



An
Bord
Pleanála

Inspector's Report

ABP-314282-22

Development

Construction of 36 new residential units, and refurbishment of 9 existing derelict units to provide 11 new units, giving a total of 47 residential units.

Location

Carrick St and Maudlin St, Kells, Co Meath

Local Authority

Meath County Council

Type of Application

Application for approval made under Section 177(AE) of the Planning and Development Act, 2000 (local authority development requiring appropriate assessment)

Prescribed Bodies

Inland Fisheries Ireland

Observer

Ciaran O' Kelly, Kells Anglers

Date of Site Inspection

01st September 2022

Inspector

Máire Daly

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1.0 Introduction

- 1.1. Meath County Council is seeking approval from An Bord Pleanála to undertake Construction of 36 new residential units, and refurbishment of 9 existing derelict units to provide 11 new units, giving a total of 47 residential units at a site in the centre of Kells, Co. Meath. The site is c. 800m southwest of the River Boyne And River Blackwater SAC (Site code: 002299) and the River Boyne and River Blackwater SPA (Site code: 004232) which are designated European sites. There are several other designated European sites (SPAs and SACs) in proximity to the proposed works (see further analysis below). A Natura Impact Statement (NIS) and application under Section 177AE was lodged by the Local Authority on the basis of the proposed development's likely significant effect on European sites.
- 1.2. Section 177AE of the Planning and Development act 2000 (as amended) requires that where an appropriate assessment is required in respect of development by a local authority, the authority shall prepare an NIS and the development shall not be carried out unless the Board has approved the development with or without modifications. Furthermore, Section 177V of the Planning and Development Act 2000 (as amended) requires that the appropriate assessment shall include a determination by the Board as to whether or not the proposed development would adversely affect the integrity of a European site and the appropriate assessment shall be carried out by the Board before consent is given for the proposed development.

2.0 Proposed Development

- 2.1. The proposed development will comprise the following:
 - 47 no. social housing units in total to include construction of 36 new residential units and the refurbishment of 9 existing derelict units to provide 11 new units. The development consists of:
 - 8 no. 1-bed apartments
 - 12 no. 1-bed universal design apartments
 - 1 no. 2-bed apartment

- 2 no. 2-bed universal design apartments
- 14 no. 2-bed 2-storey houses
- 2 no. 2-bed universal design 2-storey houses
- 1 no. 3-bed apartment
- 3 no. 3-bed 2-storey houses
- 4 no. 3-bed universal design 2-storey houses

2.2. **Accompanying documents:**

2.2.1. The application is accompanied by the following documents and assessments:

- Appropriate Assessment (AA) Screening Report
- Natura Impact Statement (NIS)
- Report on Archaeological test Trenching August 2021
- Response to Archaeological findings
- Trial testing Trench Locations and Trial Testing Trench Photos
- Archaeological Report on Site Investigation Monitoring - November 2020
- Copy of Ministerial Consent Approval
- MCC Archaeological Walkover Report - July 2020
- MCC Archaeological Walkover Photos - July 2020
- Landscape Proposal
- Architecture Design Statement
- Public Notices – Site Notice and Newspaper
- Outdoor Lighting Report
- Public Lighting Site Services Layout
- List of Prescribed Bodies consulted
- Associated drawings, plans and particulars.

2.3. **Further Information**

2.3.1. Further information in respect of the following was requested by An Bord Pleanála:

- Public Open Space Requirement
- Private Open Space – compliance with appropriate standards
- Kells Wastewater Treatment Plant Capacity
- Ecological Assessment and Invasive Species Survey

2.3.2. In response to a request for further information, the following information was submitted to An Bord Pleanála on 27th February 2023:

- Public Open Space Allowance (Appendix 1),
- Revised Site Layout Plan relating to amended rear garden areas of certain units only, to ensure these units have the requisite standard of private open space (Appendix 2),
- An Updated Schedule of accommodation (Appendix 3),
- Report received from Irish Water dated 9th February 2023 addressing FI queries in relation to wastewater capacity (Appendix 4),
- Copy of previous correspondence between IW and Kells Anglers dated 25th February 2022 (Appendix 5),
- Japanese Knotweed Survey Reports dated May and June 2021 (Appendix 6),
- Japanese Knotweed Management Plan (Appendix 7),
- Japanese Knotweed bio secure waste disposal details at Hollywood Landfill W0129-02 (Appendix 8),
- Hauliers permit for transportation of contaminated material (Appendix 9),
- Bat survey results from February 2023 (Appendix 10),
- Updated Natura Impact Statement (NIS) which includes the additional information supplied by Irish Water and the Japanese Knotweed Management Plan (Appendix 11).

2.3.3. The further information was assessed in accordance with section 177AE of the Planning and Development Act, 2000, as amended, and was considered not to constitute significant further information.

3.0 Site and Location

- 3.1. The proposed project site has a stated area of c. 1.357ha and is located within the town of Kells, Co. Meath. Located adjacent to the M3 Motorway and to the south-east of the border with County Cavan, the town is a busy local services centre with a strong and diverse economy that makes it a key employment centre in the north of the County. The site is bounded by Carrick Street to the southwest, Maudlin Road to the east and Archdeaconry Glebe and Magdalene Court housing estates to the northwest and north respectively. The site is a mixture of public open space areas, the back yards of existing dwellings that front onto Carrick Street and Maudlin Road, and 9 existing derelict houses that front onto both Carrick Street (6 properties) and Maudlin street (3 no. properties).
- 3.2. The area to the rear of Carrick St is part of the gently sloping hillside on which Kells is built. The site slopes downward from south to north and the River Blackwater is located c. 750m to the northeast, with the intervening area consisting of developed urban lands (housing estates and commercial premises) and agricultural uses closer to the river. The subject site rises from Maudlin Street to the centre of the site. Each Carrick St back plot is oriented North-South and has a different terraced height. The back plots to the Maudlin Street properties have had their East-West oriented gardens and yards cut into the rising ground to form a series of steeply stepped terraces.
- 3.3. The 6 no. derelict properties along Carrick Street are comprised of terraced structures with extensive back gardens which are currently in an unkempt state, overgrown with established deciduous trees and other vegetation. The rear of these properties meets an area of mown open grassland space which can be accessed from the Magdalene Court housing estate. The 3 no. properties along Maudlin Road are also in a poor state and form mid terrace and end of terrace structures. Access to the site is to be provided west off Maudlin Road and also via Pitcher Lane which connects on to Carrick Street to the south.
- 3.4. The area along both Carrick and Maudlin Street is characterised by underutilised 19th/20th century terraced buildings and a lack of parking. The site lies within the Kells Historic Core Area and Zone of Archaeological Potential. It is also located within an Architectural Conservation Area. An old stone wall also lies on the

boundary of Community House and No.17 Carrick Street. A protected structure dating from c.1770 is located at Mauldin House which is located opposite No. 17 Maudlin Street (on the subject site), this structure is also listed on the NIAH (Reg No. 14313034).

4.0 Planning History

4.1. Subject site;

MCC Ref. KA170259 – Carrick Street - Permission granted in August 2017 within the Architectural Conservation Area of Kells Town for the renewal of lapsed planning permission KT/60015 & KT/800031 for proposed conversion, refurbishment and two storey extension to existing two storey dwelling with existing retail unit at ground floor at Carrick Street, Kells, Co. Meath. Redevelopment to consist of 4 no. two bed apartments with apartments at ground level with own door access from Carrick Street and rear courtyard and apartments at first floor with own door access via new enclosed common stair access from internal courtyard. Also for the further widening and heightening of existing archway access to facilitate emergency and vehicular access to rear yard car parking area with four car parking spaces, change of use of existing ground floor retail shop use to residential use, modification and refurbishment of existing two storey building including modification of internal layout and existing front facade and addition to velux windows to rear roof, new two storey extension to rear of existing with external balconies and associated enclosed stair access and courtyard and associated site works and landscaping. Significant further information/revised plans submitted on this application.

MCC Ref. KA180318 – 13 Maudlin Street - Permission granted in May 2019 for conversion and reconstruction including an extension to rear of the existing building, an existing dwelling house for use as two dwellings including all works ancillary to the overall development. Site located in the Architectural Conservation area of Kells. Significant further information/revised plans submitted on this application.

4.2. On site at Archdeaconry Glebe c. 400m to north:

ABP 315169-22 – Local Authority Development - Current application - Construction of 22 new residential units comprising 6no. 2-bed single storey units, 6no. 2-bed two storey houses & 10no. 3-bed two storey houses; new vehicular

access from the existing Blackwater Heights estate; connection to public sewers & mains water supply; and all ancillary site works.

Meath County Council (MCC) Previous Part 8 Application Ref. P8/21002 – subsequent to the initiation of this process requests were submitted seeking a determination from the Board as to whether EIA or an NIS would be required for the proposed development. These are elaborated on in the points below.

ABP Ref. 309480-21 – Direct the local authority to prepare a NIS – for Construction of 22 No. housing units and all site development works - screening determination under Article 250 of the PDR as to whether the proposed development would be likely to have significant effects on a European site requiring Appropriate Assessment

ABP Ref. 309479-21 – Not direct the local authority to prepare an environmental impact assessment – for Construction of 22 No. housing units and all site development works - screening determination under Article 120 (3)(b) of the PDR as to whether the proposed development would be likely to have significant effects on the environment requiring EIA.

4.3. **Site to immediate southwest of subject site off Pitcher Lane**

MCC Ref. KA190127 - Permission granted in July 2019 for the construction of a three-storey terrace containing 12 No. 1 bedroom duplex apartments over 6 No. 2 bedroom ground floor dwellings, landscaped parking court to front with single vehicular entrance from Pitcher Lane, semi-private linear garden to rear and bin storage building previously granted Planning Permission under KT/800006 and KT/130007. Significant further information/revised plans submitted on this application.

4.4. **Other recent housing sites and other larger developments within the town boundary (non-exhaustive list)**

MCC Ref. 22502 – Permission granted in October 2022 at Townparks, Moynalty Rd, Kells for the erection of 28 no. two-storey houses to include for habitable attic space (4 no. 4 bed detached and 24 no. 4 bed semi-detached houses) with minor variations to site boundary from that previously granted under KA200324. Permission also sought to use existing Willmount View entrance onto public road, new internal service roads, footpaths and grass margins, associated landscaping, public lighting

and open space and all ancillary and associated site works. Significant Further Information/revised plans submitted on this application.

MCC Ref. KA200324 – permission granted in July 2021 at Townparks, Moynalty Rd, Kells for construction of a total of 36 two storey dwellings consisting of 16 three bedroom semi-detached and 8 three-bedroom end of terrace dwellings together with 8 two-bedroom mid-terrace and 4 two-bedroom end of terrace dwellings. Site entrance from adjacent residential development, new internal roads and services, footpaths, public lighting, public green, landscaping and connections to public services. Significant further information/revised plans submitted on this application.

MCC Ref. KA180577 – permission granted in December 2018 at Townparks, Moynalty Rd, Kells for erection of 74 no. two-storey houses and 5 no. detached domestic garages comprising 12 no. 4 bed detached houses, 20 no. 4 bed semi-detached houses, 4 no. 3 bed semi-detached houses, 30 no. 3 bed terrace houses and 8 no. 2 bed terrace houses in a variety of house types. Permission also sought for site entrance onto public road, new internal service roads, footpaths and grass margins, associated landscaping, public lighting and open space, connections to public services to include for upgrading of foul sewer pumping station, provision of ESB sub-station and all ancillary and associated site works. The development will be carried out on a phased basis in 3 stages. Phase One will consist of the following; 5 no. 4 bed detached houses each with detached domestic garage and 1 no. 4 bed detached house with attached garage, 10 no. 4 bed semi-detached houses and 4 no. 3 bed terrace houses. Phase One will also include for the provision of public open space area to serve the development, connections to public services to include for upgrading of foul sewer pumping station, provision of ESB sub-station and all ancillary and associated site works. Previous file reference numbers KA/60302 and KA/120200. Significant further information/revised plans submitted on this application.

ABP 301669-18 (MCC. Ref. KA171335) – Permission granted in May 2019 at Cavan Road, Kells for construction of a new two storey service station with ancillary retail and food court including measuring 1771 m² GIA all associated site works.

5.0 Legislative and Policy Context

5.1. The EU Habitats Directive (92/43/EEC):

5.1.1. This Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Articles 6(3) and 6(4) require an appropriate assessment of the likely significant effects of a proposed development on its own and in combination with other plans and projects which may have an effect on a European Site (SAC or SPA).

5.2. European Communities (Birds and Natural Habitats) Regulations 2011

5.2.1. These Regulations consolidate the European Communities (Natural Habitats) Regulations 1997 to 2005 and the European Communities (Birds and Natural Habitats) (Control of Recreational Activities) Regulations 2010, as well as addressing transposition failures identified in CJEU judgements. The Regulations in particular require in Reg 42(21) that where an appropriate assessment has already been carried out by a 'first' public authority for the same project (under a separate code of legislation) then a 'second' public authority considering that project for appropriate assessment under its own code of legislation is required to take account of the appropriate assessment of the first authority.

5.3. National nature conservation designations

5.3.1. The Department of Housing, Local Government and Heritage and the National Parks and Wildlife Service are responsible for the designation of conservation sites throughout the country. The three main types of designation are Natural Heritage Areas (NHA), Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) and the latter two form part of the European Natura 2000 Network.

5.3.2. European sites located in proximity to the subject site include:

- River Boyne and River Blackwater SAC (002299) – c. 0.75km northeast
- River Boyne and River Blackwater SPA (004232) – c. 0.77km northeast
- Girley (Drewstown) Bog SAC (002203) – c. 7km southwest
- Killyconny Bog (Cloghbally) SAC (00006) – c. 8.2km northwest

5.4. **Planning and Development Acts 2000 (as amended)**

5.4.1. Part XAB of the Planning and Development Acts 2000, as amended sets out the requirements for the appropriate assessment of developments which could have an effect on a European site or its conservation objectives.

- 177(AE) sets out the requirements for the appropriate assessment of developments carried out by or on behalf of local authorities.
- Section 177(AE) (1) requires a local authority to prepare, or cause to be prepared, a Natura Impact Statement in respect of the proposed development.
- Section 177(AE) (2) states that a proposed development in respect of which an appropriate assessment is required shall not be carried out unless the Board has approved it with or without modifications.
- Section 177(AE) (3) states that where a Natura Impact Assessment has been prepared pursuant to subsection (1), the local authority shall apply to the Board for approval and the provisions of Part XAB shall apply to the carrying out of the appropriate assessment.
- Section 177(V) (3) states that a competent authority shall give consent for a proposed development only after having determined that the proposed development shall not adversely affect the integrity of a European site.
- Section 177AE (6) (a) states that before making a decision in respect of a proposed development the Board shall consider the NIS, any submissions or observations received and any other information relating to:
 - The likely effects on the environment.
 - The likely consequences for the proper planning and sustainable development of the area.
 - The likely significant effects on a European site.

5.5. **National, Regional and Local Policy**

National Planning Framework – Project Ireland 2040 (February 2018)

5.5.1. This is the Government's plan for shaping the future growth and development of Ireland out to 2040. It is envisaged that the population of Ireland will increase by up

to 1 million by that date and the strategy seeks to plan for the demands this growth will place on the environment and the social and economic fabric of the country. It sets out 10 no. goals, referred to as National Strategic Outcomes.

5.5.2. Under National Strategic Outcome 1 (Compact Growth), the focus is on pursuing a compact growth policy at national, regional and local level. From an urban perspective the aim is to deliver a greater proportion of residential development within existing built-up areas of cities, towns and villages, to facilitate infill development and enable greater densities to be achieved, whilst achieving high quality and design standards.

5.5.3. The NPF includes a specific Chapter, No. 6, entitled 'People Homes and Communities', which includes 12 objectives. Amongst the objectives set out in section 6.6 of Chapter 6 are:

- High level priorities include use of existing housing stocks as a means to meet future demand.
- Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location (Objective 33).
- Increase residential density in settlements through a range of measures including reductions in vacancy, re-use of buildings, infill development schemes, area or site-based regeneration and increased building heights (Objective 35).

Housing for All – A New Housing Plan for Ireland, Department of Housing, Local Government and Heritage September 2021

5.5.4. In order to meet the twin NPF objectives of tackling climate change and delivering more compact growth, Housing for All recognises that there is a need for developments at scale in our cities, particularly close to public transport nodes and where walking and cycling can become the dominant form of mobility within our town centres.

5.5.5. This Plan recognises that in order to resolve the housing crisis we need to give consideration to every viable and sustainable option at our disposal. The Plan

introduces incentives and measures to bring vacant and derelict properties back into residential use.

Programme for Government – our Shared Future’ launched in 2020

- 5.5.6. This document emphasised the role of the private housing stock, addresses the challenge of viability, access to finance, land availability, infrastructure delivery, building standards, quality and regulation, as well as sufficient skilled labour capacity.

Department of Housing, Planning, Community and Local Government Circular PL 7/2017

- 5.5.7. This Circular reminded local authorities of the overall strategy of bringing vacant homes back into use as quickly as possible. The circular advised the adoption of Vacant Home Action Plan which would include the possibility of using the CPO process to acquire suitable homes as part of a strategy to address the matter of vacant private houses.

Housing Options for Our Aging Population Policy Statement February 2019

- 5.5.8. This statement outlines that it is an important step in the planning process to meet the accommodation needs of an aging Ireland and includes the following action.

Flood Risk Management Climate Change Sectoral Adaptation Plan 2019

- 5.5.9. This Plan outlines the potential impacts of climate change on flooding and flood risk management in Ireland, identifies the objectives for an effective and sustainable approach to adaptation as part of flood risk management for the future, promotes a coordinated approach to adaptation and recommends further actions required to meet the objectives for adaptation.

The Planning System and Flood Risk Management Guidelines 2009

- 5.5.10. In considering proposals for development which may be vulnerable to flooding and that would generally be inappropriate a number of criteria may be considered under a Justification Test. These include that the subject lands are designated for the form of development and that the proposal has been subject to a flood risk assessment that demonstrates that measures to ensure that residual risks can be managed to an acceptable level.

Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009

- 5.5.11. These guidelines encourage sustainable urban development through the avoidance of excessive suburbanisation and the promotion of higher densities in appropriate locations. The greatest efficiency will be achieved by providing net residential densities in the general range of 35-50 dwellings per hectare and such densities (involving a variety of housing types where possible) should be encouraged generally. Development at net densities less than 30 dwellings per hectare should generally be discouraged, particularly on sites in excess of 0.5 hectares.

Eastern and Midland Regional and Spatial Economic Strategy

- 5.5.12. This plan which came into effect on June 28th, 2019, builds on the foundations of Government policy in Project Ireland 2040, which combines spatial planning with capital investment. Chapter 4 (People & Place) sets out a settlement hierarchy for the Region and identifies the key locations for population and employment growth.
- 5.5.13. This strategic plan seeks to determine at a regional scale how best to achieve the shared goals set out in the National Strategic Outcomes of the NPF and sets out 16 Regional Strategic Outcomes (RSO's) which set the framework for city and county development plans. These include:
- RSO 2 Compact Growth and Urban Regeneration - Which seeks to promote the regeneration of our cities, towns, and villages by making better use of under-used land and buildings within the existing built-up urban footprint and to drive the delivery of quality housing and employment choice for the Region's citizens.

Meath County Development Plan 2021-2027

- 5.5.14. The Meath County Development Plan 2021-2027, was adopted by Meath County Council on the 22nd of September 2021 and came into effect on the 3rd of November 2021. Chapter 2 of the Development Plan sets out the Core Strategy and Section 2.2 sets out the following core strategy vision for the plan area.
- 5.5.15. Under Section 2.4.3 the settlement of Kells is designated as a 'Self-Sustaining Growth Town'. It defines such towns as having a moderate level of jobs and services – includes sub-county market and commuter towns with good transport links and

capacity for continued commensurate growth to become more self-sustaining. Section 2.10.2 states that in the Self-Sustaining Growth Towns of Kells, there will be a focus on consolidation and the provision of employment opportunities in tandem with population growth in order to allow these centres to become more self-sufficient. The availability of infrastructural services and community infrastructure will also be an important factor in determining the quantum of new housing and population growth that these settlements could absorb.

- 5.5.16. Section 2.10.4 of the plan outlines the Household allocation for 2020- 2027 for Kells at 452 and the potential units to be delivered on infill/ brownfield lands at 400 units. The Quantum of land zoned for residential use (ha) is 19.67 ha and the Quantum of land zoned for existing residential use (ha) is 135.2 ha.
- 5.5.17. Section 3.6 of the Plan deals with the matter of land use zoning in each settlement and it sets out that: *“the quantum of lands zoned for residential uses is reflective of the population projection and household allocation for each settlement as set out in the Core Strategy”*. With regard to employment and economic activity the plan states that *“what is of interest is the fact that the Kells MD, which is characterised as being rural in character, has the second highest number of jobs in the County”*.
- 5.5.18. Kells has a unique cultural and built heritage and is accordingly a designated heritage settlement. Kells is an important centre for local enterprise and employment. The designation of the Kells Municipal District as a Regional Economic Development Zone (REDZ) has had a positive impact on employment and enterprise activity in the town.
- 5.5.19. The settlement strategy objectives set out in Chapter 3 include:
- **SH OBJ 5:** To prepare new local area plans for the following settlements within the lifetime of this Plan: Navan, Dunboyne/Dunboyne North/Clonee, Ashbourne, Kells, Trim, Dunshaughlin, Ratoath, Enfield, Bettystown-Laytown-Mornington East-Donacarney-Mornington (East Meath), Oldcastle, Athboy, Duleek, and Stamullen. As part of the preparation of these Plans, a detailed infrastructure assessment, consistent with the methodology for a Tiered Approach to Zoning under Appendix 3 of the NPF will be undertaken for each settlement.
- 5.5.20. The housing policies set out in Chapter 3 includes:

- **SH POL 4:** “To promote social integration and the provision of a range of dwelling types in residential developments that would encourage a mix of tenure ...”
- **SH POL 5:** “To secure a mix of housing types and sizes, including single storey properties, particularly in larger developments to meet the needs of different categories of households”.
- **SH POL 6:** To support the provision of accommodation for older people and for people with disabilities at appropriate accessible locations.

5.5.21. The housing objectives set out in Chapter 3 includes:

- **SH OBJ 13:** “To secure the implementation of the Meath Housing Strategy 2020-2026”.

5.5.22. **Section 3.8.5** sets out that the lands zoned for residential purposes include ‘A1’ (Existing Residential); ‘A2’ (New Residential); ‘B1’ (Commercial/Town or Village Centre) and ‘C1’ (Mixed Use).

5.5.23. **Section 3.8.9** sets out the design criteria for residential development and states that “well designed residential developments can make a significant contribution to the creation of an attractive urban environment where people want to live, work, and socialise. It further states that “applications for new residential developments should strive to create a sense of place by responding positively to local surroundings” and that new buildings should be designed to take account of the potential implications of climate change as well as improving the energy efficiency of buildings that would reduce the consumption and therefore greenhouse gas emissions.

5.5.24. Chapter 3 sets out the following housing development housing polices:

- **SH POL 7:** “To encourage and foster the creation of attractive, mixed use, sustainable communities that include a suitable mix of housing types and tenures with supporting facilities, amenities and services that meet the needs of the entire community and accord with the principles of universal design in so far as practicable”.
- **SH POL 8:** “To support the creation of attractive residential developments with a range of housing options and appropriate provision of functional public and private open space that is consistent with the standards and principles set

out in the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas and the associated Urban Design Manual...”.

- **SH POL 9:** Promotes higher densities at appropriate locations in a manner consistent with the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas.
- **SH POL 10:** Requires applications for residential development to take an integrated and balanced approach to movement, place making and streetscape design. In a manner consistent with the Design Manual for Urban Roads and Streets.
- **SH POL 11:** Encourages improvements in the environmental performance of buildings.
- **SH POL 12:** Promotes innovation in architectural design.
- **SH POL 13:** Requires all new residential developments to accord with the Development Management Standards and Land Use Zoning Objectives set out in Chapter 11.

5.5.25. Chapter 3 includes the following housing development objectives:

- **SH OBJ 22:** Requires all new residential development to accord with SPPR 1 to SPP4 of the Urban Development and Building Heights Guidelines. As well as SPPR 1 to SPPR 9 of the Sustainable Housing Design Standards for New Apartment Guidelines for Planning Authorities.
- **SH OBJ 23:** Requires all new residential developments in excess of 20 residential units to provide for a minimum of 5% universally designed units in accordance with the requirements of the ‘Building for Everyone: A Universal Design’.

5.5.26. **Chapter 6, Section 6.9** outlines the policy in relation to Wastewater for the county and states that it is the policy of the council:

- **INF POL 11:** To liaise and work in conjunction with Irish Water during the lifetime of the Plan in the provision, upgrading or extension of wastewater collection and treatment systems in the County to serve existing and planned future populations and enterprise in accordance with the requirements of the Core and Settlement Strategies.

- **INF POL 13:** To consider the potential for the provision of temporary wastewater treatment facilities for new developments but only where a permanent solution has already been identified and committed to by Irish Water but has not yet been implemented. The provision of such temporary facilities shall only be considered where the solution is environmentally sustainable and would not affect the quality status of receiving waters. Adequate provision shall be made by the developer for the operation and maintenance of the proposed temporary facility for the duration of its required existence and thereafter for its decommissioning and removal from site.

5.5.27. Chapter 11 sets out the Development Management Standards and Land Use Zoning Objectives. In the accompanying Development Plan maps the site in its entirety is zoned 'A1 - Existing Residential. The stated land use objective for such zoned lands reads: "To protect and enhance the amenity and character of existing residential communities".

5.5.28. Section 11.5.11 outlines the Council's approach to Public Open space under the following objectives:

- **DM OBJ 26:** Public open space shall be provided for residential development at a minimum rate of 15% of total site area. In all cases lands zoned F1 Open Space, G1 Community Infrastructure and H1 High Amenity cannot be included as part of the 15%. Each residential development proposal shall be accompanied by a statement setting out how the scheme complies with this requirement.

5.5.29. Section 11.5.12 outlines the objectives in relation to Private Open Space with Table 11.1 outlining Minimum Private Open Space Standards for Houses with one/two bedroom requiring 55sqm, three bedroom requiring 60sqm and 4 bedroom requiring 75sqm.

Volume 2 – Written Statement and Maps for Settlements

5.5.30. This volume contains a written statement which provides an overview of the development strategy for Kells, however it is also stated that a detailed Local Area Plan for the town will be prepared during the life of this Plan.

5.5.31. The stated vision for the town is *“For Kells to be recognised as a strategic economic centre for north Meath with a vibrant mix of employment, businesses, retail, services*

and tourism opportunities, intrinsically linked to its rich historical and cultural heritage and character.”

5.5.32. Section 5.34 states the following with regard to water services:

- Water: Water supply for Kells is sourced from the Kells/Oldcastle Supply. There is capacity in this water supply to accommodate growth during the lifetime of the Plan. However, there are localised network constraints.
- Wastewater: Wastewater is discharged to a Treatment Plant on the Headfort Road. Spare capacity at this Treatment Plant is currently limited. Irish Water plans to upgrade this treatment plant from its present capacity of 8,000 p.e. to 13,500 p.e. It is anticipated that this upgrade will be completed during the lifetime of this Plan.

5.5.33. There are two Architectural Conservation Areas (ACAs) in the town; the Historic Core ACA and Headfort Place ACA. In addition to the Architectural Conservation Areas, there are 115 no. structures listed in the Record of Protected Structures for Kells. This Plan recognises the importance of the archaeological and built heritage of Kells and will seek to protect the character and integrity of Architectural Conservation Areas and Protected Structures in the town in order to preserve the heritage character of the settlement.

- **KEL OBJ 2** - To support and encourage residential development on under-utilised land and/or vacant lands including ‘infill’ and ‘brownfield’ sites, subject to a high standard of design and layout being achieved.
- **KEL OBJ 12** - To liaise with and support Irish Water to endeavour to provide adequate water services to meet the development needs of Kells within the Plan period.
- **KEL OBJ 14** - To support and facilitate the implementation of pedestrian enhancements to the following town centre junctions: R164 Oliver Plunkett Road and the R147 Carrick Street; R941 Maudlin Road and the R147 Carrick Street; R164 Farrell Street and the R163 Market Street and Kenlis Place.

Meath County Council Vacant Homes Action Plan

5.5.34. Under the auspices of this plan a survey was carried out along both Carrick Street and Maudlin Street, Kells - a total of 44 properties. This area was subject to detailed

survey due to the high number of apparently vacant units, the number of derelict units or units in danger of becoming derelict and the general poor appearance of the units along a major route through the town. There were 14 properties identified out of the 44 surveyed as either vacant or possibly vacant, it was concluded that there was potential to combine a number of properties with existing MCC lands to the rear for additional units. 9 of the properties were secured by MCC, enabling a coordinated scheme to be produced which proposes to revitalise the existing street and provide additional new units to the rear.

- 5.5.35. The current social housing waiting list for the Kells area stands at 259 applicants. This is made up of 95 no. applicants for 1-bed unit (37%), 104 no. for 2 bed unit (40%), 54 no. for a 3 bed unit (21%) and 5 for a 4 bed unit (2%).
- 5.5.36. The proposed design mix is intended to mirror the demand as far as possible. The majority of private developments in the Kells area are concentrated on the delivery of 3 bed units, with MCC availing of these through the Part V process, with very little development of appropriate smaller units.
- 5.5.37. MCC state that the typology and density of the proposed development has been specifically designed to include a number of 1 bed units and more specifically a number of universal design units to cater for a whole life occupancy.

6.0 The Natura Impact Statement

- 6.1. Meath County Council's application for the proposed development was accompanied by a Natural Impact Statement (NIS) dated 30th June 2022 which scientifically examined the proposed development and the European sites. The NIS identified and characterised the possible implications of the proposed development on the European sites, in view of the site's conservation objectives, and provided information to enable the Board to carry out an Appropriate Assessment (AA) of the proposed works.
- 6.2. The NIS was accompanied by an AA Screening Report (dated 28th February 2020). The Stage 1 Screening concluded that a Stage 2 Appropriate Assessment (NIS) was not required, however as stated on page 13 of the NIS (dated 30th June 2022) following an examination of the assimilative capacity of the WWTP in further detail "*it is concluded that a Natura Impact Statement be prepared for the purpose of Article*

6(3) of the Habitats Directive and Part XAB of the Planning and Development Act, 2000, as amended’.

- 6.3. An updated NIS (dated 17th February 2023) was subsequently submitted to the Board in response to a further information request. This updated NIS also contained a Stage 1 Screening Assessment which concluded that a Stage 2 Appropriate Assessment was required. In general, I am satisfied that the updated NIS for the proposed residential development adequately describes the proposed development, the project site and the surrounding area. The NIS outlined the methodology used for assessing potential impacts on the habitats and species within the European Sites that have the potential to be affected by the proposed development. It predicted the potential impacts for the sites and their conservation objectives, assessed in-combination effects with other plans and projects and identified any residual effects on the European sites and their conservation objectives.
- 6.4. This NIS was informed by various data sources including mapping and Geographical Information Systems (GIS) data sources, online data available on Natura 2000 sites as held by the National Parks and Wildlife Service (NPWS), National Biodiversity Data Centre records, Status of EU Protected Habitats in Ireland. (National Parks & Wildlife Service, 2019) and the Meath County Development Plan 2021 – 2027.

7.0 Consultation

7.1. The application was circulated to the following bodies:

- Department of Culture, Heritage and the Gaeltacht
- Inland Fisheries Ireland
- National Parks and Wildlife Service
- The Heritage Council
- An Taisce
- National Monuments Service
- Irish Water

- Office of Public Works
- Iarnróid Éireann

One response was received from the Inland Fisheries Ireland.

7.2. Inland Fisheries Ireland:

- 7.2.1. The IFI ask that An Bord Pleanála bear in mind the following regarding the making of any decision or the request for any further information:
- The EU Water Framework directive (2000/60/EC) which requires the protection of ecological status of river catchments.
 - Article 5 of the 2009 Surface Water Regulations which requires that a public authority in performance of its functions shall not undertake those functions in a manner that knowingly cause or allows deterioration in the chemical or ecological status of a body of surface water.
- 7.2.2. The IFI highlight that the Kells Blackwater is currently at good status (2020) as opposed to moderate in 2018. The river is a prominent game and course fishing facility with prominent stocks of Atlantic Salmon, Brown trout, eels and lamprey.
- 7.2.3. The IFI understand that the 2020 Annual Environmental Report (AER) as submitted to the EPA stated that the Kells WWTP had a design organic capacity of 9,800 Population Equivalent (PE). This is an increase from 8,000 PE in 2019. The actual organic capacity left is reported at 1787PE. However, the hydraulic capacity is 5400 PE, while maximum hydraulic load is 6773 PE.
- 7.2.4. Other concerns raised by the IFI related the storm water overflow SW3 which is situated on the banks of the Newrath which is a tributary of the Kells Blackwater. They state that this storm water line overflows on a regular basis due to heavy rains and it is noted that Irish Water have added a basket to the outfall which screens paper and rags, however this is not sufficient to treat any contaminated wastewater that discharges to the Newrath tributary which has limited dilution and connects into the Kells Blackwater a short distance away.
- 7.2.5. It is stated as part of the licence that upgrading of stormwater overflow SW3 was due to be completed by 2014 however this is not due now until 2028. It is also

understood that originally the capital upgrade for the Kells WWTP was due to commence in 2021. As part of the upgrade works SW3 was due to be discontinued.

- 7.2.6. During the EPA's site visit (06/02/2020) the WWTP operator confirmed a drinking water abstraction point was located approximately 15km downstream of the treatment and on the Blackwater Kells River. It was noted at the time by the inspector that's the licensee was unclear what the incident notification procedure was for notifying the drinking water plant in the event of an incident at the wastewater treatment plant and network.
- 7.2.7. The IFI highlight several sections within the former Kells Town Development Plan (2013-2019) which report on the need for an upgrade of the existing WWTP. They also refer to case law (CJEU case C 461/13) in Relation to the Water Framework Directive. In addition, the IFI refer to several cases in which the Board refused permission based on the inadequacy of the Virginia WWTP to accept future wastewater from proposed housing developments (ABP Ref. PL2.248992, ABP Ref. 303509-19, ABP Ref. 306108 and ABP Ref. 308029).
- 7.2.8. The Site Visit report completed by the EPA following the site visit on 06/02/2020 has also been attached to the submission for the Board's information.

7.3. **Public Submissions:**

- 7.3.1. One submission was received from Ciaran O' Kelly C/O Kells Anglers. The main points raised can be summarised as follows:
- The submitted application is wholly inadequate - no justification for the project nor the main development plan provisions relating to the subject site and surrounding area including any relevant core strategy provisions were submitted. Relevant planning history relating to the subject site and the surrounding area was not outlined nor was relevant national, regional and local policies nor description of the use of adjoining abutting or adjacent lands.
 - It is an impossible to properly consider the cumulative negative implications of the proposed development as the last Kells development plan cycle finished in 2019 - no plan exists currently.

- Both the submitted AA Screening report and the NIS failed to mention the Newrath stream (located c. 500m west of the proposed site) which is hydrologically connected to the Blackwater SAC.
- No cost of the plan has been made available to the public.
- Failures to properly inform prescribed bodies on previous application for 22 housing units.
- the private and/or communal open space attributed to each new housing unit falls far below the requirements of the Sustainable Urban Housing Design Standards for New Apartment Guidelines And the proposal is also contrary to DM OBJ 34 of the Development Plan.
- The Greenfield area referred to in the site description is in fact open space for the adjoining estates which was subsequently rezoned as A1 residential land under the new development plan, thus impacting on the quantity of space for the adjoining Magdalene Court and Archdeaconry Glebe.
- The Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities 2009 state that the provision of appropriately designed open space is a key element in defining the quality of the residential environment. This provision is not evident in this development.
- Antisocial behavior concerns - no consultation with nearby residents and the wider local community prior to the design of the proposed site.
- The NIS is falsely informed with details regarding the WWTP. The Kells WWTP capacity is still 8,000PE. MCC's AER for 2013 reported the plant operating at 9,270PE, 1,200PE over capacity. However, contradicting the 2013 report and figures within it the IW report for 2014 states that the plants loading was just 8,197PE. The PE figures presented in IW's AERs make no sense.
- A 2015 IW AER also states that SW3 is the only stormwater overflow within the sewerage network as detailed above. This stormwater overflow serves approximately 50% of the current population within the town. A 2015 Mott

McDonald report highlighted that the plant was over capacity and that the only reason the WWTP had the ability to produce treated effluent in compliance with its licensed ELVs for BOD, COD and suspended solids can be attributed in part to the fact that some of the town's wastewater overflows from the collection system and discharges to the Newrath Stream (without treatment).

- In response to MCC's part 8 application to the Board made in February 2021 (ABP-309480-21) Irish Water stated clearly that "Kells WWTP requires an upgrade to which the applicant will have to make an appropriate contribution". On foot of the application ABP advised MCC that an NIS was required and now this Part 8 has been withdrawn.
- Kells Anglers raised concerns with the EPA about the capacity of Kells WWTP and an e-mail response from the EPA confirmed the plant's capacity was 8,000PE (correspondence from IW to EPA in Dec 2021). However a response was also received by the Kells anglers from local councillors (dated March 2022) which stated that following capital upgrades at the plant in recent years which included a significant upgrade to the aeration system in 2020, IW can now confirm that the treatment system has appropriate treatment capacity 9800PE which includes additional capacity provided by recent capital upgrades, and the capacity of the plant is not expected to be exceeded within the coming 3 years". Therefore there is major confusion as to the actual true capacity of the plant. Also, no decommissioning of the polluting SW3 has taken place as part of the 'upgrade' and still regularly pumps raw sewage into the river (2022 photographic evidence submitted).
- The IW response dated March 2022 states that the current official population of Kells is 6135 (since this 2016) allowing for growth in that figure since 2016 and including industrial discharge the current peak week loading to the plant is just over 8000PE. The current capacity of the plant is 9800PE. However, it is noted that the 2011 census population figures did not include the surrounding environs which are also served by the WWTP, which had a 9270PE load by 2013 according to the 2013 MCC AER. Where has the excess sewage disappeared to and how are Irish water claiming to have available capacity for another 1700PE?

- Interestingly Irish waters own response to the EPA in 2020 when questioned on the matter stated “Irish Water advised the wider Kells sewage scheme is due to be upgraded. Irish Water were unable to confirm the delivery timelines for the upgrade”. Again major contradictions.
- Concerns regarding both the Rivers Blackwater and Boyne SAC and SPA and the lack of legally required management plans form the NPWS for both.
- Query the detail and quality of assessment contained in the current development plan’s Natura Impact Report.
- IW, MCC and the EPA are fully aware of the ongoing license failures at the Kells WWTP and the illegal pollution of the Blackwater SAC/SPA.
- The council have completely ignored their legal responsibilities over the sewage and chemical outflow from the Kells WWTP and SW3 into the Newrath Stream which in turn connects into the designated sites (Blackwater River).
- The NIS fails to mention other applications within the vicinity which were refused or withdrawn. A number of applications in recent years have been withdrawn over environmental failings including MCC’s own 2021 Part 8 application (ABP 309480-21) and also planning application 2154/KA 202804.
- In light of the relevant state authorities continued failure to address the pollution from Kells WWTP into the Blackwater SAC/SPA at Newrath Stream, it is the intention to bring a petition to the EU Commission on the matter.
- While the housing and apartment design envisaged in this application is of high quality, all else clearly reflects the extremely low planning and environmental standards currently being employed by MCC.

8.0 Assessment

- 8.1. Under the provisions of Section 177AE(6) of the Planning and Development Act, 2000 (as amended), the Board is required to consider the following in respect of this type of application:

- The likely consequences for the proper planning and sustainable development of the area;
- The likely effects on the environment; and
- The likely impact on any European sites

8.2. The likely consequences for the proper planning and sustainable development of the area:

Principle of development

- 8.2.1. The development of the site for residential purposes is in keeping with the overarching and established strategy for this area. The site is zoned A1- Existing residential and the stated land use objective for such zoned lands reads: *“To protect and enhance the amenity and character of existing residential communities”*.
- 8.2.2. Section 2.10.4 of the plan outlines the household allocation for 2020- 2027 for Kells at 452 and the potential units to be delivered on infill/ brownfield lands at 400 units. The Quantum of land zoned for residential use (ha) is 19.67 ha and the Quantum of land zoned for existing residential use (ha) is 135.2 ha. Objective DM OBJ14 of the operative development plan outlines that densities of 25uph - 35uph shall be encouraged for Self-Sustaining Towns, Kells is designated as one such town. The proposed site has an area of 1.37ha and the proposal consists of construction of 36 no. new residential units and refurbishment of 9 no. existing derelict units to provide 11 no. new units, therefore the total amount of units proposed on the 1.37ha site is 47 which is in keeping with the density outlined in the operative development plan and a density which I consider acceptable on the site.
- 8.2.3. I consider that the principle of re-development of this site is acceptable. The redevelopment of the site for residential purposes will assist in the meeting of demand for housing in the Kells area. Furthermore, the redevelopment and upgrading of the street frontage will contribute to the improvement of the streetscape along both Carrick street and Maudlin Street. The subject development involving houses set out in a fairly standard residential estate layout provides for the retention of a substantial portion of the existing housing and its redevelopment. It also makes use of existing infrastructure and thus provides for cost efficiencies.

8.2.4. I conclude that the development is in keeping with relevant policy provisions and is acceptable in principle in relation to its density and character.

Layout and Public Open Space

8.2.5. As highlighted above the entirety of the site is zoned as A1 'Existing Residential' and this is indicated on Sheet No.18(a) Land Use Zoning for Kells under the Meath County Development Plan 2021-2027, however a portion of the sites northern side is comprised of existing open space lands which is accessed from the Archdeaconry Glebe housing estate.

8.2.6. Objective DM OBJ 26 of the Meath County Development Plan 2021-2027 states that public open space shall be provided for residential development at a minimum rate of 15% of total site area and that each residential development proposal shall be accompanied by a statement setting out how the scheme complies with this requirement. It is noted that a total of 3,836m² is to be provided as part of the proposed development which equates to a stated 28.2% of the site area, however this open space which is located along the northern boundary of the site would appear to also serve the adjoining housing estates of Magdalene Court and Archdeaconry Glebe. Further information was requested from the Local Authority in this regard, in which the Council was asked to outline how this area meets the current proposal's public open space requirements without compromising the needs and requirements of the existing housing developments to the north.

8.2.7. In response to the request the Local Authority outlined that the proposed open space for the proposed scheme comprises of an existing but relatively underutilised grassed area along the internal access road serving Magdalene Court and Archdeaconry Glebe. They highlight that Magdalene Court is served by 3 separate open spaces areas with a combined area of 0.57ha which equates to approx. 12% of the overall housing estate and that Archdeaconry glebe has 2 no. areas of dedicated open space totalling 0.189ha which equates to approx. 21.3% of the housing estate. A map illustrating these areas has been submitted as part of Appendix 1 of the response to FI. There appears to be some discrepancies on this map however, as the area which encompasses the estate of Archdeaconry Glebe has also been included in the total area for Magdalene Court. When referring to the map in the submitted Appendix 1 it can be clearly seen that the open space areas outlined to be

allocated for Magdalene Court (i.e. 0.126ha, 0.196ha and 0.248 ha) which total 0.57ha includes the estate roadway referred to as Archdeaconry Glebe (area outlined in purple). The second area incorrectly referred to as 'Archdeaconry Glebe' outlined in the blue lining in fact concerns a row of houses named 'Archdeaconry' and the older established housing estate of Colmcille's Villas and Willie Black Crescent¹. Having said this however and highlighted the discrepancies in names, what was raised as a concern i.e. the area of open space dedicated to Magdalene Court and Archdeaconry Glebe, has in my opinion been adequately addressed by the Local Authority. To summarise a total area of 0.57ha of open space is available for all residential units located on both of these estate roads (Magdalene Court and Archdeaconry Glebe) equating to approx. a 12% allocation, the allocation of open space available as part of the redevelopment of Carrick Street is at 28.2%. Therefore the combined area available to both developments equates to an average of 15.3%². Given that the area of open space associated with the proposed development will be readily accessible to the residents of Magdalene Court and Archdeaconry Glebe it is not considered that the proposed development would compromise the existing housing developments open space provision. The proposed subject development proposes the provision of approx. 28% of the site to be reserved exclusively for public open space. This provision exceeds the requirements prescribed under DM OBJ 26 of the operative development plan and the proposed development would result in a total combined public open space area for the three housing schemes of 15.3%, which would be considered appropriate for this residential land use in this area of Kells. I note that the local authority also state that the underutilised public open space would be enhanced with the proposed landscaping features and planting and would in turn deliver an attractive green space that would allow the proposed scheme better integrate and assimilate with the established housing developments to the north. Furthermore, the local authority highlight that the proposed refurbishment of nine derelict units which currently have no public open space available to them would in turn have access to this area.

¹ <https://finder.eircode.ie/#/map>

² It is noted that the calculations provided in appendix 1 regarding the amount of open space available for the Carrick Street site at 0.407ha is incorrect, the figure presented previously was 3,836sq.m or 0.384 ha. The latter of these figures is the figure used for the purposes of the calculations in this report.

- 8.2.8. It should be noted also that of the areas of public open space, circa. 234m² is to be located on the southern side of the site closer to the Carrick Street pedestrian entrance and that this area will also include a soft play area, thus providing added amenities to the development.
- 8.2.9. Having considered all the above I am satisfied that the proposal meets the requirements in relation to public open space as outlined in the operative development plan and that the public open space provision of existing housing estates to the north would not be compromised.

Design, Standards and Parking

- 8.2.10. One of the site's assets is its location in the centre of the town, and this location provides ease of access to a wide range of amenities and services.
- 8.2.11. In terms of the detail of the actual housing units these are stated to have been designed to comply with the Quality Housing for Sustainable Communities Guidance in terms of layout, size etc. A revised Schedule of Accommodation, in response to the further information request has been submitted, which sets out all the unit numbers, unit types, overall floor areas, and private open space provision for the proposed development. It also illustrating that the targets and proposed areas for each of the apartments proposed comply with the Design Standards for New Apartments.
- 8.2.12. In terms of the aesthetics of the proposed development and the architectural treatment I note that the development is described as incorporating a modern design approach and displaying a high standard of civic design. The proposed new construction elements are to be completed in a light buff brick finish providing contrast to the primarily rendered context on the existing buildings along Maudlin and Carrick Street. Contrasting dark brick is to be provided in places beneath window opes to provide texture and relief in the proposed facades. The use of a neutral palette of contemporary materials will provide for minimal upkeep.
- 8.2.13. I accept that the design and layout of the scheme is to a reasonable standard and is responsive to the site context and in my opinion would provide a visually acceptable scheme which creates a sense of place.

Private Open Space

8.2.14. An updated Schedule of Accommodation (see Appendix 3) and a revised Site Layout Plan were submitted as part of the further information request. These now clearly illustrate the private open space allocation per residential unit. The proposed development as presented in these revised plans and schedules now complies with the open space standards as set out in the Design Standards for New Apartments, Guidelines for Planning Authorities (2022) which in turn tie into the Residential Development Standards in the operative development plan. Three houses fail to meet the minimum area of private open space required for a 3-bed house (Unit no. 6, 8 of Block 1 and no.17 Carrick Street) however I note that section 11.5.12 of the operative development outlines that exceptions to this standard may be considered in relation to the redevelopment of brownfield/regeneration sites where the focus is on design led and performance-based outcomes rather than specific absolute requirements in all cases. In the case of the current development, I consider that flexibility should be permitted given the location of the development within the town centre and the fact that a large proportion of the scheme would see the redevelopment of existing vacant buildings and underutilised town centre sites. The quality of the urban fabric along Carrick St. and Maudlin St. will be improved and the long plots behind these houses will be reused in a modern way to contribute towards the housing needs of Kells, with portions of these gardens now forming part of the private open space requirements of the additional new build houses within the development.

8.2.15. The detailed design drawing submitted shows landscape features and detailed planting proposals which will assist in the establishment of a local character and a high-quality residential environment.

Mix and Typology

8.2.16. The design presented is described as mirroring the current social housing waiting list for the Kells area with 20 no. 1-bed units (43%), 19 no. 2-bed units (40%), and 8 no. 3-bed units (17%). The Local authority state that the majority of private developments in the Kells area are concentrated on the delivery of 3-bed units, with MCC availing of these through the Part V process, with very little development of appropriate smaller units. The typology and density of the proposed development

has therefore been specifically designed to include a number of 1-bed units and more specifically a number of universal design units to cater for a whole life occupancy.

- 8.2.17. The quality of the urban fabric along Carrick St. and Maudlin St. will be improved and a mix of age friendly and family units will be provided to encourage a revitalization of Carrick St. The architectural design statement outlines the materials and elevational proportions have been carefully considered to integrate into the urban vocabulary of Kells, with detailed consideration of the use of renders, ope and quoin treatments that have been observed in the rest of the town.
- 8.2.18. It is considered that the scale and nature of the proposed redevelopment of this site reflects the character of the town centre and will provide for the amenity needs of future residents. The scheme presented is an efficient model of development as it utilises currently unused or vacant properties and it provides additional residential units within close proximity to the town centre and its services and amenities.

Access and Parking

- 8.2.19. Access to the proposed newly constructed element of the development i.e. Blocks 1 to 6 is to be provided from the north off Magdalene Court. The internal estate roads will be c. 5.5m in width and tabletop junctions are provided at regular intervals. Pedestrian access is to be provided from the south between no.15 and no. 16 Carrick Street. The proposed access points are considered acceptable.
- 8.2.20. I note that 31 no. car spaces are to be provided as part of the scheme, this includes for 3 no. electrical vehicle charging points and also 1 no. accessible space. An additional 6 no. car spaces outside of the site boundary exist along Carrick Street. On street car parking is also provided on both sides of the street along Maudlin Street. While I note the car-parking standards outlined within the operative development plan under Section 11.9.1, I also acknowledge that Kells is a town well served by public transport i.e. bus routes and note that the Council allows for discretion to be exercised having regard to the availability and adequacy of on street parking and also the availability of good access to services and strong public transport links. Given the central location of the development within walking distance of services and amenities and its proximity to public transport links, I consider the provision of dedicated carparking spaces within the development boundary and the

provision of on street parking within the vicinity adequate to cater for the parking needs of future residents.

- 8.2.21. Cycle parking has also been provided on site in the form of 20 no. secure parking spaces and 10 no. visitor spaces, this provision is considered adequate.

8.3. **The likely effects on the environment**

- 8.3.1. There is no provision under Section 177AE of the Planning and Development Act, 2000, as amended, to require Environmental Impact Assessment or to carry out a formal EIA Screening Determination for a local authority project which was submitted under this section of the Act. Having regard to the nature, scale and characteristics of the proposed development, I consider that the main environmental effects to be assessed, other than those covered under the Appropriate Assessment, are as follows:

Foul, Surface Water Management and Flood Risk

- 8.3.2. The Proposed Development is to be connected to the existing sewer for the treatment of wastewater at Kells WWTP. Following a review of the information submitted with the application and the submissions received on file from the IFI and Kells Anglers it was decided that further information should be sought from the local authority in order to allow them address concerns in relation to capacity at the existing WWTP. The local authority responded to this further information request in late February 2023 and the response included correspondence received from Irish Water on the matter.
- 8.3.3. The Kells WWTP is operated by Irish Water and the local authority have stated in their response to FI that a pre-connection enquiry indicated that there was no capacity issues with the plant. In relation to the issues raised in the submissions received, Irish Water submitted a response to the local authority in February 2023, this response is contained within Appendix 4 of the response to the Board's FI. In this response Irish Water state that six separate and significant investment projects between 2010 to 2022, have contributed to improved compliance of Kells WWTP, one of which significantly increased the biological treatment capacity of the plant. They therefore state that the assertions made in relation to capacity in the submissions received are therefore not up to date in that they do not take full account of these projects. It is acknowledged that a major capital upgrade of Kells

WWTP was planned as far back as 2012, however this was deferred in 2017 in favour of targeted upgrades which included upgrades to the orthophosphate removal system and the aeration upgrade, both of which resulted in Kells WWTP comfortably meeting its Wastewater Discharge Licence limits and allowing for future growth.

- 8.3.4. A table is included on page two of the response which details a summary of these upgrades. The treatment capacity (PE) is detailed as increasing from 8,000 PE in 2010 to 9,800 PE in 2021 as a result of these upgrades. These upgrades included for example installation of ferric dosing system to control Orthophosphate levels in final effluent and meet Wastewater Discharge Licence ELV, upgrading of aeration system to Fine Bubble Diffused Air (FBDA) aeration system as well as other improvements (see table). I note that the fine bubble diffused air upgrade was installed and commissioned by the end of quarter 3, 2020, however the 2021 AER stated that the planned capacity was 8,000 PE, Irish Water highlight that this was due to a reporting error and should have read 9,800PE. These discrepancies in capacity PE were raised in the submissions received by the Board and I am satisfied that Irish Water have now addressed these concerns with the updated information outlined above.
- 8.3.5. It is noted that the upgraded fine bubble diffused air aeration system is considerably more effective, as well as being more energy efficient, and significantly increases the capacity of the irrigation system and guarantees year round ammonia compliance. Irish Water state that the current peak weekly loading to the plant is just over 8,000 PE.
- 8.3.6. Irish Water highlights that there was a delay in the receipt of some information for Kells relating to the 2021 AER and this was not submitted until June 2022. Kells WWTP was fully compliant with its wastewater discharge license emission limit values for 2020 and 2021. One exceedance occurred in 2022 (16/2/22) relating to the commissioning of the new automatic wasting system, this was the result of an operational issue and not as the result of lack of plant capacity and it was otherwise compliant. The plant upgrades highlighted within Irish Water's submission ensure that the plant now has the capacity to consistently meet both the urban wastewater treatment standards and its wastewater discharge license limits. It also more importantly demonstrates that in relation to this application the plant has sufficient spare capacity to cater for the growth of Kells town for several years.

- 8.3.7. In relation to the planning applications listed in the Board's FI request, three of these housing applications (KA180577, KA22502 and KA190127) are either under construction or likely to be constructed amounting to a total of 120 residential units. The Park Ri service station (ABP Ref. 301669) is under construction and has been operational for approximately 2 years. Irish Water can confirm that the WWTP can comfortably treat the cumulative loading from these developments as well as further additional growth to the necessary standards. They also state that evidence of good performance of Kells WWTP is clear from the EPA assignment in 2020 of a Q4 or "Good" status to the Kells Blackwater both upstream and downstream of the WWTP at Mabels Bridge (upstream) and Donaghpatrick Bridge (downstream).
- 8.3.8. In response to the concerns relating to SW3, this storm water overflow is one of only two licensed from the Kells wastewater agglomeration, the other being from the stormwater holding tank at the treatment plant itself. Improvements have been made since the 2015 Mott McDonald Report, including removal of a large blockage and the installation of a basket type screen at the outfall of SW3. Irish Water state that these measures have substantially improved the compliance of storm water overflow. The storm water overflow activates only following heavy rainfall which indicates that it is operating as it was originally designed. The wastewater discharged in this way is heavily diluted and is screened. The effectiveness of the improvements made to SW3 to date are supported by the assignment of Q4 or "good" status to the Kells Blackwater downstream of the WWTP and of SW3.
- 8.3.9. It should be noted however that Irish Water states that notwithstanding the above it is acknowledged that given the low assimilation of capacity of Newrath stream, an upgrade of SW3 is required and that a network upgrade is still planned which will include eliminating the storm water overflow at the Newrath Stream, as well as additional storm handling facilities at the site. The terms of reference and program for this upgrade are currently being drawn up by Irish Water, in partnership with the local authority.
- 8.3.10. Having considered the information submitted as part of the FI response (summarised above), I am satisfied that the issues raised in the submissions received, in relation to discrepancies in the plant's capacity, have been addressed by Irish Water. Irish Water have also outlined that an upgrade of SW3 is required and that a network upgrade and program for this upgrade to address storm water overflow at Newrath

Stream is currently being formulated. I am also satisfied that the proposed development when considered cumulatively with other constructed and permitted developments within the settlement of Kells can be adequately accommodated by the existing Kells WWTP which Irish Water have stated has a capacity of 9,800PE. The most recently presented plant loading figure for 2021 (note delay in 2021 AER to EPA – submission date June 2022) is 8013PE. I conclude that the proposed development is acceptable in terms of proposals for foul and surface water discharge.

Ecology

- 8.3.11. Following an examination of the information received with the application it was noted that no detailed ecological surveys (bats) or invasive species surveys were carried out for the proposed site. Given the vacant and somewhat derelict state of the buildings along Mauldin Street and Carick Street for which significant renovations are proposed and also the overgrown nature of the rear gardens of these properties, it was determined that further information should be sought to address any issues in relation to ecology.

Invasive Species

- 8.3.12. The local authority appointed consultants to carry out an Invasive Alien Plant Species (IAPS) survey which covered the proposed development lands at Carrick Street and Maudlin Street in May 2021. The results of this survey recorded one large Japanese knotweed infestation growing in the centre of the site in a large area (c. 40m x 10m) between the present rear boundary of no.14 Carrick Street and the rear part of no. 13 Maudlin Street. A second survey was carried out in June 2021 to check for any additional growth (see Appendix 6 of FI response). As part of the Board's FI request, management plans for any invasive species identified was requested. In response to this the local authority carried out a follow up inspection in October 2022 and a Japanese Knotweed Management Plan was prepared by INVAS Biosecurity to deal with the infestation (see Appendix 7 of FI response). The plan outlines that all Japanese knotweed within the infested area is to be excavated and removed for disposal at a licensed landfill. An experienced contractor has been appointed and it is anticipated that this work will commence in the second quarter of 2023, pending receipt of a license from the NPWS. The response to further

information includes a provisional acceptance letter for biosecure disposal of soils containing Japanese knotweed at Hollywood landfill W0129-02 (see Appendix 8 of FI response) and a haulier's permit for transportation of contaminated materials (see Appendix 9 of FI response).

8.3.13. Having reviewed the submitted information and measures proposed as part of the Japanese Knotweed Management Plan I am satisfied with the approach proposed and that compliance with same can be addressed by way of condition.

8.3.14. I note the local authority in their response to FI states that the NIS report has been updated to include additional information supplied by Irish Water and also from the Japanese Knotweed Management Plan. I refer to appropriate assessment issues separately below under Section 8.4.

Bats

8.3.15. In response to the request for further information the local authority commissioned a bat survey which examined each of the buildings and a remote bat detector was placed in a shed behind the site to record any bat activity. I note that the survey took place in February 2023 which is not the optimal time for bat surveys given their low activity rates at this time of year, however the Council has stated that a second survey will take place over two dates in the summer, to cover bat activity and search for maternity roosts which may have been overlooked in this assessment.

8.3.16. The results of the survey evidenced use of one of the empty buildings by a brown long eared bat with a feeding perch evident. This building was identified as a roost and a derogation licence will be required before refurbishment of the building. A common pipistrelle was recorded feeding on site on Feb 14th. Soprano pipistrelle were also recorded feeding on the site during the survey period.

8.3.17. A number of recommendations have been made and will be incorporated into the detailed design of the scheme regarding the lighting, landscaping and bat boxes. I note that the report makes a particular recommendation that a dark sky corridor should be created within the development to allow for movement of long eared bats, this recommendation is welcomed. In order to mitigate against the loss of vegetation onsite which provides feeding habitats for the bats, native trees are to be planted with ivy and other climbers also from the All-Ireland Pollinator Plan. The area to the north of the site is to be managed also for wildlife as illustrated on the landscape

plan contained in Appendix III of the Bat Assessment report (please also see Section 3.1 of the Landscape Proposal document submitted with application, dated March 2021).

8.3.18. Having regard to the limited site area involved and the availability of similar habitat in the vicinity, as well as the landscaping plans presented and other measures, which would provide foraging and refuge opportunities for species that could be disturbed/displaced by the proposed development, I consider that subject to the recommended measures proposed being implemented, the potential impacts on local wildlife including bats is not likely to be significant. This is however dependant on the results of further bat surveys which are to be conducted in the summer months, therefore should the Board be minded to grant approval for the development, I recommend that conditions be attached requiring pre-construction bat surveys, including specific roost surveys to minimise potential impacts on these species.

Architectural and Archaeological Heritage

8.3.19. Kells is a town of historic importance with significant heritage which makes it a unique settlement in the County. This history and heritage makes it an important tourist destination in 'Ireland's Ancient East' and the Boyne Valley. Given its importance a suite of documents in relation to both the Architectural and Archaeological Heritage have been submitted with the application and these have been detailed under Section 2.2 above.

Architectural Heritage

8.3.20. While there are many characterful buildings within the immediate vicinity of the site, no protected structures or NIAH designated buildings are located on the site. The closest protected structure is Maudlin House (LA RPS ID 90549, NIAH Reg. no. 14313032) which is located opposite of no.17 Maudlin Street. This protected structure dates from c.1770. There are 3 other protected structures also located along Maudlin Street on the opposite side of the street to where the works are proposed, these are RPS ID no.s 90548, 90550 and 90551, with the corresponding NIAH Reg. no.s 14313031, 4313036 and 14313127. No impacts on these buildings is expected.

8.3.21. The buildings on the proposed site located along Maudlin Street and Carrick Street are located within the Kells Historic Core Architectural Conservation Area which extends to the south. Given the sensitive restoration plans proposed as part of the scheme and the reintegration of these currently vacant properties into the streetscape it is considered that the proposal will serve to enhance the existing ACA and conforms with the policies outlined within the operative development plan.

Archeological Heritage

8.3.22. The proposed site lies within the Kell's Historic Town Core Area (SMR-RMP ME017-044) as defined by burgage plots on the 1837 OS and Zone of Archaeological Potential, with approximately 0.9 hectares thought to be 'inside' the roughly 20 hectare Historic Town of Kells and approximately 0.5 hectares thought to be 'outside'.

8.3.23. It is noted that the National Monuments Service advised that since Meath County Council is the owner of the proposed development lands a Section 14 Ministerial Consent was advisable for all the proposed works. Consent ref. C001009 was issued to Meath County Council in September 2020.

8.3.24. Archaeological monitoring was undertaken in relation to site investigation works for the proposed development. The monitoring was carried out in November 2020 under Consent C001009, as issued by the Minister for Culture Heritage and the Gaeltacht to Meath County Council. Site investigations consisted of 21 Test Pits (15 Trial Pits, 2x Soakage Pits and 4x Foundation Investigation trenches). The results of this monitoring are contained in the submitted report 'Archaeological monitoring of Site Investigation Works', dated November 2020.

8.3.25. Following initial investigations, the report outlined that the presumed line of Kells Town Defences (SMR-RMP ME017-044004 – Kells Town Defences) interacts with the proposed development site for c. 160m. Of this there is a burgage / garden wall that acts as a boundary wall to 18-19 Maudlin Street to the proposed development site for c.70m that might overlie the Town Defences. Beyond this the proposed development site crosses the presumed line for a distance of 45m to the rear of 15-17 Carrick St (an area proposed to be crossed by accesses) and beyond this the proposed development site has a boundary along the presumed line for a further 45m to the rear of 18-20 Carrick St (an area proposed to be retained in situ).

8.3.26. Following the initial investigations above, further archaeological trench testing was undertaken in April 2021. The aim of this testing was to establish if there were any masonry remains of Kells Town Walls or whether there were remains of town defences which took the form of earth/ ditched rampart defences. Following these investigations, it was determined that the key feature that crosses the site is a large defensive ditch. The ditch was exposed over a distance of c.55m, is 6-7m wide and around 1.8m deep. In addition trenches T1 and T3 seemed to show reasonable evidence for a large bank of redeposited upcast glacial till and ploughsoil. It was presumed that the ditch and bank represent the remains of the Kells Town Defences. There is no evidence for any form of masonry boundary wall crossing the site. It is common for Town Defences to be a combination of masonry and stone-faced earthen banks. The exact construction date of the Ditch (Trial test ref. [7]=[22]=[37]) and Bank (Trial test ref. [8]=[36]) is currently not known but it is assumed this ditch is a 14th or 17th century late medieval date, more than likely 17th century given the lack of domestic waste (which is common in medieval ditches). It is likely that the present boundaries to 11-20 Carrick Street are based on the later and post-medieval burgage plots. Some pits – particularly those in T2 in 17 Carrick Street – contained large animal bones of a similar type that were littering this plot on the present ground level and are likely to date to the later 19th or even 20th century. It is likely that a butcher shop and tannery were located along Carrick Street in this area.

8.3.27. The results and recommendations outlined in the subsequent Archaeological Test Trenching report submitted, dated August 2021, state that the 55m long bank and ditch that runs diagonally across the site is a National Monument and as such there is a presumption for its preservation in situ – and ideally its promotion to the public. The report also highlights that such a monument may trigger an Environmental Impact Statement if there is a proposal for its removal or any significant impacts. The report also states that the boundary wall of 18-19 Maudlin Street – which is on the line of the Town Defences is also a significant feature and requires preservation and repair. This wall is a visual marker for the now-removed above ground defences, and this is the reason the wall has been preserved so far from change. This section of the boundary wall runs to the north of Block C and is only partially within the site boundary. The report (August 2021) states that following investigations it can now be determined with some certainty that Maudlin Gate was located adjacent to 18

Maudlin Street. It is recommended that as part of the development proposal, it may be beneficial to highlight the Town Defences in the footpath outside 18-19 Maudlin St and also to place an information sign nearby. I note that there are plans to install information and education panels to inform the public of the history on site and also plans to mark the town wall heritage feature, the line of the wall is to be demarcated by paving features as part of the landscaping strategy. This is a welcomed addition to the site and same could also include reference to the Maudlin Gate feature within the proposed site.

8.3.28. I note that the path of the town defence walls travels west under the proposed units in Block 1. Originally two options were put forward for the site's development, these are outlined within the Design Development report, dated 15th June 2022. Option 2 examined the relocation of Block 1 to the north of the site so as to ensure that the buried ditch-bank (town defence walls) would not be covered by development. While I accept that it would be preferable that the works did not impact on any features associated with the town defences, I do note that alternative options were considered and rejected. It was determined that Option 2, which consisted of the relocation of Block 1 within the public open space area to the north of the site and the incorporation of the buried feature within the relocated public open space area had in fact a larger number of disadvantages than Option 1, namely; the public open space to Magdelene Court is not retained, the new pedestrian streetscape is lost within the new design and also the loss of the 19th Century plot alignment. The chosen Option 1 however sees the existing public open space providing a buffer between the late 18th/19th Century town boundary and provides a more compact urban development. As stated previously the line of the 17th Century defences (length of earthen bank and ditch: not a masonry wall) are indicated within the landscape of public realm and signage and information boards are proposed to identify the buried archaeological feature. Having examined the topographical surveys submitted (Drawing no. 1935-AA-002) and the proposed site sections (Drawing no.s 1935-PA-500 and 1935-PA-501) it would appear the foundations of the proposed units will be for the most part situated above the defensive ditch remains, which the submitted Archaeological Test Trenching report (August 2021) addresses. The report states however that a full archaeological record of the feature will be required prior to construction which can be incorporated into the Conservation

and Management Plan when it is updated. The Council state that foundation and underground drainage will be carefully designed to retain intact the buried feature. I also note that the Town Defences in situ are currently overlain by 1m of garden soil (according to Archaeological Test Trenching report, August 2021). The Council also highlight that the proposed development has resulted in a better understanding of an early part of the defensive strategy of North Kells.

8.3.29. The Town Defences represent a National Monument regardless of whether they are stone-built or are an earthen bank and ditch and therefore further careful consideration is required as to how the proposed development will interact with the defences, particularly the approx. 5m wide x 0.50m or so high remains of the collapsed bank along the inside face of the 6m wide x 2.5m deep ditch. I consider an acceptable compromise can be achieved, providing much needed social housing for the town while minimising the impact on built heritage. I accept that there is potential for previously unrecorded features/deposits to be uncovered during groundworks, but that should the Board be minded to grant permission for the development, these impacts can be adequately addressed by condition. I recommend, should the Board be minded to grant approval for the development, that a detailed archaeological excavation informed by additional test excavation across the whole phase of works should be completed prior to any construction starting on site. In addition an updated Archaeological Impact Assessment, should be completed.

8.4. **The likely significant effects on a European site**

8.4.1. The areas addressed in this section are as follows:

- Compliance with Articles 6(3) of the EU Habitats Directive
- The Natura Impact Statement
- Appropriate Assessment

Compliance with Articles 6(3) of the EU Habitats Directive:

8.4.2. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to

appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site.

- 8.4.3. The proposed development is not directly connected to or necessary to the management of any European site and is therefore subject to the provisions of Article 6(3).

The Natura Impact Statement

- 8.4.4. The application was accompanied by an NIS dated 30th June 2022 which described the proposed development, the project site and the surrounding area. An updated NIS was submitted as part of the response to further information received by the Board on 27th February 2023. This updated NIS is dated 17th February 2023 and contains additional information supplied by Irish Water and also information in relation to invasive species and the Japanese Knotweed Management Plan (see Appendix 6 and 7 of the further information submission). The updated NIS contained a Stage 1 Screening Assessment which concluded that a Stage 2 Appropriate Assessment was required. The NIS outlined the methodology used for assessing potential impacts on the habitats and species within several European Sites that have the potential to be affected by the proposed development. It considered the potential impacts for these sites, their respective qualifying interests and their conservation objectives, and any in-combination effects with other plans and projects that may occur. It then suggested mitigation measures and evaluated same for each of the European sites and their conservation objectives.

- 8.4.5. The NIS was informed by the following studies, surveys and consultations:

- A desk top study.
- An examination of aerial photography, maps and existing services in the area.
- A separate invasive species survey was also carried out of the site.
- Consultations with Irish Water.

- 8.4.6. The report concluded that, on the basis of the best scientific knowledge available, and with the appropriate treatment of wastewater, that the possibility of any adverse effects on the integrity of the European Sites considered in this NIS (having regard to their conservation objectives), or on the integrity of any other European Sites (having

regard to their conservation objectives,) arising from the proposed development, either alone or in combination with other plans or projects, can be excluded beyond reasonable scientific doubt.

- 8.4.7. Having reviewed the updated NIS and the supporting documentation, I am satisfied that it provides adequate information in respect of the baseline conditions, does clearly identify the potential impacts, and does use best scientific information and knowledge. I am satisfied that the information is sufficient to allow for appropriate assessment of the proposed development (see further analysis below).

Appropriate Assessment

- 8.4.8. I consider that the proposed development of a total of 47 residential units at the subject site in Kells, Co. Meath is not directly connected with or necessary to the management of any European site.
- 8.4.9. Having regard to the information and submissions available, nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the source pathway receptor principle and sensitivities of the ecological receptors the following European Sites are considered relevant to include for the purposes of initial screening for the requirement for Stage 2 appropriate assessment on the basis of likely significant effects.

Table 8.1 European sites considered for Stage 1 screening:

European site (SAC/SPA)	Qualifying Interests and conservation objectives M: maintain favourable conservation condition R: restore favourable conservation condition	Distance
River Boyne and River Blackwater SAC - Site Code: 002299	<ul style="list-style-type: none"> - Alkaline fens [7230] (M) - Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (Alno-Padion, Alnion incanae, Salicion albae) [91E0] (R) - <i>Lampetra fluviatilis</i> (River Lamprey) [1099] (R) - <i>Salmo salar</i> (Salmon) [1106] (R) - <i>Lutra lutra</i> (Otter) [1355] (M) 	c. 0.75km northeast
River Boyne and River Blackwater SPA – Site Code: 004232	<ul style="list-style-type: none"> - Kingfisher (<i>Alcedo atthis</i>) [A229] (M) or (R) 	c. 0.77km northeast
Girley (Drewstown) Bog SAC – Site Code: 002203	<ul style="list-style-type: none"> - Degraded raised bogs still capable of natural regeneration [7120] (M) or (R) 	c. 7.04km southwest
Killyconny Bog (Cloghbally) SAC – Site Code: 000006	<ul style="list-style-type: none"> - Active raised bogs [7110] (R) - Degraded raised bogs still capable of natural regeneration [7120] - The long-term aim for Degraded raised bogs still capable of natural regeneration is that its peat-forming capability is re-established; therefore, the conservation objective for this habitat is inherently linked to that of Active raised bogs (7110) and a separate conservation objective has not been set in Killyconny Bog SAC. 	c. 8.22km northwest

- 8.4.10. Based on my examination of the updated NIS report and supporting information, the NPWS website, aerial and satellite imagery, the scale of the proposed development and likely effects, separation distance and functional relationship between the proposed works and the European sites, their conservation objectives and taken in conjunction with my assessment of the subject site and the surrounding area, I would conclude that a Stage 2 Appropriate Assessment is required for two of the European sites referred to above, those being the River Boyne and River Blackwater SAC and River Boyne and River Blackwater SPA.
- 8.4.11. The remaining two sites can be screened out from further assessment because of the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special Conservation Interests, the separation distances and the lack of a substantive linkage between the proposed works and the European sites. It is therefore reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site No(s) 000006 or 002203 in view of the sites conservation objectives and a Stage 2 Appropriate Assessment is not therefore required for these sites.

Relevant European Sites

- 8.4.12. The Conservation Objectives and Qualifying Interests, including any relevant attributes and targets for these sites, are set out below.

1. River Boyne and River Blackwater SAC - Site Code: 002299

Description of site:

- 8.4.13. This site comprises the freshwater element of the River Boyne as far as the Boyne Aqueduct, the Blackwater as far as Lough Ramor and the Boyne tributaries including the Deel, Stoneyford and Tremblestown Rivers. These riverine stretches drain a considerable area of Meath and Westmeath, and smaller areas of Cavan and Louth. The River Blackwater is the element of the site located within proximity of the subject site. The Blackwater is a medium sized limestone river which is still recovering from the effects of the arterial drainage scheme of the 1970s. Salmon stocks have not recovered to the numbers that existed pre-drainage. The Deel, Riverstown,

Stoneyford and Tremblestown Rivers are all spring-fed, with a continuous high volume of water.

Conservation Objectives:

8.4.14. To maintain or restore the favourable conservation condition of the Annex I habitats and/or the Annex II species for which the SAC has been selected. The qualifying interests of the River Boyne and River Blackwater SAC are:

- Alkaline fens [7230]
- Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (Alno-Padion, Alnion incanae, Salicion albae) [91E0]
- *Lampetra fluviatilis* (River Lamprey) [1099]
- *Salmo salar* (Salmon) [1106]
- *Lutra lutra* (Otter) [1355]

Potential direct and/or indirect effects:

8.4.15. Potential indirect impacts on the River Boyne and River Blackwater SAC are considered in terms of hydrological connectivity between the Proposed Development and the River Blackwater. The NIS goes on to further state that a worst-case scenario may arise were the project to result in a significant detrimental change in water quality in the River Blackwater either alone or in combination with other projects or plans as a result of indirect pollution, the effect would have to be considered in terms of changes in water quality which would significantly affect the habitats or food sources for which River Boyne and River Blackwater SAC species is designated. Species such as Salmon, and Kingfisher and Otter relying on prey species requiring good water quality status are susceptible to such changes.

Alkaline Fen and Alluvial Woodland:

8.4.16. There will be no direct impacts on River Boyne and River Blackwater SAC and there will be no habitat loss or fragmentation as a result of the proposed development. Section 3.4 of the updated NIS states that having considered direct impacts and ruling them out, indirect impacts are then considered in terms of source pathway vectors.

Lamprey:

- 8.4.17. There will be no direct impacts on Lamprey species and so the main concern is with regard to water quality and indirect impacts on water quality and prey species.

Salmon:

- 8.4.18. There should be no significant decline in out-migrating smolt. There should be no decline in number and distribution of spawning redds due to anthropogenic causes and a value of at least Q4 at all sites sampled by EPA should persist. While direct impacts may be ruled out, impacts on water quality and indirect impacts on salmonids and salmonid habitats are a consideration.

Otter:

- 8.4.19. There will be no direct impacts on Otters and so the main concern is with regard to water quality and indirect impacts on water quality and prey species. Each of these species is listed as one of the qualifying interests of the River Boyne and River Blackwater SAC designation. However, there will be no direct impacts on these Annex II species as a result of the Proposed Development. A worst-case scenario may be considered whereby the proposed project may result in a significant detrimental change in water quality in the River Blackwater either alone or in combination with other projects or plans as a result of indirect pollution. The effect would have to be considered in terms of changes in water quality which would affect the habitats or food sources for which the River Boyne and River Blackwater SAC species are designated.

2. River Boyne and River Blackwater SPA – Site Code: 004232

Description of site:

- 8.4.20. The River Boyne and River Blackwater SPA is a long, linear site that comprises stretches of the River Boyne and several of its tributaries; most of the site is in Co. Meath, but it extends also into Counties Cavan, Louth and Westmeath. The section relevant to the subject site includes the River Blackwater section from its junction with the River Boyne in Navan to the junction with Lough Ramor in Co. Cavan. Most of the site is underlain by Carboniferous limestone but Silurian quartzite also occurs in the vicinity of Kells and Carboniferous shales and sandstones close to Trim. The site is a Special Protection Area (SPA) under the E.U. Birds Directive of special

conservation interest for the following species: Kingfisher. The River Boyne and River Blackwater Special Protection Area is of high ornithological importance as it supports a nationally important population of Kingfisher, a species that is listed on Annex I of the E.U. Birds Directive.

Conservation Objectives:

8.4.21. To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA. The special conservation interest of the River Boyne and River Blackwater SPA is:

- Kingfisher (*Alcedo atthis*) [A229].

Potential direct and/or indirect effects:

8.4.22. There will be no direct impacts on Kingfisher and so the main concern is with regard to water quality and indirect impacts on water quality and prey species.

Possible Impacts on QIs/SCIs of European Sites

8.4.23. As stated previously there are no direct impacts identified which may affect the Annexed habitats or species of the SAC or SPA. The proposed development will have no impacts upon the integrity or the site structure of the River Boyne and River Blackwater SAC or on the River Boyne and River Blackwater SPA. Having established this, this AA emphasis is placed on potential indirect and cumulative impacts. The primary consideration in terms of source-vector-pathways for indirect impacts relates to surface water and potential indirect impacts on hydrologically linked habitats and aquatic species.

8.4.24. Section 3.5.2 of the updated NIS states that the potential for impact is considered whereby the proposed development would result in a significant detrimental change in water quality either alone or in combination with other projects or plans as a result of indirect pollution of surface water. The effect would have to be considered in terms of changes in water quality which would affect the habitats or species for which the River Boyne and River Blackwater SAC and SPA are designated.

8.4.25. The main consideration is in relation to impacts on surface water and the NIS examines the pathway connections from the subject site to the River Blackwater. The NIS states that the likelihood of impacts on hydrologically connected

environmental sites is low and will be avoided by appropriate treatment of wastewater at Kells WWTP. Section 1.7 of the updated NIS outlines that Irish Water have supplied a letter of response (9th February 2023; ABP Case No. ABP-314282-22 – See Appendix 4 of further information received) to Meath County Council in relation to the ABP request for further information. The Irish Water letter transcribed in Section 1.7. of the NIS asserts the capacity of Kells WWTP to assimilate the wastewater from the proposed development and also in combination with other built and proposed developments requiring wastewater treatment in the Kells agglomeration. Irish Water's response is also elaborated upon under Sections 8.3.2 to 8.3.10 of this inspectors report above.

Potential in-combination effects

Wastewater and Surface Water

- 8.4.26. Section 3.6 of the updated NIS contains an Assessment of In-Combination Effects. This section considers impacts in addition to the proposed works which may include other relevant projects and plans in the region. This step aims to identify at this early stage any possible significant in-combination of the proposed development with other such plans and projects on the Natura 2000 site. A review of the National Planning Application Database was undertaken and the database was then queried for developments granted planning permission within 250m of the Proposed Development within the last three years. In total 16 no. applications are detailed as well as the results of AA screening and where necessary any NISs. Any predicted in-combination impacts are then outlined. No in-combination impacts are identified, this is mainly by virtue of the size and scale of the permitted developments, the majority of which are small scale domestic or contained commercial development.
- 8.4.27. I note that as part of the further information response received by the Board, the local authority highlighted that a pre-connection enquiry with Irish Water indicated that there were no capacity issues and that the proposed development could be facilitated. Concerns were raised in the 3rd party submissions received in relation to the capacity of the plant to deal with the proposed development in-combination with other permitted developments in the town which also utilise the plant. Irish Water in their response dated 9th February 2023 outlined details of the Kells WWTP capacity at 9,800PE (taking into account the upgrades at the plant) and current loading of 8,000 PE. The response states that the Kells WWTP was fully compliant with its

wastewater discharge licence emission limit values for 2020 and 2021. One exceedance was recorded in 2022 and this related to the commissioning of the new automatic wasting system, but other than that it was compliant.

- 8.4.28. IW outline that the significant plant updates (as detailed under Section 8.3.4 of this report above) have ensured that the Kells WWTP now has capacity to consistently meet both the Urban Wastewater Treatment standards and its Wastewater Discharge Licence limits. IW highlight that the plant also has sufficient spare capacity to cater for the growth of Kells town for several years. They also refer to the planning applications referred to in the Board's request for further information, these include three housing applications MCC Ref.s KA180577, KA22502 and KA190127 which are either under construction or likely to be constructed, in total amounting to 120 residential units, all for which adequate capacity is provided. They state that the Park Ri service station on the Cavan Road (ref. 301669) is constructed and has been operational now for approximately two years. Irish Water state that they can confirm that the WWTP can comfortably treat the cumulative loading from these developments, as well as further additional growth.
- 8.4.29. Regarding water quality within the River Blackwater, Irish Water state that evidence of good performance of the Kells WWTP is clear from the EPA assignment in 2020 of a Q4 or "Good" status to the Kells Blackwater both upstream and downstream of the WWTP at Mabes Bridge (Upstream) and Donaghpatrick Bridge (Downstream). Having examined recent updates for 2023 I note that the "Good" status was also recorded in January 2023 along the Kells Blackwater at Mabes Bridge (Upstream) and Bloomsbury bridge (Downstream) (source: <http://gis.epa.ie/arcgis/rest/services/EPAMapServices/SurfaceWaterQuality/MapServer/1>).
- 8.4.30. I note that issues regarding discharge for the SW3 stormwater overflow from the Kells WW agglomeration was highlighted also in the submissions received. I have previously addressed this concern under Sections 8.3.8 to 8.3.10 above. Improvements have previously been made to SW3 as detailed in the response from Irish Water and I am satisfied that the effectiveness of these improvements is supported by the current Q4 or "Good" status of the Kells Blackwater downstream of the WWTP and SW3.

Meath County Development Plan

- 8.4.31. The submitted updated NIS states that the operative development plan in complying with the requirements of the Habitats Directive requires that all Projects and Plans that could affect the Natura 2000 sites in the same zone of impact of the proposed development would be initially screened for Appropriate Assessment and if requiring Stage 2 AA, that where necessary appropriate employable mitigation measures would be put in place to avoid, reduce or ameliorate negative impacts. In this way any, in-combination impacts with Plans or Projects for the development area and surrounding townlands in which the development site is located, would be avoided.

In-Combination Effects Conclusion

- 8.4.32. Based on my review of the website of Meath County Council there are no other projects relevant for consideration in terms of potential in-combination effects. In this regard I note the lodgement at a nearby site for development by MCC of 22 residential units (ABP Ref. 315169-22), but permission has not been granted for that project to date. Any in-combination effects would fall for consideration under that planning application and are not relevant to the current application to the Board.
- 8.4.33. Having regard to the above information I am satisfied that given the proposed treatment of wastewater at Kells WWTP, the proposed development will have no predicted impacts on local ecology and biodiversity or on hydrologically linked European sites, either alone or in combination with other developments within the surrounding area.

Mitigation measures

- 8.4.34. The updated NIS does not specifically list any particular mitigation measures necessary to avoid, reduce or offset negative effects that should be implemented. There are no direct hydrological connections from the site to the River Blackwater via any watercourses from the site. As outlined above any possible impacts would only be indirect and relate to the treatment of wastewater at the Kells WWTP. Irish Water have submitted a response that outlines that the current WWTP has the capacity to cater for the proposed development and that the stormwater overflow (SW3) is effective.
- 8.4.35. I note that the updated NIS contains details of the Invasive Alien Plant Species survey that was conducted on the subject site and the resultant record of one large

Japanese knotweed infestation growing on site. A Japanese Knotweed Management Plan has been submitted as part of the further information received, which includes biosecurity measures to be adopted on site during any works. I am satisfied that provided this plan is implemented in full that no impacts will occur that may adversely impact on the site integrity of any designated European sites. It is recommended that a condition to ensure the plan is implemented successfully should be attached to any grant of permission. In addition given that no Construction Environment Management Plan has been submitted with the application a condition should also be attached to ensure a detailed plan is prepared prior to any works commencing on site.

- 8.4.36. I am satisfied that the proposed development individually or in combination with other plans or projects would not adversely affect the integrity of this European site in light of its conservation objectives (subject to the implementation of mitigation measures outlined above).

AA Overall Conclusion

- 8.4.37. The proposed local authority housing development has been considered in light of the assessment requirements of Section 177AE of the Planning and Development Act 2000, as amended.
- 8.4.38. Having carried out screening for Appropriate Assessment of the project, it was concluded that the project may have a likely significant effect on River Boyne and River Blackwater SAC (site code: 002299) and River Blackwater SPA (site code: 004232). Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives.
- 8.4.39. Having regard to the foregoing I consider that it is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to carry out a Stage 2 Appropriate Assessment, and beyond any reasonable scientific doubt that the proposed development, individually or in combination with other plans and projects would not adversely affect the integrity of European site no. 002299 or site no. 004232, or any other European site, in view of the site's Conservation Objectives. I am satisfied that the project will not cause any delays or interrupt progress towards achieving the conservation objectives of the sites and will not disrupt factors that help maintain the favourable conservation conditions of the site.

9.0 Recommendation

On the basis of the above assessment, I recommend that the Board approve the proposed development subject to the reasons and considerations below and subject to conditions including requiring compliance with the submitted details and with the mitigation measures as set out in the Appropriate Assessment.

Reasons and Considerations

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

- (a) the EU Habitats Directive (92/43/EEC),
- (b) the European Union (Birds and Natural Habitats) Regulations 2011 (as amended),
- (c) the likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects of the proposed development on a European Site,
- (d) the conservation objectives, qualifying interests and special conservation interests for the River Boyne and River Blackwater SAC (site code: 002299) and River Blackwater SPA (site code: 004232),
- (e) the policies and objectives of the Meath Development Plan, 2021-2027,
- (f) the nature and extent of the proposed works as set out in the application for approval,
- (g) the information submitted in relation to the potential impacts on habitats, flora and fauna, including the Natura Impact Statement,
- (h) the submissions received in relation to the proposed development, and
- (i) the report and recommendation of the person appointed by the Board to make a report and recommendation on the matter.

Appropriate Assessment:

The Board agreed with and adopted the screening assessment and conclusion carried out in the Inspector's report that the River Boyne and River Blackwater SAC (site code: 002299) and River Blackwater SPA (site code: 004232) are the only

European Sites in respect of which the proposed development has the potential to have a significant effect.

The Board considered the Natura Impact Statement and associated documentation submitted with the application for approval, the mitigation measures contained therein, the submissions and observations on file, and the Inspector's assessment. The Board completed an appropriate assessment of the implications of the proposed development for the affected European Sites, namely the River Boyne and River Blackwater SAC (site code: 002299) and River Blackwater SPA (site code: 004232), in view of the sites' conservation objectives. The Board considered that the information before it was adequate to allow the carrying out of an appropriate assessment. In completing the appropriate assessment, the Board considered, in particular, the following:

- i. the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- ii. the mitigation measures which are included as part of the current proposal, and
- iii. the conservation objectives for the European Sites.

In completing the appropriate assessment, the Board accepted and adopted the appropriate assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the integrity of the aforementioned European Sites, having regard to the site's conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European Sites, in view of the site's conservation objectives and there is no reasonable scientific doubt remaining as to the absence of such effects.

Proper Planning and Sustainable Development/Likely effects on the environment:

It is considered that, subject to compliance with the conditions set out below, the proposed development would not have significant negative effects on the environment or the community in the vicinity, would not give rise to a risk of pollution, would not be detrimental to the visual or landscape amenities of the area, would not seriously injure the amenities of property in the vicinity, would not adversely impact on the cultural, archaeological and built heritage of the area and would not interfere with the existing land uses in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, and additional plans and particulars submitted on 27th February 2023, except as may otherwise be required in order to comply with the following conditions. Where any mitigation measures or any conditions of approval require further details to be prepared by or on behalf of the local authority, these details shall be placed on the file and retained as part of the public record.

Reason: In the interest of clarity and the proper planning and sustainable development of the area and to ensure the protection of the environment.

2. The mitigation and monitoring measures outlined in the plans and particulars relating to the proposed development, including those set out in the Japanese Knotweed Management Plan (dated October 2022) and the Bat Assessment Report (dated February 2023), shall be implemented in full or as may be required in order to comply with the following conditions. Prior to the commencement of development, details of a time schedule for implementation of mitigation measures and associated monitoring shall be prepared by the local authority and placed on file and retained as part of the public record.

Reason: In the interest of protecting the environment, the protection of European Sites and in the interest of public health.

3. Prior to the commencement of development, the local authority, or any agent acting on its behalf, shall prepare in consultation with the relevant statutory agencies, a Construction Environmental Management Plan (CEMP), incorporating all mitigation measures indicated in the Natura Impact Statement and demonstration of proposals to adhere to best practice and protocols. The CEMP shall include:
 - a) Location of the site and materials compounds including areas identified for the storage of construction waste,
 - b) Location of areas for construction site offices and staff facilities,
 - c) Intended construction practice for the development, including hours of working,
 - d) Means to ensure that surface water run-off is controlled in line with a Sediment Control Plan, such that no deleterious levels of silt or other pollutants enter local surface water drains or watercourses,
 - e) Containment of all construction related fuel and oil within specifically constructed bunds to ensure that fuel spillages are fully contained,
 - f) The management of construction traffic and off-site disposal of construction waste,
 - g) Specific proposals as to how the measures outlined in the CEMP will be measured and monitored for effectiveness,
 - h) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels; and
 - i) A record of daily checks that the works are being undertaken in accordance with the CEMP shall be maintained on file as part of the public record.

Reason: In the interest of protecting the environment and in the interest of public health.

4. The following nature conservation requirements shall be complied with:
- a) The County Council and any agent acting on its behalf shall engage a suitably qualified ecologist to oversee the site set up and construction of the proposed development and implementation of mitigation measures relating to ecology including those set out in the Japanese Knotweed Management Plan (dated October 2022) and the Bat Assessment Report (dated February 2023).
 - b) A pre-construction bat survey shall be carried out by a suitably qualified ecologist during the active bat season. Any destruction of bat roosting sites or relocation of bat species shall be carried out by a suitably qualified ecologist under a Derogation Licence granted by the Minister for Housing, Local Government and Heritage
 - c) Prior to the commencement of development, details of a time schedule for implementation of mitigation measures and associated monitoring shall be prepared by the local authority and placed on file and retained as part of the public record.
 - d) The ecologist shall be present during site construction works. Upon completion of works, an ecological report of the site works shall be prepared by the appointed ecologist to be kept on file as part of the public record.

Reason: In the interest of protecting the environment, the protection of European Sites and in the proper planning and sustainable development of the area.

5. The local authority 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:
- a) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works. The assessment shall address the following issues:

- i. the nature and location of archaeological material on the site, and
 - ii. the impact of the proposed development on such archaeological material.
- b) Complete a detailed archaeological excavation informed by additional test excavation across the whole phase of works to be completed prior to any construction starting on site. In addition an updated Archaeological Impact Assessment, should be completed.
- c) Complete a report, containing the results of the above assessments, regarding any further archaeological requirements (including, if necessary, archaeological excavation). This report shall then be submitted to the Department of Housing, Local Government and Heritage with any proposals agreed prior to commencement of construction works. Following this the Council will provide suitable arrangements acceptable to the Department of Housing, Local Government and Heritage for the recording and removal of any archaeological materials which is considered appropriate to remove.

Reason: In order to conserve the archaeological heritage of the site and secure the preservation (in situ or by record) and protection of any archaeological remains that may exist within the site.

6. The County Council and any agent acting on its behalf shall ensure that all plant and machinery used during the works should be thoroughly cleaned and washed before delivery to the site to prevent the spread of hazardous invasive species and pathogens.

Reason: In the interest of the proper planning and sustainable development of the area and to ensure the protection of the European sites.

7. The construction of the development shall be managed in accordance with a Construction and Traffic Management Plan.

Reason: In the interests of amenity, public health and safety.

8. The internal road network serving the proposed development, including turning bays, junctions, sightlines, pedestrian routes, footpaths and kerbs shall comply in all respects with the provisions of the Design Manual for Roads and Streets.

Reason: In the interests of pedestrian and traffic safety and in order to comply with national policy in this regard.

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.

Máire Daly
Senior Planning Inspector

31st May 2023