



An
Bord
Pleanála

Inspector's Report

ABP-312344-21

Development

Demolition of Gaeil Colmcille GAA Clubhouse, together with the proposed construction of a residential development comprising of a total of 50 dwelling houses. Significant Further information/Revised plans submitted on this application.

Location

Gardenrath Road Lower, Townparks, Kells, Co Meath.

Planning Authority

Meath County Council

Planning Authority Reg. Ref.

211139

Applicant(s)

Avenir Homes Ltd.

Type of Application

Planning Permission.

Planning Authority Decision

Grant Permission.

Type of Appeal

First Party & Third Party

Appellant(s)

Termon Hall Residents Association.

Avenir Homes Ltd.

Observer(s)

Susan Dempsey

John Callaghan
Olivia Ferguson.

Date of Site Inspection

26th May 2022.

Inspector

Elaine Sullivan

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1.0 Site Location and Description

- 1.1. The subject site has a stated area of 1.567ha and is located on the outskirts of Kells, approximately 750m to the south of the town centre. It is roughly square in shape and currently comprises a GAA clubhouse with surface car parking and a portacabin structure in the south-west corner of the site. Lands to the north and east of the clubhouse were formerly in use as a pitch and putt course and this area is secured with wire fencing. The site is currently accessed from local road, Gardenrath Road Lower, (L2813). This entrance is not gated and also provides access to the GAA pitches on the adjoining site to the west. The topography of the site is relatively flat but with a visible slope from west to east with the GAA pitches to the west at a noticeably higher level than the lands to the east.
- 1.2. The area surrounding the site is predominantly residential in nature. To the north of the site, a number of two storey dwellings, including two protected structures, (LA RPS ID – 90558 & 90559), back onto the site boundary. The residential developments of Termon Hall and Hermitage Glen are located to the east of the site on the opposite side of Gardenrath Road Lower. To the south of the site No's 19-29 Gardenrath Close back onto the southern boundary of the site.
- 1.3. Along the eastern side of the site is approximately 130m of roadside boundary which comprises a stone and earth bank with a mature, tree-lined hedgerow. To the north and south of the site, the boundaries comprise blockwork walls to the rear of houses, trees and hedges. The western boundary is defined by the internal access road from Gardenrath Road with a line of mature trees in place along an earthen bank on the western side of the road.

2.0 Proposed Development

- 2.1. Planning permission is sought for the demolition of a single-storey GAA clubhouse with a floor area of 807m² and the construction of 50 two storey houses. All of the houses would be connected to the existing mains water and wastewater services.
- 2.2. Permission is also sought for seven new vehicular access points onto Gardenrath Road Lower; one to serve the main development and six to serve the twelve semi-

detached houses facing onto Gardenrath Road. A pedestrian and cycle connection to the lands to the west of the site would be retained from the development.

- 2.3. The site layout and housing mix was altered through a further information request. The original proposal comprised 2 no. 4 bedroom semi-detached houses, 16 no. 3-bedroom semi-detached houses and 32 no. 2-bedroom terraced and semi-detached houses. The pedestrian and cycle access to the GAA pitches was also centrally positioned between two terraces of houses on the western side of the development.
- 2.4. The revised housing mix comprises 18 no. 3-bedroom semi-detached houses & 32 no. 2-bedroom terraced and semi-detached houses. The pedestrian and cycle connection to the adjoining lands has been relocated to the south-western corner of the site

Documents Reports submitted with the application include:

- Planning & Design Statement
- Stage 1/2 Road Safety Audit
- Traffic and Transport Assessment
- Appropriate Assessment Screening Report
- Ecology Report
- Construction Environmental Monitoring Report & Demolition Waste Management Plan
- Landscaping Plan
- Ecological Impact Assessment Report
- Surface Water Drainage Details

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Planning permission was granted by the PA subject to 22 planning conditions which were mostly standard in nature.

- 3.1.2. Condition No's. 18, 19, 20 & 22 relate to the development contributions for the development.
- 3.1.3. Condition No. 6(b) relates to the pedestrian and cycle access to the adjoining lands to the west and states that, *'The access gate shall remain open at all times unless otherwise agreed in writing with the planning authority'*.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports
- 3.2.2. The decision of the PA was informed by two reports which were prepared during the assessment of the proposed development.
- 3.2.3. The report of the Planning Officer, (PO), dated the 6th August 2021 requested further information with regard to 9 points and the report of the 7th December 2021 assessed the response submitted by the applicant.

The report of the PO dated the 6th August 2021 includes the following:

- The proposed development is in accordance with the A2 zoning objective for the site, within which residential development is listed as permissible.
- The site was also identified in the Kells Development Plan, 2013-2019, (KDP), as a development site that could yield 45 units at a residential development of 30 dwellings per hectare, (dph), during the plan period.
- Table 2.4 of the Meath County Development Plan 2013-2019, (MCDP), advocates a net density of 35 dph for the town of Kells. The proposed development would yield a density of 32 dph, which is slightly lower than the recommended net density but also higher than the recommended density of 30 dph in the KDP.
- Overall, the design and layout of the housing units are in accordance with the provisions of Section 11.2.2.2 of the MCDP apart from the minimum distances between flanks of detached and semi-detached houses.
- Public open space would be provided in accordance with the MCDP.

- The curtilage of two protected structures, (PRS Refs. MH017-103 & MH107-104), adjoin the northern boundary of the site. There are no concerns regarding any potential impact on these protected structures.
- Archaeological testing is recommended by the Development Applications Unit - National Monuments Service given the location of the site.
- Further information was requested with regard to the following:
 - Revisions to the design and layout of the houses in terms of information on finished floor levels, external finishes, separation distances, the layout of units 30 & 40, landscaping plan and boundary treatments.
 - Public lighting plan.
 - Revisions to road layout to accord with Road Safety Audit.
 - The preparation of an Ecological Impact Assessment, (EclA).
 - Details of the surface water drainage system.
 - Alterations to the size of the proposed waste-water network within the development, as requested by Irish Water.

3.2.4. The second report of the PO dated the 7th December 2021 noted that the request for further information was issued under the MCDP 2013-2019. In the intervening period a new MCDP was adopted on the 3rd November 2021. However, the land use zoning objective for the site remained the same. The response to the request for further information was considered to be satisfactory and it was recommended that planning permission be granted.

3.2.5. Other Technical Reports

- Transportation – The report dated the 9th July 2021 states that the impact of the additional traffic to be generated by the proposed development is not considered to be significant. Direct vehicular access from 12 houses onto Gardenrath Road is consistent with other residential development on the road. There is no objection in principle to the development. A second report dated the 30th November 2021 has no objection to the development subject to planning conditions.

- Lighting – The report dated the 8th July 2021 notes the absence of a public lighting plan and requests that one be submitted by further information. The second report dated the 10th November 2021 recommends that the public lighting plan be revised.
- Water Services – The report dated the 9th July 2021 recommended that further information be requested with regard to the surface water treatment and disposal system for the development. The second report dated the 12th November states that the development as proposed broadly meets the requirements of the PA in terms of surface water treatment.
- Fire Service Department – A Fire Safety Certificate is not required for the development. Water supplies for fire-fighting should comply with the relevant national recommendations.
- Scientific Officer – The report dated the 5th August 2021 stated that there was no objection subject to planning conditions which relate to waste management during the construction and operational stages and the preparation and implementation of a Construction Environmental Monitoring Plan.
- Broadband Officer – No objection to the proposal. Recommendations are made regarding the delivery of telecommunications services.
- Heritage Officer - The report dated the 7th December 2021 states that the EclA submitted through further information was reviewed and all mitigation measures included in the report should be implemented in full.

3.3. Prescribed Bodies

- Irish Water – Response dated the 12th July 2021 requires further information. A second response dated the 12th November 2021 states that there is no objection subject to planning conditions.
- Department of Housing Local Government and Heritage – Response dated the 13th July 2021 states that the proposed development is in an area of high archaeological potential. It is recommended that a condition be attached to any grant of planning that requires pre-development testing.

3.4. Third Party Observations

3.4.1. A total of 14 separate submissions were received during the statutory public consultation timeframe. The concerns raised are listed as follows:

- Pedestrian and cycle link to the avenue of Gaeil Colmcille CLG will cause a risk to health and safety.
- Boundary treatment to neighbouring development is inappropriate.
- Excessive density for the site.
- Traffic hazard caused by numerous vehicular access points onto Gardenrath Road & location on main entrance close to the bend.
- Traffic surveys do not include speed assessments & were carried out during Covid restrictions.
- History of traffic accidents at this location.
- Visitor parking not accommodated.
- Road safety issues caused by service vehicles.
- Removal of existing hedgerow and planting within the site.
- Three storey houses are excessive in scale and out of character.
- Loss of high-quality amenity space.
- Query regarding validity of site notice and application.
- More appropriate sites are available closer to the town.
- Inappropriate design of public space beside House No. 41.
- Orientation of house numbers 1-12 will lead to blank wall to the open space.
- Overlooking of existing houses.
- Lack of capacity in wastewater system.

An additional 8 submissions were received following the submission of the response to further information. These submissions included the following:

- Vehicular access to the development is on a bad bend and a busy road,

- Pedestrian access to the GAA lands is not a safe access route.
- Permission to access these lands has not been sought.
- Submission from Gaeil Colmcille GAA Club stating that permission to access the pitches from the development has not been given and this access should be removed.
- Concerns regarding traffic and road safety.
- Minimal parking provided for houses facing onto the public road.
- Excessive density.
- Loss of planting & biodiversity.
- Wastewater capacity in the area.

4.0 Planning History

4.1. There is no recent planning history that relates to the subject site.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The site is located within the administrative boundary of Meath County Council. The operative Development Plan for the area is the Meath County Development Plan, (MCDP), 2021-2027, which came into effect on the 3rd November 2021.
- 5.1.2. The application was assessed by Meath County Council in accordance with the policies and objectives of the Meath County Development Plan 2013-2019, which was the operative Development Plan at the time. A request for further information was issued by the PA and the response was assessed under the MCDP 2021-2027, which had been adopted within the intervening period.
- 5.1.3. On review of the contents of both plans I note that there are no material changes between the 2013 County Development Plan and the 2021 County Development Plan as they relate to the appeal site and the current proposal. In this regard I consider the proposal in accordance with the guidance and provisions of the

operative Development Plan, namely the 2021 – 2027 Meath County Development Plan, (MCDP).

- 5.1.4. The following sections of the Meath County Development Plan 2021-2027 are relevant to the proposed development;
- 5.1.5. The subject site is located within the settlement boundary of Kells, which is identified as a 'Self-Sustaining Growth Town' within the Settlement Hierarchy for Meath. (Table 3.4). The site is zoned objective A2 – New Residential.
- 5.1.6. Section 3.8.10 – Densities – In the Self-Sustaining Growth Towns a density of up to 35 units per hectare on all lands will normally be required.
- 5.1.7. Chapter 11 – Development Management Standards
- **DM POL 4:** To require that all proposals for residential development demonstrate compliance with the Sustainable Residential Development in Urban Areas - Cities, Towns & Villages (2009) and the Urban Design Manual- A Best Practice Guide, 2009 or any updates thereof.
 - **DM POL 6:** To require that the unit typologies proposed provide a sufficient unit mix which addresses wider demographic and household formation trends. The design statement required at DM OBJ 13 shall set out how the proposed scheme is compliant with same.
 - **DM POL 8:** To require the provision of high quality, durable, appropriately designed and secure boundary treatments in all developments.
 - **DM OBJ 14:** The following densities shall be encouraged when considering planning applications for residential development:
 - Self-Sustaining Growth Towns : Greater than 35 uph.
 - **DM OBJ 18:** A minimum of 22 metres separation between directly opposing rear windows at first floor level in the case of detached, semi- detached, terraced units shall generally be observed.
 - **DM OBJ 21:** A minimum distance of 2.3 metres shall be provided between dwellings for the full length of the flanks in all developments of detached, semi-detached and end of terrace houses.

- **DM OBJ 22:** The design of any housing scheme shall have regard to the requirement for connectivity between residential areas, community facilities etc. The design of any walkways, lanes or paths connecting housing estates or within housing estates shall be of sufficient width to allow for the safe movement of pedestrians and cyclists. They shall be adequately overlooked and lit and not be excessive in length.
- **DM OBJ 24:** To require the provision of EV charging points to serve residential development.
- **DM OBJ 26:** Public open space shall be provided for residential development at a minimum rate of 15% of total site area. In all cases lands zoned F1 Open Space, G1 Community Infrastructure and H1 High Amenity cannot be included as part of the 15%. Each residential development proposal shall be accompanied by a statement setting out how the scheme complies with this requirement.
- Table 11.1 – Private Open Space for Houses
 - 1/2 bed – 55sqm
 - 3 bed – 60
 - 4 bed or more – 75sqm
- **DM POL 9:** To support the retention of field boundaries for their ecological/habitat significance, as demonstrated by a suitably qualified professional. Where removal of a hedgerow, stone wall or other distinctive boundary treatment is unavoidable, mitigation by provision of the same boundary type will be required.

5.2. National Planning Policy

5.2.1. Project Ireland 2040 - National Planning Framework

- The NPF 2040 was adopted on the 29th May 2018 with the overarching policy objective to renew and develop existing settlements rather than the continual sprawl of cities and towns out into the countryside.

- The NPF sets a target of at least 40% of all new housing to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites. It also seeks to tailor the scale and nature of future housing provision to the size and type of settlement.

Chapter 6 – People Homes & Communities

NPO 27 - 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.

Section 6.6 - It is envisaged that Ireland's future homes will;

- be located in places that can support sustainable development - places which support growth, innovation and the efficient provision of infrastructure, are accessible to a range of local services, can encourage the use of public transport, walking and cycling, and help tackle climate change;
- still be located in our smaller towns, villages and rural areas, including the countryside, but at an appropriate scale that does not detract from the capacity of our larger towns and cities to deliver homes more sustainably.

5.2.2. **Sustainable Residential Development in Urban Areas (Guidelines for Planning Authorities), 2009**

- The guidelines set out the key planning principles which should be reflected in development plans and local area plans, and which should guide the preparation and assessment of planning applications for residential development in urban areas.
- Chapter 5 – Cities and Larger Towns – Within the context of the Guidelines Kells is defined as a 'larger town' as it has a population in excess of 5,000. The location of the subject site can be considered as 'outer suburban'. The Guidelines state that, *'the greatest efficiency in land usage on such lands will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities (involving a variety of housing types where possible) should be encouraged generally. Development at net*

densities less than 30 dwellings per hectare should generally be discouraged in the interests of land efficiency, particularly on sites in excess of 0.5 hectares’.

5.2.3. Regulation of Commercial Investment in Housing, (Guidelines for Planning Authorities, May 2021).

- Ministerial Guidelines issued under Section 28 of the Planning and Development Act 2000 (as amended), seek to address the regulation of commercial institutional investment in certain housing developments.
- The Guidelines are relevant in this instance as they relate to residential development that includes 5 or more houses or duplexes that are not specified as ‘build to rent’ development at planning stage.
- They require that planning conditions be attached to restrict new houses and duplexes to first occupation and use by individual purchasers and those eligible for social and affordable housing including cost-rental, in order to ensure an adequate choice and supply of housing.

5.2.4. Development Contribution Guidelines

5.2.5. The Minister for the Environment, Community and Local Government has issued these guidelines under section 28 of the Planning and Development Act 2000 (as amended). Planning authorities and An Bord Pleanála are required to have regard to the guidelines in performance of their functions under the Planning Acts. The primary objective of the development contribution mechanism is to partly fund the provision of essential public infrastructure, without which development could not proceed. Discussion is had of the concept of the General Development Scheme, Special Contributions and Supplementary Contributions Schemes.

5.2.6. Development Management Guidelines.

5.2.7. Section 7.12 has regard to development contribution conditions (sections 48 and 49 of the Planning Act).

5.3. Natural Heritage Designations

5.3.1. No designations apply to the subject site.

5.4. EIA Screening

5.4.1. An Environmental Impact Assessment Screening report was not submitted with the application.

5.4.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

5.4.3. It is proposed to construct 50 houses on a greenfield site on the outskirts of Kells town centre. The number of dwellings proposed is well below the threshold of 500 dwelling units noted above. The subject site has an area of 1.567 ha and is located within a greenfield site. The site area is therefore well below the applicable threshold of 20 ha. There are two storey houses in place to the north and south of the site and the Termon Hall and Hermitage Glen housing estates are located to the east and on the opposite side of the road. A GAA pitch adjoins the site to the west. In environmental terms, the introduction of an additional 50 houses will not have an adverse impact on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any European Site as discussed below and, there is no direct hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site/or other). The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human

health. The proposed development would use the public water and drainage services of Irish Water and Meath County Council, upon which its effects would be marginal.

Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are adjacent to existing residential development.
- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- 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), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

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

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. Two appeals have been lodged for the development.
- 6.1.2. A 1st Party appeal has been lodged by the applicant regarding the financial contribution towards the provision of surface water infrastructure which is outlined in Condition No. 20 of the permission. The applicant contends that, in this instance, the

conditions of the development contribution scheme were not applied correctly as follows;

- Condition No. 20 requires a financial contribution of €16,250 for 50 houses. This equates to €325 per dwelling. Appendix B of the Development Contributions Scheme states that a figure of €325 shall be applied for each dwelling with a floor area of 100-140m² in respect of surface water drainage. Houses with a floor area of less than 100m² shall be charged €300 per unit.
- Of the 50 houses permitted, 18 have a floor area of 104m² and the remaining 32 have a floor area of 80m². Therefore, under the terms of the Development Contribution Scheme the figure applicable should include a mix of unit sizes and should be calculated as:
 - 32 no. houses of 80m² @ €300 per unit + 18 no. houses of 104m² @ €325 per unit = €15,450.
- The development contribution as stated in Condition No. 20 requires an over-payment of €800.

6.1.3. A 3rd Party Appeal was lodged by the Termon Hall Residents Association. The grounds of appeal include the following;

- The density of the development is higher than that recommended in the Kells Development Plan.
- There are road safety issues that will be exacerbated by the additional traffic from the development.
- The removal of the existing green space to provide high density housing will result in the destruction of the natural environment and will have an impact on the biodiversity of the area.
- If the mature hedgerow along the Gardenrath Road Lower was retained it would aid integration of the development into the local landscape as expressed in Condition No. 8 of the permission.
- Condition No. 7 requires that all trees to be retained shall be fenced off. However, it would appear that no trees are to be retained.

- There are concerns regarding the existing foul sewer network. Submissions during the application stage noted that the system has to be flushed out on a regular basis. Is this system adequate to cater of an additional 50 houses?

6.2. Applicant Response

6.2.1. A response was received from the applicant on the 28th January 2022. Their response to the issues raised in the third-party appeal includes the following:

- The density of the development is appropriate and complies with the policies of the MCDP 2021-2027 as well as national guidelines.
- The statement that the density of the development will give rise to antisocial behaviour is unsubstantiated and has no basis.
- The interaction of the development with the Gardenrath Road Lower was developed in consultation with the PA. During pre-planning consultation, the original design provided for internal access roads with one vehicular entrance onto Gardenrath Road Lower. Comments from the PA recommended that this arrangement be revised to allow for direct access to each house from the road.
- Access and traffic arrangements have been subject to a Road Safety Audit in accordance with the guidelines. A Stage 1/2 Road Safety Audit was undertaken during the design stage as per the TII's Road Safety Audit Guidelines. The recommendations of the audit were accepted with an alternative solution for Problem No. 1 also put forward. The applicant also offered to undertake a Stage 3 Road Safety Audit, which will be undertaken nearing completion of the development to ensure that the operational environment is tested.
- There will be no road safety impacts as a result of the development.
- The site was formerly used as a pitch and putt course and is of low ecological value due to its highly modified nature.
- A landscaping design for the development will provide for a number of biodiversity enhancements.

- The development will not result in an impact of the existing wastewater treatment network.
- Irish Water have confirmed that a connection to the network can be facilitated and the applicant has agreed to undertake a CCTV survey to address any localised constrictions on flows, should they exist.

6.3. Planning Authority Response

A response was received from the PA on the 8th February 2022 and includes the following:

- In response to issues raised by the 1st Party in their appeal in respect of Condition No. 20, the development contribution calculations in Conditions 18, 19 and 20 includes the 'possible attic conversion' for each of the units permitted. This approach was endorsed by the Board under ABP-304917-19.
- In response to the issues raised by 3rd Parties, the PA is satisfied that these issues have been substantially addressed in the planning reports dated the 6th August 2021 and the 7th December 2021.
- With regard to specific concerns regarding anti-social behaviour, the PA is satisfied that the revisions made at further information stage demonstrate a suitable level of pedestrian permeability with specific regard to Section 3.3 of DMURS (2019 update). The area will also be adequately lit as per Condition No. 6(b).
- The proposed development is in accordance with national, regional and local planning policy and it is the position of the PA that planning permission should be granted for the development subject to the 22 conditions attached to the decision.

6.4. Observations

Three observations were received from Ger Fahy Planning on behalf of Susan Dempsey, John Callaghan and Olivia Ferguson.

John Callaghan – points related to the subject appeal include the following:

- The proposed application is related to a number of other applications that relate to the relocation of the playing fields and pitch and putt course to a remote location outside of the town. This represents unsustainable development.
- The proposal contravenes the 2013-2019 MCDP by increasing housing stock by removing social infrastructure.
- The new location for the GAA pitch and the pitch and putt course in Grangegodden is unsuitable.
- Parking for the GAA pitches to the west of the site will be removed by the development as will the clubhouse.
- The proposed site layout is inadequate and lacks permeability.
- The development adjoins the GAA pitch which is leased from Meath County Council. The layout would result in the houses backing onto what might become a public park.
- Sightlines are inadequate and do not comply with the Traffic Management Guidelines.
- There could be a surface water connection to the Blackwater/Boyne SAC.
- The site has poor connections to schools etc.
- The cumulative impact of the development and other developments require an EIA.

Olivia Ferguson – Note: The observation from Olivia Ferguson does not state that she is writing on behalf of Gaeil Colmcille GAA Club. However, the submission relates to access to the adjoining GAA pitches and a submission to the PA dated the 14th July 2021 states that Olivia Ferguson is the Chairperson of Gaeil Colmcille GAA Club.

- Condition 6(b) states that the pedestrian link should remain open at all times.
- This gate will open onto private property and no permission was sought or given to put this access in place.

- There is a concern regarding liability regarding persons accessing and using the private lands.
- Two main gates are used to access the pitch. These gates are locked when the pitch is not in use. Should the access point be permitted it would result in people entering the lands with no alternative way out. This could lead to anti-social behaviour.

Susan Dempsey -

- Level changes on the site results in the southern portion of the development being more visually prominent to existing housing along the southern boundary.
- Queries regarding the validity of the application in terms of adequate site notices in accordance with Article 19 (1) (2) and the description of the development.
- The height of the proposed houses, (9.8m), is excessive in comparison to the existing housing. Cross sections to show existing housing should be provided.
- The density is excessive for the site. There is a shortage of family houses in the area, which would be more appropriate for the site.
- The site layout is inadequate with 'space left over after planning' beside House No. 41. The relocation of the pedestrian entrance exacerbates the poor design of this corner, and the lack of passive supervision could lead to anti-social behaviour.
- House No's 1-12 are orientated to face onto the public road with rear walls facing onto the public open space which is an inappropriate design response.
- This arrangement also leads to a multitude of separate entrances onto the main road.
- House No's 1-12 should be re-orientated to face onto the open space and one main vehicular entrance should be provided for the development.
- Traffic movements from 12 houses to and from Gardenrath Road would result in a traffic hazard.

- The style and design of the houses are uniform and monotonous and have no relationship with the established houses in the area.

6.5. Further Responses

- 6.5.1. In response to an observation made by Olivia Ferguson on the 4th March 2022, two further responses were received; one from the applicant and one from the appellant, (Termon Hall Residents Association).
- 6.5.2. Termon Hall Residents Association - The response from the appellant seeks to clarify the information contained in the observation which states that there are two main gates onto the pitch, which will be locked when the pitch is not in use. The response states that while there are two entrances to the pitches, only one of them is gated. The entrance onto Gardenrath Road Lower is open and not secured with a gate.
- 6.5.3. 1st party appellant - The applicant made provision for the pedestrian and cycle connection because they were asked to do so by the PA, who are understood to be the legal owners of the site, which will be retained in public ownership into the future.
- 6.5.4. The applicant understands that the playing pitch lands to the west of the development site are in the ownership of Meath County Council and have been licenced for use to Gael Colmcille GAA Club. The inclusion of a pedestrian and cycle connection to these lands was a result of a direct request by the Council during the pre-planning stage. The original site layout plan presented to the PA did not include this connection. A record of the pre-planning meeting is enclosed. The Gael Colmcille GAA Club has relocated to new grounds at Grangegoddan Glebe, Athboy Road. The zoning of the subject lands for residential use and the sale of the clubhouse forms part of this strategic relocation. The applicant is not party to the licencing agreement with the GAA club. However, with the relocation of the GAA club the council may wish to maximise connections to a public amenity space which will be retained in their ownership.

7.0 Assessment

- 7.1. The main issues in the appeal are as follows:

- Principle of Development
- Design & Layout
- Residential Amenity
- Traffic & Safety
- Wastewater
- Landscaping & Ecology
- Development Contributions
- Appropriate Assessment

7.2. Principle of Development

- 7.2.1. The subject site is zoned objective A2 – New Residential in the MCDP 2021-2017. The proposed residential development is in accordance with this zoning objective. Third parties expressed concerns regarding the density of the development within the context of the Kells Development Plan 2013-2019 and in terms of its location and the existing character of development in the area. The development would yield a density of 32 units per hectare. A Development Plan was prepared for Kells and formed part of the MCDP 2013-2019. Within this plan a density of 30 units per hectare was recommended for the subject site, which was identified as Site U.
- 7.2.2. National guidance in relation to residential density is set out in the Sustainable Residential Development in Urban Areas (Guidelines for Planning Authorities), 2009, (the Residential Density Guidelines). For the purposes of the Guidelines, the site would be categorised as an ‘outer suburban’ site within ‘larger town’, as it has a population in excess of 5,000. The recommended density for sites of this nature is between the general range of 35-50 units per hectare, with net densities of less than 30 units per hectare to be generally discouraged. Within the MCDP 2021-2027, Kells is identified as a ‘Self-Sustaining Growth Town’, where a density of up to 35 units per hectare on all lands will normally be required.
- 7.2.3. Whilst the density proposed is slightly lower than the recommended density of 35 units per hectare, the difference is marginal and development management standards of the MCDP also need to be considered. I am satisfied that the density

proposed is not excessive for the site and that the principle of development is acceptable within the site and its wider context which is characterised by two storey residential development.

7.3. Design & Layout

- 7.3.1. The proposed development is laid out around a central open space with houses positioned around the perimeter of the site. Houses along the north, south and western site boundaries would face onto the central open space. Along the eastern side of the site, twelve semi-detached houses would be orientated to face onto the public road with their rear garden walls facing onto the central public open space. Vehicular access to the development would be from a new access point in the north-western corner of the site. This access would be slightly offset to the existing entrance to the Termon Hall housing estate on the opposite side of the road.
- 7.3.2. In general, the perimeter layout is a reasonable response to the site context, given the presence of existing housing backing onto the site to the north and south. The row of houses facing onto Gardenrath Road Lower presents some design challenges for the site and would result in the rear garden walls facing onto the public open space, which would also prevent passive supervision of the space from this area. This arrangement is not ideal in urban design terms. However, it is noted that this layout was requested by the PA and would help to create a streetscape onto Gardenrath Road Lower. It would also improve the pedestrian environment on the western side of the road by providing a new footpath. Within the site, the public open space would be overlooked on three sides by the remaining houses. The landscaping proposal for the rear walls includes the provision of an evergreen hedge with scented climbers, which would soften the visual impact. If the houses were to be orientated facing onto the public open space it might not be possible to achieve the density required for the site unless the scheme was subject to a full redesign. Whilst the orientation and arrangement of House No's 1 – 12 does not present the optimum arrangement in urban design terms, I do not consider it to be a reason for refusal.
- 7.3.3. A pedestrian and cycle connection to the adjoining lands to the west is included in the development. During the request for further information the proposed connection

was relocated from a position within the terrace of houses along the western boundary to the south-western corner of the site. The relocation of this access point is a direct response from a request from the PA. Concerns were also raised in third party submissions regarding the proximity of House No. 40 to the existing house at No. 20 Gardenrath Close, which backs onto the site and the potential for anti-social behaviour at this location.

- 7.3.4. Submissions received from Gaeil Colmcille GAA Club state that the developer does not have permission to access the lands to the west. Information submitted by the applicant states that it is their understanding that the lands are within the ownership of Meath County Council and are licenced to the GAA club. The PA has not commented on their interest or legal connection to the lands to the west and have not responded to third parties in relation to this issue.
- 7.3.5. It would appear that Gaeil Colmcille GAA Club are in the process of moving to a new location outside of the town. As noted in a third-party submission on the appeal, planning permission was granted for playing pitches at Grangegodden, on the outskirts of Kells in 2016 under Ref. KA/160949. Permission was also granted in 2017 for changing rooms at the same site under KA/170141 and for the relocation of a pitch and putt course at the site under Ref. KA/181206 in 2018. In all cases the applicant was Gaeil Colmcille CLCG. This could indicate that the long-term use of the GAA pitch is in question.
- 7.3.6. The site to the west is zoned F1 – Open Space. A connection from the development to these lands would be of benefit to existing and future residents should the lands be retained for public open space. The existing access from Gardenrath Road Lower is not gated and is open to the public. This was evident on the occasion of the site inspection, which was carried out during the day when there was no activity on the pitch. A third-party submission from the Termon Hall Residents Association has also confirmed this. There is currently open and unrestricted access between the subject site and the GAA pitch to the west. I am satisfied that the proposed pedestrian and cycle connection between the lands would not alter this arrangement, and that the principle of the connection would be acceptable as an existing connection would be retained rather than created.

- 7.3.7. I am not convinced that the relocation of the pedestrian connection from its location on the western boundary to the corner of the site presents a preferable layout for the development. The revised layout, as shown on the Boundary Treatment Layout Drawing, No. 01, October 2021, would result in the omission of two, four-bedroom houses and an increase in the number of three-bedroom houses from sixteen to eighteen. House No's 40 and 41 would also be re-orientated to face onto the public area in order to provide some passive supervision of the proposed connection. The centrally positioned connection presents a more coherent response to the site layout as it has a direct connection to the internal access road which leads directly to the main access and the public road. The revised location in the corner of the site does not present a logical route or connection between the lands and would be located within incidental space that is left over from the design of the housing layout. Although some passive supervision would be provided by the end of terrace house the pathway would be tucked away in the corner of both sites rather than in the central location where movement is clearly visible.
- 7.3.8. In the original layout, concerns were raised regarding the impact of House No. 40 on the adjoining properties at Gardenrath Close. At its closest point, the corner of House No. 40 would have been 15m from the rear elevation of No. 20 Gardenrath Close. The proposed house was not orientated to face directly onto or to back onto the existing housing on Gardenrath Close and as such it would not result in any overlooking. By virtue of its position to the north of existing houses, the proposed house would not have resulted in any significant overshadowing of existing property. This arrangement would have also presented a better urban design arrangement for the proposed access and would have reduced the incidental space left over at the corner of the site.
- 7.3.9. If the Board were minded to grant permission for the development, I recommend that permission be granted for the original layout with the pedestrian connection to the adjoining site centrally positioned between the terrace of houses as shown on the 'Boundary Treatment Layout, Drawing 01', dated April 2021 rather than the revised layout which was submitted under further information on the 22nd of October 2021.

7.4. Residential Amenity

- 7.4.1. All of the proposed houses have an option for an additional room at attic level, which allows for flexible use. In general, the proposed houses would be in accordance with the Development Plan standards and would offer an adequate level of residential amenity for future residents. Internally, all habitable rooms would have natural light and ventilation, and, by virtue of their orientation and design, each of the houses would receive adequate levels of daylight and sunlight. The quantum of public open space for the development would represent approximately 18% of the site area, which is in excess of the Development Plan standard of 15%. Car parking would be provided at a rate of 2 spaces per house, which is in accordance with Development Plan standards as set out in Table 11.2. The spaces would be provided as two in-curtilage spaces for most houses with one space to the front of some of the mid-terrace houses.
- 7.4.2. There appears to be some discrepancy in the drawings submitted in relation to the calculations for private open space for each dwelling. Section 11.5.12 of the MCDP 2021-2027 states that, *'All houses should have an appropriate and useable area of private open space, exclusive of car parking, to the rear of the front building line'*. The development plan does not expand on how the 'front building line' is interpreted but this usually relates to the front façade. Section 11.5.26 of the MCDP, Extensions in Rural and Urban Areas, appears to confirm this, and DM OBJ 50 states that, *'Extensions which break the existing front building line will not normally be acceptable. A porch extension which does not significantly break the front building line will normally be permitted'*. This would indicate that, as per the standard interpretation, and within the context of the development plan, the front building line relates to the front façade of the building.
- 7.4.3. The Boundary Treatment Drawings dated April 2021 and October 2021 respectively, state the allocation of private open space for each house. However, when this space is measured from the drawings, the figures do not match. The discrepancy is most pronounced for the two-storey, mid-terrace houses. For example, the private open space for House No. 16, (a two-bedroom, mid-terrace house), is stated as 75m². This is in excess of the development plan requirement of 55m² for 2-bedroom houses and 60m² for a 3-bedroom house. When measured from the drawings, the rear garden measures 11m x 4.3m, which would yield 47.3m² of private open space.

This is less than the development plan requirement for a two-bedroom house, regardless of the optional room on the 2nd floor. The methodology for the applicant's calculation is not shown on the drawings or stated in the application documents. However, it would appear that the space to the front of the house has been included in the overall figure. The area to the front of the house measures c. 25.8m², (6 x 4.3m). If this area was to be included in the overall quantum of private open space it would result in an area of 73.1m², which is closer to the 75m² stated in the application. However, this area to the front also includes a car parking space, which cannot be included in the calculation.

- 7.4.4. The report of the planning officer does not query the calculation and is satisfied that the, *'private amenity spaces for each house meets and, in all cases, significantly exceeds the minimum private amenity space requirement. It also illustrates that the optional attic conversions can be achieved without falling short of the required private amenity standards'*. Although some ambiguity may exist regarding the interpretation of the development plan standards, the development plan is clear that car parking spaces should not be included in the quantum of private open space. Therefore, I do not agree that the area to the front of the house, which includes a parking space, should be included in the overall quantum of private open space. When this area is removed from the calculation, many of the houses fail to meet the development plan standards for the house types as shown on the plans, regardless of the optional additional bedroom at attic level.
- 7.4.5. This issue relates mainly to the mid-terrace, two-bedroom houses within the development which do not benefit from additional space to the side. However, these houses would have rear gardens of 11m in length and would face directly on to the central open space for the development and would also have access to the lands to the west which are zoned for open space. On balance, I am satisfied that the houses would deliver an adequate level of residential amenity for future residents who would also have private gardens and to public open space. The development would deliver a range of house typologies with density of 32 uph on an infill site within the boundary of a town which is defined as a 'Self-Sustaining Growth Town' in the settlement strategy for the county and as such is acceptable.

- 7.4.6. I note to the Board that the issue of private open space was not raised by the PA or the third parties. As such, it could be considered to be a new issue and the Board may wish to seek the views of the parties.
- 7.4.7. I am satisfied that the residential amenity of existing houses around the site would not be unduly impacted as a result of the development. The closest houses to the development would be No's 19 to 28 Gardenrath Close, which back onto the southern boundary of the site. The proposed houses on the southern extent of the site would also back onto this boundary. Separation distances of approximately 22-26m would be provided between all first floor opposing windows. This would be sufficient to prevent any overlooking of existing property. Given the orientation of the proposed houses to the north of existing houses, I am satisfied that the proposed development would not result in any significant overshadowing of the existing houses.
- 7.4.8. The location of House No. 40 was altered during further information and was moved further north within the site to accommodate a pedestrian link to the adjoining lands in the south-western corner. As noted in Section 7.3 above, it is my view that this revised layout does not present the best arrangement in terms of urban development and that the original layout would be a better arrangement for the site. In the original layout the corner of House No. 40 would be approximately 1.5m from the site boundary and c. 15m from the rear wall of No. 20 Gardenrath Close. The proposed house would be positioned at an angle to the existing house and as such no first floor windows would face towards the existing house. The blank gable wall would also be angled away from the site boundary which would minimise any visual impact.
- 7.4.9. A third-party submission from No. 29 Gardenrath Close, raised concerns regarding the impact of the proposal on the existing residential amenity. House No's 49 & 50 would back onto the rear of No's 28 & 29 Gardenrath Close. There would be a separation distance of c. 25m between the rear walls of both houses, which is in excess of the recommended 22m. The submission states that the level of the subject site is higher than the surrounding land south, which would exacerbate the impact of the proposed dwelling, which are significantly higher than the existing houses. The finished floor level, (FFL), of the proposed houses would be 72m. The FFL of No. 29 is shown as 71.78m, which does not represent a substantial difference in levels. The ridge height of the proposed houses would be 9.6m which is higher

than a traditional two storey house. However, I am satisfied that the sloping nature of the pitched roof and the separation distance proposed would be sufficient to mitigate against any significant visual impact and that the minor change in level would not accentuate the height difference to any significant degree. The existing tree line and boundary wall along the southern and northern boundaries will be retained which will help to soften any visual impact.

- 7.4.10. There are five two-storey houses in place to the north of the site, two of which are listed on the Record of Protected Structures, (LA RPS ID – 90558 & 90559). All of the properties have substantial gardens which range in length from 52 – 65m. The separation distances provided would be sufficient to mitigate against any overlooking or overshadowing of existing houses. The development would also have no impact on the character and setting of the protected structures.

7.5. Traffic & Safety

Traffic

- 7.5.1. Concerns were raised in the grounds of appeal regarding the impact of the development in terms of additional traffic in the area and on road safety given the additional vehicular movements that would be generated. A Traffic and Transport Assessment, (TTA), was carried out for the development. Submissions from third parties state that the results of the TTA are not accurate as traffic counts were carried out during August 2020 when schools were closed, and restrictions were in place as a result of Covid 19. The TTA states that these conditions were taken into consideration, and the report acknowledged that the counts would have been lower than normal. To address this constraint, comparative data on traffic from summer 2020 and 2019 was obtained from historic databases of traffic counts which also included travel patterns during the school term and school holidays. Based on this comparison the peak traffic count data obtained in August 2020 was at least 10% lower than traffic data obtained for 2019 and at least 15% lower than unrestricted traffic during the school term. The traffic figures likely to be generated from the development was obtained from the TRICS database.
- 7.5.2. When the results were assessed against the TII publication, PE-PDV-02045, Traffic and Transport Assessment Guidelines, it was determined that TTA was not required

as the levels of traffic generated by the development did not exceed any threshold as set out in the Guidelines. The assessment found that the, *'development is anticipated to generate less than 5% increase in traffic at junctions along the regional road R164...where congestion is assumed to exist...'*. It was also concluded that the development would not result in an increase above 10% of the existing traffic levels within peak periods along Gardenrath Road Lower. As the size of the development and the additional traffic generated fall below the threshold guidelines, traffic modelling was not required for the development.

- 7.5.3. I am satisfied that, by virtue of the size of the development, it will not result in a significant increase in traffic flows along Gardenrath Road Lower and would not have an impact on traffic in the wider area. The restrictions in place when the traffic counts were carried out were also taken into consideration during the overall traffic assessment for the development.

Road Safety

- 7.5.4. A Stage 1/2 Road Safety Audit was carried out for the proposed development and submitted with the application. This audit identified any potential safety issues with the design and includes recommendations to address these issues. Should planning permission be granted for the development, the applicant has offered to arrange for a Stage 3 Road Safety Audit to be carried out by an independent auditor prior to the occupation of the development.
- 7.5.5. The Road Safety Audit had demonstrated that the development can be constructed to ensure road safety subject to the recommendations set out in the report. Concerns raised by third parties were mainly focused on the potential safety implications of the additional vehicular access points opening onto Gardenrath Road Lower. These access points were addressed in the Road Safety Audit and the potential for pedestrian and vehicular conflict was identified. This issue can be addressed through the provision of adequate turning space to ensure that cars do not have to reverse onto the road. Unfortunately, this arrangement does not allow much space for soft landscaping within the private areas to the front of the houses. However, some landscaping would be provided in the public realm and an improved footpath would be provided along the western side of Gardenrath Road Lower. In terms of vehicular conflict, each of the vehicular access points would achieve the

recommended sightlines of 45m in each direction at a 2.4m set back for a 50kmph road in accordance with Table 4.2 of DMURS. The sightlines are shown on Drawing R.S.A. 01 – Road Safety Audit Compliance Drawing and on the occasion of the site inspection, I observed that the road to the front of the proposed houses is relatively straight and would allow for good visibility. I am satisfied that the access points onto the local road would not result in any road safety issues given the sightlines that can be achieved and the relatively straight nature of the road at this location.

- 7.5.6. Concerns were also raised regarding the location of the main access in relation to the entrance at Termon Hall and its proximity to a bend on the road, which third parties have identified as a hazard. Drawing R.S.A. 01 – Road Safety Audit Compliance Drawing, shows that sightlines of 45m in either direction can be achieved from the proposed entrance, which is in accordance with DMURS. Apart from the requirement for signage and low-level planting at this access point, no safety issues were identified for the main entrance in the Road Safety Audit. I am satisfied that the proposed development, would not result in a traffic hazard if the provisions of the Stage 1/2 Road Safety Audit are included in the design.

7.6. Wastewater

- 7.6.1. The grounds of appeal raised concerns regarding the capacity of the existing wastewater services to accommodate the proposed development. In their initial response, Irish Water requested that the size of the wastewater network within the development be revised to comply with the Irish Water Code of Practice. The design of the network was revised, and Irish Water had no objection to the proposal subject to conditions regarding the overall design and layout. Irish Water require that a CCTV survey of the existing foul network along Gardenrath Road Lower be carried out in order to confirm the condition of the existing network and to verify that it is capable of accepting wastewater from the development. Any blockages or deficiencies in the network will be identified at this stage. Condition No. 17(c) requires that any remedial works required will be carried out by the applicant prior to the commencement of development.
- 7.6.2. The closest wastewater treatment facility is the Kells Waste Water Treatment Plant which has a capacity of 8,000 PE. In the Irish Water Annual Environmental Report

2020 Kells Waste Water Treatment Plant, (D0127-01), the plant was listed as 'Compliant' with the Emission Limit Values, (ELV's), set out in the licence. The report also noted that nine incidences reported in 2020, none of which were of a recurring nature.

- 7.6.3. I note that no issues were raised by Irish Water or the PA with regard to the capacity of the existing wastewater network. Based on the information at hand, I am satisfied that the existing network has the capacity to cater for the additional 50 houses proposed for the development subject to the requirements of Irish Water.

7.7. Landscaping & Ecology

- 7.7.1. Concerns were raised in the third-party appeal regarding the removal of all planting and hedgerows within the site and the impact this would have on biodiversity in terms of loss of habitat. A large section of the site was formerly in use as a pitch and putt course and as such comprised overgrown planting on a greenfield site. The site would be cleared of most vegetation, including a mature treeline along the eastern site boundary. This treeline comprises Silver Birch, along with Sycamore and Ash with Hawthorn, Elm and Elder forming a hedge beneath. There are two additional treelines at the northern and southern boundaries which would be retained.
- 7.7.2. An Ecological Impact Assessment Report, (EclA), was submitted by the application on foot of a request from the PA. The EclA was undertaken with a view to appraising the potential ecological impacts of the proposed project and was prepared using desktop and field studies of the habitats and flora and fauna present. The report found that the site is currently of low ecological value and that no Third Schedule Invasive Species are present.
- 7.7.3. There are 6 different habitats within the site. The treelines were categorised as habitats of 'local (higher value) importance'. The remainder of the habitats were categorised as either of 'negligible value' or of 'local (lower value) importance'. No habitats listed on Annex I of the EU Habitats Directive were recorded within the site.
- 7.7.4. No legally protected species of flora were recorded. No breeding sites or burrows for any protected mammals were recorded and none were observed during the field studies. There is no evidence of breeding or resting sites or commuting routes of any

mammal species through the site. Building inspections did not record any evidence of the presence of bats and the structures were assessed as being unattractive to roosting bats. Bat detectors confirmed the presence of four bat species, but, when compared to other sites in Ireland at the same time of year, the activity was found to be relatively low. No potential roost features likely to support roosting bats were noted.

- 7.7.5. The development would result in the loss of some vegetative cover and a localised reduction in foraging opportunities for mammals, including bats. However, the EclA determined that the site has a suboptimal foraging habitat for bats with a low to moderate diversity of bats using the site.
- 7.7.6. The loss of some vegetated areas on the site may result in the disturbance of the existing bird community on the site. However, the EclA found that there is relatively limited breeding or foraging habitats for birds on the site as it is and the birds. A total of 18 species were recorded on the site most of which were typical of farmland/garden bird species.
- 7.7.7. The site was also examined for invasive species. A number of non-native invasive species were recorded on the site during the site survey and included a single Rhododendron bush and a single mature Cherry Laurel bush. Rhododendron is listed on the Third Schedule of the 2011 European Communities (Birds and Natural Habitats Regulations), but Cherry Laurel is not listed. Both species are considered to be invasive species with a 'risk of high impact'. A number of 'risk of medium impact' invasive species were also recorded on the site. An Outline Invasive Species Management Plan has been prepared as part of the EclA and sets out how the species shall be dealt with in a safe manner.
- 7.7.8. A landscaping plan has been prepared for the site and was developed with the input of the consultant ecologists that prepared the EclA. The landscaping plan includes the planting of 63 no. semi-mature and specimen trees which will include native species such as Alder, Downy and Silver Birch, Hazel, Scots Pine, Rowan and Pedunculate Oak, as well as other broadleaf species. Cognisance was also had to the recommendations of the All-Ireland Pollinator Plan 2021-2025 and a pollinator friendly planting plan will be implemented across the landscaped areas. Overall, the impact of the proposal on habitats, along with the implementation of the planting plan

will result in a slight, negative to neutral effect. Post construction the development is expected to have a neutral to slight positive impact on the local mammal population.

- 7.7.9. Having visited the site and reviewed all of the information on file, I am satisfied that the proposed development will not result in the loss of any high value habitats that would support any protected flora or fauna. The implementation of the landscaping plan should contribute to an enhancement of biodiversity within the site and as such the loss of the existing habitat is acceptable.

7.8. Development Contributions

- 7.8.1. The first party appeal relates to Condition No. 20 of the PA's decision to grant permission for the development. The condition relates to a development contribution towards expenditure that was and/or that is proposed to be incurred by the PA in the provision of surface water drainage infrastructure. Section 48 of the Planning and Development Act 2000, (as amended) details the methodology and guiding principles by which Development Contributions Schemes should be arrived at. The wording of S.48(10)(b) of the 2000 Act states that, *'an appeal may be brought to the Board where an applicant for permission under section 34 considers that the terms of the scheme have not been properly applied in respect of any condition laid down by the Planning authority'*. The wording of this section is restrictive in so far as it limits consideration of such appeals to the application of the terms of the adopted development contribution scheme and the powers of the Board to consider other matters. The relevant contribution scheme is the Meath County Development Contribution Scheme 2016-2022.
- 7.8.2. Condition No. 20 requires that the applicant pay a sum of €16,250.00 to the PA towards expenditure incurred by the PA in the provision of surface water drainage infrastructure. The applicant states that, based on the proposal for 50 houses, this equates to €325 per house. Appendix B of the Meath County Development Contribution Scheme this figure relates to houses with a floor area of 100-140m². The applicant argues that 32 of the houses are two-bedroom houses with a floor area of 80m², while the remaining 18 houses are three-bedroom houses which have a floor area of 104m². Therefore, the correct contribution amount would be €15,450 based on the following calculation:

- 32 x 2 bed houses of <100m² = 32 x €300 = €9,600 +
- 18 x 3 bed houses of 100-140m² = 18 x €325 = €5,850

7.8.3. The appeal only refers to Condition No. 20 of the decision. However, I note that the development contributions required under Condition No's 18 and 19 which relate to public roads and public transport infrastructure, and social infrastructure respectively, appear to have been calculated based on the provision of 50 houses with a floor area of 100-140m².

- Condition No. 18 = €178,750 for roads and transport, (€3575 per house of 100-140m²)
- Condition No. 19 = €130,000 for social infrastructure, (€2,600 per house of 100-140m²)

7.8.4. The first party appeal is considered under the Meath County Development Contributions Scheme 2016-2021 (Section 48 of the Planning and Development Act 2000 (as amended)). The development contributions set out in Condition No's 18, 19 and 20 relate to General Development Contributions which are applied in respect of public infrastructure and facilities provided by, or on behalf of the PA that benefit development in the PA's functional area. Appendix B of the Contributions Scheme sets out the methodology for determining the amount of the contributions. The level of contributions per individual residential unit is €6,000 for a unit with a floor area of less than 100m² and €6,500 for a unit with a floor area of 100-140m². This amount is allocated as follows,

Residential Unit	<100m²	100-140m²
Class 1 - Surface Water Drainage	€300	€325
Class 2 - Roads and Public Transportation	€3,300	€3,575
Class 3 - Social Infrastructure	€2,400	€2,600
Total	€6,000	€6,500

7.8.5. The first party consider that the calculation of the development contributions has been misapplied and that only 18 of the houses have floor areas of over 100m² and the remaining 32 have floor areas of 80m².

7.8.6. Drawings submitted with the application initially had a layout which comprised 2 x 4-bedroom houses, 16 x 3-bedroom houses and 32 x 2-bedroom houses. The floor area of each of the houses was stated as follows:

- 4 -bedroom houses = GFA of 142m², (additional space at 2nd floor level is not shown).
- 3- bedroom houses = GFA of 104m² (+28m² @ 2nd floor level)
- 2-bedroom houses = GFA of 80m² (+ 23m² @ 2nd floor level)

7.8.7. Drawings submitted under further information altered the layout of the development to provide 18 x 3-bedroom houses and 32 x 2-bedroom houses. The floor area of each unit is given as follows,

- 3- bedroom houses = GFA of 104m² (+28m² @ 2nd floor level)
- 2-bedroom houses = GFA of 80m² (+ 23m² @ 2nd floor level)

7.8.8. In each of the houses, the applicant has designed the internal space to allow for a possible additional bedroom or office at second floor level. The Development Contribution scheme does not specify whether the floor areas for each unit are the gross or nett floor areas. Drawings submitted with the application give the gross floor areas for each unit.

7.8.9. The response from the PA states that the calculations for the development contributions includes the additional floor area provided for by the 'possible attic conversion' for each of the units permitted. This approach was previously endorsed by the Board under ABP-304917-19.

7.8.10. Within Board decision, ABP-304917-19, the applicant had made reference to the additional, optional space in the public notices and this space was also shown on the drawings. As the optional space had been publicly advertised and shown on the drawings, the Inspector considered that *'the intent to provide the accommodation is there and has been permitted by the Council'*.

7.8.11. I would agree with this conclusion. Although the additional floor area was not advertised in the public notices in the subject appeal, the drawings submitted show a staircase up to the 2nd floor level and clearly state that this area is for a 'possible bedroom or office'. Through this provision, each of the houses would have the

option of an additional bedroom or room without the requirement to obtain planning permission for the conversion of the attic space or for an additional bedroom. By virtue of this consideration, I am satisfied that the additional space at attic level can be included in the overall floor area as the intention to provide the space is clear from the outset and how that space would be provided is clearly laid out in the drawings. Therefore, I am satisfied that the development contributions as set out in Conditions 18, 19 and 20 have been applied correctly.

7.9. Appropriate Assessment

- 7.9.1. A Stage 1 Screening statement was prepared for the application and concluded that, *'No elements of the proposed construction at the site are likely to cause significant impacts on European Sites therefore the functioning and structure of the biological communities and habitats for which they are designated will remain intact. It is unnecessary at this stage to prepare Stage 2 assessment with respect to European sites'*.
- 7.9.2. The conclusion of the Screening Report was considered within the context of the detailed desktop and filed studies carried out for the EclA and the findings of that report support the conclusion that there is no likelihood of significant effects on any Natura 2000 sites as a result of the proposed development.
- 7.9.3. In accordance with obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a Natura 2000 site; there is a requirement on the Board, as the competent authority in this case, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision, by carrying out appropriate assessment. The first stage of assessment is screening.
- 7.9.4. The proposed development is for the demolition of an existing single clubhouse of with a floor area of 807m² and the construction of 50 two storey houses which would be connected to the existing mains water and wastewater services. New vehicular entrances would be provided on Gardenrath Road as well as landscaping and ancillary works.

- 7.9.5. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s). The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.
- 7.9.6. The closest European sites are the River Boyne and River Blackwater SAC, (Site Code 002299), which is approximately 1.4km to the north-east of the site and the River Boyne and River Blackwater SAC, (Site Code 004232), which is approximately 1.9km to the north-east of the site. There is no direct or indirect hydrological link or pathway between the subject site and the European sites.
- 7.9.7. I have reviewed the qualifying interests and conservation objectives of the nearest European sites and, having regard to the nature and scale of the proposed development within a serviced site, and the separation distances to the nearest European site, no Appropriate Assessment issues arise. It is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that planning permission be granted for the development and that Condition No's 18, 19 and 20 be retained as calculated by the PA.

9.0 Reasons and Considerations

- 9.1. Having regard to the nature and scale of the proposed residential development, within the town of Kells and on a site with a 'New Residential' zoning objective, it is considered that, the proposal would be in accordance with the Meath County Development Plan 2021-2027, and subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

- 9.2. The Board considers that the Meath County Development Contributions Scheme 2016-2021 (as amended) is the applicable contribution scheme in this case. The Board considered that condition numbers 18, 19 and 20 had been properly applied and should be retained.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 14th day of June 2021, as amended by the further plans and particulars submitted on the 22nd day of October 2021, 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 and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The proposed development shall be permitted as per the site layout shown on the plans submitted to the PA on the 14th day of June 2021 and as shown on the drawing titled, 'Boundary Treatment Layout, Dwg. No. 01, Apr'2021'.</p> <p>Reason: In the interest of amenity and orderly development.</p>
3.	<p>a. The developer shall engage with Irish Water prior to the commencement of development and shall comply with their requirements with regard to the proposed development.</p> <p>b. Prior to the commencement of the development hereby permitted, the applicant shall submit a CCTV survey of the existing foul network along Gardenrath Road to confirm the condition of the existing network. Should any remedial works be deemed necessary, they shall be carried out by the applicant.</p> <p>Reason: In order to ensure a proper standard of development.</p>

4.	<p>The applicant shall engage with the PA and all water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services and shall be agreed in writing prior to the commencement of development.</p> <p>Reason: In the interest of public health.</p>
5.	<ul style="list-style-type: none"> a. The landscaping scheme, as submitted to the planning authority on the 22nd day of October 2021 shall be carried out within the first planting season following substantial completion of external construction works. b. Hedges and trees shall not be removed during the nesting season, (i.e. March 1st to August 31st). c. All mitigation measures set out in the Ecological Impact Statement, (EcIA) shall be fully implemented. d. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority. <p>Reason: In the interest of residential and visual amenity.</p>
6.	<p>All trees and hedgerows within and on the boundaries of the site that are listed for retention shall be protected from damage during construction works in accordance with the measures outlined in the Landscaping Plan submitted with the application. Should any of these trees be damaged they shall be replaced by the same species and type.</p> <p>Reason: In the interest of visual amenity.</p>

7.	<p>The developer shall appoint and retain the services of a qualified Landscape Architect (or qualified Landscape Designer) as a Landscape Consultant, throughout the life of the construction works and shall notify the planning authority of that appointment in writing prior to commencement of development. A practical completion certificate shall be signed off by the Landscape Architect when all landscape works are fully completed to the satisfaction of the planning authority and in accordance with the permitted landscape proposals.</p> <p>Reason: To ensure full and verifiable implementation of the approved landscape design.</p>
8.	<p>The areas shown as public open space on the lodged plans shall be reserved for such use. The public open space shall be completed and fully landscaped before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer.</p> <p>Reason: In the interest of the amenities of the occupants of the proposed housing</p>
9.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity</p>
10.	<p>Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to the planning authority for agreement prior to the commencement of development.</p> <p>Reason: In the interest of amenity and public safety.</p>
11.	<p>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. All existing over ground cables crossing or bounding the site shall be relocated</p>

	<p>underground as part of the site development works, at the developer's expense.</p> <p>Reason: In the interests of visual and residential amenity.</p>
12.	<p>a. The applicant shall comply with the requirements of the PA with regard to all aspects of the development that relate to access and public roads.</p> <p>b. A Stage 3 Road Safety Audit shall be carried out by the applicant and submitted to the PA for written agreement.</p> <p>c. All areas to be taken in charge shall be clearly marked and submitted to the PA prior to the commencement of development.</p> <p>Reason: In the interests of clarity and orderly development.</p>
13.	<p>The site access arrangements and the internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed requirements of the planning authority for such works. All residential parking spaces shall be constructed so as to be capable of accommodating future electric vehicle charging points with a minimum 10% of spaces to be fitted with functional electric vehicle charging points</p> <p>Reason: In the interests of amenity and of pedestrian and traffic safety.</p>
14.	<p>Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.</p> <p>Reason: In the interest of urban legibility.</p>
15.	<p>Prior to the commencement of any house in the development as permitted, the applicant or any person with an interest in the land shall enter into an</p>

	<p>agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.</p>
16.	<p>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.</p> <p>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.</p>
17.	<p>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 of roads, footpaths, watermains, drains, 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</p>

	<p>completion 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.</p> <p>Reason: To ensure the satisfactory completion of the development.</p>
18.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
19.	<p>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.</p> <p>Reason: In the interest of sustainable waste management</p>
20.	<p>The site development and construction works shall be carried out such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer’s expense on a daily basis.</p>

	Reason: To protect the residential amenities of property in the vicinity.
21.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:</p> <p>(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, and</p> <p>(b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works. The assessment shall address the following issues:</p> <ul style="list-style-type: none"> (i) the nature and location of archaeological material on the site, and (ii) the impact of the proposed development on such archaeological material. A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination. <p>Reason: In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.</p>
22.	<p>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</p>

	<p>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 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.</p> <p>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 for the area.</p>
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Elaine Sullivan
Planning Inspector

5th July 2022