

S. 4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016

Inspector's Report ABP-309967-21

Strategic Housing Development

Demolition of a garage, construction of 115 no. residential units (57 no. houses, 58 no. apartments) and associated works.

Location

Margaret's Fields, Callan Road,
Kilkenny

Planning Authority

Kilkenny County Council

Applicant

Denis Treacy Construction Limited

Prescribed Bodies

Irish Water

Observer(s)

Michelle Walshe

Date of Site Inspection

8th July 2021

Inspector

Sarah Moran

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Appendix I EIA Screening Report

1.0 Introduction

- 1.1. This is an assessment of a proposed strategic housing development submitted to the Board under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016.

2.0 Site Location and Description

- 2.1. The development site is located at Margaretsfield on the southwestern side of Kilkenny City with frontage to the N76 Callan road. The N76 joins the Kilkenny Ring Road approx. 750m northeast of the site. This area is within the Western Environs of Kilkenny City, c. 2 km from the city centre, and is at the edge of the built up area on this side of the city. The indicative route of the Kilkenny Western Bypass runs along the western site boundary. There is an existing bungalow accessed from the N76 to the immediate south of the site. There are also several one-off houses to the north of the site, accessed from the Castleinch Road, a local road to the north of the site.
- 2.2. The site adjoins an existing residential scheme at Margaretsfield to the east and northeast, which remains unfinished at present. The overall Margaretsfield lands have been developed in two phases east and west of a central spine route. Phase 1 to the east of the route is now complete and Phase 2, which includes the development site, is partially complete. The existing development at Margaretsfield comprises a mix of 2-4 storey houses, apartment blocks and duplex units. The wider area is characterised by low density, two storey housing and educational, tourism, community, and institutional land uses.
- 2.3. The development site (stated area 3.2 ha) is accessed from the N76 via the existing residential access road serving the Margaretsfield lands. It is irregularly shaped and comprises undeveloped lands between the estate Seville Grove and the Kilkenny Western Bypass route. The site has limited frontage to the N76 as it wraps around an existing group of 14 no. houses, two duplex blocks, an apartment block and roads infrastructure, which were permitted under reg. ref. 06/1089 as part of Phase 2 of the Margaretsfield lands. The development site is broadly level and includes a small, temporary kickabout area at the northern end of the site, which is associated from Seville Grove. The lands contain a construction compound and areas of spoil associated with construction activity. The only vegetation present at the site is a portion of an existing hedgerow along the northern site boundary.

2.4. The site is within a larger area owned by the above named applicant, indicated as the blue line site boundary on the site layout, which includes a triangular area to the south of the development site, fronting onto the N76 and next to the existing bungalow at that location.

3.0 Proposed Strategic Housing Development

3.1. The following key points of the proposed development are noted:

Site Area	3.2 ha
No. of Residential Units	115 units
Residential Density	36 units/ha
Height	2 – 4 storeys
Plot Ratio	0.33
Amenity Space	c. 5,164 sq.m. public open space including a Main Open Space (2,942 sq.m.), a Pocket Park (483 sq.m.) and a Linear Open Space (1,739 sq.m.). Public open space is stated as c. 16% of the site 450 sq.m. of communal open space also provided for apartment Blocks 1, 2, and 3
Childcare	None, relies on existing childcare provision in Seville Grove
Roads	Vehicular access from Seville Grove and new ramped pedestrian route onto the Callan Road
Parking	117 no. long term and 29 no. visitor bicycle parking spaces. 274 no. car parking spaces for Phases 2 and 3
Part V	Part V requirement to be met within existing Seville Grove estates, therefore no additional units are required /proposed.
Site Services	Connection to existing infrastructure at Seville Grove
Ancillary Works	Demolition of existing garage on the site measuring 41 sq.m. All other ancillary site development works to facilitate construction, site services, piped infrastructure, plant, public lighting, bin stores, bike stores, boundary treatments and hard and soft landscaping

3.5. The overall development involves 115 no. residential units as follows:

UNIT TYPE	NO. OF UNITS	%
Houses		
4 bed	6	5%
3 bed	37	32%
2 bed	14	12%
Duplex Units		
3 bed	15	13%
1 bed	15	13%
Apartments		
2 bed	27	24%
3 bed	1	< 1%
Total	115	

The development comprises two 3-4 storey apartment blocks (Blocks 1 and 2) at the western side of the site, facing the Margaretsfield spine route; Block 3, a 3-4 storey duplex/apartment block at the centre of the development site; Block 4, a 3 storey duplex block at the southern end of the site adjacent to the N76 and 57 no. 2-3 storey terraced /semi-detached houses.

- 3.6. The development includes the partial reconfiguration and redesign of Phase 2 of the overall Margaretsfield development as permitted under reg. ref. 06/1089. The permitted Phase 2 comprised 81 no. residential units, as set out in section 4.2 below. The information on file indicates that the permitted Phase 2 is partially constructed with houses nos. 1-32 Seville Grove, built in 2009, and a further 14 no. houses, 26 apartments and duplex units completed in early 2021, i.e. 72 no. units in total. It is stated that the 32 no. houses were constructed to comply with Part V obligations. The remainder of the 06/1089 permission comprises 40 no. units to be developed by Respond housing association and 9 no. houses to be developed by the current applicants. It is also noted that part of the open space permitted under 06/1089 was intended to serve the later Phase 3, i.e. the current proposed development. It is now proposed to construct 20 no. apartments and duplexes in Blocks 1 and 2 on the site of the 9 no. houses that were not constructed in Phase 2. The proposed completion

of Phase 2 will also incorporate existing roads infrastructure and will amend /replace permitted amenity and parking areas as follows:

- Omission of an existing car parking area (16 no. spaces) at the southern end of the site adjacent to the N76 and the re-configuration of the internal road network in this area;
- Reconfiguration of car parking spaces to the south west of the linear public open space to reduce the number of spaces from 30 to 17 no. spaces;
- New landscape proposal for the linear public open space at the centre of the site. This space also serves adjacent housing constructed by the Respond housing association and includes lands in the ownership of Respond. The applicant has reached agreement with Respond in order to provide consistency of design;
- Omission of the spur road and associated 18 no. car parking spaces opposite house no. 18 Seville Grove;
- Re-configuration of the turning head and associated car parking spaces to the south east of houses nos. 27-32 Seville Grove with the provision of two existing car parking spaces at this location;
- Removal of the temporary kickabout area to the north west corner of the site.

The remainder of the current proposed development (apartment Blocks 3 and 4, the 57 no. houses and associated infrastructure and open spaces) comprises Phase 3 of the overall Margaretsfield lands.

- 3.7. The application includes an AA Screening Report and an EIAR Screening Assessment.

4.0 Planning History

4.1. Reg. Ref. 04/798 ABP ref. PL.10.208833

- 4.1.1. Relating to a 2.54 ha site comprising Phase 1 of the Margaretsfield lands. Kilkenny County Council (KCC) granted permission for a development comprising 76 no. dwelling units (32 no. houses, 12 no. duplex houses, 12 no. duplex apartments and 20 no. apartments); an office unit (344 sq.m.); creche (240 sq.m.); and a convenience retail unit (104 sq.m.). The development was described as Phase 1 of a

three phase scheme and included a local collector road accessed from the Callan Road, internal access roads, services infrastructure, and landscaping works. The local collector road runs along the south-western boundary and is now the spine route serving the Seville Grove estate. Phases 2 and 3 of the development were to be located to the south-west of the site on the opposite side of the local collector road.

- 4.1.2. The first party appeal related to development contribution conditions only. The Board decided to remove the relevant conditions nos. 3 and 4 and to attach a single new condition relating to development contributions.

4.2. Reg. Ref. 06/1089, 12/38 and 17/704

- 4.2.1. Relating to a site stated area 2.225 ha. at the Margaretsfield lands, to the west of the central spine route and fronting onto the N76. KCC granted permission for Phase 2 of the overall development under reg. ref. 06/1089, comprising 81 no. residential units (55 no. houses, 16 no. duplex units and 10 no. apartments), an office block and a new entrance onto the permitted spine route. Reg. ref. 12/38 and 17/704 extended the duration of 06/1089 until 31st December 2021.

4.3. VV10.303544

- 4.3.1. A section 9 appeal against proposed entry on to the vacant site register. The notice was confirmed by the Board on 28th May 2019.

5.0 Section 5 Pre-Application Consultation ABP-308028-20

5.1. Pre-Application Consultation ABP-308028-20

- 5.1.1. The pre-application consultation related to a proposal to construct 112 no. residential units (62 no. houses, 50 no apartments) and associated site works. A section 5 consultation meeting took place on 25th November 2020 between representatives of ABP, the planning authority, and the prospective applicant. Following consideration of the issues raised during the consultation process and having regard to the opinion of the planning authority, the Board issued an Opinion on 15th December 2020, which considered that the documents submitted with the request to enter into consultations constitute a reasonable basis for an application for strategic housing development.

5.2. Applicant's Response to Pre-Application Opinion

- 5.2.1. The application includes a statement of response to the pre-application consultation, as provided for under section 8(1)(iv) of the Act of 2016, which outlines the information / documentation submitted as specified in the ABP Opinion.

6.0 Relevant Planning Policy

6.1. Section 28 Ministerial Guidelines

- 6.1.1. Having considered the nature and extent of the proposal, the receiving environment, the documentation on file, including the submission from the planning authority, I consider that the directly relevant section 28 Ministerial Guidelines are:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas including the associated Urban Design Manual
- Sustainable Urban Housing Design Standards for New Apartments Guidelines for Planning Authorities
- Design Manual for Urban Roads and Streets (DMURS)
- The Planning System and Flood Risk Management Guidelines for Planning Authorities including the associated Technical Appendices.
- Childcare Facilities Guidelines for Planning Authorities
- Urban Development and Building Heights Guidelines for Planning Authorities

6.2. National Planning Framework Project Ireland 2040

- 6.2.1. The National Planning Framework (NPF) supports the development of Ireland's cities and urban areas to achieve compact growth. National Policy Objective NP0 3a sets a target to deliver at least 40% of all new homes nationally within the built-up footprint of existing settlements and NPO 3c is to deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints. NPF section 3.4 relates to the Southern Region, which includes Kilkenny, and states:

The big challenge for this Region in the period to 2040, will be to position its cities as more significantly scaled, while also more compact and attractive, acting as

metropolitan drivers for the region as a whole and as effective complements to the economic strength of Dublin...

Strategically located between Cork and Dublin, with a network of large towns, the south-east has capacity for improved growth, but has not had a focus sufficient in scale to drive the sustained development of the region as a whole.

6.2.2. The following National Policy Objectives are also noted in particular:

NPO 5 Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth, investment, and prosperity.

NPO 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.

NPO 13 In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated outcomes, provided public safety is not compromised and the environment is suitably protected.

NPO 32 To target the delivery of 550,000 additional households to 2040

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

NPO 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.

6.3. **Circular Letter: NRUP 02/2021 Residential Densities in Towns and Villages**

6.3.1. Circular Letter: NRUP 02/2021, dated 21st April 2021, provides guidance in relation to residential densities at the edge of larger towns, in the context of the NPF and section 28 Guidelines on Residential Development in Urban Areas, the Apartment Guidelines and the Building Height Guidelines. It notes national policy objectives to

achieve compact growth in urban areas as set out in the NPF and notes that the NPF states a need for more proportionate and tailored approaches to residential development. The Circular Letter states:

This means that it is necessary to adapt the scale, design and layout of housing in towns and villages, to ensure that suburban or high density urban approaches are not applied uniformly and that development responds appropriately to the character, scale and setting of the town or village.

As such, it is highlighted that in certain locations, particularly at the edges of towns in a rural context, more compact forms of development may include residential densities at a lower level than would be considered appropriate in a city or large town context.

- 6.3.2. The Circular provides clarification on the application of the Sustainable Residential Development Guidelines at 'Peripheral and/or Less Accessible' locations as defined in the Apartment Guidelines. It notes that Section 5.11 of the Sustainable Residential Development Guidelines recommends a density range of 35-50 units/ha for outer suburban /greenfield sites within cities and larger towns and allows ABP and planning authorities to exercise discretion in the application and assessment of residential density at the periphery of large towns, particularly at the edges of towns in a rural context. Accordingly, the full range of outer suburban density, from a baseline figure of 30 units/ha (net) may be considered, with densities below that figure permissible subject to Section 5.12 of the Sustainable Residential Development Guidelines. This also applies in relation to SPP4 of the Building Height Guidelines, which cross references the minimum densities of the Sustainable Residential Development Guidelines.

6.4. Regional Spatial & Economic Strategy for the Southern Region 2020

- 6.4.1. Kilkenny City is located in the South East Planning Area along with Carlow, Tipperary, Waterford, and Wexford. It is the 4th largest settlement in the Southern Region with a population of 26,512. Kilkenny is identified as a Key Town, one of six such settlements with a very significant population scale also including Ennis, Carlow, Tralee, Wexford and Clonmel, which are major centres for delivery of public services, with large hospitals, third level institutions, courts, local and national government functions as well as economic and business roles and higher order retail

functions. The Key Towns are self-sustaining regional drivers and have a comparable structure to the five regional growth centres identified in the NPF. Given their considerable scope for growth, it is envisaged that local authorities should plan for population growth of more than 30% by 2040. RSES Regional Policy Objectives RPO 11 and RPO 12, which specifically refers to Kilkenny City, are noted in this regard.

6.5. Kilkenny County Development Plan 2014-2020

- 6.5.1. The Development Plan Core Strategy identifies Kilkenny City as a Hub, at the second tier of the county settlement hierarchy after Waterford City. Kilkenny City has a target population of 28,200 to be reached by the year 2022. Kilkenny is the driver of growth for the county at a sub-regional level and will be the main focus for public and private sector investment within the county. Development plan Table 3.4 sets out an overall population allocation of 2,077 for Kilkenny City during the plan period, with a corresponding housing land requirement of 40.4 ha. (including 50% over zoning for 2014 - 2020). A total of 63.5 ha of housing land is to be zoned for the plan period.

6.6. Kilkenny City and Environs Development Plan 2014- 2020

- 6.6.1. The development plan notes that the development of Kilkenny over the last three development plans has been primarily concentrated to the south and east of the city, influenced by the availability of services and good road connections. The plan incorporates the objectives of the Western Environs LAP, as set out below. Land parcel Q and the adjoining Margaretsfield lands are zoned 'Phase 1 Residential' as per development plan figure 3.2, with the objective 'To protect, provide and improve residential amenities'. Development will be permitted in principle on all Phase 1 lands during the plan period. Development plan section 3.3.2.2 states that since the Western Environs LAP was adopted in 2004, permission had been granted on three of 17 no. land parcels in the Western Environs. Section 3.4 notes the total requirement of 63 ha. zoned land, which is to be mainly distributed between the two neighbourhoods of the Western Environs and Loughmacask which account for 38.4ha, with the remaining 24.6 ha to be spread across other locations. The following related objectives are noted:

Objective 3A To promote the redevelopment and renewal of areas in need of regeneration.

Objective 3B To implement the vision, policy, and objectives of the Western Environs Local Area Plan 2004 for the development of the area.

6.6.2. Table 3.5 sets out detailed development criteria for land in the Western Environs, including specific infrastructure to be in place before each land parcel can develop, as incorporated from the Western Environs LAP. The following criteria are provided for parcel Q:

- Residential development at a mean density of 33-36 units/ha
- A crèche or other pre-school facility
- Open Space LP6, laid out and landscaped (incorporating a play area) and with a management agreement in place to the satisfaction of the planning authority.

6.6.3. Development plan figure 10.2 identifies the route of the proposed Kilkenny Western Bypass running. The Western Bypass is to complete the ring road of Kilkenny city, from the existing roundabout at the Castlecomer Road (N78) to the Callan Road (N76) and connect onwards to the Waterford Road roundabout. Objective 10M applies:

Reserve the proposed line of the western by-pass for the city from the Castlecomer Road to the Waterford Road free from development, including for a river crossing and seek approval from An Bord Pleanála for Phase 1 of the Western By-pass, the Kilkenny Northern Ring Road Extension.

6.7. Kilkenny Western Environs Local Area Plan 2004

6.7.1. The salient provisions of the Western Environs LAP 2004 are incorporated into the core strategy of the current Kilkenny City & Environs Development Plan. The original LAP documents will be used as supplementary guidance in dealing with planning issues in the area. The LAP envisages the Western Environs neighbourhood as a set of distinctive character areas congregating around a well-connected village core, with a range of retail, social, cultural, and recreational facilities. The site is within land parcel Q at the south western corner of the LAP area, with relevant specific policies now incorporated into the City Development Plan, as set out above. The LAP is accompanied by the Kilkenny Western Environs Urban Design Guidance Document.

6.8. Kilkenny City and County Draft Development Plan 2021-2027

6.8.1. The draft development plan, dated December 2020, is currently undergoing public consultation regarding proposed amendments to the first draft. The draft core strategy notes that Kilkenny City has a target of 30% growth 2040 under the NPF and RSES, which corresponds to population uplift of 3,641 over the development plan period to a total of 30,153 by 2027. Section 4.3.1 of the draft plan states that 30% of new housing growth targeted for the city is to be provided within the built-up footprint, with 70% for new growth areas on the periphery. These new growth areas are identified as the Breagagh Valley (formerly the Western Environs) and Loughmacask neighbourhoods. Development plan Volume II relates to Kilkenny City and section 2.2.3 and Table 2.3 of same relate to Breagagh Valley. The objectives originally set out for land parcel Q under the Western Environs LAP are repeated. The route of the Kilkenny Western Bypass is also retained under the draft development plan.

6.9. Applicant's Statement of Consistency

6.9.1. The applicant has submitted a Statement of Consistency as per Section 8(1)(iv) of the Act of 2016, which indicates how the proposal is consistent with the policies and objectives of section 28 guidelines, the current Kilkenny County and City Development Plans, the Kilkenny Western Environs LAP and other regional and national planning policies. The following points are noted in relation to national, regional, and local planning policy:

- The development of this zoned residential site in Kilkenny is consistent with the objectives of the NPF in seeking to consolidate and densify an urban area within the metropolitan development boundaries of Kilkenny City.
- The development will directly contribute to Pillar 2 of the Rebuilding Ireland; Action Plan for Housing and Homelessness, which seeks to 'Accelerate Social Housing', and Pillar 3 which seeks to 'Build More Homes'.
- The development is consistent with the policy objectives of the Southern Region RSES as it provides for 115 no. new residential units on a residentially zoned site located adjacent to existing housing and close to an existing urban centre. The range of housing types will meet housing demand in the area linked to population growth.

- The development is stated to comply with the core strategy of the Kilkenny City and Environs Development Plan. A rationale is provided setting out consistency with detailed development plan objectives.
- The development supports the goals of the Kilkenny Western Environs LAP, including the detailed design guidance. The proposed housing mix complies with the LAP. The site is serviced by infrastructure based on the adjacent earlier phases of development and all infrastructure as outlined in LAP Table 4.1 has been provided. The development provides a large area of public open space in compliance with the LP6 objective. A creche is provided at Seville Lawns, within land parcel Q.
- A Social Infrastructure Audit is submitted, which provides details of local schools and childcare facilities.

6.9.2. The following points are noted in relation to consistency with Section 28 Guidelines:

- The development proposes a medium residential density at 36 units/ha at a 'suburban / edge location' as per the Building Height Guidelines. The proposed heights are considered appropriate given the nature of the surrounding buildings and the site's planning history.
- The development is located at an 'intermediate location' with regard to the Apartment Guidelines. The application includes a Housing Quality Assessment which demonstrates consistency with the Apartment Guidelines. The proposed housing mix is consistent with SPPR 1 and the development meets the requirements of SPPRs 3, 4, 5 and 6.
- The development site is considered as 'Infill residential development' in the context of the densities required under the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas. The proposed residential density of 36 units/ha is appropriate to the suburban context. The development has been designed to respond to the 12 criteria set out in the Urban Design Manual and a detailed rationale for same is submitted.
- The development seeks to prioritise pedestrian and cyclists throughout and around the site in accordance with the policies set out in DMURS. Only local access is provided with no through traffic allowed.

- The development site is located in Flood Zone C and is therefore suitable for development for vulnerable uses as per the Flood Risk Management Guidelines, with no detailed flood risk assessment is required.
- The application includes a Childcare Capacity Audit in response to the Childcare Guidelines. It is submitted that a new purpose-built childcare facility is not required at this location with respect to the emerging demographic profile of area and to the availability of existing childcare facilities locally, including a facility at Seville Lawns which is very close to the development site.

6.10. Applicants Statement of Material Contravention

6.10.1. A statement of Material Contravention is submitted with the application in accordance with Section 8(1)(iv)(II) of the Act of 2016. The submitted statement relates to one issue, i.e. development plan car parking standards. The applicant's rationale includes the following points:

- The County Development Plan car parking standards require a total of c. 358 no. car parking spaces to serve the development, however it provides a total of 274 no. spaces, which results in a shortfall with regard to development plan car parking standards.
- The NPF recognises that development standards may not be appropriate in all cases and that in such cases provision standards may be determined based on a 'performance criteria'. The NPF further elaborates on 'performance criteria' to be factors relating to the development such as location, proximity to the city centre, access to public transport services and employment centres.
- The application includes a Mobility Management Plan (MMP), which indicates that the development is well served by cycle and pedestrian paths and public transport services, and the city centre, including a bus stop within 14 minutes walking distance and Kilkenny train station within 35 minutes walking distance. The city centre is within 6 minutes cycling distance and Kilkenny Retail Park is within 10 minutes cycling distance. The development also includes a large number of bicycle parking spaces and sheltered bicycle storage facilities with accessible high-quality cycle routes.

- The development is located at an ‘intermediate location’ with regard to section 4.21 of the Apartment Guidelines, which supports reduced car parking provision. It is submitted that the proposed car parking provision of 1.46 spaces per unit is adequate in this context.
- It is submitted that, with regard to the provisions of section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016 and the provision of section 37(2)(b) of the Planning and Development Act 2000, the Board is justified in permitting the development based on based on three criteria, namely (i) the development is of Strategic and National Importance; (ii) there are conflicting objectives in the development plan and (iii) permission should be granted based on the policies and objectives stated in section 28 Guidelines.

7.0 Planning Authority Chief Executive Report

7.1. Kilkenny County Council has made a submission in accordance with the requirements of section 8(5)(a) of the Act of 2016. It summarises observer comments as per section 8(5)(a)(i) and the views of the relevant elected members of the Kilkenny Municipal District at its monthly meeting held on 14th May 2021. The following points of the planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) are noted.

7.2. KCC Planning Comment

7.2.1. The main points may be summarised as follows:

- The City Development Plan core strategy identifies four neighbourhood centres within the plan boundary. Two of these at Loughboy / Archerstreet and Newpark Upper are substantially built out. The two remaining areas at Western Environs and Loughmacask are to be the focus for greenfield development over the plan period. The Western Environs area is now known as Breagagh Valley.
- Residential development is acceptable in principle on Phase 1 Residential zoned lands and the development of same will contribute to a balanced, compact form of development in the city and where required infrastructure can be provided in tandem with development.

- Substantial investment in infrastructure is currently underway in the area, with LIHAF funding in place to support the opening up of the Breagagh Valley for development.
- Having regard to the population targets previously set under the Regional Planning Guidelines and the current City Development Plan (2,077 persons over 6 years, i.e. an average of 135 houses per annum) and the new targets under the RSES (30% increase on 2016 population, i.e. an average of 134 units per annum) and considering the spatial allocation of new development will be centred on Breagagh Valley as one of the planned neighbourhoods of the city, it is considered that the development facilitates the delivery of the core strategy during the pending next development plan period and beyond due to its location and scale.
- The proposed residential density is acceptable in the context of a specific objective for development on this land at a medium density of 33-36 units/ha.
- The development will achieve the objective of integrating attractive and functional housing with the surrounding estates of Seville Lawns and Seville Grove.
- The proposed housing mix is satisfactory and adds to the housing stock of Kilkenny City.
- The proposed open spaces are easily accessible to residents of Seville Grove and Seville Lawns, with good pedestrian linkages through the estate. These proposals are considered sufficient to meet the localised needs of the development in the context of with wider emerging area of Breagagh Valley.
- The elected members of the Kilkenny Municipal District stated no objections to the recommendation by the Chief Executive that permission be recommended for the proposed development at their meeting of 14th May 2021.

7.3. KCC Comment on Traffic and Transportation Issues

- Includes report by KCC Roads Design Section dated June 2021.
- It is noted that the roads infrastructure required by the original LAP is in place to serve the development.

- The existing Seville Grove priority junction will operate within capacity both with and without the development as per the submitted Traffic Impact Assessment (TIA). The other findings of the TIA are noted.
- Some discrepancies in the TIA are noted. It is recommended that a condition requiring a revised TIA be imposed.
- There is an overall shortfall in car parking relative to development plan standards. A condition is recommended requiring the applicant to reassess the proposed parking layout with a view to increasing and optimising the parking provision and ensuring that parking is appropriately positioned in close proximity to individual residential units / blocks.
- A condition is recommended requiring the applicant to carry out a Noise Assessment and mitigation plan having regard to the Kilkenny Noise Action Plan 2019-2023, due to the proximity of the N76.
- Additional conditions are recommended in relation to Quality Audit in accordance with DMURS; completion of a Road Safety Audit; signage; electric vehicle charging, public lighting and other matters.

7.4. KCC Conclusion

- 7.4.1. The planning authority welcomes the proposed development as it will see the completion of a presently unfinished housing estate and will enhance the visual aesthetics of the site bounding the N76, as well as improving the residential amenities of the area. It is considered that the development would be consistent with the relevant policies and objectives of the City Development Plan. The planning authority recommends permission subject to conditions. The conditions recommended do not involve any significant changes to the development or any special development contributions.

8.0 Observer Submission

- 8.1. There is one observer submission on file by Michelle Walshe, a resident of Seville Lawns, Margaretsfield, Kilkenny. The main points made may be summarised as follows:

- The observer states concerns about potential traffic hazard at the access to the Seville Grove estate from the N76 Callan Road as it does not include an island to allow safe access for traffic turning into the estate. The applicant's Planning Report indicates that the development will generate 735 no. additional trips daily. Traffic will back up on the N76 while waiting to access Seville Grove due to the lack of a right turning lane. Photographs of the existing access are submitted.
- The development will result in a potential total of 263 no. units at Margaretsfield. According to table 11.6 of the City Development Plan, the estate should have a fully equipped open space including a full-sized playing pitch and a court for multi-functional use. These are not being provided in the proposed development with the nearest amenities being 2 km away from the estate.
- The City Development Plan states that 2.4 ha of open space should be provided per 1,000 inhabitants. The development does not meet this requirement.
- None of the proposed development should be allocated to social housing as 48% of units in Phase 2 of Margaretsfield were social housing, not accounting for any social housing allocation within Phase 1 of the estate.
- The permitted Phase 2 of Margaretsfield included an open space at Seville Rise, which is not included in the current proposed development. Thus, there is only one green space to serve Phases 1 and 2 of the overall lands. The observer questions if this space is sufficient and if the temporary open space in Seville Grove, which is being removed, will be replaced.
- The open space should be evenly proportioned between each phase of the overall estate. Phase 2 will have no open space under the current proposal.

9.0 Prescribed Bodies

9.1. Irish Water

- 9.1.1. The applicant has engaged with Irish Water in respect of design proposal and has been issued a Statement of Design Acceptance for the development. Conditions are recommended.

10.0 **Planning Assessment**

10.1. The following are the principal issues to be considered in this case:

- Principle of Development and Planning Context
- Design and Layout of Residential Development
- Impacts on Residential and Visual Amenities
- Roads and Traffic
- Drainage, Flood Risk and Site Services
- Childcare Provision
- Part V
- Archaeology
- Ecology
- Material Contravention

These matters may be considered separately as follows.

10.2. **Principle of Development and Planning Context**

10.2.1. Principle of Development

The development site is zoned for 'Phase 1 Residential' development under the Kilkenny City and Environs Development Plan 2014-2020, which incorporates the provisions of the previous Western Environs Local Area Plan 2004. The proposed residential development is therefore acceptable in principle and I note that it is welcomed by Kilkenny County Council as it will achieve the completion of the existing partially developed housing estate at Margaretsfield, as well as furthering the objectives of the Western Environs LAP, and will contribute to compact urban development at the edge of the built up area of the city and in close proximity to the city centre. I also note in this regard that the City Development Plan identifies the Western Environs, along with Loughmacask, as one of two areas where residential development is to be focused during the lifetime of the plan and that these areas are also identified as the focus for new development during the lifetime of the new draft Kilkenny City and County Development Plan 2021-2027. KCC also comments that

the development will benefit from LIHAF funding for infrastructure for the Western Environs. I am satisfied overall that the development is acceptable in principle on this basis.

10.2.2. Residential Density

Kilkenny City, which had a population of 26,512 in the 2016 census, is within the category of a 'city or larger town' as defined in the Sustainable Residential Development Guidelines. Section 5.11 of the Guidelines defines 'outer suburban/ greenfield sites' in such settlements as follows:

These may be defined as open lands on the periphery of cities or larger towns whose development will require the provision of new infrastructure, roads, sewers and ancillary social and commercial facilities, schools, shops, employment, and community facilities.

The development site is considered to meet this definition given that it is at the edge of the built up area of Kilkenny City and within the boundary of the Western Environs LAP, which provides for the comprehensive redevelopment of the wider vicinity. The Guidelines recommend a density of 35-50 units/ha for outer suburban/ greenfield sites within cities and larger towns. The proposed residential density of 36 units/ha is in keeping with this provision, albeit at the lower end of the scale.

In terms of accessibility, the site is located c. 2 km from Kilkenny City Centre, with existing pedestrian and cycle connections available on both sides of the Callan Road at this location. The applicant's Mobility Management Plan (MMP) states that the nearest bus stop is c. 1 km away or 14 minutes' walk (30 minute frequency to the city centre) and that Kilkenny train station is 2.9 km from the development site or c. 35 minutes walking distance. While I note that the applicant considers the site to be an 'intermediate' location with regard to the Apartment Guidelines, I consider that this level of accessibility corresponds with a 'peripheral and/or less accessible' location as per section 2.4 of the Apartment Guidelines, which recommend:

Such locations are generally suitable for limited, very small-scale (will vary subject to location), higher density development that may wholly comprise apartments, or residential development of any scale that will include a minority of apartments at low-medium densities (will also vary, but broadly < 45 dwellings per hectare net)...

While the provisions of Circular Letter: NRUP 02/2021 Residential Densities in Towns and Villages (April 2021) in relation to such locations are noted, they do not apply in this instance given that the proposed density is within the parameters recommended in section 5.11 of the Sustainable Residential Development Guidelines.

The development site is located within land parcel Q, as set out in the Western Environs LAP, which provides for a residential density of 33-36 units/ha at parcel Q. The proposed density of 36 units/ha is within these parameters.

The proposed residential density is considered acceptable on this basis.

10.2.3. Housing Mix and Building Height

The proposed housing mix comprises 57 houses, 30 no. duplex units and 28 no. apartments. This mix is similar to that already constructed within Phases 1 and 2 of the overall Margaretsfield lands. It will enhance the variety of housing typologies in Kilkenny City and is satisfactory to the planning authority. The apartment mix is in accordance with SPPR 1 of the Apartment Guidelines. The proposed development of houses and apartments of 2-4 storeys is also consistent with the 2-4 storey development already constructed in Phases 1 and 2 at Margaretsfield and is consistent with SPPR 4 of the Building Height Guidelines, which requires that planning authorities must secure a greater mix of building heights and typologies in planning the future development of greenfield or edge of city/town locations, and avoid mono-type building typologies such as two storey own door houses only, particularly in developments > 100 units. As discussed above, the density complies with the guidance for outer suburban sites in the Sustainable Residential Development Guidelines and is therefore also consistent with SPPR 4 in this regard. The proposed housing mix and building height are therefore considered satisfactory.

10.3. **Design and Layout of Residential Development**

10.3.1. Roads, Pedestrian and Cycle Layout

The development connects to the existing Margaretsfield spine route and will incorporate and complete the partially constructed roads layout permitted under 06/0189. This involves some amendments to the permitted roads layout, as set out in section 3.6 above.

The Design Statement outlines a roads hierarchy, which provides shared spaces accessible to pedestrian and cyclists with 2m wide footpaths. Car parking is provided in communal areas rather than within the curtilage of individual houses, which provides an enhanced public realm and allows for more efficient use of the spaces. I am satisfied that the development achieves a good level of pedestrian and cycle permeability and I note that the layout includes a new pedestrian connection to the Callan Road at the south eastern corner of the site, which will improve the overall permeability of the area. The proposed roads hierarchy and shared spaces are generally consistent with DMURS in terms of design and layout and the applicant states that the cycle network has been designed to meet the requirements of the National Cycle Manual. The shared spaces will be landscaped and will have a good sense of enclosure. The application includes a Public Lighting Scheme, which is acceptable to KCC Roads Design Section subject to conditions.

Overall, and also having regard to the proposed open space provision as discussed below, I consider that the development will achieve a high quality of public realm, will integrate well with the existing development at Margaretsfield and will be consistent with the objectives of the Western Environs LAP. The roads layout is generally acceptable to KCC Roads Design Section subject to conditions however, as noted by the Roads Design Section, the application does not include a fully completed Road Safety Audit and same should be required by condition to resolve issues raised in the incomplete RSA.

10.3.2. Public Open Space

The development provides a total of 5,164 sq.m. of public open space in three main areas as follows:

- The completion of an existing linear open space (stated area 1,739 sq.m.) at the centre of the site that was constructed as part of Phase 2;
- A new public open space (stated area 2,942 sq.m.) to the north of the existing linear open space with a raised pedestrian crossing to link the two areas;
- A pocket park (483 sq.m.) at the northern end of the site.

This quantum of public open space will serve Phases 2 and 3 of Margaretsfield, i.e. 187 no. residential units in total. The observer submission states concerns about a

lack of open space at Margaretsfield and comments that the proposed provision may be insufficient for both phases. The proposed quantum of open space is stated as 16% of the total site area, however this is the area within the red line site boundary and does not include the parts of Phase 2 that are already constructed, i.e. 72 no. units, which would also be served by the proposed open spaces. Chapter 11 of the City Development Plan states a requirement for a minimum open space provision for new residential developments at a rate of 2.4 ha of open space per 1,000 population, based on an occupancy rate of 2.8 persons per residential unit. This entails a requirement of c. 1.26 ha (12,600 sq.m) public open space to serve Phases 2 and 3, which is not met by the proposed development. However, the development plan also states that this requirement may be relaxed where a development is located in close proximity to an established park area or zoned open space, with a financial contribution towards the improvement and existing of an existing facility. The Western Environs LAP provides for a public park nearby to the north of the development site. The proposed quantum of open space is considered acceptable with regard to this nearby zoning objective.

Having regard to the landscaping scheme and the design statement, I consider that the proposed open space will provide a high standard of amenity for residents of the development and is consistent with the LAP requirement for open space LP6 within land parcel Q, including the provision of a play area. Development plan public open space standards also require the provision of an outdoor gym for developments of 100-199 no. residential units and a condition requiring same may be imposed if permission is granted.

10.3.3. Quality of Residential Accommodation

The Design Statement states that the development is laid out as three residential character areas as follows:

- Character Area 1 comprising apartment Blocks 1 (4 storey, 12 no units)) and 2 (3 storey, 8 no. units) to the north west of the existing 4 storey apartment block at the junction of the Margaretsfield spine route with the N76 Callan Road. Blocks 1 and 2 will replace 9 no. houses permitted under 06/1089. They face the main Margaretsfield spine route, with surface car parking to the rear and landscaped communal open space (150 sq.m.) to the side.

- Character Area 2 comprising Block 3 (3-4 storey, 30 no. units), located at the centre of the site and constructed around a central communal open space (300 sq.m.).
- Character Area 3 comprising 57 no. 2 and 2.5 storey houses at the western side of the site, also Block 4 (3 storey duplex, 8 no. units), located to the south of two existing recently constructed duplex blocks at the Callan Road site frontage. This part of the development includes a heavily planted buffer along the western site boundary to provide screening to the Western Bypass route.

There is no differentiation between the character areas in terms of design or materiality and the development is designed as a continuation of the existing constructed house and apartment block types within Phases 1 and 2 of the Margaretsfield development. While I consider that the overall design and finish of the estate are of high quality, I do have concerns regarding the proposed extensive use of coloured render to finish the house types and apartment blocks. This has not aged well in some parts of the earlier phases of Margaretsfield (see photos on file). I therefore recommend that a condition be imposed requiring a more robust finish.

The application includes a Housing Quality Assessment. The apartments are designed to meet or exceed the requirements of the Apartment Guidelines, including the minimum floor areas for apartment units and the quantitative floor area requirements set out in Appendix 1 of the Guidelines and the requirement that the majority of the apartment units will be at least 10% greater than the minimum size required, exceeding the requirements of SPPR 3 and section 3.8 of the Apartment Guidelines. All of the apartments are dual or triple aspect, well in excess of the 50% requirement for suburban locations as per SPPR 4. The distances between apartment and duplex blocks and surrounding housing are generally adequate to avoid direct overlooking. There is only c. 15 m between apartment Blocks 1 and 2, however their side elevations are angled to avoid direct overlooking. The floor to ceiling heights and floor plans meet the requirements of SPPRs 5 and 6, respectively. All apartments have private open spaces in the form of balconies and terraces, which exceed the minimum dimensions set out in Appendix 1 of the Apartment Guidelines. The communal amenity space requirements of Appendix 1 entail an aggregate requirement of 408 sq.m. of communal amenity space. The development provides a total of 450 sq.m. of communal open space, which exceeds

this requirement, however I note that this comprises 150 sq.m. at the communal area serving Blocks 1 and 2 and 300 sq.m. in the communal courtyard serving Block 3. There is no specific communal open space provided for Block 4 aside from a marginal strip to the north of the block, which contains cycle parking and a bin storage area. Notwithstanding this, I note that Block 4 includes very generous provision of private open space for the ground floor units and that the block is adjacent to the linear public open space at the centre of the site. The under provision of communal open space for Block 4 is therefore considered acceptable. The other three apartment blocks all have satisfactory communal open spaces and secure bin storage and cycle parking. The submitted Taking in Charge layout excludes communal areas serving individual apartment blocks. The application includes a Building Lifecycle Report, as required by the Apartment Guidelines, which states that a property management company will be established in accordance with the Multi-Unit Developments Act 2011.

The design and layout of the proposed houses are similar to those already constructed in Phases 1 and 2 and are generally satisfactory with regard to the Housing Quality Assessment and I consider that they will provide a good standard of residential accommodation. The private open spaces to the rear of individual houses generally meet or exceed the 11m requirement and exceed the quantitative requirements for private open spaces for houses as set out in development plan table 11.5. I note that the proposed rear boundary treatments comprise timber panel fences with concrete posts. I recommend that a condition be imposed requiring more robust boundaries if permission is granted.

10.3.4. Daylight and Sunlight Issues

The application does not include any daylight, sunlight, or overshadowing analysis of the development. Section 11.5.2 of the City Development Plan states the following in relation to daylight and sunlight in apartment developments:

The amount of sunlight reaching an apartment significantly affects the amenity of the occupants. Dual-aspect apartments are likely to maximise the availability of sunlight, but this solution may not always be possible (e.g. with corner units). Single-aspect apartments should allow the main living rooms to face south or west; north-facing units should be excluded.

Particular care is needed where windows are located on lower floors which may be overshadowed by adjoining buildings. The orientation of buildings within the site should maximise energy efficiency.

In addition, section 6.6 of the Apartment Guidelines states that planning authorities should have regard to the quantitative performance approaches to daylight provision outlined in guides like the BRE guide 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. Section 6.7 of the Guidelines states:

Where an applicant cannot fully meet all of the requirements of the daylight provisions above, this must be clearly identified and a rationale for any alternative, compensatory design solutions must be set out, which planning authorities should apply their discretion in accepting taking account of its assessment of specific. This may arise due to design constraints associated with the site or location and the balancing of that assessment against the desirability of achieving wider planning objectives.

The BRE standards and associated British Standard (note that BS 8206-2:2008 is withdrawn and superseded by BS EN 17037:2018) describe recommended values (eg. ADF, VSC, APSH, etc) to measure daylight, sunlight, and overshadowing impact, however it should be noted that the standards described in the BRE guidelines are discretionary and not mandatory policy/criteria (para.1.6). The BRE guidelines also state in paragraph 1.6 that:

Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.

I do not consider the omission of a specific daylight, sunlight and overshadowing assessment is significant in this instance with regard to the specific characteristics of the proposed development. The development is at an appropriate scale for this location given that it will continue the moderate 2-4 storey scale of the development already constructed in Phases 1 and 2 of the Margaretsfield lands, limiting the extent of overshadowing that may result. Aside from apartment Block 1, which is discussed further below, the proposed layout provides adequate separation distances between blocks and dwellings and will limit the degree of obstruction that could result between blocks in the proposed development. All of the proposed houses, apartments and

duplex units are dual or triple aspect, maximising available light and ventilation to all residential units within the development. The existing 2-4 storey houses and apartment buildings adjacent to the development are not of a scale or height that would generate significant obstruction to light or overshadowing of areas. In addition, the BRE note that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate etc. in Section 5 of the standards. In addition, industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban locations to more suburban ones. The BRE guidelines are therefore clear that access to natural light is only one of many factors in site layout design.

I consider that adequate allowance has been made in the proposed design for daylight and sunlight through adequate separation between blocks and houses relevant to the scale of the development, aside from at Block 1, which is discussed further below. As such, I am content that daylight, sunlight, and overshadowing conditions for units in the proposed development will generally be within an acceptable range. While I acknowledge that the applicant has failed to carry out their own assessment of the numerical targets for daylight and sunlight in the proposed development, I am satisfied that considerations of daylight and sunlight have informed the proposed layout design in terms of separation distances, scale and aspect. I have also carried out my own assessment in accordance with the considerations outlined in the BRE guidelines. As such and noting that the guidelines state that numerical targets should be applied flexibly (specifically ADF values of 1% to bedrooms, 1.5% to living rooms and 2% to kitchens), and that natural light is only one factor to be considered in layout design, I consider the development to be in accordance with the BRE guidelines and therefore the associated requirements under the development plan and section 28 guidelines are satisfied.

In addition, I note that the planning authority has not raised concerns in relation to this matter. In my view, it is accepted practice within the Kilkenny County Council area for schemes of a traditional character and relatively low density to not require the submission of a specific daylight and sunlight assessment. On this basis, it is reasonable to interpret that the requirement under the Development Plan concerning

BRE standards is achieved, and the proposed accommodation is within best practice limits.

10.3.5. Potential Noise Impacts from Kilkenny Western Bypass Route

The eastern site boundary abuts the N76 Callan Road and the south western site boundary abuts the designated route of the Kilkenny Western Bypass, which is also retained in the current draft City and County Development Plan. Development plan section 11.4.6 states that KCC will require that planning applications for developments within the zone of influence of existing national roads include noise mitigation measures and/or a sound impact assessment to guard against an unacceptable increase in noise levels affecting noise sensitive properties. The report on file of KCC Roads Design Section also recommends a condition requiring the applicant to carry out a Noise Assessment and Mitigation Plan for the development having regard to the Kilkenny County Council Noise Action Plan 2019-2023, due to the proximity of the site to the N76 Callan Road. I recommend that a condition be imposed if permission is granted, requiring a noise risk assessment of the development, to inform an Acoustic Design Statement and appropriate mitigation measures where noise thresholds are expected to be exceeded.

10.3.6. Design and Layout Conclusion

I am satisfied that the development generally achieves a high quality of design and finish, while making optimum use of this zoned and serviced site adjoining the built up area of Kilkenny City, and provides a high standard of amenity and public realm that will complement the existing Phases 1 and 2 at Margaretsfield and also contribute to place making in the wider area. I also consider that the development will provide an acceptable standard of residential accommodation for future occupants, subject to conditions, and is generally satisfactory with regard to national and development plan guidance for residential development.

10.4. **Impacts on Residential and Visual Amenities**

- 10.4.1. There are residential properties to the north, west and south of the development and the site wraps around an existing apartment block, houses, and duplex units within Seville Grove. In addition, the site has a prominent location to the west of the N76 on the approach to Kilkenny City. Potential impacts on visual and residential amenities

relate to overlooking, daylight and sunlight impacts, visual impacts, and construction impacts. These matters may be considered separately as follows.

10.4.2. Overlooking Impacts on Residential Amenities

Most of the development achieves satisfactory distances to windows serving habitable rooms at existing residential properties within Seville Grove, generally in accordance with the 22m standard specified in the Development Plan. While the context of existing one-off houses to the north and south east of the development will change, with some increased perceived overlooking of rear garden areas, such impact is inevitable as part of the efficient development of a zoned greenfield site for housing. This impact will be reflective of normal back-to-back housing arrangements for residential estates and will not be significantly harmful in my view.

However, the eastern side of apartment Block 1, which includes windows to habitable rooms and balconies, is c. 16m from the side of the existing adjacent 4 storey apartment block to its immediate east, at the junction of the N76/ Callan Road and Seville Grove and c. 15m from the side of the proposed apartment Block 2. The side elevation of the existing apartment block to the east also includes balconies and windows to habitable rooms and the elevations directly face each other and are not at an angle that would obviate overlooking. I therefore consider that Block 1 will have an adverse impact on the residential amenities of the existing adjacent apartment block to the east by way of overlooking. This issue does not arise to the same degree to the west of Block 1, as Blocks 1 and 2 are angled such that direct overlooking will not arise. I accept that this issue could possibly be addressed by way of a redesign of Block 1 to overlooking, however, given related concerns about potential overshadowing of habitable rooms within the adjacent block, as discussed below, I recommend that the block be omitted by condition, leaving it open to the applicant to address the matter by way of a subsequent application on this part of the site.

10.4.3. Daylight and Sunlight Impacts on Residential Amenities

As discussed above, the application does not include a daylight, sunlight, and overshadowing assessment. Section 2.2.4 of the BRE guidelines states in relation to daylight to existing buildings:

Loss of light to existing windows need not be analysed 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. In these cases, the loss of light will be small...” (para. 2.2.4)

The existing properties at Seville Grove and at the N76 Callan Road to the south of the development are close enough to the proposed 3-4 storey apartment blocks to warrant consideration of daylight and sunlight impacts and would not fall into the exception described above. All other neighbouring properties are situated a sufficient distance away from the development and would not experience any, or significant, loss of light or increased overshadowing. Block 4 is the closest part of the development to the bungalow to the immediate south to the site at the Callan Road frontage, however, given that Block 4 is to the immediate north of the adjoining residential property, overshadowing impacts are not considered likely at this location. Therefore, noting the above and the relevant requirements of the BRE/BS, further consideration is required only in respect of Seville Grove. Although these properties are situated proximate to the development to require consideration, I do not consider the omission of a specific daylight, sunlight, and overshadowing assessment to be significant given the specific characteristics of the proposed development. It is new housing on land zoned for such. The site is a continuation of the existing Phases 1 and 2 at Margaretsfield and is situated at the edge of the built-up area of Kilkenny City. The proposed 2-4 storey development has the same scale as the existing development within Phases 1 and 2 at Margaretsfield. As a result, any impact upon daylight and sunlight would be within the normal range for a residential estate in my view, and not so detrimental to be considered significantly harmful impact. Therefore, I do not consider the omission of a specific daylight, sunlight, and overshadowing assessment to be significant given the specific characteristics of the proposed development.

The standard 22 m separation distance is generally achieved to existing development in all instances except between the proposed 4 storey apartment Blocks 1 and 2 and to the side of the existing 4 storey apartment block to the immediate east of Block 1 at the access to Seville Grove, with consequent potential adverse impacts on daylight and sunlight in habitable rooms in the adjacent apartment blocks. This aspect of the development also raises concerns in relation to

overlooking between habitable rooms, as discussed above, and I recommend that Block 1 is omitted by condition. As discussed above, it is open to the applicant to make a new application on this part of the site, which would also address the issue of potential overshadowing of habitable rooms in the adjacent apartment blocks. Aside from this location, given that the 22m separation distance has been generally been applied, it is considered that adequate regard has been had to the preservation of the residential amenity of existing properties, when balanced against the need for housing on zoned and serviced lands and that the design and layout of the proposed scheme is of a good architectural and urban design standard respecting the established pattern of development in the area.

I acknowledge that daylight, sunlight and overshadowing will be impacted (to a limited extent) to properties closest to the subject site on the Castleinch Road, given the proximity of the development to the shared boundary and that the existing backdrop to these properties is an undeveloped field. The existing undeveloped character of the subject site therefore results in an entirely unobstructed outlook from these properties, which will invariably be altered by any development of the development subject site, and indeed the wider lands within the boundaries of the Western Environs LAP, given the zoning for development. Similar issues apply where the southern boundary of the development adjoins the grounds of the bungalow to the immediate south of the site. However, the lands are zoned and as such some level of development would have been anticipated on site, and that a lower height than the nearest two storey proposed units, or a lower density (below that considered to meet sustainable development densities) would not accord with the proper planning or sustainable development of the area.

Overall, I am content that the daylight, sunlight, and overshadowing impacts of the development on existing properties will be within an acceptable range for the area and not significantly harmful. I have applied the guidance within the BRE guidelines and associated BS 17037:2018 in my assessment of this issue, and particularly in light of the guidelines own assertions that numerical targets should be applied flexibly (para.1.6) and that natural light is only one of many factors in site layout design (para.1.6), as discussed above in relation to sunlight and daylight within the proposed apartments. Therefore, while a specific assessment has not been submitted with quantification of this impact, in my opinion the proposed development

has been designed in consideration of potential daylight and sunlight impact upon existing residents and this is reflected in the scale and layout of the proposal.

I am satisfied that that proposal has a layout that reflects a standard suburban residential estate, as well as in scale and form, which will limit potential for reduced daylight and sunlight to surrounding properties. As such, I consider that the development makes adequate provision for daylight and sunlight to surrounding properties in accordance with BRE considerations that I have applied, and therefore the requirements under the Kilkenny City & Environs Development Plan and section 28 guidance are satisfied. In addition, I note that the planning authority has not raised concerns in relation to this matter and I also note that within the Kilkenny County Council area, for schemes of a low-rise character (such as the proposed development), where no particular sensitivity is demonstrated in separation distances to neighbouring properties, the submission of a specific daylight and sunlight assessment it is not generally required. I also note that no third party submission have raised the matter of overshadowing. On this basis, it is considered that adequate regard has been had to the preservation of the residential amenity of existing properties, when balanced against the need for housing on zoned and serviced lands. Overall, I am satisfied that the daylight, sunlight, and overshadowing impacts of the development on existing properties will be within an acceptable range for the area and not significantly harmful, except at apartment Block 1, which may be addressed by way of its omission by condition if permission is granted.

10.4.4. Visual Impacts

Potential visual impacts of the development have been considered with regard to the Design Statement, drawings, and CGIs on file and to my site inspection of 8th July 2021.

The site has a prominent location to the west of the N76 Callan Road on one of the main approaches to Kilkenny City. The southern side of the development will be visible from the N76 and other local roads across the open lands to the south of the site, including the Kilkenny Western Bypass route. I note from the proposed Landscaping Scheme that the south western site boundary is to be planted with a belt of trees, which I consider would successfully screen views of the development from the south and southwest. The duplex Block 4 and the proposed new ramped

pedestrian access will be the most visible elements of the development in closer views from the N76 Callan Road. While the proposed design and layout have missed an opportunity to present a more active frontage to the Callan Road, I consider that, subject to a satisfactory boundary treatment, this side of the development will read as a continuation of the existing built up environment with the new duplex block having a similar scale and design to the existing two duplex blocks at this location. The development site has a lower ground level than that of the bungalow to the immediate south of the site and the transition in levels at the ramped pedestrian access in the intervening space has, in my opinion, been successfully addressed in the proposed landscaping scheme. The detailed design of the pedestrian access may be agreed by condition to the satisfaction of the planning authority.

The development has a similar design and finish to the existing development within Phases 1 and 2 of the Margaretsfield lands and it will read as a continuation of the existing built up environment adjacent to the existing houses in the previous phases of the Margaretsfield development. The quality of the design and layout of the development and landscaped open spaces will make a satisfactory contribution to the public realm and the development will result in the resolution of existing undeveloped lands at the southern end of the estate, all of which is welcomed by the planning authority.

As discussed above, the development will change the outlook from the residential properties at Castleinch Road to the north of the site and the bungalow on the Callan Road to the south of the site, however this would be the case for any development at this zoned and serviced site. The scale of the development is limited to two storey housing at the northern end of the site, reducing visual impacts at this location. The duplex Block 4 will have a lower ground level than the adjacent bungalow, which will reduce its visual impacts on the bungalow, with the intervening area landscaped and occupied by the proposed pedestrian access. I consider that this will provide a satisfactory context for the bungalow.

I am therefore satisfied that the development will not have any significant adverse visual impacts and that it will in fact make a contribution to place making and the public realm at this side of Kilkenny City with several landscaped public open spaces and improved pedestrian permeability.

10.4.5. Construction Impacts on Residential Amenities

The application includes a Construction and Environmental Waste Management Plan (CEWMP) and a Construction Traffic Management Plan, which address potential adverse impacts on residential amenities during construction including in relation to noise, dust, contaminated run off, site security, waste management, car parking and traffic management and include proposed mitigation measures in relation to these issues. It is envisaged that the construction will take approximately 18 months to complete. A detailed Construction and Environmental Waste Management Plan and a Construction Traffic Management Plan may be required by condition if permission is granted.

10.4.6. Impacts on Residential and Visual Amenities Conclusion

To conclude, having regard to the above assessment, I am satisfied that the development generally will not have any significant adverse impact on visual or residential amenities such as would warrant a refusal of permission. I also consider that the development has a high quality of design and finish that will make a substantial contribution to the overall public realm at this location. However, having regard to the above assessment, I consider that apartment Block 1 could potentially have adverse impacts on habitable rooms within the adjacent existing and proposed apartment blocks to its immediate east and west by way of overlooking and overshadowing, due to the proximity of the blocks. I therefore recommend that Block 1 is omitted by condition.

10.5. **Roads, Traffic and Transportation**

10.5.1. Traffic Impacts

Vehicular access to the development will be from the N76 Callan Road, via the existing Margaretsfield spine route that serves Seville Grove. The N76 at this location is within the 50 kph zone and includes pedestrian and cycle facilities. The observation submitted by a local resident states concerns that the development will result in a traffic hazard at the N76 Callan Road / Seville Grove junction as a result of increased traffic and queuing at this location.

The submitted Traffic Impact Assessment (TIA) is based on traffic counts carried out during the AM and PM peaks at the access to Seville Grove from the N76 and at the

N76 Callan Road roundabout, on Tuesday 3rd March 2020. This predates Covid 19 restrictions and is therefore likely to reflect 'normal' traffic levels. It provides projected trip generation figures for 2027 (5 years after completion) and 2037 (15 years after completion). The analysis carried out indicates that the Seville Grove N76 junction will operate within capacity with and without the proposed development. The N76 Callan Road roundabout will operate within capacity for both scenarios in 2027 but will be over capacity during the PM peak in 2037 both with and without the development.

The report of KCC Roads Design Section notes several discrepancies in the applicant's TIA. It states that the standard format for developing trip generation information has not been used (i.e. TRICS information) and notes that the assessments in the TIA Appendix are not for the assessment years used in the main body of the report (2027 and 2037), with the Appendix referring to 2026 and 2036. The detailed results provided in the Appendix reflect the findings in the main report, that Seville Grove / N76 junction would operate within capacity with and without the development in 2026 and 2036 and that the Callan Road roundabout would operate above capacity both with and without the development at the PM peak in 2036.

While I note the above discrepancies, I generally accept the TIA conclusions given the limited scale of the proposed development and the capacity of the adjacent roads infrastructure at Seville Grove, in particular the spine route and N76 access, which have been constructed to serve the Margaretsfield lands and other zoned land parcels beyond. I also note that, notwithstanding the above reservations, KCC Roads Design does not recommend a refusal of permission and recommends conditions including the submission of a more robust TIA. I am therefore satisfied that the development would not have adverse traffic impacts such as would warrant a refusal of permission.

10.5.2. Car and Cycle Parking

The existing Phase 2 development constructed at Margaretsfield on foot of 06/1089 comprises 72 no. residential units (46 no. houses and 26 apartments and duplex units) and 165 no. car parking spaces. The proposed development involves amendments to the permitted Phase 2 layout including the removal of 29 no. existing car parking spaces as described in section 3.6 above. The current proposed

development therefore includes a total of 274 no. spaces for 187 no. existing and proposed units in Phases 2 and 3 of the Margaretsfield lands (incorporating the permitted 165 no. spaces), such that there is an overall rate of 1.46 no. car parking spaces per unit.

The development may be considered with regard to the car parking standards set out in development plan table 10.5 as follows:

Land Use	Required Spaces per Unit	Requirement for Margaretsfield Phases 1 and 2
House	2 spaces per unit	103 x 2 = 206 no. spaces
Apartment	1.25 spaces per unit	84 x 1.25 = 105 no. spaces
Visitor Parking	0.25 spaces per unit	187 x 0.25 = 46.75 no. spaces
Total		357.75 no. spaces

The proposed provision of 274 no. car parking spaces therefore results in a shortfall regarding development plan car parking standards and the report of KCC Roads Design Section recommends an increased car parking provision. The Apartment Guidelines recommend a provision of one car parking space per unit with an element of visitor parking such as one space for every 3-4 apartments at peripheral and/ or less accessible locations. This entails a provision of at least 105 no. spaces to serve the proposed apartments. If this is applied to the proposed 274 no. spaces, there would be a remaining car parking provision of 169 no. spaces for the 103 no. houses in Phases 1 and 2, a provision of c. 1.64 spaces per unit including visitor parking.

The applicant submits that this car parking provision is acceptable with regard to the proposed provision of 146 no. cycle parking spaces, as well as accessibility to an existing Go Car pick up facility at the Callan Road and the availability of existing pedestrian / cycle facilities at the Callan Road adjacent to the site. The applicant's MMP provides further details of existing pedestrian and cycle facilities in the wider area. This argument is accepted given that, while the site does not benefit from public transport services and is at the edge of the built up area of the city, the compact form of Kilkenny City ensures that distances to the city centre, schools, retail, community facilities, etc., as detailed in the MMP, are relatively short and can be navigated on bicycle or by foot. In addition, I consider that the proposed communal car parking provision will allow for a more efficient usage of the quantum

of residents and visitor parking than if provided within the curtilage of individual houses. The parking is distributed throughout the development with all units adjacent to car parking spaces. I consider that this efficient provision is in accordance with national planning policy on car parking provision, as per NPO 13 of the NPF, which states that car parking provision in urban areas will be based on performance criteria that seek to achieve high quality outcomes in order to achieve targeted growth. The proposed car parking provision is considered acceptable overall on this basis.

A total of 146 no. long term bicycle parking spaces and 29 no. visitor spaces are provided for the apartments. This meets the requirements of the Apartment Guidelines for the proposed apartments.

10.6. Drainage, Flood Risk and Site Services

10.6.1. Surface Water Drainage and Flood Risk

There is no watercourse in the immediate vicinity of the site, the nearest being the Breagh River, which runs between 0.9 - 1.2 km to the south, east and north of the site. The proposed surface water drainage system includes SUDS measures such as permeable paving at parking bays, interception storage and petrol interceptors. Surface water discharge from the site will be attenuated to greenfield run off rates via an attenuation tank under the main public open space at the centre of the site, with outflow controlled by a Hydrobrake. This will discharge to the existing surface water network serving Margaretsfield, which ultimately discharges to the Breagh River, which drains to the River Nore.

The applicant's Site Specific Flood Risk Assessment (SSFRA) states that the site is located at an elevated point in local topography. There is no history of flooding at or in the vicinity of the site as per historic maps or OPW flood records. The site is not located within any CFRAMS flood zones associated with the Breagh River and is entirely within Flood Zone C as per the Flood Risk Guidelines and a Justification Test is not necessary as per Table 3.2 of the Guidelines. The CFRAM website shows that a large area to the northeast of the development is currently under review by the OPW, however this is due to the Central Access Road scheme, which is currently on site and involves significant work to the Breagh River with new bridges and culverts, however this does not affect the fluvial mapping data set as it relates to the development site. The SSFRA identifies a risk of pluvial flooding

associated with surcharge of the surface water drainage system due to blocking or overloading from extreme rainfall events. The proposed and existing storm water attenuation systems pose a potential source for flooding at the site with a potential overland flow pathway to residential properties. The SSFRA states that, given the site topography and levels in relation to the outfall, the likelihood of a flood occurring due to backup within the surface water system is remote. In addition, the attenuation storage could act as flood storage in the event of a blockage / overloading. There is a possibility of flooding if the surface water system backs up or becomes blocked, however the site levels will allow flood routing by gravity flow away from the dwellings towards the green area at the centre of the site which is the lowest level on the site.

Having regard to the above, I note that the development will connect to existing surface water infrastructure and that discharge will be attenuated to greenfield run off rates. I note that the planning authority states no concerns in relation to flood risk at the site or in relation to the proposed surface water drainage system. I am satisfied from the SSFRA that the development is not located in an area at risk of flooding and will not result in any increase risk of downstream flood impacts.

10.6.2. Site Services

10.6.3. The development is to connect to the existing water and foul drainage infrastructure serving Margaretsfield Phases 1 and 2. The foul drainage infrastructure ultimately drains to the Breagagh Valley sewer and on to the Kilkenny City Municipal wastewater treatment plant at Purcellsinch. The Irish Water submission on file states that the applicant has engaged with Irish Water in respect of design proposal and has been issued a Statement of Design Acceptance for the development. No significant infrastructural or capacity issues are identified.

10.7. **Childcare Provision**

10.7.1. The Childcare Facilities Guidelines for Planning Authorities recommend a minimum provision of 20 childcare places per 75 no. dwellings. Section 4.7 of the Apartment Guidelines states that the threshold for the provision of childcare facilities in apartment schemes should be established having regard to the scale and unit mix of the scheme, the existing geographical distribution of childcare facilities and the emerging demographic profile of the area. One bed or studio units should generally

not be considered to contribute to a requirement for any childcare provision and, subject to location, this may also apply in part or whole to units with two or more bedrooms. The exclusion of the proposed 15 no. one bed units within the development results in an estimated demand for c. 27 no. childcare places for the development (excluding Margaretsfield Phase 1 and the remainder of Margaretsfield Phase 2).

10.7.2. The application includes a Childcare Capacity Audit, which examines demographic data on Kilkenny City and the likely occupants of the development, and which was prepared in consultation with Kilkenny County Childcare Committee. The Audit states that there are 24 no. existing childcare facilities within a 3 km radius of the development site, including an adjacent existing facility at Seville Lawn, which currently has an indicative capacity of 23 no. places. Having regard to the available demographic data, the development is likely to generate a maximum demand for c. 16 no. childcare places. It is submitted that this demand would be catered for by the existing childcare provision in the area.

10.7.3. Given the extent of childcare capacity available in the area, including a creche in the immediate vicinity of the site and with regard to the assessment of likely childcare demand that would be generated by the development. I consider that the lack of a childcare facility is acceptable in this instance. I also note that the requirement of the Western Environs LAP for a creche within land parcel Q has already been met at Margaretsfield.

10.8. **Part V**

10.8.1. The observer submits that the proposed development should not include any additional Part V provision as this requirement has already been met in the previous phases at Margaretsfield. The applicant notes that 46 no. Part V units have already been provided to Kilkenny County Council within Phases 1 and 2 at Margaretsfield, as permitted under reg. ref. 06/1089, in order to comply with the requirements of Part V of the Planning and Development Act 2000 (as amended). It is submitted that the applicant has therefore already met their Part V obligations in respect of the current development and proposes no additional Part V units. I note the correspondence on file from KCC Housing Dept., dated 28th July 2020 and 17th October 2018, which states that the Part V obligations for the entire Margaretsfield site have been

complied with and that there are no further Part V requirements in respect of the current development. I am satisfied on this basis that no additional Part V requirements apply to the subject development.

10.9. **Archaeology**

10.9.1. There are no recorded monuments at the development site or within 500 m of the site boundary. The site is not within the Area of Archaeological Potential associated with Kilkenny City. The applicant has submitted an Archaeological Assessment of the development, which is based on a field inspection, desktop research, aerial photography and cartographic analysis and details the results of several archaeological investigations in the wider area. The development site is considered to have low archaeological potential due to the level of disturbance present and to the lack of evidence of any historic features at the site. Despite this, it remains possible that ground disturbances associated with the development may have an adverse impact on archaeological features or deposits that have the potential to survive beneath the current ground level in the northern part of the site, which remains undisturbed. Archaeological monitoring of construction is recommended and may be required by condition if permission is granted.

10.10. **Ecology**

10.10.1. The application includes an Ecological Impact Assessment (EclA) by Ecology Ireland, dated April 2021, which is based on field surveys carried out at the site on 3rd and 8th July 2020, including a bat survey. The main findings may be summarised as follows.

10.10.2. The development site is a greenfield site located at the edge of the built up area of Kilkenny City. There is no watercourse at or in the immediate vicinity of the site, the nearest being the Breaghagh River, a tributary of the River Nore, which is located just over 1 km northeast /east of the site. There are no designated sites at or in the vicinity of the development site. The nearest designated sites, the River Barrow and River Nore SAC and River Nore SPA are both located 2.1 km from the site boundary. The Archersgrove pNHA is located 2.9 km overland from the site, with the sole interest of the pNHA lying in its significant population of Nettle-leaved bellflower (*Campanula trachelium*). The development site currently comprises arable land with sections to the east dominated by artificial surfaces and urban fabric. It is

dominated by modified, regularly disturbed habitats with no significant vegetation and no wetland/riparian habitats. No invasive species were recorded within the site boundary, with Cherry Laurel present on part of the southern boundary of the site, where it is associated with the gardens of and adjoining property off-site. There are no Annex I habitats at the site. No bird species listed on Annex I species of the EU Birds Directive were recorded at the site and no bird species associated with any of the designated conservation sites (SPAs or pNHAs) within 15km of the development site were recorded at the site the immediate locality. The site generally contains limited foraging, commuting, breeding and resting habitats for listed bird species and the habitats present at the site are of low local importance for the local avian community. The site provides extremely limited foraging and breeding habitat for badger and or for mammal species in general and no badger were recorded during field assessments. The bat species Leisler's Bat, Brown Long-eared Bat, Common Pipistrelle and Whiskered Bat were recorded foraging at or in the vicinity of the site, however there are no permanent/transient roosting opportunities for bats at the site. The bat species recorded at the site are considered to be relatively widespread and common nationally and are largely considered to be of least concern in terms of conservation status apart from Leisler's Bat, which is also common in Ireland. The site provides limited habitat for commuting/ feeding bats associated with roosts in the wider area but is considered to be of low local value for bats. Due to the modified, disturbed and/or transient nature of the habitats present, they are considered of lower local value for most other taxa species at present and the site is assessed as being of lower local importance to biodiversity overall.

Potential impacts on local water quality during construction/ operation are assessed as neutral due to the lack of connectivity to local watercourses and with regard to the proposed drainage design. The application includes a CEWMP, which will minimise any local environmental effects during construction. The habitats present at the site are of local ecological value only and the development will result in a permanent increase in modified habitat, with an imperceptible/ neutral impact on semi-natural habitats and flora species at the site and in the surrounding locality. The development is assessed as having a neutral impact on existing semi-natural habitats and flora species at the site and surrounding locality. The proposed landscaping scheme includes native / non-native trees, shrubs and wildflowers

including pollinator friendly planting, which will increase biodiversity and may lead to a slight net gain in biodiversity in the long term. The development will have a neutral / imperceptible impact on general fauna due to the limited extent and importance of habitats at the site. The linear commuting / foraging bat habitats present at the site will be maintained and impacts on bat species are not anticipated. Potential disturbance impacts are limited as the site is already comprised of and adjacent to a modified and/or built environment and as such fauna may already be relatively tolerant of human disturbance. In addition, similar and potentially more suitable habitats are available in the surrounding landscape so that affected fauna, including bats, can disperse into the wider area if disturbed or displaced. The proposed lighting systems have been designed to minimise light spillage and associated disturbance. Potential impacts on fauna are assessed as neutral overall.

10.10.3. The EclA concludes that the development will have neutral residual impacts on biodiversity overall and states that the proposed landscaping will in time enhance the ecological connectivity of the site with the surrounding area. These conclusions are noted and accepted, given the limited size of the site and the limited ecological value of the habitats present and with regard to the measures proposed in the CEWMP and the proposed landscaping scheme. If permission is granted, I recommend a condition that requires an Invasive Species Management Plan to be submitted to the planning authority for agreement and for the agreed plan to be implemented prior to any works progressing on the site.

10.11. **Material Contravention**

10.11.1. The applicant has submitted a Material Contravention Statement in relation to the matter of car parking. The proposed car parking provision does not meet development plan car parking standards. With regard to section 9(6) of the Planning and Development (Housing) and Residential Tenancies Act 2016, and given that the proposed material contravention does not relate to the zoning of land, the Board may grant permission if it considers that it would do so if section 37(2)(b) of the 2000 Act were applied.

10.11.2. In this instance and with regard to the location of the site within the boundary of the Western Environs LAP 2004, as incorporated into the Kilkenny City and Environs Development Plan 2014-2021, which prioritises the development of the

Western Environs (Breaghagh Valley) as one of two primary areas for new residential development in the lifetime of the development plan, and also having regard to the potential of the development to contribute to the delivery of several National Policy Objectives of the NPF, specifically NPOs 3a, 3c, 5, 32, 33 and 35 in relation to compact urban development and the provision of additional residential units at existing settlements, I consider that section 37(2)(b)(i) applies as the development is considered to be of strategic and national importance having regard to the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its under supply as set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016.

10.11.3. The applicant submits that section 37(2)(b)(ii) applies as there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, as the City Development Plan aims to promote sustainable modes of transport such as cycling and bus transport and to minimise car journeys, in line with national planning and transport policies. The applicant contends that the development plan provides no clear emphasis or guidance on how a minimised need for car journeys might be reflected in its car parking standards, which currently aim to accommodate a high number of car parking spaces for residential units and do not specify area based standards for car parking provision within Kilkenny City. This rationale is accepted, given that development plan car parking standards, as outlined above, do not take account of the proximity of the site to the city centre and the availability of pedestrian and cycle infrastructure. Dublin City Development Plan car parking standards, for Parking Zone 3, outside public transport corridors and key district centres, for example, require a maximum provision of 1.5 spaces per dwelling, which is lower than the Kilkenny City and Environs Development Plan requirement of 2 spaces per house, 1.25 spaces per apartment plus 0.25 visitor parking spaces per unit. I also accept that the development plan does not identify specific parking zones, e.g. close to public transport, where there is a reduced car parking requirement. I therefore consider that section 37(2)(b)(ii) applies in this instance, i.e., there are conflicting objectives in the development plan.

10.11.4. I also consider that section 37(2)(b)(iii) applies and that permission should be granted for a reduced car parking provision at the proposed development having regard to section 28 guidelines and national planning policy, specifically:

- NPO 13 of the NPF, which states that car parking standards in urban areas will be based on performance criteria and will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve high quality outcomes, provided public safety is not compromised and the environment is suitably protected, given the proximity of the site to Kilkenny city centre and local services and amenities and the availability of pedestrian and cycle infrastructure;
- Section 4.18 of the Apartment Guidelines, which states that the quantum of car parking for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria.

10.11.5. Having regard to the above, I consider that the Board can grant the proposed development, notwithstanding that it materially contravenes the development plan in relation to the matter of car parking.

10.12. **Planning Assessment Conclusion**

10.12.1. The proposed development will result in a satisfactory standard of residential development and will not have any significant adverse impact on residential amenities. The housing density and mix are acceptable with regard to the location of the site at the edge of the built-up area of Kilkenny City and relevant national and local planning policies. The proposed residential design and layout are in accordance with relevant national and local policies on residential development and will provide a satisfactory standard of residential accommodation, while achieving a residential density reflecting the strategic nature of the site and the importance of the sustainable development of zoned and serviced lands. The development will therefore achieve the satisfactory completion of the partially finished residential development at Margaretsfield. I am satisfied that the development would not have any significant adverse impacts on visual or residential amenities. It is considered that the development will not result in undue adverse traffic impacts and would have a moderate traffic impact on the local road network overall. I am also satisfied that

the development does not result in a significant flood risk at the development site or upstream or downstream.

11.0 Environmental Impact Assessment Screening

- 11.1. The development site is a greenfield site located at the edge of the built-up area of Kilkenny City. There is no watercourse at or in the immediate vicinity of the site. There are no designated sites or sensitive areas at the site or in the immediate vicinity and the habitats present are of low importance to local biodiversity. The findings and conclusions of the applicant's EclA as summarised above are noted in this regard.
- 11.2. The development is within the class of development described at 10(b) of Part 2 of Schedule 5 of the planning regulations. An environmental impact assessment would be mandatory if the development exceeded the specified threshold of 500 dwelling units or 10 hectares, or 2ha if the site is regarded as being within a business district. The proposed development of 115 no. units on a 3.2 ha site is below the above thresholds and the nature and the size of the development are therefore well below the applicable thresholds for EIA. I would note that the uses proposed are similar to predominant land uses in the area and that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation and does not contain habitats or species of conservation significance. The AA Screening set out in Section 12.0 concludes that the potential for adverse impacts on Natura 2000 site can be excluded at the screening stage.
- 11.3. The criteria at schedule 7 to the regulations are relevant to the question as to whether the proposed sub-threshold development would be likely to have significant effects on the environment that could and should be the subject of environmental impact assessment. The application is accompanied by an EIA Screening Report which includes the information required under Schedule 7A to the planning regulations. In addition, the various reports submitted with the application address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts with regard to other permitted developments in proximity to the site, and demonstrate that, subject to the various construction and

design related mitigation measures recommended, the proposed development will not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts. I have examined the sub criteria having regard to the Schedule 7A information and all other submissions, and I have considered all information which accompanied the application including inter alia:

- Architectural Design Statement
- Planning Report
- Flood Risk Assessment
- Traffic Impact Assessment
- Mobility Management Plan
- Public Lighting Report and Plan
- Landscape Design Statement
- Verified Views and Photomontages
- Ecological Impact Assessment
- Report in Support of Habitats Directive Screening
- EIA Screening Report
- Construction and Environmental Waste Management Plan
- Construction Traffic Management Plan
- Archaeology Report

11.4. Noting the requirements of Section 299B (1)(b)(ii)(II)(C), whereby the applicant is required to provide to the Board a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account I would note that the following assessments / reports have been submitted.

- Report in Support of the Habitats Directive Screening has been undertaken pursuant to the Habitats Directive (92/43/EEC) and the Birds Directive

(2009/147/EC) and also addresses requirements arising from the Water Framework Directive (and River Basin Management Plans) and the Urban Wastewater Treatment Directive.

- The Flood Risk Assessment addresses the potential for flooding having regard to the OPW CFRAMS study which was undertaken in response to the EU Floods Directive.
- A Construction and Environmental Waste Management Plan has been submitted that addresses requirements under the EC Waste Framework Directive and EC Environmental Noise Directive.
- The SEA carried out for the Kilkenny City and Environs Development Plan 2014-2020, which zones the development site for residential development.

11.5. The EIA screening report prepared by the applicant has under the relevant themed headings considered the implications and interactions between these assessments and the proposed development, and as outlined in the report states that the development would not be likely to have significant effects on the environment. I am satisfied that all relevant assessments have been identified for the purpose of EIA Screening.

11.6. I have completed an EIA screening assessment as set out in Appendix A of this report. I consider that the location of the proposed development and the environmental sensitivity of the geographical area would not justify a conclusion that it would be likely to have significant effects on the environment. The proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency, or reversibility. In these circumstances, the application of the criteria in Schedule 7 to the proposed sub-threshold development demonstrates that it would not be likely to have significant effects on the environment and that an environmental impact assessment is not required before a grant of permission is considered. This conclusion is consistent with the EIA Screening Statement submitted with the application.

11.7. A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the above considerations.

12.0 Appropriate Assessment Screening

12.1. Introduction

12.1.1. This assessment is based on the submitted AA Screening Report prepared by Ecology Ireland Ltd., dated April 2021. The AA Screening Report is supported by an EclA which is based on site surveys carried out the site on 3rd and 8th July 2020. I am satisfied that adequate information is provided in respect of the baseline conditions, potential impacts are clearly identified, and sound scientific information and knowledge was used. The information contained is considered sufficient to allow me to undertake AA screening of the proposed development.

12.2. The Project and Its Characteristics

12.2.1. See the detailed description of the proposed development in section 3.0 above.

12.3. The Development Site and Receiving Environment

12.3.1. See site description in section 2.0 above. There are no Annex I habitats listed under the EU Habitats Directive present within the development site. The dominant habitats present are spoil and bare ground or recolonising bare ground, which are of negligible to low ecological value overall. No botanical species protected under the Flora (Protection) Order 2015, listed in Annex II or IV of the EU Habitats Directive (92/43/EEC), or Red listed in Ireland were recorded. All species recorded during the ecological surveys are considered common for similar habitats in the general area. No high impact invasive species were recorded on the proposed site. Overall, the site is of low local ecological importance. The site is not of any importance for habitats or species which are qualifying /special conservation interests of designated Natura 2000 sites in the wider area.

12.4. Stage I Appropriate Assessment

12.4.1. In determining the zone of influence I have had regard to the nature and scale of the project, the distance from the development site to the European sites, and any potential pathways which may exist from the development site to a European site.

12.4.2. The project is not directly connected with or necessary to the management of a European site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). There are no designated sites within

or immediately adjacent to the development. The AA Stage I screening assessment identifies the following designated sites within 15 km of the development:

Designated Site (Site Code)	Distance to Development	Qualifying Interests/ Conservation Objectives
River Barrow and River Nore SAC (002162)	2.1 km	<p>The conservation objectives of this site relate to maintaining the favourable conservation condition of the following habitats and species which are qualifying interests:</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 (<i>Glauco-Puccinellietalia maritimae</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Water courses of plain to montane levels with the <i>Ranunculon fluitantis</i> and <i>Callitricho-Batrachion</i> 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 (<i>Cratoneurion</i>) [7220]</p> <p>Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles [91A0]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p> <p><i>Vertigo moulinsiana</i> (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 (Twaiite 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>
River Nore SPA (004233)	2.1 km	<p>The conservation objectives of this site relate to maintaining the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:</p> <p>Kingfisher Alcedo atthis</p>
Thomastown Quarry SAC (002252)	13.9 km	<p>The conservation objectives of this site relate to maintaining or restoring the favourable conservation condition of the following qualifying interests;</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p>

12.4.40. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European site in view of the conservation objectives of those sites. I have examined the above sites and the potential pathways and potential effects in order to determine if the site can be screened out or if it is necessary to carry it forward for Stage 2 AA. I do not consider that any other European sites fall within the zone of influence of the project, having regard to the distance from the development site to same, and the lack of an obvious pathway to same from the development site. The potential effects on the above sites may be considered as follows.

12.4.41. Habitat Loss and Fragmentation

The development does not overlap with the boundary of any European site.

Therefore, there are no European sites at risk of direct habitat loss impacts. As the development does not traverse any European sites there is no potential for habitat fragmentation to occur. The development site does not support populations of any fauna species linked with the QI/SCI populations of any European site(s).

As the proposed development will not result in habitat loss or habitat fragmentation within any European site, there is no potential for any in combination effects to occur in that regard.

12.4.42. Indirect Hydrological Effects

There a potential for indirect hydrological effects via surface water links between the development and designated sites associated with the River Nore catchment, including the River Barrow & River Nore SAC and the River Nore SPA.

Surface water run-off and discharges from the development will drain to the existing local surface water drainage network, which ultimately discharges into Breaghagh River which drains to the River Barrow and River Nore SAC and River Nore SPA. Foul discharge from the development will connect to the existing public foul water sewer network, which discharges to the Kilkenny and Environs WWTP with treated effluent discharging to the River Barrow and River Nore SAC and River Nore SPA. The designated Natura 2000 site Thomastown Quarry SAC, located within the wider environment, is not considered relevant here due to the distance involved and the lack of hydrological linkages.

The AA Screening Report concludes that the development will not have any measurable effects on water quality in the River Barrow and River Nore SAC and River Nore SPA with regard to the following matters:

- There is potential for surface water contamination during construction works at the development site associated with runoff of sediment during rain events, hydrocarbon leaks and waste generation during construction. The application includes a CEWMP. Pollution sources will be controlled through the use of best practice site management. The proposed construction management measures outlined are typical and well proven construction methods and would be expected

by any competent developer whether or not they were explicitly required by the terms and conditions of a planning permission. Their implementation would be necessary for a housing development on any site in order to protect the surrounding environs regardless of proximity or connections to any Natura 2000 site or any intention to protect a Natura 2000 site. These practices are not designed or intended specifically to mitigate any putative potential effect on a Natura 2000 site.

- Drainage from the completed development will be managed by a surface water drainage system, designed to cater for storm runoff up to 1 in 100 storm event, has been completed in accordance with standard best practice. The proposed SUDs measures will attenuate the quantity of the runoff and ensure the quality of the runoff. While there is a direct, albeit distant, link to the River Barrow and Nore SAC and River Nore SPA no likely significant effects are likely to occur as a result of the development.
- Foul outflow from the site will ultimately discharge to the Kilkenny & Environs WWTP for treatment, with the eventual discharge of treated effluent into the River Barrow & River Nore SAC and River Nore SPA. The Kilkenny & Environs WWTP is compliant with regard to ELVs set in the waste water discharge licence (D0018-01), and the most recently available AERs states that the discharge from the WWTP 'does not have an observable negative impact on water quality and on the WFD status of the River Nore' (Irish Water AER 2016, 2017). The WWTP also appears to be performing well in 2019, where all monitoring reports are compliant with their licence limits (EPA - Site Visit Report Site SV16884-Irish Water). Irish Water have confirmed feasibility of the development.

Having regard to the above matters, I am satisfied that there is no likelihood of any significant impacts on European sites during the construction and/or operation of the proposed development as a result of a deterioration in water quality. I have also had regard to the following matters in reaching this conclusion:

- The scale and location of the development relative to the receiving surface water network;
- The significant distance between the development site and the River Nore;

- The relatively low volume of any surface water run-off or discharge events relative to the receiving surface water environments; and
- The level of mixing, dilution, and dispersion of any surface water runoff/ discharges in the receiving watercourses.

Therefore, there is no possibility of the development undermining the conservation objectives of any of the qualifying interests or SCIs of the European sites in, or associated with, the River Barrow and River Nore as a result of surface water run-off or foul discharges.

12.4.43. Disturbance/Displacement of Fauna

There is potential for disturbance/displacement effects of fauna that are listed as qualifying interests of a European site through noise and/or visual cues arising from the development. This also includes ex-situ disturbance/displacement effects on highly mobile species that are qualifying interests of the relevant European sites. The study site does not overlook any of the designated sites under consideration due to distance combined with existing screening in place (buildings, vegetation, topography). In addition, the development site does not support habitats of ex-situ ecological value for mobile faunal species of the relevant designated sites, as the development site is dominated by modified, heavily disturbed habitats with no significant vegetation and no wetland/riparian habitats.

The conservation objectives/interests of Thomastown Quarry SAC relate to habitats and/or flora that would not be subject to disturbance/displacement effects as a result of the construction of the development.

No ex-situ effects on the qualifying species of any European sites are therefore considered likely as a result of the development.

12.4.44. Flooding

The development site has been analysed for flood risk in accordance with the Flood Risk Management Guidelines and includes a surface water management system with attenuation and hydrobrake release in accordance with SuDS and GDSDS, with adequate free board and flood routing provided for the proposed dwellings to ensure that there is no flood risk from the urban drainage systems when connected to the local surface water drainage network. Therefore, potential flooding /floodplain

impacts are not considered relevant in relation to the development site and any European site.

12.4.45. Disturbance and Displacement Effects

Construction-related disturbance and displacement of fauna species could potentially occur within the vicinity of the development. For mammal species such as otter, disturbance effects would not be expected to extend beyond 150m. For birds, disturbance effects would not be expected to extend beyond c.300m, as noise levels associated with general construction activities would attenuate to close to background levels at that distance. There are no European sites within the above disturbance Zone of Influence. There are also no habitat areas within the disturbance ZOI that support populations of qualifying/SCI species of any European site. As the development will not result in the disturbance/displacement of the qualifying/SCI species of any European site, there is no potential for any in combination effects to occur in that regard.

12.4.46. In Combination Effects

Section 4.1.8 of the submitted AA Screening Report deals with potential “in-combination” effects, listing several other developments in the vicinity of the site that are currently permitted, which are not yet commenced or completed. There is potential for cumulative effects arising from surface water and foul effluent from the development inputs into the River Nore and associated River Barrow and River Nore SAC and River Nore SPA; where qualifying interests associated with these aquatic sites could be subject to cumulative impact through hydrological or water quality impacts such as increased siltation, nutrient release, contaminated run-off arising from other development sites. Foul discharge and surface water runoff from the development will be managed during construction and operation as set out above. These developments and other active sites in the wider area are to be seen in the context of a well-developed urban infrastructure with appropriate planning (including conditional), monitoring and licensing in place. Therefore, assuming that all other developments maintain an adequate construction management approach, e.g. regarding soil and water management during construction and operational phases, such as those of the proposed development, then significant negative cumulative

impacts are considered unlikely in relation to off-site water-features and associated designated sites.

12.5. Conclusion on Stage 1 Screening – Screening Determination

12.5.1. Having regard to the scale and nature of the proposed development of 115 residential units and to its location adjoining the built up area of Kilkenny on land that is served by municipal sewers, I am of the opinion that no Appropriate Assessment issues arise. I have had due regard to the screening report and data used by the applicant to carry out the screening assessment and the details available on the NPWS web-site in respect of the Natura 2000 sites identified, including the nature of the receiving environment and proximity to the nearest European sites. I consider it is reasonable to conclude that on the basis of the information on the file which includes inter alia, AA screening report submitted by the applicant and all of the planning documentation, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant on any European site, in view of the said sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

13.0 Conclusion and Recommendation

13.1. The development is considered to be compatible with the 'Phase 1 Residential' zoning objective that applies at the subject site. It will deliver a high-quality residential development at a serviced site that is located within lands zoned for development under the Kilkenny Western Environs Local Area Plan 2004, which has been incorporated into subsequent development plans. The development will result in the completion of an existing partially constructed estate and represents a reasonable response to its context. The overall layout includes good quality amenity space and provides opportunities for an enhanced public realm and pedestrian and cycle connectivity at this location. I am satisfied that the development will not result in significant adverse impacts on residential amenities such as would warrant a refusal of permission. The design and quality of residential accommodation provided is of a high standard and is satisfactory. I am satisfied that the development will not result in a traffic hazard or in undue adverse traffic impacts. Drainage, access, and

parking arrangements are acceptable subject to conditions. I am satisfied that the development will not be at risk of flooding and will not increase the risk of flooding elsewhere.

- 13.2. Having regard to the above assessment, I recommend that section 9(4)(c) of the Act of 2016 be applied and that permission is GRANTED for the development as proposed for the reasons and considerations and subject to the conditions set out below.

14.0 **Recommended Order**

Application for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 16th Day of April 2021 by Denis Treacy Construction Limited, El Caserio, Kells Road, Kilkenny.

Proposed Development

The proposed development consists of a residential development comprising 115 no. residential units (72 no. houses, 43 no. apartments) and associated site works at Margaretsfield, Callan Road, Kilkenny.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included all submissions and observations received by it in accordance with statutory provision.

Decision

Grant permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

In coming to its decision, the Board had regard to the following:

- (a) the location of the site at the edge of the built-up area of Kilkenny City and adjoining an existing partially completed housing estate and on lands zoned 'Phase 1 Residential';
- (b) the policies and objectives of the Kilkenny County Development Plan 2014-2020 and the Kilkenny City and Environs Development Plan 2014-2020;
- (c) the policies and objectives of the Kilkenny Western Environs Local Area Plan 2004, as incorporated into subsequent development plans;
- (d) the Rebuilding Ireland Action Plan for Housing and Homelessness 2016;
- (e) the Guidelines for Sustainable Residential Developments in Urban Areas and the accompanying Urban Design Manual – a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009;
- (f) the Urban Development and Building Heights Guidelines for Planning Authorities, prepared by the Department of Housing, Planning and Local Government in December 2018;
- (g) the Sustainable Urban Housing: Design Standards for New Apartments issued by the Department of the Environment, Community and Local Government in March 2020;
- (h) the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2013;
- (i) the nature, scale and design of the proposed development and the availability in the area of a wide range of social, transport and water services infrastructure;

- (j) the pattern of existing and permitted development in the area;
- (k) the planning history of the site and within the area;
- (l) the submissions and observation received;
- (m) the Chief Executive Report from the Planning Authority; and
- (n) the report of the Inspector,

The Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban area, the Appropriate Assessment Screening document submitted with the application, the Inspector's report, and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

Environmental Impact Assessment

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant, identifies and describes adequately the direct, indirect, secondary, and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) The nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) The location of the site on lands zoned to 'Phase 1 Residential' in the Kilkenny City and Environs Development Plan 2014-2020 and the results of the Strategic Environmental Assessment of the plan;
- (c) The location and context of the site;
- (d) The existing use on the site and pattern of development in surrounding area;
- (e) The planning history relating to the site
- (f) The availability of mains water and wastewater services to serve the proposed development,
- (g) The location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- (h) 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),
- (i) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- (j) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Construction and Environmental Management Plan

the Board concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment. The Board decided, therefore, that an environmental impact assessment report for the proposed development was not necessary in this case.

Conclusions on Proper Planning and Sustainable Development:

The Board considered that the proposed development is, apart from the issue of car parking, broadly compliant with the current Kilkenny City and Environs Development Plan 2014-2020 and would therefore be in accordance with the proper planning and sustainable development of the area.

The Board considers that, while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the Development Plan, it would materially contravene the Plan with respect to car parking standards. The Board considers that, having regard to the provisions of section 37(2)(b)(i), (ii) and (iii) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the development plan would be justified for the following reasons and considerations:

In relation to section 37(2)(b)(i) of the Planning and Development Act 2000 (as amended):

The proposed development is considered to be of strategic and national importance having regard to the definition of 'strategic housing development' pursuant to section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended) and its potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under supply set out in Rebuilding Ireland – Action Plan for Housing and Homelessness issued in July 2016, as well as its potential to contribute to the delivery of several National Policy Objectives of the National Planning Framework, specifically NPOs 3a, 3c, 5, 32, 33 and 35 in relation to compact urban development and the provision of additional residential units at existing settlements.

In relation to section 37(2)(b)(ii) of the Planning and Development Act 2000 (as amended):

There are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, as the Kilkenny City and Environs Development Plan 2014-2020 aims to promote sustainable modes of transport such as cycling and bus transport and to minimise car journeys, in line

with national planning and transport policies, however the development plan provides no clear emphasis or guidance on how a minimised need for car journeys might be reflected in its car parking standards, which currently aim to accommodate a high number of car parking spaces for residential units and do not specify area based standards for car parking provision within Kilkenny City.

In relation to section 37(2)(b)(iii) of the Planning and Development Act 2000 (as amended):

Permission for the development should be granted having regard to guidelines under section 28 of the Act and the National Planning Framework, specifically:

- NPO 13 of the NPF, which states that car parking standards in urban areas will be based on performance criteria and will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve high quality outcomes, provided public safety is not compromised and the environment is suitably protected, given the proximity of the site to Kilkenny city centre and local services and amenities and the availability of pedestrian and cycle infrastructure;
- Section 4.18 of the Design Standards for New Apartments Guidelines for Planning Authorities, which states that the quantum of car parking for apartment developments will vary, having regard to the types of location in cities and towns that may be suitable for apartment development, broadly based on proximity and accessibility criteria.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. Apartment Block 1 shall be omitted and the space remaining after its omission shall be dedicated as public open space and maintained as such unless permission is subsequently granted for another development at this location in a subsequent permission.

Reason: It is considered that Block 1 would have adverse impacts on the residential amenities of the adjacent existing apartment block to the east and the proposed apartment block to the west, due to the limited intervening spaces between the blocks and to the potential for consequent adverse impacts on residential amenities by way of overlooking and / or overshadowing.

3. Mitigation and monitoring measures outlined in the plans and particulars, including the Ecological Impact Assessment and Outline Construction & Environmental Waste Management Plan shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of protecting the environment and in the interest of public health.

4. Prior to commencement of any works on site, the developer shall submit and agree in writing with the planning authority a comprehensive Invasive Species Management Plan, which shall include detailed measures for the elimination of Cherry Laurel and Buddleia, on the site and dispose of any contaminated material by either its destruction or burial in sealed cells on site, or its removal off site under licence from the National Parks and Wildlife Service of the Department of Housing, Local Government and Heritage for its disposal or destruction in an approved facility.

Reason: To ensure the eradication from the development site of invasive plant species and to protect biodiversity.

5. Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

6. Prior to commencement of development, revised details shall be submitted to and agreed in writing with the planning authority with regard to the following:

- (a) An outdoor gym shall be provided within the main public open space at the centre of the site
- (b) All rear gardens of houses shall be bounded by concrete block walls, 1.8 metres high, which shall be rendered on both sides and capped. Concrete post and timber panels shall not be used
- (c) The proposed coloured render finish to the apartment blocks and houses shall be replaced by a more durable finish, to the satisfaction of the planning authority.

Reason: In the interests of proper planning and sustainable development, to safeguard the amenities of the area and to enhance permeability

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

Reason: In the interests of clarity and public health.

8. Details of works to the public road to facilitate the proposed development, including the detailed design of the proposed pedestrian access to the N76 Callan Road, shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development. All works to the public roads / footpaths shall be completed to the satisfaction of the Planning Authority. A finalised Road Safety Audit shall be submitted to the planning authority for agreement.

Reason: In the interests of traffic, cyclist and pedestrian safety and sustainable travel.

9. Water supply and drainage arrangements, including the [attenuation and] disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

10. No additional development shall take place above roof parapet level, including lift motor enclosures, air handling equipment, storage tanks, ducts or other external plant, telecommunication aerials, antennas or equipment, unless authorised by a further grant of planning permission.

Reason: To protect the residential amenities of property in the vicinity and the visual amenities of the area.

11. The site shall be landscaped (and earthworks carried out) in accordance with the detailed scheme of landscaping, which shall be submitted to and agreed in writing with the Planning Authority prior to commencement of development. The scheme shall include provisions for hard and soft landscaping within the site and details of children's play features and boundary treatments.

Reason: In order to ensure the satisfactory completion of the development.

12. The internal road and vehicular circulation network serving the proposed development, including turning bays, junctions, parking areas, footpaths, kerbs and the lower ground level car park shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in DMURS. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

13. Prior to the opening/occupation of the development, a Mobility Management Strategy shall be submitted to and agreed in writing with the planning authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents/ occupants/ staff employed in the development and to reduce and regulate the extent of parking. The mobility strategy shall be prepared and implemented by the management company for all units within the development. Details to be agreed with the planning authority shall include the provision of centralised facilities within the commercial element of the development for bicycle parking, shower and changing facilities associated with the policies set out in the strategy.

Reason: In the interest of encouraging the use of sustainable modes of transport.

14. A minimum of 10% of all communal car parking spaces should be provided with functioning EV charging stations/points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

15. Proposals for a development naming and unit identification and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

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

Reason: In the interests of amenity and public safety.

17. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. The cables shall avoid roots of trees and hedgerows to be retained in the site. 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.

18. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials 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.

19. The management and maintenance of the proposed development following its completion (save for areas that are to be taken in charge) shall be the responsibility of a legally constituted management company. A management

scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

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

21. 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:

(a) Location of the site and materials compounds including areas identified for the storage of construction refuse; areas for construction site offices and staff facilities; site security fencing and hoardings; and car parking facilities for site workers during the course of construction;

(b) The timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site; measures to obviate queuing of construction traffic on the adjoining road network; and measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;

(c) Details of the implementation of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

(d) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains. The measures detailed in the construction management plan shall have regard to the matters outlined in the submission received from Inland Fisheries Ireland. A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

22. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Saturdays inclusive, and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

23. The applicant shall submit proposals for noise mitigation measures to address noise impacts on residential amenities from adjacent roads, having regard to the Kilkenny Noise Action Plan 2019-2023, to the planning authority for agreement in writing prior to the commencement of development, due to the proximity of the N76 Callan Road and the Kilkenny Western Bypass route. The proposed

mitigation measures shall be based on a noise risk assessment and an Acoustic Design Statement (ADS). The detail of the ADS should be commensurate with the level of risk identified in the noise risk assessment.

Reason: In the interests of residential amenities.

24. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that 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,
 - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - (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 site and to secure the preservation and protection of any remains that may exist within the site.

25. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the

development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

26. 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.

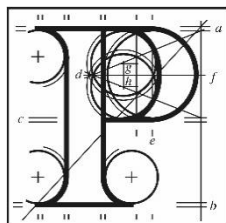
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Sarah Moran

Senior Planning Inspector

19th July 2021

ABP-309967-21 Appendix 1: EIA Screening Form



An
Bord
Pleanála

EIA - Screening Determination for Strategic Housing Development Applications

A. CASE DETAILS

An Bord Pleanála Case Reference		ABP-309967-21
Development Summary		Demolition of a garage, construction of 115 no. residential units (72 no. houses, 43 no. apartments) and associated works
	Yes / No / N/A	
1. Has an AA screening report or NIS been submitted?	Yes	An EIA Screening Report and an AA Screening Report were submitted with the application
2. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	

3. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	Yes	SEA undertaken in respect of the Kilkenny City Development Plan 2014-2020
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B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant) (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No	The development comprises the construction of residential units on lands zoned 'Phase 1 Residential ' and is in keeping with the existing residential development in the vicinity.	No
1.2 Will construction, operation, decommissioning, or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	The proposal involves the development of a greenfield site previously used for agricultural purposes and used as a depot during the construction of the adjacent development at Margaretsfield. The proposed residential development is not considered to be out of character with the	No

		pattern of development in the surrounding area.	
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	Yes	Construction materials will be typical of such urban development. The loss of natural resources or local biodiversity as a result of the development of the site are not regarded as significant in nature.	No
1.4 Will the project involve the use, storage, transport, handling, or production of substance which would be harmful to human health or the environment?	Yes	Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.	No

<p>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances and give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts.</p> <p>Operational waste will be managed via a Waste Management Plan to obviate potential environmental impacts. Other significant operational impacts are not anticipated.</p>	<p>No</p>
<p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters, or the sea?</p>	<p>No</p>	<p>No significant risk is identified. Operation of a Construction Environmental Management Plan will satisfactorily mitigate emissions from spillages during construction. The operational development will connect to mains services. Surface water drainage will be separate to foul services.</p>	<p>No</p>

<p>1.7 Will the project cause noise and vibration or release of light, heat, energy, or electromagnetic radiation?</p>	<p>Yes</p>	<p>There is potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised, short term in nature and their impacts may be suitably mitigated by the operation of a Construction Environmental Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</p>	<p>No</p>
<p>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>No</p>	<p>Construction activity is likely to give rise to dust emissions. Such impacts would be temporary and localised in nature and the application of a Construction, Environmental Management Plan would satisfactorily address potential impacts on human health. No significant operational impacts are anticipated.</p>	<p>No</p>
<p>1.9 Will there be any risk of major accidents that could affect human health or the environment?</p>	<p>No</p>	<p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding.</p> <p>There are no Seveso / COMAH sites in the vicinity of this location.</p>	<p>No</p>
<p>1.10 Will the project affect the social environment (population, employment)</p>	<p>Yes</p>	<p>Redevelopment of this site as proposed will result in an increase in residential units of 115 no. units.</p>	<p>No</p>
<p>1.11 Is the project part of a wider large-scale change that could result in cumulative effects on the environment?</p>	<p>No</p>	<p>Standalone development, with developments in the immediately surrounding area permitted or built.</p>	<p>No</p>

2. Location of proposed development			
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ol style="list-style-type: none"> 1. European site (SAC/ SPA/ pSAC/ pSPA) 2. NHA/ pNHA 3. Designated Nature Reserve 4. Designated refuge for flora or fauna 5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan 	No	<p>No conservation sites located on or in the vicinity of the site.</p> <p>The AA Screening report concluded that Stage 2 NIS was not required. This has been addressed in Section 12 of the Inspector's Report. The measures in question are not 'mitigation' measures for the purposes of Appropriate Assessment. I carried out a Stage 1 AA Screening and concluded no significant adverse impact on any European Sites and a Stage 2 NIS was not required.</p>	No
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	No		No
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	No	<p>There are no protected structures or Architectural Conservation Areas at or in the immediate vicinity of the development site.</p> <p>The Archaeology Report states that there are no Recorded Monuments at the development site or within 500m of the site. The site is not within the Zone of Archaeological Potential associated with Kilkenny City.</p>	No

<p>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	<p>No</p>	<p>There are no areas in the immediate vicinity which contain important resources.</p>	<p>No</p>
<p>2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?</p>	<p>No</p>	<p>The site is not adjacent to any watercourse and is not at risk of flooding.</p>	<p>No</p>
<p>2.6 Is the location susceptible to subsidence, landslides or erosion?</p>	<p>No</p>	<p>There is no evidence in the submitted documentation that the lands are susceptible to landslides or erosion and the topography of the area is flat.</p> <p>Ground works and works to the existing site boundaries will be subject to best practice.</p>	<p>No</p>
<p>2.7 Are there any key transport routes(eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?</p>	<p>No</p>	<p>The site is served by a local urban road network.</p>	<p>No</p>
<p>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</p>	<p>Yes</p>	<p>There are no existing sensitive land uses or substantial community facilities which could be affected by the project.</p>	<p>No</p>

3. Any other factors that should be considered which could lead to environmental impacts

3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No	No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No trans boundary considerations arise	No
3.3 Are there any other relevant considerations?	No		No
C. CONCLUSION			
No real likelihood of significant effects on the environment.	Yes	EIAR Not Required	
Real likelihood of significant effects on the environment.	No		

D. MAIN REASONS AND CONSIDERATIONS

Having regard to: -

- a) The nature and scale of the proposed development, which is below the threshold in respect of Class 10(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- b) The location of the site on lands zoned to 'Phase 1 Residential' in the Kilkenny City and Environs Development Plan 2014-2020 and the results of the Strategic Environmental Assessment of the plan;
- c) The location and context of the site;
- d) The existing use on the site and pattern of development in surrounding area;
- e) The planning history relating to the site
- f) The availability of mains water and wastewater services to serve the proposed development,
- g) the location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended)
- h) 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),
- i) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- j) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Construction and Environmental Management Plan

It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

Inspector: _____ **Sarah Moran**

Date: 19th July 2021