



An  
Bord  
Pleanála

# Inspector's Report

## ABP-314802-22

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<b>Development</b>	Construction of 59 residential units.
<b>Location</b>	Capdoo and Abbeylands, Clane, Co. Kildare
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	22889
<b>Applicant(s)</b>	Westar Investments Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Westar Investments Ltd.
<b>Observer</b>	Paul Carroll.
<b>Date of Site Inspection</b>	4 <sup>th</sup> August 2023.
<b>Inspector</b>	Lucy Roche

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## 1.0 Site Location and Description

- 1.1. The appeal site is located on the eastern outskirts of Clane in North Kildare. The site comprises an irregular shaped parcel of undeveloped agricultural land consisting of a network of fields bounded by mature trees and hedgerow. The site would appear to have been subject to some disturbance / grounds works in the past as evidenced by large, vegetated stockpiles of soil etc to the southwest. The site has a stated area of 4.86 hectares and is located at less than a kilometre from Clane Main Street.
- 1.2. The site is bounded to the west and south by the existing residential developments of Brooklands, Abbey Park, and Alexandra Walk. A residential scheme of 34 apartments (KCC Ref: 21/1400) is under construction to the northwest. The River Liffey extends along the sites eastern boundary while lands to the north are currently undeveloped and in agricultural use.
- 1.3. The site is currently accessed via the R403 Celbridge - Prosperous Road through the Brooklands Housing Estate. The internal road network of the Brooklands Housing Estate has been designed to allow access into the subject site and surrounding lands. An informal pedestrian access is currently possible from Alexandra Walk. There is a formal riverside walk along the open space of Alexandra Walk along the River Liffey.

## 2.0 Proposed Development

- 2.1. Permission is sought for:
  - The construction of 59 no. residential units, including 24 no. three and four-bedroom semi-detached units, 31 no. two and three-bedroom terraces units, ranging in height from 2-3 storeys, and 4 no. two- bedroom maisonette units comprised within a 2-storey building. Private amenity space will be provided to serve each dwelling in the form of rear private gardens with the maisonette units being served by designated areas of private amenity space to the south and west of the proposed units at ground floor level.
  - The provision of a total of 117 no. car parking spaces, 110 no. of which will serve the proposed dwellings and 7 no. spaces serving the proposed maisonette units (including 1 no. visitor car parking space).

- The provision of 4 no. sheltered bicycle parking stores to serve the proposed maisonette units located within the private amenity space area associated with each unit with 2 no. visitor bicycle parking spaces provided at surface level.
- The provision of new pedestrian, cyclist and vehicular infrastructure, accesses, and connections throughout the site.
- The construction of 1 no. vehicular access and 2 no. cycle and pedestrian access points to the site from Brooklands estate to the west. The application is accompanied by 2 no. site layout options, Option A and B. Option A provides for a new cycle and pedestrian access, road connection and vehicular access between the application site and the adjacent Alexandra Walk residential development to the south-east. Option B provides for the omission of the vehicle access point and the inclusion of a pedestrian and cycle access only between the proposed scheme and Alexandra Walk. The proposal also includes a road connection to lands to the north; and
- Road upgrades at the Junction of Brooklands Estate and the R403 to provide for a left turning filter lane onto the R403 from Brooklands Estate as well as a pedestrian island at this junction.
- The construction of a linear /neighbourhood park adjacent to the River Liffey;
- Along with landscaping, boundary treatments, foul and surface water drainage, bin storage, lighting, and all infrastructural works necessary to facilitate the development.

2.2. Table 2.1 below provides a summary of the key aspects of the proposed scheme:

<b>Table 2.1: Site Statistics and Development Details:</b>	
<b>Site Area</b>	4.86ha with a stated net developable area of c2.23ha
<b>No. Of Residential Units</b>	59
<b>Gross Floor Area</b>	7092.84sqm
<b>Housing Mix</b>	Refer to table 2.2 below.

<b>Density</b>	c27units /ha	
<b>Site Coverage</b>	13% (as stated)	
<b>Plot Ratio</b>	0.27 (as stated)	
<b>Height</b>	2 to 3 storeys	
<b>Parking</b>	Car Parking	117
	Cycle Parking	6 to serve maisonettes including two visitor spaces
<b>Open Space</b>	Public Park	c1.83ha
	Public Open Space	c3,444.86sqm
<b>Access</b>	Main vehicular and pedestrian access point along the existing route through the Brooklands development to the west. An optional secondary vehicular access point is proposed via Alexandra Walk to the south-west (Option A on the submitted plans).	

2.3. Table 2.2 below provides detail of the proposed housing mix.

<b>Table 2.2 Housing Mix</b>		
<b>Unit Type</b>	<b>No. of units</b>	<b>%</b>
2 bed Maisonette / apartment	4	7
2 bed House	12	20
3 Bed House	35	59
4 Bed House	8	14

2.4. The application is accompanied by:

- Planning Report
- A Screening report for Appropriate Assessment
- Mobility Management Plan

- Traffic Impact assessment
- Infrastructure Design Report
- Building Lifecycle Report
- Design Statement
- Outdoor Lighting Report
- Site Specific Flood Risk Assessment
- Arboricultural Report
- Preliminary CMEP and CWMP
- Architectural Impact Assessment Report
- Ecological Impact Statement and Bat and Badger Impact Evaluation

### 3.0 Planning Authority Decision

#### 3.1. Decision

Kildare County Council did by Order dated the 13<sup>th</sup> of September 2022 decide to refuse permission for the development of lands at Capdoo and Abbeylands, Clane, Co. Kildare for one reason as follows:

- 1 *Policy CS1 of the Kildare County Development Plan 2017- 2023 states it is a policy of the Council to provide new housing in accordance with the County Settlement Strategy and Policy CS4 seeks to deliver sustainable compact urban areas to a plan led approach. Variation No.1 of the Kildare County Development Plan 2017- 2023 was adopted in 2020 and provides a housing target of 145no units in Clane in the period 2020 to 2023. Having regard to the status of Clane as a town in the Settlement Strategy of Kildare County Development Plan 2017- 2023, the designation of the site as key development area 1 in the Clane Local Area Plan 2017- 2023 and the number of housing units permitted on the landholding and elsewhere in Clane in the period since adoption of Variation No.1 it is considered that the proposed development of 59 number units on the site would exceed the adopted housing targets. The proposed development would therefore materially*

*contravene the core strategy as adopted in Variation No.1 of the Kildare County Development Plan 2017-2022 and would contravene Policies CS1 and CS4 of Kildare County Development Plan 2017-2022 and would be contrary to proper planning and sustainable development of the area.*

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

- The report of the Case Planner has regard to the locational context and planning history of the site, to relevant local, regional, and national planning policy and guidance and to the departmental reports and third-party submissions received.
- The proposed scheme is assessed under various headings including Principle, Layout, Access, Services, Dwelling Design, Part V, Landscape and Play, Ecology, Environmental Impact Assessment and Appropriate Assessment.
- The report highlights various technical issues relating to access, parks and landscaping, water services and surface water management, that may be addressed by way of further information. However, the Case Planner identifies an overarching issue where it is considered that the proposal would materially contravene the Core Strategy of the Kildare County Development Plan 2017-2023 (Variation No.1) thereby contravening Policies CS1 and CS4. The report recommends that permission be refused on this basis.

### **3.2.2. Other Technical Reports**

Roads/Transportation: Requests further information including the submission of a revised site layout plan (preferred Option A pertaining to the vehicular access from Alexander Walk) detailing proposals for parking (including proposals for EV charging) and road surfacing and the submission of detailed design proposals for a signalised 4 arm junction

of the R403 Regional Road/ Brooklands / Capdoo Link Road.

Water Services: Requests further information on issues relating to surface water drainage and flood risk.

Environment: Recommends 8no conditions

Parks: Request for further information.

Housing: Recommends condition in the event of a grant of permission

Fire Service: No objection subject to condition

### 3.3. Prescribed Bodies

Irish Water: Requests further information on the feasibility of connection and wastewater design.

### 3.4. Third Party Observations:

The issues /concerns raised in the third-party submissions received by the planning authority can be summarised as follows:

- Concerns raised in relation to the extent of residential development permitted in Clane and the lack of local infrastructure, services, and facilities to accommodate same.
- The Core strategy and settlement strategy adopted under Variation No.1 of the KCDP 2017-2023 accord with national and regional policy (NPF and RSES). Permitting development that material contravenes the County Development Plan undermines the delivery of evidenced policies and objectives of the state.
- Housing allocation for Clane, as per Variation No.1 of the KCDP 2017-2023, has been exceeded.
- Concerns raised regarding the extent of land dedicated to residential development rather than open space, the urbanisation of riparian land and the poor quality of the developed green corridor in terms of habitat provision.

- Concerns raised regarding the impact of the proposed development on the environment, including the removal of trees, loss of woodland, loss of habitat and impacts on flora and fauna including bats.
- Traffic safety concerns associated with changing Alexandra Walk cul-de-sac into a through road.
- The proposed development will be car dependent and will result in increased traffic congestion in the town. The traffic report is out of date as it fails to consider the impacts of additional traffic arising as a result of the N7 Sallins bypass.
- Proximity of the proposed development to the river Liffey and associated flood concerns.

#### 4.0 Planning History:

##### 4.1. KDA1 – Dublin Road.

KCC Ref: 23/728 Current application for 51 units residential units (35 no houses, 16 no apartments) and creche.

*Note: Both KCC Ref: 23/728 and KCC Ref: 23/207 (see below) are proposed in lieu of the 91 units the subject of ABP 309367-21*

KCC Ref: 23/207 Permission granted by Kildare County Council (2023) for 39 residential units. The subject site comprises the northern part of the site area associated with ABP 309367-21 (KCC Ref:20/808). The application proposes a slightly altered layout to that permitted under ABP 309367-21 with a net increase of 1 no. unit.

*Note: The decision is currently on appeal under ABP317695-23*

KCC Ref: 21/1400 Permission granted for 34 no residential units (apartments).

*Note: Currently under construction.*

ABP 309367-21 KCC Ref: 20/808. Permission granted (2021) for the construction of 91 units (58 no houses, 33 no apartments) and creche etc.

*Note: Currently subject to judicial review with a stay on development.*

ABP 308943-20 Permission granted (2020) for a strategic housing development of 333 residential units.

This SHD relates to the development of a landbank of c10-hectares which includes the current appeal site and lands the subject of KCC Ref: 21/1400, ABP 309367-21, KCC Ref: 23/207 and KCC Ref: 23/728. The layout for that part of the SHD site which corresponds with the subject site, incorporates an almost identical layout to that currently before the Board.

*Note: Currently subject to judicial review with a stay on development.*

ABP 305905-19 Permission refused (2020) for a strategic housing development comprising 305 residential units and childcare facility on lands which include the subject site. An Bord Pleanála refused planning permission primarily on design grounds.

KCC Ref:06/2674 Permission granted c2008 for nursing home and retirement complex. Access from Alexandra Walk.

#### 4.2. **KDA2 - Capdoo**

ABP304632-19 Permission granted for 366 no. residential units (184 no. houses, 182 no. apartments) creche and associated site works.

*Note: Currently under construction.*

#### 4.3. **KDA5 - Millicent**

ABP310892-21 Permission granted for 192 no. residential units (114 no. houses, 78 no. apartments), creche and associated site works.

*Note: Currently subject to judicial review with a stay on development*

## 5.0 Policy Context

### 5.1. Clane Local Area Plan 2017-2023

Zoning: The proposed development site is subject to two land use zonings. The western portion of the site is zoned 'C' New Residential with an objective to provide for new residential development. The Eastern portion of the site (lands adjoining the River Liffey) is zoned "F2" Strategic Open Space and Amenity with an objective to preserve, provide for and improve recreational amenity, open space and green infrastructure networks.

#### Key Development Area (KDA1)

The development site is located within KDA1 – 'Dublin Road', one of five Key Development Areas (KDAs) that are to accommodate growth in Clane during the plan period. Section 12.2.1 & Fig 12.2 provides an analysis of the potential development in KDA1.

The vision for KDA1 is the extension of the urban area of Clane through new residential development and open space and amenity, with a high quality permeable urban form, which protects natural heritage and delivers important connectivity to the River Liffey and to the future town park. The plan goes on to set out a design brief for KDA-1 under the headings of connectivity and movement, built form and landscape and spaces.

#### Phasing:

Schedule of Phasing Section 13.2.1 provides the following phasing strategy for KDA1:

- Road Upgrade of Celbridge Road / Brooklands junction to be completed prior to commencement of development.
- Extend riverside footpath from Alexandra Walk into the Strategic Open Space lands along the River Liffey (along extent of new residential zoning). To be completed prior to the commencement of Dwelling no. 101 in KDA1.

- Pro-rata childcare provision at a rate of 0.13 childcare spaces per dwelling for dwellings 1-100 to be completed prior to the commencement of dwelling no. 101 in KDA1. Pro-rata provision for remainder to be completed prior to the completion of development on zoned lands in KDA1.

Density: Table 4.1 *Estimated Residential Capacity*, estimates the density of development within KDA1 as 26 per ha with an overall estimated residential capacity for 161 units on a net developable area of 6.2 ha (\*final figures to be determined at design stage)

Policy:

- CS01.2: To focus new residential development into the Key Development Areas.
- HCO1.1: To require new development to comply with the national guidance and standards.
- HCO1.2: To facilitate the phased development of the KDAs in accordance with the guidance set out in Section 12.
- HCO1.3: To secure the provision of social infrastructure and community and recreational facilities in tandem with residential development, in accordance with the implementation strategy (Section 13 of the LAP).
- MTO1.2 To maximise connectivity for pedestrians and cyclists in Key Development Areas and identify strategic links in existing areas in order to maximise access to local shops, schools, public transport services and other amenities.
- HO3.2 To preserve the amenity of the River Liffey Valley including its landscape and biodiversity value. In this regard, planning applications must identify all ecological habitats and corridors present in a proposed development site, and demonstrate that any habitat or corridor affected by the proposal is not of local importance, or that its loss will be offset, should the application be granted.
- GIO1.6 To maintain a biodiversity protection zone of 80 metres from the top bank of the River Liffey and of not less than 10 metres from the top bank of smaller watercourses in Clane, with the full extent of the protection zone to be

determined on a case by case basis by the Planning Authority, based on site specific characteristics and sensitivities. Strategic green routes and trails will be open for consideration within the biodiversity protection zone, subject to appropriate safeguards and assessments.

## 5.2. Development Plan

- 5.2.1. The application was assessed by Kildare County Council in accordance with the policies and objectives of the Kildare County Development Plan 2017-2023. The Kildare County Development Plan 2023-2029 was adopted by Kildare County Council on the 9th of December 2022 and came into effect on the 28<sup>th</sup> of January 2023. I have assessed the proposal under the provisions of the operative Development Plan, namely the Kildare County Development Plan 2023-2029.
- 5.2.2. Chapter 2 Core Strategy and Settlement Strategy categorises Clane as a 'Self-Sustaining Town' which are defined as towns with high levels of population growth and a weak employment base which are reliant on other areas for employment and/or services and which require targeted 'catch up' investment to become more self-sustaining.
- 5.2.3. Table 2.8 sets out the Core Strategy for the County and allocates a housing target of 219no. units to Clane for the period 2023-end 2028. However, it is acknowledged that the 2021 population estimate is a holding figure and is used as a guide only until a detailed 2022 county profile is published by the Central Statistics Office (CSO), Objective CS O19 is relevant in this regard. Table 2.8 also identifies a target residential density of 35-40 units/ha for Clane.
- 5.2.4. It is an objective of the Council to:
- CS O1      Ensure that the future growth and spatial development of County Kildare is in accordance with the population and housing allocations contained in the Core Strategy which aligns with the regional growth strategy as set out in the National Planning Framework and Regional Spatial and Economic Strategy for the Eastern and Midland Region

and further specified in the 'Housing Supply Target Methodology for Development Planning'.

- CS O13      Require that the design of future development complies with the 10-minute settlement principle through the creation of a safe, attractive, permeable, and universally accessible environment for all, including permeability to existing estates to require public consultation which maximises the potential for active modes of travel along with accessibility to both present and planned public transport options and to advocate for increased public transport options to meet this goal where none are in place.
- CS O19      Align the Kildare County Development Plan 2023-2029, with the up-to date population from Census 2022 where there are verified material population differentials at settlement level to those in Table 2.8 of the Plan, by way of a statutory variation/ review pursuant to Section 13 of the Planning and Development Act 2000 (as amended).

### 5.3. National Policy

The following documents are relevant to the current application and appeal before the Board.

- National Planning Framework (NPF) is the Government's high-level strategic plan for shaping the future growth and development of Ireland to the year 2040.
- Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands Regional Assembly (EMRA) (June 2019)
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual)
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities.
- Design Manual for Urban Roads and Streets

#### **5.4. Natural Heritage Designations**

The appeal site is not located on or adjacent to any designated site. The Ballynafagh Bog SAC (Site Code: 000391) and the Ballynafagh Lake SAC (Site Code: 001387) are located c6 and c7 kilometres to the west of the subject site respectfully. The Ryewater/Cartron SAC (Site Code: 001398) is located c12.5 kilometres to the north-east of the subject site while the Mouds Bog SAC (Site Code 002331) is located c11 kilometres to the south-west of the subject site.

The River Liffey flows along the eastern boundary of the site. While this river is not subject to any Natura 2000 designations, it does discharge into the Irish Sea at Dublin Bay which accommodates a number of Natura 2000 sites including the River Tolka Estuary SPA (Site Code: 004024), the South Dublin Bay SAC (Site Code: 000210), the North Dublin Bay SAC (Site Code: 000206), the North Bull Island SPA (Site Code: 004006) and the South Dublin Bay and Tolka Estuary SPA (Site Code: 004020). As the crow flies, the separation distance between the subject site and the ABP309367-21 Inspector's Report Page 40 of 55 SACs in question is over 30 kilometres. The distance via the river flow is in excess of this distance.

#### **5.5. EIA Screening**

See completed Form 2 on file. Having regard to the nature, size, and location of the proposed development and to the criteria set out in schedule 7 of the regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

### **6.0 The Appeal**

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

This is a first party appeal lodged against the decision of Kildare County Council to refuse permission for the development of lands at Capdoo and Abbeylands, Clane, Co. Kildare. The submission includes details of the site, its location and planning history. It also includes a description of the proposed development. The grounds of

appeal address the reason for refusal i.e., that the proposed development would exceed the housing targets for Clane as adopted in Variation No.1 of the Kildare County Development Plan 2017-2022 and thereby materially contravene the core strategy. The submission has regard to the Kildare County Development Plan 2023-2029 which was in draft stage at the time the appeal was lodged and to applications under judicial review.

The grounds of appeal can be summarised as follows:

- In the event that the Board conclude that the proposed 59no units would represent a material contravention of the KCDP 2017-2023 it is considered that a grant of permission would be justified having regard to the location of the site and national, regional and local policies which require the growth of settlements. The proposal would provide for the efficient use of zoned and serviced lands, easily accessible from the town centre.
- A grant of permission for the proposal can be justified by reference to the criteria set out in Section 37(2)(b) of the Planning and Development Act 2000 (as amended).
- Data from Census 2022 reveals that the population growth targets set out for Clane within the KCDP 2017-2022 have been substantially exceeded. There is a significant disparity between what is targeted within the development plans settlement strategy and the actual situation on the ground. This increased population growth means that additional homes are required within the town and that planning application seeking to address this disparity should be supported.
- The Clane LAP identifies 5 Key Development areas with a combined residential capacity of 980 units. Variation No.1 of the KCDP 2017 allocates 145no dwellings for Clane. There is an absence of any explicit direction from the Planning Authority regarding the delivery of these 145units. This 145no unit allocations directly conflicts with the need from a national and regional perspective to provide new homes at accessible locations.
- It is a stated objective of the 'Development Plans: Guidelines for Planning Authorities' that zoned housing land that is serviced and can be developed for housing within the life of a new development plan under preparation not be

subject to de-zoning and that where a surplus of well-located and serviced zoned land exists that a phased approach be taken to prioritise the sequence of development of such sites. Regard is had to the SHD development (ABP310892) for 192 units in KDA 5 Millicent Road. where the planning authority in their submission to the Board recommended the phased delivery of housing to address any material contravention of the core strategy. A similar assessment approach should be been adopted by the Planning authority in dealing with this current application.

- In the assessment of the application the case planner identifies a potential housing growth of 317no dwellings, 172no in excess of that indicated in Variation No.1. However, 3 of the 4 applications identified are subject to judicial review and their delivery is uncertain at this stage. The scheme of 34 houses approved under KCC Ref: 21/1400 is the only approved scheme that could be realised within the lifetime of the KCDP 2017-2023.
- The proposed development wholly accords with the key aims and objectives of the NPF which calls for the re-development of underutilised lands within close proximity to the town centre and for the delivery of at least 40% of all new homes within the built-up footprint of existing settlements.
- Clane qualifies for designation as a “Self-sustaining Town” in accordance with the descriptive factors / criteria set out in the Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES).
- Reference to Clane in the context of ‘self-sustaining towns’ under the RSES further supports the designation of the settlement as a self-sustaining town in the County Development Plan. However, it is critical that this is also accompanied with and balanced by housing delivery to accommodate a growing population.
- The proposed site layout and dwellings have been designed in accordance with the development management standards including the Kildare County Development Plan 2017-2023 and the Clane LAP, with all unit sizes and separation distances being achieved.

- The grounds of appeal includes, in Appendix A, a report outlining how the proposed scheme accords with National, Regional and Local Planning policy, in Appendix B a copy of KCC decision and in Appendix C Legal opinion on the issue of whether Clane qualifies for designation as a self-sustaining town.

## 6.2. Planning Authority Response

The planning authority in their response to the grounds of appeal state that they have no further comments or observations to make. They request that the Board uphold the decision to refuse permission as set out in the Notification of Decision issued by Kildare County Council on the 13<sup>th</sup> of September 2022.

## 6.3. Observations

An observation was submitted from Paul Carroll on behalf of Clane Community Council. The submission supports the decision of the planning authority to refuse permission for the proposed development. The issues raised can be summarised as follows:

- Clane has experienced enormous population growth in recent years. The maximum housing allocation for Clane has already been exceeded by previous grants of planning permission on key development areas. Further development and growth should be in line with the evidenced based housing allocations approved by the planning authority.
- In the event of the consideration of material contravention, consideration of whether the proposed development is consistent with the Climate Action Plan 2021 in accordance with Section 15 of the Climate Action and Low Carbon Development Act 2015.
- Existing and proposed development in Clane is car dependent and existing public transport services fail to provide an adequate service for commuters.
- The Clane LAP includes a buffer zone along the River Liffey with lands designated as F2 - Strategic Open Space. The provision of a road connection and vehicular access through F2 - Strategic Open Space lands (as proposed under site layout Option A) would undermine any amenity, open space, or

green infrastructure potential of the entire south-western corner of the F2 zoned lands. The list of permitted uses under the F2 zoning does not include use as a road.

- The approach of the developer for the development of KDA1 lands, in submitting overlapping permissions through both the SHD and ordinary planning process in order to get permission to build up to 333 units, is unusual.
- The Clane LAP estimates that the capacity of KDA1 is only 161 units. The entire housing allocation for Clane since Variation No.1 of the KCDP 2017-2023 was adopted was 145 units. This allocation has been entirely used up by one or more of the permissions granted in Clane since 2021 – namely 192 units at KDA5 and the two separate developments of 34 and 91 units at KDA1.
- The observation includes in Appendix 2 a summary of details of drafts, amendments, submissions, and decisions about Clane during the preparation of the Clane Local Area Plan and in Appendix 3 a summary of details of drafts, amendments, submissions, and decisions about Clane during the preparation of the draft KCDP 2023-2029.

#### 6.4. **Further Responses**

None

### 7.0 **Assessment**

#### 7.1. **Introduction**

Having examined the application details and all other documentation on file, (including the submissions received in relation to the appeal), and inspected the site,

and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are:

- Principle of development and F2, Strategic Open Space Zoning
- Compliance with Core Strategy
- Density
- Access and Traffic
- Other
- Appropriate Assessment

I am satisfied that all other issues were fully addressed by the Planning Authority and that no other substantive issues arise. Accordingly, the issues for consideration are addressed below.

## **7.2. Principle of Development and F2, Strategic Open Space Zoning**

- 7.2.1. The appeal site is located within the development boundary of Clane as defined in the Clane LAP 2017-2023. The LAP identifies five Key Development Areas (KDA's) to accommodate growth in Clane during the plan period (2017-2023). The appeal site forms part of KDA1 - Dublin Road.
- 7.2.2. The appeal site encompasses two land use zoning objectives as set out in the Clane LAP, namely 'C - New Residential' with an objective to provide for new residential development and "F2 - Strategic Open Space and Amenity' with an objective to preserve, provide for and improve recreational amenity, open space, and green infrastructure networks. I note that the 'F2 – Strategic Open space' zoning would accord with Objective GIO1.6 of the Clane LAP which seeks to maintain a biodiversity protection zone of 80m along the River Liffey with the full extent of the protection zone to be determined on a case by case basis by the Planning Authority.
- 7.2.3. Following consideration of the plans submitted I am satisfied that all proposed residential units are located on the lands zoned 'C - New Residential', and that the majority of the proposed F2 Strategic Open Space lands are to be developed as a

linear / neighbourhood park. It would appear however that part of the internal through road, the section running north to south through the appeal site, overlays onto the F2 Strategic Open Space zoning, as do five parking spaces to the east of the maisonette block.

- 7.2.4. The application is accompanied by two alternative site layout plans, referred to in the application and appeal as Option A and B. Both options provide for a new cycle and pedestrian access between the application site and the adjacent Alexandra Walk residential development to the south-east. Option A also includes for a road connection and vehicular access between the application site and Alexandra Walk. The road connection and vehicular access proposed under Option A traverses the F2 Strategic Open Space zoning to the southeast of the site. This is raised as an issue by the Observer (P Carroll) who considers that the provision of a road connection and vehicular access within 'F2 Strategic Open Space' would undermine the zoning objective. The Observer in his submission refers to Table 13.3 Land Use Matrix, of the Clane LAP noting that 'use as a road' is not listed as a permitted use in F2 Strategic Open Space. I note however that 'use as a road' is not listed as a land use in the zoning matrix. It is my opinion that a road is not a land use per se, but a form of ancillary infrastructure normally required to facilitate the development and / or use of land. Therefore, I consider the issue is not whether roads are a permissible within the F2 zoning, but whether the road layout, access and parking arrangements proposed accord with the objectives for the area as set out in the Clane LAP, in particular, whether they impact on the delivery of the F2 zoning objective.

*KDA 1 of the Clane Local Area Plan (LAP) 2017-2023*

- 7.2.5. As previously noted, the appeal site forms part of KDA1. Section 12.2.1 & Fig 12.2 of the Clane LAP provide guidance on the development of lands in KDA1. Regarding connectivity and movement, Section 12.2.1 requires that the development of these lands "*achieve vehicular, pedestrian and cyclist permeability throughout the development area, with access from existing residential developments to the south*". Fig 12.2 (b); *KDA 1 Analysis Map*, identifies potential access routes to KDA1, including a potential access from Alexandra Walk at the location of the proposed access. As Section 12.2.1 does differentiate between vehicular and/or pedestrian

/cycle access points, I am satisfied that the plan allows for vehicular and/or pedestrian/cycle access from Alexandra Walk. On the basis of the above I am satisfied that the provision of a road connection and vehicular access into Alexandra Walk, through the F2, Strategic Open Space as shown would accord with the objectives for this area as set out in the Clane LAP.

F2, Strategic Open Space Zoning:

- 7.2.6. The F2 Strategic Open space zoning extends along the eastern edge of the settlement of Clane. The objective for F2 zoned land is “*to preserve, provide for and improve recreational amenity, open space and green infrastructure networks*”. It is a policy of the LAP (OSO1.4) that these lands be used to facilitate the provision of a public park (≥16ha).
- 7.2.7. The proposed development includes for the provision of c1.8ha of F2 zoned land for use as a public park, referred to as the River Liffey Greenway. As illustrated in the landscaping plans submitted with the application, the proposed Greenway is to be laid out for both formal and informal recreation. A cycle path is proposed along the Greenways western edge, while a network of pathways provide pedestrian connectivity between the Greenway / appeal site, the existing riverside walk at Alexandra Walk to the south and future development lands to the north (Strategic Reserve). Outdoor gym equipment is to be provided along pathways throughout the Greenway and a formal play area is located centrally within the scheme. The proposed works include for retention and enhancement of existing hedgerows, including the retention of existing vegetation along the western bank of the River Liffey. The scheme also includes proposals for the provision of wild grass areas around hedges to support biodiversity.
- 7.2.8. In relation to impacts on Green Infrastructure, I refer the Board to the Arboricultural Report and associated drawings which accompanied the application. The Capdoo Tree Impact Plans: East A and East B, illustrate Hedge 12 and Hedge 13 at the approximate location of the proposed access from Alexandra Walk and indicate that a section of both hedges will be removed to facilitate the inclusion of either a

pedestrian / cycle route or a vehicular route. A further section of Hedge 10 is to be removed to facilitate the internal road which overlaps the residential and strategic open space zoning. The proposed parking for the maisonette parking does not impact on existing green infrastructure. Overall, I am satisfied that the extent of hedgerow removal on F2 zoned land to facilitate the proposed road layout, access and parking arrangements is not significant and would not have such a negative impact on the green infrastructure on the site to a degree that would render the proposal a contravention of the F2, Strategic Open Space zoning.

### Conclusion

- 7.2.9. The layout of the development as proposed includes access from Alexandra Walk, internal through road and 5 no parking spaces located on the Strategic Open Space lands. However, I am satisfied that the quantity and quality of public open space provided within this scheme is sufficient to ensure that the Objectives of the Clane LAP in respect of the open space, amenity and the protection of green infrastructure are overwhelmingly delivered. Furthermore, I am satisfied that the proposed development is not in conflict with any zoning objective of the Clane LAP. I therefore consider the proposed development to be acceptable in principle.

## **7.3. Compliance with Core Strategy**

- 7.3.1. The planning authority in their assessment of the application had regard to Variation No. 1 of the Kildare County Development Plan 2017-2023 which came into effect on the 9th of June 2020. Variation No. 1 of Kildare County Development Plan 2017-2023 amended the Core Strategy and population projections for the County to align with the planned growth targets set out in the National Planning Framework (NPF) and the Eastern and Midlands Regional Spatial and Economic Strategy. In respect of Clane, the variation resulted in the dwelling allocation for the settlement being reduced from 780 housing units over the six-year period (2017 – 2023) to 145 housing units over the three-year period (2020 – 2023). The planning authority in their assessment of the application had regard to the extent of residential development permitted within Clane since the adoption of Variation No.1. and found

that the housing target had already been exceeded by more than double. The planning authority concluded that the 59 units, the subject of this appeal, would further exceed the agreed target of 145 no. units to be built in Clane until 2023 and would therefore materially contravene the core strategy and objectives of the KCDP 2017-2023. Permission was refused on this basis. The impact of the proposal on the Core Strategy, is also raised in the observation received, mostly in relation to the ability of Clane (in terms of social and physical infrastructure etc) to accommodate growth beyond that envisaged in the plan.

- 7.3.2. The Board will be aware that the Kildare County Development Plan 2017-2023 has been superseded by the Kildare County Development Plan 2023-2029 which came into effect on January 28<sup>th</sup> of 2023. This plan sets out a framework for development in the County for the next six years. I therefore consider it appropriate to assess the proposed scheme against the Core Strategy and housing targets set under the Kildare County Development Plan 2023-2029 (KCDP 2023-2029), the operative plan.
- 7.3.3. Chapter 2 of the KCDP 2023-2029 sets out the Core Strategy and Settlement Strategy for the County and categorises Clane as a Tier 3 'Self-Sustaining Town' (previously a Tier 4 'town'). As per the Core Strategy, the housing target for County Kildare to the end of the Plan period is 9,144 housing units which translates to an additional 25,146 persons. Notwithstanding its elevation to a Tier 3 Self Sustaining Town, the percentage of growth allocated to Clane remains unchanged at 2.4%, this equates to a housing target for the settlement of 219 units for the period 2023 – end 2028; however, it is acknowledged that this figure is a holding figure until such date as the relevant Census 2022 data is available.
- 7.3.4. I have consulted Kildare County Councils online planning system, and I am not aware of any housing schemes that have been permitted in Clane since the adoption of the new plan. I note that Kildare County Council did decide to grant permission for the construction of 39 units on lands also within KDA1 in July of this year; however, this application is currently on appeal (ABP Ref:317695) and is awaiting decision. Therefore, on the basis of the information available, the proposed development is the first residential scheme in Clane to be decided against the Core Strategy and

housing targets set under the KCDP 2023-2029. As the proposed scheme of 59 units falls well within the housing target for Clane (representing c27% of the housing allocation for the settlement) the proposal would accord with the Core Strategy of the Kildare County Development Plan 2023-2029.

7.3.5. Furthermore, I consider that the proposed development, due to its location on zoned and serviced land, within a Key Development Area identified in the Clane LAP as the focus for new residential development, and due to its proximity to existing residential development and to Clane town centre, would contribute to the sustainable compact growth of the settlement in accordance with national and local planning policy.

7.3.6. In terms of public and social infrastructure, the proposed residential scheme of 59 units is I consider relatively small and should not result in a significant increased demand on existing services / facilities. Notwithstanding, I note that the area is served by public transport with daily bus connections to Dublin City and University College Dublin, as well as connections to nearby towns including Naas and Newbridge. The development provides pedestrian /cycle linkages into existing residential areas improving permeability and encouraging more sustainable modes of transport. The proposal also supports the delivery of a large expanse of public open space along the River Liffey which will help to serve the future recreational and amenities needs of Clane. I also note proposals for a creche facility on lands to the northwest (KCC Ref: 23/728).

7.3.7. In conclusion, I am satisfied that Clane as a Tier 3 'Self-Sustaining Town' can accommodate the scale of development proposed, in accordance with the Core Strategy of the KCDP 2023-2029. I therefore do not recommend that the Board uphold the planning authority's decision to refuse permission.

#### 7.4. **Density**

7.4.1. In terms of density, the proposal comprises the construction of 59 residential units on a net development area of 2.23ha (as stated), this equates to a net residential density of 26units/ha. The site is a greenfield site on the edge of the settlement of Clane.

- 7.4.2. Table 2.8 'Core Strategy Table' of the KCDP 2023-2029 sets out proposed residential density targets (units/hectare) for each settlement to the end of the Plan period. Clane, as a self-sustaining town, has been set a target of 35-40 units per hectare. The proposed density at 26 units /ha would fall significantly below the density target for the settlement in the KCDP 2023-2029 but is in line with the lower to medium density standard of 25-30 units per hectare, envisaged for KDA1 in the Clane LAP.
- 7.4.3. The Sustainable Residential Development Guidelines generally encourages net densities of between 30-50 dwellings per hectare for Outer Suburban/'Greenfield' sites within cities and larger towns. Net densities of less than 30 dwellings per hectare, although generally discouraged, are not precluded in large town locations. I would refer the Board to Circular Letter NRUP 02/2021 issued by the Department in April 2021 with regard to residential densities in towns and villages, as set out in the Guidelines for Planning Authorities Sustainable Residential Development in Urban Areas. The Circular emphasises the necessity to adapt the scale, design, and layout of houses in towns and villages to ensure that suburban or high-density urban approaches are not applied uniformly, and that development responds appropriately to the character, scale and setting of the town or village. In relation to development at the edge of larger towns, the Circular has regard to the Guidelines definition of larger towns as settlements with a population in excess of 5,000 persons. The classification of a 'Large Town' can therefore apply to wide range of settlements varying in size from 5,000 to 50,000 persons. As a result of this variance, the Circular emphasises the need for An Bord Pleanála and Planning Authorities to exercise discretion in the application and assessment of residential density at the periphery of large towns, particularly at the edges of towns in a rural context. Accordingly, the Circular clarifies that the full range of outer suburban density, from a baseline figure of 30 dwellings per hectare (net) may be considered, with densities below that figure permissible subject to Section 5.12 of the Sustainable Residential Development Guidelines. For Clarity, Section 5.12 of the Guidelines states that to facilitate a choice of housing types, limited provision may be made for lower density schemes provided that, within a neighbourhood or district as a whole, average densities achieve any minimum standards recommended.

- 7.4.4. The appeal site is located on the edge of Clane, a settlement with an estimated population of c8,000 persons, which I consider to be within the lower population range for larger towns. I do not think that it would be unreasonable to permit net densities of less than 30 dwellings per hectare in this context. In relation to compliance with Section 5.12, I note that the proposed development site forms part of larger land bank, Key Development Area 1 in the Clane LAP. The planning history associated with KDA1 indicates that these have the potential lands to be developed at an average density of c41 units per hectare which would accord with recommended standard as prescribed in the Guidelines. The development of the appeal site at a density of c26 units/ha as proposed would not compromise the achievement of this standard.
- 7.4.5. On the basis of the above I consider that the Board could come to the conclusion that a density of 26 units per hectare in the current application is acceptable.

## 7.5. Access and Traffic

- 7.5.1. The proposal includes for the provision of new pedestrian, cyclist and vehicular infrastructure, accesses, and connections throughout the site. Primary access to the site is proposed via an already permitted entrance from the Brooklands housing estate to the northwest (KCC PI. Ref: 21/1400- currently under construction) with an optional additional vehicular access via Alexandra Walk at the southeast. Access to the Brooklands estate is from the R403 / Brooklands / Capdoo Park junction. The R403 junction currently has unused traffic signals. This junction also serves the Ardstone Capdoo SHD development to the north (ABP304632-19 –under construction) which includes an upgrade of the R403 / Brooklands / Capdoo Park junction and the construction of a relief road that will provide a connection from the R403 / Brooklands / Capdoo Park junction to the R407 / L5078 priority junction to the northwest. This current application includes proposals for the provision of a left turning lane and a pedestrian island on the southern arm of the existing junction which forms the existing entrance to Brooklands Housing estate. The Transport Section in their report to the planning authority on the 8<sup>th</sup> of September 2022 have requested upgrade works to the existing traffic signals at the R403 / Brooklands /

Capdoo Park junction. This may be addressed by way of condition in the event of a grant of permission.

7.5.2. As previously demonstrated, Section 12.2.1 and Figure 12.2 of the Clane LAP requires connectivity between the subject site and Alexandra Walk to the south; however, the plan does not specify a vehicular and/or pedestrian / cycle connection. The applicants have submitted two alternative site layout plans, referred to in the application and appeal as Option A and Option B, they request that the Board determine the appropriate connection arrangement. Both options provide for a new cycle and pedestrian connection between the application site and the adjacent Alexandra Walk residential development to the south-east. Option A also includes for a road connection and vehicular access between the application site and Alexandra Walk. The applicants note that Option A is the preferred option of Kildare's Road and Transportation Section; however, they themselves are of the opinion that a vehicular connection between the subject site and Alexandra Walk is not necessary. They also note that residents of Alexandra Park are opposed to a vehicular connection at this point.

7.5.3. A Traffic Impact Assessment was submitted with the application. The TIA includes junction analysis which assesses the effects of traffic generated by the proposed development on the R403 / Brooklands / Capdoo Park junction under the following scenarios:

- Option A - R403 / Brooklands / Capdoo Park junction with access via Alexandra Walk
- Option B- R403 / Brooklands / Capdoo Park junction without access via Alexandra Walk.

7.5.4. It is noted that for the purpose of the TIA the R403 / Brooklands / Capdoo Park junction was assessed as a signalised junction with and without the construction of the relief road. The analysis indicates that the signalised junction will operate within / at capacity with some queues and delays during the AM and PM peak periods. The

analysis further indicates that there would be a reduction in queues and delays at the junction with the provision of a vehicular access via Alexandra Walk.

- 7.5.5. While I note the findings of the TIA and the recommendations of Kildare's Road and Transportation Section, I see no significant benefit to the provision of a vehicular connection between the subject site and Alexandra Walk. Section 5.4.1 of the KCDP 2023-2029 identifies active travel as the most sustainable mode of transport and states that advancing walking and cycling as alternatives to private car use will prove crucial to the sustainable development of County Kildare. KCDP Policy TM P2 seeks to prioritise and promote the development of high-quality, suitable, safe, and sustainable walking and cycling pathways and facilities to encourage a shift to active travel. On this basis, I consider Option B, the provision of pedestrian and cycle access only, to be the most suitable connection arrangement between the subject site and Alexandra Walk.

## 7.6. Urban Design:

- 7.6.1. While no substantive design/layout issues were raised by the planning authority in their assessment of the application or in the appeal, I consider it reasonable in the interests of a comprehensive assessment and on the basis that the planning application and appeal should be considered de novo by the Board, to consider this issue in more detail.
- 7.6.2. As previously noted, the proposed development site forms part of Key Development Area 1 - Dublin Road as set out in the Clane LAP. Section 12.2.1 of the Clane LAP includes a design brief for the development of KDA1 under the headings of Connectivity and Movement, Built Form, and Landscape and Open Spaces. I have reviewed the plans and particulars submitted with the application and having considered the design brief I note the following:

*Connectivity and Movement:* In terms of connectivity and movement, the proposal provides for new pedestrian, cyclist and vehicular infrastructure, accesses, and connections throughout the site. The proposed scheme incorporates proposals for direct connectivity with existing residential development to the south and west and

for future access to the strategic reserve lands to the north. The roads and streets have been designed in accordance with the Design Manual for Urban Roads and Streets.

*Built form:* - The proposed residential units are arranged in four blocks in the form of back-to back rows and perimeter blocks. The layout of the development addresses existing unsupervised edges and ensures adequate passive surveillance of roads, cycleways, footpaths, and open spaces. The building line, established by the existing development of Brooklands to the west is maintained, allowing for a degree of legibility between the two estates. Dwellings are set back from the southern site boundary thereby minimising potential impact on the amenity of neighbouring dwellings in Abbey Park. The proposal respects the requirements of the design brief by providing buildings of two and three storeys in height and at a density in the order of 25 to 30 units per hectare. The proposed density at just over 26 units per hectare falls within this standard.

*Landscape and open spaces:* - The design brief requires a minimum of 15% of New Residential Lands within KDA1 to be given over to open space. The proposal in this instance provides c3,445sqm of open space which equates to just over 15% of net developable area (stated as 2.23ha). The proposal allows for the retention and enhancement of existing hedges and their incorporation into areas of open space.

7.7. The overall layout offers and appropriate level of amenity and privacy for future occupants whilst ensuring that the existing amenities of adjoining properties are adequately protected. The unit mix to be provided caters for a wide demographic profile. The buildings to be provided on site incorporate the palette of materials which are aesthetically suitable and pleasing and introduce an appropriate level of variety in design ranging from two to three storeys in height. On this basis of the above I consider the overall scheme to be acceptable in urban design terms.

7.8. **Other:**

7.8.1. Residential Amenity: A Housing Quality Assessment was submitted with the application. This document indicates that the proposed housing and apartments are

designed to meet the standards of Quality Housing for Sustainable Communities (2007) and Sustainable Urban Housing: Design Standards for New Apartments (2018). Following consideration of the plans submitted I am satisfied that the development as proposed adequately complies with the minimum standards cited in the above documents and that it would provide a sufficient standard of residential amenity for future occupants.

#### 7.8.2. Further Information Requested by Internal Departments/ Prescribed Bodies:

I note that various sections of Kildare County Council in their reports to the planning authority requested further information to aid in their assessment of the application. I am satisfied that the substantive issues raised can be addressed by way of condition in the event of a grant of permission. In relation to water services, I note that the development will be the subject of a connection agreement with Uisce Eireann.

### 7.9. **Appropriate Assessment**

- 7.9.1. A screening report for appropriate assessment prepared by Openfield Ecological Services was submitted in conjunction with the application. It concludes a finding of no significant effects. The application is also accompanied by an Ecological Impact Statement, a Bat and Badger Impact Evaluation, Arboricultural Report and Preliminary Construction and Environmental Management Plan. A description of the development and the receiving environment can be found in Section 2 of this report and in the applicant's AA screening report (pp.6 to 10).
- 7.9.2. The Screening report notes that the appeal site is not in or immediately adjacent to any Natura 2000 site. Four European sites are located within a 15-kilometre radius of the site:
- The Ballynafagh Bog SAC (Site Code: 000391) c6.3km to the west
  - Ballynafagh Lake SAC (Site Code: 001387), c7.4 kilometres to the west of the subject site respectfully.
  - The Ryewater/Cartron SAC (Site Code: 001398) c12.7 kilometres to the north-east

- The Mouds Bog SAC (Site Code 002331) c11.6 kilometres to the south-west.

7.9.3. In addition, the screening report identifies that there are surface water and wastewater pathways from the site to designated sites via the River Liffey which flows along the eastern boundary of the site. While this river is not subject to any Natura 2000 designations, it does discharge into the Irish Sea at Dublin Bay which accommodates a number of Natura 2000 sites including the South Dublin Bay River Tolka Estuary SPA (Site Code: 004024), the South Dublin Bay SAC (Site Code: 000210), the North Dublin Bay SAC (Site Code: 000206) and the North Bull Island SPA (Site Code: 004006). As the crow flies, the separation distance between the subject site and the SPAs/SACs in question is over 30 kilometres. The distance via the river flow is in excess of this distance. Additionally, drinking water for the proposed development may originate from the Poulaphouca Reservoir which is designated an SPA (Site code:4063).

7.9.4. Surface water discharge from the proposed development will ultimately discharge into the River Liffey. Detailed SuDS measures are to be incorporated into the scheme. The surface water management system has been designed to ensure that the quality and quantity of run-off are maintained at a greenfield standard. It is noted that these SuDS systems are now standard in all new developments and are not included to avoid or reduce the impact on European sites but are mainly designed as flood attenuation measures.

7.9.5. Wastewater from the proposed development will pass into the Osberstown wastewater treatment plant which discharges treated wastewater into the River Liffey under an existing Waste Discharge Authorisation Licence issued by the Environmental Protection Agency. The development will be the subject of a connection agreement with Irish Water.

#### European Sites

7.9.6. The European Sites identified in the AA screening report within the Zone of Influence and with potential pathways are listed below.

European Site (code)	List of Qualifying interest (QI) /Special Conservation Interest (SCI)	Distance from proposed development (Km)	Conservation objectives
<b>SAC</b>			
Ballynafagh Lake SAC (side code: 001387)	Alkaline fens [7230]  Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]  Euphydryas aurinia (Marsh Fritillary) [1065]	c.7.1km to the northwest of the site	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected
Ballynafagh Bog SAC (side code: 000391)	Active raised bogs [7110]  Degraded raised bogs still capable of natural regeneration [7120]  Depressions on peat substrates of the Rhynchosporion [7150]	c.6.1km to the west of the site	To restore the favourable conservation condition of Active raised bogs in Ballynafagh Bog SAC  The long-term aim for Degraded raised bogs still capable of natural regeneration is that its peatforming 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 Ballynafagh Bog SAC
Rye Water/ Carton SAC (side code:001398)	Petrifying springs with tufa formation (Cratoneurion)* [7220] <i>* denotes a priority habitat</i>  Narrow-mouthed Whorl Snail Vertigo angustior [1014]  Desmoulin's Whorl Snail Vertigo moulinsiana [1016]	c.12.3km to the northeast of the site	To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected
Mouds Bog SAC (side code: 002331).	Active raised bogs [7110]  Degraded raised bogs still capable of natural regeneration [7120]  Depressions on peat substrates of the Rhynchosporion [7150]	c. 11.4km southwest of the site	To restore the favourable conservation condition of Active raised bogs in Mouds Bog SAC, which is defined by the following list of attributes and targets.  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 Mouds Bog SAC
South Dublin Bay SAC (0210)	Mudflats and sandflats not covered by seawater at low tide [1140]  Annual vegetation of drift lines [1210]  Salicornia and other annuals colonising mud and sand [1310]  Embryonic shifting dunes [2110]	31.1km to the east of the site	To maintain the favourable conservation condition of habitats <i>*See South Dublin Bay SPA also</i>
North Dublin Bay SAC (0000206)	1140 Mudflats and sandflats not covered by seawater at low tide.	c. 33.7km to the northeast of the site.	To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide, Atlantic salt

	<p>1210 Annual vegetation of drift lines</p> <p>1310 Salicornia and other annuals colonising mud and sand</p> <p>1330 Atlantic salt meadows (Glauco-Puccinellietalia maritimae)</p> <p>1410 Mediterranean salt meadows (Juncetalia maritimi)</p> <p>2110 Embryonic shifting dunes</p> <p>2120 Shifting dunes along the shoreline with Ammophila arenaria (white dunes)</p> <p>2130 Fixed coastal dunes with herbaceous vegetation (grey dunes)</p> <p>2190 Humid dune slacks</p> <p>1395 Petalwort Petalophyllum ralfsii</p>		<p>meadows (GlaucoPuccinellietalia maritimae), Fixed coastal dunes with herbaceous vegetation, Petalwort,.</p> <p>To restore the favourable conservation condition of Annual vegetation of drift lines, Salicornia and other annuals colonizing mud and sand, Embryonic shifting dunes, Humid dune slacks.</p>
<b>SPA</b>			
<p>South Dublin Bay and River Tolka Estuary SPA [004024]</p>	<p>Light-bellied brent goose Branta bernicla hrota [A046]</p> <p>Oystercatcher Haematopus ostralegus [A130]</p> <p>Ringed plover Charadrius hiaticula [A137]</p> <p>Grey plover Pluvialis squatarola [A141]</p> <p>Knot Calidris canutus [A143]</p> <p>Sanderling Calidris alba [A149]</p> <p>Dunlin Calidris alpina [A149]</p> <p>Bar-tailed godwit Limosa lapponica [A157]</p> <p>Redshank Tringa totanus [A162]</p> <p>Black-headed gull Chroicocephalus ridibundus [A179]</p> <p>Roseate tern [A193] Arctic tern [A194]</p> <p>Wetland and waterbirds [A999]</p>	<p>c.32km to the east of the site.</p>	<p>To maintain the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA</p>
<p>Poulaphouca Reservoir SPA (site code: 4063).</p>	<p>Greylag Goose Anser anser [A043]</p> <p>Lesser Black-backed Gull Larus fuscus [A183]</p>	<p>c.16.9km to the southeast of the site</p>	<p>To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA</p>

Assessment of Likely Significant Effects.

- 7.9.7. With regard to direct impacts, the application site is not located with or adjacent to any SAC or SPA therefore there is no risk of habitat loss, fragmentation or any other direct impacts. I am satisfied having regard to the nature and scale of the proposed development of 59 units, its location within the development boundary of Clane, the separation distance between European sites, the intervening uses, the absence of direct source – pathway – receptor linkages, that no appropriate assessment issues arise in relation to the European sites listed above.
- 7.9.8. Any potential indirect impacts on European Sites from the development would be restricted to the discharge of surface or foul water from the site. I note the proposed drainage system discharging to the River Liffey ultimately drains into Dublin Bay. The installation of surface water attenuation and SuDS systems will ensure that there will be no negative impact on water quality or quantity arising from the change in land use from agricultural to residential. I note the proposed SuDS system is a standard system incorporated in all new developments and it is not included specifically to avoid or reduce an impact on a European site. With regard to hydrological pathways via wastewater, I note that water flows to Dublin Bay via the Osberstown Wastewater Treatment Plant and the River Liffey. The Osberstown Plant is licenced to discharge treated effluent to the River Liffey under (EPA Waste Discharge Authorisation Licence No. D0002-01). I consider having regard to the significant distance of over 30 kilometres between the subject site and the European sites identified that the proposal will not impact on any of the qualifying interests associated with the Natura 2000 sites in Dublin Bay. While Otter, Atlantic Salmon and Lamprey species are known to be present along the River Liffey, they are no Natura 2000 sites designated for these species within the zone of influence of the project. Notwithstanding, I consider proposed connections to the public infrastructure and the proposed treatment of surface water as detailed above will prevent any potential significant negative impact on water quality in the River Liffey.
- 7.9.9. In relation to in-combination effects with other plans or projects, I note that future developments in the area are likely to be residential in nature and are unlikely to give rise to cumulative impacts on any European sites in the vicinity.

### Conclusion

7.9.10. Having regard to the nature and scale of the proposed development on fully serviced lands, to the intervening land uses and distances from other European sites, and lack of direct connections with regard to the source – pathway – receptor model, it is reasonable to conclude on the basis of the information on file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on the above listed European sites or any other European site, in view of the said site’s conservation objectives and a Stage 2 Appropriate Assessment is not therefore required.

## **8.0 Recommendation**

8.1. I recommend that permission for this development be granted subject to condition as outlined below.

## **9.0 Reasons and Considerations**

Having regard to:

- a) The policies and objectives set out in the Kildare County Development Plan 2023- 2029.
- b) The Core Strategy and Settlement Strategy set out in the Kildare County Development Plan 2023- 2029.
- c) The policies and objectives set out in the Clane Local Area Plan 2017 – 2023,
- d) The Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009),
- e) The Design Manual for Urban Roads and Streets (DMURS) 2013 (as amended),
- f) The Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments (2023),
- g) Best practice guidelines “Quality Housing for Sustainable Communities” (2007)
- h) The location of the site within Key Development Area 1

- i) The zoning objectives relating to the site,
- j) The nature, scale, and design of the proposed development,

it is considered that subject to compliance with the conditions below the proposed development would constitute an appropriate form, density, and scale of development at this location, would provide for an adequate level of amenity for future occupants, would not seriously injure the residential amenities of the area or unduly impact green infrastructure facilities and would be acceptable in terms of vehicular and public safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>(a) The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to the commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanala for determination.</p> <p>(b) The development shall be carried out and completed in accordance with site layout Option B i.e., with the inclusion of a pedestrian and cycle access only between the proposed scheme and Alexandra Walk</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Each dwelling shall be used as an individual residential unit and shall not be subdivided into separate living units.</p> <p><b>Reason:</b> In the interest of clarity and residential amenity.</p>

3.	<p>Details of the materials, colours, and textures of all external finishes to the proposed dwellings/buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interests of visual amenity.</p>
4.	<p><b>Prior to commencement of development</b>, the developer shall submit to the Planning Authority a detailed design for a signalised 4 arm junction of the R403 Regional Road/ Brooklands/ Capdoo Link Road, including Vulnerable Road Users (VRU) crossing facilities, in line with current standards. The cost of design, supervision and delivery of these works shall be borne by the applicant. These works shall be completed prior to occupation of the residential units. The applicant shall liaise with the Traffic Management Section of Kildare County Council in regard to this.</p> <p>The upgrade works and junction improvements shall be in accordance with the planning authority specifications including:</p> <ul style="list-style-type: none"> <li>a) The upgrade of the existing traffic signals.</li> <li>b) The upgrade of the existing controller to ELV and LED signals.</li> <li>c) The installation of CCTV camera and pole at the junction to assist monitoring of traffic flows.</li> <li>d) The installations of MOCA technology.</li> <li>e) The upgrade of the existing public lighting.</li> <li>f) The upgrade of the road layout and markings including the provision of dished kerbs and tactile paving pedestrian crossing points</li> </ul> <p><b>Reason:</b> In the interest of proper planning, sustainable development, and traffic safety.</p>
5.	<p>The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning</p>

	<p>authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended.</p> <p><b>Reason:</b> In the interests of traffic safety.</p>
6.	<p>All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> in the interest of sustainable transportation.</p>
7.	<p>Public lighting shall be provided in accordance with a scheme which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.</p> <p><b>Reason:</b> In the interest of amenity and public safety.</p>
8.	<p>All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p><b>Reason:</b> In the interests of visual and residential amenity</p>
9.	<p>Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the</p>

	<p>planning authority prior to the commencement of development. Thereafter, all estate and street signs and house numbers shall be provided in accordance with the agreed scheme. The proposed names shall be based on local, historical or topographic features or other alternatives acceptable to the planning authority. No advertisement/marketing signage relating to the names of the development shall be erected until the developer has obtained the planning authority's written agreement for the proposed names.</p> <p><b>Reason:</b> In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.</p>
10.	<p>The developer shall enter into water and wastewater connection agreements with Uisce Eireann prior to the commencement of development.</p> <p><b>Reason:</b> In the interest of public health.</p>
11.	<p>Water supply and drainage arrangements including the attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and service.</p> <p>(ii) Prior to the commencement of development, the developer shall submit plans, cross-sections and maintenance details for the treatment of all drainage ditches on site including any proposal to culvert along the south of the site.</p> <p>(iii) Prior to the commencement of development, the developer shall submit to the planning authority for written agreement a Stage 1 – surface water audit carried out by suitably qualified and experience Consulting Civil Engineer, which shall address the following</p> <p style="padding-left: 40px;">a) Compliance of the drainage and SuDS designs and layouts with GSDSDS Volume 2 Chapter 6 Stormwater Drainage Design Criteria 1- 4,</p>

	<p>b) Sustainability Drainage Design Principle avoiding unduly oversized pipes,</p> <p>c) The achievement of minimum pipe self-cleansing velocities and 2- or 5-year design return period for the drainage pipe network.</p> <p>d) Drainage and SuDS Design shall be compliant with CIRIA SuDS Manual and</p> <p>e) make allowance for failure of the drainage system and SuDS and f. consider use of a 30% climate change factor and 10% urban creep factor.</p> <p>f) the allowance for connection of runoff from other developments, h. the hydraulic capacity and condition of and recommend improvements thereto where necessary and</p> <p>g) confirm in writing that its recommendations have been implemented by the applicant.</p> <p><b>Reason:</b> In the interest of public health and surface water management.</p>
12.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of properties in the vicinity.</p>
13.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste</p>

	<p>Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.</p> <p><b>Reason:</b> In the interest of sustainable waste management.</p>
14.	<p>The site shall be landscaped in accordance with the Landscape Masterplan and associated drawings prepared by Landmark Design and Consultancy Ltd and submitted to the planning authority on the 21st day of July 2022 as part of the application. Landscaping shall be carried out within the first planting season following substantial completion of the external construction works. In addition to the proposals in the submitted scheme the following shall be carried out:</p> <ul style="list-style-type: none"> <li>a) The site shall be landscaped, using only indigenous deciduous trees and hedging species and there should be no encroachment during the construction on those hedgerows to be maintained as part of the works to be carried out.</li> <li>b) Details of all play facilities, outdoor gym equipment and passive recreational facilities including seating shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.</li> <li>c) Compliance with the requirements and standards of the planning authority in relation to lighting and tree planting within the public open space.</li> <li>d) All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species unless otherwise agreed in writing with the planning authority.</li> </ul> <p><b>Reason:</b> In the interest of residential and visual amenity.</p>

15.	<p>The developer shall implement all the recommendations pertaining to tree hedgerow retention and protection as outlined in the Arboricultural Report and associated drawings submitted with the application. Prior to the commencement of development, an Arborist shall be retained by the developer for the duration of the construction and shall commence a program for implementation of the recommendations contained in the submitted report. Such works shall be commenced as soon as possible and shall be completed within one year of the completion of development works.</p> <p>The Arborist shall carry out a post construction tree survey/assessment on the condition of the retained trees. A completion certificate shall be signed off by the arborist when all works are completed and in line with the submitted original tree report and landscape drawings. The certificate shall be submitted to the planning authority for written agreement prior to taking in charge.</p> <p><b>Reason:</b> to protect trees and hedgerows during construction</p>
16.	<p>The recommendations and mitigation measures as set out in the submitted Ecological Impact Assessment and in the Bat and Badger impact evaluation, submitted with the application shall be implemented in full</p> <p><b>Reason:</b> To ensure the protection of the natural heritage on the site.</p>
17.	<p>The developer shall facilitate the archaeological appraisal of the site and shall provide for the preservation, recording and protection of archaeological materials or features which may exist within the site. In this regard, the developer shall:</p> <p>a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and</p>

	<p>geotechnical investigations) relating to the proposed development, and</p> <p>b) employ a suitably-qualified archaeologist prior to the commencement of development. The archaeologist shall assess the site and monitor all site development works. The assessment shall address the following issues:</p> <p>(i) the nature and location of archaeological material on the site, and</p> <p>(ii) the impact of the proposed development on such archaeological material.</p> <p>A report, containing the results of the assessment, shall be submitted to the planning authority and, arising from this assessment, the developer shall agree in writing with the planning authority details regarding any further archaeological requirements (including, if necessary, archaeological excavation) prior to commencement of construction works. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In order to conserve the archaeological heritage of the area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.</p>
18.	<p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may</p>

	<p>be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.</p>
19.	<p>Prior to the commencement of any house in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p><b>Reason:</b> To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good</p>
20.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p>

	<p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p>
21.	<p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> To ensure the satisfactory completion of the development.</p>

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

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Lucy Roche  
Planning Inspector

23<sup>rd</sup> October 2023

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## Appendix A: EIA Preliminary Examination

### Form 2

#### EIA Preliminary Examination

<b>An Bord Pleanála Case Reference</b>	314802-22	
<b>Proposed Development Summary</b>	59 Residential Units and Linear/Neighbourhood Park	
<b>Development Address</b>	Capdoo and Abbeylands, Clane, Co. Kildare	
<b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<b>Nature of the Development</b> Is the nature of the proposed development exceptional in the context of the existing environment?	The site is located on lands zoned for 'new residential' development under the provisions of the Clane LAP 2017-2023. The site is bounded by existing residential development to the west and south. The nature of the development (residential / open space) is not exceptional in the context of the existing environment.	No

<p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>A preliminary construction waste management plan has been submitted with the application. Excavated topsoil and subsoil is to be reused within the site. Construction and demolition waste is to be removed by licenced contractor and disposed of in accordance with the Waste Management Act.</p> <p>The operational phase of the proposed development would not give rise to waste, pollution or nuisances that differ significantly from that arising from other housing in the area.</p>	
<p><b>Size of the Development</b></p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>The size of the development is not exceptional in the context of the receiving environment. The height and density of the residential development proposed is compatible with existing development in the vicinity.</p> <p>The site with a stated area of 4.86ha forms part of a larger c10ha parcel of land identified as a Key Development Area in the Clane LAP. Construction of 34 apartments permitted under KCC Ref: 21/1400 has already commenced and is nearing completion. Future developments in the area are likely to be residential in nature and are unlikely to give rise to significant cumulative impacts.</p>	<p>No</p>
<p><b>Location of the Development</b></p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have</p>	<p>The River Liffey extends along the eastern boundary of the site providing a hydrological connection between the site and Dublin Bay which accommodates a number of Natura 2000 sites. As the crow flies, the separation distance between the subject site and the SPAs/SACs in question is over 30 kilometres. Any issues arising from the connectivity to a European Site can be adequately dealt with under the Habitats Directive.</p> <p>An Ecological Impact Assessment has been submitted in support of the</p>	<p>No</p>

the potential to significantly affect other significant environmental sensitivities in the area?	application. The EIA identifies mitigation to be implemented to negate against impacts to the ecological resource of the area and there is no real likely of significant effects occurring.	
<b>Conclusion</b>		
<b>There is no real likelihood of significant effects on the environment.</b>  EIA not required.	<b>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</b>  Schedule 7A Information required to enable a Screening Determination to be carried out.	<b>There is a real likelihood of significant effects on the environment.</b>  EIAR required.
✓		

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

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

**DP/ADP:** \_\_\_\_\_

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

(only where Schedule 7A information or EIAR required)