



An
Bord
Pleanála

Inspector's Report

ABP-315725-23

Development	Upgrades to existing network and provision of new pipeline.
Location	Mariavilla, Carton Demesne, Oldcarton, Catherinestown, Kellystown, Ravensdale, Sion and Confey, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	22784
Applicant(s)	Uisce Eireann
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	John Loughlin Vincent McLoughlin
Observer(s)	None

Date of Site Inspection

10th October 2023

Inspector

Elaine Power

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1.0 Site Location and Description

- 1.1. The development would traverse the administrative areas of both Kildare County Council and Meath County Council including the townlands of Mariavilla, Carton Demesne, Oldcarton, Catherinestown, Ravensdale, Sion and Confey. This appeal relates to the works within the administrative area of Kildare County Council only.
- 1.2. The appeal site includes the Maynooth Wastewater Pumping Station in Co. Kildare. The proposed pipeline runs from the pumping station, along the Dunboyne Road towards the River Rye, where it crosses into Co. Meath. It continues for c. 1.8km in a north east direction through agricultural lands towards the junction of the R157 / L1014. The pipe then re-enters Co. Kildare, north of Carton Demesne and crosses agricultural land for c. 750m before joining with the public road. The route travels along the L1014, L1015 and the R149 and terminates at Confey, north of the Royal Canal, adjacent to an amenity area where the new pipe would connect to an existing pipe under the R149. The appeal area is generally rural in nature.
- 1.3. The pipeline runs along the northern boundary wall of Carton Demesne which is a protected structure (RPS B06-09). There are 2 no. Zones of Archaeological Potential close to the proposed pipeline route in the townlands of Kellystown and Confey.

2.0 Proposed Development

- 2.1. The proposed development is known as the Maynooth Transfer Pipeline. The works comprises upgrade works to the Maynooth Wastewater Pumping Station (WWPS) including the permanent mechanical, electrical, instrumentation, control and automation (MEICA) upgrade, upgrade to the existing chemical dosing system and ancillary works at the WWPS.
- 2.2. The works also include the provision of c. 9.8km of new pipeline, c. 7.9km of which is located within the administrative area of Kildare County Council, between Maynooth WWPS and existing Uisce Eireann infrastructure under the R149 in Confey. The proposed pipe would connect to the existing network and would transfer wastewater from Maynooth WWPS to the Leixlip Wastewater Treatment Plant, which has sufficient spare treatment capacity. Upon completion of the project there would be sufficient

capacity within the infrastructure to accommodate the design loads for Maynooth and Kilcock.

2.3. The works also include some minor alterations to the entrance to the WWPS to improve sightlines.

2.4. A Compulsory Purchase Order has been obtained for rights to develop the scheme on some sections of the site in private ownership and some sites in private ownership are subject to agreement. Letters of consent have been submitted in this regard.

3.0 Planning Authority Decision

3.1. Decision

Grant Permission 18 no. standard conditions.

3.2. Planning Authority Reports

3.2.1. *Planning Reports*

Further information was requested on the 22nd August 2022. The 5 no. items of further information are summarised below: -

- Drawings outlining the works to the entrance of the Maynooth WWPS.
- Drawings illustrating the relationship, location and impact on adjacent protected / historic structures including Carton Demesne wall (protected structure).
- An Architectural Heritage Impact Statement.
- A Noise and Vibration Impact Assessment Report for the Maynooth WWPS.
- Address concerns raised by third parties.

The planning authority report dated 13th January 2023 considered that all items had been adequately addressed and recommended that permission be granted subject to conditions.

3.2.2. **Other Technical Reports**

Architectural Conservation Officer: Report dated 16th August 2022 recommended that further information be requested. This was reflected in the requested for further information by the planning authority. The planners report notes that no report was received by the Architectural Conservation Officer regarding the response to further information.

Fire Services: Report dated 3rd August 2022 stated there were no observations.

Area Engineer: Report dated 6th January 2023 raised no objection subject to conditions.

Roads, Transport and Public Safety: Report dated 22nd December 2022 raised no objection subject to conditions.

Environment Section: Report dated 14th December 2022 raised no objection subject to conditions.

3.3. **Prescribed Bodies**

None

3.4. **Third Party Observations**

8 no. submissions were received by the planning authority. The concerns raised are similar to those outlined in the appeals below.

4.0 **Relevant Planning History**

Reg. Ref. 22/960: Permission was granted in 2022 by Meath County Council for the provision of c. 1.9km of new pipeline and associated infrastructure. This application formed part of the subject site that is within the administrative area of Meath County Council.

5.0 Policy Context

5.1. Kildare County Development Plan 2023-2027

The proposed development comprises c. 9.8km of pipeline, the majority of which is located on unzoned lands and roads between the settlements of Maynooth and Leixlip. In the now expired Maynooth Local Area Plan the site of the WWPS was zoned J: Transport and Utilities with the associated land use objective to provide for and protect transportation infrastructure and public utilities. The access lane to the WWPS is zoned B: Existing Residential with the associated land use objective to protect and improve existing residential amenity; to provide for appropriate infill residential development and to provide for new and improved ancillary services.

The following policies and objectives are considered relevant:

Policy IN P3: Support Irish Water to ensure adequate and appropriate wastewater treatment infrastructure is available over the Plan period to service the projected growth of towns and villages throughout Kildare in accordance with the Core Strategy and Settlement Hierarchy.

Objective IN O12: (A) Work in conjunction with Irish Water to promote the ongoing upgrade and expansion of wastewater services to meet the future needs of the county and the region including facilitating the provision and zoning of appropriate sites required for wastewater services infrastructure as necessary. (B) Pursue with Irish Water, additional investment commitment in the provision of increased capacity of waste-water treatment plants (WWTPs), increasing the number of projects under the Small Towns and Villages Growth Programme (STVGP), so as to ensure sustainable growth patterns in the County.

Objective IN O13: Ensure that adequate wastewater services will be available to service development prior to the granting of planning permission and to require developers to provide evidence of consultation with Irish Water regarding capacity in the network prior to applying for planning permission.

Policy AH P1: Recognise the value and opportunity of Kildare’s unique heritage resource and to manage, conserve, promote and protect it, for present and future generations.

Policy AH P6: Protect, conserve and manage the archaeological and architectural heritage of the county and to encourage sensitive sustainable development in order to ensure its survival, protection and maintenance for future generations.

Policy AH P7: Promote appreciation of the landscape and historical importance of traditional and historic gardens, demesnes and parks within County Kildare and particularly where they constitute an important and intrinsic value to the setting of a protected structure.

5.2. ***Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019.***

The RSES is underpinned by key principles that reflect the three pillars of sustainability: Social, Environmental and Economic, and expressed in a manner which best reflects the challenges and opportunities of the Region.

The site is located with the ‘Dublin Metropolitan Area’. The Metropolitan Area Strategic Plan (MASP), which is part of the RSES, aims to align growth with enabling infrastructure *to promote quality infrastructure provision and capacity improvement, in tandem with new development and aligned with national projects and improvements in water and waste water, sustainable energy, waste management and resource efficiency.*

The following are considered relevant:

RPO 7.11 For water bodies with ‘high ecological status’ objectives in the Region, local authorities shall incorporate measures for both their continued protection and to restore those water bodies that have fallen below high ecological status and areas ‘At Risk’ into the development of local planning policy and decision making any measures for the continued protection of areas with high ecological status in the Region and for mitigation of threats to waterbodies identified as ‘At Risk’ as part of a catchment-based approach in consultation with the relevant agencies. This shall include recognition of

the need to deliver efficient wastewater facilities with sufficient capacity and thus contribute to improved water quality in the Region.

RPO 10.10: Support Irish Water and the relevant local authorities in the Region to eliminate untreated discharges from settlements in the short term, while planning strategically for long term growth in tandem with Project Ireland 2040 and in increasing compliance with the requirements of the Urban Waste Water Treatment Directive from 39% today to 90% by the end of 2021, to 99% by 2027 and to 100% by 2040.

RPO 10.11: EMRA supports the delivery of the waste water infrastructure set out in Table 10.2, subject to appropriate environmental assessment and the planning process.

RPO 10.12: Development plans shall support strategic wastewater treatment infrastructure investment and provide for the separation of foul and surface water networks to accommodate the future growth of the Region.

5.3. ***National Planning Framework***

The National Planning Framework is a high level strategic plan for shaping the future growth and development of the county to 2040. The plan sets out 10 no. National Strategic Outcomes. National Strategic Outcome 9 relates to sustainable management of water, waste and other environmental resources and notes that investment in water services infrastructure is critical to the implementation of the National Development Plan. It aims to eliminate untreated discharges from settlements in the short term, while planning strategically for long-term growth.

5.4. ***Other Relevant Legislation and Documents***

- The Water Services Act, 2007 (as amended)
- The Urban Wastewater Treatment Directive (91/271/EEC)
- The Waste Water Discharge (Authorisation) Regulations, 2007
- Water Services Policy Statement 2018 - 2025
- Uisce Eireann Water Services Strategic Plan 2050

5.5. Natural Heritage Designations

The subject site is immediately adjacent and hydrologically connected to the Rye Water Valley / Carton SAC (001398).

5.6. EIA Screening

5.6.1. An Environmental Impact Assessment Screening Report has not been submitted with the application. Section 6.1.2 of the applicants Planning and Environmental Report states that the proposed works are not listed in either Part 1 or Part 2 of the Schedule 5 and therefore an EIAR is not required.

5.6.2. Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended and section 172(1)(a) of the Planning and Development Act 2000, as amended provides that an Environmental Impact Assessment (EIA) is required for infrastructure projects that involve:

- Item 10(b): Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.
- Item 11(c) Waste water treatment plants with a capacity greater than 10,000 population equivalent as defined in Article 2, point (6), of Directive 91/271/EEC not included in Part 1 of this Schedule.
- Item 15: Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

5.7. The proposed development has an overall stated area of 13.52 ha and is generally located on lands currently in use as agricultural, roads or the existing Maynooth Wastewater Pumping Station. I am satisfied that the majority of the proposed development is located on lands that are 'elsewhere' and the scheme therefore falls below the applicable threshold of 20ha. The proposed pipeline would transfer wastewater from the existing Maynooth Pumping Station to Leixlip Wastewater

Treatment Plant, which has capacity to cater for the proposed additional loading. The proposed works to the Maynooth WWPS include additional chemical dosing. I am satisfied that for the purpose of EIA, this is not treatment of wastewater and that it is required to reduce the likelihood of septicity occurring in the pipeline.

- 5.7.1. The majority of the works would be below ground and I would note that the development would not give rise to significant use of natural resources, production of waste, pollution, nuisance, or a risk of accidents. The site is not subject to a nature conservation designation. A Natura Impact Assessment was submitted with the application which notes that the proposed development individually or in combination with other plans and projects would not adversely affect the integrity of the European Sites and that associated environmental impacts on these sites, by reason of loss of protected habitats and species, can, therefore, be ruled out.
- 5.8. Given the information submitted by the applicant, having carried out a site visit on the 10th October 2023 and to the nature and location of the proposed development, I am satisfied that the proposed development does not have the potential to have effects the impact of which would be rendered significant by its extent, magnitude, complexity, probability, duration, frequency or reversibility. In these circumstances, there is no real likelihood of significant effects on the environment arising from the proposed development. Therefore, the need for environmental impact assessment can be excluded. The planning authority also concluded in their assessment that having regard to the nature of the proposed development no EIA is required. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. 2 no. appeals were received from John Loughlin and Vincent McLoughlin. The appeals raise similar concerns and are summarised below:
- The existing watermain that currently serves 24 no. properties on Confey Road (R149) should be replaced as part of this application. This issue was raised by

KCC in the request for further information The applicant's response was inadequate stating that there are no immediate plans to upgrade water supply in the area.

- The current water supply does not meet the needs of local residents. An opportunity is being missed to upgrade and extend the watermains, which would improve water pressure in the area.
- There are a number of properties on the R149 that are not connected to the public network. Their wells will now be located within 5m of the proposed wastewater pipe line.
- The proposed works would result in traffic disruption, dust, noise and pollution for local residents over an extended period.
- Irish Water are ignoring their own Business Plan about eliminating duplication. Replacing the existing watermain at the same time as the construction of the wastewater pipe makes economic sense and avoids unnecessary duplication.
- The application fails to meet the obligations of the Water Service Act 2007 and subsequent water legislation.
- No consultation was undertaken with local residents.

6.2. Applicant Response

The applicant submitted a detailed response to the concerns raised by the appellants. The response is summarised below.

- The appeals are concerns with the issue of an extant watermain and not the proposed project. There are no material grounds raised on which the decision should be overturned.
- The appellants concerns are noted. However, they should not impact on the orderly development of Maynooth or the Eastern Greater Dublin Area, which would be the consequence of a refusal of permission.
- The construction process will be completed in a number of stages spread across a large geographical area. The full programme of works is 18 months

with some weeks in each area. It is anticipated that the works would move past residences and properties relatively quickly.

- Rock breaking is anticipated, this is unavoidable in such a project.
- The Construction Environmental Management Plan is robust and provides detailed measures in relation to the control of noise, air quality, vibration and other elements following best practice and relevant guidelines.
- Condition no. 9 of the grant of permission is unnecessary as it would result in retrospective regulation of an existing facility.
- The pipeline is designed to appropriate standards and will be managed accordingly. The comparison to a domestic wastewater treatment system and associated setbacks / buffer areas is incorrect.
- A watermain replacement would not necessarily achieve a solution to the appellants problems, which are highlighted as low pressure and the extent of the network. The performance of the water network is under constant review by Uisce Eireann.
- The scope of the project is regulated outside of the applicant's control, as part of a comprehensive statutory and operational structure. There is no scope to modify the project after it has been approved by the Regulator.
- Duplication would only arise if there were any intention or project in place to replace / extend the watermain, which it is confirmed there is not.
- It cannot be assumed that the watermain in Confey would be replaced or extended as such issues would require a thorough assessment and approval in advance. The proposed works are not premature.
- Duplication is an important consideration. However, it is equally important to avoid over specification or premature specification of infrastructure.
- The project has been documented in national and local wastewater and planning and development strategies, including the Uisce Eireann Capital Investment Plan 2020-2024, as approved by the Commission for Regulations of Utilities. The primary form of public consultation is the planning application.

- The proposed infrastructure is not to serve Confey rather to transfer wastewater from Maynooth and Kilcock to service their needs.

6.3. **Planning Authority Response**

The planning authority's response notes the content of the third-party appeals and states that they have no further comments or observations to make and request that the Board uphold the decision to grant permission.

6.4. **Observations**

None

6.5. **Further Responses**

None

7.0 **Assessment**

7.1. Having examined the appeal details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Residential Amenity
- Condition 9 - Maynooth Wastewater Pumping Station
- Built Heritage
- Archaeology
- Other Issues – Consultation

7.2. **Principle of Development**

7.2.1. The planning authority assessed the scheme against the provisions of the Kildare County Development Plan 2017 - 2023, which was the relevant statutory plan in place

when the application was decided. The current development plan came into effect on the 28th January 2023 and my assessment is based on the policies and objectives of the current statutory plan, which is the Kildare County Development Plan 2023-2029.

- 7.2.2. The proposed development is known as the Maynooth Transfer Pipeline. The works comprises upgrade works to the Maynooth Wastewater Pumping Station (WWPS) and the provision of c. 9.8km of new pipeline, c. 7.9km of which is located within the administrative area of Kildare County Council, between Maynooth WWPS and existing Uisce Eireann infrastructure under the R149 in Confey. The proposed pipe would connect to the existing network and would transfer wastewater from Maynooth WWPS to the Leixlip Wastewater Treatment Plant, which has sufficient spare treatment capacity. Upon completion of the project there would be sufficient capacity within the infrastructure to accommodate the design loads for Maynooth and Kilcock.
- 7.2.3. The pipeline is located within a c. 10m wide 'Pipeline Design Corridor'. The flexibility within the pipeline width would allow for local adjustment due to discoveries during installation. The depth of the pipeline is not yet determined to allow for flexibility during construction, however, it is estimated that it would be between 1m - 5m. This is considered a reasonable approach and I have no objection in this regard.
- 7.2.4. The majority of appeal site is located on unzoned lands and roads between the settlements of Maynooth and Leixlip. In the now expired Maynooth Local Area Plan the site of the WWPS was zoned J: Transport and Utilities with the associated land use objective to *provide for and protect transportation infrastructure and public utilities*. The access lane to the WWPS is zoned B: Existing Residential with the associated land use objective *to protect and improve existing residential amenity; to provide for appropriate infill residential development and to provide for new and improved ancillary services*. While it is acknowledged that the Maynooth LAP is expired I am satisfied that the proposed development is generally in accordance with the sites zoning objectives and the provisions of the now expired LAP. In my view the proposed development is in accordance with the provisions of Policy IN P3, Objective IN O12 and Objective IN O13 of the development plan, which all aim to ensure adequate wastewater infrastructure to meet the future needs of the county.

- 7.2.5. Concerns were raised in both appeals that an existing watermain that serves properties on Confey Road (R149) should be replaced as part of this application as the current water supply does not meet the needs of local residents, due to low pressure and the extent of the network. It is considered by the third parties that this is a missed opportunity to upgrade and extend the watermain in the area, while constructing the proposed pipeline. This concern was noted by the planning authority and formed part of item 5 of the request for further information. In the response to the request for further information Uisce Eireann (the applicant) noted that there are no immediate plans to upgrade the water supply network in this area. This response was considered acceptable by the planning authority.
- 7.2.6. I am satisfied that the concern raised by the third parties relates to issues within the water main network and does not relate to the principle of the proposed wastewater pipeline. Notwithstanding this, the appellants raise concerns regarding duplication of works. In response to the appeal the applicant notes that the proposed project is regulated outside of the applicants control and forms part of a comprehensive statutory and operational structure. It is further stated that there is no scope within this application to modify the project after the project has been approved by the Regulator. Having regard to the information available, I am satisfied that no assessment or approval has been given to upgrade / replace the watermain in Confey. Therefore, the issue of duplication does not arise in this instance.
- 7.2.7. While the concerns of the appellants regarding water pressure and the extent of the public water main network are noted I am satisfied that they are outside of the scope of this appeal and that the proposed project is not reliant on the upgrade of watermains in the Confey area. As there are no proposals to upgrade the watermain in the area. I am also satisfied that the proposed development would not give rise to unnecessary duplication of works. It is my opinion that the proposed development is in accordance with local, regional and national policy and should be assessed on its merits.

7.3. ***Residential Amenity***

- 7.3.1. The third parties raised concerns that the proposed works would result in traffic disruption, dust, noise and pollution for local residents over an extended period.

- 7.3.2. A Construction Environmental Management Plan (CEMP) was submitted with the application. It states that the construction phase would be c. 18 month and would generally comprise open cut trenches at depths between 1m – 5m with trenchless (no dig) installation techniques used at specific locations, in this regard at rivers, streams, trees etc. The response to the appeal clarifies that rock breaking would be an unavoidable element of the proposed works. The works areas would be isolated and traffic management set up as required, with temporary road closures likely along the L1014, L1015 and R149. The response to the appeal states that the pipeline works would occur over a duration of c. 12 months and that varying forms of traffic management would be agreed with the contractor and the relevant local authority. Having regard to the large geographical area of the project it is envisioned that the location of active works would be relatively short lived.
- 7.3.3. It is acknowledged that the proposed construction phase would cause noise and disturbance, however, the works would be temporary, and the majority of the construction works would take place at significant distances from residential properties. The CEMP provides robust and detailed measures in relation to the control of noise, air quality, vibration and other elements following best practice and relevant guidelines. I am satisfied that the use of best practice control measures, strict construction noise limits and noise monitoring during this phase, scheduling of works within appropriate time periods and the mitigation measures outlined in Section 8 of the CEMP would ensure impacts are controlled to within the adopted criteria.
- 7.3.4. Concerns were also raised in the appeals regarding the proximity of the proposed wastewater pipeline to existing wells and the potential for contamination of drinking water. It is noted that the EPA's Code of Practice sets out setbacks between private wells and domestic wastewater treatment systems. However, as noted in the applicant's response to the appeal the proposed infrastructure is not comparable to a domestic wastewater treatment system and the separation distance are not applicable in this instance. I am satisfied that the proposed wastewater pipeline would be designed, constructed and maintained in accordance with best practice guidelines, and would not pose a risk to existing private wells.
- 7.3.5. Overall, I am satisfied that the construction and operational phases of the proposed development would not have any unacceptable direct or indirect impacts on existing

residential amenities in terms of water quality, noise, vibration, air quality or traffic disturbance. It is also noted that the planning authority raised no concerns in this regard. It is recommended that if permission is being contemplated that the final details of the construction phase be agreed in writing with the planning authority by way of a site-specific Construction Management Plan.

7.4. *Condition 9 - Maynooth Wastewater Pumping Station*

- 7.4.1. In the response to the appeal the applicant notes condition no. 9 which sets noise limits for the operational phase of the Maynooth WWPS and requires a Noise Study to be submitted to the planning authority. The Planning and Environmental Report submitted with the application states that the proposed upgraded pump set at the Maynooth WWPS would be larger than those being replaced, however, they would be similar and would not result in increased noise levels at the sites boundaries. It further states that any equipment that could result in noise levels exceeding acceptable levels would be housed in acoustic enclosures or fitted with acoustic silencers, where possible. The applicant also states that no noise complaints have been received in relation to the existing WWPS and there would not be a significant change in noise levels.
- 7.4.2. It is acknowledged that the WWPS is located within a residential area, however, as this is an existing WWPS, and the operational phase of the proposed development would not result in any increase in noise levels from the facility I am satisfied that there is no requirement for a condition requiring a Noise Study to be submitted for the agreement of the planning authority.

7.5. *Built Heritage*

- 7.5.1. An Architectural Heritage Impact Statement (AHIS) was submitted by way of further information. The statement notes that there are 2 no. protected structures in the vicinity of the pipeline route on the Kildare County Record of Protected Structures, in this regard B06-08 Ravensdale House and Gates and B06-09 Carton House and associated outhouses, stables and yards. There are 2 no. additional structures on the Meath County Record of Protected Structures. These are RPS 91556 Carton Demesne Wall and RPS 91558 Moygaddy House. The pipeline would be installed

under the ground which generally avoids impacts on the architectural, vernacular and natural heritage of the area.

- 7.5.2. The proposed pipeline runs along the northern boundary wall of Carton Demesne (RPS B06-09). The AHIS notes that some areas of the historic demesne walls are in poor condition. Due to the proximity of the proposed pipeline to the protected structure it is my opinion that there is potential for accidental damage or undermining of foundations during the construction phase. Therefore, I agree with the findings of the AHIS that a wall condition survey should be undertaken prior to commencement and that monitoring should be carried out throughout the construction phase. I am satisfied that this could be addressed by way of condition.

7.6. ***Archaeology***

- 7.6.1. An Archaeological Impact Assessment (AIA) was submitted with the application. The report notes that the pipeline route partially impinges on the Zones of Archaeological Potential for Carton Demesne (Temple Woods (RMP KD006-020) and for 'Shaughlin's (or Foxes) Castle (RMP KD006-002). A programme of archaeological testing was carried out at these 2 no. locations. No finds, features or deposits of archaeological significance were noted. It is noted that additional walkovers and desktop studies of the surrounding area were carried out. Having regard to the information provided with the application I am satisfied that the potential for impacting on previously unrecorded archaeology within the pipeline route is low. However, I agree with the recommendation of the applicant Archaeological Impact Assessment that a programme of archaeological monitoring be conducted in greenfield areas of the proposed pipeline route during the construction phase. I am satisfied that this could be addressed by way of condition.

7.7. ***Other Issues – Consultation***

- 7.7.1. Concerns are raised that no consultation was undertaken with local residents. In response to the appeal the applicant notes that the proposed project has been documented in national and local wastewater and planning and development strategies, including the Uisce Eireann Capital Investment Plan 2020-2024, as approved by the Commission for Regulations of Utilities. While meaningful

consultation may be to the benefit of both parties, there is no statutory requirement to undertake such engagement.

8.0 **Appropriate Assessment**

8.1. **Screening for Appropriate Assessment**

8.1.1. The applicant has submitted an Appropriate Assessment Screening Report and Natura Impact Assessment. An Ecological Impact Assessment and a Construction and Environmental Management Plan were also submitted. The applicant's Stage 1 AA Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development.

- Section 1 provides an overview of the proposed project.
- Section 2 Sets out the appropriate assessment process and methodology.
- Section 3 provides a description of the proposed development.
- Section 4 identifies designated European Sites in the vicinity of the proposed development.
- Section 5 provides an evaluation of likely significant effect on European Sites.
- Section 6 outlines potential cumulative impacts.
- Section 7 summarises the findings of the screening assessment.
- Section 8 provides a conclusion to the assessment.

8.1.2. The Natura Impact Statement identifies elements of the project potentially impacting on the Natura network and mitigation measures to protect Natura sites.

8.1.3. Having reviewed the documents and submissions on the case, I am satisfied that the information provides a reasonable basis for the examination and identification of potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

Brief Description of the Proposed Development

8.1.4. A description of the project is summarised in Section 2 of my report. In summary, the proposed development comprises the provision of c. 9.8km of new pipeline, c. 7.9km

of which is located within the administrative area of Kildare County Council, between Maynooth WWPS and existing Uisce Eireann infrastructure along the R149 in Confey. The pipe would connect to the existing network and would transfer wastewater to the Leixlip Wastewater Treatment Plant, which has sufficient spare treatment capacity. Upon completion of the project there would be sufficient capacity within the infrastructure to accommodate the design loads for Maynooth and Kilcock. The works are generally located on agricultural lands, roads and within the existing Maynooth Wastewater Pumping Station. No flora or fauna species for which Natura 2000 sites have been designated were recorded on the application site.

8.2. **Zone of Influence**

8.2.1. Appropriate Assessment Guidance (2009) recommends an assessment of European sites within a Zone of Influence of 15km. However, this distance is a guidance only and a potential Zone of Influence of a proposed development is the geographical area over which it could affect the receiving environment in a way that could have significant effects on the Qualifying Interests of a European site. In accordance with the OPR Practice Note, PN01, the Zone of Interest should be established on a case-by-case basis using the Source- Pathway-Receptor framework and not by arbitrary distances (such as 15km). The Zone of Influence may be determined by connectivity to the proposed development in terms of:

- Nature, scale, timing and duration of works and possible impacts, nature and size of excavations, storage of materials, flat/sloping sites;
- Distance and nature of pathways (dilution and dispersion; intervening 'buffer' lands, roads etc.); and
- Sensitivity and location of ecological features

8.2.2. The proposed development is located immediately adjacent and hydrologically connected to the Rye Water Valley / Carton SAC (001398), therefore, it needs to be determined if the development is likely to have significant effects.

8.2.3. The applicants AA Screening Report notes that the subject site is also hydrologically connected to designated area of sites within the inner section of Dublin Bay, namely South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay

and River Tolka Estuary SPA (004024), North Bull Island SPA (004006) which are a minimum c.16km from the eastern boundary of the subject site. The proposed development is, therefore, examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.

8.3. **European Sites**

8.3.1. The development site is note located within a European site. A summary of European Sites that occur within a possible zone of influence of the proposed development is presented in the table below.

Rye Water Valley / Carton SAC (001398) immediately adjacent to the appeal site	
<i>Conservation Objective</i>	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.
<i>Qualifying Interests/Species of Conservation Interest</i>	Petrifying springs with tufa formation (Cratoneurion) [7220] Vertigo angustior (Narrow-mouthed Whorl Snail) [1014] Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]
South Dublin Bay SAC (000210) 17.8 km from the appeal site	
<i>Conservation Objective</i>	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.
<i>Qualifying Interests/Species of Conservation Interest</i>	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]
North Dublin Bay SAC (000206) 19.4km from the appeal site	
<i>Conservation Objective</i>	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.

<i>Qualifying Interests/Species of Conservation Interest</i>	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] Atlantic salt meadows (Glauco-Puccinellietalia maritimi) [1330] Mediterranean salt meadows (Juncetalia maritimi) [1410] Embryonic shifting dunes [2110] Shifting dunes along the shoreline with Ammophila arenaria [2120] Fixed coastal dunes with herbaceous vegetation (grey dunes) [2130] Humid dune slacks [2190] Petalophyllum ralfsii (Petalwort) [1395].
South Dublin Bay and River Tolka Estuary SPA (Site Code 004024): 16.2km from the subject site	
<i>Conservation Objective</i>	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA.
<i>Qualifying Interests/Species of Conservation Interest:</i>	Light-bellied Brent Goose (Branta bernicla hrota) [A046] Oystercatcher (Haematopus ostralegus) [A130] Ringed Plover (Charadrius hiaticula) [A137] Grey Plover (Pluvialis squatarola) [A141] Knot (Calidris canutus) [A143] Sanderling (Calidris alba) [A144] / Dunlin (Calidris alpina) [A149] Bar-tailed Godwit (Limosa lapponica) [A157] Redshank (Tringa totanus) [A162] Black-headed Gull (Chroicocephalus ridibundus) [A179] Roseate Tern (Sterna dougallii) [A192] Common Tern (Sterna hirundo) [A193] Arctic Tern (Sterna paradisaea) [A194] Wetland and Waterbirds [A999]
North Bull Island SPA (004006) 19.4 km from the subject site	
<i>Conservation Objective</i>	To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA
<i>Qualifying Interests/Species of Conservation Interest:</i>	Light-bellied Brent Goose (Branta bernicla hrota) [A046] Shelduck (Tadorna tadorna) [A048] Teal (Anas crecca) [A052] Pintail (Anas acuta) [A054]

	Shoveler (<i>Anas clypeata</i>) [A056] Oystercatcher (<i>Haematopus ostralegus</i>) [A130] Golden Plover (<i>Pluvialis apricaria</i>) [A140] Grey Plover (<i>Pluvialis squatarola</i>) [A141] Knot (<i>Calidris canutus</i>) [A143] Sanderling (<i>Calidris alba</i>) [A144] Dunlin (<i>Calidris alpina</i>) [A149] Black-tailed Godwit (<i>Limosa limosa</i>) [A156] Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157] Curlew (<i>Numenius arquata</i>) [A160] Redshank (<i>Tringa totanus</i>) [A162] Turnstone (<i>Arenaria interpres</i>) [A169] Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179] Wetland and Waterbirds [A999]
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8.3.2. The proposed development has no potential source pathway receptor connections to any other European Sites.

8.4. ***Identification of likely effects***

8.4.1. Section 5 of the applicants Screening Statement for AA evaluates the likely significant effects of the proposed development to the European Sites.

Rye Water Valley / Carton SAC (001398)

8.4.2. The development site is not located within the SAC. Therefore, it would not result in temporary loss, disturbance or disruption of habitat within the SAC.

8.4.3. Section 5 of the applicants AA report identifies potential effects on the Rye Water Valley / Carton SAC. These are summarised as:

- Construction discharges with the potential to cause a release of suspended solids and hydrocarbons into the hydrologically connected River Rye and Brownrath Stream, which has the potential to cause indirect effects on the water dependant species and habitats of the SAC through a reduction in water quality.
- Habitat Degradation / Fragmentation.

- Indirect impact causing alterations to the water table level that supports the groundwater dependant terrestrial ecosystems of the SAC.

8.4.4. Having regard to the proximity of the proposed works, immediately adjacent to the SAC and hydrologically connected, it is my view that in the absence of mitigation measures, it is not possible to rule out impacts which could negatively impact on qualifying interests of the Rye Water Valley / Carton SAC (001398).

Dublin Bay

8.4.5. The proposed development is within the River Rye catchment. The pipeline route would also cross a number of tributaries of the River Rye, namely the Bownrath, Hamwood, Rathleek, Moor of Meath and Oranstown, which ultimately discharge to Dublin Bay. These watercourses are indicated in Figure 3-2 of the applicants Flood Risk Assessment. The habitats and species of Natura 2000 sites in Dublin Bay are between 16.2km and 19.4km downstream of the site and water quality is not a target for the maintenance of any of the QI's within Dublin Bay. The surface water pathway could create the potential for an interrupted and distant hydrological connection between the proposed development and European sites in the inner section of Dublin Bay. During the construction phase, standard pollution control measures would be put in place. These measures are standard practices for urban sites and would be required for a development on any urban site in order to protect local receiving waters, irrespective of any potential hydrological connection to Natura 2000 sites. In the event that the pollution control and surface water treatment measures were not implemented or failed I am satisfied that the potential for likely significant effects on the qualifying interests of Natura 2000 sites in Dublin Bay from surface water run-off can be excluded given the distant and interrupted hydrological connection, the nature and scale of the development and the distance and volume of water separating the application site from Natura 2000 sites in Dublin Bay (dilution factor).

8.4.6. The appeal site has not been identified as an ex-situ site for qualifying interests of a designated site and I am satisfied that the potential for impacts on wintering birds, due to increased human activity, can be excluded due to the separation distances between the European sites and the proposed development site, the absence of relevant qualifying interests in the vicinity of the works and the absence of ecological or hydrological pathway.

8.4.7. I agree with the applicant that the potential for impacts on South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), can be excluded at the preliminary stage due to the separation distance between the European site and the proposed development site, the nature of the proposed development, and an absence of relevant qualifying interests in the vicinity of the works and to the conservation objectives of the designated sites. In reaching this conclusion no account was taken of measures that could in any way be considered to be mitigation measures intended to avoid or reduce potentially harmful effects of the project on any European Site.

Screening Determination

8.4.8. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in-combination with other plans or projects could have a significant effect on Rye Water Valley / Carton SAC (001398), in view of the site's Conservation Objectives, and Appropriate Assessment and submission of a NIS is, therefore, required.

8.4.9. Having regard to the distance between the site and these designated sites in Dublin Bay, the qualifying interest and conservation objective for the site and the nature and scale of the proposed development, the possibility of significant effects on South Dublin Bay SAC (000210), North Dublin Bay SAC (000206), South Dublin Bay and River Tolka Estuary SPA (004024), North Bull Island SPA (004006), have been screened out.

8.5. The Natura Impact Statement

8.5.1. The application included a NIS which examines and assesses the potential adverse effects of the proposed development on the Rye Water Valley / Carton SAC (001398). It was prepared in line with current best practice guidance and provides an assessment of the potential impacts to the designated sites and an evaluation of the mitigation measures proposed.

8.5.2. Having reviewed the documents, submissions and consultations I am satisfied that the information allows for a complete assessment of any adverse effects of the development, on the conservation objectives of the Rye Water Valley / Carton SAC (001398), alone, or in combination with other plans and projects.

8.6. ***Appropriate Assessment of implications of the proposed development***

8.6.1. The following is a summary of the objective assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

8.6.2. I have relied on the following guidance:

- DoEHLG (2009). Appropriate Assessment of Plans and Projects in Ireland: Guidance for Planning Authorities. Department of the Environment, Heritage and Local Government, National Parks and Wildlife Service.
- EC (2002) Assessment of plans and projects significantly affecting Natura 2000 sites. Methodological guidance on the provisions of Article 6(3) and 6(4) of the Habitats Directive 92/43/EC
- EC (2018) Managing Natura 2000 sites. The provisions of Article 6 of the Habitats Directive 92/43/EEC

8.7. ***The Rye Water Valley / Carton SAC (001398)***

8.7.1. Section 3 of the NIS provides a detailed description of the Rye Water Valley / Carton SAC. The applicants NIS considered that aspects of the proposed development that could adversely affect the conservation objectives of the SAC are changes to water quality, habitat degradation / fragmentation and changes to the hydrological regime. With regard to changes to the hydrological regime the NIS notes that given the distance between the local aquifer and the proposed works area there would be no change. Therefore, I am satisfied that this can be ruled out as a potential adverse impact.

8.7.2. Table 1 below summarises the appropriate assessment and integrity test for the Rye Water Valley / Carton SAC. The conservation objectives, targets and attributes as relevant to the identified potential adverse effects have been examined and assessed in relation to all aspects of the project (alone and in combination with other plans and projects). I have also examined the Natura 2000 data forms as relevant and the conservation objectives supporting documents for these sites available through the NPWS website (www.npws.ie). Mitigation measures proposed to avoid and reduce impacts to a non-significant level have been assessed. In terms of possible in-combination effects, plans, programmes and existing and proposed developments were considered. This allows for clear, precise and definitive conclusions to be reached in terms of adverse effects on the integrity of European sites.

8.7.3. The table below provides a summary of the Appropriate Assessment of the Rye Water Valley / Carton SAC.

Table 1: Rye Water Valley / Carton SAC

The Rye Water Valley / Carton SAC Key issues that could give rise to adverse effects includes: - <ul style="list-style-type: none"> • Direct Impact on Water Quality • Habitat Degradation / Fragmentation Conservation Objectives: To maintain or restore the favourable conservation status of habitats and species of community interest					
Summary of Appropriate Assessment					
Qualifying Interest feature	Conservation Objective	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
Petrifying springs with tufa formation (Cratoneurion) [7220]	To restore the favourable conservation condition of Petrifying springs with tufa formation (Cratoneurion) in Rye Water Valley / Carton SAC	Changes to water quality from construction practices or accidental release or spillage. Habitat Degradation or fragmentation from pollution associated with the	Adherence to best practices methodologies during the construction phase, including measures to prevent contamination of groundwater. Excavation works set back a minimum of 10m from each riverbank of the Rye Water. Sediment control measures, such as silt fencing and settlement ponds.	No effects	Yes

<p>Vertigo angustior (Narrow-mouthed Whorl Snail) [1014]</p>	<p>To restore the favourable conservation condition of Narrow-mouthed Whorl Snail (Vertigo angustior) in Rye Water Valley / Carton SAC</p>	<p>construction phase, including spread of non-native species.</p>	<p>Refuelling to take place in a dedicated bunded area, at least 50m from watercourse.</p> <p>Each field would be reinstated once construction is complete to allow it to consolidate and prevent the potential for erosion.</p> <p>Appropriate timing of works to avoid sensitive periods and high flows.</p> <p>Detailed monitoring regime.</p>	<p>No effects</p>	<p>Yes</p>
<p>Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]</p>	<p>To maintain the favourable conservation condition of Desmoulin's Whorl Snail (Vertigo moulinsiana) in Rye Water Valley / Carton SAC</p>		<p>Use of puddle clay (or similar) to inhibit groundwater flow.</p> <p>Adherence to strict biosecurity guidelines to avoid the spread of non-native species and other noxious weeds.</p> <p>A CEMP would be implemented.</p>	<p>No effects</p>	<p>Yes</p>

8.7.4. Following the appropriate assessment and the consideration of mitigation measures, I conclude with confidence that the project would not adversely affect the integrity of both the Rye Water Valley / Carton SAC in view of the Conservation Objectives of these sites. This conclusion has been based on a complete assessment of all implications of the project alone and in combination with plans and projects.

8.8. ***Appropriate Assessment Conclusion***

8.8.1. The proposed development has been considered in light of the assessment requirements of Section 177 of the Planning and Development Act, 2000 (as amended).

8.8.2. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on the Rye Water Valley / Carton SAC. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of its / their conservation objectives.

8.8.3. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site No. 001398, or any other European site, in view of the site's Conservation Objectives.

8.8.4. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and ecological monitoring in relation to the Conservation Objectives the Rye Water Valley SAC (001398)
- Detailed assessment of in-combination effects with other plans and projects including current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of the Rye Water Valley SAC (001398).

- 8.8.5. It is also noted that the planning authority concluded that the proposed development, subject to mitigation measures outlined in the NIS, would not adversely affect, either directly or indirectly, the integrity of any European Site, either alone or in combination with other plans or projects.

9.0 Recommendation

It is recommended that permission be granted subject to conditions.

10.0 Reasons and Considerations

Having regard to the provisions of the Kildare County Development Plan 2023 – 2029, the nature of the proposed development and the character of the surrounding area it is considered that the proposed development, subject to the conditions set out hereunder would not be seriously injurious to the residential amenities of the area or property in the vicinity of the site, would be acceptable in terms of built heritage and traffic safety and convenience, would not be prejudicial to public health and would accord with both national and regional policy in relation to wastewater. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 22nd day of June 2022 as amended by the further plans and particulars submitted on the 9th day of December, 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 development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Mitigation and monitoring measures outlined in the plans and particulars, including the Natura Impact Assessment and Ecological Impact Assessment Report, shall be carried out in full, except where otherwise required by conditions attached to this permission.

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

3. Prior to commencement the applicant shall submit for the written agreement of the planning authority a detailed condition survey of the Carton Demesne wall. The wall shall be inspected at regular intervals during the construction phase and any damage repaired and made good immediately.

Reason: In the interest of best practice conservation of architectural heritage.

4. Any trees or hedgerows removed to facilitate the development shall be replaced in the following planting season with semi-mature species. A maintenance programme shall be put in place and any species which fail to establish within three years of planting shall be replaced in the first planting season thereafter.

Reason: in the interest of biodiversity.

5. The access road serving the Maynooth Wastewater Pumping Station, including footpaths, kerbs and sightlines shall comply with the detailed standards of the planning authority for such road works, and shall comply, in all respects, with the standards set out in the Design Manual for Urban Roads and Streets (DMURS).

Reason: In the interest of traffic and pedestrian safety.

6. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within greenfield areas of the proposed pipeline during the construction phase site. In this regard, the developer shall:

- a. notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development.
- b. all ground reduction should be subject to a programme of archaeological monitoring, under licence, by a suitably qualified archaeologist.
- c. where archaeological material is shown to be present, avoidance, preservation in situ, or preservation by record (excavation) may be required. Works may be halted pending receipt of advice from the National Monuments Service, Department of Housing, Local Government and Heritage who will advise the applicant / developer with regard to these matters.
- d. on completion of monitoring of ground reduction and any archaeological excavations arising, the archaeologist shall submit a written report to the planning authority and to the Department of Housing, Local Government and Heritage for consideration.
- e. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

7. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

8. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of

development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management

9. 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.

Reason: In the interests of public safety and residential amenity.

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.

Elaine Power
Senior Planning Inspector

18th October 2023