



An
Bord
Pleanála

Inspector's Report 312685-22

Development	Residential development of 47 no. dwellings and a crèche facility
Location	Railpark, Celbridge Road, Maynooth, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	21/156
Applicant(s)	High Degree Developments Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	First Party v. Conditions Third Party v. Decision
Appellant(s)	(1) High Degree Developments Limited (2) Brendan Grant (3) Kevin and Anita Shortall
Observer(s)	(1) Rockfield Residents' Association (2) Gaelscoil Uí Fhiaich Parents Association

Date of Site Inspection

26th May 2023

Inspector

Louise Treacy

1.0 Site Location and Description

- 1.1. The subject site has a stated area of 1.99 ha and is located on the south-eastern side of the town of Maynooth, Co. Kildare. Maynooth train station is located approx. 0.8 km directly to the north-west, with Main Street located a further 0.4 km beyond. The Royal Canal extends through the centre of the town, approx. 0.7 km directly to the north of the subject site.
- 1.2. Access to the site is via Celbridge Road, a regional road which is single-carriageway in either direction, with a public footpath on both sides. A pedestrian crossing is in place approx. 100 m to the north-west of the entrance to the appeal site. Maynooth Educate Together National School is located approx. 68 m to the south-east of the subject site along Celbridge Road. The lands on the opposite side of the public road are characterised by residential development at Laurence Avenue and a further school facility (Gaelscoil Uí Fhiaich).
- 1.3. The site is greenfield in nature and is bounded by greenfield lands to the north-east, south and east and by a mature residential estate of 2-storey dwellings to the north and west at Rockfield Close, Rockfield Court and Rockfield Park (hereafter referred to as the Rockfield estate). A mature hedgerow with trees extends along the eastern site boundary, while a hedgerow and associated drain extend into the central area of the site. The north-eastern site boundary is demarcated by a post and wire fence. The boundary treatments to the west comprise a mix of hedgerows and boundary fencing/walls to the adjoining residential estate. The site boundary fronting onto the public road comprises a mature hedgerow with a recessed agricultural entrance. A 10 kV overhead power line extends through the site in a north-westerly/south-easterly and a northerly direction.

2.0 Proposed Development

- 2.1. The proposed development (phase 2 of a residential masterplan for some 105 no. units in total on a wider c. 3.26 ha landholding under the applicant's control) will consist of the construction of a residential development comprising 47 no. dwellings in total, consisting of 11 no. 2-bedroom, 2-storey houses and 10 no. 3-bedroom, 3-storey houses (21 no. houses in total) including rear private open spaces; 13 no. 1-bedroom apartments and 13 no. 2-bedroom apartments (26 no. 3-storey duplex

apartments in total), including balconies; and a single-storey crèche facility (c. 261 m²).

- 2.2. The development will also include new vehicular, cyclist and pedestrian access from Celbridge Road via currently undeveloped lands to the southwest (Phase 1 development); a new pedestrian footpath and bicycle track along the site frontage to Celbridge Road; the provision of future access connection points to adjacent lands to the southwest (Phase 1 development), north and southeast; works to facilitate connections to existing services infrastructure in Rockfield Park to the west.
- 2.3. The development will also comprise internal roads, footpaths and cycle tracks, public open spaces, children's play area and bicycle store areas; parking at surface level (95 no. total spaces for car parking and 33 no. bicycle spaces); drainage attenuation; all hard and soft landscaping; boundary treatments; removal of the existing hedgerows adjacent to Celbridge Road; changes in levels; and all ancillary site development works and site services provision (including wayleave to the north-east above and below ground).
- 2.4. The proposed duplex units (26 no.) are arranged in 2 no. 3-storey blocks in the central area of the site. Two linear parcels of open space extend across the site to the front and rear of the duplex blocks. The proposed housing units (21 no.) are 2 - 3 storeys in height and are arranged in 5 no. terraces adjacent to the north-eastern and north-western site boundaries. Those which are proposed adjacent to the north-western site boundary back onto existing 2-storey dwellings within the Rockfield estate.
- 2.5. The proposed crèche facility is single-storey in height and is located in the western corner of the site adjacent to a proposed 3-storey dwelling house and existing 2-storey dwellings within the Rockfield estate. Staff car parking and drop off parking is proposed to the front of the crèche facility, accessed off the internal estate road.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Kildare County Council issued **Notification of the Decision to Grant Permission** for the proposed development subject to 69 no. conditions on 14th January 2022.

- 3.1.2. Condition no. 2 (b) requires the crèche facility to be fully complete and operational prior to the occupation of the dwellings.
- 3.1.3. Condition no. 3 (b) states that the Maynooth Eastern Ring Road (MERR) shall be open and fully operational prior to the occupation of the housing unless otherwise agreed with Kildare County Council.
- 3.1.4. Condition no. 6 (a) restricts the occupation of the housing to individual purchasers, and/or those eligible for occupation of social and/or affordable housing.
- 3.1.5. Condition no. 10 requires the developer to provide a comprehensive list of all outstanding defects in the areas and infrastructure to be taken in charge. All outstanding defects shall be rectified to the written satisfaction of the Planning Authority within 6 months of the provision of this list.
- 3.1.6. Condition no. 13 requires the developer to provide a 2 m wide footpath and a 2 m wide cycle track across the entire roadside boundary to connect with the existing VRU pedestrian crossing at Rockfield Estate. If the land required is outside the ownership of the developer, the developer shall submit written consent to the Planning Authority to the provision of this infrastructure from the affected landowners prior to the commencement of development.
- 3.1.7. Condition no. 14 requires the developer to connect and provide full and unhindered vehicle, pedestrian and cycling access to the lands north of the development to the adjoining developer and to the MERR within 6 months of both opening, with details to be agreed with the Planning Authority prior to the commencement of development.
- 3.1.8. Condition no. 23 requires the developer to submit a plan to the Planning Authority detailing how engagement and liaison with local residents, businesses and schools will be established and how it is proposed to keep the public, schools and other relevant bodies informed of impending disruption to traffic flow in the area of the proposed works.
- 3.1.9. Condition no. 26 states that construction access to the site shall be from the Celbridge Road and shall only operate outside of adjacent school opening and closing hours.
- 3.1.10. Condition no. 27 states that Maynooth town centre shall be kept free from all construction related traffic.

- 3.1.11. Condition no. 28 requires the developer to submit a Stage 1 / 2 Road Safety Audit prior to the commencement of development.
- 3.1.12. Condition no. 29 states that upon completion of the development and the proposed road objective MERR and prior to taking in charge of the road infrastructure, the applicant shall complete a Stage 3 Road Safety Audit.
- 3.1.13. Condition no. 33 (a) requires the developer to submit a detailed design for an upgrade of the toucan crossing on the R148 Celbridge Road at Rockfield Park.
- 3.1.14. Condition no. 36 requires CBR tests to be undertaken to determine the subgrade strength under the proposed distributor roads, with the results and a suitable pavement design to be submitted for written consent before the development commences.
- 3.1.15. Condition no. 43 requires the developer to retain the services of a qualified arborist for the entire period of construction activity.
- 3.1.16. Condition no. 44 requires the developer to retain the services of a qualified Landscape Architect as a landscape consultant throughout the life of the construction works.
- 3.1.17. Condition no. 45 requires the existing hedgerows within the site and along the boundaries to be retained and a programme of works to be submitted for remedial and improvement works to the hedgerows.
- 3.1.18. Condition no. 46 (b) requires details of all play equipment to be submitted for the written agreement of the Planning Authority.
- 3.1.19. Condition no. 47 requires a revised drainage and SuDS strategy to be submitted prior to the commencement of development.
- 3.1.20. Condition no. 48 requires the applicant to submit documentary evidence confirming that any required receiving drainage pipe network upgrades/repairs have been carried out and commissioned to the satisfaction of the Municipal District Engineer.
- 3.1.21. Condition no. 52 requires the Flood Risk Mitigation Plan for the proposed development to be completed prior to the commencement of the development.
- 3.1.22. Condition no. 64 requires the site to be resurveyed for the presence of Japanese Knotweed during the growing season prior to the commencement of development.
- 3.1.23. All other conditions are generally standard in nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports (30th March 2021, 7th October 2021 and 13th January 2022)

3.2.2. Following an initial assessment of the planning application, Kildare County Council's Planning Officer recommended that **Further Information** was required in relation to the following:

(1) The applicant should note that any grant of permission will be subject to a condition that the MERR is open and fully operational prior to the occupation of the development and that the LIHAF legal agreement is signed off by the applicant and Kildare County Council prior to the commencement of development. The applicant will be conditioned to connect and provide vehicle, pedestrian and cycling access to the lands north of this development and the MERR within 6 months of both opening. The applicant is requested to submit a drawing showing the proposed connection with the lands north of this development.

(2) The applicant is requested to submit revised proposals to include the following:

(a) Units 85, 88 and 92 to be revised to 2-storey height.

(b) The omission of all proposed 1st floor balconies serving units 85 –105.

(c) The provision of a 1.8 m high block wall along the rear boundary of units 85-92 and the proposed crèche.

(3) The applicant is requested to outline how the proposed development will make provision for the charging of electric vehicles.

(4) The applicant is requested to revise internal radii curves to between 4-6 m and provide swept path analysis for the entire layout including the proposed entrance.

(5) The applicant is requested to provide a Road Safety Audit for the proposed development.

(6) Concerns relating to the construction of the proposed development during school opening and closing times. The applicant is requested to detail the following:

(a) Existing operation of schools and safe management of traffic and vulnerable road users.

(b) Car parking for construction workers.

(c) Loading areas for deliveries.

- (d) Management of HGV trucks within and outside of the proposed development.
- (e) Noise, dust, mud and possible vibration monitoring.
- (f) Proposed construction hours (outside of school opening and closing hours).
- (g) Proposals for the management of pedestrians.

(7) The applicant is requested to submit revised boundary treatment drawings to account for the following:

(a) The Engineering/Tree Planting/Boundary Treatments drawings do not indicate the proposed boundary treatments along several sections of the eastern site boundary.

(b) The boundary treatment plan and landscape plan shall provide comprehensive details of the boundary treatments and entrance proposals.

(8) The applicant is requested to submit a revised landscape plan which provides for the following:

(a) Details of additional nature play items.

(b) All play areas shall be natural play spaces with landscaping and natural features and shall provide for universal access.

(c) Outdoor fitness equipment may be provided in the open space areas.

(9) The applicant is requested to submit revised proposals of the ground-floor, 1-bedroom duplex apartments:

(a) Revised open plan living room area to improve circulation and provide minimum room widths.

(b) Details of private open space location and size.

(c) Revised entrance to improve access to storage.

(d) Details and location of at least 3 wheelie bins for each unit.

(e) The location of each car parking space for each unit to be identified.

(f) Details of surface and foul water locations so the impact of downpipes can be assessed.

(g) Location of ventilation grills.

(10) The applicant is requested to submit revised proposals for the 1st/2nd floor 2-bed duplex apartments:

- (a) Storage requirements for each unit to be provided in compliance with the development plan and any shortfalls addressed. Storage of bulky items to be considered in the overall layout.
- (b) Revise the entrance to improve access to storage.
- (c) Details and location of at least 3 wheelie bins for each unit.
- (d) The location of each car parking space for each unit to be identified.
- (e) Details of proposed balcony including floor, underside finish, thermal bridge, screening between apartments, balustrade and handrail details.
- (f) Details of surface and foul water locations so the impact of downpipes can be assessed.
- (g) Location of ventilation grills.

(11) The applicant is requested to include a 3-bedroom option in the mix of Part V units proposed.

(12) The applicant is requested to liaise with Irish Water and establish that the existing wastewater network within Rockfield Estate has the capacity to cater for the proposed development.

(13) The proposed SuDS shall be reviewed as follows:

- (a) Maximise provision of proposed bioretention areas and clarify the role of the open grated manhole.
- (b) Increase the area of roads, paths and roofs discharging to SuDS.
- (c) Conversion of the proposed swales to bioswales and clarify the role of the open grated manhole.
- (d) Convert the detention basin to a permanent retention pond feature with diverse planting.
- (e) A green roof shall be shown on the crèche on the layout drawing and construction details submitted.
- (f) The existing drain traversing the subject site shall be retained as an open channel and its conversion to a SuDS feature shall be considered.

(g) Rainwater harvesting shall be considered for the crèche, rainwater butts for the houses and planters for both, with relevant drawings/details submitted.

(h) All surface storage features shall be risk assessed.

(14) The site investigation of July 2019 is deemed inadequate.

(a) The applicant is requested to conduct additional infiltration tests at locations of SuDS which could infiltrate to ground and at suitable depths for shallow and deeper infiltration system SuDS and submit a report thereon.

(b) Where deeper infiltration SuDS will be used, the applicant is requested to address the prevailing on-site groundwater regime and its potential to compromise the efficacy of deeper infiltration system SuDS.

(c) Where SuDS and drainage strategies change as a result, the applicant is requested to submit revised details including drawings and calculations.

(15) The applicant is requested to submit the following details regarding the proposed surface water outfall:

(a) Consent for the wayleave for the outfall to the existing 900 mm surface water sewer to the east and for connection thereto.

(b) Consult with the Roads Department and Municipal District Office regarding the existing 900 mm – 1200 mm sewer siphon under the canal – 1500 mm outfall pipe to the Lyreen River and agree details for the implementation of any necessary repairs and upgrades to accommodate run-off from the proposed development.

(16) The hydraulic relationship between the proposed underground attenuation storage tank and the detention basin shall be clarified.

(17) The applicant is requested to:

(a) Clarify the discrepancies in the total impermeable areas used in the interception and treatment storage volume calculations.

(b) Demonstrate compliance with the Greater Dublin Strategic Drainage Strategy Volume 2 Chapter 6 Drainage Design Criterion #4 Long Term Storage.

(18) The applicant is requested to submit revised longitudinal section drawings showing intersections with foul sewers can be accommodated with adequate separation.

(19) The applicant should note that pipes shall be appropriately sized especially downstream of flow control devices.

(20) The applicant is requested to submit a revised Site-Specific Flood Risk Assessment addressing the following:

(a) Effects of future climate change on all flood risk mechanisms and not just pluvial.

(b) Details of 500 mm minimum freeboard between climate change adjusted 100-year event top water levels in the proposed drainage systems and finished floor levels.

(c) Fluvial or pluvial flood risk from site drains.

(d) OPW Preliminary Flood Risk Assessment flood mapping for the site.

(e) Pluvial flood risk associated with overland surface water flows, assessing the on-site, pre-existing and post-development flow routing and increases in ground levels at site boundaries and replacement of permeable site boundary treatments such as hedgerows or open fencing with impermeable boundary treatments such as block walls.

(f) Assessing groundwater flood risk in the context of the GSI high vulnerability classification and on-site groundwater monitoring.

(g) The residual pluvial flood risk associated with drainage system failure and design event exceedance.

(21) The applicant is requested to engage the services of a suitably qualified archaeologist to carry out an archaeological assessment of the site.

(22) The applicant is requested to respond to the content of the third-party submissions and representations received on the application.

3.2.3. The applicant submitted a **Response to the Request for Further Information** on 10th September 2021 which can be summarised as follows:

3.2.4. **Item No. 1:** The attachment of a planning condition which requires a major element of roads infrastructure to be open and operational prior to the occupation of urgently needed residential accommodation is onerous in the extreme and would likely render any permission granted on these terms inoperable and incapable of implementation. Notwithstanding the absence of this road, a number of planning permissions have been granted for medium to large scale residential development in Maynooth without

such conditions being imposed. The applicant's TTA demonstrates that the proposed development can be implemented without affecting existing traffic in the area and does not need to be phased until such time as the MERR is complete.

- 3.2.5. In the event the Planning Authority disagrees with this opinion, it is requested that this condition be attached to the Phase 2 development only, which would enable the Phase 1 development to be progressed and occupied in the meantime.
- 3.2.6. The current LIHAF agreement expires on 31st December 2021 and the applicant is awaiting an update from the Local Authority on the revised agreement.
- 3.2.7. The provisional vehicular, pedestrian and cycle access is provided up to the site boundaries, which will, in turn, facilitate the continuation of these facilities through the adjoining lands owned by O'Toole development. It is unreasonable to expect the applicant to show connections through lands which are not in their ownership given that there is no extant permission for the adjoining site.
- 3.2.8. **Item No. 2 (a):** Unit nos. 85, 88, 89 and 92 are now 2-storeys in height.
- 3.2.9. **Item No. 2 (b):** All proposed 1st floor balconies have been removed from house types A1 – A4 and B1 – B4 (unit nos. 85-105).
- 3.2.10. **Item No. 2 (c):** A 1.8 m high block wall has been provided along the rear boundary of unit nos. 85-92 and the proposed crèche. Full details of the proposed boundary treatments are shown on the enclosed planning and landscape drawings.
- 3.2.11. **Item No. 3:** A total of 4 no. car parking spaces are nominated as communal electrical charging points, with the final locations to be agreed with Kildare County Council/ESB. Ducting will be provided to facilitate future conversion of all parking spaces for electrical charging for on-curtilage and off-curtilage parking spaces.
- 3.2.12. **Item No. 4:** Curve radii have been revised as requested and the swept path analysis updated.
- 3.2.13. **Item No. 5:** An independent Stage 1 Road Safety Audit has been prepared, including the complete feedback form and designer's response.
- 3.2.14. **Item No. 6:** An Outline Construction Management Plan has been prepared. The final plan will be prepared prior to the commencement of the works and submitted to Kildare County Council.

- 3.2.15. **Item No. 7 (a) and (b):** Drawing No. P470-202 shows full details of boundary treatments and landscape proposals along the eastern site boundary and entrance.
- 3.2.16. **Item No. 8 (a), (b) and (c):** Drawing No. P470-202 shows full details of the proposed natural play areas and outdoor fitness equipment.
- 3.2.17. **Item No. 9**
- 3.2.18. **(a):** The floor plan layout of the open plan living rooms has been revised with each having a minimum width of 3.3 m in accordance with the Apartment Design Guidelines.
- 3.2.19. **(b):** The private amenity spaces (5m²) are shown on all floor plan drawings.
- 3.2.20. **(c):** The storerooms are now accessed via the entrance lobby, thereby allowing ease of access for bulky items.
- 3.2.21. **(d):** Bin store enclosures for 3 no. wheelie bins have been provided in close proximity to the front door of each unit and will comprise semi-open solid brick wall structures with wooden gates.
- 3.2.22. **(e):** Car parking spaces to each unit are now clearly identified.
- 3.2.23. **(f):** Surface and foul water locations are now clearly shown on the floor plan and elevation drawings.
- 3.2.24. **(g):** The locations of ventilation grills are now identified on plan and elevation drawings.
- 3.2.25. **Item No. 10**
- 3.2.26. **(a):** Storage space of 6.1 m² is provided to each unit in accordance with the development plan.
- 3.2.27. **(b):** The floor plan layout has been revised and the storage areas are now adjacent to the entrance stairwell.
- 3.2.28. **(c):** Bin storage enclosures for 3 no. wheelie bins have been provided in close proximity to the front door entrance to each unit and will comprise semi-open solid brick wall structures with wooden gates.
- 3.2.29. **(d):** Car parking spaces allocated to each unit are now clearly identified.
- 3.2.30. **(e):** Full details of the proposed balconies, balustrades and handrails are provided.

- 3.2.31. **(f):** Surface and foul water locations are now clearly shown on the floor plan and elevation drawings.
- 3.2.32. **(g):** The locations of ventilation grills are now identified on plan and elevation drawings.
- 3.2.33. **Item No. 11:** Details of the 3-bedroom Part V units have been provided.
- 3.2.34. **Item No. 12:** The Confirmation of Feasibility (COF) dated 20th September 2020 confirms that the Irish Water network has adequate capacity to accommodate the development. Email correspondence from Irish Water dated 14th April 2021 confirms that the COF relates to the foul drainage network at Rockfield Estate (Appendix A).
- 3.2.35. **Item No. 13 (a):** A drawing has been provided showing all proposed SuDS features, including the bioretention areas. The SuDS design has been assessed with SuDS features maximised within the development. The open grated manhole is provided to facilitate flow return to the drainage system post treatment and when infiltration does not occur.
- 3.2.36. **(b):** The area of roads, paths and roofs discharging to SuDS features has been maximised including permeable paving, stone median with StormTech soakaway systems and bioswales.
- 3.2.37. **(c):** A drawing has been provided showing the provision of bio-swales in place of swales. The reasoning for the open grated manhole is set out in item (a) above.
- 3.2.38. **(d):** Consideration was given to converting the detention basin to a permanent pond. Given the future maintenance and potential public health risks, it was decided to retain the detention basin which is compliant with Section 16.5 of the Greater Dublin Regional Code of Practice for Drainage Works.
- 3.2.39. **(e):** A drawing showing the green roof to the proposed crèche has been provided.
- 3.2.40. **(f):** The existing drain traversing the site has now been retained as an open channel. Sections will be culverted under the proposed new roads/streets. The drain provides land drainage for greenfield areas to the east. It is not possible to introduce any flow restriction and it is not proposed to utilise the drain for attenuation storage.
- 3.2.41. **(g):** The provision of rainwater butts can be included at the request of individual purchasers. Their use will have no measurable effect on SuDS. Other SuDS measures included in the overall proposals providing greater benefits to the scheme and biodiversity in general.

- 3.2.42. **(h):** A design risk assessment has been provided (Appendix B).
- 3.2.43. **Item No. 14 (a), (b) and (c):** A detailed ground investigation report was carried out for the site which included 9 no. trial pits, probes to proof rock, 2 no. boreholes and an infiltration test to assess the ground above rock level. Within the various trial pits and probes, rock was noted at generally 2.8 m below ground level which indicates a potentially impermeable/low permeability layer at that depth. Impermeable liners have been included in the design of both attenuation tanks, with no infiltration to the ground assumed.
- 3.2.44. **Item No. 15 (a):** A wayleave agreement has been provided (Appendix C).
- 3.2.45. **(b):** Attenuated surface water runoff will discharge to the 900 mm diameter surface water sewer to the east of the site. This pipe continues to the northwest through Parklands estate and does not cross under the railway line. The discharge from the site is relatively insignificant in terms of the capacity of the downstream network. The applicants are willing to assist Kildare County Council with any reasonable repairs to the existing syphon attributable to a development of this scale.
- 3.2.46. **Item No. 16:** The underground StormTech attenuation facilities provide storage for the 1 in 60 return period event plus 20% climate change. The detention basin provides storage for the 1 in 60 and 1 in 100 return period event plus 20% climate change. The open grate manholes allow for positive and negative flows between the detention basin and StormTech attenuation facilities.
- 3.2.47. **Item No. 17 (a) and (b):** Storage volume calculations have been amended. Given existing ground conditions and the lack of potential infiltration, long-term storage is not proposed as part of the attenuation system for the site. The proposed drainage design limits outflow from the proposed development to Q_{bar} of 2.2 l/s/ha.
- 3.2.48. **Item No. 18:** Drawings showing intersections with foul sewers have been provided.
- 3.2.49. **Item No. 19:** All pipes are appropriately sized.
- 3.2.50. **Item No. 20 (a):** All surface water drainage features/facilities for the site have been designed including for 20% climate change. The site is outside the area where a Site-Specific Flood Risk Assessment (SSFRA) is required to be undertaken, but one has been provided in order to undertake a robust approach to flood risk. Groundwater flooding and climate change have also been assessed and based on the initial ground investigation / borehole information, is not identified as a risk in this instance.

- 3.2.51. **(b):** A 500 mm freeboard between top water levels in the proposed drainage systems and finished floor levels has been retained.
- 3.2.52. **(c):** The capacity of the existing drain was checked against the runoff.
- 3.2.53. **(d):** The SSFRA includes a detailed analysis of pluvial flood risk based on accurate topographic surveys for the site and surrounding area and is considered far more robust than the OPW Preliminary Flood Risk Assessment flood mapping for the site.
- 3.2.54. **(e):** The pre-existing and post-development flow routes are presented in the SSFRA. Overland flow is directed towards open space and SuDS features and away from buildings.
- 3.2.55. **(f):** Groundwater flood risk has been assessed in the SSFRA.
- 3.2.56. **(g):** The residual pluvial flood risk associated with drainage system failure and mitigation has been described in the SSFRA. Design event exceedance is demonstrated on the Overland Flow Map. For storms greater than the 1% AEP pluvial event, overland flow will be directed towards open space and SuDS features and away from buildings.
- 3.2.57. **Item No. 21:** Archaeological testing was undertaken on site and confirms that there are no known archaeological monuments within the red line boundary. The remains of Rockfield House were found, but it appears that there is little left in-situ apart from the foundation level of the main building and very fragmented remains of the interior floors and external cobbled yard to the north of the house. There was no indication that any of the farm buildings survive in-tact within the test trenches. Monitoring of any ground reduction in the greenfield site is recommended.
- 3.2.58. **Item No. 22:** A response to the third-party submissions has been provided.
- 3.2.59. Following an assessment of the applicant's Response to the Request for Further Information, the Planning Officer noted that the Water Services Department had recommended that Clarification of Further Information was required and a notification to that effect issued on 7th October 2021 (Water Services Report of 23rd September 2021 refers – see section 3.2.64 of this report for summary of requested information).
- 3.2.60. The applicant submitted a Response to the Request for Clarification of Further Information on 10th December 2021 (engineering drawings prepared by DBFL Consulting Engineers refers). Following an assessment of the submitted information,

the Planning Officer recommended that planning permission be granted for the proposed development.

3.2.61. **Other Technical Reports**

3.2.62. **Environment Section (12th March 2021):** No objection to the proposed development subject to conditions.

3.2.63. **Water Services (15th March 2021, 23rd September 2021 and 7th January 2022):** Initial recommendation that Further Information be requested in relation to: (1) the proposed SuDS strategy, (2) site investigations to accurately determine the feasibility of infiltration on the subject site, (3) the proposed surface water outfall, (4) the hydraulic relationship between the proposed underground attenuation storage tank and the detention basin, (5) the discrepancies in the total impermeable areas used in the interception storage volume calculations and compliance with GDSDS design criterion no. 4 – long term storage, (6) revised longitudinal section drawings showing intersections with foul sewers can be accommodated with adequate separation, (7) appropriately sized pipes downstream of flow control devices, (8) revised SSFRA.

3.2.64. Following the applicant's Further Information submission, it was recommended that **Clarification of Further Information** be requested in relation to: (1) the proposed SuDS strategy, (2) the site investigations, (3) the proposed surface water outfall, (4) the response to RFI item no. 16 shall be reviewed, and where retained, the basin volume should be maximised at the expense of the underground tank volume, (5) the provided interception and treatment storage volumes and compliance with GDSDS Drainage Design Criterion #4 shall be revised taking into account the revised SuDS and drainage strategy as per items 1 and 2 above, (6) revised longitudinal section drawings showing all intersections with foul sewers can be accommodated with adequate separation, (7) the applicant shall review the proposed 300 mm pipes downstream of both flow control manholes, (8) revised SSFRA.

3.2.65. Following the applicant's Response to the Request for Clarification of Further Information, no objections arose to the proposed development subject to conditions.

3.2.66. **Housing Section (18th March 2021 and 24th September 2021):** Initial report noted that the development is subject to Part V requirements, with revised drawings requested by way of further information in relation to: (1) the design of unit nos. 83 and 84, (2) the design of unit nos. 69,70 and 71, and (3) the inclusion of a 3-bedroom option in the mix of Part V units proposed.

- 3.2.67. Following the applicant's Further Information submission, no objections arose to the proposed development subject to condition.
- 3.2.68. **Heritage Officer (15th March 2021):** No objection to the proposed development subject to conditions.
- 3.2.69. **National Roads Office (19th March 2021):** No objection to the proposed development subject to conditions.
- 3.2.70. **Fire Service (25th March 2021):** No objection to the proposed development subject to conditions.
- 3.2.71. **Roads, Transportation & Public Safety Dept. (30th March 2021 and 4th October 2021):** Initial recommendation that Further Information be requested in relation to: (1) the submission of a drawing showing proposed vehicle, pedestrian and cycling access to the lands to the north of this development (O'Toole development), (2) revised internal radii curves to between 4-6 m and a swept path analysis for the entire layout, including the proposed entrance, (3) how the proposed development will make provision for the charging of electric vehicles, (4) the applicant shall provide an independent Road Safety Audit for the proposed development, with all recommendations to be incorporated into the proposed design, (5) concerns about the construction of the development during school opening and closing times – detailed Construction Management Plan to be submitted.
- 3.2.72. Following the applicant's Further Information submission, no objections arose to the proposed development subject to conditions.
- 3.2.73. **Parks Department (26th March 2021):** Recommended that Further Information be requested in relation to: (1) a proposed boundary treatments plan to provide comprehensive details of the boundary treatments and entrance proposals, (2) a revised landscape plan which provides details of additional natural play items incorporated into the natural play spaces of the proposed development, (3) outdoor fitness equipment may be provided in the open space areas.

3.3. **Prescribed Bodies**

- 3.3.1. **Irish Water (16th March 2021):** No objection to the proposed development subject to conditions.

3.3.2. **Dept. of Tourism, Culture, Arts, Gaeltacht, Sport and Media (16th March 2021):** Recommends that the undertaking of pre-development archaeological testing be requested by way of further information.

3.3.3. **Dept. of Housing, Local Government and Heritage (29th September 2021):** No objection to the proposed development subject to condition.

3.4. **Third Party Observations**

3.4.1. A total of 18 no. third-party observations was made on the application by: (1) Rockfield Residents' Association, c/o Miriam O'Keeffe-Ahern, 8 Rockfield Manor, Maynooth, (2) Brendan Grant, 44 Rockfield Court, Maynooth, (3) Andrew Cully, Rockfield Park, Maynooth, (4) Michael Bristow, 43 Rockfield Court, Maynooth, (5) Farry Town Planning Ltd. on behalf of Kevin and Anita Shortall, 45 Rockfield Court, Maynooth, (6) Karen Winstanley, 34 Rockfield Park, Maynooth, (7) Wesley and Ciara O'Connor, 7 Rockfield Green, Maynooth, (8) John and Linda O'Connor, 28 Rockfield Park, Maynooth, (9) Gaelscoil Uí Fhiaich Parents Association, Celbridge Road, Maynooth, (10) Ann and Kevin Wong, 46 Rockfield Court, Maynooth, (11) Ciaran Hurley, 22 Rockfield Park, Maynooth, (12) Sustainability 2050, 10 The Cloisters, Kells, Co. Meath, (13) Ken Wilson, 17 Rockfield Park, Maynooth, (14) Dr. Patrick Mitchel, 21 Rockfield Park, Maynooth, (15) David and Ann Rooney, 13 Rockfield Green, Maynooth, Co. Kildare, (16) Mark Farrell and Margaret Hagan, Rockfield Close, Maynooth, (17) Brian O'Dea, 36 Rockfield Park, Maynooth, Co. Kildare, (18) Parent Teacher Association, Maynooth Educate Together National School, Celbridge Road, Maynooth.

3.4.2. Representations were also made on the application by: (1) Cllr. Peter Hamilton, (2) Cllr. Tim Durkan, (3) Cllr. Naoise Ó Cearúil.

3.4.3. The issues which are raised can be summarised as follows: (1) proposed permeability link to Rockfield Park would materially contravene the provisions of the Maynooth LAP, (2) existing footpaths in Rockfield Park do not have the capacity to accommodate the additional throughput of pedestrians and cyclists which would arise on foot of this link, (3) no passive supervision of proposed permeability link, (4) no provision for maintenance and upkeep of proposed permeability link, (5) overspill car parking in Rockfield Park, (6) proposed link would impact bio-diversity garden at Rockfield Park, (7) capacity of existing sewer in Rockfield Park to accommodate the proposed development is unclear, (8) traffic and noise impacts arising from proposed

crèche location, (9) boundary wall heights must meet development plan standards, (10) balconies of unit nos. 85-92 and types A2, B1 and B2 will overlook rear gardens in Rockfield Court and will result in noise and visual impacts, (11) overshadowing of rear gardens of Rockfield Court from proposed 3-storey dwellings, (12) traffic impacts, (13) new footpath and cycle track required on both sides of Celbridge Road – unsafe conditions for school children, (14) vehicular access should be from the MERR and not Celbridge Road, (15) proposed buildings should be at least minimum legal distance from existing boundaries, (16) building height along existing boundaries should not exceed 1 – 2 storeys with 3-storeys excessive, (17) separation distance of 35 m should be provided to existing dwellings, (18) development premature pending the undertaking of an EIA of the MERR and the opening of this route, (19) subject site is unzoned, (20) LAP has expired, (21) development not needed to fulfil housing output targets for Maynooth, (22) residential development should be within existing built-up areas, (23) site is prone to flooding, (24) proposed wastewater connection on land outside of the applicant's control, (25) inadequate public open space, (26) retention of existing site trees and hedgerows should be maximised, (27) climate change, (28) energy and resource efficiency, (29) footpath on Celbridge Road should extend to the boundary of the Educate Together Primary School, (30) adverse impacts on human health and environment (31) the R405 does not have the capacity to support construction traffic, (32) existing heavy traffic levels on Celbridge Road.

4.0 Planning History

- 4.1. **Planning Authority Reg. Ref. 21/155; ABP Ref. 312671-22:** Planning permission sought for Phase 1 of a residential masterplan for 105 no. units in total on a wider landholding of c. 3.26 ha under the applicant's control. The proposed development comprises 58 no. dwellings in total, new vehicular, cyclist and pedestrian access from Celbridge Road; a new pedestrian footpath and cycle track along the main site frontage to Celbridge Road; the provision of future access connection points to adjacent lands to the northeast (phase 2), north west and the southeast; works to facilitate connections to existing services infrastructure to the northeast via Phase 2 lands. The development will also comprise internal roads, footpaths, cycle tracks, public open spaces, and bicycle store areas; parking at surface level (117 no. total spaces for car parking and 30 no. bicycle spaces); drainage attenuation; all hard and

soft landscaping; boundary treatments; removal of the existing hedgerows adjacent to Celbridge Road; changes in levels; and all ancillary site development works and site services provision (including wayleave to the northeast) above and below ground.

- 4.2. Kildare County Council issued Notification of the Decision to Grant Permission for the proposed development on 14th January 2022.
- 4.3. This application site adjoins the current appeal site to the south and forms Phase 1 of a combined development of 105 no. residential units and a crèche facility. The Planning Authority's decision on this application is subject to concurrent first and third-party appeals before the Board.
- 4.4. **Planning Authority Reg. Ref. 12/632:** Planning permission granted on 10th December 2012 for revised field levels over a site area of 0.727 ha using imported excavated soil material from Castlepark, Dunboyne Road, Maynooth, Co. Kildare. The soil fill volume proposed is 1,918 cubic metres and the proposed new site / field level shall be 62.50 OD, including grass seeding.

5.0 Policy and Context

5.1. Kildare County Development Plan 2023-2029

- 5.1.1. While the Kildare County Development Plan 2017-2023 was in force at the time this planning application was lodged, the 2023-2029 county development plan has been adopted in the interim and is the relevant local policy document for the purposes of adjudicating this appeal case.

5.2. Core Strategy and Settlement Strategy

- 5.2.1. Maynooth, together with the town of Naas, is designated as a "Key Town" at the top of the settlement hierarchy. The preferred development strategy, inter alia, will focus on achieving critical mass in the Metropolitan Area Strategic Plan (MASP) area (Maynooth, Leixlip, Celbridge and Kilcock) and in the key towns of Naas and Maynooth.

- 5.2.2. Table 2.8 (core strategy) identifies a housing unit target of 997 for Maynooth to the end of Q4 2028, with a target residential density of 35-50 units per hectare. No additional residential zoned land requirement is identified to accommodate this housing target. Footnote no. 10 to this table identifies an additional population allocation for Maynooth of up to 10,000 persons from the redistribution of NPF City and Suburbs allocation, with the precise figure to be determined at LAP stage.
- 5.2.3. **Policy CS O1:** Ensure that the future growth and spatial development of County Kildare is in accordance with the population and housing allocations contained in the Core Strategy which aligns with the regional growth strategy as set out in the National Planning Framework and Regional Spatial and Economic Strategy for the Eastern and Midland Region and further specified in the ‘Housing Supply Target Methodology for Development Planning’.
- 5.2.4. **Policy CS O4:** Ensure that sufficient zoned and adequately serviced lands are available to meet the planned population and housing growth of settlements throughout the county in line with the Core Strategy and the Settlement Hierarchy.
- 5.3. **Housing**
- 5.3.1. **Policy HO P5:** Promote residential densities appropriate to its location and surrounding context.
- 5.3.2. **Policy HO P7:** Encourage the establishment of sustainable residential communities by ensuring a wide variety of housing typologies and tenures is provided throughout the county.
- 5.4. **Sustainable Mobility and Transport**
- 5.4.1. The MERR is identified as a priority road project in table 5.4 of the plan.
- 5.5. **Development Management**
- 5.5.1. The development management standards for residential development are set out in Chapter 15 of the development plan.
- 5.6. **Maynooth Local Area Plan 2013-2019 incorporating amendment no. 1**
- 5.7. **Land Use Zoning**
- 5.7.1. The site is subject to land use zoning “C” (new residential) under the 2013-2019 LAP which has the objective “to provide for new residential areas”. This zoning provides for new residential development areas and for associated local shopping and other

services incidental to new residential development, including inter alia, crèche facilities.

- 5.7.2. Table 11 of the plan (additional new residential zoned sites) identifies that the lands at “Railpark South-East Quadrant & Blacklion”, which includes the subject site, have an area of 32.5 ha and a capacity to deliver 720 units based on a density of 35 units/ha. The development of these lands will be facilitated by the delivery of the MERR. Section 7.1.1 of the plan states that the lands in the south-eastern quadrant provide for a sequential approach to the zoning of lands for new residential development in Maynooth whereby lands contiguous to existing zoned development lands are prioritised.

5.8. Roads

- 5.8.1. The Roads Objective Map (map ref. no. 1) identifies an indicative alignment for the MERR which generally extends in a north-east/south-west direction to the east of the application site, beyond Maynooth Educate Together National School. A new cycle / pedestrian route is also delineated to the front of the subject site extending along Celbridge Road.

5.9. Key Development Area: Railpark

- 5.9.1. Guidance in relation to the Railpark Key Development Area is set out in Section 7.1.4 of the LAP.
- The vision for these lands is a new residential neighbourhood with a mixture of tenures and housing unit sizes and typologies.
 - The development of the MERR will unlock the potential for the residential development of these lands.
 - There shall be no vehicular routes into the estates of Parklands or Rockfield to the west.
 - Connectivity shall be provided to the canal greenway.
 - To ensure residential amenity is not reduced, there shall be no pedestrian or cycle connectivity at either Rockfield Park, Parklands Lodge or Parklands Lawn to the west.

- Topographical features such as level changes and mature hedgerows should be incorporated into the landscaping of the site.
- Where surface water attenuation is required, these features should be designed to integrate naturally into the landscape and used as amenity features within open space or parks.
- Appropriate increases in scale and density will be considered but should respect the form of buildings and landscape around the site's edges and the amenity enjoyed by neighbouring users.
- Innovative architecture will be supported.

5.10. **National Planning Framework (NPF)**

5.10.1. The NPF is the Government's high-level strategic plan for shaping the future growth and development of the country to 2040. A number of key National Policy Objectives (NPOs) are relevant to this appeal case as follows:

5.10.2. **NPO 1B: Eastern and Midland Region** - population growth of 490,000 – 540,000 persons.

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

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

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

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

- 5.11.1. The RSES supports the implementation of the NPF by providing a long-term strategic planning and economic framework for the region up to 2031.
- 5.11.2. **Regional Policy Objective 3.1:** Key stakeholders, including local authorities in the Region shall, through their policies and objectives including development plans, commit to the delivery of the Growth Strategy as detailed in the RSES.
- The growth strategy for the Region includes, inter alia, delivering the sustainable growth of the Metropolitan Area through the Dublin Metropolitan Area Strategic Plan (MASP) and embedding a network of Key Towns through the Region to deliver sustainable regional development.
- 5.11.3. **Regional Policy Objective 3.2:** Local authorities, in their core strategies shall set out measures to achieve compact urban development targets of at least 50% of all new homes within or contiguous to the built-up area of Dublin city and suburbs and a target of at least 30% for other urban areas.
- 5.11.4. Maynooth is identified as a “Key Town” in the settlement strategy for the region, with such towns described as “large economically active service and/or county towns that provide employment for their surrounding areas and with high quality transport links and the capacity to act as growth drivers to complement the Regional Growth Centres”.
- 5.11.5. Section 4.6 of the Strategy notes that Maynooth has seen significant population growth along the Moyglare, Dunboyne and Dublin Roads with further land designated for residential development to the south and east of the town at Greenfield and Railpark. A new sewer connection for the Railpark lands, in association with the relief road (over the railway line), will unlock significant development potential, along with the development of an Outer Orbital Route connecting the east of the town and lands within the Maynooth environs of Meath.
- 5.11.6. **Regional Policy Objective 4.33:** Support the continued development of Maynooth, co-ordinated with the delivery of strategic infrastructure including pedestrian and cycle linkages within the town and to the Royal Canal Greenway, DART expansion and road linkages forming part of the Maynooth Outer Orbital Route in a manner which supports future development and population growth and builds on synergies with Maynooth University promoting a knowledge-based economy.
- 5.12. **Dublin Metropolitan Area Strategic Plan (MASP)**

- 5.12.1. This Plan provides a 12 – 20-year strategic planning and investment framework for the Dublin Metropolitan Area. The development vision for the Metropolitan Area is focussed on the consolidation of Dublin City and suburbs, the Key Towns of Swords, Maynooth and Bray and planned development of strategic development areas in Donabate, Dunboyne, Leixlip and Greystones.
- 5.12.2. Table 5.1 identifies strategic development areas and corridors, capacity infrastructure and phasing for the area, including, inter alia, significant strategic residential capacity at Railpark lands in Maynooth.
- 5.12.3. **Regional Policy Objective 5.5:** Future residential development supporting the right housing and tenure mix within the Dublin Metropolitan Area shall follow a clear sequential approach, with a primary focus on the consolidation of Dublin and suburbs, and the development of Key Metropolitan Towns, as set out in the Metropolitan Area Strategic Plan (MASP) and in line with the overall Settlement Strategy for the RSES. Identification of suitable residential development sites shall be supported by a quality site selection process that addresses environmental concerns.
- 5.12.4. The transfer of 20% of the targeted growth in Dublin City to other settlements in the MASP shall only apply to Bray, Maynooth and Swords and only if they can demonstrate compact growth on high capacity planned or existing public transport corridors.

5.13. **Section 28 Ministerial Guidelines**

- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, (2022)
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (2009) and Circular Letter NRUP 02/2021
- Design Manual for Urban Roads and Streets (2019)
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009)
- Childcare Facilities – Guidelines for Planning Authorities (2001)

5.14. Natural Heritage Designations

- 5.14.1. The closest Natura 2000 site to the application site is Rye Water Valley/Cartron SAC (site code: 001398) which is located approx. 2 km to the north. Ballynafagh Bog SAC (site code: 000391) is located approx. 15 km to the south-west of the subject site.

5.15. EIA Screening

- 5.15.1. The planning application documentation includes an EIA Screening Assessment in Section 8.0 of the accompanying Planning Report prepared by Tom Phillips + Associates. This assessment concludes that the undertaking of a mandatory EIA is not required in this instance and that a sub-threshold EIA is not warranted having regard to the small scale, nature and location of the proposed development. Kildare County Council's Planning Officer also concluded that the undertaking of an EIA was not required in this instance.
- 5.15.2. 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.)
- 5.15.3. It is proposed to construct 47 no. dwelling houses and a crèche on the subject site (1.99 ha), which forms Phase 2 of a residential masterplan for 105 no. units on a larger 3.26 ha landholding under the applicant's control. The total number of units proposed in this instance is significantly below the 500-unit threshold noted above. The combined application sites are well below the applicable threshold in this instance of 10 ha.
- 5.15.4. The introduction of these residential schemes would have no adverse impact in environmental terms on surrounding land uses. The site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not like to have a significant effect on any European site. 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 Kildare County Council, upon which its effects would be marginal.

5.15.5. 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.

5.15.6. For the avoidance of doubt, I consider that the appellants' comments regarding the requirement of the Planning Authority to undertake an EIA of the proposed cycleway in this area and the new road connection between Celbridge Road and Leixlip Road are not relevant to the adjudication of this appeal case.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. First and third-party appeals have been lodged with the Board in this instance. A first-party appeal has been lodged by Tom Phillips + Associates on behalf of the applicant in relation to condition nos. 3 (b), 13 and 33 of the Planning Authority's Notification of the Decision to Grant Permission for the proposed development. Third-party appeals against the Planning Authority's decision have been lodged by Farry Town Planning Ltd. on behalf of Kevin and Anita Shortall of No. 45 Rockfield Court, Maynooth, Co. Kildare and by Brendan Grant, No. 44 Rockfield Court, Maynooth, Co. Kildare.

6.1.2. The grounds of the **first-party appeal** can be summarised as follows:

- The applicant has very significant concerns in relation to condition no. 3 (b) given the absence of certainty surrounding the timing of the completion of the MERR, together with the fact that the subject road is located on third party lands in multiple ownerships.
- The completion of this road is the key parameter governing the occupation and commercial viability of the residential units.

- The linking of any aspect of a permission to future development on third party lands outside of the applicant's legal control is unreasonable and highly questionable in statutory planning terms.
- This condition does not comply with the basic criteria for planning conditions as set out in the Development Management Guidelines for Planning Authorities, 2007.
- The applicant's TTA confirms that the overall development of 105 no. units (Phases 1 and 2) will not have a significant impact on the local road network and generates a relatively minor traffic impact.
- Given the advanced nature of the MERR, which is planning approved and funded, the restrictions on residential occupancy are not warranted at this stage and this condition should be omitted if the Board decides to grant planning permission.
- The requirements of condition no. 13 to provide a 2 m wide footpath and 2 m wide cycle track on third party lands and to provide letters of consent from the relevant third-party landowners is wholly unreasonable and contrary to the basic criteria for planning conditions as set out in the Development Management Guidelines for Planning Authorities, 2007. The attachment of this form of condition is wholly ultra vires.
- This condition makes no logical sense in the context of condition no. 3 (b) where enhanced cycling and pedestrian infrastructure is required to serve a development that may remain unoccupied for an indeterminate time period.
- The Board is requested to review condition no. 13 and amend the wording accordingly, removing any requirement to secure letters of consent from third parties or carry out works on third party lands.
- In relation to condition no. 33, the applicant has no objection in principle to improving the junction of Celbridge Road with Rockfield Park by way of the provision of a toucan crossing. However, it is wholly unsustainable for this condition to remain attached to this permission unless condition no. 3 (b) is amended as requested.

6.1.3. The appeal submission includes a report which addresses traffic relates items as prepared by DBFL Consulting Engineers. The contents of this report have been reviewed and considered in the adjudication of this appeal case.

6.1.4. The grounds of the third-party appeal from Farry Town Planning Ltd. on behalf of **Kevin and Anita Shortall** can be summarised as follows:

- The site was designated for new residential purposes under the Maynooth Local Area Plan 2013-2019, which ceased to have effect from the year 2019. It would be difficult for the Board to conclude that a statutory publication with a limited lifespan of this nature still has sufficient force of law to justify granting planning permission.
- Given that the former zoning of this land for new residential purposes has now withered without being replaced by the Council and having regard to S.10(8) of the 2000 Act (as amended), it is not open to the Board to lawfully permit this proposal.
- Project splitting – the submission of 2 no. separate planning applications in this instance (Phase 1 and Phase 2) seeks to circumvent the requirements of the Planning and Development (Housing) and Residential Tenancies Act, 2016.
- The applicant's AA screening report fails to acknowledge the nexus between this large-scale housing development and the MERR, in relation to which the Planning Authority has already concluded that an EIA or AA or both is needed (Planning Reg. Ref. 13/89 refers).
- The screening submission fails to consider the cumulative effect of the residential developments which abut the subject site and the impact of the proposed new dwellings.
- The proposed development includes a mixed-use surface for cyclists and pedestrians beside Celbridge Road and this feature would accord with the Council's cycleway proposal for this area. As the proposed cycleway forms part of an overall development which requires EIA, the local authority must carry out an environmental assessment in the context of the whole proposal rather than just part thereof.

- The development would be premature pending the completion of an environmental impact assessment of the new road connection between the Celbridge Road and the Leixlip Road.
- The granting of permission on the subject site could constrain the route design process for the MERR.
- The development of the site should not be completed in advance of the ring road. Amendment no. 1 of the Local Area Plan states that new development in this area should be accessed directly off this new link road.
- Condition no. 3 arguably commits the Local Authority to a project which it may not be able to approve under AA rules. The closing line of this condition provides the Planning Authority with flexibility to depart from this stipulation, which runs counter to the principle in *Dooner v. Longford County Council*.
- The development of the site for residential purposes is not needed to fulfil the housing output targets for the town. The residential unit allocation under the 2013 LAP (3,542) was revised downward to 657 dwellings under Variation No. 1 of the County Development Plan.
- The Board should consider whether there is excess provision of undeveloped housing land relative to the core strategy and whether the site should be developed in preference to other housing land.
- With reference to *Heather Hill Management Company v. An Bord Pleanála*, the Board must satisfy itself that a grant of permission for the proposal would accord in mathematical terms with the Core Strategy.
- The proposed development would result in an overprovision of housing relative to the targets set out in Variation No. 1 of the County Development Plan.
- The NPF places much greater emphasis on development within existing built-up areas, rather than on new residential land on the fringes of towns and villages. This development is premature pending the adoption of an updated planning instrument for Maynooth.
- The development density is too low given that the site is unencumbered in terms of physical limitations and its proximity to public transport connections.

A development density of 60-70 units per hectare would represent the sustainable use of this land.

- On-site car parking provision (212 bays) is excessive and would likely promote unsustainable travel patterns.
- Proposed outdoor amenity areas are inadequate.
- Visual intrusion and loss of amenity to appellants' home. Excessive height of house types A1-A4 (8 – 8.9 m) to rear of appellants' property and grossly inadequate separation distances (22 m).
- Proposed crèche facility should be located beside the site entrance. The proposed open space and car parking serving the facility are inadequate. Noise impacts to existing residents in the Rockfield estate.
- The site is located on land which is earmarked in the Local Area Plan as being prone to flooding. The site could be used for recreational open space rather than new housing.

6.1.5. The grounds of the third-party appeal from **Brendan Grant** can be summarised as follows:

- The development should link in with the MERR. This issue was not addressed in the applicant's Response to the Request for Further Information.
- 3-storey houses continue to be provided as illustrated on the Contiguous Elevation Drawings provided with the Response to the Request for Further Information (Section OO), with continued overlooking of Rockfield Court.
- The residential zoning of the land expired in 2019.

6.2. First Party Response

6.2.1. Tom Phillips + Associates submitted a first party response to the appeal of Kevin and Anita Shortall on 10th March 2022. For the avoidance of doubt, I note that this submission includes a response to a further third-party appeal which was subsequently withdrawn. As such, the applicant's response to the third-party appeal of Kevin and Anita Shortall only is summarised below:

- The Kildare County Development Plan 2017-2023 is the statutory plan governing development in Maynooth and contains detailed planning guidance in relation to residential development, the town's status in the settlement and core strategies and the allocation of growth and housing provision. There is no suggestion that existing residential land has been dezoned since 2019 by way of amendment or other resolution of the Council such that the site now comprises unzoned land.
- The Maynooth LAP 2013-2019 remains the key planning guidance document in respect of the detailed assessment of development in Maynooth.
- The Planning Authority and An Bord Pleanála have granted permission for residential developments in Maynooth since 2019. There is clear and adequate statutory development plan basis in place to enable the Board to conduct a full and robust assessment of the appropriateness or otherwise of residential development on this site as has occurred throughout Maynooth since 2019.
- There is no restriction in planning terms in relation to the phased lodgement of a number of planning applications for residential development on a single landholding, even when the total number exceeds 100 no. dwellings. No applicant is mandated by law to submit applications through the SHD process.
- All relevant planning assessments were completed on a cumulative site-wide basis in respect of the combined development of the lands (105 no. units) so there has been no attempt to misrepresent any of the potential impacts of the proposed development. There is no question of any form of project splitting arising in this instance.
- The cumulative development is significantly below the mandatory thresholds for EIA for residential development and the application was accompanied by a EIA screening statement which concluded that the proposed development would not give rise to any significant environmental impacts and did not require the preparation of an EIAR. This conclusion was accepted by the competent authority.
- This residential development is facilitating the part provision of an LAP objective (cycleway) that adjoins the site. The proposed residential

development is not reliant in any way on the provision of the proposed cycleway to be successfully implemented. To suggest that any future requirement to prepare an EIAR for the overall cycleway would in some way preclude permission being granted for this residential development is without substance.

- The contention that the applicant's AA screening report is flawed on the basis that it did not have due regard to the proposed MERR is without substance. The proposed development is not dependent on the construction and operation of the MERR to work safely in traffic terms, nor will the proposed development give rise to any significant impact on the existing road network.
- The appellants' agent is unaware that the MERR has been approved under Part VIII of the Act and it has already been determined that a Stage 2 AA or an EIA in relation to same is not required. Funding of €14.5 m has been made available for the project from the LIHAF, some of which has already been drawn down.
- Approx. 377 no. residential units have been permitted in Maynooth since 2020, so the subject development remains well within the housing target identified for the town under Variation No. 1 of the county development plan (657 no. units from 2020 to 2023).
- Given Maynooth's designation as a "key town" at the top of the county settlement hierarchy and the site's proximity to high-quality public transport, it is very unlikely that these lands will be dezoned. The lands form part of the Railpark Key Development Area as identified in the Maynooth LAP.
- The site area of the overall landholding is 3.26 ha with a common area to the Phase 1 and 2 applications comprising a central area of public open space. The overall development density is 36 units/ha based on a net site area of 2.91 ha which omits the site's spine road and the proposed cycleway and footpath on the site's frontage. The Maynooth LAP states that densities of 30-50 units / ha are appropriate on suburban sites.
- While the site is in reasonable proximity to Maynooth train station it is also located on the edge of the town boundary in a quasi-rural environment. The proposed development seeks to provide a mix of unit types appropriate to its

location and context whilst also delivering a higher density form of development.

- The proposed units will enjoy generous and high-quality private open space whilst the proposed public open space is also generous, well designed, well overlooked and located in 3 no. principal zones across the lands to ensure that all parts of the overall development will have convenient access to amenity areas.
- The public open space close to the entrance is of regular configuration, is well set-back from the Celbridge Road and well overlooked. A new hedgerow and extensive tree planting are also proposed along the Celbridge Road boundary, which will substantially screen the site from the road. This area will be capable of full use for amenity purposes.
- The proposed car parking provision is in line with development plan requirements and was deemed satisfactory by the Planning Authority.
- The proposed development has been specifically designed to ensure there will be no adverse impacts on the existing residential amenities of adjoining houses. The units adjoining Rockfield Park are two-storeys in height which reflects the height of the existing dwellings.
- It is a long-established principle in Irish planning and design practice that a 22 m separation distance between the 1st floors of back-to-back 2-storey dwellings is acceptable to ensure no overlooking or privacy impacts arise and this standard has been achieved.
- The proposed crèche is appropriately located in terms of access and traffic circulation. The proposed drop-off arrangements and staff car parking provision were considered acceptable by the Council's Transportation Department.
- The crèche has the benefit of outdoor space adjoining the facility and is proximate to a significant area of public open space that can be readily used by the crèche under supervision. A 1.8 m rear boundary wall, together with the separation distances arising to the nearest properties, will significantly mitigate any potential noise impacts arising.

- The subject lands were zoned for residential purposes with the benefit of the development plan flooding justification test as required in the Flood Risk Management Guidelines. Had the lands not passed this test, they would not have been zoned for residential use or deemed suitable to accommodate what is considered a highly vulnerable use.
- As confirmed in the applicant's SSFRA and the KCC strategic flood risk assessment, the lands are designated as flood zone C, within which "highly vulnerable development", including residential, is "appropriate" and no development management justification test is required.

6.2.2. Tom Phillips + Associates submitted a further response on 14th March 2022 in relation to the appeal submission of Brendan Grant which can be summarised as follows:

- The overall development of the landholding (105 no. units) will not give rise to any significant traffic impacts on the local road network, as confirmed in the TTA submitted with the planning application.
- The development of these lands is not dependent on the MERR being in place in order to avoid significant additional traffic congestion issues, nor is it required to facilitate access to the proposal.
- The development is designed to ensure full integration with the MERR once constructed.
- The MERR, which is 20 years in place as a planning objective in the Maynooth area, is now planning approved and has designated LIHAF funding. It is hoped that the construction of the road and the subject development might be progressed in parallel in the coming years.
- The scheme as permitted will not give rise to any overlooking impacts on Rockfield Court, with all the proposed units backing onto the existing development being 2-storeys in height.
- Section OO referenced by the appellant relates to housing units on the northernmost section of the site which do not back onto Rockfield Court. There will be no opportunity for overlooking of Rockfield Court from these units given their orientation and the separation distances arising.

- The appellant has provided no grounds to support their contention that the lands no longer remain zoned for residential purposes. This comment should be disregarded by the Board as it does not constitute a valid ground of appeal.

6.3. Planning Authority Response

- 6.3.1. A response to the appeal was received from Kildare County Council on 11th March 2022. The Planning Authority has no further comments to make.

6.4. Observations

- 6.4.1. Observations were lodged on the appeal by: (1) Rockfield Residents' Association, c/o 8 Rockfield Manor, Maynooth, and (2) Gaelscoil Uí Fhiaich Parents Association, Celbridge Road, Maynooth.
- 6.4.2. The issues which are raised can be summarised as follows: (1) condition no. 3(b) should be retained as the MERR will provide essential infrastructure to realise the potential of zoned lands in the south-east quadrant of the town, will improve access for cars, cyclists and pedestrians, will relieve traffic congestion and is supported by national, regional and local planning policy documents, (2) condition nos. 13 and 33 should be retained so that the safety of the Celbridge Road can be improved for all users, particularly school-going children.

7.0 Assessment

- 7.1. First and third-party appeals have been lodged in this instance as summarised in section 6.0 of this report. The first party appeal relates to a number of conditions attached to the Planning Authority's decision only, while the third-party appeals relate to the substance of the decision to grant permission for the proposed development. In my opinion, it is appropriate to consider this application de novo.
- 7.2. Having considered the planning application documentation, the appeal submissions, and the observations on the appeal, I am satisfied that the main issues arising for consideration in this case include:
- Land Use Zoning / Principle of the Development
 - Project Splitting

- Development Density
- Impact on Residential Amenities
- Quality of Public Open Space
- Condition Nos. 3(b), 13 and 33
- Overall Standard of Development
- Appropriate Assessment

7.3. Each of these issues is addressed in turn below.

7.4. Land Use Zoning / Principle of the Development

- 7.4.1. Farry Town Planning Ltd. on behalf of Kevin and Anita Shortall contend that the residential zoning of the subject site has withered given that the Maynooth LAP expired in 2019. It is submitted that it is not open to the Board to lawfully permit the proposed development. The appellants' agent also contends that the proposed development would result in an overprovision of housing relative to the target set out in Variation No. 1 of the County Development Plan and that the Board should consider whether the subject site should be developed in preference to other housing land.
- 7.4.2. The applicant's agent submits that there is no suggestion that existing residential land has been dezoned since 2019 by amendment or other resolution of the Council such that the site now comprises unzoned land. It is also submitted that the LAP remains the key planning guidance document in respect of the detailed assessment of development in the town. It is highlighted that both Kildare County Council and An Bord Pleanála have granted permission for residential schemes in Maynooth since 2019. The applicant's agent identifies that approx. 377 no. residential units have been permitted in Maynooth since 2020, and as such, the subject development remains within the housing target identified under variation no. 1 of the county development plan (657 no. units from 2020 to 2023).
- 7.4.3. In considering the current planning policy context as it pertains to the subject site, I note that the NPF provides for population growth of 490,000 – 540,000 persons for the Eastern and Midlands Region to the year 2040 (NPO 1B). NPO 68 enables 20% of the phased population growth targeted in the principal city and suburban area

(235,000 – 290,000 people), to be accommodated in the wider metropolitan area, in addition to the growth identified for this area.

- 7.4.4. The Dublin Metropolitan Area Strategic Plan (MASP) states that the transfer of this targeted growth will only apply to the settlements of Bray, Maynooth and Swords and only if they can demonstrate compact growth on high capacity planned or existing public transport corridors. Table 5.1 of the MASP identifies the Railpark lands as having significant strategic residential capacity. Section 4.6 of the RSES notes that a new sewer connection for the Railpark lands, in association with a new relief road over the railway line, will unlock significant development potential, along with the development of the Outer Orbital Route.
- 7.4.5. The Kildare County Development Plan 2023-2029 has been adopted since this planning application was lodged. Maynooth, together with the town of Naas, is designated as a Key Town at the top of the settlement hierarchy. Table 2.8 of the plan identifies a housing unit target of 997 for Maynooth to the end of Q4 2028. Footnote no. 10 to this table identifies an additional population allocation of up to 10,000 persons for Maynooth from the redistribution of NPF City and Suburbs allocation, with the precise allocation to be determined at LAP stage. This table also identifies the residential zoned land requirement to accommodate future housing growth, with no additional land identified for Maynooth. Based on the foregoing, it is reasonable to conclude that sufficient zoned land has already been identified within the town to accommodate future population and housing growth.
- 7.4.6. Thus, while I acknowledge the timeline of the Maynooth LAP 2013-2019, I consider that the NPF, RSES and county development plan continue to reinforce the role of Maynooth as a Key Town at the top of the settlement hierarchy in Kildare, with the lands at Railpark continuing to be identified as having capacity to accommodate future residential development in the town. Given that the aforementioned LAP is the most recent local planning policy document pertaining to the lands and that the Council has not sought to amend the zoning of these lands in the interim, I am satisfied that the land remains zoned for residential purposes until such time as this zoning may be formally changed through the plan preparation process, with the preparation of the Maynooth LAP 2024-2030 noted to be underway.
- 7.4.7. In considering the appellants' assertion that the proposed development may exceed the housing targets for the town, I note that a target of 997 units applies to the end of

Q4 2028 under the 2023-2029 county development plan. The applicant's agent submits that approx. 377 residential units have been permitted in Maynooth since 2020. While I acknowledge the passage of time in the interim, I consider it reasonable to conclude that the proposed development would not exceed the current housing targets for Maynooth having regard to the scale of the development, including the concurrent Phase 1 application for the development of 58 no. units on the adjoining site (ABP Ref. 312671-22 refers).

7.4.8. In considering the issue of sequential development as raised by the appellants, I note that the subject site adjoins the established residential estates at Rockfield to the north and east and that the lands on the opposite side of the Celbridge Road have also been developed for residential purposes (Laurence Avenue / Maynooth Park). I also note that the site is within reasonable walking distance of Maynooth train station and Main Street, and as such, I am satisfied that the development of the site for residential purposes would comprise an appropriate extension to the existing built footprint of the town.

7.4.9. Thus, in conclusion, I am satisfied that the development of the subject site for residential purposes would be acceptable in principle, would represent sequential development and would not exceed the identified housing unit targets for the town.

7.5. Project Splitting

7.5.1. The third-party appellants suggest that the issue of project splitting arises in this instance, and that by submitting 2 no. separate planning applications, the applicant has sought to circumvent the requirements of the Planning and Development (Housing) and Residential Tenancies Act, 2016. The applicant's agent submits that there is no restriction in planning terms to the phased lodgement of a number of planning applications for a residential development on a single landholding and that all relevant planning assessments have been completed on a cumulative, site-wide basis in respect of the combined Phase 1 and Phase 2 developments.

7.5.2. In my opinion, the issue of project-splitting does not arise. As identified by the applicant's agent, prospective applicants are not bound to submit a single planning application for development comprising 100 or more residential units through the SHD process (now superseded by the Large-Scale Residential Developments application process). The submission of separate planning applications is permitted

through the standard S. 34 application process under the Planning and Development Act, 2000 (as amended).

- 7.5.3. In addition, I note that the term project-splitting normally arises in situations where an applicant may seek to avoid the requirement to undertake an Environmental Impact Assessment of a proposed development. The combined development of 105 no. residential units in this instance falls significantly below the mandatory requirement to undertake such an assessment under Class 10 (b) of Schedule 5, Part 2 of the Planning and Development Regulations, 2001 (as amended) which is the relevant class in this case. As highlighted by the applicant's agent, the application assessments consider the cumulative impact of the combined Phase 1 and Phase 2 developments on the overall landholding, and as such, the impacts of the entire development have been considered. Having regard to the nature and scale of the proposed development, I am also satisfied that the undertaking of a sub-threshold EIA is not necessary. Thus, I am satisfied that the issue of project splitting does not arise and is not relevant to the assessment of this case.

7.6. Development Density

- 7.6.1. Farry Town Planning Ltd. on behalf of Kevin and Anita Shortall submits that the development density is too low given that the site is unencumbered in terms of physical limitations and having regard to its proximity to public transport connections. A development density of 60-70 units per hectare is suggested.
- 7.6.2. The proposed development has a net residential density of 36.4 units per hectare as confirmed in Section 6.2.2.1 of the applicant's planning report. This figure has been derived based on a net site area of 1.29 ha, which excludes the internal spine road and the connection to existing service infrastructure to the north of the site.
- 7.6.3. I consider that the approach which has been taken to calculating the site density is acceptable with reference to the guidance contained in Appendix A of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas, 2009. These Guidelines identify that the greatest efficiency in land usage on greenfield sites in larger towns will be achieved by providing net residential densities in the general range of 35-50 units per hectare and that such densities, involving a variety of housing types where possible, should be encouraged generally. Table 2.8 of the Kildare County Development Plan 2023-2029 also identifies a target residential density of 35-50 units per hectare for the town of Maynooth.

- 7.6.4. In my opinion, the proposed development density would be acceptable with reference to national planning guidance and local planning policy and having regard to the character of the established residential estates adjoining the subject site at Rockfield, which largely comprise 2-storey, semi-detached dwellings. While the subject site is within reasonable walking distance of Maynooth train station and the town centre, it is also greenfield in nature and would comprise an extension of the existing built footprint at this location. Having regard to the foregoing, I am satisfied that the proposed development density is acceptable.

7.7. Impact on Residential Amenities

- 7.7.1. Farry Town Planning Ltd. on behalf of Kevin and Anita Shortall submit that the proposed development will result in visual intrusion and loss of amenity to the appellants' home. It is also submitted that house types A1-A4 to the rear of the appellants' property are excessive in height (8-8.9 m), with grossly inadequate separation distances (22 m) arising. Farry Town Planning Ltd. also submit that the proposed crèche facility should be located beside the site entrance and that noise impacts will arise to the residents in the Rockfield estate and that the proposed open space and car parking for the crèche are inadequate. The appeal submission from Brendan Grant notes that the development continues to include 3-storey houses as illustrated on the contiguous elevation drawings (Section OO) provided with the Response to the Request for Further Information, resulting in continued overlooking of Rockfield Court.
- 7.7.2. In response, the applicant's agent submits that the proposed development has been designed to ensure no adverse impacts will arise to the adjoining houses. It is submitted that the units adjoining Rockfield Park are 2-storeys in height, reflecting the height of the existing dwellings. It is also submitted that a 22 m separation distance is acceptable to ensure no overlooking impacts arise. It is considered that the proposed crèche facility is appropriately located in terms of access and traffic circulation and that the 1.8 m rear boundary wall, together with the separation distances arising to the nearest properties, will significantly mitigate any potential noise impacts arising.

- 7.7.3. In considering the issues which have been raised, I note that the appellants reside at Rockfield Court, a cul-de-sac of 14 no. dwellings which are arranged in a horse-shoe configuration to the rear/north-west of proposed units nos. 85 - 92 and the crèche facility. The Site Layout Plan – Combined Phases (Drawing No. 0302 Rev. P02) which accompanied the applicant's further information response confirms that these dwellings are 2-storeys in height. This matter is further confirmed on Section N-N of the Contiguous External Elevations / Site Sections (No. 0305 Rev. P02) which illustrates the proposed dwellings when viewed from the rear gardens of Rockfield Court. A directly opposing relationship arises between proposed unit nos. 88 and 89 and the existing dwellings at nos. 44 and 45 Rockfield Court, with separation distances of approx. 22 m arising. The proposed dwellings are set back from the shared boundary with the existing dwellings by between 12.5 m (unit no. 92) and 17.5 m (unit no. 85). In my opinion, the separation distances arising are acceptable and would not result in overlooking or visual impacts to the existing dwellings.
- 7.7.4. While the appeal submission from Brendan Grant states that the Section O-O drawing identifies that 3-storey houses will overlook Rockfield Court, I note that this drawing relates to the proposed dwellings adjacent to the north-eastern site boundary which back onto undeveloped greenfield lands rather than Rockfield Court. The only unit which backs onto this estate is unit no. 92 in the northern corner of the site, which is 2-storeys in height. As such, having regard to the height of the proposed dwelling and the separation distances arising, I am satisfied that the appellants' concerns in relation to visual intrusion and loss of privacy on foot of the proposed development are unfounded.
- 7.7.5. Section 1.5 of the applicant's Planning Report provides a justification for the location of the proposed crèche facility. It is submitted that the crèche is centrally located within the applicant's overall landholding and has been positioned beside a local access road rather than a busy national secondary route to provide safer access and parking for parents/guardians.
- 7.7.6. In my opinion, the location of the proposed crèche facility would not result in noise impacts to the neighbouring dwellings which would warrant its omission or relocation. In reaching this conclusion, I note that the facility is single-storey in height and has a stated capacity of c. 30 childcare spaces. I do not consider the scale of the facility to be excessive. Notwithstanding the foregoing, should the Board grant permission for the proposed development, I consider that the crèche opening hours should be

restricted by condition to ensure the residential amenities of neighbouring dwellings are protected. In addition, I consider that the facility should be operational prior to the occupation of the proposed housing units. This matter can also be addressed by planning condition.

- 7.7.7. In considering the appellants' concerns regarding the crèche parking arrangements and open space provision, I note that the Transportation Department of Kildare County Council did not raise any objections to the proposed drop-off and staff car parking arrangements. The crèche has the benefit of dedicated open space and will also be able to utilise the communal open spaces within the overall development. As such, I am satisfied that the design and location of the proposed crèche facility is acceptable in this instance.

7.8. Quality of Public Open Space

- 7.8.1. The appeal submission from Kevin and Anita Shortall states that the proposed outdoor amenity areas are inadequate. The appellants contend that the open space adjoining the Celbridge Road cannot be used for active recreational purposes due to its proximity to a principal thoroughfare and that the sliver of land abutting the western site boundary comprises an area of soft landscaping which cannot be used for outdoor purposes. In response, the applicant's agent submits that the proposed public open space is well-designed and overlooked and has been provided in 3 no. principal zones across the combined application sites to ensure ease of access for all. It is also submitted that the open space adjacent to the site entrance is of regular configuration, is well set back from Celbridge Road and will be capable of full use for amenity purposes.
- 7.8.2. In reviewing the layout of the communal open space to serve the development, I note that a total area of 4,435 m² is proposed, arranged in 3 no. separate parcels across the combined Phase 1 and Phase 2 application sites. The communal open space accounts for 14.4% of the combined developable site area. Section 15.6.6 of the Kildare County Development Plan confirms that public open space within residential developments on greenfield sites shall be comprise a minimum of 15% of the site area.
- 7.8.3. While I note that the total open space across the combined application sites is marginally below the required standard, I do not consider the deficit arising to be material. The open spaces are generally of regular configuration, are evenly

arranged throughout the development and, in my opinion, are sufficient to facilitate informal play and recreation for future residents. As such, I am satisfied that the proposed communal open space arrangements are acceptable in this instance.

7.9. Condition Nos. 3(b), 13 and 33

- **Condition No. 3 (b)**

- 7.9.1. The applicant has submitted a first-party appeal in relation to condition no. 3(b) of the Planning Authority's decision, which requires the MERR to be open and fully operational prior to the occupation of the proposed housing units, unless otherwise agreed. The applicant raises significant concerns in relation to this condition given the absence of certainty around the completion of the MERR, which is located on third party lands in multiple ownerships. The applicant's agent submits that the linking of any aspect of a permission to future development on third party lands is unreasonable and highly questionable in statutory planning terms. Given the advanced nature of the MERR, which is planning approved and funded, it is considered the restrictions on residential occupancy are not warranted at this stage and that this condition should be omitted if the Board decides to grant planning permission.
- 7.9.2. The applicant's Traffic and Transport Assessment (TTA) considers the impact of the proposed development on the local road network based on an opening design year of 2021 (excluding the MERR but committed development taken into consideration) and a future design year of 2031 (MERR delivered along with the development of zoned lands in the interim). Using TRICS data, it is estimated that the fully occupied and completed development (Phases 1 and 2) could generate 40 no. 2-way trips in the AM peak hour and 45 no. trips in the PM peak hour. Crèche generated trips are assumed to be secondary, with an origin/destination within the development itself.
- 7.9.3. The operational assessment of the local road network (2021 and 2031) demonstrates that the predicted additional traffic generated by the proposed development will have a negligible impact on the operational performance of the surrounding road network. An analysis of the site junction access also demonstrates that the proposed priority junction arrangement will operate with significant reserve capacity in the 2021 and 2031 design scenarios. As such, the junction can accommodate the predicted traffic movements which will arise on foot of the proposed development.

- 7.9.4. In considering the delivery of the MERR, I note that it has been approved under Part VIII of the Planning and Development Act, 2000 (as amended) and that LIHAF funding of €14.5 m has been awarded in relation to same. The applicant's agent highlights that part of this funding has already been drawn down. While I acknowledge the observers' request that this condition (and condition nos. 13 and 33) be retained to improve the operational safety of Celbridge Road, I am satisfied that the proposed development would not have a significant impact on the operation on this road based on the technical assessments which accompany the planning application. Given that the MERR is likely to be delivered in the short to medium term, I am satisfied that it would be unreasonable to restrict the occupation of the proposed housing units until such time as this road infrastructure is delivered and I recommend that this condition should be omitted in the event the Board grants planning permission for the proposed development. I further consider that any construction stage traffic impacts arising can be appropriately managed through the attachment of suitable planning conditions relating to the preparation and agreement of a Construction Management Plan with the Planning Authority.
- 7.9.5. For the avoidance of doubt, I note that condition no. 3 (a) of the Planning Authority's decision requires the developer to demonstrate compliance with the signed letter of undertaking between the developer and Kildare County Council dated 25th October 2017, or any subsequent superseding written agreement, prior to the occupation of the housing. I note from email correspondence submitted as part of the planning application documentation that this matter relates to a LIHAF cost reduction which will apply to the proposed housing units. As such, I consider that this condition should continue to attach if the Board grants planning permission for the proposed development.
- 7.9.6. I also note that condition no. 14 of the Planning Authority's decision requires the developer to connect and provide a full and unhindered vehicle, pedestrian and cycling access to the lands north of the development to the adjoining developer and to the MERR within 6 months of both opening, with details to be agreed with the Planning Authority prior to the commencement of development. In my opinion, the attachment of this condition is unnecessary, given that the adjoining lands to the north-east are in separate ownership, are currently greenfield in nature and do not have a valid planning permission. In any event, I note that the internal road network has been designed to facilitate a future connection to the adjoining lands given that it

extends directly to the north-eastern site boundary as illustrated on the proposed site layout plan. As such, I consider that this condition can be omitted if the Board grants planning permission for the proposed development.

- **Condition No. 13**

- 7.9.7. Condition no. 13 requires the developer to, inter alia, provide a 2 m wide footpath and 2 m wide cycle track across the entire roadside boundary to connect with the existing VRU pedestrian crossing at Rockfield Estate. If the required land is outside of the developer's ownership, written consent shall be obtained and submitted to the Planning Authority. The applicant has submitted an appeal in relation to this condition, which they contend is wholly unreasonable, ultra vires and contrary to the basic criteria for planning conditions set out in the Development Management Guidelines for Planning Authorities, 2007. The Board is requested to review this condition and remove any requirement to secure letters of consent from third parties or carry out works on third party lands.
- 7.9.8. There is an existing footpath to the front of the site adjacent to the public road which extends between the Rockfield estates and Maynooth Educate Together National School. A footpath is also in place on the opposite side of Celbridge Road. A pedestrian crossing links these footpaths at the southern extent of the Rockfield estates and thereafter, the footpath is set-back behind a grass margin.
- 7.9.9. Two detached dwellings are located between the appeal site and the Rockfield estates. These properties are accessed from Celbridge Road via a single recessed vehicular entrance with individual entrance gates. Condition no. 13 of the Planning Authority's decision would require the proposed footpath/cycle-path to extend through the front gardens of these properties. These lands are not within the applicant's ownership as confirmed with reference to the Site Location Map provided with the application.
- 7.9.10. Given that it is not within the applicant's control to implement a footpath/cycle path through these adjoining lands, and that consent to do so has not been sought or provided as part of this planning application, I agree that this condition is ultra vires and unreasonable. As such, I recommend that any requirement to provide a

footpath/cycle path through third party lands should be removed. While the observers concern regarding the safe travel of school children along Celbridge Road is acknowledged, I consider that the provision of improved footpath and cycle path connections along the public road is a wider issue which is outside of the scope of this planning application. In this regard, I note that it is an objective of the Maynooth LAP to provide a new cycle route along Celbridge Road (Roads Objectives Map No. 1 refers). The proposed development includes a new footpath and cycle link on the lands within the applicant's control.

7.9.11. In the event the Board decides to grant permission for the proposed development, I consider that the final details of the proposed connections within the application site only should be agreed with the Planning Authority prior to the commencement of development. This matter can be addressed by planning condition.

- **Condition No. 33**

7.9.12. Condition No. 33 requires the developer to, inter alia, submit a detailed design for an upgrade to the signalised toucan crossing on Celbridge Road at Rockfield Park. The applicant has no objection in principle to providing a toucan crossing as part of the implementation of the proposed development. However, it is considered wholly unsustainable for this condition to remain attached to this permission unless condition no. 3 (b) is amended as requested.

7.9.13. As discussed above, I consider that condition no. 3 (b) should be omitted in the event An Bord Pleanála grants planning permission for the proposed development. Given that the developer has no objection to upgrading the existing toucan crossing on the Celbridge Road as part of the implementation of the proposed development, I recommend that a suitable condition requiring the undertaking of these works be attached if the Board grants planning permission in this instance.

7.10. Overall Standard of Development

7.10.1. In reviewing the proposed schedule of accommodation which accompanies the applicant's further information submission, I am satisfied that the proposed housing unit sizes meet the minimum floor area and private open space standards of the Kildare County Development Plan 2023-2029 (table 15.2 refers). I am also satisfied that the apartment units meet the required standards of the 2022 Apartment Design Guidelines.

- 7.10.2. The appeal submission from Kevin and Anita Shortall raises concerns in relation to the total on-site car parking provision (212 bays), which is considered excessive and would promote unsustainable travel patterns. Table 15.8 of the county development plan identifies a maximum car parking standard of 1 space for housing units up to and including 3-bedrooms and 1 space plus 0.5 visitor spaces for units with 4 bedrooms or more. The car parking standard for apartments is 1.5 spaces per unit, plus 1 visitor space per 4 apartments.
- 7.10.3. The proposed development includes 2 no. car parking spaces for each house, 1 no. space per 1-bedroom apartment and 2 no. spaces per 2-bedroom apartment, with 6 no. visitor parking spaces. Having regard to the foregoing, I consider that a reduced level of car parking would be appropriate to comply with current development plan standards. In my opinion, this matter can be addressed by condition.

7.11. **Appropriate Assessment (AA)**

- **Screening**

- 7.11.1. The planning application documentation includes an AA screening report as prepared by Flynn Furney Environmental Consultants and which concludes that no impacts are likely as a result of the proposed works on the conservation objectives or overall integrity of any Natura 2000 site, and as such, an AA is not required. Kildare County Council's Heritage Officer and Planning Officer also reached a conclusion that an AA was not required in this instance.
- 7.11.2. The subject site is not located within or directly adjacent to any European site, and as such, there is no potential for **direct impacts** to occur. The closest European sites to the appeal site include:
- Rye Water Valley/Carton SAC (site code: 001398) which is located approx. 2 km to the north.
 - Ballynafagh Bog SAC (site code: 000391) which is located approx. 15 km to the south-west.
- 7.11.3. In considering the potential for **indirect impacts** to occur, I note that there is no hydrological connection between the subject site and the identified European sites and that it does not support any of the habitats or species which are qualifying interests for these European sites (see Appendix 1 of this report for details). Thus,

there is no potential for indirect impacts, and as such, any potential **in-combination** impacts, including with the construction of the proposed MERR, can be excluded.

7.11.4. In conclusion, in applying the source-pathway-receptor concept, and having regard to the nature and scale of the development, comprising a residential scheme of 105 no. units on the applicant's overall landholding (47 no. units under this application), the availability of public water and wastewater services to facilitate the development, and the separation distances arising to the nearest Natura 2000 sites, no appropriate assessment issues arise, and it is not considered that the proposed development would 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 proposed development.

9.0 Reasons and Considerations

9.1. Having regard to the designation of Maynooth as a "key town" at the top of the settlement hierarchy of County Kildare, the housing targets for the town to 2028 as set out under the Kildare County Development Plan 2023-2029, the "new residential" land use zoning assigned to the site under the Maynooth LAP 2013-2019, the pattern of residential development adjoining the site, and the nature and scale of the proposed development, 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. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted the 10 th day of September 2021 and 10 th day of December 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require
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	<p>points of detail to be agreed with the Planning Authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<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>
3.	<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 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.</p>

	<p>Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.</p>
4.	<p>Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each housing unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all residential units permitted to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</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>
5.	<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 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.</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 of the area.</p>
6.	<p>The developer shall show compliance with the signed letter of undertaking between the developer and Kildare County Council dated 25th October 2017, or any subsequent superseding written agreement, prior to the occupation of the housing in the proposed development, unless otherwise agreed in writing with Kildare County Council.</p>

	<p>Reason: In the interest of the proper planning and sustainable development of the area.</p>
7.	<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>
8.	<p>(a) Details of the signage for the proposed crèche facility shall be submitted for the written agreement of the Planning Authority prior to its occupation.</p> <p>(b) The proposed crèche facility shall be operational prior to the occupation of the housing units within the proposed development.</p> <p>(c) The proposed crèche facility shall not operate outside of 0800 to 1800 hours Monday to Friday inclusive, and shall not operate on Saturdays, Sundays or public holidays.</p> <p>Reason: In the interest of residential amenity and the proper planning and sustainable development of the area.</p>
9.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings and the crèche facility, 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, and agreed in writing with, the Planning Authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.</p> <p>Reason: In the interest of amenity and public safety.</p>

11.	<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 commencement of development. The archaeologist shall assess the site and monitor all site development works.</p> <p>The assessment shall address the following issues:</p> <p>(i) the nature and location of archaeological material on the site, and</p> <p>(ii) the impact of the proposed development on such archaeological material.</p> <p>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 the commencement of construction works.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <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>
12.	<p>Prior to the commencement of development, the developer shall submit for the written agreement of the Planning Authority, drawings showing all development works to be taken in charge designed to meet the standards of the Planning Authority.</p> <p>Reason: In the interest of the proper planning and sustainable development of the area.</p>

13.	<p>The proposed car parking serving the housing and apartment units shall comply with the maximum car parking standards identified in Table 15.8 of the Kildare County Development Plan 2023-2029. Drawings demonstrating compliance with this requirement shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development.</p> <p>Reason: To ensure an appropriate standard of development.</p>
14.	<p>The proposed development shall make provision for the charging of electric vehicles. All car parking spaces serving the development shall be provided with electrical connections, to allow for the provision of charging points and in the case of visitor spaces, shall be provided with electrical charging points by the developer. Details of how it is proposed to comply with these requirements, shall be submitted to and agreed in writing with the Planning Authority, prior to the commencement of development.</p> <p>Reason: In the interest of sustainable transport.</p>
15.	<p>Prior to the commencement of development, the developer shall submit for the written agreement of the Planning Authority, design details of the proposed pedestrian and cycle paths within the site boundary adjacent to Celbridge Road.</p> <p>Reason: To ensure an appropriate standard of development in the interest of pedestrian and cyclist safety.</p>
16.	<p>Prior to the commencement of development, the developer shall submit for the written agreement of the Planning Authority, design details for an upgrade to the signalised toucan crossing on Celbridge Road at Rockfield Park in accordance with the detailed standards of the Planning Authority. The upgraded toucan crossing shall be operational prior to the occupation of the permitted development. All costs associated with these works shall be borne by the developer.</p> <p>Reason: In the interest of pedestrian and traffic and safety.</p>
17.	<p>The internal road network serving the proposed development shall comply with the detailed standards of the Planning Authority for such road works.</p>

	Reason: In the interest of amenity and of traffic and pedestrian safety.
18.	<p>Prior to the commencement of development, the developer shall submit a Stage 1/2 Road Safety Audit, carried out by an independent, approved and certified auditor, for the written agreement of the Planning Authority. The audit recommendations shall be incorporated into the detailed design of the proposed development.</p> <p>Reason: In the interest of pedestrian and traffic safety.</p>
19.	<p>Upon completion of the development and prior to the taking in charge of the road infrastructure, the developer shall complete a Stage 3 Road Safety Audit, to be carried out by an independent, approved and certified auditor. The recommendations contained in the Road Safety Audit and agreed actions shall be signed off by the audit team.</p> <p>Reason: In the interest of pedestrian and traffic safety.</p>
20.	<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 overground cables shall be relocated underground as part of the site development works.</p> <p>Reason: In the interests of visual and residential amenity.</p>
21.	<p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the Local Authority in the event of the development being taken in charge. Detailed proposals for this shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.</p> <p>Reason: To ensure the satisfactory completion and maintenance of this development.</p>
22.	<p>The landscaping scheme shown on drawing no. 201 (Landscape Design – Phase 2), as submitted to the planning authority on the 10th day of September, 2021 shall be carried out within the first planting season</p>

	<p>following substantial completion of external construction works. 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 5 years from the completion of the development 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> <p>Reason: In the interests of residential and visual amenity.</p>
23.	<p>The construction of the development shall be managed in accordance with a Construction Environmental Management Plan (CEMP), which shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, traffic management measures, consultation measures with local residents, schools and businesses in relation to traffic disruption during construction works, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
24.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
25.	<p>Prior to the commencement of development, the developer shall enter into water and waste-water connection agreements with Irish Water.</p> <p>Reason: In the interest of public health.</p>
26.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, 0900 to 1300 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>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Louise Treacy
Senior Planning Inspector

7th July 2023

Appendix 1: Natura 2000 Sites – Qualifying Interests & Conservation Objectives

Rye Water Valley/Carnton SAC (site code: 001398)	
Qualifying Interests	<p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Vertigo angustior (Narrow-mouthed Whorl Snail) [1014]</p> <p>Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]</p>
Conservation Objective(s)	<ul style="list-style-type: none"> - To restore the favourable conservation condition of Petrifying springs with tufa formation (Cratoneurion)* in Rye Water Valley/Carnton SAC. - To restore the favourable conservation condition of Narrow-mouthed Whorl Snail (Vertigo angustior) in Rye Water Valley/Carnton SAC. - To restore the favourable conservation condition of Desmoulin's Whorl Snail (Vertigo moulinsiana) in Rye Water Valley/Carnton SAC.

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