



An  
Bord  
Pleanála

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

### **Inspector's Report ABP-311037-21**

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#### **Strategic Housing Development**

Demolition of vacant cottage and the construction of 298 residential units (181 no. dwellings and 117 no. apartments), childcare facility and foul pumping station, with associated ancillary works and site works.

#### **Location**

Site to the south and east of the R148 and abutting the M4 Junction 8 roundabout, Boycetown, Kilcock, Co. Kildare.  
([www.kilcockwestshd.com](http://www.kilcockwestshd.com))

#### **Planning Authority**

Kildare County Council

#### **Applicant**

Teresa Monaghan

**Prescribed Bodies**

- (1) Transport Infrastructure Ireland
- (2) Irish Water
- (3) Dept. of Housing, Heritage and Local Government
- (4) Inland Fisheries Ireland
- (5) Meath County Council

**Observers**

- (1) Cllr. Aidan Farrelly & Catherine Murphy T.D.
- (2) John Conway & Louth Environmental Group

**Date of Site Inspection**

8<sup>th</sup> October 2021

**Inspector**

Louise Treacy

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## 1.0 Introduction

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

## 2.0 Site Location and Description

The subject site has a stated area of 9.75 ha and is located at Boycetown, Kilcock, Co. Kildare. The site is located on the north-western outskirts of the town and is generally bounded by the R148 regional road to the north and west and the M4 junction 8 roundabout to the south/south-west.

The north-western portion of the site accommodates a single-storey cottage, which fronts directly onto the R148. This existing structure is vacant and in a poor state of repair. The remainder of the site is characterised by agricultural grassland, comprised of 4 no. agricultural fields, and is generally defined by mature trees and hedgerows along its public boundaries to the north and west.

The subject site extends around the site of a Protected Structure, the former Saint Patrick's Church (RPS Ref. B05-08) and Kilcock Cemetery at its north-western extent. An estate of 2-storey, detached dwellings known as "Boycetown Court" adjoins the site to the east. The rear gardens of the existing dwellings back onto the north-eastern boundary of the subject site. The adjoining lands to the south-east are agricultural in nature and extend around the Boycetown Court estate.

There are 3 no. existing agricultural entrances into the site, 2 no. of which are located within the northern site boundary, with the remaining entrance located in the western boundary. There are no footpath linkages on the R148 immediately adjoining the northern or western site boundaries. The footpath on the southern side of the R148 commences at Boycetown Court to the east of the subject site. A footpath connection is provided along the northern side of the R148 opposite the subject site and extends eastwards into Kilcock town.

Musgrave's Distribution Centre is located to the north-west of the site on the northern side of the R148. The Dublin-Sligo railway line extends under the R148 in a north-west/south-east direction to the east of the application site, with the Royal Canal

located beyond. The existing built-up footprint of the town generally commences beyond the railway/canal overpass, between approx. 235 m – 485 m to the east of the application site.

### 3.0 Proposed Strategic Housing Development

The proposed development consists of the demolition of a detached, vacant cottage (69 m<sup>2</sup>) and the construction of 298 no. residential units, a childcare facility and foul pumping station along with associated ancillary works and site works. The development includes:

- 181 no. dwellings and 117 no. apartments (4 no. blocks).
- 2 no. vehicular entrances off the R148 to the north and west, a spine road which will link with the permitted spine road on the adjoining lands to the south-east under ABP Ref. PL09.306826.
- Internal roads, paths, cycle lanes, car parking, cycle storage/parking, 2 no. bus stops, bin storage, public open space, hard and soft landscaping, natural play area, play equipment, boundary treatments, public lighting, 3 no. substations and controlled pedestrian crossing on the R148.
- All associated site and infrastructural works including underground wastewater pump station (a wet well), welfare building, 427 m of 125 mm OD rising main and 250 m of gravity sewer along the R148, an underground emergency storage tank, above ground lifting gantry, valve and flowmeter chambers, a chemical dosing facility for odour control, passive carbon unit, kiosks, above ground surge vessel, landscaping, fencing and access off the R148.
- The proposed development includes works on lands owned by Kildare County Council to facilitate access and drainage infrastructure.

Kildare County Council has provided a letter of consent to make this planning application.

## Development Parameters

Parameter	Site Proposal
Application Site Area	c. 9.75 ha
No. of Units	298 units 181 no. dwellings 117 no. apartments
Density	41.1 units/ha
Crèche	560.4 m <sup>2</sup>
Amenity Space associated with creche	216 m <sup>2</sup>
Public Open Space	12,958 m <sup>2</sup>
Private Communal Amenity Open space	1,855 m <sup>2</sup>
Height	2-storey (houses) 4-5 storeys (apartments)
Car Parking	584 no. spaces
Bicycle Parking	419 no. spaces
Part V	30 no. units (18 no. houses + 12 no. apartments)

### 3.1. Housing Mix

Units	Number	Percentage
<b>Apartments</b>		
One bedroom	12	10
Two bedrooms	91	78
Three bedrooms	14	12
<b>Total</b>	<b>117</b>	<b>100</b>
<b>Dwellings</b>		
Two bedrooms	11	6
Three bedrooms	115	64
Four bedrooms	55	30
<b>Total</b>	<b>181</b>	<b>100</b>

The proposed development is arranged across 3 no. character areas. The proposed houses are located on the northern part of the site and to the north of the internal link road. This part of the site also accommodates 2 no. parcels of public open space, which will act as landscaped buffers to the adjoining Protected Structure and cemetery to the north and north-west.

The central part of the site is characterised by the proposed apartment blocks which extend along the southern side of the internal link road. The proposed childcare facility is located at the ground floor level of apartment block A. Communal open space is provided in the immediate vicinity of the apartment blocks.

The southern part of the site is characterised by housing which is arranged in 2 no. perimeter blocks and a row of housing which backs onto the adjoining site to the south. This part of the site also includes 2 no. areas of public open space, together with a landscaped buffer which extends along the western site boundary and links with the proposed open space at the northern end of the site.

The applicant submits that the key aspects of the Kilcock Local Area Plan 2015-2021, including a new distributor road, large central area of open space, perimeter

block housing arrangement, setback from motorway and new vehicular entrances, are all reflected in the proposed development.

The proposed development also includes works located on lands under the control of Kildare County Council as follows: (1) rising main running along the R148 to the north of the site, (2) pedestrian crossing on the R148 to the north of the site, and (3) vehicular entrance off the R148 to the west of the site, along with associated footpaths and ramp.

## **4.0 Submission from the Planning Authority**

A submission on the SHD application was received from the Chief Executive of Kildare County Council on the 30<sup>th</sup> of September 2021 and includes a summary of the development plan policy, relevant site history, summary of the submissions received, the opinion of the Elected Members, the interdepartmental reports and the planning assessment of the proposed development. The submission is summarised below.

### **4.1. Views of Elected Members**

The views of the Elected Members can be summarised as follows:

- Concerns regarding the proportion of open space and its design quality.
- The development density exceeds the LAP recommendation.
- The development would be dependent on current school and educational services in the area.
- The development is not aligned with the NPF.
- Proximity to motorway will result in car dependency and will increase current transport pressures and block roads.
- Existing need for single bedroom accommodation.
- Careful consideration of the rotund-shaped building at the entrance.
- Links to the town are required and cycle/footpaths should be considered.



#### 4.2. S247 meetings

- 2 no. S247 meetings were undertaken on 12<sup>th</sup> September 2017 and 17<sup>th</sup> May 2018. A meeting took place with the Roads and Transportation Department on 27<sup>th</sup> June 2018, with an additional discussion on 13<sup>th</sup> December 2019 in relation to the pumping station location.

#### 4.3. Planning Assessment

##### **Compliance with Planning Policy**

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

- Kilcock is identified as a “Self-Sustaining Town” in Variation No. 1 of the county development plan, with a dwelling target of 241 no. units identified between 2020-2023.
- The proposed development of 298 no. units would exceed the identified growth target and would be contrary to the Core Strategy.
- The proposed development would represent a material contravention of the county development plan in relation to building heights.
- The principle of residential development on the C zoned lands (New Residential) is generally acceptable. Utility structures are open for consideration on F zoned lands (Open Space and Amenity).

##### **Kilcock Local Area Plan 2015-2021**

- The proposed development does not comply with Objective MTO25 of the Kilcock Local Area Plan 2015-2021.
- Concerns regarding the delivery of the crèche facility in the 3<sup>rd</sup> phase of development given the number of 3 and 4-bedroom dwellings proposed in Phases 1 and 2 (Objective QH6).
- It is not considered that a high level of design or sense of place has been created in the development (Objective SK 36).
- The site is not directly served by public transport and the frequency of the rail service to Kilcock is quite poor. Pedestrian and cyclist facilities have not been provided on the R148 adjacent to the proposed northern and western

accesses. The Vulnerable Road User (VRU) facilities have failed to tie in with existing VRU infrastructure. In this context, it is considered that there is an overconcentration of apartment blocks within the development (Objective QH19).

- The school capacity assessment is flawed and does not provide an accurate depiction of the school capacity in Kilcock. It is not considered appropriate to include schools outside of the town in this analysis. School places should be available within the town and within walking distance of the proposed development (Objective SNO1).

### **Density**

- The proposed density is generally acceptable subject to satisfactory design and compliance with qualitative and quantitative standards.

### **Housing Mix**

- While the proposal delivers variety in housing offer, a dominance of 3-bedroom units is noted. The apartment mix complies with SPPR1 of the 2020 Apartment Guidelines.

### **Internal Standards**

- Details have been submitted to demonstrate compliance with development plan standards for minimum floor areas and storage areas. Minimum living room width in 2-bedroom terraced units to be revised to 3600mm.

### **Dual Aspect Ratios**

- The majority of apartments (84%) exceed the minimum requirement of 50% dual aspect units.

### **Private & Public Open Space**

- The proposed dwellings comply with the required standards for private open space, while all apartments would meet or exceed the minimum requirements.
- While 15% of the site (12,958 m<sup>2</sup>) is designated as public open space, there are concerns regarding the proposed inclusion of buffer areas (4,602 m<sup>2</sup>) with respect to their useability.

## **Car Parking**

- A shortfall of 40 no. car parking spaces arises for the proposed apartment units.

## **Crèche Facility**

- The size of the crèche facility complies with the requirements of the Childcare Facilities Guidelines.

## **Traffic Impact**

- The Roads and Transportation Department recommends that planning permission be refused for the proposed development for reasons relating to road objective MTO25 of the Kilcock LAP 2015-2021, permeability and connectivity, noise and road safety audit and internal design.

## **Noise**

- The Noise Assessment Report is inadequate and inconclusive. Only 1 noise monitoring location was recorded and was not observed over a 7 day/week period to monitor peak and non-peak noise. The survey was undertaken over 2 days in January during lockdown and has not provided a full set of results. The results also indicate that the apartments would be exposed to façade Lnight levels of 57 dB (A).
- The predicted noise attenuation of the proposed noise mitigation measures has not been provided.
- The report does not address the traffic noise from the elevated M4 interchange or the railway line which overlooks the proposed site.
- No mitigation measures are provided for the railway, despite Iarnród Éireann proposals to expand this line and service.

## **Flood Risk**

- The Water Services Department has no objection to the proposed development subject to conditions.

## **Ecological Impact Assessment**

- The effects of loss of wetland habitat and rationale for culverting a drainage ditch at the southern section of the eastern site boundary has not been provided. Policy GI23 of the county development plan discourages the culverting or realignment of rivers/streams/watercourses.
- Where practicable, the eastern ditch should remain open to maintain the biodiversity of the site.
- The EclA notes that there will be a loss of habitat for hare but that agricultural lands to the north should provide more suitable habitat. It is unclear if this refers to the lands zoned F (Open Space and Amenity) within the site, which have been proposed to accommodate the proposed pumping station.

## **Architectural Impact Assessment**

- The findings of the AIA are noted, which state that the proposed development would have a negligible impact on the setting and structure of the former St. Patrick's Church.

## **Archaeological Heritage Impact Assessment**

- Notes the possibility that previously unidentified archaeological structures/features/deposits of underground archaeological/cultural heritage significance may be adversely impacted on during the course of groundworks.

## **EIA & AA**

- Notes that An Bord Pleanála is the competent authority for EIA and AA.

### **4.4. Interdepartmental Reports**

**Kildare Fire Service:** No objection to the proposed development subject to conditions.

**Housing Section:** The acceptance of apartment units to meet Part V obligations will only be considered if they are transferred to an approved housing body. Alternatively, the applicant should consider proposing additional own-door dwellings or maisonette type units in lieu.

**Roads, Transportation & Public Safety Department:** Recommends that planning permission be refused for the proposed development for reasons relating to road objective MTO25 of Kilcock LAP 2015-2021, permeability and connectivity, noise and road safety audit and internal design. Appropriate conditions are identified in the event planning permission is granted for the proposed development.

**Water Services:** No objection to the proposed development subject to conditions.

**Environmental Health Officer:** Considers that:

- (1) the predicted change in the noise environment due to construction works should be assessed and specific mitigation measures implemented to protect sensitive receptors,
- (2) a liaison officer should be appointed to communicate with local residents during construction works,
- (3) key infrastructure facilities and amenities should be provided in Kilcock to ensure the town can sustainably accommodate the proposed large-scale increase in residential development,
- (4) the applicant should carry out a capacity assessment on existing public transport facilities to ensure they have capacity to cater for the increased demand on foot of the proposed development,
- (5) the consideration of schools outside the town boundary in the applicant's School Demand Statement is not in keeping with the requirements of the County Development Plan,
- (6) there is a shortfall of 88 primary and 85 post primary school places in Kilcock and the Schools Capacity Assessment did not consider other permitted developments in the town which will impact on demand for school places,
- (7) the bus services which will service the 2 no. bus stops on the primary spine route have not been identified,
- (8) dedicated pedestrian and cycle routes from the development into Kilcock town centre should be provided,
- (9) the applicant should implement a resident's travel plan,

- (10) no guarantee has been provided by the applicant that renewable technologies will be used in the housing development,
- (11) the applicant should outline specific measures which have been taken in the building design and construction materials and methods to reduce energy usage and carbon emissions,
- (12) proposals for SuDS treatments should be outlined,
- (13) play facilities to meet the needs of adolescents should be provided,
- (14) proposals should be submitted for 'green linkages' to connect the open spaces in the development,
- (15) emphasis should be placed on 'greening' of proposed pedestrian walkways/cycle routes to make them more inviting and to promote their use,
- (16) all planting should complement local environmental conditions and a biodiversity and pollinator plan specific to the landscape scheme should be implemented.

**Parks Section:** Recommends that planning permission be granted for the proposed development.

### **Planning Authority Recommendation**

Kildare County Council recommend that planning permission be refused for the proposed development for 5 no. reasons which can be summarised as follows:

- (1) The proposed development fails to provide a hierarchy of high-quality, usable open spaces, fails to establish a sense of place, would result in a substandard development lacking in variety and distinctiveness, all of which would lead to conditions injurious to the residential amenities of future occupants and contravenes Policy GI 23 of the Kildare County Development Plan 2017-2023 and the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009.
- (2) The proposed development fails to provide a roundabout junction at the R148 to complete a comprehensive road design of the proposed road objective MTO25 from the existing road at Bawnogues to the M4 interchange as identified in the Kilkock Local Area Plan. The design has failed to provide pedestrian and cyclist facilities on the R148 adjacent to the proposed western and northern accesses. The VRU

facilities within the proposed development have failed to tie in with existing VRU infrastructure. Therefore, the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users and would materially contravene specific objectives of the Kilcock LAP.

(3) The proposed development fails to provide sufficient car parking to serve the apartments, with a shortfall of 40 spaces arising. Electric charging point car parking spaces have not been indicated and a recessed bus stop has not been provided.

(4) The submitted Noise Assessment Report is inadequate and inconclusive.

(5) The proposed development would, by distorting the core and settlement strategy figures set out for future housing provision within Kilcock, contravene materially the provisions of the Kildare County Development Plan 2017-2023. Furthermore, the proposed development is lacking a sense of place and lacks appropriate services commensurate with a population of c. 820 people.

#### 4.5. **Recommended Conditions**

Having regard to the Planning Authority's recommendation to refuse planning permission and the objection in principle to the proposed development, it is considered inappropriate to provide suggested conditions.

The Board is advised that the Planning Authority's internal reports may be relevant should it decide to grant planning permission.

## 5.0 **Planning History**

- **Subject site**

**Planning Authority Reg. Ref. 16/233; ABP Ref. PL09.246663:** Planning permission refused on 14<sup>th</sup> September 2016 for 190 no. houses, a single-storey neighbourhood centre with 3 retail units, a 2-storey crèche building, 2 no. new road entrances off the R148 and R158 and all associated site works.

Planning permission was refused for 3 no. reasons which can be summarised as follows:

(1) The proposed development would be premature by reference to an existing deficiency in the provision of water services and public sewerage facilities and the period within which the constraints involved may reasonably be expected to cease.

(2) The proposed development would be premature pending necessary road infrastructure improvements in the area.

(3) The proposed development, by reason of its layout and design, fails to respond appropriately to the adjoining properties including the Protected Structure, RPS Ref. B-05-08 the former Saint Patrick's Church and would not contribute to a sense of placemaking. The proposed development would, therefore, contravene materially the provisions of the Sustainable Residential Development in Urban Areas Guidelines, 2009, the Urban Design Manual, 2009, the Kildare County Development Plan 2011-2017 and the Kilcock Local Area Plan 2015-2021.

I am satisfied that these refusal reasons have been overcome in the planning application as discussed in Section 10.0 of this report.

**Planning Authority Reg. Ref. 06/1987; ABP Ref. PL09.226109:** Outline planning permission refused on 20<sup>th</sup> May 2008 for a petrol filling station including 100 m<sup>2</sup> net retail floor space shop and ancillary site and development works on a site of 0.5 ha.

Outline planning permission was refused for 2 no. reasons which can be summarised as follows:

(1) The proposed development would endanger public safety by reason of traffic hazard and obstruction of road users and would interfere with the free flow of traffic between the M4 and the regional road.

(2) The proposed development would be premature by reference to an existing deficiency in the provision of public sewerage facilities and the period within which the constraints involved may reasonably be expected to cease.

- **Sites in the Vicinity**

**ABP Ref. SHD-306826-20:** Planning permission granted on 19<sup>th</sup> August 2020 for 345 no. residential units (60 no. duplex units, 182 no. houses and 94 no. apartments), a crèche and associated site works.

The site of this permitted development adjoins the south-eastern boundary of the current application site.



**Kildare County Council Reg. Ref. 201143:** Planning permission granted on 13<sup>th</sup> August 2021 for 12,785 m<sup>2</sup> extension the Musgrave's Distribution Centre, comprising a warehouse extension (approx. 11,824 m<sup>2</sup>), additional parking areas including a new HGV parking area located to the east of the distribution centre and a new parking area on the southern side of the R148.

The site is located on the northern side of the R148, opposite and to the north-west of the current application site. Works were ongoing on this site at the time of the inspection.

**ABP Ref. SHD-306309-19:** Planning permission refused on 16<sup>th</sup> April 2020 for an SHD application within the eastern environs of Kilcock (Meath County Council) comprising 575 no. residential units (388 no. houses and 187 no. apartments), a crèche and associated site works. Planning permission was refused for 2 no. reasons as summarised below:

(1) The proposed development fails to demonstrate that the development will not be at risk of flooding and does not provide sufficient detail of how the proposal will not increase the risk of flooding elsewhere as per the requirements stated in Box 5.1 "Justification Test for Development Management" of The Planning System and Flood Risk Management Guidelines for Planning Authorities, 2009.

(2) The Board is not satisfied that adequate site-specific information has been presented in relation to proposals for flood risk management, in particular the need for definitive post-flood works mapping, as well as the capacity of the flood storage zones to accommodate additional surface water in the event of a 1% Annual Exceedance Probability Pluvial Event.

## 6.0 Section 5 Pre-Application Consultation

A pre-application consultation (ABP 307214-20) took place via Microsoft teams on 23<sup>rd</sup> September 2020. Following consideration of the issues raised during the consultation process and having regard to the opinion of the Planning Authority, An Bord Pleanála issued an opinion that the documentation submitted required further consideration and amendment to constitute a reasonable basis for an application for Strategic Housing Development.

The Board considered that the following issues needed to be addressed in the submitted documents that could result in them constituting a reasonable basis for an application for a Strategic Housing Development:

### **(1) Core Strategy and Land Use Zoning**

Further consideration and/or justification of the documents as they relate to core strategy and variation no. 1 of the Kildare County Development Plan 2017-2023. The submitted documentation should address the higher-level planning policy, including inter alia, the adopted RSES for the region. The consideration/justification of documentation should cross reference the appropriate design strategy necessary to comply with national guidance for sustainable residential development.

In addition, any references to promotion of development and the circumstances of Kilcock, including those relating to the availability or otherwise in the town of housing, development land, employment, commercial or social services, should be based on verifiable facts.

The proposed applicant should satisfy itself that any application complies with section 8(1)(iv)(II) of the Planning and Development (Housing) and Residential Tenancies Act, 2016, as amended, regarding the material contravention of the provisions of the development plan other than zoning.

### **(2) Development Strategy**

Further consideration and/or justification of the documents as they relate to the development strategy for the site in particular the architectural approach and overall layout of the proposed development in relation to:

- The inclusion of an appropriate density necessary to comply with national guidance promoting compact urban form within settlements which have been identified for growth.
- The design and interface of the proposed development as it relates to the R148 along the north and north-east of the site and also the proposed spine road through the site (Objective MTO25). Particular regard should be given to the requirement to create a high-quality design response to the site with a strong urban edge, high quality materials and finishes and appropriate

interface with the public realm to ensure satisfactory pedestrian and cyclist movements.

- The layout of the public open space to ensure the provision of functioning open space areas integrating and complimenting the existing designated public open space at the north-west of the site and providing high quality public realm throughout the proposal.
- The treatment of corners and street frontages to be considered further with the provision of a variation of building heights, double fronted units to ensure an appropriate public realm and strong urban edges/streetscapes are created, blank walls and side gables avoided, and better passive surveillance provided for.
- The design and location of the crèche having regard to any amended scheme and the provision of a spine road through the site.
- A suburban development which can reflect compliance with the 12 criteria in the Urban Design Manual.

### **(3) Design Manual for Urban Roads and Streets (DMURS)**

Further consideration of the documents as they relate to the layout and design of streets within the development and the requirements of DMURS regarding permeability and connections with existing street network; hierarchy of routes and street function; enclosure including building frontage, furniture and planting along streets; parking; widths of carriageways and footpaths; pedestrian crossing points; and types of junctions and corner radii. The internal road layout should require measures to avoid the use of parallel roads. The submitted documents should demonstrate specific compliance with the particular stated provisions of DMURS. Generalised assertions regarding principles are not sufficient. For the cycle facilities that are proposed, the specific compliance with the particular requirements of the National Cycle Manual should be demonstrated by the documents.

Furthermore, pursuant to Article 285 (5)(b) of the Planning and Development (Strategic Housing Development) Regulations, 2017, the prospective applicant is hereby notified that, in addition to the requirements as specified in Articles 297 and 298 of the Planning and Development (Strategic Housing Development) Regulations

2017, the following specific information should be submitted with any application for permission:

- (1) Submission of Irish Water confirmation for any upgrades and/or consents deemed necessary for the delivery of both the water and wastewater infrastructure.
- (2) A Traffic and Transport Assessment.
- (3) A design for the spine road through the site to comply with Road Objective MTO25 in the Kilcock LAP 2015-2021. The design should have regard to the adjoining SHD permission (306826-20), the requirements of the Roads Department, the connection onto a regional route to the north R148 and the standards in the NRA Design Manual.
- (4) A Site-Specific Flood Risk Assessment to comply with the requirements of the Kilcock Local Area Plan 2015-2021.
- (5) A Visual Impact Assessment that comprises a photomontage report with key viewpoints from locations around the vicinity of the site. Additional CGIs of the development when viewed along both sections of the R148 and adjoining permitted and existing residential development should be provided.
- (6) A childcare demand analysis and the likely demand for childcare places resulting from the proposed development.
- (7) A Noise Impact Assessment and the justification for any setback along the motorway and those policies in the development plan.
- (8) A Road Safety Audit.
- (9) A Construction Environmental Management Plan.
- (10) Landscaping proposals including an overall landscaping masterplan for the development site. Details pertaining to the quantity, type and location of all proposed hard and soft landscaping including details of play equipment, street furniture including public lighting and boundary treatments should be submitted. Report should address measures to protect existing trees and hedgerows to be retained.

- (11) A phasing plan for the proposed development which includes the phasing arrangements for the delivery of the spine road (MTO25), the internal road network, water and wastewater infrastructure, public open spaces, surface water management proposals and Part V provision.
- (12) Part V proposals.
- (13) Detailed design of proposed surface water management system, including attenuation proposals and cross sections of all SuDS features proposed in the context of surface water management on the site.
- (14) Submission of a School Demand Assessment providing details on the current and/or proposed capacity in Kilcock and the surrounding area.
- (15) Submission of all boundary treatments around the perimeter and within the site. Proposals will integrate any existing and/or proposed treatments on the adjoining residential developments.
- (16) The information referred to in Article 299B(1)(b)(ii)(II) and Article 299B(1)(c) of the Planning and Development Regulations 2001-2018 should be submitted as a standalone document.

### **Applicant's Statement of Response to Opinion**

The applicant's response to the requested information is summarised below.

**Core Strategy and Land Use Zoning:** The Planning Report and Statement of Consistency outline how the proposed development is consistent with national and regional planning policy. Variation no. 1 of the County Development Plan identifies a housing target of 241 no. units for Kilcock between 2020-2023. This target has already been exceeded by the SHD permission on the adjoining site for 345 no. dwellings. The variation is not associated with any de-zoning in Kilcock and is not consistent with national planning guidelines.

**Development Strategy:** Compliance with national guidance in respect of residential density is addressed in the Planning Report and Statement of Consistency. The design issues are addressed in the Architectural Design Statement and Landscape Rationale.

**DMURS:** A statement of compliance with DMURS and the National Cycle Manual accompanies the application.

The applicant submits that all the remaining items of information (16 no.) which were requested in the Board's Opinion have been provided as part of the planning application documents and drawings.

## 7.0 Planning Policy

### 7.1. National Planning Framework (NPF): Project Ireland 2040

A number of key National Policy Objectives (NPOs) are noted as follows:

**NPO 1b:** Eastern and Midland Region –490,000 – 540,000 additional people.

**NPO 3 c:** Deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints.

**NPO 9:** In each Regional Assembly area, settlements not identified in Policy 2a or 2b of this Framework, may be identified for significant (i.e. 30% or more above 2016 population levels) rates of population growth at regional and local planning stages, provided this is subject to:

- Agreement (regional assembly, metropolitan area and/or local authority as appropriate).
- Balance with strategies for other urban and rural areas (regional assembly, metropolitan area and/or local authority as appropriate), which means that the totality of planned population growth has to be in line with the overall growth target; and
- A co-ordinated strategy that ensures alignment with investment in infrastructure and the provision of employment, together with supporting amenities and services.

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

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

**NPO 68:** A Metropolitan Area Strategic Plan may enable up to 20% of the phased population growth targeted in the principal city and suburban area, to be accommodated in the wider metropolitan area i.e. outside the city and suburbs or contiguous zoned area, in addition to growth identified for the Metropolitan area. This will be subject to:

- any relocated growth being in the form of compact development, such as infill or a sustainable urban extension.
- any relocated growth being served by high-capacity public transport and/or related to significant employment provision; and,
- National Policy Objective 9, as set out in Chapter 4.

**NPO 71:** City/county development plan core strategies will be further developed and standardised methodologies introduced to ensure a coordinated and balanced approach to future population and housing requirements across urban and rural areas.

## **Appendix 2: Population and Employment in Urban Settlements in the Eastern and Midland Regional Assembly area, Census of Population 2016**

Based on the results of the 2016 Census of Population, Kilcock had a population of 6,093, with 2,827 resident workers and total jobs at 848. The ratio of jobs to resident workers was 0.300.

### **7.2. Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands Regional Assembly (EMRA) (2019)**

The RSES supports the implementation of Project Ireland 2040 by providing a long-term strategic planning and economic framework for the region up to 2031.

**Regional Policy Objective 3.1:** Key stakeholders, including local authorities in the Region shall, through their policies and objectives including development plans, commit to the delivery of the Growth Strategy as detailed in the RSES.

The growth strategy for the Region includes, inter alia, delivering the sustainable growth of the Metropolitan Area through the Dublin Metropolitan Area Strategic Plan (MASP) and embedding a network of Key Towns through the Region to deliver sustainable regional development.

**Regional Policy Objective 3.2:** Local authorities, in their core strategies shall set out measures to achieve compact urban development targets of at least 50% of all new homes within or contiguous to the built-up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

Maynooth and Naas are identified as the key towns within County Kildare. Local authorities, in the preparation of their core strategies, should have regard to the settlement typology of towns in the Region and carefully consider the phasing of development lands to ensure that towns grow at a sustainable level appropriate to their position in the hierarchy. Higher densities in core strategies should be applied to higher order settlements, with a graded reduction in residential densities for Self-Sustaining Growth Towns, Self-Sustaining Towns, towns and villages that are commensurate to the existing built environment.

**Regional Policy Objective 4.1:** In preparing core strategies for development plans, local authorities shall determine the hierarchy of settlements in accordance with the hierarchy, guiding principles and typology of settlements in the RSES, within the population projections set out in the National Planning Framework, to ensure that towns grow at an appropriate and sustainable level.

### 7.3. Section 28 Ministerial Guidelines

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020)
- Design Manual for Urban Roads and Streets (2019)
- Urban Development and Building Heights Guidelines for Planning Authorities (2018)
- Spatial Planning and National Roads Guidelines (DoECLG) (2012)
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (2009) and Circular Letter NRUP 02/2021
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009)
- Childcare Facilities – Guidelines for Planning Authorities (2001)



The main development management provisions of the key S. 28 Guidelines are summarised below.

#### 7.4. **Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020)**

The key development standards for apartment units in the context of this application are summarised below:

- **Overall floor area:** 1-bedroom unit - 45 m<sup>2</sup>; 2-bedroom/4-person unit – 73 m<sup>2</sup>; 3-bedroom unit – 90 m<sup>2</sup>. The majority of units shall exceed the minimum floor area standards by 10%.
- **Unit Mix:** Max. 50% 1-bedroom units, with no requirement for 3-bedroom units.
- **Storage space:** 1-bedroom unit - 3 m<sup>2</sup>; 2-bedroom/4-person unit – 6 m<sup>2</sup>; 3-bedroom unit – 9 m<sup>2</sup>. As a general rule, no individual storage room should exceed 3.5 m<sup>2</sup>. Storage for bulky items should also be provided outside individual apartment units.
- **Dual Aspect Ratio:** Minimum 50% dual aspect units; where single aspect apartments are provided, the number of south facing units should be maximised, with east and west facing units also acceptable.
- **Floor to Ceiling Height:** Min. of 2.4 m required, but 2.7 m encouraged.
- **Lift and Stair Cores;** Max. of 12 apartments per floor per core.
- **Private amenity space:** 1-bedroom unit - 5 m<sup>2</sup>; 2-bedroom/4-person unit – 7 m<sup>2</sup>; 3-bedroom unit – 9 m<sup>2</sup>. Gardens or patios/terraces shall be provided for ground floor units and balconies for upper levels. Balconies should have a minimum depth of 1.5m in one usable length and should adjoin and have a functional relationship with the main living areas.
- **Communal amenity space:** 1-bedroom unit - 5 m<sup>2</sup>; 2-bedroom/4-person unit – 7 m<sup>2</sup>; 3-bedroom unit – 9 m<sup>2</sup>.
- The recreational needs of children must be considered as part of communal amenity space. Small play spaces (85 – 100 m<sup>2</sup>) catering for children up to the age of 6 to be provided in a scheme with 25 or more units of 2 or more bedrooms. Play areas of 200-400 m<sup>2</sup> to be provided for older children and

young teenagers in a scheme that includes 100 or more apartments with 2+ bedrooms.

- Private and communal amenity space may adjoin each other, but there should be a clear distinction, with an appropriate boundary treatment and/or a 'privacy strip' between the two. Designers must ensure that the heights and orientation of adjoining blocks permit adequate levels of sunlight to reach communal amenity space throughout the year.
- **Public open space:** No requirement identified under the Guidelines.
- **Bicycle parking:** 1 cycle storage space per bedroom, with visitor parking required at a rate of 1 space per residential unit.

**Car parking:** As a benchmark guideline for apartments in relatively peripheral or less accessible urban locations, one car parking space per unit, together with an element of visitor parking, such as one space for every 3-4 apartments, should generally be required.

While noting the recommended threshold of 1 no. 20 space **childcare facility** per 75 dwelling units as provided under the Childcare Facilities Guidelines for Planning Authorities (2001), the 2020 Guidelines confirm that the threshold for any such facilities in apartment schemes should be established having regard to the scale and unit mix of the proposed development, the existing geographical distribution of childcare facilities and the emerging demographic profile of the area. One-bedroom or studio type units should not generally be considered to contribute to a requirement for any childcare provision and subject to location, this may also apply in part or whole, to units with two or more bedrooms.

Provision shall be made for the **storage and collection of waste** materials in apartment schemes. Refuse facilities shall be accessible to each apartment stair/ lift core and designed for the projected level of waste generation and types and quantities of receptacles required.

**7.5. Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes Sustaining Communities (2007)**

These Guidelines set out target gross floor areas for a range of different dwelling types. Those which are relevant to this case are identified below.

<b>House Type</b>	<b>Target GFA (m<sup>2</sup>)</b>	<b>Min. main living room (m<sup>2</sup>)</b>	<b>Aggregate living area (m<sup>2</sup>)</b>	<b>Aggregate bedroom area (m<sup>2</sup>)</b>	<b>Storage (m<sup>2</sup>)</b>
<b>2-B/4-P/2-S</b>	80	13	30	25	4
<b>3-B/5-P/2-S</b>	92	13	34	32	5
<b>4-B/7-P/2-S</b>	110	15	40	43	6

No target gross floor area is identified for 4-bedroom/6-person dwellings.

The Guidelines also recommend the following:

- A main bedroom area of at least 13 m<sup>2</sup> in dwelling for 3+ persons
- Double bedroom of at least 11.4 m<sup>2</sup> (min. width 2.8 m)
- A single bedroom of at least 7.1 m<sup>2</sup> (min. width 2.1 m)
- Min. obstructed living room width of 3.6 m for 2-bedroom dwellings and 3.8 for 3-bedroom dwellings

**7.6. Kildare County Development Plan 2017-2023 (as amended by Variation No. 1)**

- **Settlement Strategy**

Kilcock is identified as a “Self-Sustaining Town” within the settlement hierarchy for the County, which includes towns with high levels of population growth and a weak employment base which are reliant on other areas for employment and/or services and which require targeted ‘catch-up’ investment to become more self-sustaining.

The preferred development strategy for the county is focused on achieving, inter alia, critical mass in the Metropolitan Area Strategic Plan (MASP) area (Maynooth, Leixlip, Celbridge, Kilcock) and in the Key Towns of Naas and Maynooth, together

with measured growth in other settlements in the hierarchy, the management of development in rural areas and protecting the environment.

- **Settlement Strategy Policies**

**CS2:** Direct appropriate levels of growth into the designated growth towns as designated in the Settlement Strategy.

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

**SS2:** Direct growth into the Key Towns, followed by the Self-Sustaining Growth Towns and the Self-Sustaining Towns, whilst also recognising the settlement requirements of rural communities.

Table 3.3 of the plan sets out the population and housing unit allocation for the County between 2020-2023, with a dwelling target of 241 no. units identified for Kilcock.

- **Housing**

**Policy LD1:** Promote residential densities appropriate to its location and surrounding context.

Appropriate locations for new residential development are identified in table 4.1 of the plan, including 'Outer Suburban/Greenfield Sites'. On these sites, net residential densities should be achieved which make efficient use of the lands in the context of their location, with a variety of housing types provided to justify their development.

Table 4.2 of the plan identifies an indicative density range of 30-50 units/ha for these sites.

- **Development Management Standards**

**Building heights:** appropriate maximum or minimum building heights will be determined by: (1) the prevailing building height in the surrounding area, (2) proximity of existing housing, (3) the formation of a cohesive streetscape pattern, (4) the impact on any Protected Structures, Architectural Conservation Areas and /or other sensitive sites.

Tall buildings (5 storeys and/or 15 m) will only be considered at areas of strategic planning importance identified in a LAP.

**Overshadowing:** Where development of a significant height is located close to existing development, the planning authority may require daylight and shadow projection diagrams to be submitted. The recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BRE 1991) or Lighting for Buildings Part 2 1992: Code of Practice for Day Lighting B.S. 8206 and any updates to these documents should be followed as a minimum in this regard.

**Site Coverage:** Max. 50% for residential development.

**Plot Ratio:** 0.35-0.5 (Outer suburban close to public transport); 0.25-0.35 (Outer suburban remote from public transport).

#### **Dwelling Houses – Minimum Required Floor Areas**

<b>Unit Type</b>	<b>Floor Area</b>	<b>Storage Area</b>	<b>Private Open Space</b>
<b>2-bedroom</b>	85 m <sup>2</sup>	6 m <sup>2</sup>	55 m <sup>2</sup>
<b>3-bedroom</b>	100 m <sup>2</sup>	9 m <sup>2</sup>	60 m <sup>2</sup>
<b>4-bedroom</b>	110 m <sup>2</sup>	10 m <sup>2</sup>	75 m <sup>2</sup>

**Public Open Space:** Min. 15% of total site area

**Car Parking:** 2 spaces per houses; 1.5 space per apartment unit + 1 visitor space per 4 apartments; crèche 0.5 per staff member plus 1 per 4 children. Other than residential, car parking standards are noted to be maximum.

#### **7.7. Kildare Noise Action Plan 2019-2023**

Kildare County Council require quantifiable noise assessments to be carried out where any part of a residential development is located within 150 m of a rail corridor or adjacent to major roads within the county. The assessment shall include, inter alia, the situation internally with windows open and externally in the amenity areas of the development.

In the scenario where new noise sensitive premises are introduced to locations already exposed to significant levels of long-term environmental noise as set out in

the Environmental Noise Regulations (i.e. 70 dB(A)  $L_{den}$  and 57 dB(A)  $L_{night}$ ), it is considered appropriate to consider aiming to achieve target internal noise levels within noise sensitive rooms, such as living rooms and bedrooms.

## 7.8. Kilcock Local Area Plan 2015-2021

- **Land Use Zoning**

The site is subject to 2 no. land use zoning objectives as follows:

- (1) “C – New Residential” – which has the objective “to provide for new residential development in the Bawnogues area of the town”. This zoning provides for new residential development and other services incidental to residential development. The building line of residential development shall be set back 91 m from the motorway, as identified on map 7 of the LAP. Kildare County Council support the planting of native woodland species in this zone.

This zoning objective applies to the majority of the site. Residential and crèche developments are permitted in principle under this objective.

- (2) “F3 – Open Space & Amenity” – which has the objective “to preserve a buffer zone from the motorway”. The planting of forestry will be particularly encouraged in this zone.

This zoning applies to the lands at the north-western corner of the site and a small portion of land to the south-west of the site, adjacent to the M4 interchange. Utility structures are open for consideration on F3 zoned lands.

- **Residential and Urban Design**

The urban design strategy for the development of Kilcock over the period of the LAP is set out in Map 2 of the plan. The application site forms part of a larger parcel of lands on the north-western side of the town which are identified for “neighbourhood expansion”. The Urban Design Framework for the town is detailed on Map 3, which identifies key building frontages and the future street network within the site.

The key principles for the sustainable development of Neighbourhood Expansion Areas are set out in Section 7.4.4.1 of the LAP and include, (1) achieving social diversity, (2) environmental sustainability, (3) local identity and (4) livability.

The site forms part of a larger Bawnogues Neighbourhood Expansion Area, with the railway and Royal Canal forming the boundary to the north and the M4 to the south. A number of design principles should be incorporated into any future proposals for the development of these lands as illustrated on Fig. 28 including, inter alia:

- (1) to develop a new urban neighbourhood based on the sustainable principles outlined in Section 7.4.4.1,
- (2) a high-quality physical environment with a perimeter block structure, an interconnected network of neighbourhood streets and the use of SuDS in landscaping proposals,
- (3) to provide new linkages to ensure increased connectivity with the town centre and train station,
- (4) to provide a wide range of housing types and tenures, including live/work units,
- (5) to identify a 12-acre site for a post primary school.

Table 10 of the LAP identifies the unit potential of undeveloped residentially zoned land in the town. The application site forms part of a 23-ha site (Site 1) with the potential to deliver 690 residential units based on a density of 30 units/ha.

- **Apartment Living**

**Policy QH19:** To restrict apartment developments generally to town centre locations or suitably located sites adjoining public transport connections. Apartments will not be permitted where there is an over concentration of this type of development. Higher density schemes will only be considered where they exhibit a high architectural design standard creating an attractive and sustainable living environment.

- **Transport Infrastructure**

**Objective MTO 11:** To develop new cycle links to a high standard for utility cycling, including pedestrian and cyclist bridges connecting the Ryebribe area to the schools in Bawnogues crossing the Royal Canal and railway.

**Objective MTO 25:** Site specific objective to facilitate the future construction of a road from the Bawnogues to the M4 interchange, and in the interim, protect the route from development.

- **Water/Drainage Infrastructure and Flooding**

**Policy SI 21:** To require on-site surface water attenuation measures if a development is likely to cause flooding or potentially destructive storm surges in existing water courses.

**Policy SI 22:** To facilitate Irish Water in the upgrading of wastewater infrastructure and to facilitate the provision and safeguarding of infrastructure corridors required to facilitate the sustainable development of the town.

**Policy SI 23:** To co-operate with Irish Water in the provision of a sewerage network and sewerage treatment for the town of Kilcock.

**Policy SI 39:** To protect water bodies and watercourses from inappropriate development, including canals, rivers, streams, associated undeveloped riparian strips, wetlands and natural flood plains. This will include protection buffers in riverine and wetland areas as appropriate and promotion of the sustainable management and uses of water bodies and the avoidance, where possible, of culverting or realignment of these features.

Map 8 (Flood Risk) of the LAP confirms that development proposals on the site are to be subject to a Site-Specific Flood Risk Assessment appropriate to the type and scale of development being proposed (policy SI40 also refers).

Such development proposals shall: (1) indicate and quantify loss of floodplain storage arising, (2) provide compensatory storage within or adjacent to the development, (3) indicate measures to ensure that water-vulnerable elements of the development would not be flooded during the 1,000-year flood, (4) ensure that existing flow paths for flood waters will not be compromised.

- **Green Infrastructure**

**Policy GK 2:** To protect from development where possible, hedgerows and trees illustrated on the Green Infrastructure Map (map 9). The hedgerows within the subject site are identified as being of low and moderate value.

**Policy GK10:** To ensure that the building line of new residential development shall be set back 91 m from the M4, with the planting of native woodland species supported in this zone.



**Objective GKO1:** To provide pedestrian and cycle access in from Bawnogues to the Royal Canal, linking to the train station and to the Rye Water River.

- **Heritage and Culture**

The former Saint Patrick's Church (now in residential use) is bounded by the lands of the application site and is a designated Protected Structure (RPS Ref. BO5-08).

**Policy HC5:** To ensure that development proposals do not adversely affect the character of a Protected Structure or the setting of a Protected Structure, where the setting is considered to be important.

#### 7.9. **Designated Sites**

The Rye Water Valley/Cartron SAC is located approx. 7.3 km to the south-east of the application site. Ballynafagh Bog SAC is located c. 12.5 km to the south-west.

Ballynafagh Lake SAC is located c. 12 km to the south-west. The River Boyne and River Blackwater SAC is located c. 15 km to the north-west, while the River Boyne and River Blackwater SPA is located c. 17 km to the north-west.

#### 7.10. **Applicant's Statement of Consistency**

The applicant has submitted a Statement of Consistency which indicates how the proposed development is consistent with the policies and objectives of Section 28 Guidelines and the County Development Plan and LAP. The following points are noted:

- The delivery of 298 dwellings would represent a significant contribution to the housing shortfall in the Metropolitan Area of north-east Kildare.
- The proposed development is consistent with the delivery of compact growth in the Dublin Metropolitan Area as provided for under the NPF.
- The proposed development is consistent with National Policy Objectives 11, 32, 33 and 34 of the NPF.
- The proposed residential density of 41.1 units/ha is in accordance with the range identified for Outer Suburban/Greenfield sites in the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009). The proposed public open space (15.12%) also complies with the Guideline requirements for such sites.

- The proposed development will be proximate to existing primary and post primary schools, which will encourage walking and cycling as promoted under the National Transport Authority: Transport Strategy for the Greater Dublin Area 2016-2035. There is also a high frequency of public transport in the vicinity, which would facilitate access to schools at a further distance within the town.
- The proposed apartments comply with the standards identified in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020).
- The proposed development meets each of the relevant criteria for building height at this location as per SPPR3 of the Urban Development and Building Height Guidelines for Planning Authorities (2018).
- The proposed development meets the Guideline requirement for an effective mix of building heights. The proposed 5-storey apartment building is considered appropriate given that it is primarily used at the entrance to the development, with only a 'pop-up' element within the more central apartment blocks.
- The proposed childcare facility for 75 no. children meets the requirements of the Childcare Facilities Guidelines for Planning Authorities (2001).
- The proposed development, which represents a departure from traditional 2-storey suburban sprawl, will deliver more compact growth and is a more sustainable use of land within an urban settlement as provided for under the RSES for the Eastern and Midland Region.
- The proposed development will help address the challenge of directing population growth to the main urban centres in Co. Kildare, including Kilcock, as identified in the Kildare County Development Plan 2017-2023.
- The County Development Plan seeks to maximise the return on transport investment by providing sustainable settlement patterns and appropriate densities on lands within existing or planned public transport corridors. The proposed development is located 1.12 km (as the crow flies) from the rail line

in Kilcock and the proposed new link road will facilitate access to the train station.

- The proposed development accords with the density standards of the County Development Plan for Outer Suburban Greenfield sites (30 – 50 units/ha).
- Variation no. 1 of the Kildare County Development Plan 2017-2023 identifies a dwelling target of 241 no. units for Kilcock in the period 2020-2023. The SHD permission for 345 no. units on the adjoining site to the south (ABP-306826-20) was granted by the Board despite its exceedance of the identified dwelling unit target. The Board's rationale in relation to this matter is supported and should also be applied in relation to the current application.
- The proposed mix of dwelling units will cater for a wide range of households within the scheme, which complies with Policy HSO 8 of the County Development Plan.
- 30 no. Part V housing units will be provided on site in accordance with Policy HSO 2 of the County Development Plan.
- The planning application Design Statement demonstrates the scheme's compliance with the 12 no. urban design criteria in the Urban Design Manual of the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009).
- The proposed building heights exceed development plan standards as justified in the planning application Material Contravention statement.
- The loss of the internal hedgerows within the site can be replaced by new planting as provided for under policy NH1 of the development plan.
- The proposal complies with the development management standards of the county development plan with respect to site coverage, plot ratio, public and private open space.
- A Construction and Demolition Waste Management Plan accompanies the application in accordance with section 17.10.2 of the development plan.
- The proposed apartments are the only elements of the scheme that could reasonably be described as containing significant height and are not located

close to any existing development. Therefore, there is no requirement under the development plan to provide daylight and shadow projection diagrams. Notwithstanding the foregoing, shadow diagrams are provided which show there will be no material impact on existing or proposed dwellings.

- An Ecological Impact Assessment accompanies the application in accordance with policy DLO 4 of the development plan and concludes that every effort has been made to minimise the impact of the development on the receiving environment.
- The proposed link road forms a key element of the scheme and will achieve the aim of Policy MT5 of the development plan which seeks, inter alia, to prioritise the development of new urban distributor/link/arterial roads to provide access to new communities.
- The proposed dwellings and childcare facility comply with the “New Residential” (C) land use zoning which applies to the majority of the site. A pumping station is proposed on the “Open Space & Amenity” (F3) zoned portion to the north-west of the site. Utility structures are open for consideration under this zoning objective.
- The 91 m building line set-back which is required from the motorway under the Kilcock LAP 2015-2021 has been provided for in the proposed site layout.
- The proposed development broadly accords with the urban design framework which is identified for the subject lands under the LAP.
- The proposed development complies with objective MTO25 of the LAP which seeks, inter alia, to facilitate the construction of a road from the Bawnogues to the M4 interchange and will connect to the link road in the permitted residential scheme adjoining to the south.
- A Noise Assessment has been undertaken in accordance with Policy QH15 of the LAP and which concludes that the noise environment will be suitable for residential development subject to recommended noise mitigation measures.
- The proposed development of apartment units on the site accords with Policy QH19 of the LAP which restricts such development to town centre locations or adjoining public transport connections. The 115 and 115A bus routes run

along the northern site boundary, while a bus stop is provided for on the new link road within the site.

- The proposed apartment units are also acceptable at this location with reference to the Urban Development and Building Height Guidelines (2020) which note that building heights of at least 3-4 storeys would be appropriate in suburban areas and other urban locations with good public transport accessibility.
- The proposed pumping station addresses policy SIO219 of the LAP which states that it is the policy of the Council to work with Irish Water to provide a new upgraded sewerage pumping station to deliver flows to Leixlip Wastewater Treatment Works via Maynooth.
- The proposed development is consistent with the policies concerning quality homes as set out in chapter 12 of the LAP (QH1 – 4, QH 6, QH 9 -10, QH 13-14, QH 16-17, QH 21-22).

#### **7.11. Applicant's Statement of Material Contravention**

The applicant's Statement of Material Contravention identifies 4 no. instances where the proposed development may be considered to materially contravene the provisions of the Kildare County Development Plan 2017-2023 or the Kilcock LAP 2015-2021 including: (1) Housing Targets (Core Strategy), (2) Building Heights, (3) Residential Density, and (4) Apartment Location.

##### **Housing Targets (Core Strategy)**

In relation to the housing targets in the Core Strategy it is stated that:

- Variation no. 1 of the Kildare County Development Plan 2017-2023 allocates a dwelling target of 241 no. units for Kilcock between 2020-2023.
- Extant permissions which were live before 12<sup>th</sup> August 2020 are not accounted for in this target.
- Since this date, only 1 no. multi-unit residential development has been granted permission in Kilcock, comprising a SHD application for 345 no. units on the adjoining site to the south.

- This permission was granted despite the proposed development exceeding the identified housing target for Kilcock by 104 no. units.

### **Building Heights**

In relation to building heights, the statement notes the following:

- Section 17.2.1 of the County Development Plan states that tall buildings (which exceed 5 storeys and/or 15 m) will only be considered at areas of Strategic Planning Importance as identified in a Local Area Plan.
- The maximum building height of the proposed development is 5-storeys, with a height of 17.7 m to the top of apartment block A.
- The site is not located in an area which is specifically identified as an area of Strategic Planning Importance.

### **Residential Density**

In relation to residential density, it is stated that Table 10 of the LAP identifies a residential density of 30 units/ha for the subject site, with the proposed density of 41.1 units/ha exceeding this standard.

### **Apartment Location**

In relation to the location of the proposed apartment blocks, the statement notes the following:

- Policy QH19 of the LAP seeks to restrict apartment developments to town centre locations or suitably located sites adjoining public transport connections.
- The site adjoins a public transport connection in the form of the R148 to the north of the site and the proposed apartments display a high-quality architectural design that will make a positive contribution to the new development.
- The SHD scheme which was permitted on the adjoining lands to the south also contained apartment units and which was not raised as a material contravention issue by the Board.

- Thus, the inclusion of apartment units in the proposed development does not represent a material contravention of policy QH19 of the LAP.

### **Justification for Material Contravention**

- **Housing Target (Core Strategy)**

In relation to S. 37(2)(b)(i) of the Planning and Development Act, 2000 (as amended), it is submitted that:

- The proposed development falls within the definition of a Strategic Housing Development as defined under S. 3 of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended).
- On that basis, the proposed development is strategic in nature and importance.
- The development will also contribute to the current national shortfall in housing supply, with the Rebuilding Ireland Action Plan and 2016 Act recognising the importance of larger residential developments in addressing the ongoing housing and homelessness crisis.

In relation to S. 37(2)(b)(ii) of the Planning and Development Act, 2000 (as amended), the commentary regarding Variation No. 1 of the County Development Plan as contained in the Board's Order for the SHD (PI.09.306826) on the adjoining lands to the south is noted as follows:

- "While Variation No. 1 reflects certain objectives of the Regional Spatial and Economic Strategy, Variation No. 1 has been adopted without any associated de-zoning, and in the opinion of the Board, without due regard to density or efficient land-use implications, and as such, has not demonstrated itself to be wholly consistent with Sustainable Urban Development Guidelines, Residential Density Guidelines, National Planning Framework compact growth objectives, etc".
- It is considered that the same position applies with respect to the current application.

- **Density**

In relation to S. 37(2)(b)(iii) of the Planning and Development Act, 2000 (as amended) it is submitted that:

- The Kildare County Development Plan 2017-2023 identifies a general density range of 30-50 units/ha for outer suburban greenfield sites.
- This conflicts with the prescriptive density set out in the Kilcock LAP (30 units/ha), with the county plan being adopted after the LAP.
- These conflicting objectives were noted in the Board's Order for the SHD on the adjoining site, with a density range of 44 units/ha deemed to comply with the development plan and the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas.
- There is also justification to grant permission for the proposed development under S. 37(2)(b)(iii) of the Planning and Development Act, 2000 (as amended) having regard to the provisions of the aforementioned Guidelines and the Design Standards for New Apartments Guidelines for Planning Authorities (2020) which highlight the need for increased residential densities on zoned land in urban areas.

- **Building Height**

In relation to S. 37(2)(b)(iii) of the Planning and Development Act, 2000 (as amended) it is submitted that:

- The maximum proposed building height (5 storeys) is consistent with the 5-storey maximum height stipulated in the County Development Plan, with only block A exceeding same.
- The proposed development is consistent with the Urban Development and Building Heights Guidelines for Planning Authorities (2018) which note a presumption in favour of increased building height in urban locations with good public transport connections.
- The subject site is within 700 m of a bus stop and is within walking/cycling distance of Kilcock train station.



- The proposed new link road will improve accessibility to the train station and will include a new bus stop.
- The Building Height Guidelines advise that buildings of 4 or more storeys can be accommodated along wider streets. The 4-5 storey apartment blocks are located along the new link road and will provide a strong urban edge at this location.
- The requirements of SPPR3 of the Guidelines have been met in full.
- The Board's considerations in their assessment of building height on the adjoining SHD site, also apply in this instance.
- **Apartment Location**

It is considered that the inclusion of apartments within the proposed development is not a material contravention of the LAP. In the event the Board disagrees, it is submitted that:

- Permission can be granted under S. 37(2)(b)(iv) of the Planning and Development Act, 2000 (as amended) having regard to the recently granted SHD on the adjoining site, which included, inter alia, 94 no. apartment units.

## 8.0 Third Party Submissions

8.1. A total of 2 no. submissions were received from: (1) Cllr. Aidan Farrelly & Catherine Murphy T.D., Twin Gables, Killybegs, Prosperous, Co. Kildare, and (2) BKC Solicitors on behalf of John Conway, 91 St. Nicholas Avenue, Dundalk, Co. Louth and Louth Environmental Group, 91 St. Nicholas Avenue, Dundalk, Co. Louth.

8.2. The issues which are raised can be summarised as follows:

- The proposed residential density exceeds the standard identified in the LAP.
- The number of units proposed exceeds the housing target identified for Kilcock.
- No clarity as to whether current public transport services meet local needs.
- Inaccurate school capacity assessment.

- Minimum standard provided for the childcare facility. Many young families travel outside the town to access affordable childcare.
- The Guidelines for Planning Authorities on Urban Development and Building Height (2018) and the Apartment Guidelines (2020) and the specific planning policy requirements contained therein are ultra vires and are not authorised by S. 28(1C) of the Planning and Development Act, 2000 (as amended).
- The proposed development materially contravenes the Core Strategy of the County Development Plan as it exceeds the housing targets for the area.
- The proposed development materially contravenes the County Development Plan with respect to building height and is not an area of strategic planning importance.
- The proposed development and documentation do not comply with the requirements of the Building Height Guidelines and the SPPR's set out therein (nos. 1, 2 and 3).
- The proposed development materially contravenes the development plan and/or LAP with respect to residential density and the restriction on apartment units.
- The proposed development is not of strategic or national importance and permission cannot be granted under S. 37(2)(b) of the Planning Act.
- Non-compliance with the 2016 Act and associated Regulations in relation to the requirement for detailed plans and particulars.
- The proposed development does not comply with DMURS.
- The EIA Screening Report is inadequate and deficient and does not permit an assessment of the potential environmental impacts of the proposed development.
- The Appropriate Assessment Screening Report is insufficient, contains lacunae and is not based on appropriate scientific expertise.

## 9.0 Prescribed Bodies

**Irish Water (IW):** Upgrades to the wastewater network are required to accommodate connection for this development. Commencement of works is expected in 2023, with upgrades expected to be completed in 2025. The proposed water connection is feasible. The applicant has been issued a Statement of Design Acceptance for the development. Conditions are recommended in the event planning permission is granted.

**Transport Infrastructure Ireland (TII):** The proposed development shall be undertaken in accordance with the recommendations of the Transport (Traffic) Assessment and Road Safety Audit submitted. Any recommendations arising should be incorporated as conditions in the permission, if granted. Any additional works required as a result of the Transport Assessment and Road Safety Audits should be funded by the developer.

**Inland Fisheries Ireland:** A number of recommendations are identified in the event planning permission is granted, including the requirement to consult with IFI in relation to any works carried out on the canal and that any development in this area should not impact negatively on the River Ryewater Catchment.

**Department of Housing, Local Government and Heritage:** Recommends that:

- (1) Archaeological test excavations be carried out on site.
- (2) An Underwater Archaeological Impact Assessment be carried out in prior to the commencement of development.
- (3) An Bord Pleanála should consider whether the project is likely to have significant effects on the Rye Water Valley/Carton SAC without the SuDS and associated measures detailed in the applicant's Phase 1 AA screening report.
- (4) The environmental effects of the proposed lighting scheme should be considered. A detailed lighting plan should be developed which outlines specific part-night lighting and dusk/dawn dimming regimes.
- (5) Like-for-like replacement native hedgerow planting should be provided.
- (6) The eastern ditch should remain open to maintain biodiversity on the site.
- (7) An appropriate condition should be attached to protect nesting birds.

(8) A dusk emergence survey of the building to be demolished should be undertaken at a suitable time of year and trees should be assessed as potential bat roosts prior to felling.

**Meath County Council – Transportation Department:** Recommends that the applicant contributes towards the cost of resolving capacity issues at the junction of the R148 and R158.

## 10.0 Assessment

Having examined the application details and all other documentation on file, including the Chief Executive's Report from the Planning Authority and the submissions received in relation to the application, having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the main issues in this application are as follows:

- Principle of the Development
- Compliance with Variation No. 1 of the Kildare County Development Plan 2017-2023
- Development Density
- Building Heights
- Noise Impact
- Development Design, Form and Layout
- Standard of Accommodation
- Access to Daylight and Sunlight
- Visual Impact
- Open Space, Landscaping and Boundary Treatments
- Access, Pedestrian / Cycle Facilities and Parking
- Site Services, Surface Water and Flooding
- Biodiversity
- Architectural Heritage and Archaeology

- Part V
- Community Facilities
- Material Contravention
- Planning Authority's Refusal Recommendation
- Environmental Impact Assessment Screening
- Appropriate Assessment Screening

Each of these issues is addressed in turn below.

#### 10.1. **Principle of the Development**

Having regard to the nature and scale of the proposed development, comprising inter alia, the demolition of a vacant cottage and the construction of 298 no. residential units, a crèche facility of 560.4 m<sup>2</sup>, a foul pumping station and associated site works, I am satisfied that the proposal falls within the definition of Strategic Housing Development, as set out in Section 3 of the Planning and Development (Housing) and Residential Tenancies Act, 2016.

The site is subject to 2 no. land use zonings under the Kilcock LAP 2015-2021, with the majority zoned "C – New Residential" and the remainder "F3 – Open Space & Amenity". All the residential units and the proposed crèche are located on the "C" zoned lands, with such development being permissible in principle under this land use zoning objective. The proposed foul pumping station is located on the "F3" zoned portion of the site adjacent to the R148 and the existing cemetery. Utility structures are open for consideration under this land use zoning.

Having regard to the foregoing, I am satisfied that the proposed development would be acceptable in principle on the site, subject to its compliance with all other relevant planning policies and development management standards.

#### 10.2. **Compliance with Variation No. 1 of the Kildare County Development Plan 2017-2023**

Kildare County Council has recommended that planning permission be refused for the proposed development for 5 no. reasons including, inter alia, that it would distort the core and settlement strategy figures for the future provision of housing in Kilcock and would materially contravene the provisions of variation no. 1 of the county

development plan. This matter has also been raised as a concern in the third-party submissions on the application.

Kilcock is located within the Dublin Metropolitan Area and is designated as a “Self-Sustaining Town” under variation no. 1 of the county development plan. As such, Kilcock is located within the 3<sup>rd</sup> tier of the county settlement hierarchy. Such towns are described as having high levels of population growth and a weak employment base. The plan further states that these towns require contained growth, focusing on driving investment in services, employment growth and infrastructure, while balancing housing delivery.

The RSES for the EMRA identifies a population range of between 249,000 – 254,000 persons for County Kildare to 2026 and between 259,000 – 266,500 persons to 2031. Under the high growth scenario, the population of the county is projected to increase by 31,000 persons to 2026 and a further 12,500 to 2031.

Table 3.3 sets out the population and housing unit allocation for the county between 2020-2023 to reflect the RSES projections and to coincide with the lifetime of the county plan. A dwelling target of 241 no. units is identified for Kilcock. Although the housing allocation for the town has been reduced significantly from a target of 1,061 units between 2015-2021 when the Kilcock LAP was made, the zoning of land within the LAP boundary has not yet been updated to reflect the reduced housing allocation under variation no. 1 of the county plan.

Table 10 of the LAP identifies 15 no. undeveloped residentially zoned land parcels within the town. No development priority is assigned to these sites. I note that the subject site forms part of “Site 1”, which has a total area of 23 ha and a stated development potential of 690 units based on a density of 30 units/ha.

In my opinion, it is evident that the proposed development of 298 no. units on the subject site would exceed the housing allocation for Kilcock to 2023, and as such, would materially contravene variation no. 1 of the county plan. In this regard I note that the planning application was advertised as a material contravention of the development plan or local area plan. The applicant’s material contravention statement identifies that the proposed development may be considered to contravene the housing targets of the core strategy as described above.

- **Material Contravention**

Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) states that, where a planning authority has decided to refuse planning permission for a development on the grounds that it materially contravenes the development plan, the Board can only grant permission where it considers that:

- (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 should be granted having regard to the regional spatial and economic strategy for the area, guidelines under section 28, policy directive under section 29, the statutory obligations under 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.

The relevance of each of these provisions with respect to the current application is considered further below.

### **Section 37(2)(b)(i)**

The applicant submits that the development accords with the definition of Strategic Housing Development, as set out in Section 3 of the Planning and Development (Housing) and Residential Tenancies Act, 2016. On the basis of the foregoing, it is submitted that the proposed development, by its definition, is strategic in nature and importance. It is also submitted that the subject site has the potential to contribute to the achievement of the Government's policy to increase the delivery of housing from its current position of under-supply, as set out in Rebuilding Ireland Action Plan for Housing and Homelessness issued in July 2016 and Housing for All – A New Housing Plan for Ireland, 2021. These arguments are accepted.

I acknowledge that Kilcock occupies the 3<sup>rd</sup> tier of the county settlement hierarchy, and as such, has a lower priority for growth than the Key Towns (tier 1) and Self-Sustaining Growth Towns (tier 2). However, in my opinion, the proposed development of 298 no. units could reasonably be deemed to be of strategic

importance in meeting the identified housing growth targets for the town. In this regard, I note that the proposed development exceeds the 2023 target by only 57 no. units (19%), which is my opinion, is a modest exceedance. I further consider that the proposal would be of strategic importance for the future development of Kilcock in line with national policies to provide for compact growth within the Dublin MASP area and in proximity to public transport.

As such, I consider that there is sufficient justification for the Board to grant permission for the proposed development under Section 37(2)(b)(i) of the Act.

### **Section 37(2)(b)(iii)**

With regard to Section 37(2)(b)(iii) of the Act, I consider that the proposed development would be in accordance with National Policy Objective 33 of the NPF which prioritises the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. In this regard, I note that the proposed development adjoins an existing residential development at Boycetown Court and a permitted SHD scheme of 345 no. units, and in my opinion, would reflect the scale of these neighbouring developments.

I further consider that the proposed development would comply with the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020) by providing 117 no. apartment units which meet or exceed the required standards, thereby serving to increase housing supply within the MASP area at a time of acute demand for additional residential accommodation.

In my opinion, the proposed development would also comply with the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities, 2009, which confirm that increased residential densities should be encouraged in suitable locations, including residentially zoned lands on Outer Suburban/Greenfield sites in larger towns.

### **Section 37(2)(b)(iv)**

An Bord Pleanála granted planning permission on 19<sup>th</sup> August 2020 for a SHD scheme on the adjoining site to the south-east of the current application site. The permitted development included, inter alia, 345 no. residential units and a crèche facility. In recommending that planning permission be granted for this development,



the Board considered that, having regard to the provisions of Section 37(2)(b)(i) of the Act, a grant of planning permission in material contravention of the Kildare County Development Plan 2017-2023 as amended by variation no. 1, in particular table 2.2, relating to revised core strategy figures for the town of Kilcock could be justified as follows:

(1) the development was considered of strategic importance in respect of the development of Kilcock in line with national policies to provide for compact growth within the Dublin MASP, and in proximity to public transport.

(2) the development was considered to accord with national guidance, including the NPF and the RSES for the EMRA, the Urban Development and Building Height Guidelines and the Design Standards for New Apartment Guidelines, which seek to create compact, sustainable residential developments, located in appropriate urban locations, close to existing/proposed infrastructure and services.

It was also considered that variation no. 1 of the county development plan had been adopted without any associated de-zoning and without due regard to density or efficient land-use implications, and as such, has not demonstrated itself to be wholly consistent with the Sustainable Urban Development Guidelines, Residential Density Guidelines and NPF compact growth objectives. It was further noted that the development was located on residentially zoned land in an existing urban settlement, within the Dublin MASP area, adjacent to existing infrastructure and services with linkages to a potential school site and well served and accessible to public transport (via the Sligo-Dublin rail line). As such, it was considered that the proposed development would be of a strategic and beneficial nature to the town.

The applicant's agent submits that the same considerations apply with respect to the current application, and I agree with this position. In this regard I note the subject site is located within the Dublin MASP area, is primarily zoned for residential purposes and is served by public transport via the Sligo-Dublin rail line, with good road connections via the R148 and the M4.

I acknowledge that the proposed 298 no. units, combined with the 345 no. units permitted on the adjoining site, would significantly exceed the housing target for Kilcock to 2023 as provided for under variation no. 1 of the county plan. However, I note that the LAP does not assign any preference to the undeveloped residentially

zoned lands in the town and that the granting of permission in this instance would provide an element of choice in delivering new residential development within the town. In this regard I note that construction works had not commenced on the adjoining SHD at the time of my site inspection.

In my opinion, the proposed development would comprise the sequential expansion of the western environs of the town, adjacent to the existing Boycetown Court residential estate and the permitted SHD scheme referenced above. Thus, I consider that a material contravention of the Kildare County Development Plan, as amended by variation no. 1, could be granted by the Board under the provisions of Section 37(2)(b)(iv) of the Act.

### 10.3. **Development Density**

The proposed development has a density of 41.1 units/ha, which exceeds the density of 30 units/ha identified for the site in Table 10 of the Kilcock LAP. The county development plan identifies an indicative density range of 30-50 units/ha for Outer Suburban/Greenfield Sites. The latter standard reflects the development density range identified for such sites in larger towns in the Sustainable Residential Development Guidelines (2009). The third-party submissions raise concerns in relation to the proposed residential density, while the Elected Members also note that the development density exceeds the LAP recommendations.

Circular Letter NRUP 02/2021 was published on 21<sup>st</sup> April 2021 and is intended to clarify the application of the Sustainable Residential Development Guidelines to ensure that in carrying out their planning functions, An Bord Pleanála and Planning Authorities apply a graduated and responsive, tailored approach to the assessment of residential densities, to ensure development occurs in a sustainable and proportionate manner.

The applicant's agent submits that there is justification to grant permission for the proposed residential density under Sections 37(2)(b)(ii) and (iii) of the Planning and Development Act, 2000 (as amended) having regard to the described conflict between the county development plan and LAP and the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009) and Design Standards for New Apartments Guidelines for Planning Authorities (2020), which highlight the need for increased residential densities on zoned land in urban

areas. The applicant's agent also notes that the Board recently granted permission for a SHD scheme on the adjoining site with a residential density of 44 units/ha (ABP-306826-20 refers).

In considering this issue, I note that the Sustainable Residential Development Guidelines (2009) state that densities of less than 30 units/ha should generally be discouraged on Outer Suburban/Greenfield sites in the interests of land efficiency, particularly those in excess of 0.5 ha.

Having regard to the foregoing, I am satisfied that there are conflicting objectives in the county development plan and the LAP with respect to the appropriate residential density on the subject site. In my opinion, the proposed residential density of 30 units/ha which is identified in the LAP, would represent the lowest end of the appropriate density range for such sites under statutory national planning guidelines. As such, I consider that this development density would not represent the most efficient use of land for a strategic housing development on zoned urban land.

I also note that Kildare County Council has acknowledged the conflict between the density standards of the county development plan and the LAP, with the proposed development density considered to be generally acceptable.

I am satisfied that the proposed development density would be appropriate on the subject site having regard to its designation as a Neighbourhood Expansion Area in the town of Kilcock and would reflect the development density permitted on the adjoining SHD site.

Thus, in my opinion, planning permission could be granted for the proposed development under the provisions of 37(2)(b)(ii) and (iii) of the Planning and Development Act, 2000 (as amended) given the conflicting density objectives contained in the county development plan and the LAP and the density provisions of the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009) as reflected in the county development plan.

#### **10.4. Building Heights**

The proposed building heights range from 2-storeys for the dwelling houses to 4-5 storeys for the apartment blocks. The development management standards of the county development plan state that appropriate building heights will be determined

by the prevailing height in the surrounding area, the proximity of existing housing, the formation of a cohesive streetscape pattern, and the impact on any Protected Structures, Architectural Conservation Areas and/or other sensitive sites. Tall buildings, which are defined as 5 storeys and/or 15 m, will only be considered at areas of strategic planning importance as identified in a LAP.

The applicant's agent submits that the proposed building heights may constitute a material contravention of the relevant provisions of the county development plan with respect to apartment block A only, which exceeds the 15 m permissible building height. It is further submitted that planning permission could be granted for the proposed development under Section 37(2)(b)(iii) of the Planning and Development Act, 2000 (as amended). In this regard, it is submitted that the proposal is consistent with the Urban Development and Building Heights Guidelines for Planning Authorities (2018) which note a presumption in favour of increased building heights in urban locations with good public transport connections and which advise that buildings of 4 or more storeys can be accommodated along wider streets.

The development management principles regarding building height are set out in chapter 3 of the Guidelines, which states that it is Government policy to generally increase building heights in appropriate urban locations. There is a presumption in favour of buildings of increased height in town/city cores and other urban locations with good public transport accessibility.

In submitting a planning application, the applicant shall demonstrate to the satisfaction of the Board that the proposed development complies with identified criteria at the scale of the (1) relevant city/town, (2) district/neighbourhood/street and (3) site/building. These criteria include, inter alia, that the site is well served by public transport, the proposal integrates into the character of the area and makes a positive contribution to place making, the proposal enhances the urban design context for public spaces and key thoroughfares, improves legibility through the site/wider area, contributes to a mix of dwelling typologies, maximises access to natural daylight and minimises overshadowing, and where daylight requirements cannot be fully satisfied, a rationale for alternative, compensatory design measures must be provided.

To support proposals at some or all these scales, specific assessments may be required including, an assessment of micro-climatic effects, impacts on any sensitive

bird and/or bat areas, an assessment of the retention of important telecommunications channels, an assessment that the proposal maintains safe air navigation, an urban design statement including impact on the historic built environment, and relevant environmental assessments, including SEA, EIA, AA and EclA as appropriate.

Having regard to the scale of the proposed apartment blocks, I am satisfied that an assessment of microclimatic effects, the retention of telecommunications channels and the maintenance of safe air channels is not required in this instance. I also note that the planning application includes an EclA, an AA screening report, an urban design statement, an architectural heritage and archaeological assessments. As such, I am satisfied that the planning application includes appropriate site-specific assessments to support the proposed building heights.

SPPR3 of the Guidelines provides that where an application for permission identifies how a development proposal complies with these criteria and the assessment of the planning authority concurs, taking account of the wider strategic and national policy parameters set out in the NPF and these Guidelines, then the planning authority may approve such development, even where specific objectives of the relevant development plan or local area plan may indicate otherwise.

In considering this issue I note that the proposed height of the apartment blocks is as follows:

- Block A: 1-5 storeys (max. overall height of 17.7 m)
- Block B: 4 storeys (max. overall height of 13.775 m)
- Block C: 4-5 storeys (max. overall height of 15.875 m)
- Block D: 4 storeys (max. overall height of 13.8 m)

In addressing the Guideline criteria at the **scale of the city/town**, the applicant's agent notes that the subject site is within 700 m of a bus stop, is within walking/cycling distance of Kilcock train station and that the proposed new link road will improve accessibility to the train station and include a new bus stop.

It is submitted that there is a considerable separation distance between the proposed apartment blocks and the former St. Patrick's Church, with existing screening around this Protected Structure. The applicant's Architectural Heritage Impact Assessment

concludes that the impact of the proposed development on the setting of this structure will be negligible. It is also submitted that the proposed development would not have a significant negative visual impact from the surrounding road network, as discussed in the submitted Visual Impact Assessment.

It is also submitted that the proposed development would make a positive contribution to placemaking, providing a new internal street which is enclosed by appropriate building heights, with a gateway building at its western end.

In addressing the height of the proposed apartment blocks at the **scale of the district/neighbourhood/street**, the applicant's agent submits that the blocks are located centrally within the site, and as such, will not have a significant impact on the surrounding context. The apartments have been divided into 4 no. blocks to avoid a monolithic appearance and provide a strong edge to the southern side of the proposed link road. This arrangement reflects that of the link road of the permitted SHD scheme on the adjoining site. It is also considered that the apartments enclose the proposed public open space on the eastern side of the site (open space no. 2). The proposed apartment blocks will make a positive contribution to the housing mix in Kilcock, with such units noted to account for only 14% of the housing units in the town based on the 2006 Census results. The inclusion of the proposed childcare facility in block A will also add to the mix of uses in the area.

With respect to the **scale of the site/building**, it is submitted that no issues will arise with respect to natural daylight access, ventilation, views, overshadowing or loss of light on foot of the proposed apartment blocks. The applicant's agent concludes that the requirements of SPPR3 of the Building Height Guidelines have been met in full.

In considering the foregoing, I note that National Policy Objective 13 of the NPF states inter alia, that planning and related standards concerning building height should be based on performance criteria that seek to achieve well-designed, high-quality outcomes to achieve targeted growth. This approach replaces general restrictions on building heights. Section 3.4 of the Building Height Guidelines state that newer housing developments on the suburban edges of towns, typically include a mix of housing types, including apartments of 4-storeys upwards. Such developments are noted to deliver medium densities and address the need for more 1 and 2-bedroom units. The Guidelines confirm that such development should

include an effective mix of 2, 3 and 4-storey developments, which integrate successfully into existing and historic neighbourhoods, with the potential to accommodate 4-storeys in certain circumstances, including along wider streets. The Guidelines further confirm that such development should not be subject to specific height restrictions.

Having regard to the foregoing, I am satisfied that the apartment block heights would be appropriate on the subject site. In reaching this conclusion, I consider that the site is within reasonable walking/cycling distance of public transport connections. I also consider that the site is not unduly constrained by adjoining developments, and as such, can largely establish its own character. Notwithstanding the foregoing, I note that appropriate consideration has been given to the setting of the existing Protected Structure to the north of the site and the pattern of the permitted SHD development on the adjoining site. In my opinion, the proposed development would assist in creating a new residential neighbourhood at this location, which will offer a variety of unit types in line with changing demographic trends.

As such, I am satisfied that planning permission could be granted for the proposed development under the provisions of Section 37(2)(iii) of the Act.

#### 10.5. **Noise Impact**

Kildare County Council has recommended that planning permission be refused for the proposed development for 5 no. reasons including, inter alia, that the submitted Noise Assessment Report is inadequate and inconclusive. It is considered that:

- (1) the assessment does not contain a comprehensive noise survey as the basis of the report,
- (2) only 1 noise monitoring location was recorded which was not observed over a 7-day week period as required to monitor peak and non-peak noise,
- (3) the survey was undertaken over a 2-day period in January during the lockdown associated with the Covid 19 pandemic and has not provided a full set of results,
- (4) the Acoustic Design Statement has not presented the calculation process in a transparent manner or raw noise data,
- (5) while mitigation measures are identified, the predicted attenuation on noise levels is not detailed, and

(6) the report does not address the traffic noise from the elevated interchange of the M4 or the railway line which overlooks the proposed site and fails to provide mitigation measures for the railway despite Iarnród Éireann proposals to expand this line and service.

As such, the Planning Authority considers that the applicant has failed to sufficiently demonstrate that the proposed development would not seriously injure the residential amenities of future occupants and depreciate the value of property.

The applicant's Assessment of Inward Traffic Noise Impact establishes that the baseline noise environment of the site falls between 55 – 65 dB  $L_{den}$  and < 50 to 60 dB  $L_{night}$ . An environmental noise survey was undertaken on the site on 7<sup>th</sup> and 8<sup>th</sup> January 2021 in 1 no. location at the south-western end of the site, proximate to the R148 and the M4 (see figure 6 of the assessment for site location details). The results of the survey indicate that the ambient daytime noise levels are in the range of 55 to 63 dB  $L_{Aeq\ 1hr}$ . The ambient night-time noise levels ranged from 42 to 59  $L_{Aeq\ 1hr}$ , with maximum levels ranging from 59 to 76 dB  $L_{AFMax}$ .

The assessment also includes results of a baseline noise survey which was undertaken on the site over a 24-hour period in 2016. The results of this survey indicated ambient daytime noise levels in the range of 59 to 62 dB  $L_{Aeq\ 1hr}$ . The ambient night-time noise levels ranged from 46 to 59  $L_{Aeq\ 1hr}$ , with maximum levels ranging from 68 to 74 dB  $L_{AFMax}$ . Thus, it is submitted that the receiving environment of the subject site has remained relatively similar over this period. Publicly available TII traffic flow numbers along the adjoining M4 motorway were also reviewed, which indicate a traffic increase of less than 7% up to 2019, with this being the most recent year of traffic flows unaffected by the Covid-19 pandemic. It is stated that this level of traffic increase would have a negligible effect on noise levels across the site.

A noise model of the site was prepared and used to prepare noise contour maps for daytime and night-time periods. These maps show that no portion of the site is exposed to noise levels above the onset values of 70dB  $L_{den}$  or 57 dB  $L_{night}$  as defined in the Kildare Noise Action Plan. Therefore, the site is deemed to be suitable for residential development subject to appropriate mitigation measures.

The most exposed façades of the development to noise relate to those properties along the southern and western site boundaries, with noise levels of 58 dB - 64  $L_{Aeq}$



during the day and 49 to 55 dB  $L_{Aeq}$  at night. Therefore, the site is categorised as low to medium risk with respect to noise impacts. An Acoustic Design Strategy has been prepared to demonstrate how adverse noise impacts will be avoided. The design measures which have been adopted under this strategy include, inter alia:

- (1) External amenity areas to the north, north-west and north-east of the site have been arranged to maximise their distance from the M4.
- (2) A terraced arrangement is proposed for the houses facing the M4 to maximise noise screening to rear gardens.
- (3) The internal layout of the apartments has been designed to ensure that rooms with lower noise sensitivity are located on façades overlooking the adjoining roads.

The free-field noise levels that would be required to ensure that internal noise levels do not exceed 'good' (i.e. at or below internal noise levels) or 'reasonable' internal noise levels (i.e. 5 dB above the internal noise levels) are as follows:

<b>Level Desired</b>	<b>Day (07:00 – 23:00 hrs)</b>	<b>Night (23:00 – 07:00 hrs)</b>
<b>Good</b>	50-55 dB $L_{Aeq}$ , 16-hour	45 $L_{Aeq}$ , 8-hour
<b>Reasonable</b>	55 – 60 $L_{Aeq}$ , 16-hour	50 $L_{Aeq}$ , 8-hour

Figures 11 – 14 of the applicant's noise assessment illustrate the predicted internal noise levels during the day and night at contours of 1.5 m and 4 m. It is stated that the majority of façades across the site can achieve 'good' internal noise levels with windows open, except for the apartment blocks and houses along the southern and western boundaries i.e. those closest to the R148 and the M4. The assessment states that all ground floor façades facing away from the roads can achieve 'good' internal noise levels with windows open during the day and night-time periods. Elsewhere, the external noise levels will be such that it will not be possible to achieve the desired good internal noise levels with windows open during the day or night-time periods.

A range of mitigation measures are proposed to the affected units to achieve recommended internal noise levels. These relate to the façade treatments, glazing,

wall construction, ventilation and roof structures. I note that figure 15 of the assessment does not clearly identify the proposed façade locations which will require acoustic vents. The assessment concludes that the predicted internal noise level for the proposed dwellings with the identified façade treatment measures under a closed window/open vent scenario, will ensure that noise levels within all sensitive rooms will achieve the BS8233:2014 criteria of 35 dB  $L_{Aeq, 16\text{-hour}}$  during the day and 30  $L_{Aeq, 8\text{-hour}}$  during the night.

- **External Amenity Spaces**

A noise assessment of the external amenity areas has also been undertaken, with a maximum noise range of 50-55 dB  $L_{Aeq, 16\text{ hr}}$  identified for the acoustic environment of such spaces. The noise contour maps for the site demonstrate that public open spaces 1 and 2 on the northern/eastern portions of the site, will experience noise levels lower than the recommended standard. The western portion of open space no. 4 will experience noise levels above the recommended maximum standard (55-60 dB), with the noise levels in the remainder of this space being acceptable. Public open space no. 3, which is located at the south-western end of the site adjacent to the M4 interchange, will experience noise levels of 55-65 dB, which exceeds the recommended maximum noise range.

The external play space for the proposed crèche facility will also experience noise levels above the desired 55 dB  $L_{Aeq, 16\text{ hr}}$ . However, by enclosing this space with a solid boundary wall of at least 2 metres in height, the noise levels will be brought within the recommended levels. The assessment concludes that the noise levels in the majority of the external amenity areas across the site would be acceptable.

I acknowledge the Planning Authority's concerns regarding potential noise impacts which may arise to the proposed development on foot of its proximity to the M4 motorway and regional road R148. I also acknowledge the concerns which have been raised in relation to the applicant's noise assessment and the recommendation to refuse planning permission as set out above.

While I note that noise monitoring was only undertaken over a 2-day period, I note the unforeseen limitations of undertaking survey work during the lockdown associated with the Covid-19 pandemic. I also note that the results reflect earlier monitoring which was undertaken on the site in 2016. I also acknowledge that noise

monitoring was undertaken in 1 no. location only. However, this location generally aligns with the furthest extent of the residential building line at the south-western corner of the site. As such, I consider it could reasonably be identified as a worst-case noise monitoring location.

In addition, while the applicant's noise assessment does not consider impacts arising from the Sligo-Dublin railway line to the north-east of the site, I note that only 12 no. of the proposed dwellings at the northern end of the site are within 150 m of this rail infrastructure and that the neighbouring dwellings within Boycetown Court are located closer to same. As such, I do not consider that the omission of noise monitoring at this location is significant.

In reaching a conclusion in relation to this issue, I note that the site has been zoned to accommodate residential development. Policy GK10 of the Kilcock LAP 2015-2021 requires that new residential development at this location be set-back by 91 m from the M4 motorway. This set-back has been provided for within the proposed site layout. While I acknowledge that the residential units located closest to the M4 and R148 will require mitigation measures to achieve satisfactory internal noise levels under a closed window/open vent scenario, on balance, I am satisfied that this comprises a reasonable design response in this site context.

Notwithstanding the foregoing, in the event the Board grants planning permission for the proposed development, I consider that certain matters should be agreed prior to the commencement of development, including: (1) all units which require noise mitigation be clearly identified on a site plan drawing, including all façade locations which require acoustic vents (the lack of clarity provided in fig. 15 of the submitted noise assessment refers), (2) all proposed noise mitigation measures to be subject to final agreement with the Planning Authority. These matters can be addressed by planning condition.

#### **10.6. Development Design, Form and Layout**

A key feature of the proposed development is the central spine road which extends in a south-easterly direction from the proposed vehicular entrance at the western site boundary, through the centre of the site and terminates adjacent to the south-eastern site boundary. The road layout aligns with that of the permitted SHD scheme on the adjoining site to the south-east. A north-south link road provides access to the site

from the northern boundary adjacent to the R148 and connects with the spine road in the central area of the site. Further link roads within the site provide local access to the proposed residential units.

The residential development which is proposed on the northern side of the spine road comprises 2-storey, detached, semi-detached and terraced dwellings. The northern portion of the site is also characterised by a landscaped buffer and an area of public open space (area no. 1) which extend along the north-western site boundary adjacent to the former St. Patrick's Church and the adjoining graveyard. Public open space no. 2 is also proposed on the northern side of the internal spine road and is overlooked by the terraced housing proposed on the south-eastern part of the site (terraces T5- T9).

The 4 no. proposed apartment blocks (A-D) extend along the southern side of the central spine road and reflect the layout of the 3-5 storey apartments and duplex units within the adjoining permitted SHD scheme. The height of the apartment blocks ranges from 4 to 5 storeys. Block A is 5-storeys in height and has a distinctive curved façade which demarcates the western site entrance. The proposed crèche facility is located at the ground floor level of this block. A further area of triangular-shaped public open space (no. 4) is located to the south of apartment block B.

The remainder of the southern portion of the site is characterised by 2-storey, terraced housing, with 1 no. detached 2-storey house and 1 no. pair of semi-detached units. A landscaped buffer extends along the length of the western site boundary on the southern side of the internal spine road, while a further area of public open space (no. 3) at the south-west corner of the site provides a buffer from the M4 as required under the LAP.

The proposed apartment blocks include a variety of materials and finishes, including 2 no. types of brickwork, stone cladding detailing and selected metal to the upper floor level(s) of each block. Metal balustrades are proposed to enclose the proposed balcony spaces. The proposed 2-storey houses are characterised by a mix of render and brick façades, with tiled roof finishes and standing seam systems to the canopy roofs which demarcate the ground floor level of the building façades.

Kildare County Council considers that the design of the proposed dwelling units is typical of standardised suburban housing and notes that variety is important in

creating a sense of place. In this instance, the Planning Authority considers that the proposed development has not created a sense of place and that there is an over-concentration of apartment blocks within the development, which do not exhibit a high architectural design standard and appear somewhat monotonous throughout the development.

The applicant's Architectural Design Statement provides a justification for the proposed scheme layout and unit design and mix with reference to the 12 no. design criteria of the Urban Design Manual, 2009. In my opinion, the suggested rationale is acceptable. I consider that the proposed layout comprises a reasonable response to the site configuration and the existing and permitted residential developments adjoining the site.

The Urban Design Framework for the site as illustrated on map no. 3 of the LAP identifies a street network and building frontage layout throughout the wider Bawnogues Neighbourhood Expansion Area. In my opinion, the layout of the proposed development generally reflects the principles of new connections with active building frontages as illustrated within this framework.

In my opinion, the proposed 2-storey housing is sympathetic to the scale and design of the existing 2-storey dwellings within the adjoining Boycetown Court estate which adjoins the north-eastern site boundary and the 2-storey dwellings with the permitted SHD scheme (not yet commenced) which adjoins the south-eastern site boundary.

I also consider that an appropriate set-back and landscaped buffer is provided to the adjoining Protected Structure (former St. Patrick's Church) and graveyard. In this regard I note that the closest proposed dwelling to this existing property is the detached dwelling on plot no. 7 to the front of the site and that a separation distance of approx. 42 m arises between the gable elevations of both properties. In my opinion, no negative impacts would arise to the residential amenity of this existing property on foot of the proposed development.

I also consider that appropriate set-backs are provided from the existing residential dwellings which extend along the western and southern boundaries of the Boycetown Court estate. Separation distances of between 23 m and 31.4 m arise between the proposed terraced housing (T4 – T7) and the existing dwellings along the southern boundary of Boycetown Court. A total of 4 no. detached dwelling units

are also proposed adjacent to the western boundary of Boycetown Court. The separation distances which would arise between the gable elevations of the proposed dwellings and the rear elevations of the existing dwellings varies from 11.6 m to 21 m. In my opinion, these separation distances would be acceptable in an urban context. I also note that the proposed residential development at the south-western end of the site has been set back from the M4 Interchange as required under Policy GK10 of the Kilcock LAP.

Having regard to the foregoing, I am satisfied that the design, form and overall layout of the proposed development comprises a reasonable approach to the development of this greenfield site for residential purposes.

#### 10.7. **Standard of Accommodation**

- **Unit Mix**

The proposed development includes a total of 298 no. residential units comprising **181 no. dwellings** (11 no. 2-bedroom, 115 no. 3-bedroom and 55 no. 4-bedroom units) and **117 no. apartments** (12 no. 1-bedroom, 91 no. 2-bedroom and 14 no. 3-bedroom units).

The Design Standards for New Apartment Guidelines for Planning Authorities (2020) specify a maximum provision of 50% 1-bedroom units, with no requirement arising for 3-bedroom units. The proposed apartment unit mix complies with these standards.

The Kildare County Development Plan 2017-2023 states that a variety of housing types should be provided on 'Outer Suburban/Greenfield Sites'. The Kilcock LAP identifies key principles for the development of the Bawnogues Neighbourhood Expansion Area, including inter alia, the provision of a wide range of housing types. While Kildare County Council considered that the proposed development delivers variety in terms of housing offer, a dominance of 3-bedroom units (43%) was noted. In my opinion, the proposed development provides a reasonable mix of dwelling units which responds to the character of the adjoining residential developments. As such, I am satisfied that the proposed unit mix is acceptable in this instance.

- **Unit Sizes**

The proposed 1-bedroom **apartments** range in size from 49.7 m<sup>2</sup> - 60.6 m<sup>2</sup>, the 2-bedroom/4-person units range from 77.3 m<sup>2</sup> – 84.5 m<sup>2</sup> while the 3-bedroom units range from 112.6 m<sup>2</sup> - 117.5 m<sup>2</sup>. I am satisfied that all apartment units exceed the minimum overall floor area requirements of the 2020 Apartment Design Guidelines.

The proposed 2-bedroom **dwelling**s have an overall floor area of 90 m<sup>2</sup>, the 3-bedroom units range from 109 m<sup>2</sup> – 119.2 m<sup>2</sup> and the 4-bedroom units range from 133.2 m<sup>2</sup> – 144 m<sup>2</sup>. I am satisfied that the proposed dwelling houses exceed the minimum floor area requirements of the Kildare County Development Plan.

- **Storage Space**

The applicant's Housing Quality Assessment identifies the storage requirements arising for dwellings under both the county development plan and the Quality Housing for Sustainable Communities Best Practice Guidelines for Delivering Homes Sustaining Communities (2007). The former requires storage space at a rate of 6, 9 and 10 m<sup>2</sup> for 2, 3 and 4-bedroom dwellings respectively, while the latter guidance document identifies a storage space requirement of 4 m<sup>2</sup> for a 2-bedroom/4-person/2-storey dwelling, 5 m<sup>2</sup> for a 3-bed/5-person/2-storey dwelling and 6 m<sup>2</sup> for a 4-bedroom/7-person/2-storey dwelling.

The proposed 2-bedroom dwellings have storage space of 6.3 – 6.9 m<sup>2</sup>, the 3-bedroom dwellings have storage space between 6.4 m<sup>2</sup> – 10 m<sup>2</sup> plus an attic store, while the 4-bedroom dwellings have a storage provision of between 6.4 – 7.4 m<sup>2</sup> plus an attic store. While I acknowledge that the proposed storage space provision is below the standards identified in the county development plan, I am satisfied that the level of storage proposed would be acceptable given that all units exceed the minimum overall floor area requirements.

The Housing Department of Kildare County Council notes that the living room width of the proposed 2-bedroom terraced dwellings does not meet the recommended 3.6 m identified in the above-referenced 2007 Guidelines, with a dimension of 3.2 m annotated on the floor plan drawings. In my opinion, this is not a significant deviation from the recommended standard. I further note that the overall floor area of the living room meets or marginally exceeds the minimum requirement (13 m<sup>2</sup>). As such, I consider that the proposed living room layout is acceptable.

- **Lift and Stair Cores**

The maximum number of apartment units per core per floor is 7 (block A), which complies with the requirements of the 2020 Apartment Design Guidelines.

- **Floor to Ceiling Height**

The ground floor apartment units have floor to ceiling heights of 2.7 m, while the upper floor units have heights of 2.45 m. As such, all units meet or exceed the minimum requirements of the 2020 Apartment Design Guidelines.

- **Dual Aspect Ratio**

The 2020 Apartment Design Guidelines require that a minimum of 50% of apartment units shall be dual aspect. The planning application documentation and drawings confirm that 84.6% of the apartments are dual aspect. I note that all single-aspect units are either north-east (8 no. units) or south-west facing (10 no. units).

The Guidelines state that where single-aspect units are provided, the number of south-facing units should be maximised, with east or west facing units also being acceptable. Given that the majority of the single-aspect units are south-west facing and that the remaining units are north-easterly facing, I am satisfied that the aspect and orientation of the proposed apartment units is acceptable.

- **Communal Facilities**

The proposed development includes a crèche facility of 560.4 m<sup>2</sup> which is located at the ground floor level of apartment block A. The proposed 1-bedroom apartment units have been excluded from the childcare requirement calculations as provided for under the 2020 Apartment Design Guidelines, resulting in a stated requirement for 75 no. childcare spaces. While I note that the correct requirement arising is 76 no. spaces, I do not consider this to be a material deviation in this instance.

A 5-classroom layout is proposed which will cater for babies up to 14 years of age (afterschool care), with an enclosed outdoor play area of 216 m<sup>2</sup>. A total of 24 no. car parking spaces are assigned to the facility, including 6 no. staff car parking spaces and 18 no. drop-off spaces. A total of 10 no. short-term bicycle parking spaces are also proposed adjacent to the childcare facility entrance, together with a mini-bus stop.



While I note that the third-party observers have raised concerns that the minimum childcare requirement has been provided for, in my opinion, the proposed development caters sufficiently for the childcare requirements arising on foot of this residential scheme. I further consider that any deficiency in childcare provision arising elsewhere within the town is not for adjudication under this application.

The applicant proposes to deliver the childcare facility in phase 3 of the construction programme, when sufficient dwellings have been completed to make it commercially viable. I note that 152 no. units will be completed at the end of phase 3 and that the crèche forms part of apartment block A. I am satisfied that the proposed delivery timescale for this facility is reasonable.

- **Operational Waste Management**

An Operational Waste Management Plan accompanies the planning application which demonstrates how the required waste storage areas have been incorporated into the design of the development. A total of 5 no. shared waste storage areas are proposed for the apartment blocks. The storage areas are located at ground floor level of blocks B, C and D, while the storage area for block A is external to the block and adjoins the western façade of the proposed crèche facility. A separate waste storage area for the crèche is proposed at the same location. Houses with external rear access will store waste in the rear yard area, while houses without external rear access will have sheltered bin stores to the front. Waste will be segregated at source in the crèche, apartments and houses, with suitable bins provided for each waste stream.

In my opinion, the proposed waste management arrangements are generally acceptable. While I consider that the location of the external waste storage area serving apartment block A is somewhat distant from the apartment units at the north-western end of the block, I note that the layout of the ground floor residential units and childcare facility precludes its relocation elsewhere on this part of the site. As such, on balance, I consider that the location of this store is acceptable.

It is unclear from the planning drawings whether it is proposed to cover this waste storage area to ensure no nuisance impacts arise. In my opinion, this issue could be clarified through the submission of an appropriate planning drawing to the Planning by way of condition.

- **Building Lifecycle**

The planning application includes a Building Lifecycle Report and an Energy and Sustainability Report, which set out details of how the proposed development has been designed to minimise operation and energy costs. I note that the project is targeting an A2/A3 Building Energy Rating. I am satisfied that the information contained therein is acceptable.

#### 10.8. **Access to Daylight and Sunlight**

- **Daylight and Sunlight to Adjacent Buildings**

Section 17.2.5 of the county development plan states that where development of a significant height is located close to existing development, the planning authority may require daylight and shadow projection diagrams to be submitted. The recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BRE 1991) or Lighting for Buildings Part 2 1992: Code of Practice for Day Lighting B.S. 8206 and any updates to these documents should be followed as a minimum in this regard. The Building Height Guidelines also seek compliance with the requirements of the BRE standards and associated British Standard (note that BS 8206-2:2008 is withdrawn and superseded by BS EN 17037:2018), and that where compliance with requirements is not met, that this be clearly articulated and justified.

The BRE “Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice” describes recommended values (e.g. ADF, VSC, APSH, etc) to measure daylight, sunlight and overshadowing impacts. However, it should be noted that the standards described in the BRE Guidelines are discretionary and not mandatory policy/criteria (para. 1.6). The BRE Guidelines also state in paragraph 1.6 that, “although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design”.

The BRE note that other factors that influence layout include considerations of privacy, security, access, enclosure, microclimate, etc. In addition, industry professionals would need to consider various factors in determining an acceptable layout, including orientation, efficient use of land and arrangement of open space, and these factors will vary from urban to more suburban locations. The BRE Guidelines state that in relation to daylight to existing buildings, “loss of light to

existing windows need not be analysed if the distance of each part of the new development from the existing window, is three or more times its height above the centre of the existing window. In these cases, the loss of light will be small..." (para. 2.2.4).

I consider that the proposed 4-5 storey apartment blocks are not situated close enough to any existing dwellings to perceptibly impact daylight or sunlight levels. In this regard, I note that a minimum separation distance of approx. 162 m arises between apartment block A and the rear façade of the former St. Patrick's Church to the north. A minimum separation distance of approx. 82 m arises between apartment block C and the nearest dwelling within the Boycetown Court estate to the north-east. Therefore, no analysis of the impact of the proposed buildings on any existing properties is required, as no impacts will arise and can be ruled out from further testing as per para. 2.2.4 of the BRE Guidelines.

- **Daylight and Sunlight to Proposed Development**

The submitted Daylight and Sunlight Analysis of the proposed apartment units does not include a quantitative analysis of internal daylight/sunlight in the apartment units. It is submitted that all housing units and the majority (84.6%) of the apartments are dual aspect, including the 1-bedroom units. The apartment living areas have been orientated to ensure they face west, south-west and south where possible, with bedrooms normally located to the north-east and south-east. It is submitted that the proposed residential units will benefit from significant daylight and sunlight provision throughout the year due to:

- (1) There are no existing tall buildings adjacent to the proposed apartment blocks and the arrangement of the individual blocks is such that they do not block daylight/sunlight from each other.
- (2) Significant separation distances to the closest 2-storey houses.
- (3) The use of large windows/glazed doors.
- (4) The design of the rooms, avoiding long/deep arrangements.

Having regard to the foregoing, the existing greenfield nature of the site, the nature and scale of the existing residential development adjoining the site and the proposed site plan layout, I am satisfied that appropriate levels of daylight and sunlight would

arise to the proposed dwellings and that the approach taken by the applicant in examining this issue is reasonable with respect to the site context.

- **Sunlight to Amenity Spaces**

The BRE guide indicates that for an amenity space to have good quality sunlight throughout the year, 50% of it should receive more than 2 hours of sunlight on 21<sup>st</sup> March. All the existing private amenity spaces adjoining the site and the proposed amenity areas within the development will meet the required standard. As such, I am satisfied that the proposed development meets the BRE recommendations for sunlight in gardens and open spaces.

- **Overshadowing**

Shadow diagrams have been included in the applicant's Architectural Design Statement. These illustrate shadows from the proposed development at the summer and winter solstice and the spring/autumn equinoxes. The overall impact of overshadowing is categorised as negligible adverse.

No shadowing impacts arise to the neighbouring residential properties (permitted and existing) during March and June, apart from a minor impact on Boycetown Court at 5pm in March/September. Shadowing impacts will arise to the former St. Patrick's Church during the day in December, as illustrated in the shadow diagrams for 10 am and 3 pm. Shadow impacts will also arise to the dwellings at the southern boundary of the Boycetown Court estate at 10am, 12 noon and 3 pm during December and to the dwellings extending along the western boundary of the Boycetown Court estate at 3 pm in December. It is noted that there are existing trees along the boundaries with these adjoining residential developments, and as such, they are already subject to overshadowing impacts, particularly in December.

Having regard to the height, scale and layout of the proposed residential scheme, I am satisfied that no undue overshadowing impacts would arise within the site or to any neighbouring property on foot of the proposed development. While I acknowledge that some impacts will arise to the neighbouring residential properties, I note that these primarily arise in December, reflecting the low position of the sun at this time of year. As such, I am satisfied that the extent of overshadowing which would arise would be acceptable and would have no significant impact on the residential amenities of these properties.

In conclusion, I am satisfied that no significant issues arise with respect to the daylight, sunlight and overshadowing impacts of the proposed development, which in my opinion, complies with BRE guidance as required under the Building Height Guidelines. I also note that no concerns have been raised in relation to such impacts by the Planning Authority or any third party.

#### 10.9. Visual Impact

The submitted Visual Impact Assessment is supported by photomontages and the proposed landscaping proposals. The assessment notes that the subject site is located in the Northern Lowlands landscape character area, which has a low sensitivity classification. Map no. 14.3 of the county development plan identifies scenic routes and protected views within the county, including all views to/from all bridges on the Royal Canal. Allen Bridge Boycetown (RC10) is located to the east of the site on the R148 and Shaw Bridge Kilcock (RC11) is located more than 1 km from the site. The assessment states that the proposed development will have no impact on views of these bridges.

A total of 9 no. views were selected for the purposes of the assessment, which are located on the adjoining road network, within the adjoining Boycetown Court estate and at Allen Bridge. The assessment concludes that the visual impact of the development ranges from none to moderate. Most views into the site are obscured by existing hedgerows which will remain in situ. The main visual impact is noted to occur in views of apartment block A from the adjoining road network. It is submitted that this building is intended to act as a landmark feature and gateway into the site. It is also noted that the character of the northern part of the site adjacent to the R148 will change from rural to urban in character. These changes are considered reasonable, given the residential land use zoning which applies to the site.

The findings of the visual impact assessment are accepted. I note that the subject site is not particularly sensitive with respect to potential visual impacts and that the existing and proposed planting would provide a reasonable level of screening of the proposed development. I also consider that the proposed development would reflect the character and pattern of the existing and permitted modern residential developments adjoining the subject site.

As such, I am satisfied that the proposed development would have no significant negative visual impact on the subject site, any adjoining development or any scenic views.

#### 10.10. Open Space, Landscaping and Boundary Treatments

- **Private Open Space**

The private open space for the proposed **dwelling houses** generally comprises regularly-shaped rear gardens. The private open space ranges from 59 m<sup>2</sup> – 65 m<sup>2</sup> for the 2-bedroom units, from 61 m<sup>2</sup> – 239 m<sup>2</sup> for the 3-bedroom units and from 78 m<sup>2</sup> – 233 m<sup>2</sup> for the 4-bedroom units. As such, all the proposed private open spaces meet or significantly exceed the required standards of the county development plan. Most of the rear garden spaces exceed 11 m in depth, excluding unit nos. 139, 170 and 171. While these corner units have triangular-shaped rear gardens, I am satisfied that their configuration is acceptable given that the overall quantum of space provided significantly exceeds the minimum requirements of the county development plan.

The private open space to serve the **apartment units** comprise patios at ground floor level and balconies on the upper floors. The applicant's Housing Quality Assessment confirms that all spaces exceed the minimum area requirements of the 2020 Apartment Design Guidelines. I note that all balconies are at least 1.5 m in depth and directly accessible from the main living spaces, except for the patio serving unit no. 182 at ground floor level of block A. This amenity space is accessed from the bedroom, with no direct access provided from the living room. In my opinion, the patio could be extended along the front of the unit to enable access via the living room. This matter could be addressed by planning condition.

I have some concerns regarding the exposure of the north-westerly facing balconies on the upper floor levels of apartment block A, given their orientation and their proximity to the adjoining R148. However, I also note that very generous balconies are provided to unit nos. 201 and 208 at the 3<sup>rd</sup> and 4<sup>th</sup> floor levels respectively. These balconies wrap around the entire curved façade of the block, and as such, having regard to their size and configuration, I am satisfied that they would provide an appropriate level of residential amenity for the future occupants of these units.

- **Public/Communal Amenity Space**

The proposed development includes 4 no. parcels of **public open space**. Area no. 1 is located in the north-western corner of the site, to the rear of the former St. Patrick's Church and has a stated area of 3,646 m<sup>2</sup>. Area nos. 2 and 4 are located in the central area of the site and comprise areas of 2,405 m<sup>2</sup> and 742 m<sup>2</sup> respectively. Public open space no. 3 is located in the south-western corner of the site and has a stated area of 1,563 m<sup>2</sup>.

The county development plan requires that a minimum of 15% of the site area shall be provided as public open space. The applicant has calculated the area of the residentially zoned portion of the overall site as 85,682 m<sup>2</sup>, resulting in a minimum open space requirement of 12,852 m<sup>2</sup>. The stated area of public open space provided is 12,958 m<sup>2</sup> or 15.12% of the residentially zoned land. As identified by the Planning Authority, this figure includes 4,602 m<sup>2</sup> of the landscaped buffer areas which extend along the northern, western and southwestern site boundaries. I note that Kildare County Council expressed concerns regarding the usability of these spaces.

In my opinion, public open space nos. 3 and 4 are of poor quality. Area no. 4 is surrounded by car parking and internal access roads on all sides, which limits its value as an amenity space. Area no. 3 is located in a remote corner of the site adjacent to the south-western boundary and the M4 interchange. This space is not readily accessible to the majority of the residential units within the site. The applicant's noise assessment also confirms that daytime noise levels in area no. 3 range from 55 – 65 dB which is 10-15 dB above the recommended external noise levels for such spaces. I note that no mitigation measures have been proposed to reduce the noise levels at this location.

I also have significant concerns regarding the inclusion of the proposed landscaped buffer spaces as usable public open space, in particular areas A, B and D which have a combined area of 3,464 m<sup>2</sup>. In my opinion, these areas cannot reasonably be categorised as quality, usable public open space. Area A is located to the front of the site adjacent to the vehicular access to house nos. 1- 6 and in my opinion, does not constitute high quality open space by reason of its size, location and configuration. Areas B and D are almost entirely characterised by the proposed cycle/pedestrian

link through the site, with marginal green pockets of very limited amenity value. The exclusion of these spaces reduces the proposed public open space to 9,494 m<sup>2</sup> or 11% of the residentially zoned lands.

The 2020 Apartment Guidelines require that **communal open space** be provided at a rate of 5, 7 and 9 m<sup>2</sup> for 1-bedroom, 2-bedroom/4-person and 3-bedroom units respectively. This results in a requirement for 823 m<sup>2</sup> of communal open space to serve the proposed apartment units.

The open space which is proposed has a stated area of 1,855 m<sup>2</sup> and is largely comprised of linear strips surrounding each of the apartment blocks. A larger, more usable pocket of communal open space is provided to the rear of block C, and to a lesser extent, to the rear of block D and adjoining the curved façade of block A. In my opinion, the largely linear configuration of the communal open space significantly reduces its amenity value. I further note that the open spaces directly adjoin the living areas/bedrooms of the ground floor apartment units, and as such, their use would likely have a significant negative impact on the residential amenity of the occupants of these units.

Thus, given the size of the residentially zoned portion of the site and its existing greenfield nature, I am not satisfied that the proposed development provides high-quality public and communal open spaces for future residents of the scheme. In my opinion, planning permission should be refused on this basis. I note that Kildare County Council also considered that the proposed development fails to provide a hierarchy of high-quality, usable open spaces as identified in reason no. 1 of the recommendation to refuse planning permission.

In the event the Board disagrees with my assessment, I consider that the public open space within the site could be improved by omitting dwelling nos. 27-47 from the proposed development, which would increase the area of open space by approx. 5,250 m<sup>2</sup>. This amendment would enable the creation of a larger area of public open space adjacent to public open space no. 1 and buffer area C, which in my opinion, would create a more successful hierarchy of spaces through the site.

I note that this amendment would reduce the total number of residential units by 22, resulting in a development density of 38 units/ha (based on identified net developable area of 7.24 ha), which is within the recommended density range for



Outer Suburban/Greenfield sites under the Sustainable Residential Development Guidelines, 2009. I also note that the Parks Department of Kildare County Council considered the landscape design proposals to be satisfactory in principle for the proposed development. A number of items regarding the overall landscaping strategy are identified for agreement with the Planning Authority. These matters could be addressed by planning condition in the event planning permission is granted for the proposed development.

In my opinion, the site plan layout could not be readily amended by way of condition to address the deficiency in the proposed communal open to serve the apartment blocks.

- **Boundary Treatments**

The proposed boundary treatments are illustrated on the Landscape Design Masterplan (Drawing No. 1) and I consider these to be generally acceptable.

It is proposed to pipe an existing ditch which extends along the north-eastern site boundary adjoining the Boycetown Court estate. This land will be incorporated into the rear gardens of the proposed residential units at this location. The Parks Department of Kildare County Council note that the retention and protection of the existing open ditch and hedge would have been a preferred option and could have been achieved by locating the proposed open space adjacent to these features. Notwithstanding the foregoing, the Parks Department considers the proposals to be acceptable in the context of the current scheme. I note that the Department of Housing, Local Government and Heritage also recommended that the eastern ditch remain open to maintain biodiversity on the site.

While I acknowledge that the alternative solution identified by the Parks Department may be a preferred option with respect to SuDS and biodiversity considerations, on balance I consider these boundary treatments would be acceptable in the interests of achieving the efficient development of this zoned residential land.

## 10.11. Access, Pedestrian / Cycle Facilities and Parking

- **Access**

Refusal reason no. 2 of Kildare County Council's recommendation to refuse planning permission states, inter alia, that the proposed development has failed to provide a roundabout junction at the R148 to complete a comprehensive road design of LAP road objective MTO25 from the existing road at Bawnogues to the M4 interchange. As such, it is considered that the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users, does not comply with DMURS and would materially contravene objectives of the Kilcock LAP.

The submitted Traffic and Transport Assessment (TTA) was undertaken during the travel restrictions associated with the Covid-19 pandemic and consequently, previous traffic data from separate surveys undertaken in 2017 and 2018 have been used. The 2017 traffic data has been adjusted in line with TII growth factors for the base year (2021), opening year (2023) and future year (2028, 2038) assessments. I am satisfied that this is a reasonable approach to the collection of the baseline data.

Five local developments which may impact on future traffic flows in the vicinity of the proposed development have been added to the background traffic for the opening year and the future years. This is considered a conservative approach as the traffic growth factors used in the analysis are based on the forecast of these future developments.

An assessment of the link capacity of the local road network in the vicinity of the application site (R148, R158 and R125) was undertaken, which concludes that all local roads will have sufficient capacity for each of the future assessment years with, and without the proposed development.

The percentage of the development traffic exceeds 5% at 7 no. locations on the surrounding road network, and consequently, 7 no. junctions have been assessed to determine whether the proposed development impacts on junction performance. The results demonstrate that junction no. 1 (R148/R158 signalised junction) will operate above capacity for the assessment years (2021, 2023, 2028 and 2038) with and without the development but that the proposed development will have a negligible impact on the performance of the junction. Junction nos. 2 - 6 will continue to operate within capacity for each of the assessment years.

A priority junction is proposed at the western site boundary providing access to the R148 north of the M4 interchange. Objective MTO25 of the Kilcock LAP seeks to facilitate the future construction of a road from the Bawnogues to the M4 interchange as indicated on map no. 7 (Transport Objectives Map) of the plan. The indicative masterplan layout for Kilcock as illustrated on Figure 30 of the plan, indicates a roundabout junction adjacent to the western site boundary. The Transportation Planning Department of Kildare County Council considers that the applicant has not provided any evidence of engagement with adjacent road and roundabout landowners in relation to the layout and design of the required roundabout junction.

In considering the foregoing, I note that this matter is addressed in section 7.0 of the applicant's TTA. An indicative design has been prepared for a 4-arm roundabout, which could potentially replace the priority access junction onto the R148 in the future and provide access to the subject site and the light industry/warehouse zoned lands on the western side of the R148. It is confirmed that the internal road network of the subject development has been designed to permit the implementation of this roundabout if required.

In my opinion, this is a reasonable approach in this instance. I further note that the masterplan layout identified for this route under the LAP is indicative only, and as such, I do not consider that the provision of a priority junction at the western site boundary would materially contravene this objective of the LAP. This objective seeks to facilitate the future construction of a road through the subject site, connecting to adjoining lands to the south/south-east. In my opinion, this requirement is catered for by the proposed internal road layout of the development.

- **Pedestrian/Cycle Facilities**

Reason no. 2 of Kildare County Council's recommendation to refuse permission in this instance states that the design has failed to provide pedestrian and cyclist facilities on the R148 adjacent to the proposed western and northern accesses.

A shared pedestrian/cycle track commences inside the site adjacent to the proposed northern site access and generally extends in a north-south direction along the western site boundary. Segregated pedestrian and cycle paths extend into the site from the western site access, following the alignment of the east-west internal link

road and tying in with the road layout of the permitted SHD scheme on the adjoining site.

A small section of footpath is proposed adjacent to the northern site boundary, which will link to a proposed pedestrian crossing on the R148. This crossing will enable future residents to utilise the existing footpath which extends along the northern side of the R148. No pedestrian or cycling facilities are proposed adjacent to the western site boundary on the R148.

In my opinion, the scheme's omission of pedestrian and cycling facilities on the R148 adjacent to the northern and western access points does not constitute a reasonable reason for refusal in this instance. While the inclusion of dedicated cycling/pedestrian facilities on the southern side of the R148 would be a positive addition to the existing footpath which commences at the entrance to the Boycetown Court estate, I consider that the applicant's proposal to implement a pedestrian crossing on the R148 to connect to the existing footpath on the northern side of this public road is a reasonable compromise. I also note that no dedicated cycle paths are currently provided on either side of the R148 extending into Kilcock, and as such, it would be unreasonable to refuse planning permission for the proposed development on this basis.

While I acknowledge that no cycling or pedestrian connections are proposed on the R148 adjacent to the western site boundary, in my opinion, the demand for such connections is likely to be limited given that this busy regional road connects to the M4 interchange. I also note that no such facilities are currently provided on either side of the road at this location. In my opinion, pedestrian/cycle movements arising on foot of the proposed development are more likely to use the northern site access as the primary entry/exit point to the site.

Thus, in conclusion, I am generally satisfied that the proposed pedestrian and cycling facilities which are proposed to facilitate the development are acceptable.

- **Car and Bicycle Parking**

Refusal reason no. 3 of Kildare County Council's recommendation to refuse permission states that the proposed development fails to provide sufficient car parking to serve the apartments, with a shortfall of 40 no spaces arising. It is also

considered that electric charging point car parking spaces have not been indicated and a recessed bus stop has not been provided.

The proposed development includes 362 no. **car parking** spaces for the proposed houses (2 spaces per unit) which complies with county development plan requirements. A total of 149 no. spaces are proposed to serve the 117 no. apartment units and a further 56 no. visitor spaces. I note that this provision exceeds the standards identified for peripheral urban locations under the 2020 Apartment Design Guidelines. While I note the commentary of the Transportation Planning Department of Kildare County Council in relation to this matter, in my opinion, no car parking shortfall arises having regard to the standards required under national planning guidelines.

A total of 165 no. car parking spaces throughout the site are **accessible**, including 9 no. on-street spaces for apartment residents, 6 no. on-street spaces for visitors and 2 no. spaces for the crèche. I note that the county development plan does not specify a requirement for accessible car parking spaces for residential development, with a 5% standard identified for non-residential uses. Having regard to the foregoing, I am satisfied that the proposed accessible car parking provision would be acceptable.

While the county development plan requires non-residential development to provide charging facilities for battery operated cars at a rate of up to 10% of the total number of spaces, no requirement is identified for residential developments. Refusal reason no. 4 of Kildare County Council's recommendation to refuse permission states that electric charging point car parking spaces have not been indicated. However, I note the applicant's TTA confirms that all car parking spaces within the development will include ducting to allow the future installation of EV charging points. In my opinion, this approach is acceptable.

A total of 17 car parking spaces are proposed for the crèche facility, which will have a maximum of 13 no. staff at any one time. I am satisfied that this level of provision is in accordance with county development plan standards.

A total of 247 no. **bicycle parking** spaces in internal bicycle stores are proposed to serve the apartment units, with a further 66 no. spaces proposed for visitors. This level of provision exceeds the requirements of the 2020 Apartment Design

Guidelines. A further 96 no. bicycle parking spaces within 12 no. external bicycle stores are proposed proximate to the terraced houses, while all other house types will have space for in-curtilage cycle parking. A total of 10 no. spaces are proposed for crèche staff and parents. I am satisfied that this level of bicycle parking provision is acceptable.

- **Compliance with DMURS**

The applicant's Road Infrastructure Design Report includes a statement of consistency with DMURS. It is submitted that the traffic calming and VRU protection measures which have been provided in the design include designated and marked pedestrian crossing points, dropped kerbs and tactile paving at crossing points, off-road cycle tracks, smaller corner radii, horizontal alignment constraints and vertical deflections to restrict traffic speeds, landscaping to frame vehicle sightlines internally and a road design with a maximum vehicle speed of 30 km/hr.

The internal link street has a minimum carriageway width of 6.5 m to permit safe access for service and emergency vehicles, with connectivity to other LAP lands provided. No direct access units are proposed onto the link street. Speed control measures such as raised table junctions have been included. Raised footpaths and cycle tracks flank either side of the link street connecting to existing road infrastructure and zoned development land. Local streets have a minimum width of 5.5 m with footpaths provided which will create good service routes for local access only, while promoting good permeability through the site. The internal layout has been designed to discourage HGVs and other large vehicles from using the local streets within the scheme.

I note that the Chief Executive's Report of Kildare County Council includes an analysis of the scheme's compliance with the 12 urban design criteria of the Urban Design Manual Best Practice Guidelines, 2009. With respect to the detailed design criterion, it is stated that the internal design of the development, particularly the proposed road alignment, does not conform to DMURS, with reference made to the Transportation Planning Department Report of the Local Authority.

While this Department recommended that planning permission be refused for the proposed development, appropriate planning conditions are identified should the Board grant planning permission in this instance. In reviewing these conditions, I

note that condition nos. 37 and 38 require the lines of sight at the site entrance to be provided strictly in accordance with DMURS and that roads, footpaths, turning areas and corner radii at junctions shall be designed and constructed in accordance with DMURS.

In my opinion, any particular design details required by the Planning Authority to demonstrate compliance with DMURS, including those relating to the proposed road alignment, could reasonably be addressed by way of condition should the Board decided to grant planning permission for the proposed development.

#### 10.12. **Site Services, Surface Water and Flooding**

- **Site Services**

All **foul effluent** generated from the proposed development will be collected in 150 mm and 225 mm diameter pipes and will flow under gravity to the proposed pumping station and infrastructure, which will be designed and constructed by Irish Water. The proposed pumping station is located on the north-western portion of the site, which is zoned for open space purposes. Irish Water has instructed that an allowance be made in the foul sewer design to cater for future residential development of approx. 441 units.

With respect to **water supply**, it is proposed to make a new connection off the existing public watermain running along the northern site boundary and supply a 150 mm diameter watermain to the subject site. I note that the planning application is accompanied by a confirmation of feasibility letter and statement of design acceptance from Irish Water.

- **Surface Water**

The total storage attenuation required on foot of the proposed development in the 100-year storm event (increased by 20% for predicated climate change) is 3,448 m<sup>3</sup>. The total attenuation which will be provided in the proposed attenuation tanks and associated pipes will be 3,483 m<sup>3</sup>. Surface water flows from the site will be restricted by flow control systems and will discharge into the local drainage networks.

A number of systems are also proposed to aid the improvement of overall water quality including, swales, tree pit drainage systems, permeable paving to all parking spaces, waterbutts and the use of attenuation tanks with flow control devices.

- **Flooding**

The planning application is accompanied by a Site-Specific Flood Risk Assessment. The assessment confirms that the subject site is located in Flood Zone C, and as such, has a low probability of flooding. The risk of fluvial flooding is not deemed to be significant, and the risk of tidal flooding is negligible. Historical flood mapping does not indicate any previous pluvial flooding in the area. An attenuation tank will be used to control storm water flows from the site, and as such, the likelihood of the proposed development adversely affecting the public drainage system or contributing to downstream flooding is mitigated. The groundwater vulnerability assessment of the site indicates that the vulnerability of groundwater in the area is low.

I am satisfied that the information presented in this assessment is acceptable and that no undue flood risks would arise on foot of the proposed development.

In conclusion, I am satisfied that the proposed arrangements with respect to site services, surface water and flooding are acceptable. In this regard, I note that the Water Services Department of Kildare County Council had no objections to the proposed development subject to conditions.

#### 10.13. **Biodiversity**

The planning application documentation includes an Ecological Impact Assessment (EclA), an Outline Construction Environmental Management Plan and an Arboricultural Assessment.

The EclA confirms that there is no evidence of invasive species on the site. Two protected species were observed during the site visit, including a single hare at the very south of the site, running into the neighbouring fields to the east. A bat survey was also undertaken in May 2021 which observed a single bat travelling along the eastern boundary of the former St. Patrick's Church. No bat activity was detected in the vacant cottage on the north-western portion of the site. In my opinion, it would be appropriate to repeat a bat survey on the vacant cottage and any trees which will be removed to facilitate the development in advance of demolition/construction works. I note that this recommendation is supported by the submission from the Department of Housing, Local Government and Heritage. This matter could be addressed by planning condition.



The EclA notes that the proposed SuDS measures and landscaping plan will develop amenity areas to the benefit of wildlife. It is noted that there will be loss of habitat for the hare, but that agricultural lands to the north of the subject site will provide more suitable habitat for this species. It is also noted that the site will provide areas suitable for bat foraging, with initial night-time activity likely to centre around the large mature treelines, the site boundaries and the cemetery. The assessment also notes that a potential wildlife corridor has been provided along the western site boundary, which will be especially important for bats that may be roosting in the former church. The proposed public open spaces will also act as stepping-stone habitats for nocturnal species. The assessment concludes that every effort has been made to minimise the impact of the proposed development on the receiving environment.

It is proposed to retain all mature trees and hedgerows at the site perimeter, including those at the boundary of the adjoining Protected Structure and cemetery, apart from the proposed entrance to the pump station. Replacement planting is proposed at this entrance. The central hedgerow boundaries within the site will be removed to facilitate the proposed development. Part of the low shrub hedge along the R148 at the northern site boundary will also be removed.

While I note that policy GK2 of the Kilcock LAP seeks to protect trees and hedgerows from development where possible as illustrated on the Green Infrastructure Map (map no. 9), I note that the site hedgerows are categorised as low to medium value. The Arboricultural Assessment notes that the loss of these hedges is not significant, given that the hedges are of poor quality and can be replaced with new planting.

On balance, I am satisfied that the proposed hedgerow removal within the site would be acceptable in facilitating the efficient development of zoned residential land. I note that the Parks Department of Kildare County Council also considers that the proposals for trees and hedgerows are satisfactory in principle, subject to conditions, including the appointment of an Arboricultural Consultant for the entire period of construction activity. These matters can be addressed by planning condition.

The Outline Construction Environmental Management Plan identifies a range of measures to control all activities that may impact on the environment for the duration

of the works. In my opinion, the identified measures are reasonable, and I note that these could be agreed with the Planning Authority in advance of the commencement of development. This matter can be addressed by planning condition.

In conclusion, I consider the approach to the protection and enhancement of the biodiversity of the site is acceptable.

#### 10.14. **Architectural Heritage and Archaeology**

- **Architectural Heritage**

The planning application includes an Architectural Heritage Impact Assessment which considers the impact of the proposed development on the former St. Patrick's Church (a Protected Structure) and its curtilage. The assessment concludes that the proposed development will: (1) not result in a negative impact on the architectural heritage of the site, which contains no structures of heritage significance, (2) have a neutral impact on the surrounding landscape, which is becoming increasingly urbanised, (3) have a neutral impact on the architectural heritage of the former St. Patrick's Church, its churchyard, its curtilage, the adjoining cemetery and the surrounding remains of the historic landscape – it is noted to be somewhat unusual that a church would be located at a distance from the homes of people it serves, (4) have no impact on other Protected Structures in the wider vicinity, which includes Allen Bridge and Boycetown House.

It is also concluded that the proposed apartment blocks will have no impact on the former St. Patrick's Church, given the separation distances which would arise between the existing and proposed structures. No mitigation measures are identified with respect to the impact of the proposed development on architectural heritage. In my opinion, the results of this assessment are acceptable.

- **Archaeology**

The planning application is accompanied by an Archaeological Heritage Assessment which confirms that there are no previously identified archaeological monuments located within, or immediately adjacent, the subject site. As such, it is considered that the site is of low/moderate archaeological potential.

Construction works in areas of previously undisturbed ground have the potential to uncover and disturb previously unrecorded archaeological features. As such, it is

recommended that the lands should be subject to a programme of pre-development intrusive archaeological testing. This matter can be addressed by planning condition.

#### 10.15. **Part V**

The applicant intends to provide 30 no. units to meet the Part V requirements arising under the Planning and Development Act, 2000 (as amended). These comprise 10 no. 1-bedroom units, 10 no. 2-bedroom units and 10 no. 3-bedroom units (18 no. houses and 12 no. apartments). Indicative Part V costings are also provided.

Correspondence from Kildare County Council is included which confirms that pre-application consultations have been ongoing in relation to this matter. It is stated that apartment units will only be considered for Part V purposes if they are transferred to an approved housing body.

In considering the foregoing, I note the recent changes which arise under the Affordable Housing Act, 2021, which include, inter alia, an increased Part V requirement of 20% in all Local Authority areas. Transitional arrangements apply to these requirements, whereby a 10% requirement will arise where permission is granted between 1<sup>st</sup> August 2021 and 31<sup>st</sup> July 2026 **and** the subject land was purchased by the applicant between 1<sup>st</sup> September 2015 and 31<sup>st</sup> July 2021. I note that the same applicant applied for planning permission on the site in 2006 (see planning history in section 5.0 of this report). As such, it appears that a 20% Part V requirement would arise in this instance.

In any event, I note that these matters can be addressed by planning condition and will be subject to final agreement with the Planning Authority should the Board decide to grant planning permission for the proposed development.

#### 10.16. **Community Facilities**

The planning application includes a **School Demand Statement** which estimates that the proposed development will generate a demand for 98 no. primary level school places and 70 no. post-primary places. These figures are derived from an average household size of 2.75 persons and a future population of 820 no. persons. The applicant's agent submits that, given the number of proposed 1 and 2-bedroom units (114 no.), the identified demand for school places is likely to be smaller.

The school demand statement identifies an available capacity of 93 no. places in 5 no. existing primary schools in the wider vicinity of the site, 3 no. of which are located within the town, 1 no. of which is located approx. 5 km to the south-west of the site at Newtown National School and 1 no. of which is 5.5 km to the north-east of the site at Mulhussey National School.

It is identified that planning permission has been granted to extend St. Joseph's Boys National School, resulting in an estimated 66 no. additional school places (planning Authority Reg. Ref. 20/992 refers). It is also identified that planning permission has been granted to extend the existing post primary school in the town (Scoil Dara), resulting in an estimated 90 no. additional places. It is also noted that a 500 place post-primary school opened in Enfield (Enfield Community College) in September 2020, which is located 8.7 km to the west of the subject site. It is suggested that this enrolment may increase to 1,000 pupils.

I note that 2 no. parcels of land to the east and south-east of the subject site are subject to land use zoning "E1 and E2: Community and Educational" respectively. Site E1 is located in the Bawnogues area and has a stated area of 12 acres as referenced in the Kilcock LAP. This site is reserved for post-primary school educational facilities. Site E2 is located further to the south-east and has a stated area of 3 acres. This site is reserved for primary school educational facilities.

While I acknowledge the concerns of the Environmental Health Officer and third parties regarding the information presented in the applicant's School Demand Statement, I note that no requirement arises to provide school facilities on the subject site. As such, I am satisfied that this matter is outside of the applicant's control. Notwithstanding the foregoing, I note the zoning provisions of the LAP which reserve 2 no. sites for the future development of additional primary and post-primary school places within the town.

The planning application also includes a **Social Infrastructure Assessment** which identifies existing and proposed community facilities within the town. Based on the information contained therein, I am satisfied that a reasonable level of social infrastructure exists in the town for the benefit of future residents of the proposed development.

## 10.17. Material Contravention

The applicant's agent identifies 4 no. instances where the proposed development may be considered to materially contravene the provisions of either the Kildare County Development Plan 2017-2023 or the Kilkcock LAP 2015-2021. These relate to: (1) housing targets, (2) residential density, (3) building heights, and (4) the location of the proposed apartment units outside the town centre.

- **Housing Targets**

As discussed in Section 10.2 of this report, I consider that there is sufficient justification for the Board to grant planning permission for the 298 housing units which are proposed in this instance under the provisions of **Section 37(2)(b)(i)** of the Act. The proposed development constitutes strategic development within the meaning of Section 3 of the Planning and Development (Housing) and Residential Tenancies Act, 2016. The site is also located within the Dublin MASP area and would facilitate residential development which would only marginally exceed the identified housing target for the town to 2023.

I also consider that the Board could grant permission for the proposed development under **Section 37(2)(b)(iii)** of the Act. In my opinion, the proposed development would be in accordance with National Policy Objective 33 of the NPF, which prioritises the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. In this regard, I consider that the proposed development would reflect the scale of the existing and permitted residential developments which adjoin the subject site.

I further consider that the proposed development would comply with the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020) by providing 117 no. apartment units which meet or exceed the required standards, thereby serving to increase housing supply within the MASP area at a time of acute demand for additional residential accommodation.

In my opinion, the proposed development would also comply with the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities, 2009, which confirm that increased residential densities should be encouraged in suitable locations, including residentially zoned lands on Outer Suburban/Greenfield sites in larger towns.

I also consider that the Board could grant permission for the proposed development under **Section 37(2)(b)(iv)** of the Act, having regard to the pattern of development in the area since the LAP was prepared, specifically the permitted SHD on the adjoining site to the south-east.

- **Residential Density**

As discussed in Section 10.3 above, I consider that there are conflicting objectives between the Kildare County Development Plan 2017-2023 and the Kilcock LAP 2015-2021 with respect to the appropriate residential density on the subject site. The county development plan specifies a density range of 30-50 units/ha, while the LAP identifies a density of 30 units/ha. This conflict has been acknowledged by Kildare County Council.

I note that the density range of the county development plan reflects that provided for the site under the Sustainable Residential Development Guidelines, 2009. Having regard to the foregoing, I am satisfied that planning permission for the proposed development could be granted under **Sections 37(2)(b)(ii) and (iii)** of the Planning and Development Act, 2000 (as amended).

- **Building Heights**

The proposed building heights range from 2-storeys for the proposed dwellings to 4-5 storeys for the proposed apartment blocks. The county development plan states that tall buildings, which are defined as those of 5 storeys and/or 15 m in height, will only be considered at areas of strategic planning importance as defined in a LAP.

The Building Height Guidelines (2018) require planning applications to demonstrate how buildings of increased height can be accommodated based on identified criteria at the scale of the relevant city/town, the district/neighbourhood/street and the site/building. Site specific assessments are also required in support of increased building heights. In my opinion, the applicant has demonstrated that the proposed apartment blocks can be accommodated on the subject site, with no undue impacts arising on the receiving environment or neighbouring developments.

These Guidelines also confirm that residential development within suburban areas of towns should include an effective mix of 2, 3 and 4-storeys developments, with the

potential to accommodate buildings of more than 4-storeys in certain circumstances, including along wider streets.

I am satisfied that the proposed development has demonstrated compliance with SPPR3 of the Building Height Guidelines and would be in accordance with National Policy Objective 13 of the NPF which states inter alia, that planning and related standards concerning building height should be based on performance criteria that seek to achieve well-designed, high-quality outcomes to achieve targeted growth. This approach replaces general restrictions on building heights.

Having regard to the foregoing, I am satisfied that planning permission could be granted for the proposed development under the provisions of **Section 37(2)(b)(iii)** of the Act.

- **Location of Apartments**

Policy QH19 of the Kilcock LAP seeks, inter alia, to generally restrict apartment developments to town centre locations or suitably located sites adjoining public transport connections. The applicant's agent submits that the inclusion of apartment units on the subject site would not be a material contravention of the LAP given that the site adjoins the R148 to the north, which is a public transport route for the no. 115 bus route. In the event the Board disagrees, it is submitted that permission could be granted under Section 37(2)(b)(iv) of the Act having regard to the SHD permission on the adjoining site, which includes 94 no. apartment units.

In considering the foregoing, I acknowledge that the site is located within 1.5km of the 115 and 115C Bus Éireann bus routes which travel from Mullingar to UCD. I also note that the site is within a reasonable walking distance (1.4 km) of Kilcock train station. As such, I consider that the proposed inclusion of apartment units within the proposed development would not materially contravene the LAP.

In this regard, I also note that the Apartment Design Guidelines confirm that a significant and sustained increase in housing output, and of apartment type development in particular, will be required to meet the housing demand associated with future population growth to 2040. The Guidelines identify a range of locations in towns and cities that may be suitable for apartment type developments, including intermediate urban locations and peripheral and/or less accessible urban locations. Based on the foregoing, I consider that the proposed development of apartments at

this location would be in accordance with the proper planning and sustainable development of the area.

#### 10.18. Planning Authority's Refusal Recommendation

As summarised in Section 4.0 of this report, Kildare County Council recommended that planning permission be refused for the proposed development for 5 no. reasons, which can be summarised as follows:

- (1) Failure to provide a hierarchy of high quality, usable open spaces and failure to establish a sense of place.
- (2) Failure to provide a roundabout junction at the R148 as required under road objective MTO25 of the Kilcock LAP 2015-2021. The proposed development would endanger public safety by reason of traffic hazard and obstruction of road users and would materially contravene specific objectives of the Kilcock LAP.
- (3) The proposed shortfall of 40 no. car parking spaces to serve the apartment units.
- (4) Inadequate and inconclusive Noise Assessment Report.
- (5) The proposed development would distort the core and settlement strategy figures for Kilcock and materially contravene the Kildare County Development Plan 2017-2023.

I have already addressed the recommended refusal reasons within the body of my assessment. In this instance, I agree with the Planning Authority's assessment that the proposed development has failed to provide high-quality public and communal open spaces to serve future residents of the scheme and I recommend that planning permission should be refused on this basis.

I do not consider that the proposed omission of a roundabout junction at the western site boundary with the R148 constitutes a reasonable refusal in this instance. The applicant's TTA demonstrates that the proposed development would have no significant traffic impacts on foot of the proposed access arrangements, which include a priority junction at the western site boundary. I also note that the proposed road layout at this location has been designed to accommodate a roundabout junction in the future, if required.



I also consider that the proposed development includes sufficient car parking spaces to cater for the apartment units based on the standards identified in the 2020 Apartment Design Guidelines. As such, I do not consider that this constitutes an appropriate refusal reason.

While the Planning Authority's concerns in relation to the submitted noise assessment are acknowledged, I note that the site has been zoned to accommodate residential development and that the building line set-back from the M4 as required under the Kilcock LAP 2015-2021 has been provided for within the site layout. I also note that a range of mitigation measures are proposed to address identified noise impacts within the site. On foot of the foregoing, I do not consider that it would be appropriate to refuse planning permission for the proposed development for reasons of noise.

While I acknowledge that the proposed development would materially contravene the core and settlement strategy figures for Kilcock as provided under variation no. 1 of the Kildare County Development Plan 2017-2023, I consider that the Board could grant permission for the proposed development under the provisions of Section 37(2)(b)(i), (iii) and (iv) of the Planning and Development Act, 2000 (as amended).

## **11.0 Environmental Impact Assessment Screening**

This application was submitted to the Board after 1<sup>st</sup> September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018 which transpose the requirements of Directive 2014/52/EU into Irish planning law.

The applicant has addressed the issue of Environmental Impact Assessment (EIA) within the submitted EIA Screening Report prepared by David Mulcahy Planning Consultants Ltd. and I have had regard to same. The report concludes that the proposed development is below the thresholds for mandatory EIA and that a subthreshold EIA is not required in this instance as the proposed development would not be likely to have significant effects on the environment.

Section 172 (1)(a) of the Planning and Development Act, 2000 (as amended) and Schedule 5, Part 2, Class 10 (b) (i) and (iv) of the Planning and Development Regulations, 2001 (as amended), provide that EIA is required for infrastructure

development comprising urban development of more than 500 dwelling units or which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. EIA is also required for all private roads which exceed 2,000 m in length as confirmed under Schedule 5, Part 2, Class 10 (dd).

Class 15 confirms that EIA is required in relation to any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development, but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

The proposed development is for a mixed-use scheme of 298 no. residential units and a crèche facility of 560.4 m<sup>2</sup>, which is not located within a business district, on a stated site area of 9.75 ha. I note that the residentially zoned portion of the site has a stated area of 8.6 ha. The development is sub-threshold with respect to EIA having regard to Schedule 5, Part 2, Class 10 (b) (i), (iv) and (dd) of the Planning and Development Regulations, 2001 (as amended), comprising less than 500 units on a site of less than 10 hectares (which is the applicable threshold for this site, being outside of a business district but within an urban area) and which includes an internal spine road of 390 m.

EIA is required for development proposals of a class specified in Part 1 or Part 2 of Schedule 5 that are sub-threshold, where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination, it can be concluded that there is no real likelihood of significant effects on the environment.

An EIA Screening Statement has been submitted with the application, which provides the information deemed necessary for the purposes of screening sub-threshold development for the requirement for EIA.

I am satisfied that there is no requirement to carry out an EIA based on 'potential' development of more than 500 units. While I acknowledge that planning permission has been granted for 345 no. units on an adjoining site to the south-east, I note that the lands are not subject to any environmental designations or sensitivities and are

serviced and located within the defined development boundary of Kilcock adjacent to the existing built-up area.

The submitted EIA Screening Statement identifies traffic as the primary potential environmental impact which may arise on foot of both schemes. In this regard I note that the permitted and proposed developments will share the proposed internal link road, the impact of which has been considered in the submitted Traffic and Transport Assessment. The adjoining permitted scheme, together with other permitted schemes in the vicinity, has been included as part of the background traffic for the purposes of the assessment, which concludes that the proposed development will have a negligible impact on traffic flows at local junctions due to the low traffic volumes being generated by the development. I also note that a SEA of the Kildare County Development Plan 2017-2023 and of the Kilcock Local Area Plan 2015-2021 has been completed. Based on the foregoing, I am satisfied that the requirement for EIA would not arise on foot of the potential cumulative impacts of these developments.

I am satisfied that the applicant has provided sufficient information for a screening assessment to be carried out and that the screening correctly relates to the development proposal. I have completed a screening assessment which considers the development proposed under this current application. As a result of this assessment, I recommend to the Board that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report would not therefore be required.

With reference to Section 299B(1)(b)(ii)(II)(C) of the Planning and Development Regulations, 2001 (as amended), whereby the applicant is required to provide the Board with 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 considered, I note that an Appropriate Assessment Screening Report has been provided in support of the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC).

A Construction and Demolition Waste Management Plan has been submitted which was undertaken having regard to the European Communities (Waste Directive) Regulations 2011 (SI 126 of 2011) as amended, European Union (Waste Electrical and Electronic Equipment) Regulations, 2014 (S.I. No. 149 of 2014), European Union (Batteries and Accumulators) Regulations, 2014 (S.I. No. 283 of 2014) as amended, European Union (Household Food Waste and Bio-waste) Regulations 2015 (S.I. No. 430 of 2015), European Communities (Transfrontier Shipment of Waste) Regulations 1994 (SI 121 of 1994) and European Union (Properties of Waste which Render it Hazardous) Regulations 2015 (S.I. No. 233 of 2015) as amended.

A Preliminary Flood Risk Assessment has also been prepared in accordance with the Planning System and Flood Risk Management Guidelines for Planning Authorities 2009 which is informed by, inter alia, the EU Floods Directive and EU Water Framework Directive.

I also note the Strategic Environmental Assessments which have been undertaken of the Kildare County Development Plan 2017-2023 and the Kilcock LAP 2015-2021.

Separate from the above, I note that the applicant has also submitted an Energy and Sustainability Report which demonstrates how the proposed development will comply with Technical Guidance Document (TGD) Part L – Conservation of Fuel and Energy, Dwellings (2019) and Part L 2017 (NZEB) Conservation of Fuel and Energy – Buildings Other than Dwellings.

An Operational Waste Management Plan has been provided to ensure that the management of waste during the operational phase of the development is undertaken to current legal and industry standards, including the Waste Management Acts 1996-2011 and associated Regulations, Protection of the Environment Act 2003 as amended, Litter Pollution Act 2003 as amended, the Eastern-Midlands Region Waste Management Plan 2015-2021 and the Kildare County Council Waste Management, Segregation, Storage and Presentation of Household and Commercial Waste By-Laws 2018.

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 other relevant assessments have been identified for the purposes of screening out EIAR.

I have completed an EIA Screening Assessment as set out in Appendix 1 of this report. Thus, having regard to:

- (a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10 (b) (i) and (iv) and Class 10 (dd) of Schedule 2, Part 5 of the Planning and Development Regulations, 2001 (as amended),
- (b) the location of the site on land zoned “C” (New Residential) and “F3” (Open Space & Amenity) in the Kilcock Local Area Plan 2015-2021, with the objectives “to provide for new residential development in the Bawnogues area of the town” and “to preserve a buffer zone from the motorway” respectively, the compliance of the proposed development with the policies, objectives and development management standards outlined in the county development plan and the Kilcock LAP 2015-2021,
- (c) the pattern of development on the lands in the surrounding area,
- (d) the availability of mains water and wastewater services to serve the development,
- (e) the location of the development outside any sensitive location specified in Article 299(c)(1)(v) of the Planning and Development Regulations, 2001 (as amended),
- (f) the guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-Threshold Development” issued by the Department of the Environment, Heritage and Local Government (2003),
- (g) the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001 (as amended),
- (h) the features and measures proposed by the applicant to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Ecological Impact Assessment and Construction and Demolition Waste Management Plan,

- (i) I am satisfied that the proposed development, by reason of the nature, scale and location of the subject site, would not be likely to have significant effects on the environment and the preparation and submission of an Environmental Impact Assessment Report would not therefore be required.

## 12.0 Appropriate Assessment Screening

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.

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.

There are no European sites within or near the proposed development boundary, therefore there is no potential for direct impacts on any such site to occur. The applicant's Screening Report for Appropriate Assessment identifies 4 no. Natura 2000 sites within 15 km of the subject site (see table 1 below).

<b>Name</b>	<b>Site Code</b>	<b>Distance from Site</b>
Ballynafagh Bog SAC	000391	c. 13 km south-west
Ballynafagh Lake SAC	001387	c. 12 km south-west
Rye Water Valley/Carton SAC	001398	c. 7.5 km east
River Boyne and River Blackwater SAC	002299	c. 14.6 km north-west

In addition to the foregoing, I note that the River Boyne and River Blackwater SPA (site code: 004232) is located 16.5 km to the north-west of the site.

The subject site has no direct hydrological connections to Ballynafagh Bog SAC, Ballynafagh Lake SAC, River Boyne and River Blackwater SAC and River Boyne and River Blackwater SPA. In applying the 'source-path-receptor' model in respect of potential indirect effects, and having considered the relevant conservation objectives and qualifying interests (as set out in Appendix 2 of this report), the above referenced sites have been screened out from further assessment at the preliminary stage based on a combination of factors including, the intervening minimum distances, the absence of any hydrological connections, nature of the qualifying interests of the European sites, the nature and scale of the development and the likely emissions arising.

The site is located within the River Rye Water Catchment, and as such, further consideration is given to the remaining European site, the Rye Water Valley/Cartron SAC. The conservation objective for this site is to maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or Annex II species for which the SAC has been selected. The qualifying interests include:

- Petrifying springs with tufa formation (Cratoneurion) [7220] – priority habitat
- Narrow-mouthed Whorl Snail (*Vertigo angustior*) [1014]
- Desmoulin's Whorl Snail (*Vertigo moulinsiana*) [1016]

The minimum distance between the subject site and the Rye Water Valley/Cartron SAC is approx. 7 km. The site synopsis for the SAC states that, inter alia, the rare Narrow-mouthed Whorl Snail and Desmoulin's Whorl Snail occur in marsh vegetation near Louisa Bridge, Leixlip, approx. 13 km to the south-east of the subject site. Both species are listed on Annex II of the E.U. Habitats Directive. The submitted screening report does not consider there is potential for any significant effects to arise on the qualifying interests of the Rye Water Valley/Cartron SAC. In this regard, I note that the third parties have raised concerns that the applicant's AA screening report is insufficient, contains lacunae and is not based on appropriate scientific expertise.

While the subject site is located within the River Rye water catchment, the proposed development is not within or adjoining, or immediately connected to the Rye Water Valley/Cartron SAC. There will be no discharge of untreated wastewater or surface

water to ground water and no abstraction from local ground or surface water for potable water. Potable water supply will be via mains supply.

As part of the proposed development, a foul pumping station will be constructed on site, with upgrades to the wastewater infrastructure along the R148 to facilitate the treatment of wastewater. Surface water management will incorporate bioretention areas, swales and permeable paving to store and discharge water to ground, along with water butts to collect rainwater. A total of 4 no. on-site attenuation tanks will control storm water post construction, with flows restricted by flow control systems. I note that these are standard features for residential development not specifically included to mitigate against impacts on a European site. 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.

I note the submission from the Department of Housing, Local Government and Heritage which states that the Board should consider whether the project is likely to have significant effects on the Rye Water Valley/Carton SAC without the SuDS and associated measures detailed in the applicant's AA screening report. In the event 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 the Rye Water Valley/Carton SAC can be excluded given the separation distance arising and the nature and scale of the development.

In my opinion, the proposed development would not have an impact on the hydrological regime forming and supporting the qualifying interests of this SAC. As such, I consider that the possibility of likely significant habitat loss and fragmentation and water quality and habitat deterioration effects, can be excluded for this European site.

In terms of in-combination effects, I note that planning permission has been granted for a SHD on the adjoining site to south-east which includes, inter alia, 345 no. residential units and a crèche facility. In completing an Appropriate Assessment Screening of this development, I note that the Board concluded that the proposed development, by itself, or combination with other plans in the vicinity, 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 was not, therefore, required. As such, I am satisfied that no in-combination effects would occur. I also note that the Appropriate Assessment Screening of the Kilcock LAP concluded that the plan would not have a significant effect on the Natura 2000 network, including the Rye Water Valley/Carton SAC, and that a Stage 2 Appropriate Assessment was not required.

Thus, it is reasonable to conclude on the basis of the information on the 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 Rye Water Valley/Carton SAC (Site Code: 001398), or any other 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**

I recommend that planning permission be refused for the proposed development for the reasons and considerations set out hereunder.

### **14.0 Reasons and Considerations**

14.1. The proposed development, by reason of its inadequate qualitative and quantitative provision of public and communal open space, would conflict with the provisions of the Kildare County Development Plan 2017-2023 and the minimum standards recommended in the "Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities" published by the Department of Housing, Local Government and Heritage in December 2020. The proposed development would, therefore, result in a poor standard of residential amenity for future occupants and would be contrary to the proper planning and sustainable development of the area.

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Louise Treacy  
Planning Inspector

17<sup>th</sup> November 2021

## **Appendix 1: EIA Screening Determination**

## EIA - Screening Determination for Strategic Housing Development Applications

<b>A. CASE DETAILS</b>		
<b>An Bord Pleanála Case Reference</b>		311037-21
<b>Development Summary</b>		181 no. dwellings, 117 no. apartments & a crèche facility
	<b>Yes / No / N/A</b>	
<b>1. Has an AA screening report or NIS been submitted?</b>	Yes	A Stage 1 AA Screening Report was submitted with the application.
<b>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?</b>	No	
<b>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</b>	Yes	Please refer to Section 11.0 of the Inspector's Report for details.

<b>B. EXAMINATION</b>	<b>Yes/ No/ Uncertain</b>	<b>Briefly describe the nature and extent and Mitigation Measures (where relevant)</b>  (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) <b>Mitigation measures</b> –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	<b>Is this likely to result in significant effects on the environment?</b>  <b>Yes/ No/ Uncertain</b>
<b>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</b>			
<b>1.1</b> Is the project significantly different in character or scale to the existing surrounding or environment?	No	The development comprises the construction of residential units & a childcare facility on zoned lands. The nature and scale of the proposed development reflects the surrounding pattern of development.	No
<b>1.2</b> Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	The proposal will develop an existing greenfield site at the edge of the existing built-up area. The proposed development is not considered to be out of character with the existing and emerging surrounding pattern of development.	No
<b>1.3</b> Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	Yes	Construction materials will be typical of an urban environment. The loss of natural resources or local biodiversity as a result of the development of the site are not regarded as significant.	No

<p><b>1.4</b> Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuel and other substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and the implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	<p>No</p>
<p><b>1.5</b> Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>Yes</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other substances and will give rise to waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and the implementation of a Construction Environmental Management Plan will satisfactorily mitigate potential impacts. Operational waste will be managed via a Waste Management Plan. Significant operational impacts are not anticipated.</p>	<p>No</p>
<p><b>1.6</b> Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>No</p>	<p>No significant risk identified. Operation of a Construction Environmental Management Plan will satisfactorily mitigate emissions from spillages during construction. The operational development will connect to mains services. Surface water drainage will be separate to foul services within the site. No significant emissions during operation are anticipated.</p>	<p>No</p>

<p><b>1.7</b> Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p>	<p>Yes</p>	<p>Potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised and short term in nature and their impacts will be suitably mitigated by the operation of a Construction Environmental Management Plan. Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</p>	<p>No</p>
<p><b>1.8</b> Will there be any risks to human health, for example due to water contamination or air pollution?</p>	<p>No</p>	<p>Construction activity is likely to give rise to dust emissions. Such construction impacts would be temporary and localised in nature and the operation of a Construction Environmental Management Plan would satisfactorily address potential impacts on human health. No significant operational impacts anticipated.</p>	<p>No</p>
<p><b>1.9</b> Will there be any risk of major accidents that could affect human health or the environment?</p>	<p>No</p>	<p>No significant risk having regard to the nature and scale of the proposed development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding. There are no SEVESO/COMAH sites in the vicinity of this location.</p>	<p>No</p>
<p><b>1.10</b> Will the project affect the social environment (population, employment)</p>	<p>Yes</p>	<p>The redevelopment of the site will increase the local population. This not regarded as significant given the suburban location of the site and the surrounding pattern of land use.</p>	<p>No</p>
<p><b>1.11</b> Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>No</p>	<p>The proposed development relates to a gap site in an existing suburban environment. Permitted developments within the vicinity of the site been subject to separate assessments. No significant cumulative impacts are anticipated.</p>	<p>No</p>

## 2. Location of proposed development

<p><b>2.1</b> Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ol style="list-style-type: none"> <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> <li>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</li> </ol>	No	The site is not located within or adjoining any such sites.	No
<p><b>2.2</b> Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	No	No such species use the site and no impacts on such species are anticipated.	No
<p><b>2.3</b> Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	Yes	While there are no known monuments or other archaeological features on the subject site, archaeological testing will be undertaken in advance of construction.	No



<b>2.4</b> 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?	No	No such features arise in this location.	No
<b>2.5</b> 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 direct connections to watercourses in the area. The development will implement SUDS measures to control surface water run-off. The site is not at risk of flooding.	No
<b>2.6</b> Is the location susceptible to subsidence, landslides or erosion?	No	No such risks identified.	No
<b>2.7</b> 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	The site is served by a local urban road network. There are sustainable transport options available to future residents. No significant contribution to traffic congestion is anticipated.	No
<b>2.8</b> Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	No	There are no such adjoining land uses.	No

<b>3. Any other factors that should be considered which could lead to environmental impacts</b>			
<b>3.1 Cumulative Effects:</b> 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 that could give rise to significant cumulative environmental effects.	No
<b>3.2 Transboundary Effects:</b> Is the project likely to lead to transboundary effects?	No	No transboundary considerations arise.	No
<b>3.3</b> Are there any other relevant considerations?			
<b>C. CONCLUSION</b>			
<b>No real likelihood of significant effects on the environment.</b>	Yes	EIAR Not Required	<b>EIAR Not Required</b>
<b>Real likelihood of significant effects on the environment.</b>	No	Refuse to deal with the application pursuant to section 8(3)(a) of the Planning and Development (Housing) and Residential Tenancies Act 2016 (as amended)	

## D. MAIN REASONS AND CONSIDERATIONS

(a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10 (b) (i) and (iv) and Class 10 (dd) of Schedule 2, Part 5 of the Planning and Development Regulations, 2001 (as amended),

(b) the location of the site on land zoned “C - New Residential and “F3 – Open Space & Amenity” in the Kilcock Local Area Plan, with the objectives “to provide for new residential development in the Bawnogues area of the town” and “to preserve a buffer zone from the motorway” respectively and the compliance of the proposed development with the policies, objectives and development management standards outlined in the Kildare County Development Plan 2017-2023 and of the Kilcock LAP 2015-2021,

(c) the pattern of development on the lands in the surrounding area,

(d) the availability of mains water and wastewater services to serve the development,

(e) the location of the development outside any sensitive location specified in Article 299(c)(1)(v) of the Planning and Development Regulations, 2001 (as amended),

(f) the guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-Threshold Development” issued by the Department of the Environment, Heritage and Local Government (2003),

(g) the criteria set out in Schedule 7 of the Planning and Development Regulations, 2001 (as amended),

(h) the features and measures proposed by the applicant to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Ecological Impact Assessment and Construction and Demolition Waste Management Plan,

It is considered that the proposed development, by reason of the nature, scale and location of the subject site, would not be likely to have significant effects on the environment and the preparation of an Environmental Impact Assessment Report would not therefore be required.

**Inspector: Louise Treacy      Date: 17<sup>th</sup> November 2021**

## Appendix 2: Designated Sites: Conservation Objectives and Qualifying Interests

<b>Ballynafagh Bog SAC (Site Code: 000391)</b>	
<b>Conservation Objective(s)</b>	To restore the favourable conservation condition of active raised bogs in Ballynafagh Bog SAC.
<b>Qualifying Interests</b>	Active raised bogs [7110] Degraded raised bogs still capable of natural regeneration [7120] Depressions on peat substrates of the Rhynchosporion [7150]

<b>Ballynafagh Lake SAC (Site Code: 001387)</b>	
<b>Conservation Objective(s)</b>	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.
<b>Qualifying Interests</b>	Alkaline fens [7230] Desmoulin's Whorl Snail <i>Vertigo moulinsiana</i> [1016] Marsh Fritillary <i>Euphydryas aurinia</i> [1065]

<b>River Boyne and River Blackwater SAC (Site Code: 002299)</b>	
<b>Conservation Objectives</b>	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected.
<b>Qualifying Interests</b>	Alkaline fens [7230] Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> ( <i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i> ) [91E0] <i>Lampetra fluviatilis</i> (River Lamprey) [1099] <i>Salmo salar</i> (Salmon) [1106] <i>Lutra lutra</i> (Otter) [1355]

<b>River Boyne and River Blackwater SPA (Site Code: 004232)</b>	
<b>Conservation Objectives</b>	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA
<b>Qualifying Interests</b>	Kingfisher ( <i>Alcedo atthis</i> ) [A229]