



An  
Bord  
Pleanála

## Inspector's Report ABP-310050-21

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<b>Development</b>	68 no. residential units
<b>Location</b>	Junction of R402 and Johnstown Road, Johnstownbridge, Co. Kildare.
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	21/117
<b>Applicant(s)</b>	Johnstown Bridge Spire Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party v Refusal of Permission
<b>Appellant(s)</b>	Johnstown Bridge Spire Ltd.
<b>Observer(s)</b>	1. Pat Dunne 2. Garrett Stynes 3. Elizabeth Frances Stynes
<b>Date of Site Inspection</b>	24.09.2021
<b>Inspector</b>	Anthony Kelly

## 1.0 Site Location and Description

- 1.1. The site is located within the village of Johnstownbridge in north Co. Kildare.
- 1.2. The site is at the junction of Johnstown Road and the Regional Road, R402, which is the main street through the village. The site itself comprises a field with trees and hedgerow around most boundaries and a small open space area between the north boundary wall of the field and the R402. There is a church and national school on the opposite side of the R402 to the north, the Hamlet Court Hotel is on the opposite side of Johnstown Road to the west, there is agricultural land adjacent to the south, and the Bridgewell residential development is adjacent to the east. There are a couple of detached houses adjacent to the north east. ESB lines traverse the site.
- 1.3. The site has an area of 2.4 hectares.

## 2.0 Proposed Development

- 2.1. Permission is sought for:
  - 68 no. residential units comprising 59 no. houses and 9 no. maisonettes/apartments,
  - a 72.2sqm retail unit/café,
  - new vehicular entrance off Johnstown Road, a pump station and temporary on-site wastewater treatment plant, landscaping, lighting, boundary treatments, ESB substation etc.
- 2.2. In addition to standard planning application plans and particulars the application was accompanied by:
  - A 'Planning Application' report prepared by Thornton O'Connor Town Planning dated February 2021.
  - An 'Architectural Design Statement' prepared by McCrossan O'Rourke Manning Architects dated January 2021.
  - An 'Engineering Assessment Report' prepared by Waterman Moylan Engineering Consultants dated February 2021.

- A 'Flood Risk Assessment' prepared by Waterman Moylan Engineering Consultants dated February 2021.
- A 'Building Lifecycle Report' prepared by McCrossan O'Rourke Manning Architects dated 28.01.2021.
- An 'Energy Statement' prepared by Waterman Moylan Consulting Engineers dated January 2021.
- An 'Outdoor Lighting Report' prepared by Sabre Electrical Services Ltd. dated 28.01.2021.
- Part V proposals.
- A 'Tree Survey' prepared by Cunnane Stratton Reynolds dated January 2021.
- A 'Report for the Purposes of Appropriate Assessment Screening' prepared by Moore Group Environmental Services dated 26.01.2021.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Kildare Co. Co. refused permission for three reasons:

1. The proposed development is premature pending the proposed upgrade works of the Enfield Wastewater Treatment Plant which is currently undated. The temporary nature of the wastewater treatment proposal would set an undesirable precedent for similar development within the County. The proposed development would therefore be prejudicial to public health and contrary to the proper planning and sustainable development of the area.
2. The proposed development, if permitted, would contravene policy WW10 of the Kildare County Development Plan 2017-2023 which seeks to refuse residential development that requires the provision of private wastewater treatment facilities. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3. Having regard to the scale and location of the proposed development, policy VRS9 of the Kildare County Development Plan 2017-2023 seeks a Social Infrastructure Assessment, due to the lack of same within the planning application, the Planning Authority is not satisfied that, it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

### 3.2. **Planning Authority Reports**

- 3.2.1. The planning authority's Planning Report forms the basis of the decision. The Planning Officer considered that, while the principle of residential development may be acceptable, there were serious concerns about the proposed temporary wastewater treatment plant (WWTP), the unknown timeline associated with it, and it was therefore considered to be premature pending the upgrade of the Enfield WWTP. The issue could not be addressed by way of further information and therefore permission should be refused. The lack of a Social Infrastructure Assessment was also considered to be a shortfall in the application and the planning authority was unable to assess the impact or improvement the proposed development could have on the social infrastructure of Johnstownbridge.

### 3.2.2. **Other Technical Reports**

**Area Engineer** – Further information required to clarify the position of surface water and foul pipelines.

**Environment Section** – An initial report was prepared dated 10.03.2021. This stated that the Environment Section had concerns about granting any significant development where the servicing WWTP is already operating above capacity. It appears that though there are plans to upgrade the Enfield WWTP, currently operating above its biological capacity, funding has not yet been guaranteed nor contracts signed. The Enfield WWTP discharges to the Blackwater, a tributary of the Boyne, which is a Natura 2000 site. The Blackwater has only a 'moderate' status in terms of the EU Water Framework Directive and one of the primary sources of impact is from the Enfield WWTP. The developer's plan is only for the partial treatment of effluent prior to discharge to the Enfield agglomeration. The Environment Section had

concerns that this particular development could impact even further on the status of both the Blackwater and Boyne.

The proposal appears to contravene Policy WW-10 of the County Development Plan. While the developer refers to the 'temporary' nature of the WWTP, many of these ultimately end up 'permanent', at great cost to both the Council and the environment.

Notwithstanding, the application is not sufficiently detailed and further information was requested to fully assess the application. Further information was requested in relation to the proposed method of effluent disposal from the temporary WWTP, the method of handling overflows from the temporary WWTP and pumping station, separation distances from the temporary WWTP, detail on how the granting of permission will not adversely impact the quality of Blackwater upstream of the Enfield WWTP, a Noise Assessment of the proposed WWTP and pumping station, and an Odour Assessment.

A subsequent Environment Section report was prepared dated 25.03.2021. This second report stated that it supersedes the report dated 10.03.2021 and recommended a refusal of the application for three reasons which relate to issues cited in the initial report i.e. the Enfield WWTP operating above its hydraulic and biological capacity where funding for its upgrade has not been guaranteed and where contracts have not been signed, the plans for only partial treatment of effluent prior to discharging to the Enfield agglomeration where there are concerns this development could impact even further on the status of both the Blackwater and Boyne in terms of Natura 2000, the EU Freshwater Fish Directive, and the EU Water Framework Directive, and contravention of Policy WW-10 of the County Development Plan.

**Water Services** – Conditions recommended in relation to Irish Water and surface water discharge.

**Transportation Department** – Additional information is required in relation to a shortfall in car parking spaces, long straight sections of roads, widening of the cycle path, and revisions to the Construction Management Plan.

**Heritage Officer** – No objection or further comment.

**Housing** – Further information requested in relation to a revised proposal for social housing integration, and boundary treatments.

**Environmental Health Officer** – The proposal is acceptable subject to conditions relating to a Construction Management Plan, the temporary WWTP, ventilation, external lighting, waste facilities and pest control, and food control.

**A/Chief Fire Officer** – No objection subject to conditions.

### 3.3. **Prescribed Bodies**

**Irish Water** – No objection. Observations made.

**Department of Tourism, Culture, Arts, Gaeltacht, Sport and Media** – In relation to archaeology, the National Monuments Service recommends that, due to the scale of the proposed development, pre-development testing should be carried out on site. Further information is recommended in this regard to enable an informed archaeological recommendation to be made prior to a planning decision.

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

21 no. submissions were received by the planning authority, from residents of the village (20 no.), and from Balyna Rural Enterprise Development Association Ltd. (BREDA). Although not all of the observations received were forwarded by the planning authority to the Board, I have read all of the observations on the planning authority's website. The issues raised are largely covered by the observations received on foot of the grounds of appeal with the exception of the following:

- Concern about the management of the stream along the eastern boundary of the site.
- Overlooking and impact on visual amenity of houses.
- Overlooking of the hotel.
- No public transport / reliant on cars / would not contribute to reducing greenhouse gas emissions.
- Inadequate car parking / contribute to parking issues in Bridgewell.
- There should be a wall and no permeability between the site and Bridgewell.
- Light pollution to residents from car traffic leaving the hotel.

- Prevent future road widening.
- Noise pollution from construction / working hours should be restricted / fines for non-compliance / construction site beside established housing is unsuitable.
- The application should be assessed against demographic and behavioural changes brought about by Covid.
- Surface water disposal.
- Unsuitable location of recycling/waste facilities.
- Concern over the viability of the proposed café / has a community/digital hub been considered.
- A reduced scale/number of houses should only be considered.
- The site is not suitable for infill or village core.
- Change the character of the village.
- Facilities will not come after development.
- The common public area along the R402 is shown within the site. Trees and hedging in this area should not be allowed to be removed or reduced.
- Policy VRS 3 of the County Development Plan 2017-2023 states over 50% of the houses are meant to be sold to locals.
- Ecological threat to wildlife / concern about the plans to run excess water into the Fear English river.
- The Victorian mailbox on the north field boundary wall.
- Insufficient detail on the on-site play facilities.
- ESB substation location requires clarification.
- What is the social/affordable housing provision?
- Facilities for electric vehicles.

## 4.0 Planning History

4.1. There has been no previous relevant planning application on site.

4.2. Of relevance to this planning application is:

P.A. Reg. Ref. 21/349 (Meath Co. Co.) – Permission was granted in 2021 to Irish Water for 11 no. reed beds, two 1,300m<sup>3</sup> final settlement tanks, a 90m<sup>3</sup> WAS holding tank, transfer pipelines, sludge import facilities, box culvert, internal roads, fencing, outfall to the Blackwater for treated effluent and attenuated surface water etc. The development is an extension to Enfield WWTP to increase the treatment capacity.

The site is approx. 400 metres north of the site subject of the current planning application. It is on the northern bank of the Blackwater River, with the existing wastewater treatment site on the opposite, southern bank.

4.3. The planning authority's Planning Report states pre-planning was carried out under P.A. Reg. Ref. PP4650.

## 5.0 Policy Context

### 5.1. Kildare County Development Plan 2017-2023 (as amended)

5.1.1. There are two policies specifically cited in the reasons for refusal. These are:

Policy WW 10 – Refuse residential development that requires the provision of private waste water treatment facilities, other than single house systems.

Policy VRS 9 – Require the submission of a social infrastructure assessment for schemes in excess of 10 no. units in villages/settlements. Where deficiencies exist to facilitate the development, measures shall be proposed as part of a development scheme in order to provide for additional suitable social infrastructure (services/facilities). Significant development will be restricted where there is an absence of a sufficiently developed local infrastructure such as schools and community facilities to cater for development.

5.1.2. Chapter 2.5.8 (Johnstownbridge) of Volume 2 includes specific and detailed Village Plan Principles and Development Objectives, and a Zoning Objective map, among



other information. The northern third of the site, approximately, is in an area zoned 'A: Village Centre' and the southern two-thirds of the site, approximately, is in an area zoned 'C: New Residential'. There is a Transport Objective (T2) at the north west corner of the site, at the junction of Johnstown Road and the R402, to 'Realign and improve the junction of the L1004 and the R402'.

## **5.2. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) & Urban Design Manual – A Best Practice Guide (2009)**

- 5.2.1. The Guidelines and Manual assist planning authorities in delivering quality residential development with an objective to produce high quality and sustainable developments. The documents are relevant to developments of the type subject of the application.

## **5.3. Natural Heritage Designations**

- 5.3.1. The closest Natura 2000 sites are River Boyne and River Blackwater SAC (Site Code 002299) and SPA (Site Code 004232) approx. 9km to the north west. The closest heritage area is Royal Canal pNHA (Site Code 002103) approx. 1.2km to the north.

## **5.4. EIA Screening**

- 5.4.1. An Environmental Impact Assessment Screening report was not submitted with the application.
- 5.4.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations, 2001 (as amended), provides that mandatory EIA is required for the following classes of development:
- Construction of more than 500 dwelling units,
  - Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use.)
- 5.4.3. It is proposed to construct 68 no. residential units. The number of dwellings proposed is well below the threshold of 500 dwelling units noted above. The site has an overall area of 2.4 hectares and is located within an existing built up area but not in a business

district. The site area is therefore well below the applicable threshold of 10 hectares. The site is a greenfield site in the village centre. The introduction of a primarily residential development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development itself is not likely to have a significant effect on any European Site as per Section 7.9 (Appropriate Assessment (AA)). The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health.

#### 5.4.4. Having regard to: -

- The nature and scale of the proposed development, which is significantly under the mandatory threshold in respect of Class 10 (Infrastructure Projects) of the Planning and Development Regulations, 2001 (as amended),
- The location of the site on lands that are zoned for 'Village Centre' and 'New Residential' uses under the provisions of the Kildare County Development Plan 2017-2023 (as amended),
- The location of the site within the existing built-up area and the existing pattern of residential development in the vicinity,

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

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal submitted by Johnstown Bridge Spire Ltd. can be summarised as follows:

- Though not referenced as reasons for refusal some comments in the planning authority's internal reports are addressed for the consideration of the Board. A revised Site Plan is submitted showing an increase in the number of visitor car parking spaces to 10 no., a widened cycle track, and kerb build outs for horizontal traffic management. Drawings showing additional enhancement detailing to the main elevations of the houses/blocks with additional window reveals in either render or limestone finish while providing grey brickwork at low plinth level to replace the red brickwork are also submitted.

#### First Reason for Refusal

- The proposed development is not premature pending the upgrade of the Enfield WWTP. It is operating at its biological capacity. Irish Water have a capital works project on their current investment plan to resolve this issue and have advised that the project will be completed by 2024/2025. Irish Water has confirmed they are happy to accept treated effluent into their network as the problem with the existing treatment plant relates to biological rather than hydraulic overloading, meaning the plant has capacity to cater for additional flows but does not have adequate capacity to treat those flows. Irish Water has confirmed that wastewater can be treated on the site and discharged to the public sewer network as set out in the Confirmation of Feasibility Letter.
- Due to underinvestment in public assets, the EPA and Irish Water recognise and accept the use of properly designed, constructed, and managed temporary wastewater treatment systems as a safe and necessary means to overcome short-term network capacity challenges. This balances environmental care with delivering necessary housing. The completion and occupation of the development is intended to be programmed to coincide with the WWTP upgrade. The installation of the temporary plant is only proposed to occur if significant delays are encountered by Irish Water.
- The temporary plant has been designed in accordance with Irish Water requirements and can be easily decommissioned.
- The temporary plant, within a later phase of development, has been designed with the appropriate 46 metres buffer distances to residential development in

accordance with the EPA's 'Wastewater Treatment Manual: Treatment systems for small communities, business, Leisure Centres & Hotels'.

- A similar temporary plant to treat and discharge effluent has already been approved by the Bord in Enfield to overcome the current shortcomings (ABP-304296-19 for 133 no. units). That development is under construction and is identical to the proposals contained within the current application. The Inspector's Report for ABP-304296-19 noted that the upgrade works were scheduled to be completed by 2020/21 which has now been extended. It is understood the delay was due to issues finalising the upgrade solution. This has been resolved and permission was granted by Meath Co. Co..
- The planning authority's Water Services Department did not recommend refusal and set out conditions to be attached to a grant of permission.
- Irish Water raised no issue with regard to the proposed development. It is Irish Water that maintains responsibility for wastewater as opposed to Kildare Co. Co. Irish Water does not consider the proposal to be premature nor does the applicant's Consulting Engineers.
- The plant is only temporary and will be operated and maintained by the treatment plant provider under a suitable maintenance agreement. Details of the temporary plant are submitted.

#### Second Reason for Refusal

- It is envisaged the development can be programmed so connection to the public network will coincide with the Enfield WWTP upgrade. The temporary plant is only proposed if significant delays are encountered. The temporary plant is located in the south western corner, within a cell of units. The long-term retention of the plant would significantly reduce the viability of the development given the cell is undevelopable while the temporary plant is operational.
- The private plant is not an ultimate solution for the lands and as such it is not considered it contravenes the Kildare County Development Plan 2017-2023.
- Irish Water maintains responsibility for the public foul network, not Kildare Co. Co. Irish Water has not objected to the development. Permission has been

granted for the upgraded WWTP. It is likely that there will never be a requirement for the temporary treatment.

### Third Reason for Refusal

- A detailed Social Infrastructure Audit has been submitted which thoroughly reviews all social infrastructure within a 2 kilometre radius of the site, which includes much of Enfield.
  - There are two health/medical centres. The number of GPs result in a higher ratio of GPs per 1,000 residents than the recommended ratio.
  - There are a number of other health facilities e.g. dental, eyecare, pharmacies.
  - There would be sufficient childcare capacity within existing facilities.
  - There is available capacity within existing primary schools.
  - Post-primary school demand could be accommodated within the new post-primary school currently being delivered in Enfield.
  - There are two banks/credit unions, a post office, a community centre, a men's shed and a library. BREDA Centre in Johnstownbridge offers an array of services, including a citizen information and a community employment scheme.
- Overall, 36 no. social services and facilities were identified.
- Pre-development archaeological testing was carried out on 21.04.2021 and 22.04.2021 in response to the National Monuments Service comments. No archaeological features or objects were recorded. However, there remains low-moderate potential for archaeology, and it is recommended any topsoil stripping should be monitored. In addition, the post-box at the northern site boundary should be retained and incorporated into the development boundary.
- Additional documentation submitted with the grounds of appeal are:
  - A report from Waterman Moylan Engineering Consultants dated 19.04.2021.

- A 'Social Infrastructure Audit' prepared by KPMG Future Analytics dated April 2021. It concludes that the social infrastructure provision within proximity to the site is capable of serving the population.
- An 'Archaeological Impact Assessment' prepared by Archer Heritage Planning Ltd. dated 26.04.2021.

## 6.2. Planning Authority Response

The main points made can be summarised as follows:

- It was cited in the precedent permission referred to in Enfield that the upgrade date of the WWTP was 2021. This emphasises that any deadlines for major capital upgrades are subject to change and should be treated with caution.
- That the Water Services Section did not object was irrelevant to the decision. The refusal arose from issues other than those raised in the Water Services report.
- While the statement that Irish Water maintains responsibility for wastewater as opposed to Kildare Co. Co. is primarily accurate, it does not remove Kildare Co. Co.'s responsibility for environmental protection.
- Irish Water are very clear that they will not take the temporary WWTP in charge and therefore it must be concluded that Irish Water's only interest in the WWTP is the quality of the effluent from the WWTP.
- The grant of permission for the Enfield WWTP upgrade is not a guarantee of the commencement of the project let alone its successful completion.
- Policy WW 10 does not draw any distinction between temporary or permanent private WWTPs. The ongoing operation of the temporary WWTP would likely become permanent if the upgrade did not come to pass.
- The Council requests the Board to uphold the decision to refuse permission.

## 6.3. Observations

6.3.1. Three observations have been received on the grounds of appeal from:

1. Pat Dunne, 22 Bridgewell, Johnstownbridge.

2. Garrett Stynes, Johnstownbridge.
3. Elizabeth Frances Stynes, Johnstownbridge.

6.3.2. The main issues raised in the observation received from Pat Dunne can be summarised as follows:

- The three reasons for refusal remain valid. No response was offered to the third reason for refusal.
- A number of parts of Section 2.5.8 (Johnstownbridge) in Volume 2 (Village Plans and Rural Settlements) of the Kildare County Development Plan 2017-2023 are set out which the observer considers relevant to the application i.e. village plan principles, residential development objectives (overlooking and pedestrian access to Bridgewell), village centre development objectives, and transportation development objectives (bypass of the village and realignment and improvement of junctions).
- Density exceeds the recommendation of 15-20 units per hectare for the edge of a village.
- The application should be refused at least until the infrastructure is in place to allow a development of this scale to be deployed in a controlled and planned manner.

6.3.3. The issues raised in the separate observations received from Garrett Stynes and Elizabeth Frances Stynes are similar and I consider the main points made in the two observations can be collectively summarised as follows:

- The need for housing in the village is acknowledged. It is a major concern the village does not have capacity in terms of road, educational or medical infrastructure contrary to VRS10 of the County Development Plan 2017-2023.
- The existing sewer system does not have adequate capacity. Enfield is also under capacity in terms of all infrastructure and cannot be relied upon to facilitate infrastructure.
- Unsuitable road entrance / traffic congestion.
- No local policing services.
- Lack of information regarding boundary treatments.

- Flood risk.
- Light pollution.
- Negative impact on the character of the village.
- Scale/density / concern it is the first phase of development given the layout.
- Entrances and walkways will result in unattractive areas and give rise to anti-social behaviour.
- Insufficient public consultation.

#### 6.4. Further Responses

None sought.

### 7.0 Assessment

The main issues are those raised in the grounds of appeal and the Planning Report, and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Zoning
- Density & Scale of Development
- Site Layout & Design
- Impact on Adjacent Amenity
- Daylight & Sunlight
- Wastewater
- Flood Risk
- Roads & Traffic
- Appropriate Assessment (AA)



## 7.1. Zoning

- 7.1.1. The principle of the proposed development at this location is a matter to be assessed initially.
- 7.1.2. The northern area of the site is an area zoned 'A: Village Centre' on the Johnstownbridge Zoning Objectives Map (Map Ref. V2-2.9). This has a zoning objective 'To provide for the development and improvement of appropriate village centre uses including residential, commercial, office and civic use'. Dwellings, shop (comparison), shop (convenience), and restaurant use are all denoted as 'Permitted in Principle' on 'A' zoned land, as set out in Table 2.6 (Villages – Land Use Zoning Matrix Table) in Volume 2 of the Kildare County Development Plan 2017-2023.
- 7.1.3. The remainder of the site, 1.7 hectares according to the Zoning Objectives Map, is zoned C: New Residential' which is 'To provide for new residential development'. Dwellings are denoted as 'Permitted in Principle' on 'C' zoned land in Table 2.6.
- 7.1.4. The proposed development is located in areas zoned for commercial and residential use. The principle of development is therefore acceptable, subject to the detailed considerations below.

## 7.2. Density & Scale of Development

- 7.2.1. One of the main issues in the observations is the general density and scale of the proposed development within the village. There are many issues cited relating to, inter alia, the availability of facilities and infrastructure to accommodate a development of the scale proposed and how it complies with the provisions of the Kildare County Development Plan 2017-2023.

### Density

- 7.2.2. The development proposes 68 no. units on a 2.4 hectare site. This is a density of 28.33 units per hectare. The applicant refers to a net site area of 2.33 hectares, giving a density of 29.2 units per hectare. Table 4.2 (Volume 1) of the Plan (Indicative Density Levels) states that centrally located sites within small towns/villages have a general density parameter of 30-40 units per hectare and edge of centre sites within small towns/villages have a general density parameter of 20-35 units per hectare. These

density parameters are consistent with those set out in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009).

- 7.2.3. Given the site location, partially in the village centre but also zoned 'New Residential' bordering the village plan boundary, and having regard to the density parameters outlined in the Plan and the Guidelines, I consider that a density of 28/29 units per hectare is reasonable and appropriate.

#### Scale of Development

- Kildare County Development Plan 2017-2023 (Core/Settlement Strategy) (as varied)

- 7.2.4. Section 2.11.6 of the Plan states villages 'located in rural settings will seek to supply new local employment opportunities, while also addressing decline, with a special focus on activating the potential for their renewal and development'.

- 7.2.5. Table 3.3 (Settlement Hierarchy – Population and Housing Unit Allocation 2020-2023) of the Plan, as varied, cites the population of Johnstownbridge as 650 no. (which is the 2011 Census figure. The 2016 Census resulted in a population of 683 no.) It is one of 16 no. villages in Co. Kildare. The 'Dwellings Target 2020-2023' figure for these villages is 223 no. Section 3.6 states 'The Development Capacity of the Villages are detailed in ... Volume 2 of the Plan. The population growth of Villages should not grow beyond 25% of the Census 2016 population ... The development capacity of individual proposals shall be controlled to 10-15% of the existing housing stock over the lifetime of the Plan. Larger Schemes will only be considered where they relate to important strategic sites (e.g. infill within the core of a village, or the redevelopment of backlands) and will be contingent on the agreement of a masterplan and the agreement of a phasing arrangement ... '

- 7.2.6. The applicant refers to this issue in the Planning Application report submitted with the application. Section 3.2.3 of the February 2021 report sets out 20 no. applications that were either granted or lodged in the villages since 01.01.2020. The table shows 278 no. units granted and 134 no. awaiting decision. While it is somewhat unclear how the figure of 278 no. was calculated, extension of duration permissions appear to have been included in the figure. Of the 134 no., approx. 57 no. have been granted permission since the report was prepared and 75 no. houses, in two applications, remain subject of appeals to the Board (1 no. house was withdrawn and another

appears to have an incorrect reference number attached). One permission granted (P.A. Reg. Ref. 19/750 in Ballymore Eustace) was for 91 no. units. Ballymore Eustace has a population of 872 in Table 3.3. That permission alone accounts for approx. 41% of the Dwellings Target 2020-2023.

7.2.7. The Plan states that population growth of villages should not grow beyond 25% of the 2016 Census population. A 25% increase on 683 no. is 171 no., giving an overall population of 854 no. The average household size in Co. Kildare in 2016, according to the CSO, was 3. Using this figure, the proposed development would increase the population of the village by 204 no. Therefore, the proposed development would result in an increase of approx. 29.9% above the 2016 population. Reference is made in third party observations to a development of ten houses in the village centre, P.A. Reg. Ref. 19/493. Using a similar average household figure, that development would have a population of 30 no., giving a collective increase in population of 234 no. (approx. 34.3%). While the 25% increase would be breached, it would not be breached by a particularly significant amount, and it is not a statutory maximum increase (the Plan states 'should not go beyond 25%').

7.2.8. Third party observations state that the housing stock of the village is approx. 200 no. and that the number of units proposed would exceed the 10-15% of existing housing stock referenced in Section 3.6 (Development Capacity), and Policy VRS 6. The proposed development would increase the housing stock by 34%, assuming it is 200 no. Two existing developments, Dunfiarth Park with 54 no. houses, and The Glebe with 57 no., are located in the village and are relatively similar in scale to the proposed development. Notwithstanding, both Section 3.6 and Policy VRS 6 acknowledge that larger schemes will be considered in certain circumstances where they relate to important strategic sites. The subject site is located at a junction opposite a church, a national school, and a hotel, and is partially zoned for village centre uses. I consider this site is the type of site envisaged for larger schemes. There has been no masterplan agreed with the Council per se. However, the site has defined boundaries, is self-contained, has an appropriate site layout, and the absence of a masterplan was not considered an issued by the Council. Phasing proposals would be a standard condition applied to a development of this nature. In this regard I note that the site layout lends itself to appropriate delivery of open space in tandem with various housing cells.

7.2.9. Having regard to the foregoing, I consider the proposed development can be considered acceptable having regard to the Core Strategy and Settlement Strategy.

- Kildare County Development Plan 2017-2023 (Village Plans & Rural Settlements)

7.2.10. Village plans have been prepared as part of Volume 2 (Village Plans & Rural Settlements) of the Plan. Section 2.2 (Villages) states 'Appropriate levels of zoned land have been identified to cater for the overall demands of each village over the period of this Plan in line with the County Settlement Strategy. The zoning of lands within the villages takes cognisance of any existing valid planning permissions, the need for consolidation within the villages and the scale of appropriate growth with reference to the Settlement Strategy'. The site is zoned both Village Centre and New Residential. There is 4.1 hectares of 'C: New Residential' land zoned in Johnstownbridge, of which the subject site contains 1.7 hectares.

7.2.11. Section 2.4 (Village Plans and Rural Settlement Policies) contains 12 no. policies (VRS 1 – VRS 12), some of which have been referenced in the third party observations. Johnstownbridge is a village, not a rural settlement, so only village policies apply. Policy VRS 2 states it is policy to facilitate population growth in villages of up to 25% to cater primarily for local demands. It is unclear how the 'local demand' works in practice. Neither the Ballymore Eustace nor the 10 no. unit scheme permitted in Johnstownbridge have any occupancy-related condition attached. Policy VRS 5 states it is policy to develop land in the villages sequentially and, inter alia, development will be encouraged from the centre outwards with undeveloped lands closest to the village centre being given first priority. This is what would occur with this planning application.

7.2.12. Policy VRS 6 attempts to generally control the scale of individual development as noted in Section 7.2.8 of this report. Policy VRS 7 refers to an appropriate housing mix which I consider has been provided for as referenced in Section 7.3.13 of this report. Policy VRS 8 requires the submission of a design statement for any scheme greater than 10 units which describes how the proposal relates to the site and its context. An 'Architectural Design Statement' was submitted with the application which addresses this requirement. Policy VRS 9 (Social Infrastructure Assessment) is addressed in Sections 7.2.21-7.2.23, below.

- 7.2.13. Policy VRS 10 is referred to throughout the third party observations. This states it is policy to 'Restrict growth in a village/settlement where necessary physical and social infrastructure cannot be delivered. In the absence of infrastructure, the projected growth for that development centre may be allocated to other serviced settlements within the same Municipal District or adjoining Municipal District or to serviced towns within the upper range of the settlement hierarchy'. The observations relate to the absence of public transport, increase in traffic, insufficient medical facilities, an absence of policing, and educational capacity, and the observations consider that facilities will not come after development.
- 7.2.14. In terms of public transport, there is a railway station at Enfield, approx. 1.9km to the north east of the site as the crow flies. The Bus Eireann website indicates there are no routes through Johnstownbridge, but Enfield is served. The increase in traffic as a result of the development is not likely to be significant. This is also referenced in Section 7.8 (Roads & Traffic). Policing is a wider issue, and it is unreasonable to refuse permission for a development such as this on the basis that there is a lack of full-time policing in the village. There is a Garda station in Enfield. In education, enrolment figures for three primary schools have been provided for the most recent five-year period and 'based on current population and forecasted additional growth, no need for additional primary school places within the vicinity of the subject site has been identified ...' For second-level education, the July 2020 'Current status of large-scale projects being delivered under the school building programme' remains as set out in the Social Infrastructure Audit i.e. 'School opened in September 2020 in interim start-up accommodation. Site acquisition process. Stage 2b (Detailed Design)'. In terms of medical facilities, the Audit states that, collectively, the number of GPs in the two medical centres results in a ratio of 0.51 GPs per 1,000 residents which is above the recommended ratio of 0.29 GPs per 1,000 residents. I do not consider that the development would not be acceptable having regard to Policy VRS 10.
- 7.2.15. Policy VRS 11 refers to infrastructure and development management standards. One of the main issues with the proposed development is the wastewater treatment infrastructure which is addressed in Section 7.6 (Wastewater). Policy VRS 12 is to 'Encourage appropriate mixed use development(s) in the village centres'. Though commercial floorspace is limited in the proposed development, I consider the commercial and residential mix to be acceptable. The commercial floorspace is in the

appropriate location on site, a ground floor corner unit overlooking both the R402 and Johnstown Road.

7.2.16. Having regard to the foregoing, I do not consider the proposed development would contravene the relevant VRS policies. Relevant issues are also addressed throughout this Assessment.

7.2.17. Johnstownbridge is specifically referenced in Section 2.5.8 of Volume 2. It is stated that 'Future development in the village will be directed to infill sites in the village core so as to maintain a compact village core' and I consider the proposed development would significantly contribute towards a compact village core. The village has a good level social and community infrastructure, according to the Plan. A substantial number of development objectives are set out relating specifically to the village. Some of these e.g. public utilities, flooding, and transportation, are also addressed elsewhere in this Assessment. In terms of employment, it is stated that 'It is important to retain the existing businesses and to promote the expansion of new local industries and businesses'. An increase in population would be beneficial to existing local businesses, and a commercial unit is also proposed as part of this application. The Plan does not state that there is any issue with educational capacity. I do not consider that the residential development and village centre development objectives would be contravened by the proposed development.

7.2.18. Therefore, I do not consider that the proposed development would be inconsistent with the relevant provisions of Volume 2 (Village Plans & Rural Settlements) of the Plan.

- Kildare County Council Planning Report

7.2.19. Permission was refused by the planning authority for three reasons. However, none of them related to the scale of the proposed development within the village. In terms of the scale of the proposed development the report states 'having regard to the NPF, the RSES, the KCDP and the location of the site within the village centre of Johnstownbridge, the density and scale of the proposed development is considered to be acceptable.

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)

7.2.20. Section 6.3(b) of the Guidelines states that new development should contribute to compact villages, and I consider the proposed development would do that. The development is in easy reach of the village centre by means of walking and cycling. Subsection (c) states increased densities of development can be acceptable as long as they contribute to, inter alia, the enhancement of village form by reinforcing the street pattern. The proposed development would provide an urban edge along two roads at the main junction in the village. Subsection (e) states that the scale of new residential schemes for development should be in proportion to the pattern and grain of existing development. As noted previously, while the proposed development would be the largest in the village in terms of unit numbers, it would not dominate the village as both Dunfierth Park and The Glebe are reasonably similar in scale.

#### Social Infrastructure Assessment

7.2.21. The third reason for refusal relates to the fact that no Social Infrastructure Assessment was submitted with the planning application, as required under Policy VRS 9.

7.2.22. A detailed Social Infrastructure Audit has been submitted as part of the grounds of appeal. This concludes that there are a range of 36 no. social services and facilities contributing to quality of life within and bordering the 2km study area, which includes Johnstownbridge and most of Enfield. The largest is sports and recreation, followed by health, and childcare and education. It is stated 'a sufficient provision of social infrastructure to support the population of the area was identified ... the social infrastructure provision within proximity to the subject site is capable of serving the population ...'

7.2.23. I consider submission of this Audit, and its conclusion, is sufficient to comply with Policy VRS 9 and addresses the planning authority's third reason for refusal.

#### Conclusion

7.2.24. Having regard to the zoning objectives of the site, its location in and immediately adjacent to the village centre, the reasonable and appropriate density proposed, the relevant provisions of both the Kildare County Development Plan 2017-2023, as amended, and the Guidelines for Planning Authorities on Sustainable Residential

Development in Urban Areas (2009), and the content of the Social Infrastructure Audit submitted with the grounds of appeal, I consider that the proposed development would be acceptable in terms of density and the scale of development at this location.

### **7.3. Site Layout & Design**

- 7.3.1. The layout of the site and design of the proposed structures are issues for consideration in assessing a planning application.

#### Site Layout

- 7.3.2. The site currently comprises a field centrally located within the village. The site has road frontage to both the R402 and Johnstown Road and the junction of these two roads is the primary road junction in the village. Proposed Block A would provide an appropriate urban edge to the junction and additional commercial floorspace in the village centre.
- 7.3.3. The site is arranged into five 'Cells'. Cell 1 contains the commercial unit and 13 no. housing units, Cell 2 6 no. houses, Cell 3 25 no. houses, Cell 4 12 houses and Cell 5 12 no. houses. These cells lend themselves to an obvious construction phasing layout where open space areas can also be provided in tandem.
- 7.3.4. Some minor alterations have been made to the layout in the grounds of appeal in response to comments made in the Planning Report. The cycle path from the R402 into the development has been slightly widened, kerb build-outs have been provided for traffic calming, and an additional six car parking spaces have been provided. Otherwise, the planning authority had no concern with the proposed site layout. There are several pedestrian access points into the development rather than just via the vehicular entrance, which increases permeability.
- 7.3.5. The 12 no. criteria set out in the Urban Design Manual are referred to in the Architectural Design Statement submitted with the planning application. The criteria encapsulate the range of design considerations for residential development. The Statement outlines how the proposed development is consistent with the criteria. I consider the layout reasonably complies with the provisions of the Manual.
- 7.3.6. An issue outlined in the third party observations is the proposed pedestrian link through an open space area connecting the proposed development to Bridgewell. I



consider this link is suitable and appropriate and facilitates permeability and desire lines. I consider that the concerns outlined in relation to, for example, anti-social behaviour, are overstated and this type of link is consistent with good planning practice.

7.3.7. Another main issue in third party observations relates to a recycling/waste facility on the R402 boundary. I am unclear as to where this is located as no such facility is identified on the layout or landscape plans. Notwithstanding, I would concur that this would not be a suitable location, in a focal point in the village, for such a facility. Observations refer to the possible extension of the development to the south. This area is currently outside the village boundary. Any future planning application for such an extension would be considered on its merits.

7.3.8. Overall, I consider that the site layout proposed is acceptable and appropriate at this location.

#### Design of Structures

7.3.9. There is a consistency of design in the proposed structures. They are two-storey in scale, reflecting much of the surrounding development such as the hotel and many of the houses in Bridgewell. A minor alteration was made to the design of the structures in the grounds of appeal following comments in the planning authority's Planning Report. Window reveals are render/limestone with a grey brickwork plinth replacing the red brickwork. I consider these alterations are appropriate. The final external finishes can be agreed with the planning authority prior to commencement of development, as standard, should permission be granted.

7.3.10. The 72.2sqm commercial unit is located at ground floor of Block A with frontage to both the R402 and Johnstown Road. There is a two-bed apartment above the commercial unit, three bed houses attached to each side and two maisonettes. There are slight changes in ridge heights in this block. Block B contains a three bed house and two maisonettes. Blocks A and B have domestic entrances onto the public roads which would provide activity and animation to these areas. Block A provides overlooking to the pedestrian/cycle link while Block B provides overlooking onto the internal access road/pedestrian link to the south. There is one three bed house and four maisonettes in Block C. There are changes in ridge heights and overlooking and

passive surveillance over the public areas to the east and south. Each residential unit in Blocks A, B, and C (Cell 1) has private open space.

7.3.11. The other residential units are all houses. There are detached, semi-detached, and terraced units proposed. All of the houses are similar in terms of design and scale. The urban edge provided by Blocks A and B continues along Johnstown Road the same length as the hotel site on the opposite side of the road. I consider this is appropriate and would reinforce an active entrance to the village. The houses fronting onto Johnstown Road all have their front elevations addressing the road with car parking provided off the public road. Relevant houses, which have two elevations overlooking public roads or open spaces are appropriately dual aspect in design, providing passive surveillance to both elevations i.e. Nos. 20, 29, 32, 43, 45, 49, 51, 55, and 68. However, I consider that Nos. 14 and 17 in Cell 2, which are end-of-terrace houses, have limited passive surveillance to their north and south, respectively. I consider an increased quality of passive surveillance could be provided to these two units, notwithstanding the potential for undue overlooking at first floor level of No. 14 to the adjacent property.

7.3.12. Overall, I consider that the design of the proposed structures is acceptable.

7.3.13. The development includes for maisonettes/apartments, as well as detached (albeit only two), semi-detached, and terraced units. The overall mix is 8 no. one bed maisonettes, 1 no. two bed maisonette, 10 no. two bed houses, 31 no. three bed houses, and 18 no. four bed houses. I consider this to be a reasonable housing mix.

#### Conclusion

7.3.14. Having regard to the foregoing, I consider that both the proposed site layout and the design of the proposed structures are acceptable.

#### **7.4. Impact on Adjacent Amenity**

7.4.1. Impacts on the amenity of adjacent properties have been referenced in third party observations and is a normal consideration with development of the type proposed.

#### Overlooking

7.4.2. Overlooking to both the R402 and Johnstown Road is over public areas. No undue overlooking to any private areas would occur. To the south of the site is agricultural

land and House Nos. 51-55 are more than 20 metres from the boundary. House No. 57 is only 5 metres from the boundary, but it is House Type A, with two bathroom/obscure windows on the side elevation at first floor level, so no undue overlooking would occur.

7.4.3. Houses along the south eastern boundary (Nos. 57-66) would back on to some of the adjacent houses in Bridgewell. The Site Layout Plan indicates separation distances from the proposed houses to the boundary with Bridgewell would be a minimum 11.26 metres. The general minimum 22 metres between opposing above-ground floor level windows, as referenced in Section 17.2.4 (Overlooking) of the Kildare County Development Plan 2017-2023, is achieved. No. 67 is much closer to the boundary but there is no first floor side window on the relevant elevation.

7.4.4. There is no habitable room window at first floor level to the rear elevation of No. 19 so no undue overlooking would occur to the north. 22 metres separation would not be provided between No. 14 and the house to the north though there is no habitable room window above ground floor on the relevant elevation. As stated in Section 7.3.11 of this Assessment, this elevation should be revised to allow for increased passive surveillance while ensuring undue overlooking to the north does not occur.

7.4.5. Having regard to the foregoing, I do not consider the development would result in undue overlooking impact.

#### Overbearing Impact

7.4.6. The proposed development is for a two storey development in a central location within the village. The general height of the development is consistent with existing development in the vicinity, and I do not consider any undue overbearing impact would occur.

#### Overshadowing

7.4.7. The proposed development is two-storey in scale. Sufficient separation distances are provided to adjacent properties to ensure that any shadowing impact that may occur would be minimal and would have no material impact on the amenity of private areas. This is also referenced in Section 7.5 (Daylight and Sunlight).

### Construction Works

- 7.4.8. A number of the third party observations consider the introduction of a construction site beside established housing is unsuitable.
- 7.4.9. The site is in a central location in the village. The site is zoned Village Centre and New Residential and development of the type proposed is acceptable in principle. Construction-related nuisance, from noise, traffic etc. is an inevitable consequence of development. Notwithstanding, mitigation measures are put in place to reduce the impact as much as reasonably possible. Working hours are restricted in the interests of the amenity of the area. The Environmental Health Officer recommends hours of 0800 to 1900 Monday to Friday and 0800 to 1400 on Saturday in this regard. Any breach of conditions, as set out in observations, is a matter for the planning authority.
- 7.4.10. Should permission be granted for the development, a detailed Construction Management Plan, to be agreed with the planning authority, would form one of the conditions of permission. This plan would include detail of construction staff parking, hours of construction, compound location, mitigation measures in relation to noise, dust etc.

### Pedestrian Link

- 7.4.11. Many of the third party observations object to the provision of the proposed pedestrian link between the site and Bridgewell.
- 7.4.12. As noted in Section 7.3.6, I consider this link is suitable and appropriate, and it would facilitate permeability and desire lines. This type of link is consistent with good planning practice. Passive surveillance of the link area is provided by House Nos. 67 and 68.
- 7.4.13. I consider the proposed link to be acceptable and consistent with good planning practice.

### Conclusion

- 7.4.14. Having regard to the foregoing, I consider that the proposed development would not have any undue adverse impact on the amenity of adjacent property.

## 7.5. Daylight & Sunlight

- 7.5.1. The planning application does not contain documentation relating to the impact of the proposed development in terms of daylight and sunlight and it has not been referenced in the observations. Notwithstanding, it is an issue to be considered in applications for multi-unit residential development.
- 7.5.2. Section 3.2 of the Urban Development and Building Heights Guidelines (2018) states that 'The form, massing and height of proposed developments should be carefully modulated so as to maximise access to natural daylight, ventilation and views and minimise overshadowing and loss of light'. The Guidelines state that appropriate and reasonable regard should be taken of quantitative performance approaches to daylight provision outlined in guides like BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) or BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'.
- 7.5.3. Section 17.2.5 (Overshadowing) of the Kildare County Development Plan 2017-2023 states 'Where development of a significant height is located close to existing development, the planning authority may require daylight and shadow projection diagrams to be submitted. The recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BRE 1991) or Lighting for Buildings Part 2 1992: Code of Practice for Day Lighting B.S. 8206 and any updates to these documents should be followed as a minimum in this regard'. The planning authority did not require daylight and shadow projection diagrams to be submitted. This is not a development of significant height. It is consistent with prevailing heights in the area.
- 7.5.4. Having regard to the site layout, the relatively low density proposed, the low-rise nature of the development, and the fact that each individual unit has dual aspect at a minimum, I consider appropriate daylight and sunlight standards would be achieved for future occupants. Given the low-rise nature of the proposed structures and the separation distances involved, I do not consider there would be any undue shadowing impact on any adjacent property as a result of the proposed development.

## 7.6. Wastewater

- 7.6.1. This issue is significant as it formed the basis of the planning authority's first two reasons for refusal. The planning authority considered the development would be

premature pending the upgrade of the Enfield WWTP and would contravene Policy WW 10 of the Kildare County Development Plan 2017-2023.

- 7.6.2. The grounds of appeal set out the applicant's reasons for considering that the proposed development would not be premature. Irish Water have advised the upgrade to the Enfield WWTP will be completed by 2024/25 and the issue with the existing plant relates to biological capacity, rather than hydraulic. The completion and occupation of the development is intended to be programmed to coincide with the WWTP upgrade. The installation of the temporary plant is only proposed to occur if significant delays are encountered by Irish Water. The applicant refers to a similar development permitted by the Board in Enfield and Meath Co. Co. has granted planning permission for the upgrade. In terms of Policy WW 10, the temporary plant is not an ultimate solution for the lands and as such it is not considered it contravenes the Plan.
- 7.6.3. The planning authority submitted a response to the grounds of appeal which further supports its decision to refuse permission.
- 7.6.4. An Engineering Assessment Report was submitted with the planning application. This includes a Confirmation of Feasibility letter from Irish Water. This letter states that an on-site WWTP can be installed as an interim solution.
- 7.6.5. In its initial report the planning authority's Environment Section included a 'Note to Planner' setting out its concerns but recommended further information be sought. However, a subsequent report recommended refusal. Permission was refused by the planning authority for two of the reasons set out in the Environment Section report.
- 7.6.6. The site specific comments in the Irish Water letter states that 'In order to accommodate the proposed connection ... upgrade works are required to increase the capacity of Enfield/Johnstownbridge WWTP which is overloaded ... This upgrade project is scheduled to be completed by 2024/2025 (this may be subject to change) ... In order to progress with the connection in advance of completion of the upgrades works (sic) an onsite WWTP with a by-pass for when upgrade is completed can be installed. This WWTP shall treat to 25:35:5(mg/l) BOD:TSS:ammonia and shall be monitored for performance, IW will not take ownership of this asset'.
- 7.6.7. A critical issue is the timeframe for the upgrade of the existing WWTP. Page 5 of the grounds of appeal document gives the date as 2023/24 however both the Engineering

Assessment Report and Irish Water letter state completion is projected as 2024/2025, and this is subject to change. In the Inspectors Report for the precedent cited, that application stated the upgrade was scheduled to be completed by 2020/21, which has not happened. In the absence of signed contracts etc. projected timeframes are of limited value and should not be relied upon. I have looked at Irish Water's website to ascertain the current situation with the treatment plant upgrade. In the 'Next Steps' section of the webpage related to the upgrade it states 'Irish Water is progressing with plans to upgrade the Enfield Wastewater Treatment Plant. Irish Water recently submitted a planning application to Meath County Council. The timeline for the commencement of works is subject to the relevant statutory approvals'.

#### First Reason for Refusal

- 7.6.8. The first reason for refusal states that the proposed development is premature pending the proposed upgrade works at the WWTP and that the temporary nature of the WWTP proposal would set an undesirable precedent for similar development within the county.
- 7.6.9. I concur with the planning authority that the development would be premature pending the upgrade of the WWTP. The requirement for temporary works in the current absence of a robust, permanent solution is not, in my view, an appropriate method of providing substantial residential development. The grounds of appeal state the project will be completed by 2024/2025, however the Irish Water letter states this date is subject to change. Though Irish Water retains general responsibility for wastewater, as outlined in the grounds of appeal, as they would not be taking ownership of the temporary WWTP they would have no responsibility for that element of the wastewater infrastructure.
- 7.6.10. Given the capacity issue at the existing WWTP, and the current inability of the proposed development to connect directly to the public wastewater network, I consider that it would be premature to grant permission for the proposed development in the absence of a more robust timeline for the upgrade of the existing WWTP.

#### Second Reason for Refusal

- 7.6.11. The second reason for refusal states that the proposed development would contravene Policy WW 10 of the County Development Plan which states it is policy to

refuse residential development that requires the provision of private waste water treatment facilities, other than single house systems.

- 7.6.12. The proposed development would contravene this policy. The policy does not differentiate between temporary or permanent facilities, and it is clear, in my view, that the necessity for provision for a temporary WWTP, because of the absence of a robust timeline for upgrading of the Enfield WWTP, is development of the type envisaged by this policy. The Meath County Development Plan 2013-2019, under which the precedent cited was considered, expressly permitted, in certain circumstances, proposals for centres lacking in adequate wastewater services e.g. Policy WS POL 12. Policy WW 10 indicates Kildare Co. Co. does not have a similar policy.

### Conclusion

- 7.6.13. I consider that the first and second reasons for refusal set out in the planning authority decision are reasonable in the circumstances of this planning application. I recommend that permission be refused for similar reasons.

## **7.7. Flood Risk**

- 7.7.1. Many of the third party observations received state that the proposed site has a history of flooding and there is a flood risk to adjacent sites.
- 7.7.2. According to Section 2.5.8 of Volume 2 there have been no recent flooding events in the village. The maps on the OPW's floodinfo.ie indicates no flooding history or issue on site. The Land Use Zoning Objectives map outlines two significant areas of the village, The Glebe and south west of the site on the opposite side of Johnstown Road, where it is an objective of the Council (Objective FL 2) to ensure that development proposals for the identified lands are subject to site specific Flood Risk Assessment appropriate to the type and scale of the development being proposed.
- 7.7.3. The subject site is not within these identified areas. Notwithstanding, a Flood Risk Assessment was submitted with the application. This concludes that 'the residual risk of flooding from any source is low'. I note the planning authority's Water Services Section expressed no concern in relation to flood risk.
- 7.7.4. Having regard to the foregoing, I do not consider that flooding is a significant concern with the proposed development.



## 7.8. Roads & Traffic

- 7.8.1. Roads and traffic issues are set out in the third party observations. Concerns include the narrow nature of Johnstown Road and the traffic congestion that will occur, the amount of traffic already in the village, proposed residents and construction workers parking in Bridgewell, prevention of the widening of Johnstown Road, and the development is premature pending construction of a bypass of the village.
- 7.8.2. I consider that concerns in relation to the roads and traffic implications of the proposed development are overstated. While the development would introduce additional traffic to the village, both during construction and operational phases, I do not consider that it would be overly significant. Given the central location of the site in the village and the fact that the school, church, hotel, and shop are within a short walking distance of the proposed houses, car-related journeys within the village should be limited.
- 7.8.3. The planning authority's Transport Department expressed no concern with the proposed development in terms of traffic generation, congestion, or an inability to widen the adjoining public roads in future. In this regard Objective T 2 is to realign and improve the junction of Johnstown Road and the R402. The Transportation Department made three comments about the internal layout of the development which the applicant has addressed in the grounds of appeal i.e. an increase in car parking provision, horizontal traffic calming, and a widening of the cycle path.
- 7.8.4. Two car parking spaces have been provided for every house, one space for every maisonette/apartment, four spaces for the retail unit, and ten visitor parking spaces. I consider this to be acceptable having regard to the standards set out in the Kildare County Development Plan 2017-2023. I note the Transportation Department recommended that all deliveries to the site should be outside of school opening and closing times and this could be included into a Construction Management Plan, as could the recommendation that all construction parking is within the site boundary.
- 7.8.5. Johnstown Road is straight at this location and there would be no issue with sightlines. The road is typical of public roads on the entrances to villages and is adequate to accommodate the proposed development.
- 7.8.6. While it is an objective in the Plan, Objective T 1 in Section 2.5.8, to identify and provide a by-pass of Johnstownbridge to divert traffic travelling from the M4 to

Edenderry, it would not be premature to grant this residential development pending the provision of the bypass.

- 7.8.7. Having regard to the foregoing, I do not consider the proposed development would have a significant impact on the village in terms of roads and traffic issues.

## 7.9. **Appropriate Assessment (AA)**

### Compliance with Article 6(3) of the Habitats Directive

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

### Background on the Application

- 7.9.2. The applicant has submitted a 'Report for the Purposes of Appropriate Assessment Screening', prepared by Moore Group – Environmental Services' and dated 26.01.2021, as part of the planning application.
- 7.9.3. The report contains information required for the competent authority to undertake screening for AA and was compiled in accordance with relevant guidance. Sources of information used to collect data on the Natura 2000 network, and the environment within which they are located, is set out. The report provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development.
- 7.9.4. The applicant's AA Screening Report concluded that 'It can be excluded, on the basis of objective information, that the Proposed Development, individually or in combination with other plans or projects, will have a significant effect on a European site'.

### Screening for Appropriate Assessment – Test of Likely Significant Effects

- 7.9.5. 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).
- 7.9.6. The proposed development is examined in relation to any possible interaction with European sites designated Special Areas of Conservation (SAC) and Special

Protection Areas (SPA) to assess whether it may give rise to significant effects on any European site.

#### Brief Description of the Development

7.9.7. The applicant provides a description of the project on Page 5 of the screening report.

In summary, the development comprises:

- 68 no. residential units comprising 59 no. houses and 9 no. maisonettes/apartments,
- a 72.2sqm retail unit/café,
- a new vehicular entrance off Johnstown Road, a pump station and temporary on-site wastewater treatment plant, landscaping, lighting, boundary treatments, ESB substation etc.

7.9.8. The development site is also described on Page 5. The site slopes from north to south. There are drainage ditches on site, but they generally only convey water during heavy rainfall. They tend to drain westwards to the site boundary then southwards ultimately outfalling to the Fear English River, a tributary of the River Blackwater, which is itself a tributary of the River Boyne.

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

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

#### Submissions and Observations

7.9.10. None relate to impact on Natura 2000 sites.

7.9.11. The planning authority's Heritage Officer stated 'no objection or further comment'.

## European Sites

- 7.9.12. The development site is not located in or immediately adjacent to a European site. The closest European sites are the River Boyne and River Blackwater SAC (Site Code 002299) and SPA (Site Code 004232) approx. 9km to the north west of the site.
- 7.9.13. The submitted Screening Report identifies six European sites within a 15km radius of the site. Apart from the River Boyne and River Blackwater SAC and SPA, the other four are Ballynafagh Lake SAC (Site Code 001387) approx. 11.3km to the south, Ballynafagh Bog SAC (Site Code 000391) approx. 12.1km to the south, The Long Derries, Edenderry SAC (Site Code 000925) approx. 13.3km to the south west, and Mount Hevey Bog SAC (Site Code approx. 14.1km to the north west.
- 7.9.14. Section 4.1 of the submitted Screening Report states that ‘there is limited connectivity between the Proposed Development site and the River Boyne in that the European sites are located over 15.5 river km downstream and the site clearance works are unlikely to result in a significant effect on the Fear English stream during construction’. The report rules out likely significant effects ‘as there is no potential for contamination of surface water during construction and foul water from the Proposed Development will be appropriately treated’.
- 7.9.15. Notwithstanding the content of the submitted Screening Report, given the hydrological link between the site, and the River Boyne, I consider the proposed development should be further considered. I am satisfied that there are no other European sites that could be affected by the proposed development as there is no source, pathway, receptor link. I would note that the Blackwater which forms part of the European Sites is not the same Blackwater that the Fear English is a tributary of. The River Blackwater referenced in the European Sites rises in Co. Cavan and is a tributary of the River Boyne at Navan.

### **Summary of European Sites Within a Possible Zone of Influence of the Proposed Development**

<b>European Site (Code)</b>	<b>List of Qualifying Interest / Special Conservation Interest</b>	<b>Distance from Proposed Development (km)</b>	<b>Connections (Source, Pathway, Receptor)</b>

River Boyne and River Blackwater SAC (002299)	Alkaline fens [7230] Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> [91E0] River Lamprey [1099] Salmon [1106] Otter [1355]	Approx. 16km downstream of the site to the north west	Hydrological
River Boyne and River Blackwater SPA (004232)	Kingfisher [A229]	Approx. 16km downstream of the site to the north west	Hydrological

#### Identification of Likely Effects

- 7.9.16. Only a generic objective is set out in the Conservation Objectives document for the SAC published by the National Parks & Wildlife Service (NPWS). It is 'To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected'. Similarly, the Conservation Objectives document for the SPA states the objective is 'To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA'.
- 7.9.17. There are five qualifying interests in the SAC. The Conservation Objectives document for this SAC on the NPWS website provides no information as to the distribution of the habitats and species for which the site is designated. However, the Site Synopsis document states that the main areas of alkaline fen are concentrated in the vicinity of Lough Shesk, Freehan Lough and Newtown Lough. These three lakes are located along the Meath and Westmeath county boundary approx. 31km north west of the site as the crow flies. Alluvial forests are more widely spread though they are quite small. The distribution of salmon through the Boyne, its tributaries and headwaters is described. River lamprey are present in the lower reaches of the Boyne, while otter can be found throughout the site. The Site Synopsis for the SPA states that 19 no.

pairs of kingfisher were recorded in a 2010 survey. However, the locations of these are not provided.

- 7.9.18. Construction related pollution – The development site comprises a field in a zoned area. There is a slight slope from north to south. Drainage ditches on site generally only convey water during heavy rainfall events. Surface water flows from the south west corner and discharges to the Fear English, then to the Blackwater, and then into the Boyne approx. 16km downstream of the site. The development is a standard construction development and standard construction methods, as per a standard Construction Management Plan, would be in place. No mitigation measures, designed or intended to avoid or reduce any harmful effects on a Natura 2000 site, are necessary. Given the hydrological distances to the SAC/SPA, the nature of the proposed development, and the nature of the distribution of the qualifying interests such as lamprey in the lower reaches (as opposed to upper or middle reaches) of the Boyne, I do not consider the construction phase would be likely to have any significant effect on the European sites.
- 7.9.19. Habitat loss/fragmentation – Given the location of the proposed development, and the distance to the Natura 2000 sites, the development would not result in any loss or fragmentation to the habitat of the SAC or SPA.
- 7.9.20. Habitat disturbance/species disturbance – During the construction phase of the proposed development, given the distance to the Natura 2000 sites, there would be no risk of habitat or species disturbance.
- 7.9.21. In terms of the operational phase, surface water not infiltrated to ground on site will flow through a hydrobrake designed to limit outflow to the existing greenfield rate. Flow will pass through a petrol interceptor and an outfall headwall will be installed at the Fear English River. An easement is in place with the adjacent landowner. I consider the quality of surface water discharge from the site would not have any adverse impact on the Natura 2000 network, approximately 16km downstream. Provision of a petrol interceptor is a standard feature of this type of development and is not provided because of the European Sites. There would be no risk of habitat or species disturbance during the operational phase from surface water given the nature of the development, its location, and the distance to the SAC/SPA.

- 7.9.22. The Enfield WWTP, which is currently overloaded, discharges to the River Blackwater, a tributary of the Boyne. The planning authority's Environment Section states that the WWTP is one of the primary sources of impact on the Blackwater, which is currently only at 'moderate' status in terms of the EU Water Framework Directive. The Environment Section is concerned that discharge from the proposed temporary on-site WWTP, which according to the Environment Section will only partially treat the effluent prior to discharge from the site, could impact even further on the status of both the Blackwater and the Boyne. The Screening Report only briefly addresses the issue of effluent discharge from the proposed development by stating that 'foul water from the Proposed Development will be appropriately treated'.
- 7.9.23. Should the Enfield WWTP be upgraded as envisaged then the effluent would be adequately treated at the WWTP prior to discharge. Where the proposed temporary on-site WWTP would be utilised for a period of time, the effluent would be treated on-site to a standard of 25:35:5 (mg/l) BOD:TSS:Ammonia, according to the Engineering Assessment Report. This is the level of treatment required by Irish Water, as stated in the pre-connection enquiry letter. The submitted treatment system proposal cites 'design effluent concentrations from the wastewater treatment system as 20:30:5 (mg/l) BOD, TSS, ammonium/nitrogen. The issue with the Enfield WWTP, according to the applicant, is the biological loading capacity. Therefore, the WWTP has the capacity to cater for additional flows, but it does not have the capacity to treat those flows.
- 7.9.24. Having regard to the proposal to treat effluent on site to the level required by Irish Water, prior to discharge to the public system, and having regard to the distance from the Enfield WWTP to the Natura 2000 site, approx. 14.2km, I do not consider the potential on-site wastewater treatment would have a significant impact on the relevant Natura 2000 sites.
- 7.9.25. Cumulative Impacts – The applicant has provided a table of developments granted permission in the last three years within 500 metres of the proposed development. Nine developments are identified, ranging in scale from modifications to a shop front to 10 no. houses. Given the absence of any potential for in-combination effects given the scale and location of some of the minor projects cited, the planning authority's Planning Report comments on some of the larger projects that a potential does not exist for significant effects on the Natura 2000 network, and given the proposed

development is unlikely to have any adverse effects on the European Sites, the applicant considers that there are no predicted in-combination effects.

7.9.26. A significant, relevant project that has been submitted and granted since the applicant's AA Screening Report was prepared is Reg. Ref. 21/349 (Enfield WWTP upgrade) granted by Meath Co. Co. It is located on both banks of the River Blackwater approx. 400 metres to the north of the site. The planning authority concluded, as set out in its Planning Report, 'that the proposed development (entire project), by itself or in combination with other plans and developments in the vicinity, would not be likely to have a significant effect on European Site(s)'.

7.9.27. Therefore, I concur with the applicant's conclusion that there are no predicted in-combination effects.

#### Mitigation Measures

7.9.28. Notwithstanding the absence of comment in the submitted AA Screening Report relating to same, I consider that no measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

#### Screening Determination

#### 7.9.29. **Finding of no likely significant effect**

The proposed development was considered in light of the requirements of section 177U of the Planning & Development Act, 2000 (as amended). Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Site Nos. 002299 or 004232, or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on the following:

- The site is not part of any Natura 2000 site, and it does not require any resources from, or interaction with, any Natura 2000 site. It is approx. 16km, hydrologically, from the relevant Natura 2000 sites.
- An assessment of the proposed project.



- An assessment of in-combination effects with other plans and projects.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of River Boyne and River Blackwater SAC and SPA.

## 8.0 Recommendation

I recommend that the planning application be refused for the following reasons and considerations.

## 9.0 Reasons and Considerations

1. The Enfield wastewater treatment plant is currently overloaded. The proposed development requires provision of a temporary on-site wastewater treatment plant to facilitate the development should proposals to upgrade the Enfield wastewater treatment plant not progress. It is the policy of Kildare County Council, as expressed in Policy WW 10 of the Kildare County Development Plan 2017-2023, to refuse residential development that requires the provision of private waste water treatment facilities, other than single house systems. Therefore, it is considered that the proposed development would be premature by reference to the existing deficiencies in the provision of sewerage facilities and the period within which this constraint may reasonably be expected to cease, would contravene Policy WW 10 of the Kildare County Development Plan 2017-2023, and would be contrary to the proper planning and sustainable development of the area.

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Anthony Kelly

Planning Inspector

06.10.2021