



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314412-22

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<b>Development</b>	Provision of a shared pedestrian/cycle path, including stone bridge and associated site development works.
<b>Location</b>	Limewalk, (also known as Carton Avenue), Maynooth, Co, Kildare
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	22237
<b>Applicant(s)</b>	Cairn Homes Properties Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Cllr. Angela Feeney David Kelly
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	18 <sup>th</sup> January 2023
<b>Inspector</b>	Ian Boyle

## 1.0 Site Location and Description

- 1.1. The appeal site comprises a long, linear strip of land running from near an existing residential area to Carton Avenue in Maynooth, Co. Kildare.
- 1.2. The permitted residential development is to the north of the site and Carton Avenue is to the south. Carton Avenue is recognised as an important feature of landscape heritage interest and used regularly by residents and visitors to the area for recreational purposes and as a means to walk from one destination to another. It is roughly 1km northeast of Maynooth town centre and it provides a direct route into the town where Main Street, the Dublin Road and Convent Lane converge.
- 1.3. The site is situated between Carton Avenue (south) and an existing housing estate to the north called Castlepark. It is situated outside the demense wall associated with Carton House. A mature hedgerow runs alongside the eastern side of the site and there is a small drainage ditch at the southern end of the site before it meets the Avenue.
- 1.4. The site has a stated area of approximately 0.2ha.

## 2.0 Proposed Development

- 2.1. The proposed development is for a shared pedestrian/cycle path and ancillary site works. The purpose of the pathway is to link a permitted residential development (not yet constructed) with the existing Limewalk pathway / Carton Avenue.
- 2.2. The permitted residential scheme is north of the site and adjacent east of the existing housing development called Castlepark. Carton Avenue is to the south and provides a direct connection to Maynooth town centre, which is approximately 1km to the west.
- 2.3. The proposed pathway would be raised above ground level by roughly 180mm and based on a porous consolidated hardcore with a gravel surface. A bridge is proposed to traverse the drainage ditch at the southern end of the pathway. It is also proposed to implement landscaping, including Oak trees, to enhance the linearity and attractiveness of the proposed route.

- 2.4. The Planning Authority requested further information on 27<sup>th</sup> April 2022, including details regarding the proposed technical specification and finish of the pedestrian/cycle path (Item 1), provision of a more detailed Tree Protection Plan and tree protection measures / fencing (Item 2), further details of landscaping and safety proposals (Item 3), and photomontages showing existing and proposed views from various locations, including along Carton Avenue (Item 4).
- 2.5. The Applicant responded with further information on 24<sup>th</sup> June 2022. Some design revisions were made to the proposal and the pathway and bridge were reduced in width from 3m to 2m. The stone parapets on the bridge were also replaced with light weight metal railings, a revised and more sensitive lighting system was put forward, and additional native hedgerow planting was included in the landscape masterplan.
- 2.6. The Applicant provided the various requested assessment reports and documentation, and these were considered generally acceptable to the Planning Authority.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.2. The Planning Authority issued a Notification of Decision to Grant Permission (NoD) on 25<sup>th</sup> July 2022, subject to 12 no. conditions, which were mainly standard in nature.

#### **3.3. Planning Authority Reports**

##### **3.3.1. Planning Report**

- The principle of the proposed pedestrian / cycle link complies with the zoning objectives that apply to the subject site, which are 'F – Open Space and Amenity' and 'S – Carton Avenue'. A park/playground is open for consideration under both zonings.
- The Maynooth LAP 'Map Ref. 1 - Road Objectives Map' includes an objective for a new cycle / pedestrian route from the Dunboyne Road to connect to Lime Walk / Carton Avenue.

- Policies WC1, WC2 and WC3 of the Kildare County Development Plan 2017-2023 prioritise walking and cycling and promote the development of safe, convenient and high quality walking and cycling routes.
- The proposed 3m width is considered excessive and this should be reduced to avoid being visually obtrusive. The pathway should be ancillary / secondary to Carton Avenue.
- The design of the proposed development should be conservation led and input from the Council's Conservation Officer is critical. The revised pathway width, tapering, material choice and footbridge design received as part of further information is acceptable.
- In summary, the proposed development, subject to conditions, would integrate appropriately with the surrounding context, not seriously injure the amenities of the area or of property in the vicinity and be consistent with the policies AR 3 and AR 8 of the Maynooth Local Area Plan (2013-2019) and policies WC1, WC2, WC3, CH2 and CH3 of the Kildare County Development Plan 2017-2023.
- Recommends permission be granted, subject to conditions.

### 3.3.2. Other Technical Reports

#### MD Engineer:

- *14<sup>th</sup> March 2022:* Requested further information and for the wearing course of the proposed pathway to be a bound bituminous pavement surface to match the colour and surface finish of the Leinster Walk, Maynooth.

#### Transportation Section:

- *18<sup>th</sup> April 2022:* Requested further information revising the proposed layout and materials to be used in the construction of the proposed pathway, that it can facilitate universal access and for public lighting to be sensitive to the local environment.

#### Parks:

- *12<sup>th</sup> April 2022:* Requested further information, including submission of a comprehensive Tree Protection Plan, revised details in relation to the

proposed landscape design, and completion of photomontages showing the proposed bridge (both sides) and pathway (north and south). A revised / updated report confirmed no objection upon receipt of further information, subject to conditions.

Architectural Conservation Officer:

- *21<sup>st</sup> April 2022:* Requested further information and a redesign of the proposal as follows:
  - Proposed path to be reduced to a maximum width of 2m to preserve the special character of its unique setting.
  - Proposed bridge width to be reduced to a maximum of 2m to ensure minimal intervention with historic designed landscape.
  - Bridge parapet to be sensitively integrated into the existing setting, with the use of modern lightweight materials to lessen the visual impact of the structure on the historical setting of Carton Avenue.
  - Timber fencing to ditch to be removed from proposal.

Heritage Officer:

- No report date specified: No objection, subject to conditions:
  - Infill planting should be carried out on hedgerows to be retained.
  - Planting on either side of entrance onto Carton Avenue should be with similar mature trees in order to ensure a continuous canopy for the entrance to the avenue.
  - Arborists should confirm root zones will be protected during construction phase.

Chief Fire Officer:

- *12<sup>th</sup> April 2022:* No objection.

### 3.4. **Third Party Observations**

- Residents concerned about increased footfall and pedestrian movements in nearby residential estates.

- Antisocial behaviour, littering and loss of trees.
- A similar pathway connecting to Carlton Avenue was previously omitted by condition from another (SHD) planning application to the Board. The proposal was 119 no. residential units, a crèche and ancillary site works. ABP granted permission for the scheme, but the pathway was omitted by condition (ABP Ref. ABP-310865-21).
- Carton Avenue is protected and a new pathway/access onto it would undermine this designation. Introducing new access points onto it would diminish its value and are no appropriate.
- No further work should be carried out on Carton Avenue until a Masterplan for it goes on statutory display and a public consultation phase is complete.
- There was an absence of a site notice at the western (town side) of Carton Avenue meaning the application was not advertised correctly / sufficiently.
- The Appropriate Assessment Screening does not reference the impact the proposed development would have on Carton Avenue or Carton House (RPS B05-55).
- The proposed pathway materials are inappropriate.
- The proposed bridge design and resulting impact on trees is not acceptable.

#### 4.0 Planning History

ABP Ref. ABP-310865-21: The Board granted permission for 119 no. houses and 75 no. apartments, crèche and ancillary site works in October 2021 (SHD application). The application comprised the subject site and also lands further north. Condition No. 3 omitted the proposed shared pedestrian/cycle link that would connect the permitted residential scheme with Carton Avenue (Lime Walk). The reason stated for this was there was an absence of adequate supporting information in relation to potential impacts on Carton Avenue, which is of historical and landscape significance.

The Inspector noted however that this would not preclude the Applicant from pursuing this option at a later date, subject to the necessary supporting documentation being provided.

## 5.0 Policy Context

### 5.1. Maynooth Local Area Plan 2013-2019 (incorporating Variation 1) ('LAP')

#### Zoning

##### **F - Open Space and Amenity (northern part of the site)**

The northern part of the appeal site is zoned 'F - Open Space and Amenity', which has the objective *'to protect and provide for recreation, open space and amenity provision'*.

The aim of this land use zoning objective seeks to protect, improve and provide for recreation, open space and amenity provision; to protect improve and maintain public open space and to provide for recreational and sports facilities. The LAP also states that the Council will not normally permit development that would result in a loss of open space within the town except where specifically provided for in this Plan. Existing agricultural uses in open space areas will continue to be permitted, and reasonable development proposals in relation to this use will be considered on their merits.

##### **S - Carton Avenue (southern part of the site)**

The southern part of the appeal site is zoned '**S - Carton Avenue**', which has the objective *'to protect and provide for passive amenity use of a 60 metre buffer zone on either side of Carton Avenue / the Lime Walk'*.

The LAP also states that the area covered by this zoning objective shall remain undeveloped and shall include a management regime so that the character and setting of this historic walkway is protected and improved.

The land use 'Park/Playground' is listed as 'Open for Consideration' for both zoning objectives.

#### Section 7.11 Recreation, Amenity and Open Spaces

**AR 3:**

*To continue to develop lands along Carton Avenue and at the Canal Harbour for amenity and recreational purposes.*

**AR 8:**

*To maintain and improve Lime Walk / Carton Avenue through the implementation of an appropriate management regime, the walkway shall be for passive amenity uses so as to ensure that the historic character of the Walk remains uncompromised.*

**AR 10:**

*To protect the following views and prospects:*

- *Along the Carton Avenue / Main Street Axis*

**Road Objectives Map (Map Ref. 1)**

Indicates a 'New Cycle / Pedestrian route' from the Dunboyne Road to connect to Lime Walk / Carton Avenue.

**Natural and Archaeological Heritage (Map Ref. 4)**

The Limewalk / Carton Avenue is identified as 'Views & Prospects to be Preserved'.

**Green Infrastructure Map (Map Ref. 5)**

The Limewalk and Amenity Grasslands are shown on this map.

Amenity grasslands are recognised in the LAP as limited in ecological potential and includes larger public lawns and institutional lands for example the lawns around St Patrick's College and Maynooth GAA.

**Protected Structure**

Carton House (RPS B05-55) is to the northeast of the subject site. The site is within the special study area of Carton House Demense.

**Section 7.4.6 Transport Links and Movement**

*'Traffic has become the largest threat to the success of Maynooth as an attractive urban centre. An opportunity exists to increase permeability within the town centre and improve the quality of existing connections. Section 7.5 of this Plan and Map 1*



*and 1(a) outline detailed proposals to improve movement and connectivity throughout the town.'*

## **5.2. Kildare County Development Plan 2023 – 2029**

The Kildare County Development Plan 2023 – 2029 ('Development Plan') was adopted by Kildare County Council on 9<sup>th</sup> December 2022. It is due to come into effect on 28<sup>th</sup> January 2023.

### Chapter 5 'Sustainable Mobility & Transport'

- *Aim: To promote and facilitate ease of movement within and through County Kildare, by integrating sustainable land use planning and a high-quality integrated transport system; and to support and prioritise investment in more sustainable modes of travel, the transition to a lower carbon transport system, and the development of a safer, efficient, inclusive, and connected transport system.*
- *National and regional transport policy recognises that current transport trends in Ireland and the Greater Dublin Area, in particular, in relation to current levels of car use, are unsustainable and that a transition towards more sustainable modes of transport, such as walking, cycling and public transport is required.*

#### **Section 5.4.1 'Walking and Cycling'**

- *'Walking and Cycling Active travel is the most sustainable mode of transport. Advancing walking and cycling as alternatives to private car use will prove crucial to the sustainable development of County Kildare. Pedestrian and cycle infrastructure are required that form an integrated, safe, convenient, direct and comfortable network of routes. This will mean reclaiming car-dominated space for upgrading walking and cycling infrastructure to better serve the daily, local trips of people of all ages, abilities and backgrounds in every neighbourhood.'*

**TM O20:**

*Ensure new development areas are fully permeable for walking and cycling at a minimum, public transport (where appropriate) and provide for filtered permeability for private vehicle access in accordance with the NTA Permeability Best Practice Guide in order to give a competitive advantage to active travel modes for local trip making.*

**TM O21:**

*Ensure site layout proposals detail present and possible future connections to pedestrian/cycle links and improve permeability between existing and proposed developments including adjacent developments thereby facilitating the '10-minute settlement' concept.*

**TM O101:**

*Ensure that all developments allow for full connectivity (pedestrian, cycle and vehicular) to adjacent road networks and to adjacent lands, which may be developed in the future.*

**Chapter 11 Built and Cultural Heritage**

- *Aim: To protect, conserve and sensitively manage the built and cultural heritage of County Kildare and to encourage sensitive sustainable development so as to ensure its survival and maintenance for future generations.*

**Section 11.13 'Features of Historical Interest'**

*Features of historical interest contribute to the character, interest, and visual amenity of towns and villages in Kildare and are therefore worthy of retention and protection.*

**AH P5:**

*Secure the identification, protection and conservation of historic items and features of interest throughout the county including street furniture, surface finishes, roadside installations, items of industrial heritage, riverine heritage, and other stand-alone features of interest (items not listed on the RMP or RPS).*

## **AH O19:**

*Ensure that development within the county including Council development retains, refurbishes and incorporates features of historical interest, as deemed appropriate in each instance.*

## Chapter 14 Urban Design, Placemaking and Regeneration

### **UD O1:**

*Require a high standard of urban design to be integrated into the design and layout all new development and ensure compliance with the principles of healthy placemaking by providing increased opportunities for physical activities, social interaction and active travel, through the development of compact, permeable neighbourhoods which feature high-quality pedestrian and cyclist connectivity, accessible to a range of local services and amenities.*

## **5.3. National Policy**

- *Design Manual for Urban Roads and Streets, 2019 ('DMURS')*
- *National Planning Framework: Ireland 2040 Our Plan, 2018 ('NPF')*
- *Architectural Heritage Guidelines for Planning Authorities, 2011*

## **5.4. Natural Heritage Designations**

No natural heritage designations apply to the subject site.

The nearest European Site is the Special Conservation Area (SAC) 'Rye Water Valley / Carton' (Site Code: 001398), which is roughly 240m to the northeast. The site is also a designated pNHA.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

Two appeals have been received by the Board, including from Mr. David Kelly and Cllr. Angela Feeney.

The main concerns raised in the appeal are summarised as follows:

- The proposed pathway was already required to be omitted by the Board under a previous application (ABP Ref. ABP-310865-21) as there was insufficient information on the potential impact on the historically important Carton Avenue.
- The current proposal contains no further information in this regard to justify it, including the potential for impacts on bats.
- The pathway along Carton Avenue is too narrow at 2.2m to be a shared space and is not in accordance with DMURS. It is not a formally designated pedestrian/cycle track.
- The submitted drawings are deficient and incorrectly show Carton Avenue and a section of the R157 as a 'pedestrian/cycle track'.
- The proposal contravenes the Council's designation of a 60m wide area sterile / non-development zone on either side of Carton Avenue.
- The proposed bridge would negatively impact on trees.
- The proposal is not compliant with Policy AR 8 of the Development Plan, which seeks to maintain and improve Carton Avenue through the implementation of an appropriate management regime. It is changing the Avenue from a passive amenity to a pedestrian throughfare.
- Any new access point on to Carton Avenue would set a negative precedent for further such accessways.
- Schedule 1 of the Planning Authority's Decision 'Considerations and Reasons on which this Decision is based..' refers to 'the temporary nature of the proposed development' and that it is 'temporary development' only. The Decision is, therefore, flawed as the proposed development is not temporary.
- There is a BMX track included as part of the proposed shared pathway which would lead to large groups of people racing up and down Carton Avenue.
- Carton Avenue should be protected and maintained and not used a shortcut by a limited number of people.
- At a Council Meeting (April 2019), it was agreed that no further work would be carried out at Carton Avenue until the Carton Masterplan was complete.

- The proposed development is not in accordance with the ‘SA – Carton Avenue’ zoning objective that applies to the southern part of the subject site. It is clear that the objective of this zoning is to preserve the integrity of the historic setting and landscape of Carton Avenue.
- The Planner’s Report is flawed as the Roads Objective Map in the Maynooth LAP indicates a shared pedestrian/cycle path along the Dunboyne Road and Blacklion Road to the Carton Avenue entrance opposite Carton House Estate. There should not be a pathway from the new housing development to Carton Avenue.
- The existing footpaths leading from Limetree Hall (housing estate) onto Carton Avenue are an eyesore and out of character with the Avenue.
- Permeability and active travel are important. However, Carton Avenue is an exceptional amenity and precious space. The proposed pathway would destroy the integrity of the Avenue.

## 6.2. Applicant Response

The Applicant lodged an Appeal Response with the Board on 20<sup>th</sup> September 2022. The main issues raised are as follows:

- The proposed development is supported by a Conservation Appraisal and detailed Landscape Masterplan. The new link would not impact on green infrastructure assets and the Council’s Conservation Officer has no objection. Therefore, the proposal is in keeping with the area and will not negatively impact on the historical or landscape significance of Carton Avenue.
- It is acknowledged that a masterplan would be beneficial for the area. However, the proposal is relatively modest. It would also offer additional permeability and, therefore, encourage sustainable modes of transport over car-based travel. There is currently no clarity regarding the status of a Masterplan and it is noted that neither the Planning Officer or Conservation Officer raised any concerns in this regard.
- The proposed use is in accordance with the applicable zoning objectives. It is also consistent with Policy AR 8 of the Maynooth Local Area Plan, which

seeks to maintain and improve Carton Avenue through the implementation of an appropriate management regime.

- Whilst the Maynooth LAP does not indicate a pedestrian / cycle connection at the exact location of the proposed development, it is evident there is a planned, proposed new cycle / pedestrian route running from the Dunboyne Road to Carton Avenue. The proposed connection is appropriately located and would increase permeability and access to / from Maynooth town centre.
- The provision of the 4m wide opening and two footpaths from Limetree Hall, and any perceived negative impacts, is not relevant to the subject application, particularly as the scale and nature of the proposed pathway (amended by further information) is materially different, and of a more understated and respectful design.
- The scheme has sought to retain and avoid direct conflict with all existing trees on the site.
- An extensive study has been completed by Bat Eco Services Ltd as part of the previous SHD application (ABP Ref. ABP-310865-21). The assessment concludes that the proposed development would not negatively impact upon any local bat population and that this was previously accepted by the Planning Authority and the Board. The Applicant is also happy to accept a condition requiring 'bat friendly lighting' or for the lighting to be removed (which was required by the Planning Authority as part of further information).
- The section of Carton Avenue referred to by an Appellant as non-compliant with DMRUS is outside the red line boundary of the subject site. Therefore, this concern is not relevant. The design of the proposed pathway has been designed by a Consulting Engineering firm and was co-ordinated with, and accepted by, the Planning Authority.
- The application drawings are not incorrect. Carton Avenue is clearly identified as a new cycle / pathway route as per the Maynooth LAP (Figure 6 of the Appeal Response refers). The proposed pedestrian / cycle track along the R157, which an Appellant states does not exist, is currently being constructed by the Applicant (as part of Permission ABP Ref. ABP-310865-21).

- All retained trees and Root Protection Zones (RPZ's) will be protected by using appropriate tree fencing and ground protection measures. It is not anticipated any trees will be required to be removed due to indirect impacts.
- The proposal does not include a BMX track.

### 6.3. **Planning Authority Response**

- Has reviewed the two appeals received by the Board.
- No further comments.

## 7.0 **Assessment**

The main planning considerations are as follows:

- Principle of Development and Zoning
- Impact on Carton Avenue
- Trees and Ecology
- Other
- Appropriate Assessment

### 7.1. **Principle of Development and Zoning**

- 7.1.1. The proposal is for a shared pedestrian/cycle path which would connect a permitted residential development (not yet constructed) with the existing Limewalk / Carton Avenue pathway. The Avenue is to the south of the site and an important landscape, heritage, and amenity feature. It is used regularly for recreational purposes by walkers and cyclists. Maynooth town centre is approximately 1km to the west of the location where the proposed pathway would link in with it. The Maynooth Local Area Plan 2013-2019 ('LAP') and County Development Plan both recognise the historic importance and character of Carton Avenue and that it should be used for passive amenity uses.
- 7.1.2. I note that the proposed development is subject to two land use zoning objectives. The northern part of the proposed pedestrian/cycle path is zoned 'F - Open Space

and Amenity', which is to protect and provide for recreation, open space and amenity provision. The southern section of the site is zoned 'S - Carton Avenue', which is to protect and provide for passive amenity use of a 60 metre buffer zone on either side of Carton Avenue / the Lime Walk.

- 7.1.3. The land use 'Park/Playground' is listed as 'Open for Consideration' under both zoning objectives. In relation to land use zoning 'S - Carton Avenue' which references a 60m buffer zone on either side of Lime Walk and for it to provide for 'passive amenity use', I consider that the proposed development would fall into this category (i.e., passive amenity use). The purpose of the proposed pathway is for improved permeability and amenity purposes, and I do not consider that the 'buffer zone' is intended to sterilise all forms of development in this area but that rather only uses which are 'passive amenity' in nature should be permitted. In this regard, I consider the principle of the development proposed to be acceptable, subject to compliance with the various policies and objectives outlined in the County Development Plan and Maynooth LAP.
- 7.1.4. The LAP includes an objective on the Roads Objectives Map (Map Ref. 1) for 'a new cycle / pedestrian route' running from the Dunboyne Road (north) as far as Carton Avenue (south). This is indicated as a green dotted line a short distance to the west of the appeal site. The proposed development does not specifically follow the dotted route as shown, and which is a concern raised under appeal. However, in my opinion, this objective is for indicative purposes only and should not be seen as a definitive location for any such future linkage. I consider that the proposed pedestrian / cyclist connection is positioned at a point whereby it achieves its intended purpose, as set out in the LAP, which is to increase permeability for the town centre and improve the quality of existing connections (Section 7.4.6 'Transport Links and Movement').
- 7.1.5. The Development Plan includes several objectives which seek to improve permeability, and to encourage and support the delivery of high quality and attractive pedestrian and cycling routes, which would allow for multiple and direct connections between key destinations. The proposal would facilitate a permitted residential scheme (ABP Ref. ABP-310865-21), and other housing developments adjacent, to gain much improved, quicker, and safer access into Maynooth town centre. The Avenue runs up to a point to where Main Street, the Dublin Road and Convent Lane



converge within the town and a connecting pedestrian and cycle route to this location would have many benefits.

- 7.1.6. The proposed pathway is in accordance with the policy aim of Chapter 5 ('Sustainable Mobility & Transport') of the County Development Plan, which states that advancing walking and cycling as alternatives to private car use will prove crucial to the sustainable development of County Kildare. In this regard, the proposal is in accordance with Objectives TM O20 and TM O101, respectively, which seek to ensure that new development areas are fully permeable for walking and cycling in order to give a competitive advantage to active travel modes for local trip making, and that all development should allow for full connectivity (pedestrian, cycle and vehicular) to adjacent road networks and lands, which may be developed in the future. Table 14.3 of the Development Plan is also relevant, in my opinion, and states that a high level of permeability is considered a positive attribute of urban design as it allows ease of movement and assists in the development of integrated communities.
- 7.1.7. In summary, I conclude that the proposed development would lead to a more pleasant, convenient, and safe route linking a residential area to the centre of a large town, together with the various services and facilities it has to offer. I do not consider that the pathway would be so transformative that it would fundamentally change the character of Carton Avenue from a passive amenity to a much busier pedestrian throughfare or some form of inappropriate short-cut. The pathway would allow for enhanced connectivity and better usage of an existing, attractive pedestrian walkway and amenity (Carton Avenue), and this is in accordance with the Council's policy in relation to active and sustainable transport and permeability.

## **7.2. Impact on Carton Avenue**

- 7.2.1. I acknowledge the concerns raised by the Appellants in relation to the historic and heritage status of Carton Avenue in that it should be protected from inappropriate forms of development.
- 7.2.2. Objective AH P5 of the Development Plan seeks 'to secure the identification, protection and conservation of historic items and features of interest throughout the county ... (including items not listed on the RMP or RPS)'. Section 11.13 is also

relevant, in my view, and states that features of historical interest contribute to the character, interest, and visual amenity of towns and villages in Kildare and are therefore worthy of retention and protection.

- 7.2.3. During my physical inspection of the site, I observed that Carton Avenue remains relatively intact with only limited circumstances of where new pathways have been constructed and linked into the existing avenue. Upon walking the pathway, I found the wide opening and two footpaths running off from Limetree Hall to be very visually apparent and a significant intervention onto Carton Avenue. However, notwithstanding this, I do not consider that these footpaths and access points would be comparable in design or scale to the current proposal, which has adopted a far more discreet and inconspicuous form, in my opinion.
- 7.2.4. In this regard, I note that the Applicant has completed a detailed assessment of the relevant design, conservation, heritage, and landscape issues. The Conservation Appraisal submitted as part of the application includes an assessment of the potential impacts arising, noting that there would be no significant visual changes to the existing grass margins, surface, or overall character associated with Carton Avenue. I have reviewed this report, would agree with its conclusion, and consider that the further information version of the proposal has been designed and with its sensitive and historic receiving environment in mind.
- 7.2.5. I have also reviewed the booklet of photomontages and CGIs on file, which were required to be updated as part of further information, and the Landscape Masterplan, and note that the pathway was revised to be narrowed in width and to utilise more sensitive building materials. For example, the original proposed bridge has been redesigned to replace the stone parapets with less visually intrusive / light-weight metal railings. Additional native hedgerow planting and a revised landscape masterplan was also submitted. I note that a detailed Tree Protection Plan sets out various tree protection measures in order to avoid any potential damage to existing trees, or their RPZs, during construction, which are an integral part of the Avenue's character.
- 7.2.6. Having reviewed the design and layout of the proposed scheme, I consider it to be carefully planned and well-considered, and that it would be sensitively integrated as part of the historic setting and existing character of Carton Avenue. It is my opinion

that the proposal would have minimal impact from a physical, historic and aesthetic perspective, but that the benefits of improved connectivity and permeability, referenced above, would still be achieved.

- 7.2.7. I note also that the Council's Architectural Conservation Officer completed a detailed assessment as part of their interdepartmental report (dated 21<sup>st</sup> April 2022). The report recommended that the proposal be of a conservation-led design with minimal impact on the existing landscape and character of Carton Avenue. The Applicant resubmitted the proposal in accordance with these recommendations and the Conservation Officer did not raise any subsequent concerns, only conditions.

### **7.3. Trees and Ecology**

- 7.3.1. There are several deciduous trees within and adjacent the appeal site. The Maynooth LAP includes a Tree Preservation Order for along Carton Avenue which includes two trees within the red line for the site. Both Appellants raise concerns that the proposed development could potentially impact on the health of these trees.
- 7.3.2. I have reviewed both the Tree Survey Report and Tree Protection Plan and note that the documents confirm there are two Lime trees which form part of the Limewalk avenue group of trees. The tree survey confirms that the existing trees make a positive contribution to the overall surrounding landscape and its setting and also have an ecological value. From my inspection of the site, I can confirm that the trees are mature, appear to be in good health, and are an important feature of Carton Avenue.
- 7.3.3. The tree survey confirms that the proposed works would avoid direct conflict with the existing trees and that no trees are proposed for removal, either along Carton Avenue or otherwise. Furthermore, various measures are outlined to help ensure that no indirect impacts will occur through careful site management and the implementation of tree protection measures. This will help to safeguard against damage or disturbance of root protection zones (RPZ's) which could otherwise affect the health and longevity of the trees over time.
- 7.3.4. The proposed measures require the pathway to be constructed using a 'non-dig' construction method (detail shown in Drwg. 20337A-2-901) and application of a permeable surface to avoid root severance. The appointed contractor is also

required to provide a detailed method statement (Construction Management Plan) outlining the proposed method of construction and that this be approved by the project arborist prior to any works commencing. Any underground services required must avoid interference with the RPZ's. I consider this appropriate, and, in my opinion, it is not likely that the proposed development would negatively impact the existing trees either in the short-term or over time, subject to the measures outlined in the Tree Survey Report. I note that the Council's Park Department also provided an updated report upon receipt of further information which confirms they have no objection to the proposal, subject to conditions.

- 7.3.5. In relation to the potential presence of and impact on bats in the area, an Ecological Impact Assessment (EclA) and Bat Assessment were submitted as part of the previous SHD application for the lands north (ABP Ref. ABP-310865-21). Both assessments take in the area that is the subject of the current application and the Applicant has relied upon this information to respond to concerns regarding the potential for impacts on bats. The EclA notes there is bat activity and evidence of bats commuting through the survey area. It also confirmed that one species of bat was found to be foraging and that there is high degree of connectivity and commuting between the wooded areas, trees and hedgerows.
- 7.3.6. However, the Bat Assessment notes, that if all proposed mitigation measures, including the Lighting Plan, Landscape Plan, and Bat Mitigation Strategy, are adhered to, that only a minor - moderate impact on bats is envisaged for the long-term. Whilst I acknowledge that the Applicant has invited the Board to remove the proposed public lighting via condition to further allay concerns regarding bats, I do not consider this necessary, nor appropriate. The removal of public lighting from along the pathway could potentially have implications from a safety and user comfort perspective and I would recommend against this. I note also that lighting along the route was requested by the Planning Authority as part of further information.
- 7.3.7. I would also advise that a condition be attached to any Decision by the Board to grant permission to require an updated bat survey and details regarding the installation of appropriate lighting so that bat populations and bat feeding behaviour is not negatively affected.

#### 7.4. Other

##### Previous Decision

- 7.4.1. The Board previously granted permission for 119 no. houses and 75 no. apartments, a crèche and ancillary site works in October 2021 (ABP Ref. ABP-310865-21). A section of the site comprised the subject lands.
- 7.4.2. Condition No. 3 omitted the proposed shared pedestrian/cycle pathway which had sought to connect the proposed residential scheme to Carton Avenue for reasons of permeability. The reason stated for including this condition was there was an absence of adequate supporting information in relation to the potential impact on Carton Avenue.
- 7.4.3. I have reviewed the historical documentation associated with this application and note that the Inspector clearly stated that this would not preclude the Applicant from pursuing the option of a shared pathway in this location at a later point, subject to the provision of the necessary supporting assessments / reports.
- 7.4.4. In my opinion, and as noted above, I consider the information submitted as part of the current application acceptable and that full assessment of the relevant issues arising is possible due to the detailed nature of the documentation submitted.
- 7.4.5. I also do not consider that the proposal would necessarily set a precedent for other similar types of development in the area and note that all appeal cases should be assessed and determined on their own merits having regard to the sensitivity of the receiving environment and the specifics of the proposed development that is at hand.

##### Reference in Planner's Report to Temporary Nature of Proposed Development

- 7.4.6. The Planner's Report (under Schedule 1 of the NoD) references 'the temporary nature of the proposed development' and that it is 'temporary development' only. Therefore, according to third parties, the Planning Authority's assessment of the proposal is flawed as it is for a permanent form of development.
- 7.4.7. I acknowledge that no element of the proposed development is temporary and that this reference in the Planner's Report is incorrect. However, I do not consider that this has had any material effect on the Planning Authority's assessment of the development proposed. Furthermore, I do not consider that an alternative decision would have been made and that the reference to the word 'temporary' was effectively a

minor typographical error that did not follow through in the remainder of the Report, including its assessment section.

- 7.4.8. I am also satisfied that the proposed development is not temporary and have considered this as part of my own assessment of the issues arising and recommendation below.

#### Masterplan

- 7.4.9. The appeal made by Cllr. Angela Feeney provides information regarding previous Council meetings and records in relation to the status of preparing a Masterplan for Carton Avenue. It is submitted that as it was agreed by the elected members that no further work should be carried out on the Avenue until such a Masterplan goes on public display and is approved that the proposal is effectively premature.
- 7.4.10. There appears to be limited publicly available information in terms of the precise status of such a Plan, including when the public consultation phase might commence. Whilst such a document would be helpful in terms of guiding appropriate future forms of development involving Carton Avenue, I do not consider it essential in the context of the proposed development, or that the pathway would be premature for this reason.
- 7.4.11. The application is supported by a range of studies and assessments which provide sufficient information to complete a detailed review of the proposal and its potential for impacting on its sensitive receiving environment.
- 7.4.12. As noted above, I consider that the proposed design, scale, and appearance of the shared pedestrian/cycle path acceptable and appropriate for the surrounding area, including Carton Avenue. I conclude that the proposed development would deliver significant benefits to the area, including in terms of improved permeability and enhanced opportunities for sustainable and active travel, and that it would not negatively affect the historic character or setting of Carton Avenue.

#### BMX Track

- 7.4.13. There is no reference in the application to a BMX track, despite this assertion being made by one of the third parties. The Applicant also confirms this in their response to the Board.

## 7.5. **Appropriate Assessment**

Having regard to the nature and small scale of the proposed development; which is for a shared pedestrian and cyclist walkway and associated works, and the distance from the nearest European site and intervening land uses; no Appropriate Assessment issues arise. Therefore, it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

## 8.0 **Recommendation**

I recommend that planning permission be granted for the reasons and considerations set out below.

## 9.0 **Reasons and Considerations**

Having regard to the provisions of the Maynooth Local Area Plan 2013-2019, including the zoning objectives that apply to the site, the Kildare County Development Plan 2023-2029, and the design, scale and nature of the proposed pedestrian and cycle pathway, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area, the character and setting of Carton Avenue, or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 **Conditions**

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 24 <sup>th</sup> June 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of
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	<p>development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The orientation of the proposed hedging on Drawing No. 20337A-2-401 received on 24<sup>th</sup> June 2022 shall be revised to run perpendicular to reinforce the existing hedgerow on either side of the proposed bridge.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
3.	<p>Detailed measures in relation to the protection of bats shall be submitted to and agreed in writing with the planning authority, prior to commencement of development. These measures shall be implemented as part of the development. Any envisaged destruction of structures that support bat populations shall be carried out only under licence from the National Parks and Wildlife Service and details of any such licence shall be submitted to the planning authority.</p> <p><b>Reason:</b> In the interest of wildlife protection.</p>
4.	<p>i) Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development and be sensitive to the receiving environment and ecology. Such lighting shall be provided prior to the commencement of use of the proposed development.</p> <p>ii) The developer shall appoint a suitably qualified ecologist to verify that the proposed lighting plan complies with the recommended mitigation measures of the Bat Survey.</p> <p>iii) The approved lighting system shall be fully implemented prior to commencement of use of the proposed development.</p> <p><b>Reason:</b> In the interest of wildlife protection and public safety.</p>
5.	<p>Drainage arrangements for the site shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of environmental protection and public health.</p>



6.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
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Ian Boyle  
Planning Inspector

25<sup>th</sup> January 2023