



An  
Bord  
Pleanála

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

### Inspector's Report ABP-311933-21

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**Strategic Housing Development**

183 residential units consisting of 87 houses, 96 apartments and all associated site works.

**Location**

Townland of Wetland, Callan Road, Breagagh Valley, Kilkenny, Co. Kilkenny.

**Planning Authority**

Kilkenny County Council

**Applicant**

Cairn Homes Properties Ltd.

**Prescribed Bodies**

1. Irish Water
2. Transport Infrastructure Ireland (TII)

**Observer(s)**

1. Deirdre McMahon
2. John & Gerald Fitzgerald
3. Kay Murphy
4. Ken Withers

5. Mary O'Brien
6. College Park Management  
Company

**Date of Site Inspection**

19<sup>th</sup> January 2021

**Inspector**

Paul O'Brien

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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

2.1. The subject site with a stated area of 5.45 hectares, comprises an irregular shaped area of land located to the south western side of Kilkenny City. The site is 1.6 km and 2 km from the city centre, depending on which end of the site you measure from. The site is located in an area where development works were undertaken in the past and much of the proposed internal road network is in place, though is overgrown in parts. The rest of the site is under grass and there is evidence of construction material deposited throughout the subject lands and also fly tipping was evident. The site falls on a west to north east axis.

2.2. There are two distinct sections to the site, a large area to the west and a smaller section to the east that adjoins the public road, both sections are connected by an existing residential street. The proposed development site is located within an area of primarily residential development, and which provides infrastructure to serve the subject development. Access to the site, from the east, is from William Robertson Way, which is a recently opened section of the Kilkenny Western Environs Distributor Road. This connects the N76 – Callan Road to the Circular Road to the north. The Callan Road is one of the primary access routes to the city centre and the main route to the south west of the city. A second access is from Seville Grove, which connect to the north west of the Callan Road.

2.3. In addition to the existing residential areas of Seville to the south and Burrell's Walk to the east of the site, Saint Catherine's Avenue, a small housing scheme for Travellers, is located to the north and this country lane, which connects the William Roberts Way to the east and the Callan Road to the south, forms the part of the north western boundary of the site. There are detached, single storey houses located to the west and adjoining the site.

2.4. I am unaware of any public transport serving this section of the Callan Road; no bus stops were evident, though it is possible that buses may stop on an informal basis. Kilkenny City is served by a two-route, city bus service each route operating on a half hourly frequency. The nearest bus stops, serving the KK1, are on the Old Callan Road, circa 900 m from the subject site. The KK1 operates on a half hourly frequency and serves Kilkenny City Centre before heading over the River Nore and provides a connection close to the railway station. Other bus routes operated by Bus Éireann, JJ Kavanagh, Dublin Coach and Local Link provide for county, regional and national services and operate from the city centre, mostly from Ormonde Road. Kilkenny railway station is circa 2.2 km to the north east of the subject site.

### 3.0 Proposed Strategic Housing Development

3.1. The proposal, as per the submitted public notices, comprises the provision of 183 residential units in the form of houses, duplex, and apartment units, in addition to all associated site works.

- The following tables set out some key elements of the proposed development:

**Table 1: Key Figures**

<b>Site Area</b>	5.45 hectares gross – 5.24 hectares net
<b>Site Coverage</b>	20%
<b>Plot Ratio</b>	0.35:1
<b>No. of Houses</b>	87
<b>No. of Apartments</b>	32
<b>No. of Duplexes</b>	64
<b>Total</b>	183
<b>Density – Total Site Area</b>	35 units per hectare
<b>Public Open Space Provision</b>	0.8064 hectares/ 15% of the site
<b>Communal Open Space</b>	920 sq m
<b>Car Parking –</b>	

<b>Apartments</b>	32
<b>Duplexes</b>	96
<b>Houses</b>	174
<b>Visitors</b>	18
<b>Total</b>	<b>320</b>
<b>Bicycle Parking</b>	<b>272</b>

**Table 2: Breakdown of Apartments**

<b>Unit Type</b>	<b>1 Bedroom</b>	<b>2 Bedroom</b>	<b>Total</b>
Number of units	17	15	32
% Of Apartments	53%	47%	100%

**Table 3: Breakdown of Duplexes**

<b>Unit Type</b>	<b>2 Bedroom</b>	<b>3 Bedroom</b>	<b>Total</b>
Number of units	32	32	64
% Of Apartments	50%	50%	100%

**Table 4: Breakdown of Houses**

<b>Unit Type</b>	<b>3 Bedroom - Terrace</b>	<b>3 Bedroom – Semi- Detached</b>	<b>4 Bedroom – Semi- Detached</b>	<b>Total</b>
Number of units	49	18	20	87
% Of Houses	56%	21%	23%	100%

- Two vehicular accesses to the public road network are provided, one is from Seville Grove to the south of the site and the other is from College Avenue to the eastern side of the site. Pedestrian/ cyclists accesses are from these points also.
- Water supply and foul drainage connections to the existing public network will be provided.

3.2. The application was accompanied by various technical reports and drawings, including the following:

- Statement of Consistency with Planning Policy – by John Spain Associates (JSA)
- Statement of Material Contravention – by John Spain Associates (JSA)
- SHD Design Statement – O’Mahony Pike (OMP)
- Photomontages & CGI Views – Chris Shackleton Consulting (CSC)
- Sunlight, Daylight & Shadow Assessment (Impact Neighbours and Development Performance - Chris Shackleton Consulting (CSC)
- Landscape Design Statement – Murray & Associates – Landscape Architecture
- Building Life Cycle Report – Cairn PLC
- Outdoor Lighting Report – Sabre Electrical Services Ltd.
- Archaeological Assessment – IAC Archaeology
- Operational Phase Waste Management Plan – Byrne Environmental Consulting Ltd.
- Arboricultural Inventory and Recommended Works (incorporating a Tree Protection Strategy) - Murray & Associates – Landscape Architecture
- Outline Landscape Works Specification (incorporating a Landscape Management Plan) - Murray & Associates – Landscape Architecture
- EIA Screening Report - by John Spain Associates (JSA)
- Appropriate Assessment Screening – Altemar – Marine & Environmental Consultancy
- Ecological Impact Assessment (EclA) – Altemar – Marine & Environmental Consultancy
- Childcare Audit - by John Spain Associates (JSA)
- Statement of Response to An Bord Pleanála’s Opinion - by John Spain Associates (JSA)
- Energy Statement – Waterman Moylan Engineering Consultants

- DMURS Compliance Statement – Malone O’Regan (MOR)
- Site Specific Flood Risk Assessment – Malone O’Regan (MOR)
- Infrastructure Design Report – Malone O’Regan (MOR)
- Preliminary Construction Environmental Management Plan – Malone O’Regan (MOR)
- Transportation & Traffic Statement – Malone O’Regan (MOR)

## 4.0 Planning History

### Subject site:

**P.A. Ref. P.04/1757** refers to a February 2006 decision to grant permission for a mixed-use residential and commercial development on a 21.64-acre (8.76 hectares) site. The site comprises the majority of the area designated as Parcel P in the Kilkenny Western Environs Local Area Plan. The subject site forms a small part of this permitted development.

The permitted development includes the following in summary:

- Four storey mixed use building which includes office and retail use on ground and first floors with a floor area of 2,151 sq m and 26 apartments on the second and third floors.
- Four storey mixed use building which includes office and retail use on ground and first floors with a floor area of 1,473 sq m and 19 apartments on the second and third floors.
- Two-storey medical centre with a floor area of 1,028 sq m.
- Four-storey apartment block for aged residents, 9 x two-bedroom units and 61 x one-bedroom units.
- Single-storey creche with 4 x two-bedroom apartments and 1 x one-bedroom apartment at first floor level.
- 21 x four-bedroom houses, 40 x three-bedroom houses, 115 x three-bedroom townhouses, 63 x two-bedroom apartments and two x one-bedroom apartments.
- Roads, road accesses, all services and open space.



Condition no. 3 stated:

Blocks 04, 29, 15(iii), 16(iii) 32, 34(i) 28, & 73 shall be omitted from this permission.

A revised layout relocating the proposed Block 4 (aged housing away from St Catherine's halting site and accessing from Road B shall be submitted for the approval of the Planning Authority. This revised layout should include for the relocation and re design as necessary of the units contained in blocks 28, 29, 15(iii), 16(iii), 32, 34(i).

This revision shall be the subject of a new planning application to the Local Authority.

**Reason:** To ensure clarity in the extent of this permission and in the interest of residential amenity.

**P.A. Ref. P.07/1537** refers to an October 2007 decision to grant permission for a residential development on a 3.28 acres site. The site is within Parcel P in the Kilkenny Western Environs Local Area Plan. The application to consist of 35 number dwellings, comprising of 2 no. 4 bedroom semi-detached dwellings, 24 no. 3 bedroom semi-detached dwellings, 4 no. 3-bedroom terrace dwellings, 5 no. 2 bedroom terrace dwellings. The development is to access on to the road network of previously granted planning application 04/1757. Planning Permission also to carry out all associated site works including refuse, storage, car parking, roads, foot paths, landscaping, site boundary treatments and public open spaces.

**P.A. Ref. P12/445** refers to a December 2012 decision to grant an Extension of Duration of Planning Permission for P.07/1537 for an additional five years – Expiry date – 25<sup>th</sup> October 2017.

**Adjacent Site:**

P.A. Ref. 20/691 refers to a January 2021 decision to grant outline planning permission for the construction of a two-storey, sixteen classroom primary school building and a two classroom special needs centre with a combined floor area of

2741 sq m, together with outdoor play facilities, a new entrance from College Avenue, set down area and parking facilities and all associated site development works.

## **5.0 Section 5 Pre-Application Consultation**

5.1. A Section 5 Pre-Application Consultation took place, remotely via Microsoft Team due to Covid-19 restrictions in place, on the 29<sup>th</sup> of March 2021; Reference ABP-309037-20 refers. Representatives of the prospective applicant, the Planning Authority – Kilkenny County Council and An Bord Pleanála attended the meeting. The development as described was for the development of 184 residential units (90 houses and 94 apartments), a creche and all associated site works at College Avenue, Breagh Valley, Wetland, Co. Kilkenny.

5.2. An Bord Pleanála was of the opinion having regard to the consultation meeting and the submission of the Planning Authority, that the documents submitted with the request to enter into consultation constitute a reasonable basis for an application for strategic housing development. Furthermore, pursuant to article 285(5)(b) of the Planning and Development (Strategic Housing Development) Regulations 2017, the prospective applicant was 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. Further elaboration and clarification of how the proposed development is in compliance, or otherwise, with the specific objectives of the development plan in respect of Parcel P of the Western Environs Area, as set out in Table 3.5 of the Kilkenny City and Environs Development Plan 2014-2020. In this regard, clarity shall be provided in relation to the delivery of any proposed/required road infrastructure (i.e. phasing, delivery etc of same).
2. Where the applicant considers that the proposed strategic housing development would materially contravene the relevant development plan or local area plan, other than in relation to the zoning of the land, a statement indicating the plan objective(s) concerned and why permission should,

nonetheless, be granted for the proposed development, having regard to a consideration specified in section 37(2)(b) of the Planning and Development Act 2000. Notices published pursuant to Section 8(1)(a) of the Act of 2016 and Article 292 (1) of the Regulations of 2017, shall refer to any such statement in the prescribed format.

3. Further elaboration and clarification, and if necessary amended proposals, so as to demonstrate how the proposed development complies with the requirements of DMURS, in particular; (i) the relationship of the proposed corner dwellings and boundary treatments to the proposed road network, having regard to the need to avoid or minimise blank walls and fences that restrict surveillance and movement (ii) demonstration of adequate sight-lines where appropriate (iii) parking quantity and location (including compensation for any loss of existing parking, if appropriate), road hierarchy and layouts, including design and materiality of the proposed shared surfaces. To this end, matters raised in the PA submission (dated 1st February 2021) and as raised in the tri-patriate meeting, should be addressed in any report/justification relating to the outlined transport issues.
4. Further consideration and elaboration with regard to the extent of bicycle parking for the apartment/duplex units and compliance with the provisions of the Sustainable Urban Housing, Design Standards for New Apartments - Guidelines for Planning Authorities.
5. Further elaboration and clarification with regard to the relationship between the proposed development, existing residential developments, existing and proposed public open spaces, and permitted developments adjoining the site, particularly in respect of permeability/desire lines, the provision public and communal open space, car parking and pedestrian/cycle infrastructure.
6. Further consideration of the treatment and landscaping of open spaces, to provide consistency of design and high levels of residential amenity across the overall development, having regard to the matters raised in the PA submission (dated 1st February 2021) and as raised in the tri-patriate meeting.

7. Relevant drawings/reports that address the issue of residential amenity (both existing residents of nearby development and future occupants), specifically with regards to impacts on daylight, sunlight and overshadowing, overlooking, visual impact and noise. The application shall include full and complete drawings including levels and cross-sections showing the relationship between the proposed development and nearby residential development. The daylight/sunlight/overshadowing analysis shall address the full extent of the requirements of 'Building Research Establishment (BRE) Report 209 "Site Layout Planning for Daylight and Sunlight – a guide to good practice, 2nd Edition, 2011' and BS8206 – Part 2: 2008 Code of Practice for Daylighting, where applicable.
8. A Housing Quality Assessment (HQA) which provides the specific information regarding the proposed apartment/duplex units as required by the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (December, 2020). The assessment should also demonstrate how the proposed apartments/duplexes comply with the various requirements of those guidelines, including its specific planning policy requirements.
9. A report that specifically addresses the proposed materials and finishes to the scheme including specific detailing of external finishes, the treatment of balconies and boundary treatments.
10. Drainage details, including full details of any proposed foul and surface water infrastructure, and confirmation of existing water supply capacity, such as would address and respond to comments within the Planning Authority's submission on this pre-application (dated 1st February) and having regard to the submission from Irish Water (dated 19th February 2021).
11. Additional CGIs/visualisations/3D modelling.
12. All supporting technical/environmental reports to be updated as required.
13. A plan of the proposed open spaces within the site clearly delineating public, communal and private spaces.
14. A site layout plan indicating what areas, if any, are to be taken in charge by the planning authority.

15. A phasing plan, if applicable.

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, unless it is proposed to submit an EIAR at application stage.

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

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

#### 5.4. **Applicant's Statement**

5.4.1. A document titled 'Statement of Response to Ann Bord Pleanála Opinion in relation to Reg. Ref.: ABP-309037-20' prepared by John Spain Associates was submitted with the application as provided for under Section 8(1)(iv) of the Act of 2016.

The following information was provided in response to the opinion:

##### **Item 1 – Parcel P of the Western Environs Area:**

Kilkenny County Council adopted a local area plan for the Western Environs in 2004, this plan is now expired. Area was divided into parcels and development would take place in accordance with the rollout of infrastructure. Parcels P & Q have been partially developed. Details of the development criteria are provided, and these criteria are now included in the current Kilkenny City and County Development Plan 2021 – 2027.

The following points are made:

- The proposed development is in accordance with the development plan.
- Density is at 35 units per hectare.

- Road infrastructure improvements have been made and are summarised in the following table.

Road infrastructure to be in place prior to the development of Parcel P:	Status of required road infrastructure:
Upgrade of Callan Road – Point 3 to Point 5:	Works completed in May 2018.
Distributor Road – Point 7 to Point 10:	This will be delivered as part of this proposed development.  The area between the northern end of the road and the red line/ site boundary will be planted as a temporary meadow until such time as it is required by Kilkenny County Council.
Distributor Road – Point 8 to Point 11	Part of this road has been built and the remainder forms part of this development.
Inner Relief Road from Point 3 to Point 12	This road, William Robertson Way, was recently completed and opened to traffic in August 2021.

- A pre-connection enquiry form has been submitted to Irish Water and Irish Water have confirmed that a connection to the public sewer network could be facilitated. Similarly, details have been confirmed in relation to foul drainage.
- Surface water will be provided in accordance with Kilkenny City and County Council requirements.
- Other services such as electricity, gas and telecoms are already available in the area and the development can be connected to these.
- A total of 8,250 sq m of open space will be provided and will include a suitable play area.

- A childcare facility has already been provided at Seville Lawns, Margaret's Field housing development, which is located to the south of the subject site.

### **Item 2 – Material Contravention:**

The applicant considers there to be a need to prepare a Material Contravention Statement, and this has been prepared by John Spain Associates and is included with the application.

The following issues are addressed:

- Non-provision of a childcare facility – Contravention of Table 2.3 of Volume 2 of the Kilkenny City and County Development Plan 2021 – 2027.
- The proposed car parking falls below the requirements of Table 12.3 of the Kilkenny City and County Development Plan 2021 – 2027, which requires 364 parking spaces. The proposed development provides for a total of 320 parking spaces.
- Open Space
- Set-Back Distances
- Separation Distance

### **Item 3 – Statement of DMURS**

A Statement of Compliance with DMURS has been prepared by MOR Consulting Engineers and is included with the application. The site layout has been carefully considered in relation to the road/ street network, open space locations and the placement of buildings. Careful consideration has been given to active frontages. Sightline details are provided in MOR Drawing No. 19003-135. Car parking details are also included.

### **Item 4 – Cycle Parking Provision**

A total of 272 bicycle parking spaces are provided and which includes 48 no. visitor bicycle parking spaces. Parking areas are suitably overlooked to ensure adequate passive surveillance. Table 2.4 of the Statement includes details of the bicycle parking locations/ type of bicycle parking provided. The bicycle parking provision exceeds minimum required standards set out in the Kilkenny City and County Development Plan 2021 – 2027 and the apartment guidelines.

## **Item 5 – Public Open Space and Urban Design**

A hierarchy of streets and open spaces are proposed, and details are provided in the OMP Architect's Design Statement. Consideration has been given to connectivity within and to/ from the site. An existing pedestrian link onto the Callan Road, to the south east of the site, is to be removed and is to be relocated to provide for a better crossing/ connection on William Robertson Way. An active edge is proposed along William Robertson Way and throughout the development along the appropriate streets. A car parking rationale has also been provided in support of the development.

Landscaping details have been prepared by Murray Associates. 15% public/ accessible open space is proposed within three locations spread throughout the site. Character areas are proposed throughout the site. Access to the proposed Breagagh Valley Park will be facilitated and this is approximately a 10-minute walk north of the site. Other open space areas are available on adjoining lands. A total of 920 sq m of communal open space is provided to serve the apartment units and which is in accordance with the Apartment Guidelines, 2020. All residential units will be provided with appropriate private open space.

## **Item 6 – Landscape and Open Space Treatment**

A full landscape masterplan has been prepared by Murray Associates and landscaping details are in accordance with Appendix G of the Kilkenny City and County Development Plan 2021 – 2027. It is planned that the streetscape will be extensively planted with trees and shrubs. In response to a comment by the Planning Authority, there are no other significant areas of opens space within the control of the applicant that are outside of the red line boundary of the site.

## **Item 7 – Residential Amenity**

A 'Sunlight, Daylight & Shadow Assessment' has been prepared by Chris Shackleton Consulting and which demonstrates that the development generally complies with the recommendations and guidelines of 'Site Planning for Daylight and Sunlight (BRE 2011)' and BS 8206 – Lighting for Buildings and Part 2: Code of Practice for Daylighting'. All but two windows passed the relevant VSC requirements, and all windows met the Annual APSH, Winter WPSH and overall sunlight checks.



Visual impact has been assessed in form of photomontages and CGIs prepared by Chris Shackleton Consulting in addition to the Architecture Design Statement prepared by OMP. Full details have been provided by OMP in relation to separation distances and boundary treatments.

Mitigation measures have been provided in the preliminary Construction & Environmental Management Plan by MOR in relation to noise etc. from the construction phase of the development.

Full regard has been had in the design of the development to ensure that noise will not impact on residents during the operational phase of the development. Full consideration of DMURS has been had in this regard.

#### **Item 8 – Housing Quality Assessment (HQA)**

OMP have prepared a HQA which is in accordance with the Apartment Guidelines, 2020.

#### **Item 9 – Materials and Finishes**

A mix of materials will be used throughout the development and details are provided in the OMP Design Statement and the Murray Associates Landscape Design Statement.

#### **Item 10 – Drainage**

Full details are provided in the MOR Infrastructure Design Report. SUDs measures will be implemented in accordance with the SUDs Manual CIRIA C753. A new pumping station will be provided towards the north east corner of the site.

Consultation has taken place with Irish Water.

#### **Item 11 – CGIS/ Visualisations/ 3D Modelling**

Visual impact has been assessed in form of photomontages and CGIs prepared by Chris Shackleton Consulting.

#### **Item 12 - Technical/ Environmental Reports**

All documents have been updated from Pre-Application Consultation Stage.

#### **Item 13 – Open Spaces**

Murray Associates Drawing No. 1812\_PL\_P\_O1\_Masterplan provides full details of open space etc.

#### **Item 14 – Taken in Charge Plan**

Drawing No. 1701B-OMP-00-SP-DR-A-1040\_Site Layout has been prepared and provided taking in charge details; final details can be agreed with the Planning Authority.

### **Item 15 - Phasing Plan**

The development will be completed in one phase.

### **Item 16 – EIAR Screening**

An EIAR Screening Report has been prepared by John Spain Associates. The proposed development is below the thresholds for mandatory EIAR.

#### **Conclusion:**

The applicant has submitted the above details to provide the additional documentation as raised by An Bord Pleanála.

## **6.0 Relevant Planning Policy**

### **6.1. National Policy**

#### **6.1.1. Project Ireland 2040 – National Planning Framework (NPF)**

**Chapter 4** of the National Planning Framework (NPF) is entitled ‘Making Stronger Urban Places’ and it sets out to enhance the experience of people who live, work and visit the urban places of Ireland.

A number of key policy objectives are noted as follows:

- National Policy Objective 4 seeks to ‘Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being’.
- National Planning Objective 11 provides that ‘In meeting urban development requirements, there be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth’.
- National Planning Objective 13 provides that “In urban areas, planning and related standards, including, in particular, height and car parking will be based on performance criteria that seek to achieve well-designed high-quality outcomes in order to achieve targeted growth. These standards will be subject to a range of tolerance that enables alternative solutions to be proposed to achieve stated

outcomes, provided public safety is not compromised and the environment is suitably protected”.

**Chapter 6** of the NPF is entitled ‘People, Homes and Communities’ and it sets out that place is intrinsic to achieving a good quality of life.

A number of key policy objectives are noted as follows:

- National Policy Objective 27 seeks to ‘Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages’.
- National Policy Objective 33 seeks to ‘Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location’.
- National Policy Objective 35 seeks ‘To increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights’.

#### 6.1.2. **Section 28 Ministerial Guidelines**

The following is a list of Section 28 - Ministerial Guidelines considered of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Urban Development and Building Heights - Guidelines for Planning Authorities – (DoHPLG, 2018).
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (DoHPLG, 2020).
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (DoEHLG, 2009).
- Quality Housing for Sustainable Communities (DoEHLG, 2007).

- The Planning System and Flood Risk Management including the associated Technical Appendices (DEHLG/ OPW, 2009).
- Childcare Facilities Guidelines for Planning Authorities (2001).
- Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities (2021)

**Other Relevant Policy Documents include**

- Smarter Travel – A Sustainable Transport Future: A New Transport Policy for Ireland 2009 – 2020.
- Design Manual for Urban Roads and Streets (2013).

**6.2. Regional Policy**

**6.2.1. Regional Spatial and Economic Strategy for the Southern Region**

The Regional Spatial and Economic Strategy (RSES) for the Southern Region provides for the development of nine counties (Six Munster Counties plus Wexford, Carlow and Kilkenny) including the Kilkenny County Council area and supports the implementation of the National Development Plan (NDP). Kilkenny City is the fourth largest settlement in the Region and has key roles in terms of employment and tourism.

**6.3. Local/ County Policy**

**Kilkenny City and County Development Plan 2021 - 2027**

6.3.1. The Kilkenny City and County Development Plan 2021 - 2027 is the current statutory plan for the Kilkenny City area, and which includes the subject site.

‘Volume 2 – City’ refers specifically to the Kilkenny City area.

6.3.2. The subject site is indicated on Figure CS 4 – ‘Kilkenny City Zoning’ of the development plan and the site has a single zoning designation as follows:

- Existing Residential with the objective ‘To protect, provide and improve residential amenities’. Permitted uses include: Dwellings, open spaces, places of worship, community facilities, halting sites, public service installations, childcare facility, nursing homes, Bed and breakfast establishments and guesthouses,

home-based economic activity, parks and open spaces, playing fields, local convenience shop, nursing homes, and medical centre.

6.3.3. The subject lands are within an area designated for the 'Breagagh Masterplan' and Section 2.2.3 of the Kilkenny plan provides further information on the development of the 'Breagagh Valley' area. A Local Area Plan was prepared in 2004 and set out the road infrastructure in this area and also provided a density of 35 units per hectare. Some development of housing took place, but the economic collapse of 2008 stalled the full development of these lands. A link road from N76 Callan Road to the Circular Road at Robertshill, including the widening/ upgrade of existing roads, was completed in 2021. The following paragraph is also noted:

'Particular care must be taken to ensure that the amenity of existing residential development in the plan area is not compromised. Generally new housing should be set back a minimum of 15m from the boundary of all housing within the plan area existing at the time of the adoption of this plan. A balance must be found between protecting the amenities of existing properties and the creation of new urban forms. Where new developments adjoin existing residences the use of screen planting and/or walling in combination with suitably designed buildings will ensure that impact on existing residences are minimised'.

6.3.4. Table 2.3 provides the 'Development Criteria for land in Breagagh Valley'. The subject lands are in Parcel P and the following are relevant:

'The following Infrastructure must be in place before this parcel can develop:

1. Upgrade of the Callan Rd. from Point '3' to Point '5'.
2. Distributor road from point '7' to Point '10'
3. Distributor road from Point '8' to Point '11'.
4. Inner Relief Road from Point '3' to point '12'.
5. Foul drainage and water supply infrastructure to be approved by Irish Water and subject to connection agreement.
6. Surface water designed and approved by the Local Authority and delivered in tandem with development proposal.
7. Gas, electricity, TV and telecom services to serve the development'.

‘This Parcel Must Contain:

Residential development at a mean density of 33 - 40 residential units/hectare (13-16/acre).

A crèche or other pre-school facility

Open Space LP7, laid out and landscaped (incorporating a play area) and with a management agreement in place to the satisfaction of the planning authority’.

6.3.5. Chapter 13 of the Kilkenny City and County Development Plan – Volume 1 provides ‘Requirements for Development’ and the following are noted:

Section 13.6 Building Heights

Section 13.7 Gated Communities

Section 13.8 Bin Storage Standards

Section 13.9 Separation Distance between Houses:

‘In general, there should be adequate separation (traditionally about 22 m between 2-storey dwellings) between opposing first floor windows. However, relaxation of this standard will be considered where the careful positioning of opposing windows can prevent overlooking even with shorter back-to-back distances. Windows serving halls and landings do not require the same degree of privacy as, say, balconies and living rooms.

A minimum of 2.3 metres shall be provided between the side walls of detached, semi-detached and end of terrace dwellings to ensure privacy and ease of access. A property boundary should ideally occur mid-way along this dimension’.

Section 13.10 Boundary Treatment of House Sites

Section 13.11 Housing Development and Noise

Section 13.12 Naming of Housing Developments

Section 13.13 Apartments

Section 13.19 Phased Residential Development

Section 13.20 Open Space

## 7.0 Third Party Submissions

7.1. A total of 6 submissions were received.

A submission was made by the College Park Management Company Ltd, and other submissions were from individual members of the public. The submissions from residents/ members of the public, grouped under appropriate headings, can be summarised as follows.

### 7.1.1. Traffic/ Car Parking:

- There is a shortfall in car parking provision of circa 12%, this is acknowledged by the applicant. The reduction in the number of apartments may help in this regard.
- The shortfall in car parking may result in parking issues on adjoining sites/ existing residential areas.
- The proposed development in conjunction with the development of a school will negatively impact on traffic in the area.
- Insufficient detail on how traffic from College Avenue will cross Robertson Way and how will traffic access College Avenue.
- There is no reference to the impact on existing residents in the submitted traffic impact assessments.
- The relocation of an existing pedestrian crossing from the William Robertson Way roundabout to Burrells Walk is not a good idea due to the volume of HGV traffic here during the day.
- The proposed development will result in increased traffic in the area.

### 7.1.2. Density, Design and Height:

- The density is too high considering its location and the quantity of open space proposed to serve the development.
- The proposed four storey apartment block is not keeping in character with the existing mostly two-storey housing in the area and is also not keeping in character with the edge of town setting.

- There should be a reduction in the height of the apartment block, and it should be broken into smaller units.
- The block is too tall and will impact on sunlight and existing views.
- The apartment block does not provide for a suitable building on one of the entry points to Kilkenny City.
- It will negatively impact on views of Kilkenny City.
- It will have a negative impact on Orchardton House, which is of local importance.

#### 7.1.3. **Drainage/ Flooding:**

- There is a concern that the development may impact on the existing wastewater system serving this area.
- The site may be prone to flooding – the name of the townland is ‘Wetlands’.

#### 7.1.4. **Lack of Facilities:**

- The proposed development does not provide for any community facilities.
- No childcare is proposed to serve the development despite the requirement for such a facility for every 75 units or more. Reference is made to available spaces in the area, though no details are provided on the available capacity of these.

#### 7.1.5. **Impact on Residential Amenity:**

- Concern about loss of privacy due to the proposed development.
- Request that a boundary wall of 2.5 to 3 m be provided to ensure that privacy is retained for the existing resident to the western side of the site. In addition, the wall will be necessary to ensure that the beams from car lights do not impact on her amenity.
- No CGI imaging has been submitted which may demonstrate the impact of the proposed apartments on existing houses.
- No shadow analysis to assess the impact of the apartment block on existing houses.



- No details have been provided on way-leaves/ right of ways to ensure that they are accommodated.
- There are measures proposed to ensure that existing open space is not used by the residents of the new development.

#### 7.1.6. **Other Comments:**

- Concern regarding the location of the public notices.
- No consultation with the existing residents or the Management Company of Burrells Walk.
- Concern about the use of the Irish Daily Mirror, accepts that it is circulated in Kilkenny, but local papers should be used for the purpose of notification of an application.
- Insufficient time to assess and/ or comment on the submitted application.
- The proposed development includes lands that are not within the applicant's ownership and for which no consent has been received to include these lands in the application. Property Registration Authority maps and folios have been submitted in support of this comment.
- No Construction Management Plan (CMP) has been included with the application.
- No Waste Management Plan (WMP) has been included with the application.
- All of the Part V Housing is located adjacent to the existing Traveller Accommodation, and it is considered that the Part V Housing should be dispersed throughout the site.

## 8.0 **Planning Authority Submission**

8.1. The Chief Executive's report, in accordance with the requirements of section 8(5)(a) of the Act of 2016, was received by An Bord Pleanála on the 13<sup>th</sup> of January 2022. The report states the nature of the proposed development, the site location and description, submissions received, details the relevant Development Plan policies and objectives, and provides a planning assessment of the development.

8.2. The Chief Executive's report also includes a summary of the views of the elected members of the Kilkenny Municipal District Meeting held on the 7<sup>th</sup> of January 2022, and these are outlined as follows:

- Concern about the ability of the local road network to accommodate the extra traffic that the development would generate.
- Lack of infrastructure in the area.
- Location of main access to the site is an issue.
- Concern about the ability of the drainage network (foul and surface water) to cope with this development.
- Lack of childcare provision.
- Car Parking provision.
- Visual impact of the development.
- Potential overlooking.
- Need for high quality finishes on the buildings.
- No Construction Management Plan has been submitted.
- Query over the primary access to the site.
- No shadowing analysis has been provided.
- No Waste Management Plan.
- No Traffic Management Plan.
- Lack of community facilities.
- Danger due to flooding.
- Issue over the taking in charge of College Park.
- Timeline for the building of school in the area.
- Bus service provision in the area.
- Walking and cycling route details.
- Need for electric vehicle charging points.
- Landscaping plan/ details.
- Condition of the Breagagh River.
- Need for shops in the area.

- Details on development phase and assurance that the development will be completed.
- Housing for all policy.
- Concern about the SHD process.

8.3. The key items identified in the CE report are summarised under the following headings:

- **Zoning:**

The Planning Authority considers the site to be suitable for residential development, in accordance with the site zoning and in terms of relevant planning policies. The site is located within lands designated within the Breagagh Valley as Parcel P and which is capable of accommodating a medium/ higher density in terms of residential development. Medium to high density is defined as 33 to 40 units per hectare. There is a requirement for a creche/ childcare facility on this parcel of land. A Childcare Audit, prepared by the applicant, has been included with the application and concludes that as there is adequate childcare provision in the area, there is no need for a facility on this site. The Planning Authority report that this is acceptable and note there is a facility in the adjoining housing estate to the south, namely Margaretsfield. Open space to include a play area is required as part of this development and it is recommended that a condition be included that the final details on the play area including location be agreed with the Planning Authority. It is noted that services such as gas, electricity, telecoms and water/ drainage be put in place prior to the commencement of development. Noted that parts of the required road infrastructure will be provided as part of this development.

- **Heritage on Site:**

There are no recorded protected structures on site, the site is not within an Architectural Heritage Area and is not within the Area for Archaeological Potential within Kilkenny City. An Ecological Impact Assessment has been undertaken by the applicant and no significant environmental impacts are likely; the Planning

Authority recommend that mitigation measures outlined in Section 5.2 of this report be adhered to. An Appropriate Assessment (AA) Screening Report and an Environmental Impact Assessment (EIA) Screening Report have been submitted. The Board is the competent authority in assessing the AA and the EIA Screening Report concluded that an EIAR was not required.

- **Flood Risk Assessment**

Malone O'Regan have prepared a Site Specific Flood Risk Assessment and in conclusion it was found that the site is not at risk of flooding.

- **Referrals**

The proposed development was referred to a number of internal departments in Kilkenny City and County Council.

- Roads Design Section: Combined report with input from the Area Engineer and the Infrastructure Manager for the Breagagh Valley. There is no objection to this development subject to recommended conditions. I note that the submitted Roads Design report raises some concerns in relation to the impact of the development on the existing road network/ proposed internal road network, however, they do not recommend that the proposed development be refused permission.
- Parks Section: No objection to the development subject to recommended conditions.

- **Assessment**

The Core Strategy in the current Kilkenny City and County Development Plan 2021 – 2027 identifies five neighbourhoods within the pan boundary and one of which is Breagagh Valley. It and Loughmacask are proposed for green field development over the plan period. Breagagh Valley was previously known as the Western Environs. The site is suitable for residential development and substantial infrastructure investment has been made in this area. The development will facilitate planned for population growth under the Regional Economic and Spatial Strategy and through the county development plan.

The proposed development provides for a good mix of housing types including bedroom numbers. The average height is two/ three storeys throughout the development, however the provision of a four-storey apartment block at the eastern corner will provide for a landmark in this part of the city – the Planning Authority support the provision of such a building in this location.

A range of open space areas are proposed and are provided throughout the site. The open space areas are accessible with good pedestrian linkages throughout the development site. Other public open space areas are/ will be available to residents of this development. It is recommended that the play area be located to a more a central location on the site. The Roads Design Section have reported no objection to this development subject to recommended conditions. Part V housing proposals have been provided and this can be agreed by way of condition.

Comment was made on the received third-party submissions as follows:

**Flooding:** Identified as an issue of concern by residents, however the submitted Site Specific Flood Risk Assessment does not raise any concerns in relation to potential flooding.

**Lack of Childcare:** The Planning Authority accept the findings of the submitted Childcare Audit and Statement of Material Contravention in relation to the fact that no childcare is proposed as there are over 2000 childcare spaces available in the area.

**Impact on Orchardton House:** The proposed four-storey apartment block is over 100 m from this house, and which will not be impacted through overlooking or overshadowing.

**Increase Traffic:** This is a designated development area forming part of Kilkenny City and infrastructure will be provided in accordance with the development of the area.

Parking Shortfall: 320 spaces are provided, the development plan requires a maximum of 339, the shortfall is therefore 19 spaces. This is acceptable considering that the site is within a 20 minute walk from the city centre, there is a bus stop within five minute walk of the site on the Callan Road and having regard to the objectives of the Kilkenny Local Transport Plan (under preparation) which seeks to reduce the dependency on the private car, the shortfall in parking is acceptable.

The Planning Authority note the issues raised in the third-party submissions and are satisfied that the submitted information in support of the application demonstrates that these issues can be satisfactorily addressed. The Planning Authority support the proposed development subject to the recommended conditions.

## 9.0 Prescribed Bodies

9.1. The applicant was required to notify the following prescribed bodies prior to making the application:

- Irish Water (IW)
- National Transport Authority (NTA)
- Transport Infrastructure Ireland (TII)
- Kilkenny County Childcare Committee

Irish Water and Transport Infrastructure Ireland (TII) each made a submission.

9.2. The following is a brief summary of the issues raised.

### 9.2.1. Irish Water:

Irish Water advised the applicant that the proposed wastewater connection would be via a private wastewater pumping station which would be required to be brought in line with Irish Water Code of Practice and/ or provide a new pumping station on site that would replace this existing pumping station. Irish Water note that the applicant is proposing to develop a new pumping station within the subject site. The applicant

will be liable for the costs of this facility and will also be responsible for obtaining any necessary consents/ permission. Irish Water have issued a Statement of Design acceptance for the proposed wastewater system including the pumping station. A connection to the existing public water system can be made without the need for any infrastructure upgrades.

Irish Water has requested that in the event that permission is granted that conditions be included as follows:

- 'The applicant shall sign a connection agreement with Irish Water prior to the commencement of the development and adhere to the standards and conditions set out in that agreement'.
- 'All development shall be carried out in compliance with Irish Water Standards Codes and Practices subject to the design layouts for the development proposals for which IW has validated and issues a Statement of Design Acceptance'.
- 'Irish Water does not permit any build over of its assets and the separation distances as per Irish Waters Standards Codes and Practices which must be achieved. Any proposals, subsequent to any grant of permission, by the applicant to build over or divert existing water or wastewater services the applicant shall be agreed with Irish Water prior to any works commencing'.

#### **9.2.2. Transport Infrastructure Ireland (TII)**

TII have reported that the proposed development is at variance with official policy in relation to the control of development on/ affecting roads, as outlined in the 'Spatial Planning and National Roads Guidelines for Planning Authorities' (DoECLG, 2012) as the development would adversely affect the operation and safety of the national road network for the following reasons(s):

'The Authority is of the opinion that insufficient data has been submitted with the planning application to demonstrate that the proposed development will not have a detrimental impact on the capacity, safety or operational efficiency of the national road network in the vicinity of the site.

The submitted Transportation and Traffic Statement does not detail what impact the generated traffic movements will have on the capacity of the national road junctions, particularly the T-junction with Seville Grove’.

## **10.0 Oral Hearing Request**

John and Gerald Fitzgerald requested an Oral Hearing; however, Section 18 of the Planning and Development (Housing) and Residential Tenancies Act, 2016, provides for such a hearing if there is a compelling case and I have considered that the provided information does not warrant an oral hearing.

## **11.0 Assessment**

11.1. The Board has received a planning application for a housing scheme under section 4(1) of the Planning and Development (Housing) and Residential Tenancies Act 2016. Having examined the application details and all other documentation on file, including the Chief Executive’s Report from the Planning Authority, and all of the submissions received in relation to the application, and 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 Development
- Design and Layout
- Development Height and Separation Distance
- Visual Impact
- Residential Amenity – Future Occupants
- Residential Amenity – Existing/ Adjacent Residents
- Transportation, Traffic, Parking and Access
- Infrastructure and Flood Risk
- Childcare,
- Part V Social Housing Provision
- Comment on Submission/ Observations of the Kilkenny Municipal District
- Ecological Impact Assessment (EclA)



- Other Matters
- Material Contravention
- Appropriate Assessment (AA)
- Environmental Impact Assessment (EIA)

## 11.2. Principle of Development

11.2.1. Having regard to the nature and scale of proposed development which is in the form of 183 residential units, consisting of 32 apartments, 64 duplexes and 87 houses, on lands zoned for Existing Residential Development, I am of the opinion that the proposed development 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.

11.2.2. The proposal of 183 residential units provides for a net density of 35 units per hectare, which is acceptable in this location. This net density is got by excluding the area designated as a 'Temporary Reserve Meadow for Road 9'. The difference in site area between the net and gross area is small at 0.21 hectares (Gross Area is 5.45 hectares, the Net Area is 5.24 hectares). The density is in accordance with the requirements of the current Kilkenny City and County Development Plan 2021 – 2027. I note that comment was made in third party submissions, and by the elected members regarding the density of development, however I am satisfied that the development is acceptable in accordance with the requirements of the Kilkenny City and County Development Plan 2021 – 2027 in relation to density.

11.2.3. The site is located to the south western side of Kilkenny City and is located within the designated City Boundary. The lands were designated for residential development as Parcel P of the Western Environs Local Area Plan 2004; this plan has now expired but the general proposals are incorporated into the current Kilkenny City and County Development Plan 2021 – 2027. Permission was granted for the development of these lands; however, this permission has expired with only the partial completion of development. The proposed development would allow for the appropriate build out of the remaining lands.

11.2.4. **CE Report comments:** The Planning Authority noted that the proposed density was acceptable and appropriate in this location. The Planning Authority supports the proposed development as submitted.

11.2.5. **Conclusion on Section 11.2:** The site is suitably zoned for residential development and the proposal would see the provision of 183 residential units in an area that is characterised by residential development. Having considered the residential zoning of the subject site, and the nature of the proposed development, there is no reason to recommend a refusal to the Board.

### 11.3. **Design and Layout:**

11.3.1. As already reported, the site is located on lands that are zoned for residential development and the site is located in a predominantly residential area. As already reported, works were undertaken on these lands in the past and there has been partial development of roads within the site area. The site was cleared at that time and there are no features of importance on site at present. It is not foreseen that there will be a need for any demolition of buildings and the only trees were towards the boundary of the site. Sections of the partially built internal road network will require removal to facilitate this development.

11.3.2. The opening of William Robertson Way, which is part of the Kilkenny Western Environs Distributor Road, provides for access to/ from the western side of the site. Access to the subject lands will either be from this road and onto College Road, to the east, or from Seville Grove and the Callan Road/ N76 to the south east.

11.3.3. The proposed layout has regard to the existing residential developments to the south, in Margaret's Fields, Seville Grove and Seville Lawns and Burrell's Walk/ College Road to the eastern side of the site. These existing residential units in Seville Grove/ Lawns consist primarily of three storey houses and some four storey apartment blocks. Those to the east consist of a mix of two/ three storey units. The proposed development will provide for a mix of two and three storey units. The duplexes to the west and east are three storey units and the proposed houses are two-storey units.

11.3.4. A four-storey apartment block is proposed to the east of the site, adjacent to the roundabout at the Callan Road and William Robertson Way junction.

The submitted 'SHD Design Statement' states that 'The proposed building at the junction of Roberson Way/ The Callan Road will create a sense of arrival and identity for the new scheme'. It is also stated, 'At 4 Storeys the apartment building is the only structure proposed greater than 3 storeys in height and has been located along a key vehicular artery to have minimal impact on the daylight of neighbouring development but will provide a strong sound buffer to Robertson Way'.

11.3.5. The Planning Authority reported in the CE report that this building 'will form a distinctive landmark in this area of the city' and they support this aspect of the development. I note that concern was expressed in one of the received observations about the design and height of this building. I have no objection to the height; it is the only four-storey building proposed as part of this development and there are already four storey units in the existing Seville Grove residential scheme and tall three storey units throughout the adjoining area. This block is designed to read as two separate blocks and in addition to a stepped elevation, this is emphasised through the use of brick on one part and render on the other. It may be more appropriate to use a mix of brick and/ or stone on the front/ east elevation as render is liable to weather quicker especially adjacent to a busy road junction. These issues are considered further in this report.

11.3.6. The submitted 'SHD Design Statement' indicates that the layout is designed to form three distinct character areas. These consist of the area to the west which is in the form of duplexes/ apartments and houses (Area 01), the area towards the centre of the site and south of College Avenue and consists of houses (Area 02) and area to the east which consists of duplexes and apartments (Area 03). These proposed character areas are considered to be acceptable. Each area is provided with its own public open space.

11.3.7. The 'SHD Design Statement' provides clear reasoning as to the proposed layout of the site. Proposed pedestrian/ cycle routes connect open space areas to the residential units. Active frontages are provided to the street or onto the public open space areas to ensure that passive surveillance is adequately provided for. There is a good mix in the housing designs and this ensures that that the streetscape demonstrates a good variety of unit types. This is reinforced through the mix of building heights.

11.3.8. A stated total of 8,064 sq m of public open space is provided, primarily in three separate areas throughout the site as follows:

- Area 1: 2,850 sq m to the western side of the site.
- Area 2: 1,700 sq m towards the centre of the site, in an almost square shape.
- Area 3: 3,460 sq m to the north/ north east of the site. Part of this section of open space is to be used as the site for a pumping station.

All three areas provide for good sized open space and are accessible to all future occupants of the proposed development and they can also be used by residents of the existing housing development in the area.

11.3.9. An additional 920 sq m of communal open space is provided adjacent to the proposed apartment units, and again these areas are accessible to the potential users of these spaces. These are considered to be acceptable.

11.3.10. **CE Report comments:** The Planning Authority raised no particular concerns in respect of the layout/ design of the development. They supported the provision of a four-storey apartment block on the eastern boundary of the site, adjacent to Robertson Way.

11.3.11. **Conclusion on Section 11.3:** The proposed design is considered to be acceptable for this location. The scheme has regard to existing development in the area, the provision of Robertson Way and the fact that initial site works were carried out, thereby providing some elements of the layout. Having considered the existing development in and adjacent to the subject site and the layout of the proposed development, there is no reason to recommend a refusal to the Board.

#### 11.4. **Development Height and Separation Distance**

11.4.1. The issue of height, in relation to the proposed four-storey apartment block was one of the main issues of concern raised in the third-party observations. As I have already reported, the existing area is characterised by a mix of housing types, but there a significant number of three storey units in the area and four store apartment blocks are found in Seville Grove/ Lawns. The provision of a four-storey unit here will provide a wayfinding function at the roundabout junction of the Callan Road and Robertson Way. I have already reported that the external treatment of this

building should be revised, but there is no reason to believe that it would present a visually obtrusive addition to the streetscape.

11.4.2. The applicant has carefully considered the location and layout of this building in terms of ensuring that there is no overshadowing leading to a loss of daylight and that there is no overlooking leading to a loss of privacy to existing houses. The nearest existing house is no. 1 Burrell's Walk and the submitted plans demonstrate that a separation distance of 26.5 m will be provided between it and the proposed apartment block.

11.4.3. Orchardton House (Orcharton according to the Eircode website), to the east of the proposed development is approximately 95 m away from the proposed four-storey apartment block. This separation is more than adequate to ensure that the residential amenity of this house is protected. There is no concern therefore in terms of overlooking or overshadowing of existing residential units that adjoin the subject site.

11.4.4. **CE Report comments:** The Planning Authority were generally satisfied that the proposed heights were acceptable in this location and the overall design is considered to be acceptable. The Planning Authority did not raise any issues in relation to the proposed separation distances between the development and existing houses that adjoin the site.

11.4.5. **Conclusion on Section 11.4:** There is no restrictions in the current Kilkenny City and County Development Plan 2021 – 2027 in relation to height for development of the Breaghagh Valley lands. Development is restricted by density and the proposed development provides for a density of 35 units per hectare which is in accordance with the mean density of 33 – 40 residential units/ hectare as set out for Parcel P of these lands. The provision of a four-storey block is appropriate to ensure the development of the site at a suitable density, ensure the provision of adequate amenity spaces and also to ensure that the residential amenity of existing properties is protected.

11.4.6. I note the concerns regarding height as expressed in third party observations with particular reference to the four-storey apartment block to the east of the site, however I am satisfied that the development will not give rise to unacceptable levels of overlooking that would lead to a loss of privacy and

overshadowing leading to a loss of daylight/ sunlight does not arise as generous separation distances are proposed.

## **11.5. Visual Impact**

11.5.1. The elevations of the proposed units will be finished in a mix of brick and render. The submitted details indicate that there will be a variety in the amount of brick/ render to be used.

11.5.2. The applicant has submitted 'Photomontages & CGI Views' in support of the application. The views are taken from 9 different points and indicate the existing and the proposed views of the development site post construction. In addition, three CGI views have been provided in this report and which give a general impression of how the development would appear. As I have already reported, if permission is granted, the final details on finishes and materials can be agreed with the Planning Authority by way of condition, though as I have also reported I consider it to be appropriate that the use of render on the eastern elevation be omitted and replaced with brick, though stone could also be used.

11.5.3. The submitted 'Photomontages & CGI Views' provide a good impression of how the development is proposed to appear and support the 'SHD Design Statement'. I note image PM08 which is taken from Seville Grove looking northwards into the subject site. The proposed units appear overly dominant in the supplied image; however, I note that a separation distance of 22.6 m is proposed between the rear of no. 27 Seville Grove and the proposed units and also that a separation of 16.8 m is proposed between the side of no. 26 Seville Grove and the proposed units. These separation distances are acceptable and will ensure that the proposed development is not dominant on existing units, post construction. I therefore suggest that Image PM08 does not provide an accurate impression of how the development will appear once complete.

11.5.4. Third party observations commented on the visual impact of the four-storey apartment block and in particular how it would impact on the visual amenity of the area. I have no objection to the provision of this building in this location. The site is very open at present and the proposed unit would provide a suitable landmark building here. This is a key entry point to Kilkenny City, and I disagree that it would

negatively impact on the character of the city. The development of this site does not impact on the historical city core in any way. Similarly, having regard to the scale of the Robertson Way Road, there is a need for a strong vertical presence along this eastern boundary and the proposed apartment block provides for this.

11.5.5. **CE Report comments:** The Planning Authority raised no issues of concern in relation to the visual design and height of the proposed development. They supported the provision of the four-storey apartment block at the eastern boundary of the site.

11.5.6. **Conclusion on Section 11.5:** The proposed development has full regard to the existing form of development in the area and also has regard to more recent development in the area such as the Robertson Way road. There is no reason to believe that the development will have a negative impact on the visual amenity of the area. There is no reason to recommend a refusal of permission to the Board in terms of the visual impact on the area.

#### 11.6. Residential Amenity – Future Occupants

11.6.1. **Unit Mix:** A total of 183 residential units in the form of houses and apartments is proposed and as summarised in the table below:

<b>Unit Type</b>	<b>1 Bedroom</b>	<b>2 Bedroom</b>	<b>3 Bedroom</b>	<b>4 Bedroom</b>	<b>Total</b>
Number of Apartments	17	15			<b>32</b>
Number of Duplexes		32	32		<b>64</b>
Number of Houses			67	20	<b>87</b>
<b>Total</b>	<b>17</b>	<b>47</b>	<b>99</b>	<b>20</b>	<b>183</b>

As can be seen from the above table, there is a good mix of unit types, and a good mix within the apartment/ house types. The proposed unit mix demonstrates compliance with Specific Planning Policy Requirement 1 (SPPR 1) of the ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities’.

11.6.2. **Quality of Units – Floor Area:** A ‘Housing Quality Assessment’ submitted with the application provides a detailed breakdown of each of the proposed apartment and duplex units. All units exceed the minimum required floor areas, and the majority of which providing for over 110% of the required minimum floor area. The proposed apartments are considered to be acceptable and demonstrate compliance with SPPR 3 of the ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities’.

11.6.3. The proposed houses also exceed the required minimum standards as set out in the ‘Quality Housing for Sustainable Communities, 2007’ in terms of room sizes and the overall floor area provision.

11.6.4. The proposed apartment block is a four-storey unit with eight units per floor. A single lift is provided centrally in the block, in addition to a stairwell, to serve the first, second and third floors and this is in compliance with SPPR 6 of the ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities’.

11.6.5. Adequate and accessible storage is proposed to serve each of the apartment and duplex units. The proposed houses are also provided with adequate storage, and which is easily accessible.

11.6.6. **CE Report comments:** No issues of concern were raised in relation to the proposed development in terms of the residential amenity for the future occupants.

11.6.7. **Conclusion on Section 11.6:** The proposed development provides for an adequate mix of unit types. The internal layout of these units is acceptable and complies with recommended requirements. There is no reason to recommend a refusal of permission to the Board in terms of the unit mix and internal floor area quality.

11.6.8. **Quality of Units – Amenity Space:** All the apartment units are provided with adequate private amenity space in the form of balconies for the upper floor units/ terraced areas for the ground floor units. This private open space is accessed from living room areas and can be used without impacting on adjoining bedrooms. The Type D\_A, D\_B, F\_A and F\_B Duplex/ Apartment units are provided with private open space well in excess of the minimum requirements, treble the



requirement in many cases. The units in the apartment block demonstrate compliance with the minimum required private amenity space.

11.6.9. I have already commented on the provision of public and communal open space and the public open is provided throughout the site, allowing for easy access to a suitable area for all residents of this proposed development. The communal open space is adjacent and accessible to the apartment blocks/ units which it is proposed to serve.

11.6.10. The proposed houses are provided with adequate private amenity space; the submitted plans and private amenity space details indicates that a significant number of these units are provided with a significant excess of open space. In addition, the depth of gardens and the generous areas provided, ensure that adequate separation distances are provided to the adjacent boundaries.

11.6.11. I note the generous provision of private amenity space, especially to serve the proposed houses. Whilst it may be possible to provide for an increase in unit numbers, this would also result in an increase in density that may not be appropriate for this site. It is considered that the provision of generous sized houses will provide for a good mix of unit types and an overall high quality residential development.

11.6.12. **CE Report comments:** No issues of concern were raised in relation to the proposed development in terms of the provision of suitable private, public and communal open space to serve the future residents.

11.6.13. **Conclusion on Sections 11.6:** The proposed development provides for adequate private, communal, and public open space areas. There is no reason to recommend a refusal of permission to the Board in terms of the quality of the amenity spaces.

11.6.14. **Unit Aspect:** The applicant indicates that some 82% of apartment units are dual aspect and this is acceptable. The single aspect units are found in the four-storey apartment block and 17 out of 32 apartments in this proposed building are single aspect. The north facing units in this block are dual aspect, therefore the single-aspect facing units are not north facing.

11.6.15. **Daylight and Sunlight:** The submitted 'Sunlight, Daylight and Shadow Assessment' report prepared by Chris Shackleton Consulting (CSC), considers the

potential for overshadowing and daylight/ sunlight provision within the scheme, and the potential for loss of daylight/ sunlight and overshadowing of the adjoining/ existing residential units. This assessment is undertaken based on best practice guidance set out in the following documents:

- Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' BRE, 2011 (BR209).
- BS8206 Part 2:2008, Lighting for Buildings, Code of Practice for Daylighting.

Note: While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 'Daylight in Buildings'), which replaced the 2008 BS in May 2019 (in the United Kingdom), I am satisfied that this document/ UK updated guidance does not have a material bearing on the outcome of the assessment and that the more relevant guidance documents remain those referenced in the Urban Development and Building Heights Guidelines.

The submitted assessment undertook six different tests as follows:

- Assessment of Average Daylight Factor (ADF)
- Assessment of Annual Probable Sunlight Hours (APSH) and Winter Probable Sunlight Hours (WSPH) of Proposed Units
- Shadow/ Sunlight to Public Open Space Areas
- Vertical Sky Component (VSC)
- Annual Probable Sunlight Hours (APSH) and Winter Probable Sunlight Hours (WSPH) – Neighbouring Units
- Shadowing of Neighbouring Units

Only the first three assessments are considered in this part of the assessment – impact on the amenity of the future occupants of this development. The other three assessments will be considered later on in this report. The submitted report includes a summary of design principles and compensatory measures employed in the design of the proposed development.

11.6.16. From the information provided in the 'Average Daylight Factor (ADF)' assessment, I am satisfied that the target ADFs are appropriate and are compliant within the required guidance/ targets. Compliance with these guidance/ targets will

ensure that all units and their future occupants are provided with suitable residential amenity.

11.6.17. **Assessment of Average Daylight Factor (ADF):** Table 2 of BS8206 Part 2:2008, provides the following minimum Average Daylight Factor (ADF)

- Bedrooms 1%
- Living Rooms 1.5%
- Kitchens 2%

Where a room serves more than one function, the minimum average daylight factor should be that for the room type with the highest value. A combined kitchen/ living room would therefore demonstrate a minimum average daylight factor of 2%. The proposed apartments provide for floor plans in which the kitchen/ living and dining areas are effectively the one room and the CSC report indicates that they have used the strict value of 2% for the Living Room spaces.

11.6.18. The ADF assessment was undertaken for the proposed apartment block (standalone block to the eastern side of the proposed development site), ground and first floor. In addition, the assessment was undertaken for the Type DA and Type FA Duplex units.

The following results are noted in summary:

**Apartment Block:**

Ground Floor: All rooms in the tested units (1 to 8) exceed the minimum required BRE standards.

First Floor: All rooms in the tested units (9 to 16) meet or exceed the minimum required BRE standards.

The CSC report indicates that the Average ADF for the tested living rooms is 2.6% and that for the tested bedrooms is 3.9%.

**Duplex Type DA:**

Ground Floor: All rooms in the tested Type DA Duplex exceed the minimum required BRE standards.

First Floor: Living Room provides an ADF of 3.8 which exceeds the required 2.0.

Second Floor: All three bedrooms exceed the minimum required ADF.

**Duplex Type FA:**

Ground Floor: All rooms in the tested Type FA Duplex exceed the minimum required BRE standards.

First Floor: Living Room provides an ADF of 3.8 which exceeds the required 2.0.

Second Floor: All three bedrooms exceed the minimum required ADF.

The CSC report indicates that the Average ADF for the tested living rooms is 2.8% and that for the tested bedrooms is 2.0%.

11.6.19. **Assessment of Annual & Winter Probable Sunlight Hours (APSH & WPSH):** The BRE document indicates that an assessment should be undertaken of living rooms to ensure that they receive necessary sunlight.

- APSH – Meet/ exceed 25%
- WPSH – Meet/ exceed 5%

The assessment was undertaken for the ground and first floors of the apartment block and also for a number of duplex units to the western side of the proposed development. All tested units exceeded the minimum required APSH and WPSH.

11.6.20. **Shadow/ Sunlight to Public Open Space Areas:** The BRE assessment requires that a least half of a garden/ amenity area should receive at least two hours of sunlight on the 21<sup>st</sup> of March each year. The assessment was undertaken for the public amenity areas and all spaces demonstrated compliance with the requirements as set out in the BRE guidance.

11.6.21. **Conclusion on Daylight and Sunlight Assessments:** I have had appropriate and reasonable regard of quantitative performance approaches to daylight provision, as outlined in the BRE 'Site Layout Planning for Daylight and Sunlight' (2nd edition) and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting'. I am satisfied that the design and layout of the scheme has been fully considered alongside relevant sunlight and daylighting factors. The standards achieved, when considering all site factors and the requirement to secure suitable development of this accessible and serviced site within the Kilkenny City and County Council area, in accordance with national policy guidance, are in my

opinion acceptable, and will result in an acceptable level of residential amenity for future occupants. Overall, I am satisfied that the proposed development will provide for good daylight and sunlight to the proposed units.

11.6.22. I also note that the proposed development is provided with good residential amenity such as the provision of balconies for the proposed apartment and duplex units which will enjoy good sunlight amenity and also these units are proposed to be provided with good internal floor space.

11.6.23. The submitted analysis includes an assessment of the public open space areas. The BRE requirement is that a minimum of 50% of the space shall receive two or more hours of sunlight on the 21<sup>st</sup> of March. The submitted analysis demonstrates that the BRE requirement is met. The public and communal amenity spaces will be of a high quality, suitable for residential use.

11.6.24. The proposed areas of open space will be provided with adequate daylight and sunlight in accordance with the BRE requirements.

11.6.25. **CE Report comment on residential amenity:** The Planning Authority through the CE report, did not raise any issues of concern in relation to the residential amenity proposed in the submitted development.

11.6.26. **Conclusion on Residential Amenity:** Overall the proposed development will provide for a high quality of residential amenity in this urban area. Room sizes, layout and proposed amenity spaces are of a good standard. The development complies with the requirements of National and Local policies.

## 11.7. Residential Amenity – Existing/ Adjacent Residents

11.7.1. **Existing Site:** The development of a greenfield site within an area that contains existing residential development will give rise to a level of nuisance and disturbance to existing residents, especially during the construction phase. I note all of the comments made in the observations in this regard, however I am satisfied that any development of a site of this scale and located in such an area will give rise to some temporary nuisance and this has to be weighed up against the long-term impact of the development of this site.

11.7.2. **Vertical Sky Component (VSC):** The Vertical Sky Component (VSC) is a measure of how much direct sunlight a window is likely to receive. The Vertical Sky Component is described as the ratio of the direct sky illuminance falling on the vertical wall at a reference point, to the simultaneous horizontal illuminance under an unobstructed sky. A new development may impact on the amount of received sunlight to an existing building, and this is the case if the Vertical Sky Component measured at the centre of an existing main window is less than 27%, and less than 0.8 (20%) times its former value.

11.7.3. The CSC assessment considered the impact on five 'Window Groups' as follows:

Window Group B1: 1-2 College Avenue and 1, 36-37 Burrell's Walk.

Window Group B2: Housing to north of the development (first four units from east to west)

Window Group B3: 26 to 30 College Avenue, 17 to 22 Burrell's Walk and detached house to east/ south of proposed development.

Window Group B4: 43/ 44, 53/54 and apartment block in Seville Lawns.

Window Group B5: 1, 26 and 27 to 31 Seville Grove.

11.7.4. The analysis of the above listed units found that the majority of units would not experience a reduction below 27%.

The following went below the 27%:

Group	Window	Existing	Proposed	Ratio	Comment
B3	W7	27.1	25.9%	0.96	Acceptable as the reduction is not less than 80%.
B4	W4	35.6	26.2	0.74	This is a north facing ground floor window and the reduction is only

					marginally below the standards.
B4	W5	36.9	26.1	0.71	This is a north facing ground floor window and the reduction is only marginally below the standards.

11.7.5. Only two windows were found to have a VSC of less than 27%/ less than 0.8 % times the existing figure. These are ground floor, north facing windows in close proximity to their boundary. It is this proximity to the boundary that is the issue, however, the impact is marginal on these units.

11.7.6. **Assessment of Annual & Winter Probable Sunlight Hours (APSH & WPSH):** The BRE document indicates that an assessment should be undertaken of living rooms to ensure that they receive necessary sunlight.

- APSH – Meet/ exceed 25%
- WPSH – Meet/ exceed 5%

The assessment was undertaken for all the previously tested units in Groups B1 to B5. Only windows which face within 90 degrees of due South require testing. All the relevant tested units exceeded the minimum required APSH and WPSH.

11.7.7. **Shadowing of Neighbouring Units:** The BRE assessment requires that a least half of a garden/ amenity area should receive at least two hours of sunlight on the 21<sup>st</sup> of March each year. All spaces demonstrated compliance except the private amenity area of 29/30 College Avenue which reduced from an existing 73% to 45%. This is below the 50%. The average change from the existing is a ratio of 0.96:1. I note that the garden area of 29/30 is somewhat unusual in that it tapers towards the south. Whilst the removal of a unit (86 or 105) may resolve this issue, the reduction of no. 105 to a single-storey unit may resolve this issue.

11.7.8. **Conclusion on sunlight/ daylight impacts to neighbouring properties:** Existing units and their private amenity spaces, other than the private amenity area of 29/30 College Avenue, will receive adequate sunlight, in accordance

with the BRE Guidance. I have no reason, therefore, to recommend to the Board that permission be refused due to impact on existing residential amenity.

11.7.9. **Potential overlooking:** Concern was raised in the third-party observations in relation to potential overlooking. The proposed development provides for adequate separation distances between the rear of existing and proposed units. The four-storey apartment block is suitably located as to ensure that overlooking does not occur. A separation of 26.5 m between its nearest point to no. 1 Burrell's Walk is considered to be acceptable. 41 m is provided between the units to the north of College Avenue and the existing residential units to the north. The separation of 22.5 m between the duplex units to the west of the site and the houses to the south in Seville Grove is also acceptable. The separation along the western side of the site, and existing houses to the west, varies between 30 and 50 m and this is considered to be more than adequate to ensure that residential amenity in the form of privacy is protected.

11.7.10. I have already commented on the layout of the site, and I am satisfied that the proposal as submitted has full regard to the potential impact on existing houses that adjoin the site.

11.7.11. **CE Report comment on residential amenity:** I note again the comments in the CE report and no issues of concern were raised in the submitted report in relation to the potential impact on existing residential amenity.

11.7.12. **Conclusion:** Overall I am satisfied that the development will not have a unduly negative impact on the existing residential amenity of the area. I have no reason, therefore, to recommend to the Board that permission be refused due to impact on the existing residential amenity of the area.

## 11.8. Transportation, Traffic, Parking and Access

11.8.1. **Traffic:** A 'Transportation & Transportation Statement' – prepared by Malone O'Regan, dated November 2021, is submitted in support of the application. The site is approximately 2 km from the centre of Kilkenny. The Callan Road/ N76 is located to the south and provides the main access (known as Junction 2) to/ from Kilkenny from this site. The William Robertson Way is located to the east, and this is a new road opened in 2021. College Avenue connects directly to this road at Junction 1. Junction 1 was built as part of the William Robertson Way and Junction



2 was upgraded in 2018 as part of improvement works to the N76. Appendix 3 of this report includes a Stage 3 Road Safety Audit in relation to these works and the recommended improvements have subsequently been undertaken. Cycle and pedestrian facilities have been provided as part of these new roads/ upgrade works.

11.8.2. A traffic survey was undertaken in December 2016, details provided by Kilkenny County Council. Table 5.3 provides 'Vehicle trip rates derived by TRICS'. The AM peak (8.00 to 9.00) will generate 112 trips and the PM peak (16.00 to 17.00) will generate 83 trips. 90% of traffic will use the Callan Road with the remainder using William Robertson Way. Tables 5.4a and 5.4b demonstrate that the development will generate a total of 735 trips between 7.00 and 19.00, with a total of 864 trips (allowing for Expansion Factors) over a 24-hour period. This represents 7.5% of the Average Daily Traffic estimated to be using the N76 – Callan Road.

11.8.3. I note the report of TII and their concerns regarding the submitted information and in particular the impact on the T junction of the Callan Road and Seville Grove. The Kilkenny Road Report also raised a number of issues in relation to the submitted TTA including the impact on the existing road network. I do note that both the TII and Kilkenny reports do not recommend that the development be refused permission.

11.8.4. Whilst I note these reports and their issues of concern, the submitted Planning Authority report does not raise any issues of concern and considers that the development can be carried out subject to conditions, which I agree with. I consider that there is no particular issue of concern regarding road network capacity for the following reasons:

- The development of these lands was subject to a masterplan which was subsequently incorporated into the Kilkenny City and County Development Plan 2021 – 2027. The plan indicated the suitable location of housing and also included a list of road improvements that were required at each stage of development. From the available information and the site visit, it is clear that all required roads are in place. The provision of William Robertson Way was a significant requirement for the development of these lands and this road opened in 2021. This allows for the use of a College Avenue as a direct access to these

lands and overcomes the need for Seville Grove as the only access to these lands.

- William Robertson Way was funded by the 'Local Infrastructure Housing Activation Fund (LIHAF)'. The function of this road is therefore to facilitate the development of housing and the proposed development is in accordance with this. The road is fully operational and has been provided in advance of the development of these lands. Clearly there will be an increase in traffic on this road, for the reason that it has been provided in advance of the housing it is proposed to serve.
- TII were concerned about the impact of the development on the N76/ Callan Road and in particular the junction of it, and Seville Grove. TII did not comment on the impact on William Robertson Way and the new roundabout that provides a junction with the N76. The applicant has indicated that the junction of Seville Grove and the N76 has been upgraded in recent times. I note the TII comments, however I have no objection to the proposed development and its impact on the national road network due to the fact that these lands have been zoned for residential type development for some time, that there has been extensive works carried out to the local road network, funded by taxpayers, in recent times and which were carried out in accordance with the requirements of the Kilkenny City and County Development Plan 2021 - 2027.

11.8.5. I am satisfied that the existing road network can accommodate the additional traffic generated from this development. There is no doubt that the development will generate an additional volume of traffic, and which may impact on existing traffic flows in the area. However, as I have outlined, the site is suitably zoned for development, the lands have been specifically proposed for development of the nature proposed and there has been a significant investment in the road network in the area. On the macro scale, Kilkenny has benefited from the opening of the M9 motorway, improvements to the N10, N76 and N77 roads and also has seen the recent provision of a city bus service. Whilst these do not all benefit the subject site; they do improve the transport needs of the greater Kilkenny City Area. I am therefore satisfied that subject to suitable conditions, that the road network is suitable to serve the proposed development.

11.8.6. Comments made in the Kilkenny County Council Roads Report in relation to the submitted DMURS Compliance Statement are noted. I am satisfied that these issues can be addressed by way of condition. A Mobility Management Plan can also be provided in the event that permission is granted for the submitted development.

11.8.7. **Public Transport:** I note that the Planning Authority refer to the proximity of the site 'to the city bus stop on the Callan Road (less than 5 minutes' walk from site). I would calculate this to be closer to a ten-minute walk to the KK1 bus stops on the Old Callan Road. This service provides a bus every thirty minutes to and from the City Centre, but also other points in the greater city area. This is a relatively new bus service that started in 2019 and I expect that it can be expanded/improved over time.

11.8.8. The submitted 'Transportation & Transportation Statement' and the 'Statement of Material Contravention' detail the existing public transport provision in the area. Both refer to the availability of two railway services from Kilkenny, one is the Dublin to Waterford service and the other mentioned is a Dublin-Waterford-Limerick-Galway-Cork service. This is not a direct service and involves the changing of trains in a number of locations. The Dublin to Waterford via Kilkenny is the only railway service currently operating from Kilkenny. This is not a critical issue in the development of this site.

11.8.9. **Car Parking:** Full details on Car Parking are provided in Section 3.2 of the 'Transportation & Traffic Statement. The proposal is for a total of 320 parking spaces as follows:

- 174 no. Residential Parking Spaces – Houses
- 96 no. Residential Parking Spaces – Duplexes
- 32 no. Residential Parking Spaces – Apartments
- 18 no. Visitor Parking Spaces

The applicant accepts that this is below the Kilkenny City and County Development Plan requirement for 364 parking spaces and the apartment guidelines specify a requirement for 348 parking spaces. The proposed figure is considered to be appropriate by the applicant for the following reasons:

- Car Parking Management Regime: Duplex/ apartment residents to apply for car parking spaces either annually or as a visitor. This allows for a greater management of the parking spaces.
- A total of 272 bicycle parking spaces will be provided, nearly three times the requirement of the Kilkenny City and County Development Plan 2021 – 2027.
- Car ownership in the Margaretsfield Area is 1.35 cars per household, the development provides for 1.75 parking spaces per household.

11.8.10. The Planning Authority did not object to the proposed car parking provision and consider it be acceptable, though I note the comments made in the Roads Report included that a greater shortfall of parking was evident – should be 388 spaces.

11.8.11. I note the submitted reports and the comments from Kilkenny City and County Council. The most evident parking shortfall is in visitor parking spaces and the provision of 18 such spaces to serve a development of 183 units should be adequate. Overall, I am satisfied with the car parking provision. This is a new development, and any future occupants will be aware in advance of the limitations in parking. I note the comments made in relation to parking layout and this can be addressed by way of condition.

11.8.12. **Bicycle Parking:** The proposed development provides for a total of 272 bicycle parking spaces. These are provided throughout the site and within easy access of the apartment and duplex units. It is considered that bicycle parking spaces should be covered where possible.

11.8.13. **Conclusion on Transportation, Traffic, Parking and Access:** The development is located in an area where significant investment has been made in the road network. I am satisfied that the development is appropriate having regard to this road network. Car and bicycle parking provision is appropriate to the scale and nature of development proposed. I have no reason to recommend a refusal of permission to the Board.

## 11.9. Infrastructure and Flood Risk

11.9.1. **Water Supply and Foul Drainage:** Irish Water have reported no objection to this development in relation to the connection to public foul drainage and

water supply systems. The applicant has engaged with Irish Water and has submitted design proposals. Irish Water has issued a Statement of Design Acceptance and conditions are recommended in the event that permission is granted. No capacity constraints have been identified by either body, though I note that potential impact on the existing foul drainage system was referred to in the third-party observations. From the submitted information, there is no evidence of any such capacity constraints.

11.9.2. **Surface Water Drainage:** Details of the proposed surface water drainage design are provided in the 'Infrastructure Design Report' prepared by Malone O'Regan. As reported, the site was partially developed in 2007 – 2008 and these works included the provision of surface water drainage infrastructure.

11.9.3. Surface water will be collected within a gravity-based drainage network and water will be directed to two separate attenuation tanks. Tank 1 is located to the south of the site and Tank 2 is located to the north eastern section of the site – Location details are provided on Drawing No. 103 (Job no. 19003). These attenuation tanks will be designed to facilitate a 1 in 100-year storm event. The outfall from these tanks will be restricted to a greenfield runoff rate, this will be done through the use of a Hydro-brake flow control system. Tank 1 will connect into an existing 300 mm diameter sewer within College Avenue and Tank 2 connects into an existing 600 mm diameter sewer at the junction with the existing distributor Road/ Seville Grove.

11.9.4. Each tank will serve a designated catchment area – Tank 1: Catchment Area 1 and Tank 2: Catchment Area 2. Full/ suitable SUDs measures will be employed throughout the development site. Full details on run-off rates etc. are provided in the submitted MOR report.

11.9.5. **Flood Risk:** A 'Site-Specific Flood Risk Assessment' – prepared by Malone O'Regan has been included with the application. There are no waterbodies within, or which border the subject site. The site is approximately 500 m to the west of the River Breaghagh. There is a fall across the site on a south west to north east axis and it is proposed that the development retain the existing ground levels as much as is possible.

11.9.6. The assessment considered all relevant types of flooding as follows:

- **Fluvial Flood Risk:** The River Breagagh and a land drain to the northeast corner of the site are the only potential sources of flooding. The land drain caters for runoff from an adjacent field and flows east towards the River Breagagh. This land drain is not considered to be a potential source of flooding. The report details some issues with regard to potential flooding from the River Breagagh, however even in a 1:1000-year storm event the site would not be impacted. The risk of flooding from the River Breagagh is therefore considered to be low. OPW flood records do not indicate any flood events in the vicinity of the subject site. The subject site is located in Flood Zone C and there is no requirement to prepare a justification test.
- **Pluvial Flood Risk:** The topography of the site ensures that there is good drainage at times of heavy rainfall. Ponding may occur, but this is localised, and the development of the site including the development of the surface water drainage network will address such issues. The risk of pluvial flooding is considered to be low.
- **Coastal Flooding:** This not relevant as the site is not in a coastal area.
- **Groundwater Flooding:** This type of flooding is largely confined to the west coast of Ireland and the site is not considered to be at risk of such flooding.

11.9.7. The submitted report raises no issues of concern. I am satisfied that the applicant has considered all potential sources of flooding. I note that comments were made in third party observations that the site may be prone to flooding, however no specific detail of this was provided in the submissions, OPW flood records do not indicate any issues of concern in relation to flooding, and I did not see any evidence of flooding on the day of the site visit. I am satisfied that the development of this site, in full accordance with the submitted details, will not impact on existing adjacent houses through flooding.

11.9.8. The CE report does not raise any concerns about the proposed drainage of the site (foul and surface water) and the provision of a water supply to serve the development.

11.9.9. **Conclusion on Infrastructure and Flood Risk:** The site is served by a public water supply and the public foul drainage network. As noted, infrastructure has already been put in place to serve this site and the existing houses in the area.

There is no concern regarding the potential for flooding of this site or to cause flooding on adjacent lands.

### **11.10. Childcare**

11.10.1. The requirement under the 'Planning Guidelines for Childcare Facilities (2001)' was for one childcare facility for every 75 units, able to accommodate 20 children. Section 4.7 of the 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities' states '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'.

11.10.2. The proposed development is for 183 units, consisting of a mix of apartments and houses. The site is located in Parcel P of the Breagagh Valley lands and under the section 'This Parcel Must Contain' is included 'A creche or other pre-school facility'. The applicant has not included a childcare facility as part of the proposed development and has submitted a Childcare Audit in support of this.

11.10.3. This audit identifies a total of 19 existing childcare facilities within a 2 km radius of the site, 18 of which are located to the east/ north east of the site, within the urban area of Kilkenny City. This is not surprising. These 19 facilities provide for a total of 696 children, according to TUSLA information. It is not known what the vacancy rate is. The applicant estimates the pre-school population to be 963 within the study area and even if 20% of these required childcare, that would only equate to 193 children. The applicant therefore considers that there is more than adequate capacity in the area for childcare. The applicant has also estimated that the childcare demand from this development is 44.

11.10.4. The submitted report is noted. There is a requirement for a childcare facility on the Parcel P lands, which this site forms part of. I am satisfied that this requirement has been met by the provision of the 'Cheeky Monkeys' facility in Seville Lawns and which has a capacity for 47 children (ages 0 – 6 years). I am satisfied that the applicant has adequately demonstrated that there is adequate childcare capacity available in the area. The Planning Authority, through the CE report, did not object to the non-provision of a childcare facility on this site and they note the existing provision of a facility in Margaretsfield.

11.10.5. **Conclusion:** In general, a development of this scale should provide for suitable childcare in accordance with the Childcare Guidelines. However, this development is in effect the completion of the existing residential schemes in Burrell's Walk, College Avenue and Seville Grove/ Lawns and for which childcare has been provided. There is no indication that there is a shortfall in childcare provision in the area and the proposed development will ensure the continued viability and use of the Cheeky Monkeys' facility in Margaretsfield. I have no objection to this proposal; however, the Board may decide to omit units and provide for a childcare facility on the site.

### 11.11. Part V Social Housing Provision

11.11.1. A Part V Proposal has been provided in the form of a letter by John Spain Associates, with a total of 18 units to be provided. In addition, Drawing no. 1701B-OMP-00-SP-DR-A-1020\_Proposed Site Layout Plan - Part V has been prepared by OMP Architects and is submitted with the application. The Planning Authority report refer to the Part V Proposal that is included with this application and they have no objection to this. This issue can be addressed by way of condition in the event that permission is granted for the development.

11.11.2. I note the 'Housing for All Plan' and the associated 'Affordable Housing Act, 2021' which requires a contribution of 20% of land that is subject to planning permission, to the Planning Authority for the provision of affordable housing. There are various parameters within which this requirement operates, including dispensations depending upon when the land was purchased by the developer. In the event that the Board decides to grant planning permission, a condition can be included with respect to Part V units and will ensure that the most up to date legislative requirements will be fulfilled by the development. The applicant has referred to the changes in the legislation and includes a letter from their solicitors, Eversheds Sutherland, confirming that the land was purchased on the 17<sup>th</sup> of January 2017.

11.11.3. **Conclusion:** I am satisfied that the applicant has adequately demonstrated that they will provide for adequate Part V housing in accordance with the requirements for such housing.



## **11.12. Comment on Submission/ Observations of the Kilkenny Municipal District**

11.12.1. The views of the elected members were submitted alongside and included in the CE report. They are generally similar to those raised by third parties and dealt with under the relevant headings above. However, having regard to their important role in plan and place making, I have considered the strategic points raised by them, as outlined below. I have also noted and considered all of the issues raised in the observations, therefore most of these varied issues have been addressed already in this report.

11.12.2. Concern was raised about the SHD process. As the application has been correctly submitted in accordance with the S.4(1) of Planning and Development (Housing) and Residential Tenancies Act 2016, I will not comment any further on this issue.

11.12.3. The adequacy of the Road System in the area to cater for the proposed development was raised at the meeting. I have detailed why I consider the local road network to be suitable for this development. The site forms part of Parcel P of the Breagagh Valley lands and which lists a range of infrastructure to be provided to facilitate the development of these lands. The necessary infrastructure is in place and in particular the opening of William Robertson Way, funded by LIHAF money, in 2021 has provided additional road capacity in the area.

11.12.4. The issue of inadequate car parking provision was raised. This site is within walking distance of Kilkenny City centre and each unit will have access to at least one car parking space. To compensate for the reduced car parking provision, the applicant has proposed a significant number of bicycle parking spaces, and which are located throughout the site. Car parking on site is to be managed and this may encourage a greater use of sustainable forms of transport. The proposed development is designed to encourage walking and cycling and this will integrate with existing provision in the area.

11.12.5. Lack of Childcare on site: This is again a requirement for the development of these lands and is a requirement of the Childcare Guidelines. The applicant has addressed this issue in the Childcare Audit providing detail on why such a facility is not required. There is already a facility in the adjoining residential

development, and this demonstrates that the requirement for these lands is complied with. The submitted audit also outlines the existing childcare availability within a 2 km radius of the site and there is more than adequate capacity to accommodate this development.

11.12.6. Concern was expressed about the impact of the development on existing residential amenity. I am satisfied that issues of overlooking leading to loss of privacy have been adequately addressed in the application. Similarly overshadowing leading to a loss of daylight/ sunlight has been considered in the design and there are no significant issues of concern in relation to these matters.

11.12.7. The visual impact of the development was raised as an issue. The applicant has designed this development to integrate with the existing houses in the area. The four-storey apartment block that fronts the roundabout on the Callan Road/ William Robertson Way is acceptable, but I do consider that its front/ eastern elevation should be finished in brick and/ or stone so as to provide for a suitable high quality presence at this location.

11.12.8. A lack of facilities to serve the development/ future residents was raised as a matter of concern. The Breaghagh Valley lands are divided into Parcels A to Q and provide for a mix of residential, open space and a Neighbourhood Centre. The development of these lands will provide for a range of services within walking distance of this site. I am not going to comment on the layout/ nature of these planned lands but in general the proposal allows for an integrated extension to Kilkenny City. Outline permission has been granted for a school on the adjoining lands and I assume that the development of educational services will be phased in accordance with the development of new housing. Similarly, whilst there is no proposed retail units forming part of this development, they may be provided if required on adjoining lands and in time on the area of land proposed as a Neighbourhood Centre. Large tracts of amenity/ open space lands are proposed as part of the overall Breaghagh Valley scheme and the subject site is proposed to be provided with adequate public space to serve the future occupants of this development. Community facilities can also be provided on the Neighbourhood Centre lands in the future.

11.12.9. Flooding was raised as an issue of concern. I am satisfied that the submitted flood assessment is thorough and demonstrates that flooding is not a concern on these lands.

11.12.10. A number of reports were listed as omitted from the submitted application including a Construction Management Plan, Traffic Management Plan and a Phasing Plan. These issues have been addressed in other documents that are included with the application and the Construction Management Plan and Traffic Management Plan can be submitted by way of condition. The applicant proposes to develop the site in one phase. This should provide comfort to those Elected Members who were concerned that the development may not be completed.

### 11.13. Ecological Impact Assessment (EclA)

11.13.1. The applicant has engaged the services of Altemar – Marine & Environmental Consultancy, to prepare an Ecological Impact Assessment (EclA) for the subject site; the report is dated 14<sup>th</sup> October 2021. I have had regard to the contents of same. Site survey was undertaken on the 2<sup>nd</sup> of August 2020 and a bat survey was also undertaken on this date. Consultation was held with the National Parks and Wildlife Service (NPWS).

11.13.2. The following Natura 2000 sites are located within 15 km of the subject site, details are provided here:

Name	Site Code	Distance from Site
River Barrow and River Nore SAC	(002162)	1.6 km
Thomastown Quarry SAC	(002252)	14.2 km
River Nore SPA	(004233)	1.6 km

The River Breagagh is located within 400 m of the subject site. Existing drainage in the form of 300 mm and 600 mm diameter pipes are in place on site. A list of Natural Heritage Areas is provided on page 23 of the Altemar Report and Figure 16 provides their location relative to the subject site.

11.13.3. The nature of the development is summarised on page 2 of this report – a residential development of 183 units in the form of house and apartments and all

associated site works. Landscape, Drainage (foul and surface water) and Arboricultural Impact are summarised on pages 2 to 3. The receiving environment consists of an undeveloped site, but which does contain enabling works for a previous granted residential scheme. Much of the site had been cleared to facilitate this previously approved development.

11.13.4. In summary a habitat survey found the following:

- Dry meadows and grassy verges: The clearance of the site removed much of the vegetation and over the years the cleared ground has become a grassland, with scrub encroachment from field edges. A list of plant species are provided in the EclA but there are no species of conservation importance found on site.
- Scrub: This has been found to the northern side of the site and is dominated by bramble.
- Amenity Grassland: Found on to be species poor and regularly mown. No species of conservation importance were found.
- Bats: No evidence of any existing/ past bat roosts. Minor foraging activity to the south west corner of the site involving a single soprano pipistrelle bat. No significant impacts on the roosting of bats are expected from the proposed development.
- Evaluation of Habitats: Due to the site clearance no other habitats of conservation significance were noted within the development area.
- Plant Species: No rare or plant species of conservation value were found on site.
- Invasive Plant Species: None found on site.
- Fauna: No frogs, newts or common lizard were found on site, though there are features that could be important to frogs.
- Birds: Birds found on site were common species and none of which are rare or bird species of conservation value.

11.13.5. Historical Records of Biodiversity: The National Biodiversity Data Centre online viewer was consulted to determine the extent of any biodiversity/ species of interest in the area. None were found on site and Table 7 of the EclA

report provides an extensive list of those found within a 2 square km grid. Table 8 provides a list of rare and protected species within this survey area.

11.13.6. The following 'Analysis of the Potential Impacts' are provided, in summary:

**Construction Phase:** Direct negative impacts in terms of development of the existing built land, scrub and grasslands on site.

- Designated Conservation Sites within 15 km: Due to the distance from designated sites, the lack of direct hydrological pathway/ biodiversity corridor to designated sites and the provision of suitable drainage on site and the dilution effect with other effluent, it is concluded that the proposed development would not give rise to any significant effect on designated sites. Therefore, no impact is likely in relation to designated conservation sites from the proposed development.

Impacts – Neutral/ Imperceptible/ Temporary/ Localised/ Unlikely.

- Biodiversity: The construction phase would give rise to a loss of habitats and species on site, flora and fauna associated with these habitats would be displaced. No bird, flora or terrestrial mammal species of conservation importance were recorded on site during the survey. No bat roosts were found and only a single bat was recorded in the south west corner. Some mammals may be impacted by the development, but these are common species to Ireland. No frogs, reptiles and amphibians were found on site.

Impacts – Neutral/ Negligible/ Short-term/ localised/ unlikely.

- Flora: No protected flora was found on site. Existing flora species will be removed.

Impacts – Low adverse/ site/ Negative Impact/ Not Significant/ Short-Term.

- Bat Fauna: No roosts found on site and foraging was not in an area of public lighting.

Impacts – Negligible/ Temporary/ Localised/ Unlikely.

- Aquatic Biodiversity: There is an indirect pathway to the River Breaghagh via surface water. Existing drainage infrastructure is on site. Standard construction phase mitigation measures will be put in place to prevent silt and petrochemicals

impacting on the watercourse. Given the distance, dilution and mixing effect within the watercourse, impacts would be expected to be localised and minor.

Impacts – Negligible/ Temporary/ localised/ likely.

- Bird Fauna: There were no protected bird species found on site

Impacts – Minor adverse/ National/ Negative Impact/ Not Significant/ medium term.

**Operational Phase:** Foul water drainage will be connected to the existing public system. Once construction is complete, the site will be considered as a stable environment and there will be no significant ecological impact from the day to day operation of the proposed residential development.

- Designated Conservation Sites within 15 km: The site is located in an established urban area surrounded by houses and roads. Due to the distance from designated sites, the lack of direct connection to these sites and the dilution effect with other effluent, it is concluded that the development would not give rise to any significant effect on designated sites and no impact is likely to designated conservation sites.

Impacts – Negligible.

- Biodiversity: The biodiversity value of the site will improve as the proposed landscaping matures.
- Terrestrial and Avian Ecology: As landscaping matures, the biodiversity value to birds and flora would also increase. The landscaping of the site will prove important to the overall impact of the operational phase.

Impacts – Neutral, localised, Slight to Moderate, Permanent.

- Bat Fauna: Public lighting may impact on bats, however the low level of bat activity ensures that the lighting associated with the development will not impact on the bat population. Included with this report is Appendix 1 and which provides a 'Bat fauna impact assessment for proposed residential development at Kilkenny Western Environs, Co. Kilkenny', also by Atleamar.

Impacts – Minor/ Temporary/ Localised.

- Flora: No protected flora was found on site and site clearance will remove existing flora from the site.

Impacts – Low adverse/ site/ Negative Impact/ Not Significant/ Short Term.

- Aquatic Biodiversity: Due to the distance to the River Breagagh, and the dilution and mixing effect within the watercourse, will ensure that the surface water network will not impact on aquatic biodiversity.

Impacts – Low adverse/ local/ Negative Impact/ Not Significant/ Long Term.

- Bird Fauna: The environment will change as buildings etc. are constructed on site.

Impacts – Low adverse/ site/ Negative Impact/ Not Significant/ Long Term.

**Indirect Impacts:** The removal/ disposal of soil will require compliance with relevant policies. Measures will be required to prevent dust and surface water movements into adjacent habitats during demolition. New drainage will have to comply with SUDs requirements. No indirect impacts are likely.

**Avoidance and Remedial Measures:** Mitigation by avoidance: There is a lack of vegetation/ species of importance and mitigation is not required. There are no trees on site suitable for bat roosts. The removal of trees/ nests etc. is guided by the Wildlife Acts.

Mitigation by remedy: Appropriate measures will be undertaken during dewatering of excavations. Standard control measures will be employed to prevent unfiltered water and petrochemicals from leaving the site having regard to the sloped nature of the site. Replanting will be with native species, and which will encourage birds/ bats to roost/ forage. Measures will be taken in relation to lighting. It is proposed that 20 bird boxes will be provided throughout the site.

**Cumulative Impacts:** This project is taking place within the context of other development in the area, including a School off College Avenue – PA Ref. 20691, Pump station and works at Kell Road, Kilkenny – PA Ref. 19831 and housing development off the Circular and Kennyswell Roads – PA Ref. 19887. It is considered that the cumulative effect of these developments/ subject development

would be unlikely/ neutral/ not significant and localised and with no significant effects on Natura 2000 sites.

**Adverse Effects likely to occur from the project (post mitigation):** Standard construction and operational mitigation measures are proposed. The overall impact on the ecology of the proposed development would result in a long-term neutral residual impact on the ecology of the site and locality overall. In conclusion it is considered that no significant environmental impacts are likely in relation to the construction, or the operational phases of the proposed development as described.

11.13.7. I note the information and details provided in the EclA and I am satisfied that the submitted information indicates that the proposed development will not impact on any designated or protected ecological sites or impact on any protected species. Suitable mitigation measures have been proposed and these are noted. These are standard mitigation measures that would be expected for any development of the nature proposed.

11.13.8. I note also the submitted 'Bat Fauna Assessment' which is provided as Appendix 1 to the EclA. Bat activity was very low which is not unexpected having regard to the cleared nature of the site. The public lighting plan provided by Sabre Electrical Services Ltd. has regard to future bat activity on site.

#### 11.14. Other Issues

11.14.1. **Tree Protection and Landscaping:** Murray & Associates have been engaged by the applicant and have prepared/ submitted an 'Arboricultural Inventory and Recommended Works' which incorporates a 'Tree Protection Strategy'. The commencement of development back in 2007/2008 resulted in extensive site clearance such that there are very few trees left in place. A group of lime trees is located at the entrance to Burrell's Walk, which are in good condition, and a single Black Alder which was found to be significantly damaged at its base. None of these trees are of any importance. Adjoining sites were also surveyed and it was found that none of the trees outside of the site should be impacted upon other than some trimming works where they intrude onto the subject site.

11.14.2. Murray & Associates have also prepared an 'Outline Landscape Works Specification incorporating a Landscape Management Plan' which support a number of landscape plans submitted with the application. The proposed landscaping is



considered to be acceptable and provides for a number of trees throughout the site including streetscape trees. The overall landscape plan should provide for an attractive development.

11.14.3. The proposed pumping station is to be located in the northern most area of open space. This does not impact on the use/ layout of this area of open space. I note comments about the means of access to this pumping station and this issue may be addressed by the Planning Authority to their satisfaction.

11.14.4. **Building Life Cycle Report:** This has been prepared by Cairn and details a number of aspects of the development that will ensure that energy costs for the future occupants are managed. Medium to long term replacement/ management works are considered and are detailed in this report in the 'Building Investment Fund (Sinking Fund)' calculations. These details are considered to be acceptable.

11.14.5. **Energy Statement:** This report has been prepared by Waterman Moylan Consulting Engineers Limited. Heat pumps will be provided to heat the houses and 'Exhaust Air Heat Pumps' will be used in the case of the apartments. The proposed units will be insulated/ ventilated to a high standard.

11.14.6. **School:** I am aware that the lands to the north of College Avenue are to be developed for a school and outline permission has been granted for this. I have no concern regarding the impact of the proposed development/ this school on each other. The indicative road layout for the school is a 'Teardrop' arrangement which allows for drop-off/ pick-up within the school site. The management of this will ensure that there are no traffic issues in the vicinity of the school. It is to be expected that the volume of housing in the area will ensure that many pupils can walk/ cycle to this school.

11.14.7. **Archaeological Assessment:** An assessment of the site was undertaken by IAC Archaeology, dated August 2021. In summary there were some remains found on the site in the past though the amount of clearance/ works associated with the development of lands has resulted in the site been of low archaeological potential. Conditions in respect of mitigation measures are recommended in the event that permission is granted for the development. The Planning Authority have raised no objection to this aspect of the development.

## 11.15. Material Contravention

11.15.1. The applicant has submitted a 'Statement of Material Contravention' of the Kilkenny City and County Development Plan 2021 - 2027 with the application. The public notices make specific reference to a statement being submitted indicating why permission should be granted having regard to the provisions s.37(2)(b).

There are four issues raised in the applicant's Material Contravention statement:

- Non-provision of a Childcare Facility
- Car parking provision
- Open Space
- Set-Back Distances
- Separation Distance

11.15.2. **Non-provision of a Childcare Facility:** Section 6.6.1 of the Kilkenny City and County Development Plan 2021 – 2027 sets out the need for suitable childcare provision. The development plan sets out the requirements to be in accordance with the Childcare Guidelines 2001. The plan states the following:

'The Council will implement the Childcare Facilities Guidelines for Planning Authorities. Where a large housing development is proposed, i.e. seventy-five houses or more the planning authority will require the provision of a purpose-built unit for childcare on the site which shall have regard to the existing level of childcare provision in the area. The Council will operate this requirement in a flexible manner'. The development of Parcel P of the Breagagh Valley includes a requirement to provide for a 'creche or other pre-school facility'.

11.15.3. The applicant notes that the plan allows for flexibility in the provision of a childcare facility and in terms of the Breagagh Valley, a suitable facility has already been provided. A 'Childcare Audit' has been provided in support of the application and it has found a total of 19 childcare facilities, with capacity for 696 children, within 2 km radius of the subject site. It is therefore demonstrated that there is adequate childcare capacity available to serve this development. In addition, a facility that can cater for 47 children has been provided in the Margaret's Field development on lands that form part of the Parcel P lands. In conclusion the applicant considers that the

proposed development is adequately served and that the provision of a standalone facility would be surplus to demand.

11.15.4. I have considered the issue raised in the applicant's submitted Material Contravention Statement and I do not advise the Board to invoke the provisions of s.37(2)(b) of the 2000 Act (as amended), as I do not consider the proposal, in relation to childcare provision, materially contravenes the development plan. The Kilkenny City and County Development Plan 2021 – 2027 allows for flexibility in the provision of such a facility when having 'regard to the existing level of childcare provision in the area'. I am satisfied that the applicant has demonstrated that there is an adequate provision of childcare within 2 km of the site. The Planning Authority through the CE report have reported no objection to this aspect of the development.

11.15.5. Secondly, it is a requirement of the Kilkenny City and County Development Plan 2021 – 2027 to provide for a facility to serve the development of the Breagagh Valley lands and this has been provided for. The plan does not state how large such a facility need be and I am satisfied that this is adequately provided for. I am satisfied that the childcare provision for this development has been met and the development does not contravene the Kilkenny City and County Development Plan 2021 – 2027.

11.15.6. **Car Parking Provision:** The applicant has proposed a total of 183 residential units which will be served by 320 car parking spaces. The Kilkenny City and County Development Plan 2021 – 2027 requires that a total of 364 car parking spaces be provided. The applicant justifies this provision in terms of national guidance and in terms of precedent set by a similar residential development in Margaret's Field under ABP Ref. ABP-309967-21.

11.15.7. The most significant difference between the Development Plan and the proposed development in terms of car parking is visitor parking – the plan requires 46 spaces/ the proposal is for 18 parking spaces. Whilst not adjacent to high frequency/ capacity public transport, it is within walking/ cycling distance of the city centre.

11.15.8. In addition, the applicant notes a number of varying objectives in the Kilkenny City and County Development Plan 2021 – 2027. Table 12.3 of Volume 1 sets out the car parking standards and states: 'One of the cross-cutting themes of

the Development Plan is to encourage a shift to more sustainable forms of transport. The provision of sufficient car parking is important particularly in areas of the County which are currently poorly served by public transport networks. Therefore, the rationale for the application of car parking standards is to ensure that consideration is given to the accommodation of vehicles in assessing development proposals while being mindful of the need to promote a shift towards more sustainable forms of transport. Relaxation of the guidance in the table will be considered on a case-by-case basis.' In Volume 2 it is stated 'Section 12.12 Car Parking of Volume 1 covers in detail the parking requirements for various types of developments. It should be noted that car parking standards as described within Table 12.3 are considered to be maximum standards and not minimum standards within this Plan. These standards will be applied to the Kilkenny City area as well as to the rest of the County'. It is also stated 'While the provision of sufficient car parking is important, the rationale for the application of car parking standards is to ensure that consideration is given to the accommodation of vehicles in assessing development proposals. The Council will also take into account the need to promote a shift towards more sustainable forms of transport and that rigid standards for car parking may not be applicable in all circumstances in the City. The Council will look at performance-based criteria appropriate to the specific circumstances'. The applicant is unsure if Volume 1 refers to maximum or minimum car parking provision.

11.15.9. In support of the reduced car parking provision a number of proposals were considered and include:

- Car parking provision is in accordance with Section 28 Guidelines in terms of National Policy Objective 13 of the National Planning Framework which states: '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'. Kilkenny is a Key Town within the Southern Region.

- Car parking provision is in accordance with Section 28 Guidelines in terms of providing for a reduced number of car parking spaces. The site can be considered to be located in a 'Peripheral and/or Less Accessible Urban Locations' and where car parking can be provided on the basis of one space per apartment unit and one visitor space per every 3 to 4 apartments.
- Cycling and Pedestrian Facilities – Designed into the proposed development and provision is made for 272 bicycle parking spaces, far in excess of the development requirements.
- The site is well served by existing cycle and pedestrian facilities with a shared facility on the N76/ Callan Road. There are already pedestrian/ cycle facilities within the existing developed areas adjoining the subject site.
- The site is within walking and cycling distance of Kilkenny city centre and other employment centres in and around the city centre area. Relevant maps are provided in Figure 2 and 3 of the Material Contravention Statement.
- A number of bus services are within walking distance of the site and provide for local, regional and national services. Train service details are also provided (as reported earlier, the train service details are somewhat overstated).

11.15.10. I have considered the issue raised in the applicant's submitted Material Contravention Statement and I do not advise the Board to invoke the provisions of s.37(2)(b) of the 2000 Act (as amended) as I do not consider that the development materially contravenes the Kilkenny City and County Development Plan 2021 – 2027. I note the Kilkenny Roads Report and their concern about the reduced car parking provision, however, the Planning Authority reported that the 'shortfall in parking spaces is acceptable to the Planning Authority'.

11.15.11. The Kilkenny City and County Development Plan 2021 – 2027 provides car parking requirements in Table 12.3 and this is stated to be the maximum provision. The plan actively encourages a reduced car parking standard where this can be adequately achieved.

11.15.12. I am satisfied that the provision of 320 parking spaces is appropriate for this development, this works out at 1.75 spaces per unit. As 17 apartment units are one bedroom, the allocation is more generous for the other units at circa 1.85

spaces per unit. National policy is to reduce car use and the reduction in car parking will aid this. There is good cycle and pedestrian provision within and to/ from the site which will further encourage the use of more sustainable modes of transport.

11.15.13. I am satisfied that having regard to the Kilkenny City and County Development Plan 2021 – 2027, where the provision of car parking is on a maximum basis, the proposed development of 183 units is adequately served by 320 parking spaces.

11.15.14. **Provision of Open Space:** According to the Kilkenny City and County Development Plan 2021 – 2027, open space is to be provided at 2.4 hectares per 1,000 population, based on an occupancy rate of 2.8 persons per unit. The proposed development of 183 units provides for 8,064 sq m of open space which falls short of the required 1.2 hectares. The proposed open space makes up 15% of the site area. The development plan requires that 10% of a site be designated as open space and the provision should not fall below this.

11.15.15. The applicant has outlined that the proposed development is designed to ensure that an adequate number of residential units is proposed within a high-quality layout. In addition, part of the site including infrastructure works were undertaken in 2007 – 2008. The Kilkenny City and County Development Plan 2021 – 2027 allows for a flexibility in the provision of open space.

11.15.16. I have considered the issue raised in the applicant's submitted Material Contravention Statement and I do not advise the Board to invoke the provisions of s.37(2)(b) of the 2000 Act (as amended) as I do not consider that the development materially contravenes the Kilkenny City and County Development Plan 2021 – 2027. The applicant has proposed that 15% of the site is to be designated as open space. This open space is of a good quality. An increase in open space to over 20% would result in the over provision of open space and a potential reduction in quality. I am satisfied that the 15% open space provision is appropriate in this case.

11.15.17. **Set-Back Distance:** Section 2.2.3 Breagagh Valley of the Kilkenny City and County Development Plan 2021 – 2027 states, 'Particular care must be taken to ensure that the amenity of existing residential development in the plan area is not compromised. Generally new housing should be set back a minimum of 15m from

the boundary of all housing within the plan area existing at the time of the adoption of this plan. A balance must be found between protecting the amenities of existing properties and the creation of new urban forms. Where new developments adjoin existing residences the use of screen planting and/or walling in combination with suitably designed buildings will ensure that impact on existing residences are minimised'. The applicant states that this set-back of 15 m is not provided in all cases. This is due to the need to ensure good quality design and to meet density requirements.

11.15.18. I have considered the issue raised in the applicant's submitted Material Contravention Statement and I do not advise the Board to invoke the provisions of s.37(2)(b) of the 2000 Act (as amended) as I do not consider that the development materially contravenes the Kilkenny City and County Development Plan 2021 – 2027. The 15 m is not a stated requirement and the fact that the plan states that 'Generally new housing should be set back a minimum of 15 m from the boundary of all housing within the plan area...' is evidence that this is only a guideline and not a rule. I am satisfied that the development does not result in a loss of privacy through overlooking etc. which is the primary reason for such a setback.

11.15.19. **Separation Distance:** The Kilkenny City and County Development Plan 2021 – 2027 states under Section 13.9 that 'A minimum of 2.3 metres shall be provided between the side walls of detached, semi-detached and end of terrace dwellings to ensure privacy and ease of access. A property boundary should ideally occur mid-way along this dimension'. The applicant notes that in some cases it is less than the required 2.3 m and is only 1.9 m. The 22 m separation between opposing first floor windows is provided for and all residential amenity is protected in terms of issues of overlooking etc.

11.15.20. I have considered the issue raised in the applicant's submitted Material Contravention Statement and I do not advise the Board to invoke the provisions of s.37(2)(b) of the 2000 Act (as amended) as I do not consider that the development materially contravenes the Kilkenny City and County Development Plan 2021 – 2027. The 2.3 m separation allows for access to the side of houses. All units are provided with access to the side and adequate separation is provided between pairs of houses/ residential units. This is not a significant issue and does not require a material contravention of the plan.

## 12.0 **Appropriate Assessment (AA)**

### **Stage 1 – Appropriate Assessment Screening**

12.1. The applicant has engaged the services of Altemar – Marine & Environmental Consultancy, to carry out an appropriate assessment screening; the submitted report is dated 14<sup>th</sup> October 2021. In addition, an Ecological Impact Assessment prepared by Altemar and also dated the 14<sup>th</sup> of October 2021 has been submitted. I have had regard to the contents of same.

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

The areas addressed are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive
- Screening the need for appropriate assessment
- Appropriate assessment of implications of the proposed development on the integrity of each European site

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

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

12.3.2. The subject site with a stated area of 5.45 hectares is located in the townland of Wetland, Breagagh Valley, Kilkenny, Co. Kilkenny. The submitted proposal is for a residential development of 183 units in the form of houses and apartments and all associated open space, car parking and infrastructure works.



12.3.3. The subject site was partially developed over the period 2007 to 2008 and is now a mix of a brownfield and greenfield site. The works undertaken included the provision of subsurface drainage and road infrastructure. Surface water is disposed of through this system and eventually it discharges into the River Breagagh.

12.3.4. The following Natura 2000 sites are located within 15 km of the subject site, details are provided here:

Name	Site Code	Distance from Site
River Barrow and River Nore SAC	(002162)	1.6 km
Thomastown Quarry SAC	(002252)	14.2 km
River Nore SPA	(004233)	1.6 km

There are no hydrological or ecological connections between the subject site and any of these Natura 2000 sites.

12.3.5. The following are the qualifying interests and conservation objectives of these three sites:

River Barrow and River Nore SAC (002162) - c. 1.6 km to the north east of the proposed development.
CO - 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.
Features of Interest:
1016 Desmoulin's whorl snail
1029 Freshwater pearl mussel
1092 White-clawed crayfish
1095 Sea lamprey
1096 Brook lamprey
1099 River lamprey
1103 Twaite shad
1106 Atlantic salmon (only in fresh water)

1130 Estuaries  
1140 Mudflats and sandflats not covered by seawater at low tide  
1310 Salicornia and other annuals colonizing mud and sand  
1330 Atlantic salt meadows  
1355 Otter  
1410 Mediterranean salt meadows  
1421 Killarney fern  
1990 Nore freshwater pearl mussel  
3260 Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation  
4030 European dry heaths  
6430 Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels  
7220 \* Petrifying springs with tufa formation  
91A0 Old sessile oak woods with Ilex and Blechnum in the British Isles  
91E0 \* Alluvial forests with Alnus glutinosa and Fraxinus excelsior

Thomastown Quarry SAC (002252) – c. 14.2 km to the south east of the proposed development.

CO - 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.

Features of Interest:

7220 Petrifying springs with tufa formation.

River Nore SPA (004233) – Circa 1.6 km to the north east of the proposed development.

CO – To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.

Features of Interest:

A229 Kingfisher

## 12.4. Screening Assessment

12.4.1. In determining the Natura 2000 sites to be considered, I have had regard to the nature and scale of the development, the distance from the site to the designated Natura 2000 sites, and any potential pathways which may exist from the development site to a Natura 2000 site.

12.4.2. The site is not directly connected with, or necessary to the management of a Natura 2000 sites. The zone of influence of the proposed project would be limited to the outline of the site during construction phase with minor localised noise and light impacts during this stage of development. Considering the distance between the development site and the three Natura sites, direct impacts such as habitat loss/ disturbance can be ruled out at this stage.

12.4.3. An indirect linkage is provided between the site and the River Barrow and River Nore via the River Breagagh. The River Barrow and River Nore SAC is approximately 1.6 km from the subject site. Surface water networks discharge into the River Breagagh, however infrastructure works including a surface water drainage system have been developed on site and which eventually discharge to the River Breagagh. The indirect pathway of surface water will ensure that there will be insignificant effects on the Natura 2000 site. There is a requirement for compliance with the Water Pollution Acts, however this would not be required to prevent impacts to the designated sites. In conclusion there is not likely to be any impact on the SAC and the construction/ operation of the proposed development will not impact on the conservation interests of the designated site.

12.4.4. There are no direct or indirect pathways between the subject site and Thomastown Quarry SAC. No potential impact is therefore foreseen, and the construction/ operation of the proposed development will not impact on the conservation interests of the designated site.

12.4.5. An indirect linkage is provided between the site and the River Nore Spa via the River Breagagh. The River Nore SPA is approximately 1.6 km from the subject site. The indirect pathway of surface water will ensure that there will be insignificant effects on the Natura 2000 site. There is a requirement for compliance with the Water Pollution Acts, however this would not be required to prevent impacts to the designated sites. In conclusion there is not likely to be any impact on the SPA

and the construction/ operation of the proposed development will not impact on the conservation interests of the designated site.

12.4.6. During the construction phase of development, standard measures will be employed to address surface water run-off, disposal of pumped water from excavations and the general management of liquid waste on site. These will be outlined in the adopted Construction Management Plan and any associated documentation. I am of the opinion that the risk of contamination of any watercourse and. or groundwater is extremely low, and even in the event of an unlikely pollution incident significant enough to impact upon surface water quality on the proposed project site, this would not be perceptible in the designated European sites screened out above, given the distance involved, the occurrence of significant levels of dilution, and the fact that the construction phase would occur over a relatively short phase, with no possibility of long-term impacts. I note the construction practices proposed. In my mind they are not mitigation measures but would constitute a standard established approach to construction works on such lands. Their implementation would be necessary for a housing development on any similar site regardless of the proximity or connections to any Natura 2000 site, or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on such similar sites whether or not they were explicitly required by the terms or conditions of a planning permission. In any event, if these practices were not applied or were applied and failed, I am still satisfied that there would unlikely be significant effects on these designated sites due to the nature and scale of the development proposed, dilution effects, separation distances and the extent of intervening urban environment, together with the stated conservation objectives of the designated sites.

12.4.7. Malone O'Regan have prepared an Infrastructure Design Report in support of the application. The surface water drainage design will have full regard to SUDs, the provision of surface water attenuation which will discharge at greenfield run-off rate, and the submitted Site Specific Flood Risk Assessment by Malone O'Regan indicates that it can accommodate rainfall events up to 1:1000-year storm event.

12.4.8. Foul drainage will be through the existing foul drainage system, much of which was constructed in 2007/ 2008. Considering the distance from the site to

designated sites, there is no significant risk of any pollutants from the development site impacting on any Natura 2000 sites.

12.4.9. Consideration of Impacts on River Barrow and River Nore SAC, Thomastown Quarry SAC and River Nore SPA:

- There is nothing unique or particularly challenging about the proposed urban development, either at construction phase or operational phase.
- There are no surface water features within the site. During the construction phase standard pollution control measures are to be used to prevent sediment or pollutants from leaving the construction site and entering the water system.
- During the operational phase of development, foul water will drain to the public system.
- I do not consider that the construction practices proposed are mitigation measures but constitute a standard established approach to construction works on such lands. Their implementation would be necessary for a housing development on any similar site regardless of the proximity or connections to any Natura 2000 site or any intention to protect a Natura 2000 site. It would be expected that any competent developer would deploy them for works on such similar sites whether or not they were explicitly required by the terms or conditions of a planning permission.
- In any event, if these construction practices were not applied or were applied and failed, I am still satisfied that there would unlikely be significant effects on these designated sites due to the nature and scale of the development proposed, dilution effects, separation distances and the extent of intervening urban environment, together with the stated conservation objectives of the designated sites.

12.5. In-Combination or Cumulative Effects

12.5.1. This project is taking place within the context of greater levels of built development in the Kilkenny City area. Development includes a housing scheme in Poulgour – PA Ref. 21348, School off College Avenue – PA Ref. 20691, Pump

station and works at Kell Road, Kilkenny – PA Ref. 19831 and housing development off the Circular and Kennyswell Roads – PA Ref. 19887.

12.5.2. The expansion of the city is catered for through land use planning in accordance with the requirements of the Kilkenny City and County Development Plan 2021 - 2027. This has been subject to AA by the Planning Authority, which concluded that its implementation would not result in significant adverse effects to the integrity of any Natura 2000 sites. I note also the development is for a medium sized residential development for 183 units, with an appropriate residential zoning, in an established urban area. As such the proposal will not generate significant demands on the existing public drainage network for foul water and surface water.

12.5.3. I am satisfied that there are no projects or plans which can act in combination with this development that could give rise to any significant effect to Natura 2000 Sites within the zone of influence of the proposed development.

12.6. AA Screening Conclusion:

12.6.1. It is reasonable to conclude that on the basis of the information provided on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the River Barrow and River Nore SAC, Thomastown Quarry SAC and River Nore SPA:, or any European site, in view of these sites' Conservation Objectives, and having regard to the nature and scale of the proposed development and the location of the site in an established, serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise. It is therefore not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on an European site.

12.6.2. There is no requirement therefore for a Stage 2 Appropriate Assessment (and submission of a NIS).

## 13.0 Environmental Impact Assessment Screening

13.1. This application was submitted to the Board after the 1st of 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.

13.2. The applicant has addressed the issue of Environmental Impact Assessment (EIA) within the submitted EIA Screening Report, prepared by John Spain Associates and dated November 2021, and I have had full regard to same. The screening report considers that the development is below the thresholds for mandatory EIAR having regard to Schedule 5, Part 2 of the Planning and Development Regulations 2001, due to the size of the site area at 5.45 hectares and due to the number of residential units at 183, a formal EIAR is not required. In addition, detailed and comprehensive assessments have been undertaken to assess/ address all potential planning and environmental issues relating to the development.

13.3. Item 10(b) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001 as amended, and section 172(1)(a) of the Planning and Development Act 2000 as amended provides that an EIA is required for infrastructure developments comprising of urban development which would exceed:

- 500 dwellings
- Urban development 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. A business district is defined as 'a district within a city or town in which the predominant land use is retail or commercial use'.

13.4. Item (15)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 as amended provides that an EIA is required for: "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."

13.5. The proposed development is for a residential scheme of 183 units in the form of houses, apartment and duplex units, and which is not within a business district, on a stated site area of 5.4 hectares. It is sub-threshold in terms of EIA having regard to Schedule 5, Part 2, 10(b) (i) and (iv) of the Planning and Development Regulations 2001 as amended, in that it is less than 500 units and is below the 10 hectares (that would be the applicable threshold for this site, being outside a business district but within an urban area).

13.6. Environmental Impact Assessment is required for development proposals of a class specified in Part 1 or 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.

13.7. The applicant submitted an EIA Screening with the application, and this document provides the information deemed necessary for the purposes of screening sub-threshold development for an Environmental Impact Assessment.

13.8. The various reports submitted with the application address a variety of environmental issues and assess the impact of the proposed development, in addition to cumulative impacts with regard to other permitted developments in proximity to the site, and demonstrate that, subject to the various construction and design related mitigation measures recommended, the proposed development will not have a significant impact on the environment. I have had regard to the characteristics of the site, location of the proposed development, and types and characteristics of potential impacts. I have examined the sub criteria having regard to the Schedule 7A information and all other submissions, and I have considered all information which accompanied the application including inter alia:

- An Appropriate Assessment (AA) Screening prepared by Altemar
- Ecological Impact Assessment (EclA) prepared by Altemar
- Photomontages & CGI Views – Chris Shackleton Consulting (CSC)



- Sunlight, Daylight & Shadow Assessment (Impact Neighbours and Development Performance - Chris Shackleton Consulting (CSC)
- Landscape Design Statement – Murray & Associates – Landscape Architecture
- Building Life Cycle Report – Cairn PLC
- Outdoor Lighting Report – Sabre Electrical Services Ltd.
- Archaeological Assessment – IAC Archaeology
- Operational Phase Waste Management Plan – Byrne Environmental Consulting Ltd.
- Arboricultural Inventory and Recommended Works (incorporating a Tree Protection Strategy) - Murray & Associates – Landscape Architecture
- Outline Landscape Works Specification (incorporating a Landscape Management Plan) - Murray & Associates – Landscape Architecture
- Energy Statement – Waterman Moylan Engineering Consultants
- DMURS Compliance Statement – Malone O'Regan (MOR)
- Site Specific Flood Risk Assessment – Malone O'Regan (MOR)
- Infrastructure Design Report – Malone O'Regan (MOR)
- Preliminary Construction Environmental Management Plan – Malone O'Regan (MOR)
- Transportation & Traffic Statement – Malone O'Regan (MOR)

13.9. In addition, noting the requirements of Article 299B (1)(b)(ii)(II)(C), whereby the applicant is required to provide to the Board a statement indicating how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive have been taken into account. A Site Specific Flood Risk Assessment that addresses the potential for flooding was undertaken in response to the EU Floods Directive. An AA Screening Report in support of the Habitats Directive (92/43/EEC) and the Birds Directive (2009/147/EC) has been submitted with the application. An Outline Construction Management and Waste Management Plan has been submitted which was undertaken having regard to the EC Waste Directive Regulations 2011, European Union (Household Food Waste and Bio-waste) Regulation 2015, European Communities (Trans frontier Shipment of Waste) Regulations 1994 (SI 121 of 1994) and to European Union (Properties of

Waste which Render it Hazardous) Regulations 2015. I also note that Strategic Environmental Assessment (SEA) was undertaken for the Kilkenny City and County Development Plan 2021 – 2027.

13.10. 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.

13.11. I have completed an EIA screening assessment as set out in Appendix A of this report.

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

13.13. I am overall satisfied that the information required under Article 299B(1)(b)(ii)(II) of the Planning and Development Regulations 2001 (as amended) have been submitted.

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

## 14.0 Recommendation

Section 9(4) of the Act provides that the Board may decide to:

- (a) grant permission for the proposed development.
  - (b) grant permission for the proposed development subject to such modifications to the proposed development as it specifies in its decision,
  - (c) grant permission, in part only, for the proposed development, with or without any other modifications as it may specify in its decision, or
  - (d) refuse to grant permission for the proposed development,
- and may attach to a permission under paragraph (a), (b) or (c) such conditions it considers appropriate.

- In conclusion, I consider the principle of development as proposed to be acceptable on this site. The site is suitably zoned for residential development, is on a serviced site and where significant road infrastructure is available. The proposed development is of a suitably high quality and provides for a mix of apartments, which are served by high quality communal open space, and also a mix of houses. The overall site is served by a range of public open space areas and children's play area.
- I do not foresee that the development will negatively impact on the existing residential and visual amenities of the area. Suitable pedestrian and cycling infrastructure is available to serve the development. The development is in accordance with National Guidance and Local Policy and is in accordance with the proper planning and sustainable development of the area.
- Having regard to the above assessment, I recommend that section 9(4)(a) of the Act of 2016 be applied, and that permission is **GRANTED** for the development, for the reasons and considerations and subject to the conditions set out below.

## 15.0 Reasons and Considerations

Having regard to

(i) the site's location on lands with a zoning objective for Residential development and the policy and objective provisions in the Kilkenny City and County Development Plan 2021 - 2027 in respect of residential development,

(ii) the nature, scale and design of the proposed development which is consistent with the provisions of the Kilkenny City and County Development Plan 2021 - 2027 and appendices contained therein,

(iii) to the Rebuilding Ireland Action Plan for Housing and Homelessness 2016, and Housing for All – A New Housing Plan for Ireland 2021,

(iv) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, and the accompanying Urban Design Manual – A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,

(v) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued by the Department of the Housing and Planning and Local Government, December 2020,

(vi) the availability in the area of a wide range of social and transport infrastructure,

(vii) to the pattern of existing and permitted development in the area, and

(viii) Chief Executive's Report and supporting technical reports of Kilkenny City and County Council,

(ix) the comments made at the Kilkenny City Municipal Area meeting,

(x) to the submissions and observations received,

it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development and would be acceptable in terms of traffic and pedestrian safety and convenience. The proposed development would,

therefore, be in accordance with the proper planning and sustainable development of the area.

## 16.0 Recommended Draft Order

- Application: for permission under section 4 of the Planning and Development (Housing) and Residential Tenancies Act 2016, in accordance with plans and particulars, lodged with An Bord Pleanála on the 12<sup>th</sup> of November 2021 by John Spain Associates on behalf of Cairn Homes Properties Ltd,
- Proposed Development:
  - The provision of 183 residential units comprising of 32 apartments in 87 duplex units and 64 houses in the form of three and four-bedroom units.
  - A total of 320 car parking spaces in the form of basement and surface level parking is proposed. 272 bicycle parking spaces are provided throughout the site.
  - Vehicular access to the site is from the N76/ Callan Road to the south and Robertson Way to the east.
  - Communal and public open space is provided throughout the site and children's play area.
- The application contains a statement setting out how the proposal will be consistent with the objectives of the Kilkenny City and County Development Plan 2021 - 2027. It is submitted that the proposed apartments have been designed to fully accord with the Sustainable Urban Housing: Design Standards for New Apartments 2020. A full Housing Quality Assessment is submitted which provides details on compliance with all relevant standards including private open space, room sizes and storage areas.
- The proposed development is accompanied with a Material Contravention Statement which sets out justification for the proposed development. Five issues were raised:
  - Non-provision of a Childcare Facility
  - Car parking provision

- Open Space
- Set-Back Distances
- Separation Distance

- Decision:

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

- Matters Considered:

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

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

- (i) the site's location on lands with a zoning objective for Residential development and the policy and objective provisions in the Kilkenny City and County Development Plan 2021 - 2027 in respect of residential development,
- (ii) the nature, scale and design of the proposed development which is consistent with the provisions of the Kilkenny City and County Development Plan 2021 - 2027 and appendices contained therein,
- (iii) to the Rebuilding Ireland Action Plan for Housing and Homelessness 2016, and Housing for All – A New Housing Plan for Ireland 2021,
- (iv) the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, and the accompanying Urban Design Manual – A Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in May 2009,
- (v) the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued by the Department of the Housing and Planning and Local Government, December 2020,

- (vi) the availability in the area of a wide range of social and transport infrastructure,
- (vii) to the pattern of existing and permitted development in the area, and
- (viii) Chief Executive's Report and supporting technical reports of Kilkenny City and County Council,
- (ix) the comments made at the Kilkenny City Municipal Area meeting,
- (x) to the submissions and observations received,
- (xi) the Inspectors report

- **Appropriate Assessment (AA):**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development within a suitably zoned and adequately serviced urban site, the Appropriate Assessment Screening Report submitted with the application, the Inspector's Report, and submissions on file.

In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites.

- **Environmental Impact Assessment (EIA):**

16.1.1. The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report submitted by the applicant, which contains the information set out Schedule 7A to the Planning and Development Regulations 2001 (as amended), identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

Having regard to:

- The nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(iv) and Class 13 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- Class 14 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- The location of the site on lands governed by the zoning objective 'Existing Residential' with the objective 'To protect, provide and improve residential amenities' in the Kilkenny City and County Development Plan 2021 - 2027, and the results of the strategic environmental assessment of the Kilkenny City and County Council Development Plan undertaken in accordance with the SEA Directive (2001/42/EC),
- The site clearance/ greenfield nature of the site and pattern of development in the surrounding area,
- The planning history relating to the site,
- The availability of mains water and wastewater services to serve the proposed development,
- The location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended),
- 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),
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended), and
- The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment.

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



**Conclusions on Proper Planning and Sustainable Development:**

The Board considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable residential density at this location, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of urban design, height and quantum of development, as well as in terms of traffic and pedestrian safety and convenience. The proposal would, subject to conditions, provide an acceptable form of residential amenity for future occupants.

The Board considered that the proposed development is, broadly compliant with the current Kilkenny City and County Development Plan 2021 - 2027 and would therefore be in accordance with the proper planning and sustainable development of the area.

## 17.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details in writing with the Planning Authority prior to commencement of development, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

2. The number of residential units permitted by this grant of permission is 183 in the form of:
  - 32 apartments in the form of 17 x one-bed and 15 x two-bed units.
  - 64 duplex units in the form of 32 x one-bed and 32 x two-bed units.
  - 87 houses in the form of 67 x three-bed and 20 x four-bed houses.

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

3. The proposed development shall be amended as follows:
  - (a) Unit no. 105 shall be revised to be a single-storey only unit. No part of the revised house shall be within 15.49 m of the existing units no. 29/ 30 College Avenue to the north.
  - (b) The four-storey apartment block shall be revised to have a front/ eastern elevation consisting of a mix of brick and/ or stone. There should be a mix of these specified materials to emphasise the dual block form of this building. All elevations of this building may be finished with such materials.

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

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

4. Subject to the requirements of Condition no. 3, full details of the materials, colours, and textures of all the external finishes to the proposed building shall be as submitted with the application, unless otherwise agreed in writing with, the Planning Authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

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

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

6. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

**Reason:** In the interest of urban legibility.

7. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through the communal open spaces, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development/installation of lighting. Such lighting shall be provided prior to the making available for occupation of any residential unit.

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

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

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

9. The road network serving the proposed development, including turning bays, junction with the public road, parking areas, footpaths and kerbs, access road to the service area and car parking areas shall be in accordance with the detailed construction standards of the Planning Authority for such works. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

10. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. All car parking spaces shall be assigned permanently for the residential development and shall be reserved solely for that purpose. These residential spaces shall not be utilised for any other purpose, including for use in association with any other uses of the development hereby permitted, unless the subject of a separate grant of planning permission.

(b) Prior to the occupation of the development, a Parking Management Plan shall be prepared for the development and shall be submitted to and agreed in writing with the Planning Authority.

**Reason:** To ensure that adequate parking facilities are permanently available to serve the proposed residential units and the remaining development.

11. A minimum of 10% of all car parking spaces shall be provided with functioning EV charging stations/ points, and ducting shall be provided for all remaining car parking spaces, including in-curtilage spaces, facilitating the installation of EV charging points/stations at a later date. Such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development. The car parking space for sole use of the car sharing club shall also be provided with functioning EV charging stations/ points.

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

12. A total of 272 no. bicycle parking spaces shall be provided within the site. Details of the layout, marking demarcation and security provisions for these spaces shall be as submitted to An Bord Pleanála with this application, unless otherwise agreed in writing with, the planning authority prior to commencement of development. All bicycle parking areas shall be covered and full details shall be submitted to and agreed in writing with the Planning Authority.

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

13. Prior to the opening/ occupation of the development, an updated Mobility Management Strategy shall be submitted to and agreed in writing with the

Planning Authority. This shall provide for incentives to encourage the use of public transport, cycling, walking and carpooling by residents/occupants/staff employed in the development and to reduce and regulate the extent of parking. Full regard to be had to any changes in public transport provision in the area including the implementation of Bus Connects in the area. The mobility strategy shall be prepared and implemented by the management company for all units within the development.

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

14. Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.

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

15. The developer shall enter into water and waste water connection agreement(s) with Irish Water, prior to commencement of development.

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

16. The site shall be landscaped (and earthworks carried out) in accordance with the detailed comprehensive scheme of landscaping, which accompanied the application submitted, unless otherwise agreed in writing with, the Planning Authority prior to commencement of development.

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

17. (a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage, and all areas not intended

to be taken in charge by the local authority, shall be maintained by a legally constituted management company

(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

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

18. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

(a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,

(b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and

(c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

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

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

19.(a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the Planning Authority not later than 6 months from the date of commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

(b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

(c) This plan shall provide for screened bin stores, which shall accommodate not less than three standard sized wheeled bins within the curtilage of each house plot.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

20. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

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



21. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- b) Location of areas for construction site offices and staff facilities;
- c) Details of site security fencing and hoardings;
- d) Details of on-site car parking facilities for site workers during the course of construction;
- e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- f) Measures to obviate queuing of construction traffic on the adjoining road network;
- g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
- h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- i) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- j) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- k) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- l) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

m) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the Planning Authority.

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

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

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

23. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the Planning Authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the Planning Authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and development Act 2000, as amended, and of the housing strategy in the development plan of the area.

24. Prior to commencement of development, the developer shall lodge with the Planning Authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the Planning Authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

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

25. The developer shall pay to the Planning Authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the

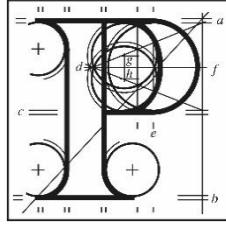
Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Paul O'Brien

Planning Inspector

21<sup>st</sup> February 2022



An  
Bord  
Pleanála

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

<b>A. CASE DETAILS</b>		
<b>An Bord Pleanála Case Reference</b>		<b>ABP-311933-21</b>
<b>Development Summary</b>		The provision of 183 residential units in the form of houses, duplexes and apartments and necessary infrastructure on a greenfield site on lands at Wetland, Callan Road, Breaghagh Valley, Kilkenny, Co. Kilkenny.
	<b>Yes / No / N/A</b>	
<b>1. Has an AA screening report or NIS been submitted?</b>	Yes	An EIA Screening Report and a Stage 1 AA Screening Report were 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	See Inspector's Report – Section 1.9.  SEA undertaken in respect of the Kilkenny City and County Development Plan 2021 – 2027.

<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>			
<p><b>1.1</b> Is the project significantly different in character or scale to the existing surrounding or environment?</p>	<p>Yes</p>	<p>The development comprises the construction of residential units on suitably zoned lands. A four-storey apartment block is proposed as</p>	<p>No</p>

		part of the development, where the predominant adjoining units are two and three storey units.	
<b>1.2</b> Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	The proposed development is located on a greenfield site, zoned for residential 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 such an urban development. The loss of natural resources or local biodiversity as a result of the development of the site are not regarded as significant in nature.	No.
<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?	Yes	Construction activities will require the use of potentially harmful	No.

		<p>materials, such as fuels, hydraulic oils and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature and implementation of a Construction Management Plan will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</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 such substances and give rise to</p>	<p>No.</p>



		<p>waste for disposal. Such use will be typical of construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature and implementation of a Construction Management Plan will satisfactorily mitigate potential impacts. Operational waste will be managed via a Waste Management Plan. Significant operational impacts are not anticipated.</p>
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<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 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, short term in nature and</p>	<p>No.</p>

		<p>their impacts may be suitably mitigated by the operation of a Construction Management Plan.</p> <p>Management of the scheme in accordance with an agreed Management Plan will mitigate potential operational impacts.</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 application of a Construction Management Plan would satisfactorily address potential impacts on human health.</p>	<p>No.</p>

		No significant operational impacts are anticipated.	
<b>1.9</b> Will there be any risk of major accidents that could affect human health or the environment?	No	No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. The site is not at risk of flooding. There are no Seveso / COMAH sites in the vicinity of this location.	No.
<b>1.10</b> Will the project affect the social environment (population, employment)	Yes	The development of this site as proposed will result in a change of use and an increased population at this location. This is not regarded as significant	No.

		given the urban location of the site and surrounding pattern of land uses, primarily characterised by residential development.	
<b>1.11</b> Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No.	Similar developments have been constructed in this area over the last twenty years. The development changes have been considered in their entirety and will not give rise to any significant additional effects.	No.
<b>2. Location of proposed development</b>			
<b>2.1</b> Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: 1. European site (SAC/ SPA/ pSAC/ pSPA) 2. NHA/ pNHA 3. Designated Nature Reserve 4. Designated refuge for flora or fauna	No	No European sites located on the site. A submitted AA Screening demonstrated that the development	No.

<p>5. Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</p>		<p>would not impact on any designated sites and that Stage 2 AA was not required,</p>	
<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>	<p>No</p>	<p>No such species use the site and no impacts on such species are anticipated.</p>	<p>No.</p>
<p><b>2.3</b> Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>No</p>	<p>The site is not within or adjacent to any such sites.</p>	<p>No.</p>
<p><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?</p>	<p>No.</p>	<p>There are no such features arise in this urban location.</p>	<p>No.</p>
<p><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?</p>	<p>No.</p>	<p>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</p>	<p>No.</p>

		at risk of flooding. Potential indirect impacts are considered with regard to surface water, however, no likely significant effects are anticipated.	
<b>2.6</b> Is the location susceptible to subsidence, landslides or erosion?	No.	Site is located in an urban location where such impacts are not foreseen.	No.
<b>2.7</b> Are there any key transport routes (e.g. 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 National and the 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	No	There are no such sites	No.

hospitals, schools etc) which could be affected by the project?		adjacent to this site.	
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**3. Any other factors that should be considered which could lead to environmental impacts**

<p><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?</p>	No.	No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects. Some cumulative traffic impacts may arise during construction. This would be subject to a construction traffic management plan.	No.
<p><b>3.2 Transboundary Effects:</b>          Is the project likely to lead to transboundary effects?</p>	No.	No trans-boundary effects arise.	No.
<p><b>3.3</b> Are there any other relevant considerations?</p>	No.	No.	No.

**C. CONCLUSION**



<b>No real likelihood of significant effects on the environment.</b>	Yes	EIAR Not Required	EIAR Not Required.
<b>Real likelihood of significant effects on the environment.</b>		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

Having regard to: -

- a) the nature and scale of the proposed development, which is below the threshold in respect of Class 10(b)(iv) of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- b) Class 14 of Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended,
- c) the location of the site on lands governed by a Zoning Objective for 'Existing Residential' 'To protect, provide and improve residential amenities' in the Kilkenny City and County Development Plan 2021 - 2027,
- d) The existing use on the site and pattern of development in surrounding area,
- e) The planning history relating to the site,
- f) The availability of mains water and wastewater services to serve the proposed development,
- g) The location of the development outside of any sensitive location specified in article 299(C)(1)(v) of the Planning and Development Regulations 2001 (as amended),

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

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

j) The features and measures proposed by applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the proposed Outline Construction Management & Waste Management Plan and a Construction Management Plan (CMP) to be agreed with the Planning Authority , It is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact assessment report would not therefore be required.

**Inspector:** \_\_\_\_\_

**Date:**\_\_\_\_