Street, which is a residential property with an existing gated link to the site. Regard is had to the drawing submitted at F.I stage 'Streets – General Layout' (F.I submission). This is described as 'tie-in and finished pedestrian link on Chatsworth Street to be agreed with Kilkenny County Council'. It would serve to provide pedestrian access to Aldi from Chatsworth Street. This link is shown within the site boundaries and details have been submitted as part of the F.I response regarding the status of this pedestrian link.
- 7.11.12. As part of the F.I request the applicant was requested to examine the potential for pedestrian links with (i) Love Lane, (ii) future pedestrian connectivity with lands to the west along the river bank, and (iii) a possible pedestrian access from the site with Barrack Street to the south. The applicant's response provides that a connection to Love Lane was considered by the Council, in the preliminary consultation stages of the preparation of the LAP and was ultimately removed as a specific objective due to concerns raised by the residents in Love Lane. In this respect it is noted that Key Site 1 LAP objectives include: *Investigate the feasibility of linking the site to the R694/Barrack Street via the former railway line reserve.*

- 7.11.13. While the drawings specifically do not include a pedestrian access to the cul de sac Love Lane to the north-western residential part of the development, it would be preferable in the interests of connectivity if a right of way for pedestrians could be established. It is noted that there is currently a field gate to this part of the site, accessed via Love Lane. If the Board decides to permit, I would recommend, in the interests of connectivity and permeability, the inclusion of a condition to provide for such pedestrian access to the western part of the site.
- 7.11.14. The F.I submission also notes that the provision of a footway link on the R426 and L1829 Ballinakill Road will result in a defined and continuous carriageway width and provide a visual impact of narrowing of the carriageway which will serve as effective design measures that calm traffic at these sections within the 50kph speed limit. As shown on the 'Streets – General Layout' drawing the existing footpath is to be upgraded. It is also to be extended over the bridge crossing on Chatsworth St.
- 7.11.15. It is of note that this is a large backland site that is currently relatively enclosed and separate from the town centre. Connectivity and permeability are of importance to the scheme particularly for pedestrians and cyclists and to integrate the development with the town centre. DMURS supports the creation of integrated street networks and permeability and legibility for all users. If the Board decides to permit, I would recommend, that it be conditioned that such pedestrian/cyclist links be included in the overall development.

## **7.12. Infrastructure - Drainage and Water Supply**

- 7.12.1. A Civil Engineering Infrastructure Report by Kilgallen & Partners Consulting Engineers has been submitted with the application. This has regard to foul and surface water drainage and to water supply. Regard is also had to the Applicant's F.I response to the Council's queries about drainage issues and to accompanying documentation and drawings. The issue with lack of capacity in water supply network is noted and discussed. Details submitted include a Groundwater Assessment Report by O'Callaghan Moran together with a Water Management Plan by Kilgallen & Partners. Regard is had to the location of a borehole, pump test results and water quality analysis.

## Wastewater

- 7.12.2. Separate systems are to be provided within the development for the collection and disposal of storm water and foul sewage. It is stated that the wastewater sewer network has been designed in accordance with the 'Code of Practice for Wastewater' published by Irish Water.
- 7.12.3. Wastewater generated by the proposed development is proposed to discharge to an Irish Water gravity sewer in Chatsworth Street. The Irish Water response provides that they have wastewater services in the area to cater for this development. It is noted that the Castlecomer WWTP was subject to upgrade works in 2017 and that there is capacity existent. Regard is also had to Section 8 *Infrastructure* of the Castlecomer LAP 2018-2024 which notes that constraints in water supply have been identified but that the Castlecomer wastewater treatment plant has recently been upgraded.
- 7.12.4. Therefore, based on the information submitted it can be concluded that that there is capacity in the existing wastewater treatment network to cater for the proposed development.

## Surface Water Drainage

- 7.12.5. Details are given of the surface water collection network to be designed in accordance with current standards. A SuDs Strategy has been prepared for the Development in accordance with the recommendations of the GDSDS. This includes that, a climate change factor of 10% has been applied to the design of the surface water sewers. This is to be achieved by applying a 10% factor to the rainfall data obtained from Met Eireann.
- 7.12.6. It is noted that subsoils are expected to be relatively impermeable and infiltration of run-off from roofs and paved areas to ground could lead to pluvial flood risk within the Development. To avoid this risk, run-off from roofs and paved areas will not rely on discharge to ground and instead it is provided that a positive outfall to the Cloghogue River is to be used for surface water run-off. Class 1 discharge bypass separators with integrated silt chambers, in accordance with the relevant standards are to be installed on the outflow pipe. The maximum permissible discharge rates to the Cloghogue River will be restricted and details are given of this.

- 7.12.7. Details are given of surface water storage attenuation. The criterion for the determining the volume of storage required was that flooding of water vulnerable areas does not occur during rainfall events of 100 year return period. Table 4.1 of the Kilgallen & Partners Report provides the SuDs Strategy and this includes relative to River quality protection and River Flood Protection' and this provides details of the design of the proposed surface water systems. Appendix II provides 'Design Calculations and Other Back-up for Surface Water Drainage'. Greenfield runoff estimation for the site is also given.
- 7.12.8. As part of the F.I response the applicant provides that a Kingspan/Klargester Bypass separator is proposed upstream of the attenuation system approx. 80m upstream of the proposed surface water outfall to the Cloghoeue River. The bypass will be a minimum of 65m from the river channel and 52m from the modelled Flood Zone C (1000 flood level). Regard is had to the drainage drawings submitted with the F.I response including: 'Drainage and Water Supply – General Layout'. This includes the location of the Stormtech hydrochamber attenuation tank (808<sup>3</sup>) within the area of open space to the north of the car parking area.

#### Water Supply

- 7.12.9. Initially it was provided, that water supply for the development would be taken from an Irish Water watermain under Chatsworth Street. A pre-connection enquiry was submitted to Irish Water; a copy of this application is included in Appendix 1. Tables provided include 'Post-Development Water Supply Demand Calculations Irish Water Occupancy Rates'. It is noted that Irish Water's response advises that the proposed connection cannot be progressed. This is due to lack of capacity in the system.
- 7.12.10. As noted in the Policy Section above the Kilkenny CCDP 2021-2027 includes regard to Water Supply Treatment and this notes the deficiency as pointed out by Irish Water in the Castlecomer water supply scheme. This includes: *The Council will consider the provision of wells on a temporary basis to service developments in the short-term where there is a deficiency in the public water supply and where that deficiency is identified to be addressed as part of the Irish Water Investment programme.*
- 7.12.11. Section 8.1.1 of the Castlecomer LAP also notes deficiencies in the water supply system and refers to investigating new sources. It provides that works are underway



to identify the most appropriate solutions to address the network's capacity in Castlecomer. That this will take into consideration future development and growth.

7.12.12. The Council's F.I request noted Irish Water's response and noted that it appears there may be capacity constraints in relation to the water supply for Castlecomer. The applicant was requested to confirm an adequate supply of water to serve the proposed development.

7.12.13. The F.I submission, includes that Kilgallen & Partners Consulting Engineers were made aware in July 2020, that the Irish Water capital investment programme for the intended water upgrade project, has since been deemed unfeasible and due to funding at the present time will not be progressing. Regard to the Irish Water Investment Plan 2020 to 2024 and it is noted that an upgrade to the Castlecomer water supply scheme is not included. Therefore, while Irish Water has identified a need to augment the capacity of the water supply to Castlecomer and to upgrade the current water supply system, and it is referred to in the LAP it appears that there is currently no definite timetable in place for such works.

#### Groundwater Assessment

7.12.14. As an alternative it is proposed to abstract groundwater. The applicant's F.I response includes Kilgallen & Partners Consulting Engineers (KPCE) response letter with direction to Groundwater Assessment Report by O'Callaghan Moran (OCM) together with the Water- Management Plan and details of pump test results and water quality analysis. This Assessment (November 2020) estimated the design demand for the overall development to be 17m<sup>3</sup>/day. It is submitted that the purpose of the hydrological assessment is to establish if the groundwater beneath the site can sustain the design demand.

7.12.15. Regard is had in this Assessment to the topography of the site noting, the site elevation is approx. 124m AOD along the southern boundary and slopes to the northeast toward the stream at c.118mOD. The railway embankment in the centre of the site is c.2-7m higher level than the surrounding area. The site slopes to the north and northeast toward the Castlecomer stream which runs along the northern boundary before joining the Dinan River c. 400m east of the site. Shallow groundwater flow direction is expected to be similar to the local topographic gradient,

with flow to the northeast and east toward the confluence between the Cloghogue River and the Dinan River.

- 7.12.16. A description is provided of the site geology, hydrology and hydrogeology based on a review of databases maintained by the GSI, the EPA, Teagasc and Met Eireann. Regard is had to Geology and to Teagasc soil maps for the area (Figure 2.4) of the 'Groundwater Assessment'. The subsoils encountered during the installation of the well comprised a layer of clayey gravels, with a total depth of 7m. The bedrock geology is shown on Figure 2.5 of the Report and details are included.
- 7.12.17. The Hydrogeology Section notes that the area lies within the Castlecomer Sandstone Ground Water Body (GWB). Groundwater in this GWB can be either confined or unconfined. Details are given of well testing, permeability and transmissivity. It is noted that F.I is available in the Castlecomer (GWB) report for the local area (Appendix 1).
- 7.12.18. The aquifers beneath the site are classified as poorly productive aquifers (Pu) (Figure 2.6). The GSI classifies the bedrock vulnerability to pollution as High (H) (Figure 2.7). Based on the thickness of the subsoil encountered during the well drilling OCM concurs with the GSI vulnerability rating. Details are given of recharge capacity, noting high permeability in the north and northwest of the site and low permeability in the south and southeast. Regard is also had to Geochemical Background and to GSI Well Location. The GSI database shows the closest abstraction well to the site is c.300m to the north (Figure 2.8). This is identified as dug well with no identified yield. An industrial use well is identified c.340m to the northeast of the site with no identified yield. A recently installed well has a recorded high yield located c.400 east of the site.
- 7.12.19. As noted, the development requires a water supply, which due to limited capacity is not available from the Irish Water mains supply. It is also understood that historically the creamery site was served by a borehole well and this well remains visible and accessible on site. An assessment was made of the suitability of the original large diameter well (300mm) c.120m deep in the southwest of the site, which was installed in the 1960's. An initial inspection determined that this was a potentially suitable source. A pump test was carried out on this well because it was considered to have potentially higher yields than the newer smaller diameter borehole. This was to

establish the sustainable yield, define its zone of contribution (ZOC) and determine the impacts on other wells located in the area. The ZOC was delineated in accordance with GSI Guidelines based on the design demand.

- 7.12.20. The Zone of Contribution (ZOC) is defined as the land area from which rainfall recharge can reach the water supply well taking into consideration the topography, hydrology and hydrogeological factors that may influence groundwater flow under pumping. It is submitted that the boundaries of the ZOC (20.7ha) were delineated based on a combination of hydrogeological mapping, topography, geological boundaries and the design yield. Note is had of best practice to allow for local variations in the groundwater flow direction, as well as seasonal variation in pumping rates and groundwater level. It is noted that there are no public or private water supplies within the ZOC. That the well will not therefore impact on groundwater resources to wells in the local area.
- 7.12.21. Regard is had to the 'Drainage and Water Supply – General Layout' drawing submitted as part of the F.I request. This notes the topography of the site and the location of the well which was used to provide water for the creamery. Details are given in the Groundwater Assessment Report of well development, the original well and the installation of a new well. This was installed in the southwest of the site to determine if additional capacity could be provided and to act as a back up to the old well. They note that the construction of the new well is to be in accordance with current guidelines.
- 7.12.22. The Appendices provide details and an analysis of the pumping tests carried out. They note that given the observed drawdown during the pumping test in the old well, pumping both wells simultaneously would not be sustainable should larger well yields be considered in the future. That, the new well could be used as a standby supply and possibly supply holding tank for firewater or other contingency uses. A sample of the water from the well was collected during the pumping test and sent to an ILAB accredited testing laboratory for analysis to establish the water quality.
- 7.12.23. The Assessment has regard to Water Quality, providing details of Groundwater Sampling and Analysis and Laboratory Results. It is noted that cryptosporidium was not detected; the results indicate that iron and manganese levels exceed the Drinking Water limits and treatment would be required to reduce the levels to below

the relevant limits for these parameters. That the remaining analysed parameters were within the Drinking Water and Groundwater Regulation limits. That Water Treatment should be provided to reduce iron and manganese levels to ensure compliance with the Drinking Water regulation limits.

7.12.24. The Groundwater Assessment Conclusions and Recommendations include that pumping of the old well should not exceed 5m<sup>3</sup>/hour and for no longer than 12 hours per day to ensure the sustainability of the supply. They recommend that a pump test be undertaken in the new well to confirm the sustainable pumping rate from this well. That both wells should not be pumped simultaneously.

7.12.25. The Groundwater Assessment provides that the design demand for the overall development is 17m<sup>3</sup>/day and more detail on this is provided in Appendix 2 of the Assessment. It is submitted that the pumping test at the well indicates that it is more than capable of meeting the design for 17m<sup>3</sup>/day. Additional supply is potentially feasible from the new well for firewater or other similar use. Details submitted with the F.I provide that the sustainable yield available from a private borehole on site is 30-61 m<sup>3</sup>/day. Therefore, it appears that there is sufficient yield available in the private water supply to cater for the proposed development.

#### Water Management Plan

7.12.26. This was also submitted as part of the F.I response. It provides that documentation included in Appendix A to be read in conjunction with this Plan includes:

- a) Drawing No. TBC which shows a schematic configuration for the operation of the plant.
- b) Technical specifications for the equipment on Drawing No. TBC and described in the Report.

7.12.27. In summary, a description is provided of the operation of the water plant which is to be fully automated. Note is had to the water process and to pumping operations and water quality measures, drainage and storage. The pumping and water equipment is to be housed in an appropriately sized pump house to allow installation and serving for the plant equipment safety. The pumping station is to have a separate ESB supply and external metering Kiosk. It is provided that prior to the commissioning of the Plant, or the re-commissioning of the Plant in the event of a shut-down their

Contractor shall agree with the Council a Method Statement for the process and details are outlined of such.

- 7.12.28. They submit that the appointed management Contractor, Campion Operations Ltd., will manage the Plan in accordance with the management Plan as described. Details are given of monitoring and maintenance regimes to be applied. This includes regard to on-site monitoring and maintenance, over a weekly, monthly, quarterly, annual and every 3 years basis. Section 4 of the Report includes details of their response to faults, incidents of non-compliance and emergencies. This includes an Emergency Procedures plan. Detailed Appendices are included with the Report.

#### Conclusion -Water Supply issues

- 7.12.29. Irish Water response notes the Castlecomer Water Supply Scheme is severely constrained. That the existing supply comes under stress in dry weather and has, in recent summer months required water tankering to reservoirs. They note that a network connection cannot be progressed at this time. That an alternative water supply solution is required to be agreed between the applicant and the planning authority.
- 7.12.30. Having regard to the details submitted I would consider that it can be concluded that the private water supply as proposed is viable and that there is sufficient supply available to serve the proposed development. I would concur with their recommendations that water quality should be monitored on a quarterly basis and details be provided of such an analysis to ensure it complies with current standards.
- 7.12.31. The Consultants provide that pending upgrade of the public infrastructure by IW, the private supply will be constructed to current EPA standards and all details for water treatment and infrastructure shall be agreed with the Council's water services and environmental department prior to commencement. That provisions for future connection to the public water supply upon upgrade of the public infrastructure shall then be provided as part of the site development works.
- 7.12.32. In response to the F.I submission the Council's Environment Section considers that in the absence of any clear policy for such locations where capacity issues exist it is considered that the provision of a well in this instance is not the preferred option to serve the proposed development. They provide that a development of this scale

should typically be served completely by public mains/group water schemes and capable of being Taken in Charge subsequently by Irish Water. They note that IW do not currently take in charge developer provided infrastructure. They have no objection subject to the development been served by a public water supply from Irish Water within an agreed time period as the proposed water supply is temporary. The recommend conditions relative to this issue - Condition nos. 4 *Water Services* and 5 *Management Company* of the Council's permission refers.

7.12.33. It is noted that condition 4 initially allows for the private water supply but pending completion of the Irish Water upgrade on capacity, the development is to connect to the Irish Water connection. If the Board decides to permit, I would recommend, that this type of condition be included.

### 7.13. **Flood Risk Assessment**

7.13.1. A Site-Specific Flood Risk Assessment has been provided. This has regard to the details outlined in the '*Planning System and Flood Risk Management, Guidance for Planning Authorities*' (DEHLG/OPW, 2009). This study is particularly focused on examining flooding risks on the site, on determining if the development altered flood risk, and in determining appropriate flood risk mitigation and management measures for any alteration in flood risk. The purpose of the SSFRA is to assess all types of flood risk for the proposed new development and to consider possible impacts of the development on flood risk elsewhere. Where appropriate, it recommends flood mitigation and management measures and identifies residual risks, should any remain after those measures are put in place.

7.13.2. An assessment is made of identifying whether the site is at risk of pluvial, fluvial or groundwater flooding and establishing the extent of such flood risk. Following the initial assessment the study progresses to the next stage, which is a detailed assessment to establish the extent of such risks on the site. Regard is had to Records available on the OPW's National Flood Risk Website; OPW PFRA mapping; Ordinance Survey mapping; Topographical survey information; and it is noted that the SSFRA included a Site inspection.

## Fluvial Flood Risk

- 7.13.3. The site is within the catchment of the River Cloghogue, which flows in an easterly direction adjacent to the northern boundary of the site. Figure 3.1 of the SSFRA shows the location of the River Dinin some distance to the east of the site and the River Cloghogue is a tributary of this. The slope of the existing ground is relatively steep from the south-western boundary falling towards the north-eastern boundary. The south-eastern boundary ground level is approx. 7.3m higher than the north-eastern boundary. The FRA confirms that the surface water drainage for the development will comply with GDSDS. That full compliance with GDSDS ensures the drainage system will not affect the flood regime in the receiving watercourse.
- 7.13.4. They note that the Preliminary FRA Maps for the area prepared by the OPW suggest the site is in close proximity to a floodplain and may be at risk of fluvial flooding (PFRA mapping included in Appendix D). The SSFRA considers that the detailed assessment of this flooding mechanism is required. Reference is had to Hydrological Modelling carried out.
- 7.13.5. Figure 4.1 shows the Flood Risk Zones for the site, as predicted using the hydrological model as described in section 4.3.3 superimposed on the layout proposed for the development. The map shows that the green area located along the northern site boundary adjacent to the river is affected by Flood Risk Zones A & B. As shown on this map the remainder of the site (i.e. the majority of the site) is shown within Flood Zone C. It is provided that flooding does not impact on vulnerable areas of the proposed development not compatible to water (i.e. houses and roads).
- 7.13.6. In order to ensure that elements of the development not compatible with water (i.e. roads and houses) are not at risk of flooding, it is recommended that proposed floor and road levels be raised above peak flood levels. The FRA Management Guidelines recommend that floor levels be kept above the 100 year flood level with an appropriate allowance for freeboard. The SSFRA recommends that the minimum ground floor level for buildings adjacent to the flood risk zone be 119.9m; at this level a freeboard of 500mm above the peak 100 year flood level is provided. Similarly, that all road levels should be kept a minimum 250mm above the 100 year flood level.

### Flood Risk from Groundwater

7.13.7. The SSFRA (Section 5) notes that a number of datasets were interrogated for indicators of flood risk from Ground Water. As the site comprises land that was not visible from the public road until relatively recently, the absence of recorded flooding from the National Flood Hazard Mapping website is not considered to be conclusive evidence of no risk from groundwater flooding. The topographical survey for the site indicates a steep gradient along the site. The sloping topography eliminates the potential for localised ponding within the site from groundwater. They conclude that the indicators described suggest that the site is not at risk of flooding from groundwater and accordingly detailed assessment of this flooding mechanism is not required.

### Pluvial Flood Risk

7.13.8. The SSFRA (Section 6) notes that a number of datasets were interrogated for indicators of pluvial flood risk. The site does not receive discharge from urban drainage systems. Records from the National Flood Hazard Mapping website maintained by the OPW does not contain any evidence of flood events at the site associated with pluvial flooding. It is noted that as the site comprises land that was not visible from the public road until relatively recently, the absence of recorded flooding from the National Flood Hazard Mapping website is not considered to be conclusive evidence of no risk from pluvial flooding. Preliminary PRFA maps do not show any pluvial flood risk at the site. They conclude that indicators described suggest that the site is not at risk of Pluvial flooding and accordingly detailed assessment of this flooding mechanism is not required.

### Development in the context of the Guidelines – Justification Test

7.13.9. Regard is had to *The Planning System and Flood Risk Management Guidelines* and Table 3.1 of the Guidelines which provides a Classification of Vulnerability for different types of development. Residential is classed as *Highly vulnerable (including essential infrastructure)* and is more appropriately located in Zone C where there is a low probability of flooding. This provides that Zone B has a moderate probability of flooding and development in Zone A should be water compatible or avoided and/or only considered in exceptional circumstances, such as in city and town centres and where the Justification Test has been applied.



7.13.10. As shown on Figure 4.1 of the SSFRA and in view of the topography of the site, the proposed development site, with the exception of the area proximate to the river and northern site boundary is in Flood Zone C. Table 3.2 of the Guidelines provides a Matrix of vulnerability versus flood zone to illustrate appropriate development and that required to meet the Justification Test. This notes that it is appropriate to locate highly vulnerable development including essential infrastructure in Flood Zone C. It is also noted that it is proposed to provide a bridge over the River Clohogue to provide access from the Balllinkill Road and the northern part of the site.

7.13.11. Box 5.1 of the Guidelines provides the criteria for the Justification Test. Table 7.1 in the SSFRA presents the results of this test. This notes that the development as proposed is on zoned lands. That it will not displace flood water to adjoining lands and thus will not increase flood risk in lands adjacent to the site. The surface water drainage in respect of the proposed development is designed to restrict surface water discharge in accordance with the GDSDS, thus ensuring that the Stream Flood Regime in the receiving watercourse is protected. The proposed development includes proposals for treating and controlling surface water discharge which will minimise flood risk to people, property, the economy and the environment as far as reasonably possible. That it does not impact on any existing flood protection measures and will not prevent possible future flood risk management measures. That the proposed development is also compatible with the achievement of wider planning objectives in relation to development of good urban design and vibrant and active streetscapes.

### Conclusion

7.13.12. I conclude that the SSFRA was carried out in accordance with the *Planning System and Flood Risk Management Guidelines for Planning Authorities 2009*. Initial assessment of existing flood risk indicators suggest the site is not at risk from either Pluvial or Groundwater flooding. A detailed assessment of Fluvial flood risk was carried out. The assessment confirmed that while the majority of the site is within Flood Zone C, a small area of the site is affected by flood risk zones A & B within the green area along the site's northern boundary, proximate to the river. Flooding does not impact on vulnerable areas of the proposed development not compatible to water, i.e., houses and roads).

7.13.13. Accordingly, the assessment recommended that the minimum ground floor level for buildings adjacent to the flood risk zone be 119.9m; at this level a freeboard of 500mm above the peak 100year flood level is provided. Similarly, all road levels should be kept a minimum of 250mm above the 100 year flood level. This would comply with the Guidelines relative to minimum floor levels to mitigate flood risk. It is concluded that the proposed development was subject to and passed the Development Management Justification test.

#### **7.14. Outline Construction and Phasing**

##### Outline Construction and Waste Management

- 7.14.1. In response to the Council's F.I request, an Outline Construction and Waste Management Plan by Kilgallen & Partners Consulting Engineers was submitted. It is provided that the aim of this Plan is to ensure that the impact of the construction stage generally is minimised and in particular to ensure that there will not be any adverse impact on the environment during the construction stage. This notes that the proposed development works comprise of the site clearance works for access and significant earthworks. Regard is also had to Infrastructural works.
- 7.14.2. Guidance is provided on the appropriate collection and transport of waste from the site to prevent issues associated with litter or more serious environmental pollution such as contamination of soil/or water. This Plan aims to ensure maximum recycling, reuse and recovery of waste and diversion from landfill where possible. Details are given of the objectives of the Construction and Waste Management Plan and this is to comply with current standards and guidelines.
- 7.14.3. Note is had of separate segregation of hazardous and non-hazardous construction and demolition waste. Hazardous waste includes fuels used during construction and on-site storage of any hazardous wastes produced is to be minimised with off-site removal to a hazardous waste facility organised on a regular basis. It is expected that the bulk of concrete arising from the demolition of the existing creamery site and buildings will go off-site for disposal with, this material sent for recycling off-site to a suitable facility. Regard is had to Waste Permits, Licences & Documentation, which are dealt with under separate remit.

- 7.14.4. Consideration is had to Excavation Works, and it is noted that bulk excavation for the development will be required and details are given of ground investigation works. Given the sloping topography of the lands within the applicant's ownership, the opportunity to re-use the volume that is generated is to be explored at construction stage. Details include that while waste classification and acceptance at a waste facility is pending, excavated soil for disposal shall be stockpiled in an appropriate manner.
- 7.14.5. Section 5 of the Plan provides details of Construction Methodology. It is proposed that in advance of the commencement of any construction works a site-specific Construction and Construction Waste Management Plan will be prepared in full for agreement with the Council. This includes regard to Demolition and Construction works relative to general and sensitive areas of the site. This includes structural assessments, the latter being to ensure there is no adverse impact on buildings to be retained including the Mill building PS in the former Glanbia area of the site.
- 7.14.6. It is anticipated that normal working hours within the site shall be Monday to Friday between 0800hrs and 1800 hrs and Saturday between 0830hrs and 1400hrs, with no working Sundays or Public Holidays unless under exceptional circumstances. Best practical means to minimise noise shall be complied and shall comply generally with the recommendations in BS5228: Noise Control on Construction and Open Sites.
- 7.14.7. Details are given relative to the Control of Debris, Dust and Mud associated with the construction and demolition works and construction traffic management. The Contractor is to take measures to ensure that no construction material will contaminate any local groundwater sources. Regard is had to these works and to C&D waste management. If the Board decides to permit, I would recommend, that it be conditioned that a site specific Construction and Demolition Waste Management Plan be submitted prior to the commencement of development.

#### Phasing

- 7.14.8. It is provided in the Outline Construction and Development Management Plan that a detailed phasing plan has been developed so as to assist with the demolition and construction of this development. In order to facilitate the works, the new bridge crossing the Cloghouse River will have to be constructed first to allow for access and

egress of the site. Appendix A includes the 'Indicative Phasing Drawing'. This is colour coded and shows the following:

- Phase 1a - Demolition & Conservation works, Cloghogue River Bridge Construction, Bulk Excavation and Earthworks;
- Phase 1b – Aldi Retail Store, Conservation, Access Road and Site Infrastructure;
- Phase 2 – Retail, Apartments and Associated Carparks;
- Phase 3 – Residential Units – 9 detached houses;
- Phase 4 – Future Development (subject to separate application). It is noted that this area is shown in the western part of the site, to the rear of the houses in Love Lane.

7.14.9. Condition no.42 of the Council's permission, refers to the Phasing of the Works being in accordance with the 'Indicative Phasing Drawing' submitted as part of the F.I response. If the Board decides to permit, I would recommend, that a condition on phasing be included in the interests of clarity and to ensure the orderly development of the site. This would include that the phasing be in chronological order starting with Phase 1a, 1b and 2. As stated in the Council's condition this should include: *The bridge over the Cloghogue River and the spine road linking Chatsworth Street and the Ballinakill Road and associated works shall be provided in Phase 1 of the development, prior to the operation of the Aldi store.*

7.14.10. If the Board decide to refuse Phase 3 (housing) as has been recommended IN THIS Assessment above, it should be stated that Phase 3 is not permitted as part of this permission. Also, that Phase 4 is to be the subject of a separate application.

## 7.15. Other issues

### Noise Impact Assessment

7.15.1. An Environmental Noise Impact Assessment Report has been submitted as part of the applicant's response F.I. The scope of this Report is to identify and assess the potential noise impacts and effects of the proposed Aldi store on nearby Noise Sensitive Receptors (NSRs) during the operational phase, taking account of

recognised standards and guidance. Mitigation measures are recommended where necessary to reduce, minimise or eliminate potential noise impact where effects are likely or possible.

- 7.15.2. Regard is had to the Methodology, Site Survey & Monitoring. Note is had of a Characterisation of the Existing Ambient Sound Environment. Figure 1 provides Mapping showing Site Location & Noise Monitoring Points. Predicted noise levels at the nearest NSRs, as a result of the likely future operations at the proposed Aldi development were calculated taking account of the requirements of the relevant Noise Standards and Guidelines.
- 7.15.3. It is noted that the general area is characterised by mixed use with residential and commercial/retail uses present. The backyards or gardens of NSRs adjoin the site along the eastern and western boundaries (Chatsworth Street and Love Lane respectively). They note the protected structures in the vicinity of the site, including two within the site (a mill building and single storey annex building abutting the Post Office), Creamery House and the Post Office Building directly adjoin the south eastern site boundary. Regard is also had to existing boundary treatment and the relatively enclosed backland nature of the site.
- 7.15.4. Details/results are given of the ambient sound environment of the site. Back gardens of the boundary NSRs are generally quiet, due to the screening provided by the buildings, however traffic noise is still clearly audible and is the main noise source affecting the site and surrounding NSRs. Tables provide Summary Results having regard to Daytime, Evening and Night-time noise levels. In summary, the ambient noise environment at the site is generally lower than a typically urban/suburban area due to the enclosed nature of the site.
- 7.15.5. An Assessment of Impacts including further detail on expected noise levels at NSRs from the output of the model is provided in Section 6.0. This includes regard to external fixed plant and provides the noise levels will be in accordance with current standards and guidelines. The description of development includes regard to the type of materials and external finishes to be used in the construction of the Aldi Store. Note is also had of refrigeration units, including proposed external plant. In order, to further reduce noise levels an absorptive barrier is to be provided to the rear of the external fixed plant unit, proximate to the north-eastern boundary with the

residential in Chatsworth Street. This partial enclosure is to provide a reduction of approx.10decibels to the cottages located northeast of the external plant on Chatsworth Street and accordingly no adverse impact is expected.

- 7.15.6. As has been stated a new road is to be built through the site and the carparking area is to serve the site and the Aldi store. It is submitted that all deliveries to the store will enter and exit from the Ballinakill Road. Regard is had to typical daily deliveries, to include limited main delivery HGV and other smaller deliveries of fresh produce daily. One freezer delivery is to occur 3-5 times a week. The loading dock is on the northern façade of the building. It is submitted that the store building will provide screening to the NSRs to the south and east. New landscaping features to the north will also provide screening to other NSRs to the north.
- 7.15.7. The assessment of the potential impact of main delivery for night-time hours (23.00-0700 hrs) indicates that a potential for adverse impact (i.e an increase in noise level over background) may arise due to delivery truck movements in the car-park at both existing and proposed NSRs. That the muffled rumbles from unloading have the potential to result in significant adverse impacts at the proposed NSRs only (existing NSRs will benefit from screening). Attachment 4 of the Noise Assessment Report separately covers the truck movement and intermittent rumbles as the driver moves stock to the store. Their results conclude that the main delivery could occur during part of the designated night-time hours i.e from 06.00hrs onwards throughout the day and into the evening period without any significant adverse impact on proposed NSRs due to context. Similarly with the other deliveries.
- 7.15.8. In view of the proximity of residential development to the east and north of the site, if the Board decides to permit, I would recommend, that it be conditioned that deliveries not occur before 0700hrs and that the opening hours of the store be 0800hrs Mondays to Saturdays inclusive and 0900 to 2100hrs on Sundays and public holidays. This is considered to be reasonable and in accordance with other such permissions (e.g. ABP-310295-21 refers to opening hours for Lidl store in Mitchelstown, Co. Cork).
- 7.15.9. The Noise Assessment recommends a number of operational phase mitigation factors/measures. Overall, I would concur that provided the construction works and the operational phase are managed/mitigated in accordance with current standards

that it can be concluded that the proposed development i.e of the Aldi store and its environs will not cause significant noise effects.

7.15.10. I note the Council's permission also includes conditions (no.8 and 48) relative to restrictions on noise levels during construction and operational phases and to the opening hours of the proposed café/community space. If the Board decides to permit, I recommend that appropriate noise conditions be included.

#### Lighting

7.15.11. As part of the Council's F.I request the applicant was requested to submit a detailed lighting design to take into consideration the existing public lighting on the Ballinakill Road and Chatsworth St. The design to include for lighting to the pedestrian access to Chatsworth Street. In response a Drawing showing a proposed lighting scheme has been submitted along with a Report on External Lighting Design. It is stated that this Outdoor Lighting Report has been prepared in accordance with current standards. If the Board decides to permit, I would recommend that a condition on public lighting be included. This should also include that lighting within the site be cowled and directed away from existing properties adjoining the site and be more limited in the northern part of the site, i.e. adjacent to the riparian zone.

#### **7.16. Ecology**

7.16.1. In response to the Council's F.I request an Ecological Impact Assessment (EclA) by Meehan Ecology, has been submitted. This has regard to the receiving environment, which includes areas of pastureland, mature trees and hedgerows in the greenfield area of the site and to the concreted brownfield southern part of the site which includes the former Glanbia buildings. It is noted that the Cloghogue River flows eastwards along the northern boundary of the site. A new bridge and access point from the L1829 (Ballinakill Road) into the development will cross this river.

7.16.2. A Desktop Study was carried out to provide an overview of available data and the habitats on site. The lands proposed for this development are not currently designated for any nature conservation purposes, however the site is linked hydrologically via the Cloghogue River which is a tributary of the Dinin River, which is a component of the River Barrow and River Nore SAC (site code 002162). The confluence of the Cloghogue and Dinin rivers is 400m downstream of the site.

- 7.16.3. Regard is had to Geology and Hydrology on site. This includes that with the exception of the Cloghogue River, there are no watercourses located within the site. The water quality of the Cloghogue River was classified as 'Moderate' under the Water Framework Directive monitoring 2013-2018. This also gives the Dinin River a 'Moderate' classification.
- 7.16.4. In the event of a pollution incident occurring during the construction or operation stages of the development affecting the Cloghogue, the effects would likely impact on the integrity of the River Dinin, a component of this SAC. Separately it is noted that an Ecology & Appropriate Assessment Screening Report and subsequently a Natura Impact Statement (NIS) have been submitted which have regard to any impacts on this SAC and the designated Natura 2000 sites.

#### Conservation Evaluation and Potential Impacts

- 7.16.5. Note is had to the surveys including bat surveys carried out and to potential impacts in this Assessment below. Habitats and species are evaluated based on their conservation status, distribution and the estimated population size or importance.
- 7.16.6. Potential impacts on flora and fauna will arise during both the construction and operational phases of the proposed development. The activities associated with the proposed development that have the potential to affect the ecology of the site and surrounding area include - direct habitat loss; disturbance and potential for water pollution.

#### Habitats and Flora

- 7.16.7. A habitat map is provided in Appendix A. Details are given of habitats recorded on site which include improved agricultural grassland; dry calcareous and neutral grassland; eroding/upland rivers; treelines and hedgerows; scrub. In the southern part of the site, regard is had to buildings and artificial surfaces and recolonising bare ground.
- 7.16.8. It is noted that no habitat designated for nature conservation purposes, or plant species protected under the Flora Protection Order 2015 was recorded on the site or will be directly impacted by the proposed development of this site. They provide that the installation of the attenuation tanks will require the temporary removal of soil from the embankment, classified as dry calcareous and neutral grassland habitat, most of



which will be reinstated when the attenuation tank is installed. The EclA notes that reinstating this soil will involve the soil being excavated in strata, stored separately and reinstated back in the same order.

- 7.16.9. The hedgerow along the western site boundary and riparian treeline and scrub along the Cloghogue River are to be retained and improved. They note that one of the mature specimen trees (beech tree, tag no.191) will require felling in order to facilitate the construction of the bridge and access road.

#### Invasive Species

- 7.16.10. No invasive species were recorded on the site. However, there is a record for Japanese knotwood dating from 2010, located by the N78 bridge in Castlecomer, along the River Dinin. It is stated that this location is approx. 400m downstream of the site.

#### Bats

- 7.16.11. Table 4 of the EclA includes Bat Records for the area held on the National Biodiversity Datacentre (NBDC). They also had regard to Bat Conservation Ireland's habitat suitability index available to view on the NBDC online mapping portal. This classifies the landscape, within which the site is located as highly suitable for bats. This is due to the presence of a mosaic of habitats, including mature hedgerows and riparian habitats. The three species most likely to occur on the site are the common pipistrelle, Leisler's bat and the brown long eared bat. With the exception, of the lesser horseshoe bat, which is associated with counties along the western seaboard, eight of Ireland's nine resident bat species could potentially be found within the vicinity of the site.
- 7.16.12. It is stated that three bat surveys were conducted at dawn and dusk in August and September 2020, including an internal search of the former creamery buildings to determine if bats were emerging and the use of these buildings for roosting and also to determine the level of usage by bats of the site. No evidence of roosting bats was noted from within any of the buildings surveyed. While they provide that these now derelict buildings may have the potential for bats, no bats were recorded during the surveys of these buildings carried out. The three bat surveys also included walkovers of the site. Five species of bat were detected i.e. Common pipistrelle, Soprano pipistrelle, Leisler's bat, Danbenton's bat and Natterer's bat.

7.16.13. The most significant potential impact on the local bat population is from inappropriate lighting. The principal habitat that will be lost of the site is the grassland, which it is submitted will result in a negligible impact as these habitats offer only limited foraging potential. They provide that the demolition of the former creamery buildings is not likely to have a significant impact on the local population as no roosts were confirmed in these buildings.

### Mammals

#### *Otter*

7.16.14. An Otter Survey was conducted in August 2020. The scope of the survey was extended to 200m upstream and downstream of the site on the Cloghogue River. No evidence of otter was noted during the walkover survey. However, due to suitable habitat being available along the Cloghogue River, their presence cannot be ruled out. The EclA provides that the development will not result in a direct impact on the local otter population, however noise and disturbance during construction may create a temporary impact. Inappropriate lighting, illuminating the Cloghogue River and riparian habitats could potentially disrupt otter movements along the watercourse, impacting on their feeding and territorial behaviour. They note that the installation of the bridge could also prevent unimpeded movement of otter along the riverbank.

#### *Badger*

7.16.15. The nearest record for badger, as per the NBDC database, is within 1km of the northern boundary of the site. A survey for Badger was undertaken in August 2020. No evidence of badger sett, including active or inactive setts, were recorded during the survey. However, due to the suitable habitat on the site, their presence in the future cannot be ruled out. The loss of the grassland habitats represents a loss of potential feeding grounds. With abundant suitable habitat to the west of the site, any impacts on badgers arising from this development will be negligible.

#### *Other Mammals*

7.16.16. Other mammal species that possibly use this site include fox, pygmy shrew and hedgehog. No evidence or sightings of their presence was noted during the mammal site surveys. However, the hedgerow and scrub area provide potential habitat for these species.

### Birds

- 7.16.17. An early morning Bird Survey was carried out in August 2020 and this survey was loosely based on the methodology as per the Birdwatch Ireland Countryside Bird Survey (CBS). Table 7 notes the common bird species occurring on the site. There will be minor losses of foraging areas for birds as the bulk of habitats that will be lost.
- 7.16.18. They refer to GA1 and GA2 – shown on the Tree Protection Plan as groups of trees and hedgerows currently on site and provide that these offer limited foraging. The hedgerows along the western boundary of the site are to be retained and improved with supplemental planting. The demolition of the buildings in the southern part of the site, will reduce nesting opportunities for feral pigeon and potentially other species such as barn swallow and house martin. The riparian area and proposed ecological zone provide habitat for birds. They contend that the development of an urbanised habitat with houses and gardens will in the long term favour common garden birds.

### Amphibians

- 7.16.19. No amphibian species were recorded on site during the surveys. The site lacks ponds and water filled ditches, greatly reducing the site's suitability. Minimal impacts on amphibian species are anticipated due to the lack of watercourses such as ponds or water filled ditches on site.

### Brook Lamprey, River Lamprey, Sea Lamprey and Atlantic Salmon

- 7.16.20. The Cloghogue River offers suitable habitat for these four aquatic species, especially in juvenile form. Although no dedicated surveys were undertaken for these species, the precautionary principle is to be applied, and mitigation to protect the river will take these species into consideration. The river potentially provides favourable feeding and spawning conditions for these four species so the precautionary principle is to be applied.

### Crayfish

- 7.16.21. It is noted that they are common throughout the SAC with records extending as far downstream as Thomastown on the Nore and Graiguenamanagh on the Barrow. As per the precautionary principle their presence in the Cloghogue River is considered likely. In the absence of mitigation, threats to crayfish resulting from activities associated with the development could arise from the sedimentation of the river from

site runoff, the contamination of the water with concrete and hydrocarbons and the crushing of individuals during bridge construction. It is also noted that the spread of crayfish plague between watercourses is a result of human activities.

### **Remedial measures**

7.16.22. Section 8.0 of the EclA provides that the principal mitigation that should be considered in any development is the avoidance of impact. Detailed consideration is therefore given to avoiding any direct or indirect impacts on the western and southern boundary treelines and designation of the waterlogged area as a biodiversity zone. It is submitted that this has ameliorated some of the potential impacts for both flora and fauna.

7.16.23. The compliance of a Construction Environmental Management Plan (CEMP) is to be agreed between the site developer and the Council prior to commencement of construction and it is recommended that a project ecologist ECoW is appointed to oversee the requirements as per the plan. If the Board decides to permit it is recommended that it be conditioned that a CEMP be submitted prior to the commencement of the development.

7.16.24. It is of note that Meehan Ecology who have prepared this EclA, also prepared the NIS (in response to the Council's F.I request) and Section 8 which refers to the Remedial Measures is relatively similar to Section 6 of the NIS. These provide a description of planned works and their potential effects on ecology and in the NIS on the conservation objectives and qualifying interests of the River Barrow and River Nore SAC. Issues discussed in the EclA include the following:

- River Cloghogue protection - Construction of the new bridge
- Sediment Control
- Hydrocarbon spill prevention
- Surface (rainfall) runoff and wastewater
- Raising the barrier on Chatsworth Street Bridge

7.16.25. In view of the similarity of the information provided in the EclA and the NIS, to avoid duplication and as these, construction related issues have been raised by the

Council relevant to the NIS, mitigation measures are discussed in that context in the NIS Section below. Remedial measure relative to Fauna are summarised below.

### **Remedial Measures - Fauna**

#### *Bats*

7.16.26. Many species of bats and other mammals are sensitive to lighting and will avoid areas which are illuminated. The EclA provides that the lighting plan for the site has factored in the ecological requirements to reduce and avoid illumination of the river, riparian habitats and hedgerows along the western boundary of the site. These are the areas of the site when bats were most active during surveys. Details are given of how lighting spillage and glare are to be minimised. These lighting modifications will also benefit other wildlife species such as bats. Temporary lighting will be required during construction phase and this will also be modified to ensure that the otter can move along the riverbank in darkness.

7.16.27. The EclA advises that prior to the demolition of the buildings a survey of bats should be undertaken by a qualified ecologist. If bats are confirmed as being present, then appropriate mitigation will need to be complied with and submitted to the NPWS to obtain a derogation licence. To negate the loss of the creamery buildings as potential bat roosting sites it is recommended that artificial bat roosts should be incorporated into the new buildings, and also, underside of the new bridge to provide roosting potential for bats and increase biodiversity on the site.

#### *Birds*

7.16.28. Construction and demolition works are to be scheduled outside of the bird nesting season (1<sup>st</sup> of March to 31<sup>st</sup> of August) in order to avoid interfering with the local bird population. This includes no clearance of vegetation suitable for nesting birds within the site. In addition, an assessment of the buildings scheduled for demolition is to be carried out prior to the commencement of works to ensure there is no birds/wildlife inhabiting the buildings.

#### *Otter*

7.16.29. During the construction and operation phases of this development, there is the potential for effects on otter to arise. The construction of the bridge will create a short-term disturbance only. The retention of a strip of riverbank underneath the

bridge, on the southern side of the river will allow otters to travel along the bank unimpeded. The EclA provides that in order to identify any new couching site or holts and thus inform the construction phase mitigation, pre-construction surveys will be carried out by a suitably qualified ecologist prior to the construction of works in accordance with current guidelines. As this is a qualifying species for the River Barrow and River Nore SAC mitigation measures to protect otter are discussed further in the context of the NIS.

*Brook Lamprey, River Lamprey, Sea Lamprey and Atlantic Salmon*

7.16.30. Sedimentation in watercourses reduces light penetration affecting aquatic vegetation species, fish species and degrades spawning grounds, which require clear oxygenated water. Details are given of mitigation measures given to limit sedimentation during construction phase. It is also noted that no utilities to service the development site are to be laid across or under the riverbed. As these are qualifying species for the River Barrow and River Nore SAC mitigation measures to protect these aquatic species are discussed further in the context of the NIS.

*Crayfish*

7.16.31. As a precautionary principle their presence in the Cloghogue River is likely. Details are given of reductive measures to prevent threats resulting from activities associated with the development including sedimentation of the river from silt runoff, the contamination of the water with concrete and hydrocarbons and the crushing of individuals during bridge construction. As these are a qualifying species for the River Barrow and River Nore SAC mitigation measures to protect crayfish are discussed further in the context of the NIS.

*Invasive species*

7.16.32. They are concerned that earth and other material being brought into the site should be screened to confirm that there is no invasive species such as Japanese knotweed or other alien species present. This includes that all machinery and plant entering the site should be cleaned so that no fragment of such invasive species or seeds are brought onto the site in line with the Birds and Natural Habitats Regulations 2011.

### **Mature Tree Protection**

7.16.33. The EclA provides that root protection area around mature trees will be clearly demarcated in advance of any construction works commencing in order to prevent damage by machinery, composition of soil, etc. in accordance with BS 5837:2012. Details include that no ground clearance, earth moving, stockpiling of machinery movement will occur within these protected areas. Soil levels within the RPA should not be lowered or made higher. The attenuation tank has been positioned in a location that will not encroach into any tree's RPA.

### **Predicted impact of the proposed development**

7.16.34. The EclA provides that this is predicted to be low, localised and short term. Regard is had to the management of the grassland as a hay meadow and to the development's landscaping plan. The Cloghogue River is to be protected during construction works, particularly those related to the installation of the new bridge. The retention of the riparian ecological zone, scrub habitat and tree line habitat along the river will provide further protection. The hedgerow along the western boundary of the site is to be retained and managed, ensuring that its role as a bird nesting habitat and wildlife corridor continues. The implementation of the remedial measures as per the EclA will minimise the impact on flora and fauna arising from this development.

### **Conclusion**

7.16.35. Detailed remedial measures have been presented to reduce the impact on ecology in the vicinity of the proposed development and surrounding lands. The development will result in the loss of habitats that have been evaluated as of low to high local conservation value only. The EclA provides that no rare, threatened or legally protected habitats or species will be impacted negatively over the long term as a result of this development. The report recommends that the remedial measures are reflected in the Construction Management Plan/Method Statements prepared for the site. In addition, that an ecologist or ECoW be engaged to review same prior to the commencement of the development and to ensure implementation of same.

7.16.36. I would consider that the details and remedial/mitigation measures outlined in the Ecological Impact Statement have been clearly stated. I would recommend that if the Board decides to permit that these measures as outlined in the EclA be included in a condition relative to ecology.

## 7.17. Appropriate Assessment - Screening

- 7.17.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.
- 7.17.2. In accordance with the obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a European site; there is a requirement on the Board, as the competent authority, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision, by carrying out appropriate assessment. The first stage of assessment is 'screening'.
- 7.17.1. The methodology for screening for Appropriate Assessment as set out in EU Guidance and the Department of Environment, Heritage and Local Government is:
- 1) Description of the plan or project and local site or plan area characteristics.
  - 2) Identification of relevant European sites and compilation of information on their qualifying interests and conservation objectives.
  - 3) Assessment of likely significant effects-direct, indirect, and cumulative, undertaken on the basis of available information.
  - 4) Screening Statement with conclusions.

### **Project Description**

- 7.17.2. This proposal is for a mixed-use development to include supermarket/anchor convenience store, 9 no. retail units, office units, residential units, café/ community units, public/customer parking, new access road from the Ballinakill Road, bridge over the Cloghogue River in the northern part of the site, amendments to the former Glanbia access (off High Street) Castlecomer, together with associated site development works. The project entails demolition, excavation and construction works. The southern part of the site encompasses the former Glanbia site, and the remainder of the site is largely greenfield.
- 7.17.3. A Natura Impact Statement (Ecology & Appropriate Assessment Screening) prepared by Roger Goodwillie & Associates has been submitted with the application



as originally submitted (dated August 2019). Subsequently a Natura Impact Statement was submitted prepared by Meehan Ecology (dated December 2020) as part of the applicant's F.I response submission.

7.17.4. The purpose of this report is to examine the development for possible impacts on the integrity of the Natura 2000 network, in particular on the River Barrow & River Nore (Site Code: 002162). It is noted that the development site is located outside the boundary of the designations but has a hydrological link to it through the on-site Cloghogue River, which runs along the northern boundary of the site. The AA Screening Report originally submitted provides, that the site was visited in July & August 2019. Details are given of the sources of the data, having examined the available files and online sources of information for the local Natura 2000 sites.

7.17.5. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- \* Construction related -uncontrolled surface water/silt/ construction related pollution
- \* Habitat loss/ fragmentation
- \* Habitat disturbance /species disturbance (construction and or operational)

7.17.6. In relation to the matter of habitat loss or alteration while the proposed development site is located c.400m away from the River Barrow and River Nore SAC it is provided that there will be no direct loss or alteration of the habitat. Regarding the issue of habitat/species fragmentation the proposed development would not result in any direct habitat loss or fragmentation.

### **European Sites**

7.17.7. In this case there are three Natura sites within a 15km radius of the site i.e:

- The River Barrow and River Nore SAC (Site Code: 002162) – the site is c. 400m from the River Barrow to the east.
- River Nore SPA (Site Code: 004233) – the site is c.8.3km distant.
- Lisbigney Bog (Site Code 00869) – the site is c.10km distant

The Qualifying Interests and General Conservation Objectives of these three Designated Natura 2000 sites are as shown on Table 1 below:

European Site (code) and distance from proposed development	List of Qualifying interest/Special Conservation Interest	General Conservation Objectives	Connections (source, pathway receptor)	Considered in further screening Y/N
<p>River Barrow and River Nore SAC</p> <p>002162</p> <p>c.400m east-of the site</p>	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Reefs [1170]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritima) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</p> <p>European dry heaths [4030]</p> <p>Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior</p>	<p>To maintain or restore the favourable conservation condition of the Annex I habitats(s) and/or the Annex II species for which the SAC has been selected.</p>	<p>There is source – pathway – connectivity between the proposed development site and the River Barrow and River Nore SAC</p> <p>This is hydrologically connected via the Cloghogue River which is a tributary of the River Dinin which is a component of the SAC.</p>	<p>Yes</p>

	<p>(Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Austropotamobius pallipes (White-clawed Crayfish) [1092]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Lampetra fluviatilis (River Lamprey) [1099]</p> <p>Alosa fallax fallax (Twaite Shad) [1103]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Lutra lutra (Otter) [1355]</p> <p>Trichomanes speciosum (Killarney Fern) [1421]</p> <p>Margaritifera durrovensis (Nore Pearl Mussel) [1990]</p>			
<p>River Nore SPA 00423 8.3km</p>	<p>Alcedo atthis (Kingfisher)</p>	<p>To maintain or restore the favourable conservation condition of the bird species for which the SPA has</p>	<p>There is no source – pathway-receptor connectivity between the proposed development and the SPA</p>	<p>No</p>

		been selected.	The site is distant from the SPA and there is no potential for impact	
Lisbigney Bog SAC 0869 10km	Vertigo moulinsiana (Desmoulin's Whorl Snail)  Calcareous fens with Cladium mariscus and species of the Caricion davallianae*	To maintain or restore the favourable conservation condition of the species for which the SAC has been selected.	There is no source – pathway-receptor connectivity between the proposed development and the SAC  The site is distant from the SAC and there is no potential for impact	No

River Nore SPA

7.17.8. Note is had of the Table above of the qualifying interests and conservation objectives of this Natura 2000 site, which is c.8.3kms from the application site. The project is not hydrologically connected to the River Nore SPA, which is in a different catchment and there is no source-pathway - receptor. This designated site is considered beyond the zone of influence of the subject site due to distance and there is no reference of the Kingfisher being in the vicinity of the site. Hence potential impacts on this Natura 2000 site are ruled out and the site is screened out.

Lisbigney Bog SAC

7.17.9. Note is had in the Table above of the qualifying interests and conservation objectives of this Natura 2000 site, which is c.10kms from the application site. The project is not

hydrologically connected to the Lisbigney Bog SAC, which is in a different catchment and there is no source-pathway - receptor. This site is considered beyond the zone of influence of the subject site due to distance. Hence potential impacts on this Natura 2000 site are ruled out and the site is screened out.

*River Barrow and River Nore SAC*

7.17.10. The proposed development is outside of the designated boundaries. No land area from within the designated boundaries is required to implement the proposed development. The development is not located within a site designated for nature conservation purposes but is within c.400m to the west of the River Barrow and River Nore SAC.

7.17.11. The Cloghogue River flows through the northern part of the proposed development site, which is a tributary of the River Dinin which is a component of the River Barrow and River Nore SAC. In view of the proximity and hydrological connection this proposal has potential to impact on the integrity of the River Barrow and River Nore SAC and this is considered further in the Screening Rationale below.

**Assessment of likely Effects (Direct/Indirect)**

7.17.12. The Roger Goodwillie & Associates AA Screening Report notes that the interests that are relevant to this site are solely aquatic animals – the white-clawed crayfish, river lamprey, Atlantic salmon and otter. That none of the other qualifying features occurs on or is within range of outflows from the site and they are not potentially at risk from the project. They provide that the development is outside the SAC and does not have a role in supporting any of the listed habitats or species.

7.17.13. Regard is had to the proposed bridge construction noting that the bridge supports will be located outside the channel and beyond the 1000 year flood lines with no instream works required. It is noted that drainage infrastructure will be provided. Note is had of proposed road finishes, noting that road drainage will run through an oil separator before discharge. Therefore, the Roger Goodwillie & Associates Screening Report provides that there will be no direct impacts from construction.

7.17.14. There is potential for indirect effects on the river ecosystem from such development but the Screening Report provides that the preventative measures of effluent control

and the method of bridge construction, whereby no in-stream works are required will eliminate any risk of significant outflow to the Natura 2000 site.

### **Screening Report Conclusion**

- 7.17.15. The Screening Report concludes that the project will have no significant effect on the integrity of the Natura 2000 site network, in particular on the ecology of the River Barrow & River Nore SAC. That it will not compromise the attainment of its conservation objectives. That this being the case there is no possibility of cumulative effects and the further, more detailed stages of AA are not required.
- 7.17.16. However, it is noted that the Council, considered that the AA Screening Report as originally submitted, does not adequately demonstrate that a number of areas for potential impact upon the adjoining river and indirect impacts on the River Barrow and River Nore SAC have been adequately addressed. They provided that the NIS should address, inter alia, the significant amounts of excavation, construction and regarding of ground levels on site, the construction of the attenuation area, the roads construction, excavation works to re-grade the levels of the embankment, construct the dwellings, construct the bridge, use of in-situ concrete for the bridge construction, and potential impacts from surface water disposal to the Cloghogue River and connections to utilities including water supply, within or traversing the river, and also the proposed measures to raise the barrier along the bridge on Chatsworth Street.
- 7.17.17. The Planning Authority concluded that significant impacts on this SAC cannot be ruled out, while applying the precautionary principle and that therefore a Stage 2 AA is required. In view of the location and scope of the proposed development and the issues raised, I would concur with this.

### **Conclusion – Stage I AA**

- 7.17.18. 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) could have a significant effect on European Site No. 002162, in view of the site's Conservation Objectives, and Appropriate Assessment and submission of a NIS is therefore required.

## 7.18. Natura Impact Statement

### Background

- 7.18.1. In response to the Council's F.I request an NIS prepared by Sean Meehan, Consultant Ecologist Meehan Ecology, was submitted. While this document is referred to as an NIS it also refers to preliminary screening and a Stage 1 Screening Assessment which includes more detail but is relatively similar to the Roger Goodwille & Associates AA Screening Report. However, it does conclude that there is potential for significant effects on the River Barrow and River Nore SAC and that an NIS is necessary.
- 7.18.2. The conservation objectives and qualifying interests of the three Natura 2000 sites within 15km of the application site are as listed in Table 1 in the Screening Section above. It has been noted that the River Nore SPA and Lisbigney Bog SAC have been screened out. However, the River Barrow and River Nore SAC requires further assessment due to the Cloghogue River being a hydrological pathway between the applicant site and the River Dinin, which is a major tributary of the River Barrow and River Nore SAC system. Table 2 of the Meehan Ecology NIS - *Screening of identified Natura 2000 sites* refers.
- 7.18.3. The Cloghogue River has been identified as a potential 'source-path-receptor' between the development site and the River Barrow and River Nore SAC. This River adjoins the River Dinin, that is part of this SAC, approx. 400m downstream of the development site.

### Appropriate Assessment of the implications of the proposed development

- 7.18.4. The following is a summary of the objective scientific assessment of the implications of the project on the site integrity of the River Barrow and River Nore SAC. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.
- 7.18.5. Having reviewed the documents, submissions and consultations with the NPWS etc, I am satisfied that the information allows for a complete assessment of any adverse effects of the development, on the conservation objectives of this European site alone, or in combination with other plans and projects.

## Aspects of the proposed development

7.18.6. The main aspects of the proposed development that could adversely affect the conservation objectives of European sites are as follows:

- Impacts to water quality, aquatic species and riparian habitats through construction related pollution events and /or operational impacts.
- Disturbance and potential for impact from invasive species

7.18.7. A description of the Qualifying interests and Conservation Objectives of this SAC are given in Table 1 in the Screening Assessment above. It is noted that the River Barrow and River Nore SAC has 23 qualifying interests. The NIS provides that the majority can be 'screened out' as they do not occur within the zone of influence of the development due to their location, distance from the site or lack of a 'source - pathway-receptor'. The NIS provides that the only qualifying interests that could be significantly affected due to activities associated with the construction and operation of the development are noted on their featured Table 4 as below (Section 5.6 relates).

<b>Code</b>	<b>Qualifying interest</b>	<b>Overall Status at National Level</b>	<b>General pressures</b>
1355	Otter	Favourable	Watercourse pollution, particularly when resulting in fish kills, road kill. Barriers to connectivity.
1093	White Clawed crayfish	Bad	Poor prospects due to presence of crayfish plague.
1106	Atlantic Salmon	Inadequate	Freshwater and habitat quality an issue, artificial barriers to migration.
1099	River Lamprey	Unknown	Water pollution, artificial barriers to migration.



1096	Brook Lamprey	Favourable	Water pollution, artificial barriers to migration.
1095	Sea Lamprey	Bad	Water pollution, artificial barriers to migration.
6430	Hydrophilous tall herb swamp	Bad	Invasive species such as Himalayan balsam, excessive growth of bramble and nettle, drainage
91E0	Alluvial Woodland	Bad	Invasive species such as Himalayan balsam, excessive growth of bramble and nettle.

### **Mitigation Measures – Construction Works**

- 7.18.8. It has been identified that potential impacts could (without mitigation) cause a significant effect on the qualifying interests and thereby undermine the conservation objectives of the River Barrow and River Nore SAC during the proposed construction works. These include any impacts on water quality resulting from the construction phase of the proposed development. Uncontrolled runoff could enter into the adjacent riparian and aquatic habitats adversely affecting the quality of these habitats and the aquatic species they support within the River Barrow and River Nore SAC. The application of preventive measures will ensure that impacts do not reach the SAC and adverse effects on the relevant qualifying interests can be avoided.
- 7.18.9. It is of note that Meehan Ecology who have prepared the NIS, also prepared the Ecological Impact Report and Section 8 which refers to the Remedial Measures is similar to the Mitigation Measures in Section 6 of the NIS. The latter provides a Description of planned works and their potential effects on qualifying interests of the River Barrow and River Nore SAC. Issues discussed include regard to mitigation measures relative to the following:

- Construction of the new bridge
- Surface (rainfall) runoff and wastewater
- Excavation and Soils
- Refuelling
- Raising the barrier on Chatsworth Street Bridge
- Flooding of the Cloghogue River

These specific items are discussed further below:

*Construction of new bridge*

7.18.10. Regard is had to the construction of the new bridge over the Cloghogue River to link the site to the Ballinakill Road. As per the details submitted, this to be a 15m clear span structure with bespoke pre-cast concrete abutments located outside the 100 year flood level. The riverbed width at the crossing point is 4.7m with the top of the bank 12m. The underside of the bridge deck is set at the 1000 year flood level, being 2.26m above the current riverbed level. This span and deck height creates a 3m wide section of riverbank on the southern side of the river, and it is provided that this will enable wildlife, such as otter, to pass underneath unimpeded. The pre-cast beams and abutments will eliminate the necessity for in-stream works and considerably reduce the volume of fresh concrete and other materials being used beside the river.

7.18.11. It is noted that prior to any bridge works commencing, Inland Fisheries Ireland (IFI) will be consulted, and the works method statement for the bridge approved. That this works method statement should include reference to the TII *Guidelines for the Crossing of Watercourses during the construction of National Road Schemes*. The timing of bridge construction works may be dictated by seasonal constraints regarding the possible movement of salmonoid and lamprey species in the Cloghogue River. It is provided that Inland Fisheries will advise on this matter.

*Surface (rainfall) runoff and wastewater*

7.18.12. Sub-soils on the development site are expected to be relatively impermeable and there is concern that infiltration of run-off from roofs and paved areas to ground could lead to pluvial flood risk within the development. To avoid the risk, rainfall run-off

from these areas will not rely on discharge to ground (soakage). An outfall to the Cloghogue River is to be used for the disposal of this surface water run-off. Surface water runoff originating from the site will flow into a *Stormtech Hydrochamber* attenuation tank. Details are given of capacity of the attenuation tank (808m<sup>3</sup>) and of controlled discharge to the river, (maximum of 24.4 lit/sec). This discharge to the river to be restricted to the maximum permissible by installing a constant head/variable discharge flow-control valve.

7.18.13. To prevent grease and other contaminants from entering the river, note is had, of a grease trap proposed on the foul drains to be installed upstream of the connection to the wastewater drainage network. Details are given of a Kingspan/Klargester Bypass separator proposed upstream of the attenuation system approx. 80m upstream of the proposed surface water outfall to the Cloghogue River. This separator is to be a minimum of 65m from the Cloghogue River channel and 52m from the modelled Flood Zone C (1,000 year flood level).

7.18.14. Wastewater discharge from the development is to be via the existing Irish Water gravity sewer on Chatsworth Street and the Ballinakill Road. Irish Water have confirmed that there is capacity to deal with the volumes of wastewater expected to be generated from the development when it is operational.

#### *Excavation and Soils*

7.18.15. The construction phase of the development will involve significant earthworks, which in the absence of robust mitigation would create exposed soil that would be vulnerable to run-off likely leading to sediment entering the Cloghogue River. Exposed soils are particularly vulnerable to runoff due to rainfall and can seriously impact on the quality of water in watercourses due to sedimentation. Potential harm to waterways and aquatic life can be caused by even small amounts of runoff from a site (both the construction and operational stages) and sedimentation.

7.18.16. Mitigation measures include the reseeded and reinstatement of soils to prevent erosion and runoff. In the case of soils originating from excavation of the embankment, these are to be excavated in layers and temporarily stored separately until reinstatement works commence. No soils or infill material are to be stored within 30m of the river. Temporary silt fencing is to be installed in sections along the river as required to intercept runoff and prevent siltation. Vehicle wheels are to be washed

within the site boundaries before exiting the site and such washings are to be contained within the site. It is provided that additional guidance as per Inland Fisheries Ireland (2016) to minimise and control runoff originating on the site will be included in the project's CEMP.

#### *Refuelling*

7.18.17. It is stated that hydrocarbon fuels may be stored on the site during construction stage, in the southern section of the site. Details are given relative to the design and the capacity of bunded tanks. Vehicles are only to be refuelled within a designated refuelling zone on a concrete surface drained to a bypass retention petrol/oil interceptor. No refuelling is permitted within 30m of the river. Materials will not be stored on site unless contained within a bunded compound.

#### *Raising of barrier on Chatsworth Street Bridge*

7.18.18. Details are given of works to be undertaken from the existing bridge P.S on Chatsworth Street. These include the raising of the barrier as a safety measure to include the removal of existing cut limestone coping and raising the stone parapet, with no instream works required, although scaffolding may have to be erected to enable preventative measures against mortar contaminating the river to be put in place such as a spill shelf running along the entire existing parapet. If scaffolding is required, then a bio security plan must be implemented to prevent the potential introduction of crayfish plague. The NIS advises that Inland Fisheries should be notified to any incursion into the river, including for the erection of scaffolding.

#### *Flooding of the Cloghogue River*

7.18.19. A Site Specific Flood Risk Assessment was carried out on site (Kilgallen & Partners, 2020) and found that the planned development, with the exception of the new bridge, lies within 'Zone C' where the probability of flooding in any year is less than 0.1% (i.e. Flood Zone in respect of a flood with a return period greater than 1,000years). The design of the bridge has factored in both the 100 years and 1000 years flood return risk. Flooding does not impact on vulnerable areas of the proposed development not compatible to water (i.e. houses and roads). No soils, infill or other materials are to be stored within the Flood Zones A and B.

## Mitigation Measures - Qualifying Species

7.18.20. The qualifying species and their habitats that are likely to occur within the zone of influence as identified in the NIS are summarised by the Ecologist (and have also been noted in the EclA). Potential effects and mitigation measures are noted below.

### Otter

#### *Potential effects and mitigation*

7.18.21. It is provided that Otter are widespread on the River Dinin, River Barrow and connecting tributaries. The Cloghogue River and associated riparian banks offer favourable habitat for otter. While a survey for otter was undertaken as part of the EclA, there was no evidence of the presence of otter. However, the absence of recent records for otter does not imply genuine absence. During the construction and operation phases of the development, there is potential for effects on otter to arise. The construction of the bridge will create a short-term disturbance only. The retention of a strip of riverbank underneath the bridge on the southern side of the river, will allow otters to travel along the riverbank unimpeded.

7.18.22. A potentially significant effect on otter identified is inappropriate lighting of the Cloghogue River and riparian habitats. The lighting plan for the site has factored in the ecological requirements to reduce and avoid illumination of the river and riparian strip. Details are given and it is noted that temporary lighting required during the construction phase will also be modified to ensure that otter can move along the riverbank in darkness.

7.18.23. The NIS provides that in order to identify any new couching site or holts and thus inform the construction phase mitigation, pre-construction surveys will be carried out by a suitably qualified ecologist prior to the construction of works in accordance with current guidelines. As per the *Guidelines for the Treatment of Otters Prior to the Construction of National Road Schemes* (TII, 2006) details are given of the measures to be implemented to mitigate potential disturbance to the otter during construction. These to include:

- No works involving wheeled or tracked vehicles will take place within 20m of an active but non-breeding holt.

- No scrub clearance or digging will take place within 15m of such holts except under licence.
- Temporary fencing will be erected at 20m excluding works around active holt sites.

Should an active breeding holt be identified within 150m of the location of the planned bridge or outflow headwall, then a temporary buffer zone of 150m will be established between the holt and construction activities and details are given of this.

### Crayfish

#### *Potential effects and mitigation*

7.18.24. To mitigate against threats to crayfish from the construction of the proposed development, silt fencing is to be installed, and instream works minimised by the use of a precast bridge structure. It is stated that this will also greatly reduce the necessity for wet concrete to be used in close proximity to the river. All machinery operating on the site will be checked daily for leaks and refuelling will only be permitted in dedicated areas, more than 30m from the river.

7.18.25. Details are given to mitigate against the spread of the crayfish plague and disease. An appropriate protocol is to be followed i.e. the '*Check, Clean, Dry*' procedure and details are given of this to be carried out at least 30m from watercourses. They submit that the full and proper implementation of the biosecurity protocol as described will eliminate, beyond reasonable scientific doubt, the risk of crayfish plague or other diseases being introduced to the Cloghogue River, which could potentially impact crayfish populations in the River Barrow and River Nore SAC.

### Atlantic Salmon, Brook Lamprey and Sea Lamprey

#### *Potential effects and mitigation*

7.18.26. The Cloghogue River potentially provides favourable feeding and spawning conditions for these four species so the precautionary principle is applied. The most significant potential impacts that could negatively affect these four species would be a deterioration in water quality resulting from a pollution incident originating on the site and disturbance of the riverbed and riverbanks.

7.18.27. Sedimentation is to be mitigated by the use of silt fencing and silt interceptors. Instream works associated with the bridge construction, attenuation outfall and repairs of the parapet on Chatsworth Street bridge will be kept to a minimum and are to have prior approval from the IFI.

7.18.28. No utilities to service the development site are to be laid across or under the riverbed. The existing wastewater pipe from the development site to the public sewer on the Ballinakill Road, that crosses the Cloghogue River, is to be utilised, negating the requirement for a new pipe to be installed. Mitigation measures are to be further supplemented in the project's Construction Management Plan.

#### Hydrophilous tall herb and Alluvial Woodland

##### *Potential effects and mitigation*

7.18.29. Both habitats are found throughout the River Barrow and River Nore SAC. The main threats identified for both these riparian dependent habitats, arising from the development, is infestation by invasive species transported by flood water, on which both habitats depend. It is provided that no invasive alien species were recorded on the applicant site during the August and September 2020 site walkovers.

7.18.30. Construction works could bring a threat of invasive species. These can spread by wheels and tracks. Japanese knotweed are particularly associated with riverine dispersal and can impact sites considerable distance downstream from the development. To mitigate against the introduction of invasive species onto the site, the origin of all soils and fill being imported into the site must be verified and inspected by the site ecologist. All machinery and plant entering the site should be cleaned to ensure no fragments of Japanese knotweed or seeds of other invasive species are brought to the site in line with the *Birds and Natural Habitats Regulations 2011*.

#### **Conclusion on Mitigation Measures**

7.18.31. Considering the proximity of the site to the River Barrow and River Nore SAC, a site designated with a number of qualifying species (e.g River Lamprey and Atlantic Salmon), it would be prudent to apply safeguards to prevent siltation and other contamination of surface waters. Based on the information provided, I am satisfied that the measures detailed are standard pollution control measures that can be

implemented and can be relied upon to prevent the ingress of any construction related compounds into the freshwater habitats and qualifying species of the nearby River Barrow.

**Table 2 – AA summary matrix for the River Barrow and River Nore SAC**

<p><b>River Barrow and River Nore SAC (Site Code 002162)</b></p> <p><b>Summary of Key issues that could give rise to adverse effects</b></p> <ul style="list-style-type: none"> <li>• Potential water pollution - Water Quality and water dependant habitats</li> <li>• Potential sedimentation from surface water runoff - Water Quality and water dependant habitats.</li> <li>• Disturbance due to construction works</li> <li>• Invasive species</li> </ul> <p>Regard is also had to Appendix A (Meehan Ecology NIS) – Table - Conservation objectives per qualifying interests of the River Barrow and River Nore SAC</p>					
		<b>Summary of Appropriate Assessment</b>			
Qualifying Interest feature	Conservation Objectives	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
	<p>Targets and attributes (as listed in detail in the Conservation Objectives in the NPWS website for the River Barrow and River Nore SAC: (site code: 002162)</p>				
<p>The following Qualifying interests of the River Barrow and River Nore SAC are present in this part of the SAC (as stated in Section 5.6, Table 4 of the Meehan Ecology NIS):</p>					
<b>White-clawed crayfish</b>	To maintain the favourable conservation condition of White-clawed crayfish in the River Barrow and River Nore SAC, which is defined	<p>Potential water pollution</p> <p>Potential sedimentation from surface water runoff</p> <p>To mitigate against the</p>	<p>Mitigation measures required and detailed in full in Section 6.3 of the NIS</p>	None	Yes



	<p>by a list of attributes and targets.</p> <p>No decline, subject to natural processes</p>	<p>introduction of invasive species</p> <p>If these were to occur during construction, it could lead to a localised degradation of habitat quality.</p>			
<b>Brook Lamprey</b>	<p>To restore the favourable conservation condition of Brook Lamprey in the River Barrow and River Nore SAC, which is defined by a list of attributes and targets.</p> <p>No decline, subject to natural processes.</p>	<p>Potential water pollution</p> <p>Potential sedimentation from surface water runoff</p> <p>If these were to occur during construction, it could lead to a localised degradation of habitat quality.</p>	<p>Mitigation measures required and detailed in full in Section 6.4 of the NIS</p>	None	Yes
<b>River Lamprey</b>	<p>To restore the favourable conservation of River Lamprey in the River Barrow and River Nore SAC, which is defined by a list of attributes and targets.</p> <p>No decline, subject to natural processes</p>	<p>Potential water pollution</p> <p>Potential sedimentation from surface water runoff</p> <p>If these were to occur during construction, it could lead to a localised degradation of habitat quality.</p>	<p>Mitigation measures required and detailed in full in Section 6.4 of the NIS</p>	None	Yes
<b>Sea Lamprey</b>	<p>To restore the favourable conservation of</p>	<p>Potential water pollution</p>	<p>Mitigation measures required and</p>	None	Yes

	<p>Sea Lamprey in the River Barrow and River Nore SAC, which is defined by a list of attributes and targets.</p> <p>No decline, subject to natural processes</p>	<p>Potential sedimentation from surface water runoff</p> <p>If these were to occur during construction, it could lead to a localised degradation of habitat quality.</p>	<p>detailed in full in Section 6.4 of the NIS</p>		
<b>Atlantic Salmon</b>	<p>To restore the favourable conservation condition of Salmon in the River Barrow and River Nore SAC, which is defined by a list of attributes and targets.</p> <p>No decline, subject to natural processes</p>	<p>Potential water pollution</p> <p>Potential sedimentation from surface water runoff</p> <p>If these were to occur during construction, it could lead to a localised degradation of habitat quality.</p>	<p>Mitigation measures required and detailed in full in Section 6.4 of the NIS</p>	None	Yes
<b>Otter</b>	<p>To restore the favourable conservation condition of Otter in the River Barrow and River Nore SAC, which is defined by a list of attributes and targets.</p> <p>No significant decline, subject to natural processes</p>	<p>Potential water pollution</p> <p>Potential sedimentation from surface water runoff</p> <p>Potential disturbance during construction works</p> <p>If these were to occur during construction, it could lead to a disturbance of otter and</p>	<p>Mitigation measures required and detailed in full in Section 6.2 of the NIS</p>	None	Yes

		localised degradation of habitat quality.			
<b>Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels</b>	<p>To maintain the favourable conservation condition of Hydrophilous in the River Barrow and River Nore SAC, which is defined by a list of attributes and targets.</p> <p>No decline, subject to natural processes</p>	<p>There is a need to maintain appropriate hydrological regimes</p> <p>To mitigate against the introduction of invasive species</p> <p>If these were to occur during construction, it could lead to a localised degradation of habitat quality.</p>	Mitigation measures required and detailed in full in Section 6.5 of the NIS	None	Yes
<b>Alluvial woodland</b>	<p>To restore the favourable conservation condition of Alluvial forest in the River Barrow and River Nore SAC, which is defined by a list of attributes and targets.</p> <p>No decline, subject to natural processes</p>	<p>There is a need to maintain the appropriate hydrological regime necessary for maintenance of alluvial vegetation.</p> <p>To mitigate against the introduction of invasive species</p> <p>If these were to occur during construction, it could lead to a localised degradation of habitat quality.</p>	Mitigation measures required and detailed in full in Section 6.5 of the NIS	None	Yes

**Other Qualifying interests of the River Barrow and River Nore SAC that are not present in this part of the SAC (as stated in Section 5.6 and Table 4 of the Meehan Ecology NIS) - include the following:**

Desmoilin's whorl Snail	To maintain the favourable conservation condition	None – Absent from this part of the SAC.	None	None	Yes
Freshwater Pearl Mussel	The status of the freshwater pearl mussel (as a qualifying Annex II species for the River Barrow and River Nore SAC is currently under review.	None – Not in the main Barrow Channel.	None	None	Yes
Nore freshwater pearl mussel	To restore the favourable conservation condition	None – Not in the River Barrow	None	None	Yes
Twaite shad	To restore the favourable conservation condition Twaite shad in the River Barrow and River Nore SAC, which is defined by a list of attributes and targets	None – Absent	None	None	Yes
Estuaries	To maintain the favourable conservation condition	None - Absent	None	None	Yes
Mudflats and sandflats not covered by seawater at low tide	To maintain the favourable conservation condition	None - Absent	None	None	Yes

Salicornia mudflats	To maintain the favourable conservation condition	None - Absent	None	None	Yes
Atlantic salt Meadows	To restore the favourable conservation condition	None - Absent	None	None	Yes
Killarney Fern	To maintain the favourable conservation condition	None - Absent	None	None	Yes
Mediterranean salt meadows	To restore the favourable conservation condition	None - Absent	None	None	Yes
Petrifying springs with tufa formation (Cratoneurion)	To maintain the favourable conservation condition	None - Absent	None	None	Yes
Old sessile oak woods with Ilex and Blechnum in the British Isles	To restore the favourable conservation condition	None - Absent	None	None	Yes
European dry heaths	To maintain the favourable conservation condition	None - Absent	None	None	Yes
Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation (floating river vegetation)	To maintain the favourable conservation condition	None - Absent	None	None	Yes

Reefs	No specific conservation objectives set out for 002162	None -Absent	None	None	Yes
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### **In Combination Effects**

7.18.32. The NIS provides that this planned development is in keeping with the strategy of Castlecomer’s LAP 2018-2024, which has designated the development site as an area for ‘mixed use’. Local Area Plans are also required to comply with the provisions of the Strategic Environment Assessment (SEA) Directive (2001/42/EC) as transposed into the Planning and Development Act.

7.18.33. While the NIS refers to the Kilkenny CDP 2014-2020, objectives in relation to Natura 2000 sites, I note that the current plan is the Kilkenny City and County Development Plan 2021-2027, which came into effect on the 15<sup>th</sup> of October 2021. This Plan is accompanied by the following:

- Strategic Environmental Assessment Statement
- Consolidated Natura Impact Report
- Consolidated Strategic Flood Risk Assessment.

7.18.34. The Consolidated Natura Impact Report provides that the AA exercise has been prepared taking into account the relevant legislation and guidance. This evaluation has been made in view of the conservation objectives of the habitats or species, for which the relevant European sites have been designated. The Consolidated Natura Impact Report includes regard to Natura 2000 sites and reference to the River Barrow and River Nore SAC.

7.18.35. It is noted that Section 1.5 of the Castlecomer LAP 2018-2024 refers to AA. This provides that a Screening exercise was carried out for this LAP which determined that an AA is not required.

7.18.36. It is of note that the NIS submitted as part of the F.I. does not include specific reference to other plans or projects in the area. However, it appears from the site visit and recent planning history that there have been no major recent town centre developments in Castlecomer. The NIS provides that specific and targeted mitigation

measures will be proposed for individual projects and plans as they evolve and are brought through the planning process and to ensure that they comply with planning policies and objectives.

## **AA Conclusion**

- 7.18.37. The Applicant's NIS concludes that there are no significant likely negative effects on the Natura 2000 site. Potential impacts from construction and operation – will be removed with the prevention measures built-in to the project. It provides that it may be concluded that the project will not have any significant effect on the integrity of the Natura 2000 site network, in particular on the ecology of the River Barrow & River Nore SAC. That it will have no significant direct, indirect or cumulative negative effects on the qualifying interests and conservation objectives of the River Barrow & River Nore SAC.
- 7.18.38. It is noted that the Planner's Report in response to the F.I. submitted, considered the Potential Impacts on the Natura 2000 site. They considered that the NIS addresses surface water run-off and wastewater, excavation and soils, refuelling, raising of the barrier on Chatsworth Street Bridge and Flooding. They noted the conclusion of the NIS that there will be no significant effects from the proposed development to the River Barrow and River Nore SAC provided the mitigation measures are implemented and did not raise objections to this.
- 7.18.39. The proposed development to provide a mixed-use development on appropriately zoned land in Castlecomer town centre, has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.
- 7.18.40. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on the River Barrow and River Nore SAC. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of that site in light of its conservation objectives.
- 7.18.41. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site No. 002162 or any other European site, in view of the site's Conservation Objectives.

7.18.42. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

## **8.0 Recommendation**

8.1. I would recommend a split decision i.e. that permission be granted for the mixed use development as per phases 1a, 1b and 2 as shown on the 'Indicative Phasing Drawing No. 19001 -120' submitted as part of the further information on the 7<sup>th</sup> of December 2020 and that permission be refused for phase 3 of this development i.e. the 9no. detached houses proposed in the north-western corner of the site. The reasons and considerations for the refusal of phase 3 are set out in Schedule 1 and the conditions for the grant of permission of phases 1a,1b and 2 are set out in Schedule 2 below.

## **9.0 Reasons and Considerations**

### **9.1. Schedule 1 – Refusal**

#### **Reasons and Considerations (1)**

1. The proposed development for 9no. detached houses (Phase 3 as shown on the 'Indicative Phasing Drawing No. 19001 -120' submitted as part of the further information on the 7<sup>th</sup> of December 2020), by reason of its design, form and layout and its predominance of four bedroom detached houses would result in a low density development that lacks variety in terms of a mix of units, within mixed-use zoned land, proximate to the town centre and within the development boundaries of Castlecomer and would be contrary to the section 28 Ministerial Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) and the accompanying Urban Design Manual issued by the Department of the Environment, Heritage and Local Government in May, 2009. It is considered that the development as proposed results in a poor design concept that results in a lack of integration and connectivity and a lack of permeability for pedestrians and cyclists. The proposed development would be contrary to the provisions of "Project Ireland 2040 - National Planning Framework" issued by



the Department of Housing, Planning and Local Government (2018) and the “Design Manual for Urban Roads and Streets” (2019). The proposed development would represent an inefficient and unsustainable use of serviced zoned land and would, therefore, be contrary to the proper planning and sustainable development of the area.

## 9.2. **Schedule 2 – Grant Permission**

Grant permission for the remainder of the development as proposed i.e for Phases 1a, 1b and 2 as shown on the ‘Indicative Phasing Drawing No. 19001 -120’ submitted as part of the further information on the 7<sup>th</sup> of December 2020. To be in accordance with the said plans and particulars.

### **Reasons and Considerations (2).**

Having regard to the nature and scale of the proposed mixed-use development within Castlecomer town centre, it is considered that it is in accordance with the provisions of the Kilkenny City and County Development Plan 2021 to 2027, and the Castlecomer Local Area Plan 2018-2024. In particular having regard to the mixed-use land use zoning and the vision and objectives for Key Development Area 1 – Old Creamery Site (Town Centre) as stated in Section 10.3.1 of the said Local Area Plan. It is considered that subject to compliance with the following conditions, the proposed development would assist in the rejuvenation of the town centre and would not be detrimental to the character and amenities of the area, or to public health and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the Planning Authority on the 7<sup>th</sup> December 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the

development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. This permission applies solely to Phases 1a, 1b and 2 as shown on the 'Indicative Phasing Drawing prepared by Kilgallen & Partners No. 19001 -120' submitted as part of the further information on the 7<sup>th</sup> of December 2020.

Phase 1 shall include:

- a) The bridge over the Cloghogue River and the spine road linking Chatsworth Street and the Ballinakill Road and associated works shall be provided prior to the operation of the anchor convenience store.
- b) The conservation works associated with Buildings F&G (Mill Building) shall be completed.

Each phase shall be completed in order to the written agreement of the Planning Authority prior to the commencement of the next phase. Phases 3 and 4 are not permitted by this permission.

**Reason:** In the interest of clarity and orderly development.

3. All mitigation and monitoring measures outlined in the plans and particulars, including in the Natura Impact Statement and the Ecological Impact Assessment, the Flood Risk Assessment submitted with this application shall be carried out in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interest of avoiding adverse impacts on the Natura 2000 sites, protecting the environment and in the interest of public health

4. Prior to the commencement of development a Construction Environmental Management Plan shall be submitted to be agreed in writing with the Planning Authority.

**Reason:** In the interest of avoiding adverse impacts and of protecting the environment.

5. Prior to the first occupation of each of the commercial units, the developer shall submit to the planning authority for agreement in writing confirmation of

the proposed use of the units. This agreed first use of the units shall become the approved use class and planning permission shall be required for any subsequent change of use outside of the agreed use class. In the event of a failure to meet agreement on the use of the units, the matter shall be referred to An Bord Pleanála for determination

**Reason:** In the interest of orderly development.

6. The hours of operation of the units including any proposed restaurant/café/takeaway uses shall be agreed in writing with the planning authority prior to the first occupation of that unit.

**Reason:** In the interest of the amenities of property in the vicinity.

7. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

8. Details of all external shopfronts and signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

9. (a) No additional signage, advertising structures/advertisements, or other projecting elements, including flagpoles, shall be erected within the site, on adjoining lands under the control of the applicant, or on the approach thoroughfares unless authorised by a further grant of planning permission.  
(b) The free standing double sided Aldi sign shall not be internally illuminated.

**Reason:** To protect the visual amenities of the area.

- 10.(a) Pending the upgrade of the public infrastructure by Irish Water the developer shall provide and arrange an adequate supply of potable water to serve the proposed development.

- (b) The water supply shall have sufficient yield to serve the proposed development, and the water quality shall be suitable for human consumption. Details, demonstrating compliance with these requirements,

shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of public health and to ensure a proper standard of development.

11. The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services.
  - (a) All foul sewage and soiled water shall be discharged to the public foul sewer.
  - (b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system.
  - (c) Prior to commencement of development the developer shall enter into a wastewater connection agreement with Irish Water.

**Reason:** In the interest of public health.

12. The following requirements in terms of traffic and access shall be incorporated, and where required revised plans and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development:
  - (a) The access, roads and traffic arrangements serving the site (including road signage and traffic calming), shall be in accordance with the detailed requirements of the planning authority for such works, and shall be carried out at the developer's expense.
  - (b) The internal road network serving the proposed development, including access, turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such works.
  - (c) Proposed pedestrian access and cycle lanes shall comply with the detailed standards of the planning authority for such works.
  - (d) The works to facilitate the upgrade to the Chatsworth Street entrance to the site shall comply with the detailed standards of the planning authority for such works.

- (e) The proposed vehicular access from the Ballinakill Road and extension of the footpath to adjoin the site to the north and the construction of the new bridge over the Cloghogue River shall comply with the detailed standards of the planning authority for such works.
- (f) Works to be carried out to facilitate the parapet height improvement works on the existing Cloghogue bridge shall comply with the detailed standards of the planning authority for such works.
- (g) The developer shall submit a Mobility Management Plan and details of the car parking design, layout and management to the planning authority for written agreement prior to the commencement of development.
- (h) A detailed Construction Traffic Management Plan shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The plan shall include details of arrangements of routes for construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage deliveries to the site.

All the above works shall be carried out at the expense of the developer and to the specifications and written agreement of the Planning Authority.

**Reason:** In the interests of pedestrian and traffic, cyclist and pedestrian safety and to protect residential amenity.

- 13. (a) The developer shall carry out a Quality Audit as per DMURS of the proposed development works and incorporate the agreed recommendations of the Quality Audit into the development. The Audit shall be updated to the written agreement of the Planning Authority on commencement of each phase of development.
- (b) The developer shall carry out a Stage 3 Road Safety Audit on completion of the first phase of the development. This Audit shall be updated on completion of each subsequent phase of the overall development.

**Reason:** In the interests of amenity, public health and traffic safety

- 14. (a) A minimum of 10% of the proposed car parking spaces in the car park shall be provided with electrical connection points to allow for functional electric

vehicle charging. The remaining car parking spaces in the car park shall be fitted with ducting for electrical connection points to allow for future fitout of charging points.

**Reason:** To ensure that adequate parking facilities are permanently available to serve the proposed units and to facilitate the use of Electric Vehicles.

15. The following requirements in terms of landscaping and public open space shall be incorporated, and where required revised plans and particulars showing compliance with these requirements shall be submitted to and agreed in writing with the planning authority prior to the commencement of development:
- (a) The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the landscape scheme submitted.
  - (b) Revised plans shall be submitted showing the small triangular green area to the rear of unit C, extended in area and landscaped for use as a plaza type open space in the south-western part of the site. Parking spaces nos. 66 to 69 shall be omitted to facilitate this.
  - (c) Details of tree protection measures to be implemented, prior to the commencement of construction works. This shall include that a suitably qualified Arboricultural Consultant shall be engaged to monitor works on site during the construction period. Existing trees shall be retained except where necessary to facilitate the works.
  - (d) The proposed locations of trees and other landscape planting in the development, including details of proposed species and settings,
  - (e) Details of the play area, including equipment and safety and security measures, including boundary fencing;
  - (f) Details of all proposed hard surface finishes, including proposed paving slabs/materials for footpaths, kerbing and road surfaces within the development;
  - (g) Details of proposed street furniture, including bollards, lighting fixtures and seating;

- (h) Details of a piece of artwork to be provided within the scheme, to reflect the site's industrial past;
- (i) Details of proposed boundary treatments at the perimeter of the site, including heights, materials and finishes and of retention of old stone walls and hedgerows;

The landscaping and boundary treatment shall be carried out in accordance with the agreed scheme. It shall be completed before the units in the mixed-use development are made available for occupation and shall be maintained by the developer until taken in charge by the local authority or management company. Any trees or shrubs which die or are removed within three years of planting shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interests of the provision of open space, landscaping and visual amenity.

- 16. a) The trees and buildings shall be inspected by a suitable qualified expert for bats prior to felling/demolition. In the event a roost is found the developer shall require a derogation license from the National Parks and Wildlife Service.
- b) Bat and bird boxes shall be installed in the proposed development, prior to the occupation of the units. The number, type and location of the boxes shall be submitted to and agreed in writing with the planning authority.
- c) Any clearance of vegetation from the site should only be carried out in the period between the 1st of September and the end of February i.e. outside the main bird breeding season.

**Reason:** To avoid the destruction of the nests, nestlings and eggs of breeding birds and to avoid the proposed development causing detrimental effects on flora, fauna and natural habitats.

- 17. Prior to commencement of development, the developer shall provide for the following for the written agreement of the planning authority:-
  - (a) The appointment of a conservation expert, who shall manage, monitor and implement works on the site and ensure adequate protection of the historic fabric during those works.

- (b) A methodology and design detail for the retention of original features in relation to the proposed works prepared by the appointed conservation expert shall be submitted to, and agreed in writing with, the planning authority.
- (c) Drawings showing the second floor of the Mill Building Protected Structure retained in full, and details of a use for this floor.
- (d) A detailed, labelled photographic survey of all internal rooms (including all important fixtures and fittings), the exterior and the curtilage of the protected structures proposed for retention. This shall include a record and examination of machinery connected to the building's original use.
- (e) This record shall be submitted to the planning authority prior to commencement of development and one copy of this record and a full set of drawings of the proposed works to the protected structures shall be submitted to the Irish Architectural Archive.
- (f) Details of the industrial heritage of the buildings proposed for demolition.
- (g) Prior to the commencement of development, details shall be submitted to, and agreed in writing with, the planning authority to demonstrate that demolition works will not impact structurally on Protected Structures/adjoining buildings to be retained.

**Reason:** In the interests of the protection of heritage and in order to establish a record of the protected structures on site.

18. All repair/restoration works shall be carried out in accordance with best conservation practice as detailed in the application and the “Architectural Heritage Protection Guidelines for Planning Authorities” (Department of Arts, Heritage and the Gaeltacht, 2011). The repair/restoration works shall retain the maximum amount possible of surviving historic fabric insitu including structural elements, plasterwork and joinery and shall be designed to cause minimum interference to the building structure and/or fabric.

**Reason:** To ensure that the integrity of the historic structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.



19. The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development, and
  - (b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works.
  - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

**Reason:** In order to conserve the archaeological heritage of the area and to secure the protection of any archaeological remains that may exist within the site.

20. Lighting shall be provided in the car park areas and along the access roads in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Such lighting shall be provided prior to the making available for occupation of any mixed-use development and shall be designed to avoid light pollution on neighbouring properties and on the riparian area of the Cloghogue River along the northern site boundary.

**Reason:** In the interests of amenity and public safety.

21. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual and residential amenity.

22. No additional development shall take place above roof parapet level on any building, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, other than that shown on drawings as submitted with the planning application unless authorised by a further grant of planning permission.

**Reason:** To protect the visual amenities of the area.

23. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, dust, noise and traffic management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity

24. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

25. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the amenities of property in the vicinity.

26. The proposed anchor convenience store shall not be open to the public outside the hours of 0800 to 2200 Mondays to Saturdays inclusive, not outside the hours of 0900 to 2100 on Saturdays or public holidays. Deliveries

shall not take place before the hour of 0700, from Mondays to Saturdays inclusive, nor before the hour of 0800 on Sundays and public holidays nor after 2200 hours on any day.

**Reason:** In the interest of residential amenity.

27. (a) During the operational phase of the proposed development, the noise level arising from the development, as measured at the nearest noise sensitive location or at any point along the boundary of the site shall not exceed:-
- (i) An Leq,1h value of 55 dB(A) during the period 0800 to 2200 hours from Monday to Saturday inclusive.
  - (ii) An Leq,15 min value of 45 dB(A) at any other time. The noise at such time shall not contain a tonal component.

At no time shall the noise generated on site result in an increase in noise level of more than 10 dB(A) above background levels at the boundary of the site.

(b) All sound measurement shall be carried out in accordance with ISO Recommendation 1996:2007: Acoustics - Description and Measurement of Environmental Noise.

**Reason:** To protect the residential amenities of property in the vicinity of the site.

28. A management plan for the control of alien invasive plant species, including a monitoring programme, shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

**Reason:** In the interest of visual amenity and to prevent the spread of alien plant species.

29. A plan, containing details for the management of waste within the mixed-use development including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

30. Litter in the vicinity of the premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The scheme shall include the provision of litter bins and refuse storage facilities.

**Reason:** In the interest of visual amenity.

31. The management and maintenance of the proposed development, following completion, shall be the responsibility of a legally constituted management company, which shall be established by the developer. A management scheme, providing adequate measures for the future maintenance of the development, including the external fabric of the buildings, internal common areas (residential and commercial), open spaces, landscaping, roads, paths, parking areas, public lighting, waste storage facilities and sanitary services, shall be submitted to, and agreed in writing with, the planning authority, before any of the units are made available for occupation.

**Reason:** To provide for the future maintenance of this private development in the interest of residential amenity and orderly development.

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

**Reason:** To ensure the satisfactory completion of the development.

33. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or

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

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

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Angela Brereton  
Planning Inspector

25<sup>th</sup> of August 2022