

An  
Bord  
Pleanála

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

### Inspector's Report ABP-310892-21

#### Strategic Housing Development

192 no. residential units (114 no. houses, 78 no. apartments), creche and associated site works.

#### Location

Western Side of Millicent Road and Southern Side of Prosperous Road, Clane, Co. Kildare.  
([www.millicentroadshd2.ie](http://www.millicentroadshd2.ie))

#### Planning Authority

Kildare County Council

#### Applicant

Debussy Properties Ltd.

#### Prescribed Bodies

1. Irish Water
2. Transport Infrastructure Ireland
3. National Transport Authority
4. Kildare County Childcare Committee

- 5. Inland Fisheries Ireland
- 6. Department of Culture, Heritage  
and the Gaeltacht - DAU

**Observer(s)**

Aidan Farrelly  
Clane Community Council

**Date of Site Inspection**

22 September 2021.

**Inspector**

Stephen Rhys Thomas

**DECISION QUASHED**

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## 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. The application was made by the Debussy Properties Ltd and received by the Board on 21 July 2021.

## 2.0 Site Location and Description

- 2.1. The site is located in Clane, Co. Kildare. The site is located c. 500 metres from Clane town centre on lands that are to the south of the R403 Prosperous Road and west of Millicent Road. The site is adjacent to educational and sporting facilities along the R403 Prosperous Road.
- 2.2. The site is currently in agricultural use (tillage). It comprises part of a larger open field that is relatively flat. The site is broadly rectangular in shape with a narrow strip of land extending north towards the Prosperous Road. There is an agricultural access onto the Prosperous Road. The site is bounded to the west by the Clane GAA grounds and to the east / north by residential properties and an agricultural field. To the east the site has frontage of approximately 220 metres along Millicent Road. There is a residential property bounding the site to the south. On the opposite side of Millicent Road there is a new residential development known as Hemmingway Park, which is nearing completion. There is a footpath along the boundary of the site with Millicent Road, linking the site back to the town centre. There is a continuous footpath on the northern side of Prosperous Road to the town centre, with a pedestrian crossing west of the site to facilitate crossing of pedestrians to and from the GAA club and schools. The footpath is not continuous along the southern side of the Prosperous Road towards Clane town centre.
- 2.3. There is a mature Leyland Cypress hedgerow along the boundary to the GAA grounds. To the east of this there is an old agricultural hedgerow. There is a hedgerow along the northern site boundary, the eastern boundary and along the boundary to a residential property to the south. Otherwise, the site is part of an open field with no boundary markings. I note the existence of a modern stone cross set on a stone slab base to commemorate the millennium and the approach to Clane

Abbey. I also noted that the Prosperous Road has been recently resurfaced and new road markings applied.

### 3.0 Proposed Strategic Housing Development

3.1. Permission is sought for 192 no. residential units (114 houses and 78 duplex units) and a childcare facility. There are 6 three storey duplex blocks fronting onto a new link street and onto Millicent Road, and a combination of detached, semi-detached and terraced two storey houses.

3.2. Key Details:

No. Units	192
Height	2-3 storeys
Site Area	6.4 ha gross; 5.5 ha net area (link street excluded)
Density	35 units per ha (net)
Other Uses	Crèche (160sq.m)
Dual Aspect	100%
Public Open Space	8,304 sq.m.
Car Parking	340 spaces
Bike Parking	160 spaces

3.3. Housing Mix

Beds	Duplex	Houses	Total	%
1-bed	10	0	10	5.2
2-bed	40	0	40	20.8
3-bed	28	83	111	57.8
4-bed	0	31	31	16.2
TOTAL	78	114	192	100%

- The provision of a link street through the subject site (including pedestrian and cycle paths) to connect Prosperous Road (R403) to the north with Millicent Road to the east,
- Junction upgrade works and pedestrian/cycle improvement works, integrating with existing infrastructure in the vicinity.
- A priority junction at the Prosperous Road (R403) entrance to the site and a signalised junction at the Millicent Road entrance.
- The existing Clane GAA Club access onto Prosperous Road (R403) to be replaced with a pedestrian/cycle only access and a new vehicular/pedestrian/cycle access provided along the western boundary of the proposed link road.
- Demolish the existing Clane GAA Club ball court to facilitate the new vehicular/pedestrian and cycle access to the Clane GAA Club.

#### 4.0 Planning History

##### Subject Site:

ABP-309087-21 – Permission for the demolition of existing ball court, construction of 192 residential units (114 houses and 78 apartments), childcare facility and associated site works.

ABP Reg. Ref. PL 09 213707 (KCC Reg. Ref. 051625) – Permission refused for construction of 148 dwellings and 48 apartments in four three storey apartment blocks, together with a distributor relief road from Millicent Road to Prosperous Road, a single storey crèche, on a site of 8.33 ha. Reasons for refusal related to wastewater capacity and proposal for a temporary on site treatment system.

##### Other SHD applications in Clane Town

ABP-308943-20: Permission for 333 residential units (121 houses and 212 apartments), crèche and associated works at Capdoo and Abbeylands Clane (KDA1).

ABP-305905-19 – Permission refused for 305 dwellings at Brooklands Housing Estate/Alexandra Walk (KDA1). ABP-309367-21 relates to this site and includes 91 no. residential units (58 houses and 33 apartments) on lands at Capdoo (KDA1). Case is undecided.

ABP-304632-19 – Permission for 366 dwellings at Capdoo Clane (KDA2).

## 5.0 Section 5 Pre Application Consultation

5.1. The applicant chose to rely on the section 5 pre-application consultation that took place in May 2020 and referenced as ABP-306994-20. The contents of this meeting have not changed and so I reproduce them as summarised by the Reporting Inspector for the previous application, as follows:

5.2. *A Section 5 pre-application consultation took place via MS Teams on the 28<sup>th</sup> May 2020. Representatives of the prospective applicant, the planning authority and An Bord Pleanála were in attendance. An agenda was issued by An Bord Pleanála prior to the meeting. The main topics raised for discussion at the tripartite meeting were as follows:*

- *Planning Policy Context*
- *Transport and Movement Strategy – function and design of link street; connections within and to the local street network.*
- *Layout, Design and Residential Amenity – design of duplex units; open space design and passive supervision; boundary to Millicent Road; western boundary of site to zoned public open space; mix of unit types and dominance of three bed unit type.*
- *Childcare Provision.*
- *Irish Water capacity constraints and timelines.*
- *Surface Water Management and Flood Risk Assessment.*
- *Any Other Matters.*

5.3. A copy of the Inspector's report and Opinion is on the file for reference by the Board. A copy of the record of the meeting Ref. ABP-306994-20 is also available on the file.

5.4. Notification of Opinion

5.4.1. A Notice of Pre-Application Consultation Opinion issued within the required period, reference number ABP-306944-20. An Bord Pleanála issued notification that, it was of the opinion, the documents submitted with the request to enter into consultations, constituted a reasonable basis for an application for strategic housing development.

5.4.2. The prospective applicant was advised that the following specific information was required with any application for permission, including: detailed drawings, cross-sections, elevations and additional CGIs; schedule of accommodation; building life cycle report; schedule of car and bicycle parking; an updated Childcare Demand Analysis; response to issues raised in reports from Transportation, Water Services, Parks and Housing Departments of Kildare County Council where the applicant considers that the proposed development would materially contravene the relevant development plan or local area plan a material contravention statement.

5.5. Finally, a list of authorities that should be notified in the event of the making of an application were advised to the applicant and included:

1. Irish Water
2. Transport Infrastructure Ireland
3. National Transport Authority
4. Kildare County Childcare Committee

5.6. **Applicant's Statement**

5.6.1. Subsequent to the consultation under section 5(5) of the Planning and Development (Housing) and Residential Tenancies Act 2016, the Board's opinion was that the documentation submitted would constitute a reasonable basis for an application for strategic housing development. Therefore, a statement in accordance with article 297(3) of the Planning and Development (Strategic Housing Development) Regulations 2017, is not required.

5.7. **Applicant's Material Contravention Statement**

- 5.7.1. The applicant has prepared a Material Contravention Statement that sets out the rationale as to why the development could be permitted even when the proposal would represent a material contravention concerning some objectives of the Kildare County Development Plan 2017 – 2023 and the Clane Local Area Plan 2017 – 2023. The statement sets out how permission could be granted for the development in the context of section 37(2)(b) of the Planning and Development Act 2000 as amended.
- 5.7.2. The applicant highlights that the proposed development would contravene the statutory plans as follows:
- **Core Strategy** - The housing allocation for Clane (Table 3.3 – 145 units) and Policy SS1 of the Kildare County Development Plan 2017-2023, as stated.
  - **Core Strategy** - A strategic objective and Policy CS1 of the Clane Local Area Plan 2017-2023, which seeks to align the LAP with the housing allocation and core strategy and settlement strategy of the County Development Plan.
  - **Density** - Development of 192 units would exceed and may materially contravene the estimated residential capacity and density of 158 units at 30 units per hectare in KDA 5, detailed in Table 4.1 of the Clane Local Area Plan 2017-2023.
- 5.7.3. The applicant sets out how the proposed development meets the criteria set out in section 37(2)(b) of the Planning and Development Act 2000, as amended. There are no implementable planning permissions in the Clane area, other than a permission for 366 units (ABP-304632-19), works have not commenced, and it is unlikely that these units will be occupied by the end of the LAP period 2023. Other large residential planning applications are either on appeal or under judicial review and so residential unit target of 145 will not be met for Clane by 2023; ABP Ref. PL09.309367 91 units on appeal and ABP-308943-20 333 units under JR. The proposed development will meet with the strategic need for housing and comply with section 37(2)(b)(i) of the 2000 Act.
- 5.7.4. The reduction in housing allocation for Clane from and associated Policy SS1, provided by Variation 1 of the KCDP, together with, Policy CS 1 of the LAP conflicts with the overarching policies, objectives and statements of the KCDP and the Clane LAP which seek to deliver sustainable compact development on zoned lands in existing urban areas. Policies and objectives are listed out and the applicant states

the proposed development generally accords with the overarching guidance, objectives and policies contained in the KCDP, but that there are conflicting policies/objectives between the KCDP and the LAP. There are conflicting policies and objectives between statutory plans, section 37(2)(b)(ii) of the 2000 Act applies.

5.7.5. In accordance with section 37(2)(b)(iii) of the 2000 Act, the development meets national planning policy and objectives with regard to the delivery of housing at sustainable densities.

5.7.6. The proposed development will match the pattern of development in the area, permitted schemes are detailed and this aligns with section 37(2)(b)(iv) of the 2000 Act.

## **6.0 Relevant Planning Policy**

### **6.1. National Policy**

6.1.1. Having considered the nature of the proposal, the receiving environment, the documentation on file, including submission from the planning authority, I am of the opinion 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 (2009) (the 'Sustainable Residential Development Guidelines').
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020) (the 'Apartment Guidelines').
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the 'Building Height Guidelines').
- Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme.

### **6.2. Project Ireland 2040 - National Planning Framework**

The government published the National Planning Framework in February 2018, and includes the following National Policy Objectives:

NPO 3a: is that 40% of new homes would be within the footprint of existing settlements.

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

NPO 13: In urban areas, planning and related standards, including, in particular, 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 27 is to ensure the integration of safe and convenient alternatives to the car into the design of communities.

NPO 33 is to prioritise the provision of new homes where they can support sustainable development at an appropriate scale.

### 6.3. Regional Policy

Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES) 2019-2031.

Under the RSES a Dublin Metropolitan Area Strategic Plan (MASP) has been prepared to manage the sustainable and compact growth of Dublin. The MASP area covers 7 local authorities, including Kildare. The aim of the Dublin Metropolitan Area Strategic Plan is to deliver strategic development areas identified in the Dublin Metropolitan Area Strategic Plan (MASP) to ensure a steady supply of serviced development lands to support Dublin's sustainable growth. The following policies are of relevance:

RPO 3.2: Promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

RPO 4.1: Settlement Hierarchy – Local Authorities to determine the hierarchy of settlements in accordance with the hierarchy, guiding principles and typology of settlements in the RSES.

RPO 4.2: Infrastructure – Infrastructure investment and priorities shall be aligned with the spatial planning strategy of the RSES.

Clane is identified as a Self-Sustaining Town in the RSES. Such towns are defined as towns that require contained growth, focusing on driving investment in services, employment growth and infrastructure whilst balancing housing delivery. Clane is identified as one of the towns recording the highest growth rates in the country over the last ten years (>32%), and which have lower levels of employment provision.

#### 6.4. Local Policy

##### **Kildare County Development Plan 2017-2023**

##### Variation No 1 of the CDP – Core Strategy

The changes in Variation no 1 reflect the changes in the national and regional policy and the information relevant to Clane is summarised below:

- Clane is defined as a Town in the settlement hierarchy for Kildare.
- Table 3.1: Settlement Hierarchy: Clane is 4<sup>th</sup> in the settlement hierarchy.
- Table 3.3: Population and Housing Unit Allocation 2020-2023
  - Allocated growth of County 2.4%
  - NPF 2026 pop growth in persons - 945
  - NPF 2026 pop growth in units - 337
  - Dwellings target 2020-2023 – **145** (previously **780** 2016—2023)
- Table 3.2: Economic Development Hierarchy: Towns support small scale industry, diversification of the rural economy, new economic opportunities.

**Policy CS4-** Deliver sustainable compact urban areas through the regeneration of towns and villages through a plan-led approach which requires delivery of a least 30% of all new homes that are targeted in these settlements to be within their existing built up footprint.

##### Density

- LUDO 1- Ensure densities in line with the national guidance for sustainable residential developments.
- LUD 1- Promote residential densities appropriate to its location and surrounding context.
- Table 4.1- Guidance on appropriate locations for new residential developments.
  - Outer Suburban or Greenfield at the edge of large towns should make efficient use of lands.
  - Edge of sites within small towns should be in the range of 20-35.
- Table 4.2- Indicative Density Levels
  - Large towns (population > 5,000) Outer Suburban/ Greenfield 30-50 units per ha
  - Small Towns & Villages (population 2,000-5,000)

Policy SS 1 Manage the county's settlement pattern in accordance with the population and housing unit allocations set out in the RSES, the Settlement Strategy and hierarchy of settlements set out in Table 3.1.

#### **Clane LAP 2017-2023**

- The site is subject to three land use zoning objectives - Zoning Objective C New Residential Infill – 'to provide for New Residential Development', Objective F 'Open Space and Amenity', to 'protect and provide for open space, amenity and recreation', Objective B 'Existing Residential/Infill, to 'protect and enhance the amenity of established residential communities and promote sustainable intensification'.
- The site is designated a Key Development Area (KDA) 5.
- Table 4-2 of the LAP outlines the residential capacity of the lands:
- KDA 5 – net area of 5.3ha, estimated residential capacity of 158 units, at an estimated density of 30 units per hectare. Figures stated represent an

estimate only. Density / number of units to be determined at detailed design stage based on a full assessment of the site characteristics and local sensitivities.

- Section 12.2.5 – a design brief has been prepared for KDA 5. Requirement for link between Prosperous Road and Millicent Road (Table 8.1, Map 8.1 and Map 13.1 and Section 12.2.5 refer). Achieve vehicular, pedestrian and cyclist permeability throughout the development area. Facilitate provision of direct pedestrian/cycle links to sports grounds and potential links to unzoned lands to the south. Buildings 2 – 3 storey height. This KDA is likely to accommodate medium density residential development in the order of 30 – 35 units per hectare. Given the proximity of the site to the town centre, where the quality of the design and layout is particularly high, higher densities may be appropriate. Min. 15% public open space. Retain natural heritage and Green Infrastructure features.

Section 13.2 Phasing for KDA 5 Millicent:

- Provide road link between Prosperous Road and Millicent Road.
- Provide pro-rata childcare provision at a rate of 0.13 childcare spaces per dwelling.
- The Zone of Architectural Protection for Clane (LAP Map 10.1 refers) immediately north of site. RMP / Protected Structure (RMP Ref. KD014-026006 and RPS Ref. B14-67) within the site along Millicent Road.

## **7.0 Observer Submissions**

- 7.1. Two observer submissions were received by the Board, Aidan Farrelly and Clane Community Council. The issues raised are similar to the concerns expressed about the previous planning application, such as: exceeding the number of residential units and density for Clane, all contrary to the LAP. A new concern revolves around the submission of a duplicate planning application when the first is caught up in judicial review proceedings along with others in Clane Village. The issues expressed in the two submissions can be summarised as follows:

Contrary to the County Development Plan and Local Area Plan

KDA 5 of the LAP sets an estimated density of 30 units per hectare, the proposed development is for 40.6 units per hectare. The Board cannot grant permission for a development that is in conflict with the land zoning.

If permission is granted, the SEA Directive would be breached because neither the CDP or LAP planned for the quantum of development proposed.

The core strategy of the CDP would be materially contravened and has impacts for the suitability of Clane to provide the necessary services and infrastructure.

#### Clane

The town does not have the capacity to accommodate any more housing units than that planned for in the CDP and LAP.

Over 1,100 units are either permitted or under construction and nearing completion. Any more units would stretch the capacity of Clane to grow sustainably. There is a lack of sustainable public transport, schools, jobs, medical and childcare facilities.

The proximity of a quarry to the site requires examination.

#### Traffic and Transport

Bus services are low frequency and oversubscribed through Clane.

The development will promote more car journeys because of a lack of public transport or sustainable alternatives (cycling/walking).

Cycleways and pedestrian connections are not coordinated or provided to any great degree in Clane.

Traffic through Clane is very bad and additional traffic on the roads will make this worse. The Traffic and Transport Assessment prepared by the applicant is flawed.

Link roads planned for in the LAP have not been provided.

#### Procedural Issues

The Board should not have accepted an application for a site that is the subject of a judicial review, and for a town that has other sites under judicial review.

The Board should not have accepted a planning application without the requisite pre-application consultation process. The applicant has relied on the initial pre-application consultation meeting/opinion and this is not up to date.

The public were excluded from the pre-application consultation process and this restricts public participation and the Environmental Impact Assessment Directive.

## 8.0 Planning Authority Submission

8.1. The Chief Executive's report, in accordance with the requirements of section 8(5)(a) of the Act of 2016, was received by An Bord Pleanála on the 15 September 2021. The report states the nature of the proposed development, the site location and description, submissions received and details the relevant Development Plan and Local Area Plan policies and objectives. A summary of the views of elected members as expressed at the Clane/Maynooth Municipal District Meeting on 03 September 2021 is appended to the Chief Executive's Report and summarised below.

- Proposed density of 40 units per hectare exceeds that planning for the in LAP.
- The existing permission can still be implemented if JR unsuccessful.
- In Clane, there are already 235 units recently built and occupied, a further 500 have permission.
- More development will bring more car traffic and no public transport options.
- There is no room in the schools to accommodate growth. Lands in the plan have changed from educational to residential.
- The childcare facility should be built in the first phase of development.

8.2. The planning and technical analysis in accordance with the requirements of section 8(5)(a)(ii) and 8(5)(b)(i) is summarised as follows.

### Variation 1 of the Kildare County Development Plan

Clane is designated a 'Town', with a target of 2.4% growth that equates to allowance for 145 dwellings up to 2023, the end of the current plan period. There are a number of permissions for housing units (permitted and under judicial review) in Clane, that exceed this target. The plan period ends in 2023 for the County Plan and LAP. The proposed phasing strategy allows for 142 units, link street and childcare facility in phase 1 and the remaining 50 units after. The planning authority require the omission of 50 units or the delay of 50 units by condition, so that a new housing target can be developed in the next plan.

### **Density**

The target density for KDA5 is 35 units per hectare, the proposed development amounts to 35 units per hectare (192 units divided by an area of 5.5 hectares). The proposed residential density is acceptable.

### **Plot Ratio**

The development has an indicative plot ration of 0.32, in line with recommended standards.

### **Public open space**

Proposed equals 8,304 sqm, 15 % of plan lands, acceptable.

### **Residential Mix/Part V**

Dwelling mix is outlined and no comment offered. Part V provision is noted and conditions recommended.

### **Parking**

Car and cycle parking is noted, there is a shortfall of car parking spaces (deficit of 26% or 36 car spaces).

### **Childcare provision**

A childcare facility is proposed that will accommodate 26 places, according to the Childcare Facilities guidelines, 47 places would be required, a condition should be attached to provide the additional space.

### **AA and EIA**

It is noted that the Board is the competent authority to assess AA and EIA.

### **Urban Design**

The planning authority have provided a detailed urban design analysis set out in accordance with the 12 criteria of the Urban Design Manual. In general, the proposed layout is adequately designed, a number of conditions are recommended to address minor points. The Roads Dept recommend a refusal of permission in relation to car parking spaces off Millicent Road (units 132-135), direct frontage of duplex units onto the new link road and the likelihood of ad hoc parking. However,

the planning authority are satisfied that the design of units along the new link road meets the KDA design brief.

### **Conclusion**

The proposed residential development will meet the housing needs of the county and Clane. The proposed development is in accordance with the core strategy of the CDP as varied by variation 1 and the new housing target of 145 units. The planning authority recommend that permission should be granted subject to conditions. 32 planning conditions are recommended, most are of a standard and technical nature however, the following two conditions are of particular importance to the application in hand:

Condition 1 – seeks a two stage phasing strategy that holds back 50 units until 2023.

Condition 2 requires an entirely new standalone childcare facility to cater for 47 places and replace units 13 and 14 and the conversion of the former location in block B to a residential unit.

## **9.0 Prescribed Bodies**

9.1. The list of prescribed bodies, which the applicant is required to notify of the making the SHD application to ABP, issued with the section 6(7) Opinion and included the following:

1. Irish Water
2. Transport Infrastructure Ireland
3. National Transport Authority
4. Kildare County Childcare Committee

Though not referred to in the Board's Opinion the following prescribed bodies were notified of the application:

5. Inland Fisheries Ireland
6. Department of Culture, Heritage and the Gaeltacht – DAU (no submission received)

9.2. The applicant notified the relevant prescribed bodies listed in the Board's section 6(7) opinion. The letters were sent on the 4 June 2021. A summary of those prescribed bodies that made a submission are included as follows:

**Irish Water (IW)** – Wastewater services upgrade works are required; a project is underway to relieve capacity constraints in Clane (Upper Liffey Valley Sewerage Scheme Contract 2B – ULVSS). It is expected connection(s) for this development can be facilitated on completion of this project which is scheduled for end of 2021/2022 (subject to change).

To facilitate water connections, the following upsizing works will be required to be carried out by the developer:

- Approx. 370m of existing 125mm uPVC main to be upsized to 200mm ID on the R403.
- Approx. 440m of existing 150mm uPVC main to be upsized to 200mm ID from the junction of L1023 / R407 (Manzors) to the roundabout outside Tesco.
- Approx. 50m of existing 100mm uPVC to be upsized to 225mm ID from the roundabout outside Tesco towards the Westgrove Hotel.

Technical and standard conditions are recommended if permission is granted.

**Inland Fisheries Ireland (IFI)** - the proposed development is located in the catchment of the Butterstream where Brown Trout, lamprey species and Freshwater Crayfish are present and adjacent to the River Liffey and important fishery. All works should be completed in line with a Construction Environmental Management Plan. Comprehensive surface water management measures should be put in place, examples are given. Receiving waters should have adequate capacity. A culverted stretch of the Butterstream within the development area and drainage ditches on the eastern side of the site were also culverted during the construction of the footway along Minicem Road. Any opportunity to open up sections of these waterways would be welcome. Culverting surface water discharges can make them difficult to trace, they should be accessible for inspection should a pollution event occur. All discharges must be in compliance with the European Communities (Surface Water) Regulations 2009 and the European Communities (Groundwater) Regulations 2010.

## 10.0 Assessment

10.1. The Board has received a planning application for a housing scheme under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. My assessment focuses the proposed development in the context of the statutory development plan and the local area plan. My assessment also focuses on national policy, regional policy and the relevant section 28 guidelines. In addition, the assessment considers and addresses issues raised by the observations on file, the contents of the Chief Executives Report received from the planning authority and the submissions made by the statutory consultees, under relevant headings. The assessment is therefore arranged as follows:

- Principle of Development
- Material Contravention
- Layout Design
- Residential Amenity
- Traffic and Transport
- Infrastructure
- Ecology
- Other Matters

### 10.2. Principle of Development

#### Land Use Zoning

10.2.1. The Kildare County Development Plan 2016-2022 (KCDP), as varied, and the Clane Local Area Plan 2017-2023 are the relevant statutory plans for the area. The site is one of five Key Development Area's (KDA5) identified in the Local Area Plan. It is zoned 'C' New Residential for the most part and is subject to an objective "to provide for new residential development". Residential and crèche uses are permitted in principle under the New Residential zoning (Table 13.1.1 Land Use Zoning Matrix refers). A section of the site along the western boundary that relates to a proposed link street and access to the GAA grounds is zoned 'F' Open Space with an objective "to protect and provide for open space, amenity and recreation". A proposed

signalised junction at Millicent Road will extend into lands zoned 'B' Existing Residential Infill. The requirement for the link street is identified in the Clane LAP in Table 8.1, Map 8.1 Movement Objective, Map 13.1 Land Use Zoning Objective and in Section 12.2.5 KDA5. I am satisfied that the roads objective is met. The link street will provide for improved and safer access to the GAA grounds and to an adjoining residential estate and on this basis. The planning authority raise no issues in relation to the proposed development and the land use zoning objectives for the area. Given the foregoing, I am of the opinion that the proposed development cannot be considered to materially contravene the Development Plan in relation to the zoning of land and permission could be granted subject to the other considerations and assessments below.

#### Density

- 10.2.2. The proposed development comprises 192 residential units on a site of 5.5 hectares (net) with a resulting density of 35 units per hectare. The Clane LAP identifies that KDA5 is likely to accommodate medium density residential development in the order of 30 – 35 units per hectare. The planning authority note that the proposed development will not exceed this target and accept that a residential density of 35 units per hectare is acceptable and in accordance with the statutory plan. Observers see the proposed density of 35 units per hectare and the total number of units for the site as being more than the core strategy of the development plan sets out for Clane. Specifically, observers make the point that the residential density for the site should be 30 units per hectare and not 35 units per hectare. This matter is addressed under section 10.3 of my report in more detail under the material contravention statement prepared by the applicant.
- 10.2.3. Residential density is not to be confused with the overall target unit number for Clane as identified in the LAP and altered by Variation 1 in relation to the core strategy. The Clane LAP introduces a degree of flexibility in to the residential density targets for KDA5 because of the proximity of the site to the town centre. The LAP goes on to suggest that where the quality of the design and layout is particularly high, higher densities may be appropriate. This is such a case where the quality of urban design and the achievement of other LAP objectives such as a link street result in a residential density of 35 units per hectare, within the range planned for.

- 10.2.4. Policy at national and regional level encourages higher densities in appropriate locations. The National Planning Framework (NPF) 2018 promotes the principle of 'compact growth'. Of relevance, are objectives 27, 33 and 35 of the NPF which prioritise the provision of new homes at locations that can support sustainable development, encouraging increased densities in settlements where appropriate. Section 28 guidance, including the Sustainable Residential Development Guidelines 2009, the Urban Development and Building Height Guidelines 2018, and the Sustainable Urban Housing Design Standards for New Apartments Guidelines 2016 (updated 2020), all assist in determining appropriate densities.
- 10.2.5. The site is a greenfield site located close to the centre of Clane and close to educational and sporting facilities along the Prosperous Road. The site is within walking distance of bus stops on Main Street and Dublin Road with services to Dublin, Nass, Maynooth, Blanchardstown, Athy, Kilkenny, Mullingar and Portlaoise. The applicant's statement of consistency highlights the fact that the site is well located sequentially and that development on the western side of Clane will rebalance new growth, which has been focused on the northern and eastern sides of settlement. Guidelines on Sustainable Residential Development in Urban Areas (2009) sets out density guidance for urban areas. This guidance is reflected in Table 4.2 of the County Development Plan. Clane had a population of 7,280 persons in 2016. Settlements with a population of over 5,000 persons, such as Clane, fall within the City and Large Town category under the Sustainable Residential Development Guidelines. Section 5.11 of these guidelines state that net densities of 35-50 dwellings per hectare should generally be encouraged on outer suburban / greenfield sites and that densities of less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency. The proposed density of 35 dwellings per hectare (net) is within this density range. In addition, I note Circular Letter: NRUP 02/2021 that states net densities of 30-35 dwellings per hectare may be regarded as acceptable in certain large town contexts and net densities of less than 30 dwellings per hectare, although generally discouraged, are not precluded in large town locations. In this respect, the circular recommends 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.

- 10.2.6. The Urban Development and Building Height Guidelines (2018) state that increased building height and density will have a critical role to play in addressing the delivery of more compact growth in urban areas. The guidelines caution that due regard must be given to the locational context, to the availability of public transport services and to the availability of other associated infrastructure required to underpin sustainable residential communities. Building height is not a feature of the proposed development, but density considerations are. The Sustainable Urban Housing Design Standards for New Apartment Guidelines (2018 and updated 2020) address this issue in more detail by defining the types of location in cities and towns that may be suitable for increased densities, with a focus on the accessibility of the site by public transport and proximity to city/town/local centres or employment locations. It is my view that, given the site's distance from a principal town or suburban centre, centre of employment and high frequency public transport that the site is located in a 'Peripheral and / or Less Accessible Urban. The Statement of Consistency notes the peripheral and / or less accessible location. The guidelines state that such locations are generally suitable for limited, very small-scale 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 vary, but broadly less than 45 dwellings per hectare net).
- 10.2.7. I am satisfied that the site is sequentially well placed to accommodate growth given its proximity to Clane Centre and to retail, sporting and educational facilities. In terms of the density, given the locational context of the site and the level of public transport and other services in the area (as highlighted in submissions) I am of the view that development at the lower end of the density range detailed in the Sustainable Residential Development Guidelines is acceptable. I consider that the proposed density of 35 dwellings per hectare represents a reasonable density, that this density is consistent with the provisions of the Local Area Plan and acceptable by reference to national planning policy. Residential densities of 30 dwellings per hectare or below, as suggested in observer's submissions, would not be appropriate at this location, given the indication in recent national planning policy as set out in relevant guidelines that increased densities and a more compact urban form is required within urban areas.

10.2.8. The proposed density of 35 units per hectare is in line with national guidance and the Local Area Plan and therefore not a material contravention of the relevant statutory plan. I am satisfied that the site is well placed to accommodate growth given its proximity to Clane Town Centre and to retail, sporting and educational facilities. In terms of the density, given the locational context of the site and the level of public transport and other services in the area I am of the view that development at the lower end of the density range detailed in the Sustainable Residential Development Guidelines is acceptable. I consider that the proposed density of 35 dwellings per hectare represents a reasonable density, and that this density is consistent with the provisions of the Local Area Plan and acceptable by reference to national planning policy. The matter of residential density and the statutory plan is dealt with in greater detail under the Material Contravention section of my report, where I consider that the proposed development does not materially contravene the statutory plan.

#### Core Strategy

10.2.9. The core strategy of the development plan has changed. Variation No. 1 to the Kildare County Development Plan (June 2020) was adopted in order to address objectives of the RSES. Clane is reclassified as a Town under Variation No. 1 with the stated function to provide "local service and employment functions in close proximity to higher order urban areas". Arising from a reduced growth target for County Kildare under the NPP/RSES Clane has been allocated a housing target of 145 units over the period 2020-2023 (remaining plan period). The proportion of the County's growth allocated to Clane remains at 2.4%. Observers are concerned that the proposed development would materially contravene the statutory plan and raise many issues that overdevelopment of the site would bring to Clane.

10.2.10. With respect to some 50 units in this application, the planning authority see that the core strategy as it refers to Clane would be breached and recommend their omission or phased construction until 2023. The planning authority are not concerned about any material contravention of the core strategy if the proposal is reduced or phased by 50 units in order to fit below the 145 unit cap for Clane. This view from the planning authority appears in the context of other permissions, either granted or under judicial review at this time, in the Clane area.

- 10.2.11. The applicant identifies that the proposed development of 192 units may materially contravene the core strategy as it relates to the County Development Plan and Clane LAP. To address deficiencies in a previous planning application, the applicant has prepared a material contravention statement to address this matter. I assess this matter and others to do with any material contravention of the statutory plan under section 10.3 Material Contravention, section of my report.

Principle of Development Conclusion

- 10.2.12. The proposed development will deliver housing, a childcare facility, new link street, safer junctions and areas of public open space to land that is zoned for these purposes. While the principle of residential development at this location has already been established by a previous planning permission for similar development, that application is currently the subject of a judicial review. I have therefore assessed the proposed development de novo, and on the merits of the application before the Board now. The matter of the core strategy and other issues are addressed primarily under the material contravention statement section of my report below. On the whole I am satisfied that the residential development as it is proposed is entirely suitable at this location from a land use perspective.

**10.3. Material Contravention**

Introduction

- 10.3.1. The applicant has prepared a material contravention statement that addresses the possibility that the proposed development could materially contravene the core strategy, residential capacity and residential density of the Kildare County Development Plan and Clane Local Area Plan. The applicant sets out that the proposed development when taken into consideration with other developments in Clane would materially contravene the housing allocation for Clane (Table 3.3) and Policy SS1 of the Kildare County Development Plan 2017-2023, as varied and strategic objective and Policy CS1 of the Clane Local Area Plan 2017-2023, which seeks to align the LAP with the housing allocation and core strategy and settlement strategy of the KCDP. As a consequence the proposed development would materially contravene the estimated residential capacity and density of 158 units at 30 units per hectare in KDA 5, detailed in Table 4.1 of the Clane Local Area Plan 2017-2023.

10.3.2. The proposition is that the proposed development would materially contravene the relevant plans with respect to Core Strategy and Capacity/Density, and I address each of these elements below.

10.3.3. **Core Strategy** – The Kildare County Development Plan 2017 – 2023 was varied to take account of the publication of the National Planning Framework (NPF), the Eastern and Midland Region Spatial and Economic Strategy (RSES) and revised population projections. In the context of Clane, it is now designated as a town in which the dwelling target for the period 2020-2023 is 145 units. There has been permission for a large housing scheme in Clane already, but this occurred prior to Variation 1 of the development plan. The proposed development subject to the current application will deliver 192 units and in simple terms, such a proposal would surpass that allowed for during the remainder of the plan period. The planning authority note this and recommend that 50 units are either omitted or held back from occupation until after 2023, when a new plan and revised targets are devised. In my view this approach does not appear to take into account permission for multiple units that could also go ahead. In Clane the following large housing schemes are relevant:

- ABP-304632-19 – 366 units (permission granted prior to Variation 1)
- ABP-308943-20 – 333 units (permission granted, on judicial review according to the applicant)
- ABP-309367-21 – 91 units (undecided)

Observers also note that that the cap of 145 units placed on Clane would be breached by the development proposal. It is my view that the core strategy target for Clane is already at risk of being exceeded. To take the subject application in conjunction with the 424 units proposed on other sites within Clane (ABP-308943-20 and ABP-309367-21) would result in a total of 616 additional units which is above the Core Strategy allocation for this settlement. In the event that a decision to grant permission for the 333 units proposed under ABP-308943-20 legally stands and / or the 91 units proposed under ABP-309367-21 is granted prior to a decision being made on the subject application, the proposed development would simply exceed the Core Strategy allocation for Clane.

10.3.4. The proposed development is situated on zoned lands, is well positioned relative to the settlement core, social and community services and transport services in Clane

and adheres to the medium density range envisaged for these lands under the LAP. I note the comments made by the planning authority in relation to the core strategy and the recommendation to pause a proportion of the development until after 2023. If a phased approach were applied to the proposed development, it could theoretically satisfy and meet the dwellings target for the period 2020-2023 in the County Development Plan. However, it would be meaningless if other applications in Clane return from the courts with permissions, such as ABP-308943-20 for 333 units (also subject to Judicial Review according to the applicant's understanding). However, setting aside legal matters, I have to be satisfied that the proposed development of 192 units that would in all likelihood go over the core strategy allocation of 145 units for Clane is sustainable from a planning perspective and supported by national planning policy. In terms of sustainable development, the intention is to situate 192 dwellings and a crèche on the south western edge of Clane village, close to sports clubs, schools (primary and secondary), shops and many other community and commercial enterprises. The development will provide new public realm and be well connected to all these services and facilities. I am satisfied that the resulting contravention of the dwellings target for Clane is not of such significance that its impact will be felt negatively, in terms of traffic for instance and this is demonstrated by the TTA submitted by the applicant. From the perspective of national policy, I note that the National Planning Framework (NPF) seeks balanced regional growth, the promotion of compact development and the need to avoid urban sprawl, the emphasis is on the development of lands linked to existing infrastructure to ensure sustainable development. In my mind, though the proposal would materially breach the dwelling target of 145 units for Clane, such a breach is warranted given the necessity to meet housing demand and national policy in relation to housing delivery on serviced land. Finally, I note the planning authority's willingness to phase the development until after 2023, when new housing unit calculations will inevitably be made in the preparation of a new plan for Clane. This reinforces my point of view that this is the right location for new housing in Clane at the right quantum and efficient residential density. Finally, I note that as any permission on this case will not be operable until 2022. As such even if no phasing was required by condition, the construction of 192 units would not in practice be completed and ready for occupation until 2023, at the earliest.

- 10.3.5. **Residential Capacity/Density** – The proposed development provides a net density of 35 units per hectare (net site area of 5.5 hectares) and this could materially contravene Table 4.1 of the Clane LAP. The LAP (table 4.1) estimates a density for KDA 5 of 30 units per hectare and that there is residential capacity of 158 units at this location, the provision of 192 units would surpass this capacity estimate. However, the key development area of Millicent is refined within section 12.2.5 of the LAP and this states that is likely to accommodate medium density residential development in the order of 30 – 35 units per hectare. Specifically, the LAP states that the KDA is likely to accommodate medium density residential development in the order of 30 – 35 units per hectare. Given the proximity of the site to the town centre, where the quality of the design and layout is particularly high, higher densities may be appropriate.
- 10.3.6. The planning authority note that the proposed development is within the range envisaged by the LAP and raise no issue. I note that some observers equate the proposed density with increased numbers of units for the Clane area and see the density as a contravention of the plan, I do not. The proposed development will materially contravene the statutory plan in terms of dwelling target and capacity; however, the proposed development is within the residential density range for the area.
- 10.3.7. The proposed density of 35 units per hectare is in line with national guidance and the Local Area Plan and therefore not a material contravention of the relevant statutory plan. However, table 4.1 of the LAP estimates a residential capacity of 158 units in compliance with the core strategy of the county development plan and this conflicts with the guidance in relation to density articulated in the LAP. Thus, the proposed development would contravene table 4.1 of the LAP in relation to estimated residential capacity and this is in the context of inconsistencies between the plan objectives on residential capacity and residential density.

#### Material Contravention Conclusion

- 10.3.8. In summary, the proposed development will materially contravene the core strategy of the County Development Plan by the provision of 192 units for Clane where the dwellings target for 2020-2023 is 145 units, table 3.3 and Policy SS1 of the Kildare County Development Plan refer. In addition, the proposed development would

materially contravene the estimated residential capacity of 158 units for KDA 5 detailed in table 4.1 of the Clane LAP 2017-2023. The proposed development would not materially contravene the residential range of 30-35 units per hectare for KDA 5, however there is a conflicting estimated range of 30 units per hectare detailed in table 4.1 of the LAP, and this causes the potential for material contravention, when it may not be.

Material Contravention Legislation

- 10.3.9. Section 9(6)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 states that Subject to paragraph (b), the Board may decide to grant a permission for a proposed strategic housing development in respect of an application under section 4 even where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned.
- 10.3.10. Paragraph (b) of same states 'The Board shall not grant permission under paragraph (a) where the proposed development, or a part of it, contravenes materially the development plan or local area plan relating to the area concerned, in relation to the zoning of the land'.
- 10.3.11. Paragraph (c) states 'Where the proposed strategic housing development would materially contravene the development plan or local area plan, as the case may be, other than in relation to the zoning of the land, then the Board may only grant permission in accordance with paragraph (a) where it considers that, if section 37(2)(b) of the Act of 2000 were to apply, it would grant permission for the proposed development'.
- 10.3.12. The Planning and Development Act 2000 (as amended) provides that the Board is precluded from granting permission for development that is considered to be a material contravention, except in four circumstances. These circumstances, outlined in Section 37(2)(b), are as follows:
- (i) the proposed development is of strategic or national importance,*
  - (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or*

*(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or*

*(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.*

10.3.13. Should the Board be minded to invoke Article 37(2)(b) in relation to this current proposal, I consider that they can do so, having regard to the relevant criteria contained therein, and as set out below.

10.3.14. In relation to section 37(2)(b)(i), the matter of strategic or national importance, the current application has been lodged under the Strategic Housing legislation and comprises a significant amount of housing units (192) in the context of Clane overall, in order to meet the housing need of the area, and the proposal could therefore be considered to be strategic in nature. Given the site's location within Key Development Area 5 of the Clane Local Area Plan, the application site has the potential to contribute to the achievement of the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016.

10.3.15. In relation to section 37(2)(b)(ii), the matter of conflicting objectives in the development plan, I note that table 4.1 of the Clane Local Area Plan 2017-2023 estimates density per hectare of 30 units, but detailed guidance under section 12.2.5 KDA 5 – Millicent states the KDA is likely to accommodate medium density residential development in the order of 30 – 35 units per hectare. The proposed development will deliver 35 units per hectare, and this would meet with the requirements of detailed advice in the LAP for KDA 5. However, table 4.1 of the LAP bases targets around the potential for 30 units per hectare, which of course the proposed development would materially contravene. The Board may wish to note this confusing discrepancy as it refers to residential density and consider a material contravention of the plan based on table 4.1 or discount any material contravention of the plan if relying on the detailed guidance provided for KDA 5. The statutory plan

contains conflicting objectives for the area, I recommend the Board invoke section 37(2)(b)(ii) of the Act in this instance.

10.3.16. In relation to section 37(2)(b)(iii), in terms of relevant government policy, I note government policies as set out in the National Planning Framework, specifically:

NPO 3a: is that 40% of new homes would be within the footprint of existing settlements.

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

NPO 13: In urban areas, planning and related standards, including, in particular, 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.

In terms of regional planning guidelines for the area, I note that the Eastern & Midland Regional Assembly – Regional Spatial & Economic Strategy 2019-2031 seeks to promote compact urban growth - targets of at least 50% of all new homes to be built, to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas. With respect to the Sustainable Residential Development in Urban Areas (in particular Chapter 5 and 6 and the accompanying Urban Design Manual) and the Sustainable urban housing: Design Standards for New Apartments (in particular Section 2.4). These guidelines and policies contain objectives which support the delivery of residential development in appropriate locations through the promotion of appropriate scale and density. The proposed development is located on a serviced site identified as Key Development Area 5 in the Clane Local Area Plan 2017-2023, contiguous to the town which promotes compact urban form through the use of an appropriate quantum of development, density range and height, consistent with these objectives. Having regard to the provisions of Section 37(2)(b)(iii), it is justified, in my opinion, to

contravene the Kildare County Development Plan 2017-2023 in relation to core strategy and the quantum of development proposed.

10.3.17. In relation to the pattern of development/permissions granted in the area since the adoption of the Development Plan and the Local Area Plan where the quantum of development proposed exceeded that envisaged in the statutory plan, I am aware of recent planning permissions for strategic housing granted in the wider area. For example: ABP-308943-20 for 333 units and ABP-304632-19 for 366 units. However, I am uncertain of the legal standing of a permission for 333 units (ABP-308943-20 refers) and 366 units the subject of ABP-304632-19 were granted prior to the adoption of Variation 1 of the County Development Plan. Even though the current proposal is similar in design and layout terms to recently permitted development and broadly meets with the planned objectives for the area I am uncertain if they can be relied upon and so I do not recommend the use of section 37(2)(b)(iv) of the Act in this instance.

10.3.18. Section 37(2)(b) of the 2000 Act sets out four criteria, to allow the Board to consider permitting a development that poses a material contravention of the operative plan other than in relation to the zoning of the land. Should the Board be minded to initiate the material contravention procedure, as it relates to Development Plan policies pertaining to building height and unit mix, I consider that the provisions of Section 37(2)(b)(i), (ii) and (iii) have been met, and in this regard I consider that the Board could grant permission for the proposal.

10.3.19. I am of the opinion that given its zoning, the delivery of residential development on this well located and serviced site, in a compact form comprising well-designed, medium density housing units and low rise duplex apartments would be consistent with policies and intended outcomes of current Government policy. The site is considered to be located in an accessible location; it is within easy walking distance of public transport in an existing serviced area. The proposal seeks to widen the housing mix within the general area and would improve the extent to which it meets the various housing needs of the community. The principle of medium residential densities and a quantum of development greater than planned for is considered acceptable. I consider that the proposal does not represent over-development of the site and is acceptable in principle on these lands.

#### 10.4. Layout Design

- 10.4.1. The site comprises a large agricultural field currently in use for arable crops. There is a lengthy frontage along Millicent Road, this boundary is a combination of post and rail fencing and some hedgerow. The site is more or less level with Millicent Road and rises very slightly back across the whole field. The southern boundary of the site is not defined, and the south western portion backs on to a wooded area and a flooded quarry beyond. The northern boundary of the site comprises a mature hedgerow and a residence. The site also includes a wide linear access way northward to the Prosperous Road and finally a ball court associated with the neighbouring GAA grounds. The scheme is split into three character areas, mainly defined by different brick finishes and either all conventional housing or a combination of duplex apartments and houses.
- 10.4.2. The site is large and broadly square shaped and is defined by a central spine street to satisfy an objective for a link road from Prosperous Road to Millicent Road within KDA5, to be completed as integral part of development. This central spine street defines the entire development and provides for three locally important junction improvements. Firstly, the entrance to the GAA Club will be closed off to vehicular traffic and will use the new street junction on to Prosperous Road and a dedicated new junction form the proposed spine street. The termination of the new spine street will provide a new and improved junction environment at Millicent Road and Hemingway Park. The road hierarchy is well defined with six interconnected local streets off the spine street. Pedestrian and cycle facilities are intertwined with the street network in a logical fashion and I am satisfied that the street layout is logically planned and the street hierarchy is satisfactory.
- 10.4.3. Open spaces are provided throughout the scheme, with three large areas well defined and equally distributed throughout the site. There are numerous pocket parks and the linear green spaces enlivened with planting. Other public open spaces are found at the margins and are more of a visual amenity together with buffer space for tree retention at the edges and are to some degree also usable spaces. A very long linear open spaces is to be found along the central spine street as it connects with Prosperous Road and this is acceptable.

10.4.4. Houses and apartments are designed to front onto or provide views across open space and streets. The only area not directly overlooked will be the access street from Prosperous Road, however, this portion of the street will pass alongside the GAA grounds and car park. I am satisfied that there will be sufficient passing traffic and pedestrian footfall along this stretch of road to ensure acceptable levels of safety.

10.4.5. Open spaces are well overlooked and usable in the main, house types are designed to turn corners and open onto spaces. The scale of each building block is such that the perception of an impenetrable street wall should not occur. The stepping down to a domestic scale at the interface with existing single storey development is respectful and the provision of taller buildings and greater massing along the spine street and to Millicent Road is logical. I am satisfied that the design approach to the layout of this site is acceptable for this site and this location.

#### 10.5. Residential Amenity

10.5.1. As with any residential scheme, large or small, the residential amenities offered to future occupants and the preservation and protection of existing residential amenities is a very strong consideration. In this context, I firstly assess the proposed development as it refers to future occupants. I apply the relevant standards as outlined in section 28 guidelines, specifically the Sustainable Urban Housing: Design Standards for New Apartments (2020). With respect to the residential amenity for future residents (proposed residential amenity standards), the planning authority raise no issues with regard to the design of the scheme in terms of residential amenity. Observers are not concerned about the residential amenity aspects of the development. The applicant has submitted a variety of architectural drawings, computer generated images and photomontages. I am satisfied that an appropriate level of information has been submitted to address issues to do with residential amenity.

##### Proposed Residential Amenity Standards - Future Residents (houses)

10.5.2. The applicant has submitted a Schedule of Accommodation and Housing Quality Assessment, that outlines the floor areas associated with the proposed dwellings and apartments. There are no section 28 guidelines issued by the minister with regard to the minimum standards in the design and provision of floor space with

regard to conventional dwelling houses. However, best practice guidelines have been produced by the Department of the Environment, entitled Quality Housing for Sustainable Communities. Table 5.1 of the best practice guidelines sets out the target space provision for family dwellings. In all cases, the applicant has provided internal living accommodation that exceeds the best practice guidelines. According to the Schedule of Accommodation submitted by the application, all house types significantly exceed the relevant floor areas advised. In nearly all cases, over 22 metres separation distance between opposing first floor windows has been provided and in some cases, more. In locations where the gable ends of some house types are closer, bathroom windows are provided with obscured glazed, and this is satisfactory.

- 10.5.3. In terms of private open space, garden depths are mostly provided at a minimum of 11 metres and according to the schedule provided by the applicant result in between 60 up to 90 sqm across all house types. A very small number of rear garden depths are as low as 7 metres but are associated with large corner sites and result in good but irregularly shaped rear gardens with side access. In all of these cases where garden depths are quite shallow, there are wider parts to the rear garden that extend up to 11 metres. In general, the rear gardens associated with dwellings vary in shape and area and provide in excess of 60 sqm in most cases, the minimum sought by guidelines. The scale of the proposed dwellings and the large garden spaces are generous. The proposed dwelling houses are acceptable and will provide a good level of residential amenity to future occupants.

#### Future Residents (apartments)

- 10.5.4. The proposed development includes 78 apartments that comprises six buildings of three storeys (blocks A-F) located at the centre of the scheme and along Millicent Road. All blocks are located close or adjacent to public open spaces and are provided with their own private amenity spaces in the form of terraces and balconies. The Sustainable Urban Housing: Design Standards for New Apartments 2020 has a bearing on design and the minimum floor areas associated with the apartments. In this context, the guidelines set out Specific Planning Policy Requirements (SPPRs) that must be complied with. The apartments are arranged in a duplex format no more than three storeys in height. The applicant states that all of the apartments exceed the minimum area standard. The applicant has also submitted a Schedule of

Accommodation and Housing Quality Assessment, that outlines a full schedule of apartment sizes, that indicates proposed floor areas and required minima. In summary, it is stated that all apartments exceed the minimum floor area requirement by more than 10%, all units are described as dual aspect and all balcony/patio areas meet minimum requirements. I have interrogated the schedule of floor areas presented by the applicant and found these figures to be accurate. I am satisfied that the dual aspect design advanced by the applicant is acceptable and will provide satisfactory apartment units with adequate outlook and private amenity spaces are of a satisfactory size.

10.5.5. Dwelling Mix - The overall development provides 10 one bed units (5.2%), 40 two bed units (20.8%), 111 three bed units (57.8%) and 31 four bed units (16.2%). The amount of one bed units is significantly below the upward amount of 50% allowed for in the guidelines, with 5.2% of the total proposed development as one bed units. In my opinion the introduction of one, two and some three bedroom units will satisfy the desirability of providing for a range of dwelling types/sizes, having regard to the character of and existing mix of dwelling types in the area. Specific Planning Policy Requirement 1 is therefore met.

10.5.6. Apartment Design Standards - Under the Apartment Guidelines, the minimum gross floor area (GFA) for a 1 bedroom apartment is 45 sq.m, the standard for 2 bedroom apartment (3-person) is 63 sq.m, the standard for a 2 bedroom (four-person) apartment is 73 sq.m, while the minimum GFA for a 3 bedroom apartment is 90 sq.m, Appendix 1 *Required Minimum Floor Areas and Standards* of the Apartment Guidelines refer. The applicant states that this has been achieved in all cases and has been demonstrated in the Housing Quality Assessment (HQA) for apartments submitted with the application. Having reviewed the HQA, in terms of the robustness of this assessment and in the context of the Guidelines and associated standards, I would accept the applicant's analysis that the apartments are larger than the minimum standards by 10% amount in all of the units provided. I am satisfied that the proposed apartments are therefore in excess of the minimum floor area standards (SPPR 3), with none close to the minimum requirements. Given, that all apartments comprise floor areas in excess of the minimum, I am satisfied that the necessary standards have been achieved and exceeded. I am satisfied that the

internal layout and floor areas of the apartments are satisfactory from a residential amenity perspective, SPPR 3 of the guidelines is met.

10.5.7. Dual Aspect Ratios – The applicant points out that all units are dual aspect. Given the overall design of units proposed, a combination of conventional houses and duplex units on large floorplans, I can see that it has been relatively easy to provide dual aspect across all dwelling types, SPPR 4 of the guidelines is met.

10.5.8. Floor to ceiling height – the duplex apartment drawings that accompany the application show that floor to ceiling heights of 2.825 metres are provided at ground level and 2.7 metres at upper levels. This is acceptable and in accordance with SPPR 5 of the guidelines.

10.5.9. Lift and stair cores – there are no stair or lift cores, SPPR 6 of the guidelines is not relevant in relation to the duplex form of apartment unit proposed in this application.

10.5.10. Internal storage space is provided for all apartments at a minimum of 3.4 sqm and up to 8.3 sqm in some cases, with additional attic storage for the two storey units. Private amenity spaces exceed the minimum area required by the Apartment Guidelines (5 sqm for a one-bed, 7 sqm for a two bed unit and 9 sqm for a three bed unit). Public open spaces are evenly distributed throughout the scheme with no unit further than a short walk away. The design takes into account security considerations with good levels of passive surveillance and accessibility to amenity space. All of these features have been provided as part of the overall scheme and comply with the advice set out in sections 3 and 4 of the Apartment Guidelines.

10.5.11. Building Lifecycle Report - I note that the Apartment Guidelines, under section 6.13, require the preparation of a building lifecycle report regarding the long-term management and maintenance of apartments. Such a report has been supplied with the planning application and details long term maintenance and running costs. In addition, the guidelines remind developers of their obligations under the Multi-Unit Developments Act 2011, with reference to the ongoing costs that concern maintenance and management of apartments. A condition requiring the constitution of an owners' management company should be attached to any grant of permission.

10.5.12. Overlooking/Privacy - The planning authority have no concerns with regard to issues of privacy and overlooking in the proposed scheme. For the most part the proposed development is well spread out and there should be no adverse impacts

from potential loss of privacy or overlooking. There are two locations where opposing upper floor windows could cause an issue. Firstly, at the gap between blocks C and D, where gable wall secondary windows are located approximately 6 metres away from each other across a pedestrian footpath. At ground floor these windows allow good supervision of the space beyond, I do not recommend obscured glazing to be necessary. However, windows at upper floor levels provide a tertiary aspect and these windows should be fitted with obscured glazing panels.

10.5.13. The second area where there is a marginal possibility of overlooking is located between duplex block A and house type C1 to the north. The intervening distance between the gable of block A and house type C1 is approximately 14 metres across a footpath and wide landscaped area. House type C1 is designed to have a dual frontage with the eastern elevation facing on to Millicent Road, this is an advantageous aspect as it provides good passive surveillance of a key pedestrian access to the site from Clane Village to the north. I am satisfied that the distance between block A and house type C1 is sufficient, and I do not recommend the removal of house type C1 on plots 13 and 14 or amendment to upper floor windows to duplex block A.

10.5.14. Overshadowing/sunlight/daylight – Observers and the planning authority have not queried the lack of a daylight, sunlight and overshadowing assessment submitted with the application. The proposed development comprises a combination of conventional dwelling houses and five duplex apartment blocks no greater than three storeys in height. The overall layout allows for generous separation distances between buildings and all units are dual aspect with many units enjoying a third aspect on gable walls. I note that section 3.16 of the Apartment Guidelines discusses dual aspect ratios and states dual-aspect apartments, as well as maximising the availability of sunlight, also provide for cross ventilation and should be provided where possible. In duplex type or smaller apartment blocks that form part of mixed housing schemes in suburban areas, dual aspect provision is generally achievable. The proposed development provides just such a scenario where access to sunlight has been maximised in all cases through dual and triple aspect units. I note that section 3.2 development management criteria under the Building Height Guidelines (SPPR 3) refers to considerations on daylight and overshadowing. There are no tall buildings proposed in the scheme and so SPPR3 is not relevant in this instance. In

addition, I note that the Kildare County Development Plan under section 17.2.5 refers to the use of BRE Guidelines in relation to site layout and planning where significant height is proposed close to existing development, this is not such a case. I find that the low-rise form, low scale massing and minimal three storey height of the proposed development is carefully modulated so as to maximise access to natural daylight, ventilation and views and minimises any overshadowing and loss of light. The requirement for a specific sunlight/daylight and overshadowing analysis for this development is neither warranted nor useful in this instance. I am satisfied that there is no requirement under the relevant guidelines to prepare such an analysis when it is clear that a conventional housing and duplex apartment scheme with separation distances between opposing first floor windows of greater than 22 metres in the vast majority of cases would clearly allow excellent levels of daylight/sunlight to penetrate habitable rooms and amenity spaces.

#### Existing Residential Amenity

10.5.15. I note that a number of observers have raised concerns about the overall development in terms of its density, quantum of units and traffic impacts. These are matters dealt with elsewhere in this report. However, there are no specific concerns from observers in relation to how the proposed development impacts directly on the residential amenity associated with their own properties. The planning authority raise no particular concern with regard to how the development interacts with its neighbours.

10.5.16. The proposed development will be constructed on a very large agricultural field south of Clonsilla Village centre. There is a single residential property directly to the north of the site, with two others located across a private laneway. These three properties are located in excess of 22 metres from the rear elevations of proposed two storey houses, across intervening rear gardens and a mature hedgerow. I do not anticipate any issues from overlooking, overbearing appearance or overshadowing because the distances involved are so great. To the south along Millicent Road is a bungalow set on a large garden plot behind a mature hedgerow with the gable end of a two storey house set 15 metres northward, as above I anticipate no adverse residential amenity impacts at all. Lastly, across Millicent Road is located a relatively new development of semidetached and terraced houses, Hemingway Park. Given that over 25 metres separates the front elevation of houses at Hemingway Park and

proposed duplexes and a semidetached house across a public road, footpath and wide verge, I anticipate no adverse residential impacts of any type at this location. I find that there will be no adverse impacts in terms of overlooking and loss of privacy and this is due to the separation distances involved and the suburban context of the site. Neither does overbearing impact become a concern because along the site's northern and eastern boundary development has been designed to mirror what already exists across the street. Contextual elevations submitted with the application illustrate these points. Finally, because of the separation distances involved and the retention of mature hedgerow boundaries, any losses to daylight, direct sunlight or effects from overshadowing to existing residences are outside the scope of BAE/BS guidance that states such cases needn't be analysed. The proposed layout and design of the development is acceptable without amendment.

10.5.17. Given the foregoing, the reports and drawings prepared by the applicant and the views and observations expressed by the planning authority and observers, I am satisfied that the proposed development will provide an acceptable level of residential amenity for future occupants, subject to the minor alterations I recommend. In addition, the proposed development has been designed to preserve the residential amenities of nearby properties and will enhance the residential amenities associated with the existing houses in the area.

#### 10.6. Traffic and Transport

10.6.1. The proposed development of 192 dwelling units will gain vehicular access directly from Millicent Road and provide a link street through to the Prosperous Road to the north. The development will provide junction improvements at Millicent Road and Hemingway Park together with a dedicated entrance to the GAA grounds and a new junction to the Prosperous Road. A total of 340 car parking spaces and 160 bicycle spaces are provided. The planning authority are broadly satisfied with these access arrangements and recommend some technical adjustments should permission be granted. Observers are very concerned about the existing traffic situation in Clane, the lack of useful public transport and that the proposed development would promote more car journeys.

10.6.2. In detail, the proposed development includes a Link Street from the R403 Prosperous Road to the L-2004 Millicent Road. A priority controlled junction is

proposed onto the R403 Prosperous Road and a four arm signalised junction is proposed at the Millicent Road L-2004. The link also includes a new access into the GAA Club and it is proposed to decommission the existing GAA access from the R403. The Link Street is a strategic connection that is identified in the LAP (Table 8.1, Map 8.1 and Map 13.1 refers). Dedicated pedestrian and cycle facilities are provided along the street and along the eastern side of the Millicent Road. I am satisfied that the street will enhance the urban street network within Clane and that it is in accordance with DMURS. I recommend that detailed design drawings for the junctions and safety audits are submitted to the PA for agreement prior to the commencement of works.

10.6.3. Parking - The proposed development includes a total of 340 car parking spaces, 228 spaces for the 114 houses, 101 spaces for the 78 duplex units and 11 spaces for the crèche. Table 17.9 of the Kildare County Development Plan sets out car parking standards for the county. The standards are 2 spaces per house, 1.25 spaces per apartment and in the case of a crèche 1 space per 5 staff and 1 space per 10 children. This equates to a development plan requirement for 376 spaces. The CDP notes that other than 'residential' the standards are maximum standards. It also states that lower rates of parking may be appropriate at certain sites setting out criteria where this might arise and that the Council reserves the right to alter the requirements. The more recent Sustainable Urban Housing Apartments Guidelines 2018 (updated 2020) suggests that at 'Peripheral and / or Less Accessible Urban Locations' such as this (Section 11.1 refers) that one car parking space per apartment, together with an element of visitor parking, such as one space for every 3-4 apartments (Section 4.22 refers) should generally be required.

10.6.4. The planning authority are satisfied that car parking arrangements are adequate but note the Roads, Transport and Public Safety Department of the Council recommends that permission should be refused. The Roads Report refers to a shortfall of car parking for duplex units (36 no. spaces) relative to the development plan standard and states that this is contrary to Objective MTO4.1 of the local area plan which relating to complying with the car parking standards in the development plan. The Report states that the proposed development will result in an endangerment of public safety due to (a) the direct frontage of residential development and open space onto a 50 kph road and (b) the hazard arising from the

reduced car parking provision and resulting unauthorised parking along a 50 kph road. The Report also states that the location of car parking associated with houses 132 to 135 facing onto and accessing directly onto the L2004 Millicent Road (speed limit 50 kph) represents an endangerment of public health by reason of traffic hazard and an obstruction of road users. It is recommended that permission is refused on this basis. The Report states that the seven road junctions proposed along the length of the 'Road Objective' represents an impediment to the distributor road function and capacity of the road.

10.6.5. The Design Manual for Urban Roads and Street is the relevant street design document for urban areas (within the 50 kph speed zone). Section 2.2 refers to a shift away from conventional roads based design solutions towards a more integrated model of street design that incorporates elements of urban design and landscaping. Section 2.2.1 identifies connectivity, enclosure, active frontage and pedestrian activity as key characteristics of sustainable urban neighbourhoods. I am satisfied that the proposed roads layout is generally in accordance with the principles of DMURS. The provision of direct frontage onto the link street and Millicent Road is consistent with DMURS guidance. I would accept that the car parking spaces associated with dwellings no. 132-135 have limited visibility on approach from the south due to the presence of a hedgerow along the shared southern site boundary that that this coupled with their location at the edge of the built up area could result in a traffic hazard. I recommend that the in-curtilage spaces are omitted and replaced with a shared bay of up to 6 no. parallel parking spaces. This can be addressed by condition. The use of junction off sets along the link street is also in keeping with the traffic calming measure detailed in Section 4.4.7 of DMURS. While I accept that the route may have an important traffic function within the Glane area, I would not concur with the view that it should be designed as a distributor road and to cater for through traffic at the expense of creating an integrated street environment. This approach would diminish residential amenity within the scheme and contravene the guidance set out in DMURS.

10.6.6. In relation to car parking, the proposed houses and crèche meet the car parking standard in Table 17.9 of the KCDP, while the duplex units meet the standards set out in the Apartment Guidelines. I consider this approach to be reasonable and to be in accordance with national guidance. I do not concur with the view that this would

be in contravention of Objective MTO4.1 of the Clane LAP or the KCDP standards. The KCDP offers a level of flexibility in relation to the car parking standards set out in Table 17.9. I consider that the rate of provision overall would not represent a material deviation from these standards.

- 10.6.7. A total of 160 bicycle parking spaces are proposed, a combination of long stay and short stay spaces. 144 spaces are provided for the duplex units. The TTA states that the level of provision is higher than the development plan standard (Table 17.10) and that it represents a good compromise between the development plan standard and the standards set out in the Apartment Guidelines. I consider the approach to cycle parking to be reasonable having regard to the site's locational context.
- 10.6.8. Traffic Assessment - Observers have raised concerns in relation to the impact of traffic from the development on the local road network. The application is accompanied by a Transportation Assessment. The methodology used in the assessment is acceptable and generally in accordance with the TII Traffic Assessment Guidelines 2014 and the Institute of Highways and Transportation Guidelines for Traffic Impact Assessments. The impact of the proposed development on the signalised junction at the intersection of Main Street (R407) and Prosperous Road (R403); on the priority controlled junction at Main Street (R407) and Millicent Road and on the proposed junctions onto Prosperous Road (priority controlled) and Millicent Road (signalised) is considered. Traffic counts were undertaken at all four locations in September 2019. The surveys reflect a pre-COVID situation and on this basis are considered to provide a good indication of baseline traffic. Trip rates from the proposed development and for committed development in the Hemingway development to the east are calculated using the TII approved TRICS Database. The impact of diversions arising from the proposed Link Street is also considered. An Opening Year of 2021 and future years of 2026 (+5 years) and 2036 (+15 years) are considered.
- 10.6.9. Preliminary analysis indicates that the proposed development would result in a slight reduction of traffic volumes at the Prosperous Road / Main Street junction (2.2% am peak and 4.25% pm peak) and at the Millicent Road / Main Street junction (1.32% am peak and 2.59% pm peak). Detailed modelling was not undertaken for the Prosperous Road / Main Street junction or the Millicent Road / Main Street junction as the preliminary assessment indicated that the proposed development would not

result in a material increase in traffic at these junctions (+5%). This approach is in accordance with the TII guidance. Detailed modelling of the proposed junctions onto the R403 and L-2004 has been carried out. The assessment of both junctions indicates that the junctions will operate with significant reserve capacity in all design years modelled. I am satisfied that the submitted traffic assessment is robust and that it accords with relevant national guidance. The assessment demonstrates that the impact of the proposed development on the local traffic network would be marginally positive.

10.6.10. Construction Traffic - The submitted Construction and Environmental Management Plan states that a detailed CEMP to include a Traffic Management Plan will be submitted to the PA for agreement prior to the commencement of development. I would note that the volume of traffic during construction will be lower than that generated during the operational phase and that any impacts arising will be temporary in nature. I am satisfied that impacts can be satisfactorily addressed through the implementation of a Traffic Management Plan. This can be satisfactorily addressed by way of condition.

10.6.11. Traffic and Transport Conclusion - The concern voiced by observers with regard to the general traffic scenario around Clane is a much broader issue not solved or exacerbated by the proposed development. The proposed development will increase permeability in and around the Village centre and provide safer crossing opportunities for pedestrians where they do not currently exist. On balance, the proposed development is located at a well-served suburban location close to a variety of amenities and facilities, such as schools, playing pitches and the commercial/retail centres of the Village. Current public transport options are limited to low frequency bus services but these can only improve with increased densities and patronage. In addition, there are good cycle and pedestrian facilities proposed in the development and this should encourage other network improvements in the area. The proposed development will add significant improvements to the public realm in this respect. It is inevitable that traffic in all forms will increase as more housing comes on stream. However, I am satisfied that most of the ingredients are in place to encourage existing and future residents to increase modal shift away from car use to more sustainable modes of transport and this can be achieved by the preparation of a mobility management plan and car parking strategy.

## 10.7. Infrastructure

- 10.7.1. The applicant has prepared an Infrastructure Design Report and a Site Specific Flood Risk Assessment, as well as detailed infrastructure drawings to support the application. I deal with infrastructure aspects of the proposal such as drainage, flood risk and water services over the following sections:
- 10.7.2. Drainage - The Infrastructure Design Report submitted with the application outlines in detail the surface water management strategy proposed for the site. The report explains that drainage ditches on the eastern side of the site were piped during the construction of the footpath along Millicent Rd by Kildare County Council. A drainage ditch running along northern site boundary has been partially culverted and generally takes the surface water runoff from the Prosperous Road. Approximately 500m of a 1500mm diameter overflow culvert was constructed as part of the Butterstream Flood Alleviation Works by Kildare County Council back in 2011 and it crosses under the proposed access road before discharging back to the original Butterstream channel. It is proposed to discharge attenuated surface water flows from the proposed development to the Butterstream via this culvert under the access road. The surface water management for the proposed development is designed to comply with the Greater Dublin Strategic Drainage Study (GDSDS) policies and guidelines and the requirements of Kildare County Council. The proposal includes SuDS and surface water attenuation storage. The planning authority raise no objection to the proposed surface water management strategy subject to the attachment of conditions that I consider to be of a standard and technical nature.
- 10.7.3. I note that the submission from IFI and a third party suggest that it would be preferable if outfall was to an open watercourse channel as it will be more difficult to identify pollution where outfall is via a culvert. I consider that the risk of pollution from a development of the nature proposed is relatively low (risk of hydrocarbons from roads / parking areas entering the system) and that the surface water system includes sufficient measures to remove potential pollutants (bypass interceptor).
- 10.7.4. Flood Risk – the applicant has prepared a site-specific Flood Risk Assessment, the majority of the site is located in flood zone C, however, the proposed link street crosses an area identified as flood zone A and B. The Planning System and Flood Risk Management – Guidelines classify residential development and emergency

access / egress points as highly vulnerable development classes (Table 3.1) and indicate that such development can only be considered in Flood Zone A or B, where it meets the criteria of the Development Management Justification Test (in Chapter 5). A justification test has been carried out. The applicant's report concludes that:

- Proposed residential development is appropriate for the site's flood zone category.
- The sequential approach outlined in Planning System and Flood Risk Management Guidelines has been adhered to.
- A conservative approach has been undertaken even though the majority of the proposed site including all residential dwellings was found to be in Flood Zone C.
- The proposed Link Street passed the Justification Test in accordance with Box 5.1 of the Guidelines.
- Compensatory flood storage is provided for the minor extent of existing 1% AEP displaced by the Link Street at the Prosperous Road end.
- The proposed development will not increase run-off rates when compared with the existing site and satisfies the requirement of the SSFRA to not increase flooding.
- The proposed development is considered to have the required level of flood protection up to and including the 1% AEP storm event.

10.7.5. I am satisfied on the basis of the submitted information and in particular the SSFRA that the proposed development passes the Development Management Justification Test and that the level of residual risk to the proposed development from flooding is low, having regard to the location of the dwellings, crèche and open spaces within Flood Zone C (low risk). I am satisfied having regard to the proposal to provide compensatory storage that there would be no increase in flood risk at other locations. While a section of the proposed access road is within Flood A/B I am satisfied that there is an alternative access route into the site in the event of a flood event.

10.7.6. Water Services – The site can be facilitated by water services infrastructure and the planning authority and Irish Water have confirmed this. In this respect, IW have

stated that wastewater services upgrade works are required; a project is underway to relieve capacity constraints in Clane (Upper Liffey Valley Sewerage Scheme Contract 2B – ULVSS). It is expected connection(s) for this development can be facilitated on completion of this project which is scheduled for end of 2021/2022 (subject to change). On the basis that this work is substantially completed and that there is sufficient certainty in relation to the timeframe for completion I consider that a refusal of permission would not be warranted on the basis of prematurity.

10.7.7. To facilitate water connections, the following upsizing works will be required to be carried out by the developer:

- Approx. 370m of existing 125mm uPVC main to be upsized to 200mm ID on the R403.
- Approx. 440m of existing 150mm uPVC main to be upsized to 200mm ID from the junction of L1023 / R407 (Manzors) to the roundabout outside Tesco.
- Approx. 50m of existing 100mm uPVC to be upsized to 225mm ID from the roundabout outside Tesco towards the Westgrove Hotel.

10.7.8. The developer will be required to wholly fund the upgrade works which would be carried out by Irish Water and IW note that any consents required will be the responsibility of the applicant. The submitted Infrastructure Design Report notes the works required and issues are not raised. I note that the sections of network referenced by IW are contained within the public road network. On this basis I am satisfied that the necessary upgrades can be undertaken without planning or third party consents and that a refusal of permission would not, therefore, be warranted on this basis. I am satisfied that there are no significant water services issues that cannot be addressed by an appropriate condition.

#### 10.8. Ecology

10.8.1. The applicant has submitted an Ecological Impact Assessment, prepared by BioSphere Environmental Services and dated July 2021. A systematic walk-over survey of the site was conducted on 9 July 2021 to supplement data already collected in earlier surveys conducted by Scott Cawley in 2019. The Ecological Impact Assessment includes habit surveys, terrestrial mammal surveys (ex. bats), bat survey and breeding bird surveys.

- 10.8.2. A submission was received from Inland Fisheries Ireland, a prescribed body, that notes the site is in the catchment of the Butterstream River and adjacent to the River Liffey (salmonid rivers). The submission states that comprehensive surface water management measures (GDSDS study recommendations) must be implemented at construction and operation stage to prevent pollutions to the surface waters. The submission notes IFI policy to maintain watercourses in an open natural state in order to prevent habitat loss and preserve and enhance biological diversity and aid in pollution detection. The opportunity to open up culverted sections of the Butterstream is noted.
- 10.8.3. The site is not within or immediately adjacent to any European or nationally designated sites. The potential for impacts on European sites is considered separately in Section 13.0 below Appropriate Assessment.
- 10.8.4. The site is dominated by arable crops and includes areas of dry meadow and grassy verges, hedgerows, treelines, scrub and buildings and artificial surfaces. The Butterstream River (culverted) runs from west to east in the northern section of the site (main channel culvert and overflow culvert) before entering the open river channel to the immediate east of the site. The Butterstream River is a tributary of the River Liffey and enters this watercourse c. 1 km downstream. There are culverted drainage ditches along the northern boundary to Prosperous Road and eastern boundary to Millicent Road. No Annex I plant species or species protected through their inclusion within the Flora (Protection) Order 2015 were recorded during the field surveys. No third schedule non-native invasive species were recorded during surveys. Habitats within the site provide suitable foraging and commuting habitat for badger and there is some (limited) suitable foraging habitat for hedgehog, pine martin and red squirrel. No evidence of these species was found during survey. It is considered that badger and hedgehog could use the site but that red squirrel and pine martin are unlikely to. There are no over-ground water bodies within the site and due to the small and culverted nature of watercourses and ditches it is considered unlikely that the site is used by otters. No signs of non-native invasive mammals were identified. A range of common bird species were noted using the site for foraging and breeding purposes during the breeding bird survey undertaken in June 2019. No nests were observed; however, the site is likely to be used for breeding by various species. The habitats within and adjacent to the site are considered to

provide good commuting and foraging routes for bats. A bat survey in June 2019 recorded three common species of bat: Leisler's bat, common pipistrelle and soprano pipistrelle foraging and commuting within the lands. The activity was focused along the treeline in the north of the site and the treeline in the south west.

- 10.8.5. The site is considered to have the potential for ecological receptors of local importance and high ecological value. The assessment states that the proposed development has no potential to affect surface water quality or the ecology of the adjacent waterbodies. In this regard it is noted that surface water systems are designed in accordance with the principles of SUDS and that there will be no works (e.g. piling or blasting) that may affect groundwater and groundwater to terrestrial habitats. The submitted Construction and Environmental Management Plan includes specific measures to mitigate risks to the water environment (inc. groundwater) during the construction phase. I note an inactive quarry lake located over 100 metres to the south west of the site and having regard to the conclusions of the ecological impact assessment I am satisfied that the potential for impacts on this lake can reasonably be excluded. There is no connection to this lake via the surface water system and ground water impacts can be excluded given the ground condition and nature of works proposed.
- 10.8.6. Section 6 of the Ecological Impact Assessment sets out mitigation and enhancement measures designed to avoid or minimise impacts on the receiving terrestrial environment (summarised in Table 4). This includes measures to protect tree lines, seasonal vegetation clearance, surveys prior to felling, pre-construction checks for badger and use of directional lighting to avoid light spill. I consider that the mitigation and / or enhancement measures are comprehensive and represent effective control measures to protect the receiving environment. I accept the conclusion that subject to the implementation of the mitigation measures no significant residual ecological effects are predicted, either alone or in combination with other projects in the area.
- 10.8.7. In relation to the potential to open up existing culverts of the Butterstream River in the northern section of the site I note that the main channel and overflow culverts that run underground at this location are part of a wider flood alleviation scheme undertaken in 2011 to address flooding incidence on lands to the west of the site. While I acknowledge the ecological benefits of opening culverts, I consider that any proposal to alter or remove this culvert could have wider flood risk implications for

the area and that this would need to be considered as part of a review of the wider flood alleviation scheme.

#### **10.9. Other Matters**

- 10.9.1. Archaeology and Built Heritage - I refer the Board to the Cultural Heritage Assessment Report submitted by the applicant. The current site is located immediately outside of the south western extent of the Zone of Archaeological Potential associated with the Historic Town of Clane. There is a historic Wayside Cross Base (RPS Ref. B14-067) immediately east of the proposed development (within the site boundary) in the grass margin along Millicent Road. A modern cross was inserted in into the base in 1999. Geophysical survey and Archaeological Testing (Licence Ref. 19E0768) has been undertaken within the site. No artefacts of archaeological or historical interest were recorded. The Cultural Heritage Assessment Report proposes archaeological monitoring of ground works under licence, and measures to protect the wayside cross and base. I am satisfied that the matters raised can be satisfactorily addressed by way of condition.
- 10.9.2. Social and Affordable Housing – The applicant has submitted proposals for transfer of 10% of the proposed units to the planning authority. The PA note the transfer of 19 units, a combination of 7 three bed units (type C), 6 two bed duplex units (Block D) and 6 three bed duplex units (also in Block D) and recommended conditions. The standard Part V requirement of 10% was applicable at the time that the application was lodged. I note that the recent Review of Part V of the Planning and Development Act published by the Department of Housing, Local Government and Heritage, examined the implications for overall housing supply, of increasing the 10% social housing requirement, that had applied since September 2015 to all new housing developments, to 20% (or above). I anticipate that full compliance with any changes to Part V of the PDA 2000 can be addressed by a suitable condition that requires further agreement between developer and planning authority.
- 10.9.3. Childcare facilities - The proposed crèche has a stated floor area of 160sq.m with capacity for 26 children. The proposed childcare facility meets the requirement of the Clane LAP. The submission from the PA suggest that childcare provision should meet the 20 space per 75 unit standard in the Childcare Guidelines and question the location of the creche within Block B. I am satisfied that the rate of provision is

acceptable by reference to the Childcare Facilities Guidelines (Appendix 2) and the Local Area Plan. I am also satisfied that the location of the creche within Block B is acceptable and I recommend no changes to the design and layout of the scheme.

10.9.4. Recent Section 28 Guidelines – The new guidelines are brief and concern the regulation of commercial institutional investment in certain housing developments of five or more houses and/or duplex units but not those schemes that have 'build-to-rent' status. The Regulation of Commercial Institutional Investment in Housing May 2021 Guidelines for Planning Authorities, enables planning authorities and An Bord Pleanála to attach planning conditions that require a legal agreement controlling the occupation of units to individual purchasers, i.e. those not being a corporate entity, and, those eligible for the occupation of social and/or affordable housing, including cost rental housing. In the context of the current planning application that comprises a mixture of houses and apartments/duplexes it is appropriate to attach the relevant condition advised by the recently published guidelines.

10.9.5. Letters of support – I note that the proposed development is supported by Clane GAA, Scoil Bride and Scoil Mhuire. In the context of Clane GAA, it is stated that the proposed development will assist with safe access and egress from the club, provide many public realm improvements and assist with the overall growth of the club. Scoil Bride note the availability of school places in many of their classes and Scoil Mhuire recognise the assistance of the developer in their own school improvements and general improvements to walking and cycling facilities in the area.

## **11.0 Screening for Environmental Impact Assessment**

11.1.1. The site is an urban brownfield site (zoned Objective C, New Residential, to 'provide for new residential development', Objective F 'Open Space and Amenity', to 'protect and provide for open space, amenity and recreation', Objective B 'Existing Residential/Infill, to 'protect and enhance the amenity of established residential communities and promote sustainable intensification') located within an existing urban area comprising a combination of houses and duplex units. The site comprises agricultural lands. The proposed development relates to the construction of 192 units in a combination of apartments and houses up to three storeys in height.

- 11.1.2. 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.
- 11.1.3. The proposal for 192 residential units on a site of 6.4 ha is below the mandatory threshold for EIA. The nature and the size of the proposed development is well below the applicable thresholds for EIA. I 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 concludes that the potential for adverse impacts on a Natura 2000 site can be excluded at the screening stage.
- 11.1.4. 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. The application includes a standalone Statement in accordance with Article 299B(1)(b)(ii)(II)(C) of the Planning and Development Regulations 2001-2021.
- 11.1.5. 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:
- Planning Report and Statement of Consistency
  - Environmental Impact Assessment Screening Report

- Standalone Article 299B Statement
- Material Contravention Statement
- Statement on Housing Mix
- Social Infrastructure Assessment
- Architects Design Report
- Housing Quality Assessment
- Universal Access Statement
- Photomontage and CGI Booklet
- An Infrastructure Design Report
- Site-Specific Flood Risk Assessment Report
- Traffic and Transport Assessment Report
- DMURS Design Statement
- Construction and Environmental Management Plan
- Stage 1 and 2 Road Safety Audit
- A Landscape Design Rationale Report
- Natura Impact Statement and Ecological Impact Assessment Report
- Building Lifecycle Report and Operational Waste Management Plan
- Cultural Heritage Assessment Report
- Preliminary Lighting Design Report
- Tree Survey Report

11.1. 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 note that the applicant has identified the following assessments / reports:

- Ecological Impact Assessment Report (EclA) has been undertaken pursuant to:
  - The Wildlife Act 1976 (as amended)
  - The Habitats Directive 92/43/EEC (as amended);
  - The Birds Directive 2009/147/EC (as amended);
  - European Communities (Birds and Natural Habitats) Regulations 2011 S.I. 477 of 2011 (as amended).
  - The EIA Directive 2011/92/EU as amended by Directive 2014/52/EU;
  - European Communities (Environmental Impact Assessment) (Agriculture) Regulations 2011 [S.I.No. 456/2011];
  - European Union (Environmental Impact Assessment and Habitats) Regulations 2011 [S.I. No.473/2011];
  - European Union (Environmental Impact Assessment and Habitats) Regulations 2012 [S.I. No.246/2012];
  - European Union (EU) (Environmental Impact Assessment and Habitats) (No. 2) Regulations 2015. [S.I. No. 320/2015];
  - Flora (Protection) Order, 2015 S.I. 356.
- The Site Specific Flood Risk Assessment addresses the potential for flooding having regard to the OPW CFRAMS study which was undertaken in response to the Directive 2007/60/EC - Floods Directive.
- Appropriate Assessment Screening & Natura Impact Statement Report (AA Screening and NIS), Construction & Environmental Management Plan (CEMP), prepared in accordance with Directive 2000/60/EC - Water Framework Directive
- Report on Appropriate Assessment Screening (NIS) has been undertaken pursuant to the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC).

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.

- 11.2. 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.
- 11.3. Overall, I am satisfied that the information required under Section 299B(1)(b)(ii)(II) of the Planning and Development Regulations 2001 (as amended) have been submitted, a standalone statement to the effect has been submitted by the applicant. A Screening Determination should be issued confirming that there is no requirement for an EIAR based on the above considerations.
- 11.4. Having regard to:
- (a) The nature and scale of the proposed development which is below the threshold in respect of Class 10(b)(iv) and Class 13 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
  - (b) the site's location close to Clane town centre, within an established built up area on lands with a zoning Objective C, New Residential - 'provide for new residential development', Objective F 'Open Space and Amenity', to 'protect and provide for open space, amenity and recreation', and Objective B 'Existing Residential/Infill, to 'protect and enhance the amenity of established residential communities and promote sustainable intensification' in the Clane Local Area Plan 2017-2023,
  - (c) the existing use on the site and pattern of development in the surrounding area,

- (d) the planning history relating to the site and the surrounding area,
- (e) the availability of mains water and wastewater services to serve the proposed development,
- (f) 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,
- (g) the provisions of the guidance as 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),
- (h) the criteria as set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, and
- (i) the features and measures proposed by the developer envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction and Environmental Management Plan.

11.5. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded. An EIA - Preliminary Examination form (see appendix A) has been completed and a screening determination is not required.

## **12.0 Appropriate Assessment**

### **12.1. Introduction**

The applicant has prepared an AA Screening Report as part of a Natura Impact Statement (NIS). The screening report concludes that potential impacts on four identified European sites may arise as a result of the proposed development, during the construction and operational phases and so an NIS has been prepared. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U and section 177V of the

Planning and Development Act 2000 (as amended) are considered fully in this section.

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

The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given. The proposed development is not directly connected to or necessary to the management of any European site and therefore is subject to the provisions of Article 6(3).

The applicant has submitted a Screening Report for Appropriate Assessment as well as an NIS. The Screening Report has been prepared by BioSphere Environmental Services. The Report provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. The AA screening report concludes that "in the absence of mitigation, there is potential for contaminated water emanating from the development site to enter the River Liffey system and ultimately the aquatic and intertidal environment of Dublin Bay, during the construction and (to a lesser extent) operational phases of the proposed development."

Having reviewed the documents and submissions, I am satisfied that the submitted information allows for a complete examination and identification of all the aspects of the project that could have an effect, alone, or in combination with other plans and projects on European sites.

## **12.3. Need for Stage 1 AA Screening**

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). 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.

#### **12.4. Brief Description of the Development**

The applicant provides a description of the project in Section 2.2 of the Screening Report. The development is also summarised in Section 3 of my Report. In summary, permission is sought for 197 residential units and a crèche on a greenfield site of 6.4 hectares that is on the south western edge of Clane. Land uses in the vicinity include a sports ground and residential properties. The site is serviced by public water supply and foul drainage networks. Foul effluent will drain to a 225mm diameter sewer on Millicent Road to the east of the site. Surface water from the development will outfall to the Butterstream via an existing culvert that runs through the northern section of the site. The dominant habitat on site is arable crops. There are also areas of dry meadow and grassy verges, hedgerows, treelines, scrub and buildings and artificial surfaces (in the GAA lands). No flora or fauna species for which Natura 2000 sites have been designated were recorded on the application site.

#### **12.5. Submissions and Observations**

The submissions and observations from the Local Authority, Prescribed Bodies, and third parties are summarised in sections 8, 9 and 10 above. The submission received from Inland Fisheries Ireland notes that the site is in the catchment of the Butterstream and adjacent to the River Liffey. It is noted that the Butterstream has a resident population of brown trout, lamprey species and Freshwater Crayfish (Annex II) and that it is an important spawning tributary of the River Liffey which supports Atlantic Salmon (Annex II and V), Sea Trout and Brown Trout and several other fish species. The submission notes that comprehensive surface water management measures (GDSDS study recommendations) must be implemented at construction and operation stage to prevent pollutions to the surface waters. The submission notes that it is IFI policy to maintain watercourses in open natural state in order to prevent habitat loss and preserve and enhance biological diversity and aid in pollution detection. The opportunity to open up culverted sections of the Butterstream is noted. Culverting surface water discharges can make them difficult

to trace. Preferable if surface water discharges are visible for inspection should a pollution event occur. The submission states that all discharges must be in compliance with the EC (Surface Water) Regulations 2009 and the EC (Groundwater) Regulations 2010.

## **12.6. Zone of Influence**

- 12.6.1. A summary of European Sites is presented in Section 2.3 of the AA Screening Report. The proposed development is not located within or immediately adjacent to any European Site. The nearest European sites to the proposed development are Ballynafagh Bog SAC and Ballynafagh Lake SAC located c. 5km and 6.2 km east of the site respectively. Mouds Bog SAC is c. 10 km south west of the site and the Rye Water / Carton SAC is c. 13.5 km north east of the site. The subject lands are located c. 500m west of the River Liffey and the Butterstream River flows into the River Liffey at this location. The River Liffey flows east for c. 14 km before entering Dublin Bay. The following European Sites are located in the downstream receiving environment of the River Liffey: South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA, and North Bull Island SPA. The proposed development has no potential source pathway receptor connections to any other European Sites.
- 12.6.2. There are no Annex 1 habitats present within the proposed development site or its immediate environs. There are no records of any species or habitats for which European sites are designated within the development site. The nearest major watercourse is the River Liffey with the main waterbody located c. 500m to the east of the site. A tributary, the Butterstream River runs under Clane GAA grounds and the proposed access road from the R403 through Clane town for c. 970m before joining the River Liffey east of Alexandra Bridge. The River Liffey then flows c. 45 km before going into the Dublin Bay coastal waterbody.
- 12.6.3. Section 2.4 of the applicant's screening report identifies potential impacts in the absence of mitigation associated with the proposed development taking account of the characteristics of the proposed development in terms of its location and scale of works, and examines whether there are any European sites within the zone of influence. The single issue examined is the potential for linkage through hydrological connections. In the absence of mitigation, the input of potential pollutants to the

North Dublin Bay SAC and the South Dublin Bay SAC, via the River Liffey, could have potential effects on the following qualifying interests of the SACs. In addition, the report highlights that In the absence of mitigation, the input of potential pollutants to the North Bull Island SPA and the South Dublin Bay and the River Tolka Estuary SPA, via the River Liffey, could have potential effects on the following Special Conservation Interests of the two SPAs. However, the report concludes that there would be no potential for any impacts to other Nature 2000 sites because they lie upstream. The applicant's screening assessment concludes that, as the risk of potential significant effects on four European sites cannot be ruled out, during the construction and operational phases, the four sites are: North Dublin Bay SAC (code 00206), South Dublin Bay SAC (code 00210), South Dublin Bay & River Tolka Estuary SPA (code 04024) and North Bull Island SPA (code 04006).

#### 12.7. Screening Assessment

In terms of zone of interest there are six Natura 2000 sites that are within 15 km of the application site, they are as follows:

- Ballynafagh Lake SAC (001387) c.6.2 km distance
- Ballynafagh Bog SAC (000391) c. 5 km distance
- Mouds Bog SAC (002331) c.10 km distance
- Pollardstown Fen SAC (00396) c.14.5 km distance
- Red Bog SAC (00397) c.14.5 km distance
- Rye Water Valley/Carton SAC (001398) c.13.5 km distance

In applying the 'source-pathway-receptor' model to all Natura 2000 sites within 15 km of the application site I am satisfied that the potential for impacts on all of these Natura 2000 sites can be excluded at the preliminary stage due to the nature and scale of the proposed development, the degree of separation and the absence of ecological and hydrological pathways.

In applying the 'source-pathway-receptor' model, I consider that the following sites could potentially be affected due to connections via surface water drainage: North Dublin Bay SAC/South Dublin Bay SAC/North Bull Island SPA/South Dublin Bay and

River Tolka Estuary SPA. The Conservation Objectives (CO) and Qualifying Interests of these four sites are as follows:

European Site (code)	List of Qualifying interest (QI) /Special Conservation Interest (SCI)	Distance from proposed development (Km)	Conservation objectives
<b>SAC</b>			
South Dublin Bay SAC (site code: 0210)	Mudflats and sandflats not covered by seawater at low tide [1140] Annual vegetation of drift lines [1210] Salicornia and other annuals colonising mud and sand [1310] Embryonic shifting dunes [2110]	c. 31.1km to the east of the site.	To maintain the favourable conservation condition of habitats  *See South Dublin Bay SPA also
North Dublin Bay SAC (site code: 0206)	1140 Mudflats and sandflats not covered by seawater at low tide 1210 Annual vegetation of drift lines 1310 Salicornia and other annuals colonising mud and sand 1330 Atlantic salt meadows (Glaucopuccinellietalia maritima) 1410 Mediterranean salt meadows (Jurquetalia maritima) 2110 Embryonic shifting dunes 2120 Shifting dunes along the shoreline with Ammophila arenaria (white dunes) 2130 Fixed coastal dunes with herbaceous vegetation (grey dunes) 2190 Humid dune slacks 1395 Petalwort Petalophyllum ralfsii	c. 33.7km to the north east of the site.	To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide, Atlantic salt meadows (Glaucopuccinellietalia maritima), Fixed coastal dunes with herbaceous vegetation, Petalwort,  To restore the favourable conservation condition of Annual vegetation of drift lines, Salicornia and other annuals colonizing mud and sand, Embryonic shifting dunes, Humid dune slacks.
<b>SPA</b>			
South Dublin Bay and River Tolka Estuary	A144 Sanderling (Calidris alba) A157 Bar-tailed Godwit (Limosa lapponica)	c.32km to the east of the site.	To maintain the favourable conservation condition of the bird species listed as

SPA [site code: 004024]	A149 Dunlin ( <i>Calidris alpina</i> ) A162 Redshank ( <i>Tringa totanus</i> ) A179 Black-headed Gull ( <i>Chroicocephalus ridibundus</i> ) A143 Knot ( <i>Calidris canutus</i> ) A192 Roseate Tern ( <i>Sterna dougallii</i> ) A046 Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) A141 Grey Plover ( <i>Pluvialis squatarola</i> ) A130 Oystercatcher ( <i>Haematopus ostralegus</i> ) A194 Arctic Tern ( <i>Sterna paradisaea</i> ) A193 Common Tern ( <i>Sterna hirundo</i> ) A137 Ringed Plover ( <i>Charadrius hiaticula</i> ) A999 Wetlands		Special Conservation Interests for this SPA
North Bull Island SPA (site code 004006)	A160 Curlew ( <i>Numenius arquata</i> ) A149 Dunlin ( <i>Calidris alpina</i> ) A157 Bar-tailed Godwit ( <i>Limosa lapponica</i> ) A162 Redshank ( <i>Tringa totanus</i> ) A179 Black-headed Gull ( <i>Chroicocephalus ridibundus</i> ) A144 Sanderling ( <i>Calidris alba</i> ) A156 Black-tailed Godwit ( <i>Limosa limosa</i> ) A143 Knot ( <i>Calidris canutus</i> ) A169 Turnstone ( <i>Arenaria interpres</i> ) A054 Pintail ( <i>Anas acuta</i> ) A046 Light-bellied Brent Goose ( <i>Branta bernicla hrota</i> ) A048 Shelduck ( <i>Tadorna tadorna</i> ) A052 Teal ( <i>Anas crecca</i> )		

	A141 Grey Plover (Pluvialis squatarola) A056 Shoveler (Anas clypeata) A130 Oystercatcher (Haematopus ostralegus) A140 Golden Plover (Pluvialis apricaria) A999 Wetlands		
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#### 12.7.1. Consideration of Impacts:

- There is nothing unique or particularly challenging about the proposed greenfield development, either at construction phase or operational phase.
- With regard to impacts on sites within a 15 km radius due to ecological connections, I am satisfied having regard to the nature and scale of the proposed development on zoned and serviced land, the minimum separation distances from European sites, the intervening uses, and the absence of direct source – pathway – receptor linkages, that there is no potential for indirect impacts on sites in the wider area (e.g. due to habitat loss / fragmentation, disturbance or displacement or any other indirect impacts) and that no Appropriate Assessment issues arise in relation to the European sites listed above.
- During the operational stage surface water from the proposed development will outfall to an existing culverted watercourse within the site – Butterstream. This watercourse in turn drains to the River Liffey c. 970m east of the site. Surface waters then flow an additional c. 45 km before discharging into the Dublin Bay coastal water where there are a number of downstream European Sites, namely the South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA and North Bull Island SAC. The surface water pathway creates the potential for an interrupted and distant hydrological connection between the proposed development and European sites in the inner section of Dublin Bay. During the construction phase standard pollution control measures are to be used to prevent sediment or pollutants from leaving the construction site and entering the water system. During the operational phase clean, attenuated surface water will discharge to the Butterstream River at

greenfield rates (See Infrastructure Design Report and Outline Construction and Environmental Management Plan). The pollution control measures to be undertaken during both the construction and operational phases are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed, I remain satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites in Dublin Bay can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development and the distance and volume of water separating the application site from Natura 2000 sites in Dublin Bay (dilution factor).

- I would note that the submitted AA Screening Report refers to wastewater discharge to the Ringsend WWTP until such time as wastewater from the development will pass to the Osberstown wastewater treatment plant (also known as the Upper Liffey Valley Regional Sewerage Scheme), which is being upgraded at present under the project Upper Liffey Valley Contract 2B, with works on site and due for completion by end of 2021/2022 (as stated in Irish Water submission).
- In terms of in combination impacts other projects within the Kildare and Dublin areas which can influence conditions in the River Liffey via rivers and other surface water features are also subject to AA. In this way in-combination impacts of plans or projects are avoided.
- It is evident from the information before the Board that the proposed development, individually or in combination with other plans or projects, would be not be likely to have a significant effect on the South Dublin Bay SAC, North Dublin Bay SAC, South Dublin Bay and River Tolka Estuary SPA and North Bull Island SPA and that Stage II AA is not required.

12.7.2. The Conservation Objectives for the sites are to maintain or restore the favourable conservation condition of each qualifying species/habitat. I note the submission made by Inland Fisheries Ireland. The potential effects on the above sites arise from the hydrological connection between the development site and those Natura 2000 sites in the form of surface water drainage connection. There is a possibility of

contaminated surface water run-off, or an accidental pollution event during construction or operation, that could lead to habitat degradation. Surface waters from the proposed development will drain via existing infrastructure to the River Liffey and then enter Dublin Bay.

- 12.7.3. Surface water from the proposed development will pass through a range of SuDS including green roofs, permeable paving, swales and bio-retention systems. Waters from green roofs and permeable paving and all other surface water will be attenuated in an underground attenuation tank. All surface waters will pass through a hydrocarbon interceptor before discharge to the surface water network (See 'Infrastructure Design Report' and drawings by DBFL Consulting Engineers and for construction stage see 'Construction and Environmental Management Plan').
- 12.7.4. These waters will ultimately drain to Dublin Bay via the River Liffey. These are not works that are designed or intended specifically to mitigate an effect on a Natura 2000 site. They constitute the standard approach for construction works in an urban area. Their implementation would be necessary for a residential development on any brownfield site in order to protect the receiving local environment and the amenities of the occupants of neighbouring land regardless of connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on an urban site whether or not they were explicitly required by the terms or conditions of a planning permission.
- 12.7.5. The good construction practices are required irrespective of the site's hydrological connection via the urban surface water drainage system to those Natura 2000 sites. They are not required for the purpose of mitigating any potential impact to those Natura sites, given the distance and levels of dilution that would occur in any event. There is nothing unique, particularly challenging or innovative about this urban development on a brownfield urban site, either at construction phase or operational phase. It is therefore evident from the information before the Board that the proposed construction on the applicant's landholding would be not be likely to have a significant effect on the North Dublin Bay SAC/South Dublin Bay SAC/North Bull Island SPA/South Dublin Bay and River Tolka Estuary SPA. Stage II AA is not required.

12.7.6. I note the applicant submitted a Natura Impact Statement. In deciding to prepare and submit a NIS the applicant states that the precautionary principle was being applied. I am of the opinion that the application of the precautionary principle in this instance represents an over-abundance of precaution and is unwarranted.

**12.8. AA Screening Conclusion:**

- 12.8.1. In reaching my screening assessment conclusion, no account was taken of measures that could in any way be considered to be mitigation measures intended to avoid or reduce potentially harmful effects of the project on any European Site. In this project, no measures have been especially designed to protect any European Site and even if they had been, which they have not, European Sites located downstream are so far removed from the subject lands and when combined with the interplay of a dilution affect such potential impacts would be insignificant. I am satisfied that no mitigation measures have been included in the development proposal specifically because of any potential impact to a Natura 2000 site.
- 12.8.2. It is reasonable to conclude that on the basis of the information on file, 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 effect on North Dublin Bay SAC [000206], South Dublin Bay SAC [000210], North Bull Island SPA [004006] and South Dublin Bay and River Tolka Estuary SPA [004024] or any European site, in view of the sites' Conservation Objectives, and a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

**13.0 Recommendation**

- 13.1. Having regard to the above assessment, I recommend that section 9(4)(c) of the Act of 2006 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 Reasons and Considerations

Having regard to the following:

- (a) the policies and objectives set out in the NPF and EMRA/RSES
- (b) the policies and objectives set out in the Kildare County Development Plan 2017-2023, as amended by Variation No.1 (June 2020) and the Clane Local Area Plan 2017-2023
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (d) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- (e) the Design Manual for Urban Roads and Streets (DMURS), 2013, as amended
- (f) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (g) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020
- (h) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (i) the Housing Supply Target Methodology for Development Planning, 2020
- (j) the nature, scale and design of the proposed development,
- (k) the availability in the area of a range of social, community and transport infrastructure,
- (l) the pattern of existing and permitted development in the area,
- (m) the planning history of the site and within the area,
- (n) the submissions and observations received,
- (o) the report of the Chief Executive of Kildare County Council, and
- (p) the report of the Inspector, including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

It is considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 15.0 Recommended Draft Board Order

### Planning and Development Acts 2000 to 2020

**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 21<sup>st</sup> day of July 2021 by Declan Brassil & Company Ltd on behalf of Debussy Properties Ltd. 6.

### Proposed Development

Permission is sought for 192 no. residential units (114 houses and 78 duplex units) and a childcare facility. There are 6 three storey duplex blocks fronting onto a new link street and onto Millicent Road, and a combination of detached, semi-detached and terraced two storey houses.

#### Key Details:

No. Units	192
Height	2-3 storeys
Site Area	6.4 ha gross; 5.5 ha net area (link street excluded)
Density	35 units per ha (net)
Other Uses	Crèche (160sq.m)

Dual Aspect	100%
Public Open Space	8,304 sq.m.
Car Parking	340 spaces
Bike Parking	160 spaces

#### Housing Mix

Beds	Duplex	Houses	Total	%
1-bed	10	0	10	5.2
2-bed	40	0	40	22.8
3-bed	28	83	111	57.8
4-bed	0	31	31	16.2
TOTAL	78	114	192	100%

- The provision of a link street through the subject site (including pedestrian and cycle paths) to connect Prosperous Road (R403) to the north with Millicent Road to the east,
- Junction upgrade works and pedestrian/cycle improvement works, integrating with existing infrastructure in the vicinity.
- A priority junction at the Prosperous Road (R403) entrance to the site and a signalised junction at the Millicent Road entrance.
- The existing Clane GAA Club access onto Prosperous Road (R403) to be replaced with a pedestrian/cycle only access and a new vehicular/pedestrian/cycle access provided along the western boundary of the proposed link road.
- Demolish the existing Clane GAA Club ball court to facilitate the new vehicular/pedestrian and cycle access to the Clane GAA Club.

## **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 policies and objectives set out in the NPF and EMRA/RSES
- (b) the policies and objectives set out in the Kildare County Development Plan 2017-2023, as amended by Variation No.1 (June 2020) and the Clane Local Area Plan 2017-2023
- (c) the Rebuilding Ireland Action Plan for Housing and Homelessness, 2016
- (d) Urban Development and Building Heights, Guidelines for Planning Authorities, 2018
- (e) the Design Manual for Urban Roads and Streets (DMURS), 2013, as amended
- (f) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009
- (g) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments, 2020
- (h) the Planning System and Flood Risk Management (including the associated Technical Appendices), 2009
- (i) the Housing Supply Target Methodology for Development Planning, 2020
- (j) the nature, scale and design of the proposed development,
- (k) the availability in the area of a range of social, community and transport infrastructure,
- (l) the pattern of existing and permitted development in the area,
- (m) the planning history of the site and within the area,

- (n) the submissions and observations received,
- (o) the report of the Chief Executive of Kildare County Council, and
- (p) the report of the Inspector, including the examination, analysis and evaluation undertaken in relation to appropriate assessment and environmental impact assessment.

It is considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

#### **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European Sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a built-up urban area, the distances to the nearest European sites and the hydrological pathway considerations, submissions on file, the information submitted as part of the applicant's Appropriate Assessment documentation and the Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and that, by itself or in combination with other development, plans and projects 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. In particular, the Board agreed with and adopted the Inspector's assessment and conclusion that a Stage 2 Appropriate Assessment was not required notwithstanding the submission of an NIS by the applicant for permission which proceeded on the basis that a Stage 2 Appropriate Assessment was required.

## **Environmental Impact Assessment**

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Information Report submitted by the developer which contains the information as set out in Schedule 7A of the Planning and Development Regulations 2001, as amended and the Article 299B Statement submitted by the applicant.

Having regard to:

- (a) The nature and scale of the proposed development which is below the threshold in respect of Class 10(b)(iv) and Class 13 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- (b) the site's location close to Clane town centre, within an established built up area on lands with a zoning Objective C, New Residential - 'provide for new residential development', Objective F 'Open Space and Amenity', to 'protect and provide for open space, amenity and recreation', and Objective B 'Existing Residential/Infill, to 'protect and enhance the amenity of established residential communities and promote sustainable intensification' in the Clane Local Area Plan 2017-2023,
- (c) the existing use on the site and pattern of development in the surrounding area,
- (d) the planning history relating to the site and the surrounding area,
- (e) the availability of mains water and wastewater services to serve the proposed development,
- (f) 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,
- (g) the provisions of the guidance as 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),
- (h) the criteria as set out in Schedule 7 of the Planning and Development Regulations 2001, as amended, and

(i) the features and measures proposed by the developer envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the 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 effects on the environment and that the preparation and submission of an environmental impact assessment report would not, therefore, be required.

### **Conclusion on Proper Planning and Sustainable Development**

The Board considered that, subject to compliance with the conditions set out below that the proposed development would constitute an acceptable quantum and density of development in this accessible urban location, would not seriously injure the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area. In coming to this conclusion, specific regard was had to the Chief Executive Report from the planning authority.

The Board considered that while a grant of permission for the proposed Strategic Housing Development would not materially contravene a zoning objective of the statutory plans for the area, a grant of permission could materially contravene the Kildare County Development Plan 2017-2023 in relation to the core strategy allocation of 145 dwelling units for Clane up to 2023 and the estimated residential capacity of 158 units for KDA 5 Millicent of the Clane Local area Plan 2017-2023. The Board considers that, having regard to the provisions of section 37(2)(b)(i), (ii), (iii) and (iv) of the Planning and Development Act 2000, as amended, the grant of permission in material contravention of the County Development Plan and Local Area Plan would be justified for the following reasons and consideration:

a) In relation to section 37(2)(b)(i) of the Planning and Development Act 2000 (as amended): the proposed development is in accordance with the definition of

Strategic Housing Development, as set out in section 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 and in the context of Clane comprises a significant amount of housing units (192) located in Key Development Area 5 of the Local Area Plan, in order to deliver on the Government's policy to increase delivery of housing from its current under-supply as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016.

b) In relation to section 37(2)(b)(ii) of the Planning and Development Act 2000 (as amended): the matter of conflicting objectives in the development plan, table 4.1 of the Clane Local Area Plan 2017-2023 estimates density per hectare of 30 units, but detailed guidance under section 12.2.5 KDA 5 – Millicent states the KDA is likely to accommodate medium density residential development in the order of 30 - 35 units per hectare. The statutory plan contains conflicting objectives for the area, I recommend the Board invoke section 37(2)(b)(ii) of the Act in this instance.

c) In relation to section 37(2)(b)(iii) of the Planning and Development Act 2000 (as amended): The proposed development in terms of scale, design and density is in accordance with national policy as set out in the National Planning Framework, specifically NPO 3a, 4 and 13. In terms of regional guidelines, the proposal accords with the Eastern & Midland Regional Assembly – Regional Spatial & Economic Strategy 2019-2031 that seeks to promote compact urban growth - targets of at least 50% of all new homes to be built to be within or contiguous to the existing built up area of Dublin city and suburbs and a target of at least 30% for other urban areas... In terms of the provision of conventional houses and apartment units, the proposed development meets the requirements set out in section 2.4 of the Sustainable Urban Housing: Design Standards for New Apartments 2020.

## 16.0 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. The proposed development shall be amended as follows:

(a) Obscure glazing shall be used for upper floor level windows on the western gable elevation of block C and the eastern gable elevation of block D, ground floor windows shall remain as specified with clear transparent glazing.

(b) The use of render on the exterior of the duplex blocks shall be omitted in full and any render shown on the plans and particulars submitted with the application shall be replaced with suitable brick type finish.

(c) In-curtilage car parking spaces serving units 132-135 shall be omitted and replaced with a footpath and front garden to each respective unit and a car parking bay situated within open space number 3, immediately north of unit 135, shall provide a minimum 4 and maximum 6 car parking spaces.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of residential and visual amenity and traffic safety.

3. (a) The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

(b) The proposed link street from the R403 Prosperous Road to the L-2004 Millicent Road to include the priority controlled junction onto the R403 Prosperous Road, the signalised junction on the L-2004 Millicent Road and the priority controlled junction from the GAA

grounds onto the link street (to include boundary wall/railings to the GAA grounds) shall be completed and operational prior to the occupation of the 51<sup>st</sup> residential unit.

- (c) The priority controlled junction onto the R403 Prosperous Road and the proposed priority controlled junction into the GAA grounds shall come into operation simultaneously. The existing vehicular access /egress to the GAA grounds shall be decommissioned with immediate effect upon operation of the junction onto the R403 Prosperous Road.

**Reason:** To ensure the timely provision of services and infrastructure for the benefit of the occupants of the proposed dwellings and in the interest of traffic safety.

4. All mitigation and monitoring measures outlined in the plans and particulars, including the Site Specific Flood Risk Assessment, Construction Management Plan, Ecological Impact Assessment and Cultural Heritage Assessment Report, 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.

5. 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.

6. Details of the materials, colours and textures of all the external finishes to the proposed dwellings/buildings and boundaries shall be as submitted with the application, unless otherwise agreed in writing with, the planning authority prior to commencement of development.

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

7. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development the developer

shall submit the following details to the planning authority for written agreement:

- (i) Full design details of the proposed surface water attenuation system, to include details of outflow rates, design calculations to allow for a 20% climate change factor, SUDs measures, storm attenuation storage chambers, flood pipe network design, and outfall to watercourse / culvert.
- (ii) A maintenance strategy for the proposed surface water drainage system. The agreed strategy shall be implemented until such time as the drainage infrastructure has been taken in charge by Kildare County Council.
- (iii) A condition and capacity report for culverts within the site to include details of any measures to be undertaken to protect and / or upgrade culverts where this is required to facilitate the proposed development.
- (iv) Prior to commencement of development a Stage 2 – Detailed Design Stage Storm Water Audit shall be submitted to the Planning Authority for written agreement.
- (v) Upon Completion of the development, a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed and are working as designed and that there has been no disconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement.

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

**Reason:** In the interest of public health and surface water management.

8. The following requirements in terms of traffic, transportation and mobility shall be incorporated into the development and where required, revised plans and particulars demonstrating compliance with these requirements

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

- (a) Detailed design drawings for the proposed link street between the R403 Prosperous Road and the L-2004 Millicent Road, including all junctions, shall be submitted to the Planning Authority for approval prior to the commencement of development.
- (b) The roads and traffic arrangements serving the site (including signage) shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense.
- (c) The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths, cycle paths and kerbs, pedestrian crossings and car parking bays shall comply with the requirements of the Design Manual for Roads and Streets and with any requirements of the planning authority for such road works.
- (d) Cycle tracks within the development shall be in accordance with the guidance provided in the National Cycle Manual.
- (e) The materials used on roads and footpaths shall comply with the detailed standards of the planning authority for such road works.
- (f) The developer shall carry out a Stage 3 Road Safety Audit of the constructed development on completion of the works and submit to the planning authority for approval and shall carry out and cover all costs of all agreed recommendations contained in the audit.

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

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

9. 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, boundary treatments and includes measures for the protection of trees within and adjoining the site.

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

10. A total of 160 no. secure bicycle parking spaces shall be provided within the development. Design details for the cycle spaces and cycle storage compounds shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure that adequate bicycle parking provision is available to serve the proposed development, in the interest of sustainable transportation.

11. Prior to the opening or occupation of the development, a Mobility Management Strategy including an interim or temporary strategy reflecting any requirements or adjustments relating to Covid-19 movement and travel patterns 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 and staff employed in the development and to reduce and regulate the extent of parking. Details may 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. The interim or temporary strategy, where applicable, should reflect the requirements of Design Manual for Urban Roads and Streets Interim Advice Note – Covid Pandemic Response (May 2020). The mobility strategy shall be prepared and implemented by the management company for all units within the development.

**Reason:** In the interest of encouraging the use of sustainable modes of transport and reflecting the needs of pedestrians and cyclists during Covid-19 pandemic.

12. 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.

13. 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 employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works.

**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.

14. Prior to the commencement of development, the developer shall agree in writing with the Planning Authority details for the protection of the Wayside Cross Base (RPS Ref. B14-067) located within the site during construction.

**Reason:** In order to conserve the architectural heritage of the site.

15. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

**Reason:** In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas

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. Prior to commencement of development the developer shall submit to and agree in writing with the planning authority a properly constituted Owners' Management Company. This shall include a layout map of the permitted development showing the areas to be taken in charge and those areas to be maintained by the Owners' Management Company. Membership of this company shall be compulsory for all purchasers of property in the apartment blocks. Confirmation that this company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit.

The Management Company shall include and manage the Community Building for the benefit of the residents of the apartments or the wider community as determined by the Planning Authority.

**Reason:** To provide for the satisfactory completion and maintenance of the 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. 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.

24. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for

and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and

25. Development Act 2000, as amended, and of the housing strategy in the development plan of the area.
- (a) 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.
- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each specified house or duplex unit for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement

has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

**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.

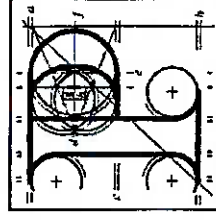
26. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the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



Stephen Rhys Thomas  
Senior Planning Inspector  
19 October 2021

## 17.0 Appendix I EIA Screening Form



An  
Bord  
Pleanála

### EIA - Screening Determination for Strategic Housing Development Applications

#### A. CASE DETAILS

An Bord Pleanála Case Reference

ABP-310892-21

Development Summary

192 dwelling units (114 houses and 78 duplex units.

Yes / No /  
N/A

1. Has an AA screening report or NIS been submitted?

AA Screening Report and NIS

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	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	Kildare County Development Plan 2017-2023 and Clane Local Area Plan 2017-2023 subject to SEA and SFRA.

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	Not significant in scale in context of the wider settlement.	No
1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	Uses proposed consistent with land uses in the area. New residential zoning applies. Residential use permitted in principle. No changes to topography or waterbodies - save for outfall of attenuated surface water run off.	No
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 used will be typical of any urban development project. The loss of natural resources 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. Materials used will be typical of those used in construction activities. Any impacts would be local and temporary in nature and will be mitigated by measures detailed in the submitted Construction and Environmental Management Plan. No operational impacts in this regard are anticipated.	No

<p><b>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</b></p>	<p><b>Yes</b></p>		
<p><b>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?</b></p>	<p><b>No</b></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. Any impacts would be local and temporary in nature and will be mitigated by measures detailed in the submitted Construction and Environmental Management Plan. No operational impacts in this regard are anticipated.</p> <p>Operational waste will be managed via an operational waste management plan. Foul water will discharge to the public network. No significant operational impacts anticipated.</p> <p>No significant risk identified. Risks during construction will be mitigated by measures detailed in the submitted Construction and Environmental Management Plan. No operational impacts in this regard are anticipated.</p> <p>In the operational phase the development will connect to public wastewater network and attenuated surface water will discharge to a watercourse.</p>	<p><b>No</b></p>

<p><b>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</b></p>	<p><b>Yes</b></p>	<p>Potential for construction activity to give rise to noise and vibration emissions. Any impacts would be local and temporary in nature and will be mitigated by measures detailed in the submitted Construction and Environmental Management Plan. No operational impacts in this regard are anticipated.</p>	<p><b>No</b></p>
<p><b>1.8 Will there be any risks to human health, for example due to water contamination or air pollution?</b></p>	<p><b>No</b></p>	<p>Construction activity is likely to give rise to dust emissions and surface water runoff. Any impacts would be local and temporary in nature and will be mitigated by measures detailed in the submitted Construction and Environmental Management Plan. No operational impacts in this regard are anticipated.</p>	<p><b>No</b></p>
<p><b>1.9 Will there be any risk of major accidents that could affect human health or the environment?</b></p>	<p><b>No</b></p>	<p>No significant risk having regard to the nature and scale of development. The issue of Flood Risk has been satisfactorily addressed in the submitted SSFRA. There are no Seveso / COMAH sites in the vicinity of this location.</p>	<p><b>No</b></p>

1.10 Will the project affect the social environment (population, employment)	Yes	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No	No.
2. Location of proposed development		
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: <ul style="list-style-type: none"> <li>1. European site (SAC/ SPA/ pSAC/ pSPA)</li> <li>2. NHA/ pNHA</li> <li>3. Designated Nature Reserve</li> <li>4. Designated refuge for flora or fauna</li> </ul>	No	No. Potential for significant effects on Natura 2000 sites has been screened out.

<p>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</p>		
<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, overwintering, or migration, be affected by the project?</p>	<p>No</p>	<p>No</p>
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>No</p>	<p>No</p>
<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>No</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?	No	There are no open watercourses on the site. The development will implement SUDS measures to control surface water run-off.	No
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	No.	No
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?	No	No.	No
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	Yes	Residential community and social land uses. No significant impacts are envisaged.	No

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		



Stephen Rhys Thomas  
Senior Planning Inspector  
19 October 2021