



An
Bord
Pleanála

Inspector's Report ABP-317669-23

Development

Completion works to existing buildings as constructed on site pursuant to permissions 03/572 and 08/438 along with the erection of 8 no. semi-detached dwellings and all associated site works.

Location

Glendale Estate, Shillelagh Road,
Tullow, Co. Carlow

Planning Authority

Carlow County Council

Planning Authority Reg. Ref.

22216

Applicant(s)

Nimbus Property Company LTD

Type of Application

Permission

Planning Authority Decision

Permission refused

Type of Appeal

First Party

Appellant(s)

Nimbus Property Company LTD

Observer(s)

None

Date of Site Inspection

15th of February 2024

Inspector

Angela Brereton

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Appendix 1 – Form 1: EIA Pre-Screening

Appendix 2 – Form 2: EIA Preliminary Examination

1.0 Site Location and Description

- 1.1. The application site is located at the eastern end of Tullow town (c.2kms from the town centre) on the northern side of the R725 (Shillelagh Road). It is on the western side of the grounds of Glendale Estate and adjoining Sonas Nursing Home complex to the east. It has road access via a gated entrance from the existing Glendale residential development, which provides direct access for both vehicular and pedestrian traffic to that estate. The site is bounded by the existing Glendale residential and nursing home development on its eastern boundary, and to the west and north of the site by one off housing and agricultural lands. The site is within the Tullow town boundaries and there is a row of ribbon development on the opposite side of the road.
- 1.2. Development had commenced on this site for a previously approved retirement village/aged housing complex (Ref.03/572, as amended by Reg.Ref. 08/438 refer). Construction works were partially completed and the overall development has remained in an unfinished condition for a significant period of time. This partially developed medium density development, being unfinished and unoccupied for some time, now appears as a ghost estate. In addition, the roads layout or services have not been completed. The proposed siting for the 8no. additional houses is to the east of the existing build and contains rubble and topsoil etc. The site is undulating but in general is at a lower level and slopes down from the road.
- 1.3. It is proposed to provide a new entrance from the R725 to serve the development site, to the west of the existing entrance to Glendale Estate and the nursing home and retirement homes. While there is an existing boarded up entrance further to the west, there is no separate entrance from the public road to the site. Entrance to the site is currently via an internal gated entrance from the Glendale Estate. There is a footpath along the site frontage, with the R725. This is a fast busy route and is within the 60km/h speed limit. There are one-off houses, with separate entrances on the opposite side of the road, facing the site, and along the road frontage to the west of the site.
- 1.4. The site is on different levels and slopes down to the watercourse (Tullowphelim Stream) located immediately outside of the northern boundary of the site which is a tributary of the River Derreen and the River Slaney.

2.0 Proposed Development

2.1. Nimbus Property Company Ltd, has applied for permission for development on these lands at Glendale Estate, Shillelagh Road, Tullow. The development to consist of:

- Site works to facilitate the proposed development to include general site clearance works.
- Creation of a new access point to the lands from Shillelagh Road with provision of a new internal access road to facilitate vehicular and pedestrian access.
- Provision of a residential development comprising completion works to existing buildings as constructed on site pursuant to permissions 03/572 and 08/438 along with erection of 8no. semi-detached dwellings to provide for a total of 70no. residential dwellings in total comprising as follows:
 - 53no. 2bed dwellings
 - 16no. 3bed dwellings
 - 1no. 4 bed dwelling
- Provision of associated garden areas and in-curtilage works for each dwelling to include parking, boundary fencing and boundary walls as required.
- Provision of residential communal open space areas to include a play area, all hard and soft landscape works, within the site which includes associated parking, public lighting, bin and bicycle stores, public seating, planting works, and boundary treatments.
- Associated site works and attenuation systems as well as all ancillary site development/construction works to facilitate site drainage and foul networks for connection to the existing foul, storm and public water networks along with connection works to the ESB network.

Documents submitted with the application include the following:

- An AA Screening Report and a Natura Impact Statement (NIS) has been prepared by Flynn Furney Environmental Consultants and was submitted to the Planning Authority.

- A Planning & Design Statement.
- Housing Quality Assessment
- Schools and Childcare Capacity Assessment
- Statement of Housing Mix
- Traffic Impact Assessment
- Road Safety Audit Stage 1-2
- Infrastructure Design Report
- Site Specific Flood Risk Assessment
- Outdoor Lighting Report
- Landscape Design Plans
- Outline Construction Management Plan

3.0 Planning Authority Decision

3.1. Decision

The proposed development was refused permission on the 3rd of July 2023, for 3no. reasons. In summary these include the following:

- The development would be contrary to national planning guidance documents and would constitute a substandard form of development which would materially contravene the provisions of the Carlow CDP 2022-2028 as outlined, together with Policy TVP2 which seeks to enhance and develop the fabric of existing urban and rural settlements in accordance with the principles of good urban design and would seriously injure residential amenity.
- The provision of retirement units as currently designed within the overall development provides for a substandard form of development which fails to have due regard to *Housing Options for Our Ageing Population* in relation to general guiding principles that should underpin the development of housing options for older people. It would provide substandard accommodation and would materially contravene the provisions of the Carlow CDP 2022-2028

which seek to facilitate the implementation of the Policy Statement *Housing Options for Our Ageing Population* (Policy OP P1).

- The proposed development provides limited passive surveillance of public open space, ancillary facilities and the access fails to establish a sense of place and provides for a poor-quality public realm which would result in a substandard form of development. It would seriously injure the residential amenities of future occupants, would be contrary to the Principles of Urban Design and Placemaking as contained in Chapter 12 of the Carlow CDP 2022-2028 and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner had regard to the locational context of the site, planning history and policy and to the submissions made. Their Assessment included the following:

- The site is located on residential zoned lands in the Tullow LAP 2017-2023.
- Development had commenced on this site for a previously approved residential development linked to the retirement village located on the adjoining site to the east. Construction works were not completed and the overall development remains in an unfinished condition.
- The applicant is seeking to develop this site into a functional and viable use which will deliver 70 residential units within the town.
- They have regard to the principle of the development and to the previous planning history.
- They refer to the Design and Layout and consider that the proposed density would comply with Section 16.8.2 of the Carlow CDP 2022-2028.
- The design and layout of the proposed development is substandard and would not comply with minimum standards, and they are concerned about the allocation of public open space.

- The overall housing mix is excessively designed for two-bedroom units and does not provide the appropriate mix of house types.
- The northern boundary of the site is located in close proximity to an OPW CFRAM flood zone associated with the Tullowphelim Stream.
- There is a watercourse located immediately outside of the northern site boundary which is a tributary of the River Slaney. The proposed development is located to the north of the Slaney River Valley SAC.
- Significant impacts on the Slaney River Valley SAC cannot be ruled out at Stage 1 screening stage and a Stage 2 AA is required.
- The Planning Authority concurs with the conclusion of the Environment Section on the AA assessment subject to a condition that the mitigation measures be implemented in full.

Further Information Request

They recommended that Further Information be sought to includes the following:

- They refer to the Planning History (PL03/572 and PL08/438) and note that there are now no live permissions on the site.
- The overall design and layout of the existing and proposed scheme is substandard and is of serious concern to the Planning Authority. They provide a list of issues relative to compliance with standards for residential developments which they provide must be addressed. They advised that revised proposals and drawings be submitted to address these issues.
- The proposal should comply with the *Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities, 2007*.
- They requested the applicant to engage with Irish Water to indicate when the upgrade works to the Tullow Wastewater Treatment Plant are expected and to submit evidence of a full connection agreement with Irish Water to facilitate the water servicing of the proposed development.
- To engage with the Council's Engineers regarding footpaths, public lighting.

Further Information Response

Genesis Planning Consultants F.I response on behalf of the Applicant is as follows:

- They provide a rationale for the proposed development including a response to the F.I. and note that revised drawings have been submitted.
- They submit that the overarching project rationale is based on the existing buildings in-situ constructed pursuant to permissions 03/572 and 08/438.
- They refer to the 'Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities' 2020 and submit that the existing buildings on site are capable of being occupied with only relatively minor completion works.
- The Building Lifecycle Report submitted sets out to address the stated requirements of Section 6.13 of the Apartment Guidelines. Reference is had to long-term running and maintenance costs.
- They have regard to the description of development and to the existing apartment units. Also, to accessibility and linkages and to the provision of quality open spaces.
- They submit that the proposed apartment buildings are designed in accordance with the Building Regulations.
- Details are provided on Energy and carbon emissions, material specification and landscaping specification. Also regard to waste management, human health and well-being, transport and accessibility and to management.
- A Daylight and Sunlight Analysis by Digital Dimensions has been provided.
- A letter of support has been submitted from Sonas Group who are the operators of Tullow Nursing Homes on lands at Glendale.
- Consulting Engineers have submitted a response to service queries raised.

Rationale

- Existing buildings and the site layout are authorised as retirement housing units and the planning status which enures to the lands settles matters in terms of layout and existing buildings.

- The existing buildings are capable of being occupied, with only relatively minor completion works to ancillary site works required (such as provision of open space, parking, and access roads).
- They consider that the proposal is in line with the Masterplan for the lands and density context.
- That they would provide housing in line with planning policies at a time of acute housing shortages.

Limit of duration of permission

- Ancillary site works do not require planning permission at this stage under Section 40(2)(a) of the Planning and Development works. They refer to case law relative to this issue.
- On this basis these planning matters relating to existing buildings are settled given that they are completed as per the relevant permission Also the duration of permission does not prohibit the completion of ancillary site works at this stage relating to same under the provisions of Section 40(2)(a)(iii)&(iv).

Masterplan for the lands and density context

- As detailed in section 5.15 of the planning statement a Masterplan is included which sets out the overall vision for the lands and they provide a summary.
- All policy at National, Regional and Local Level is supportive of the reuse and reducing vacancy of existing buildings. They provide a summary of the relevant policies relative to the NPF, Housing for All, RSES, Carlow CDP 2022-2028 and the Tullow LAP 2017-2023.

Design and Layout

- They submit that they have addressed the issues raised in the Council's F.I request relative to Design and Layout. This includes regard to private open space standards.
- They highlight key extracts from the Apartment Guidelines which provide clear support for the duplex apartments proposed.
- The provisions of SPPR2 are applicable for 50 or more units in terms of mix. Specifically in terms of apartment units proposed they highlight at 23no. 2 bed

apartments are proposed. On this basis the requirements of SPPR 1 & 2 are complied with. Out of the 23 units proposed all are dual aspect; SPPRs 4, 5 and 6 are complied with.

- They note that a comprehensive Daylight and Sunlight Assessment was carried out and that mitigation measures are not required.
- They consider that they have complied with issues regarding Communal Space, Bicycle Stores and Bulky Storage. They consider the storage solutions now proposed are appropriate given the brownfield nature of the site.
- The site plan does not propose to alter these existing housing units as constructed, with only ancillary works and associated services are required.
- The residents of these retirement units will avail of communal facilities in the adjacent Sonas Nursing Home and utilise the open space proposed within the layout.
- They have updated drawings by MF Architects which incorporate dual frontage projections onto these units along with revised boundary proposals to activate the street. They will ensure a high standard of amenity for retirement housing residents.
- The duplex gardens now proposed meet the requirements for private open space in the Apartment Guidelines.
- Table 1 provides a Summary of Housing Mix proposed, and they consider the provision of smaller units on this brownfield site to be acceptable.
- Given the suburban location and the connections with the wide area the approach used is to respond to the demographic/residential profile of the County.
- They note housing shortages in Tullow and find that there is a low rate of commencements/delivery with only 73 units having been constructed in the town in 7 years.
- They provide a summary of rear garden boundary treatments and note that they comply with section 16.8.6 of the current CDP. They also include updated boundary treatment for Blocks E & F.

Infrastructure

- In summary a full connection agreement is not possible to obtain from Irish Water under planning has been granted for the proposed development.
- The development to be completed and proposed will not be prior to the upgrade of the Tullow WWTP.
- They refer to the updated site layout plan which incorporates an additional pedestrian access point at the closest point to Tullow which has been designed solely for pedestrian use via the existing footpath.
- They provide details on public lighting and note that it can be addressed by a Development Contribution.

Conclusion

- This proposal will provide for much needed residential accommodation on the outskirts of Tullow.
- That conditions can be attached to ensure that the existing retirement units (blocks M,N,O&P) are utilised for retirement housing as per the parent permission. Also, the provision of all services and open space.
- They refer to the particulars enclosed with the application and consider that matters are settled in terms of ecology, roads, traffic and entrance proposals.
- They submit that there is no impact on third parties and no objections and that this is an ideal scenario to deliver much needed housing in a prompt manner.
- They include a number of Appendices.

Planner's Response

In summary this includes the following:

- They note that the unfinished estate (retirement village/aged housing complex) has been existing on site for a significant period of time and that the onus is on the developer to demonstrate that the completion and further development, complies with the principles of sustainable development and is of a high-quality standard in accordance with planning policy and guidelines.

- They consider that the quality of residential development/environment to be provided would be poor and not in compliance with current standards, with limited quality open space, private amenity space and privacy by virtue of the proximity of blocks M,N,O and P.
- The proposal would give rise to a poor-quality layout which would be substandard development and would give rise to security considerations for the intended occupants.
- They refer to the overall housing mix and consider there are not sufficient three bedroom units in the scheme, that would comply with standards.
- They consider that the location and usability of bulk storage units 01 and 02 remote from a number of units of same are issues of concern.
- They refer to details provided (a Table is provided relative to the units) and consider that the scheme is significantly substandard with reference to the Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Home Sustaining Communities.
- Boundary treatments do not comply with current standards.
- The response from Uisce Éireann submitted confirming the network upgrades required to facilitate the development can be resolved is noted and accepted by the Planning Authority.
- They note that an additional pedestrian access point has been shown on the revised plans.
- They note that a special contribution is recommended towards lighting of the footpath.
- They refer to other documentation submitted, including Building lifetime reports, a Daylight and Sunlight assessment and information on Part V.

Conclusion

- They concluded that there is sufficient non-compliance with planning policy and guidelines and that the proposal would result in a substandard layout with a poor public realm and the failure to address key considerations for housing delivery which include high quality design, compliance with development

management standards and the creation of attractive places to live being the focus of every development. They recommended that permission be refused.

3.3. Other Technical Reports

Senior Executive Architect

Their response included the following:

- They provide a detailed response relative to design and layout of the blocks. This includes that the separation distance between M/N and O/P to be too close and the quality of the public realm and transitional spaces from public to private to be of poor quality and insufficient to mitigate for the lack of separation.
- Also issues regarding availability of storage provision for the units being substandard.
- They provide details relative to their concerns regarding substandard living accommodation in Units E, F, G, H, J, K, M, N, O, P and Q. This includes regard to living space and overall storage provision.

In response to the F.I submitted, they refer to the aforementioned units, and consider that the overall storage provision and, some of the living room areas to be below minimum standards. They also had concerns about lack of facilities and amenities.

Environmental Department

They advise that the applicant complete a Construction Environmental Management Plan (CEMP) prior to the commencement of the works.

They refer to and include an AA conclusion statement, relative to the proposed development.

They note that the primary flood risks identified for the proposed development site are fluvial attributed to the adjacent Tullowphelim Stream and pluvial, however the risks are deemed to be low. They note the details submitted in the Specific Flood Risk Assessment and the Landscape Management and Maintenance Plan Reports. Also, the Planning and Design Statement.

They recommend conditions in the event of planning permission.

SE -Environment

They note proposed connections to mains water and the public sewer and that surface water will be via a proposed connection to adjacent stream via attenuation tanks and hydrobrake and recommend conditions.

Tullow Municipal District Engineer

Based on the Traffic Impact Statement prepared by Roadplan Ltd and submitted by the applicant it has been demonstrated that the development will not adversely affect traffic in the area. Furthermore, that there will be no delay to traffic in the area.

Based on the Road Safety Audit, stages 1 and 2 it has been demonstrated that all safety concerns identified by the designers have been addressed and suitable solutions put in place.

They have no objections to the proposal subject to recommended conditions.

In response to the F.I request they note that the applicant has addressed the pedestrian access points as requested. That the applicant has indicated that they will not provide public lighting back into Tullow along the existing footpath. As such the Council recommend that a contribution of €80,000 should be provided.

Transportation Department

Having reviewed the supporting documentation and considered the Municipal District Engineers report the Roads and Transport Section have no objection in principle to the proposal. They make observations on the following:

- Implications for traffic/pedestrians/cyclists
- Provision of on-site Parking
- Surface Water Management
- Public/Flood Lighting

They provide that having regard to the aforementioned, that there are no roads related reasons to refuse this planning application and they recommend conditions.

Housing Department

No objections raised and they recommend that a Part V condition be attached to any grant of permission.

3.4. Prescribed Bodies

Irish Water

They requested that F.I be submitted relative to issues concerning connections to the Waste Water Treatment Plant and the pumping station.

In response to the F.I they note that the applicant confirms that there will be no connection to the existing wastewater system until the Tullow WWTP is completed.

3.5. Third Party Observations

The Planner's Report notes that no third party submissions were received.

4.0 Planning History

The Planner's Report and details submitted have regard to the planning history of the site and adjoining nursing home lands and in summary include the following:

Adjoining lands to the east

- Reg.Ref.CLW-C27-8 – ABP-316829-23 – Appeal by Nimbus Property Ltd, in accordance with section 653J of the Taxes Consolidation Act 1997, as amended, against the inclusion of land on maps of the Residential Zoned Land Tax by the Council on the 28/03/2023.

The Board in accordance with section 653J of the Taxes Consolidation Act 1997, as amended, and based on the reasons and considerations set out, to confirm the determination of the local housing.

This referred to the retirement housing outside of and to the east of the subject site.

- Reg.Ref.15/390 - Permission granted by the Council subject to conditions for retention of alterations and extensions to include additional bedrooms, facilities, porch and ancillary site works to Glendale Nursing Home, Glendale Estate, Shillelagh Road, Tullow, Co. Carlow.

Subject site

- Reg.Ref.08/438: Permission granted subject to conditions for development to consist of the amendment of previously granted Reg.Ref.03/572 to include alterations to the design and layout of the overall development scheme.
- Reg.Ref.03/572: Permission granted subject to conditions for a retirement village/aged housing complex consisting of no.1 detached gate keepers lodge, 40 no. single storey 2 bedroom townhouses, 109 no. 2 storey, 2bedroom townhouse, 1 no. gardeners/ground keepers store:, 1no. single storey communal club house of 283sq.m consisting of multi-purpose room, shop, bar restaurant and ancillary stores. Plus, all associated works, site entrance as per previously granted permission PL03/324.
- CW6744: Outline Permission granted for 10 half acre sites for private dwellings with service road.
- Reg.Ref. 03/324: Permission granted to construct 60 bed single storey nursing home, site entrance and associated site works.

5.0 Policy Context

5.1. Relevant Government Policy / Guidelines

- National Planning Framework – Project Ireland 2040
- Southern Region Spatial and Economic Strategy (RSES)
- Climate Action Plan 2024
- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)
- Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2023)
- Design Manual for Urban Roads and Streets, (2019)
- Traffic and Transport Assessment Guidelines (2014)
- Development Management, Guidelines for Planning Authorities (2007)

- Quality Housing for Sustainable Communities - Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).
- Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BRE 2011)
- The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009).

Other Guidelines

- Housing Options for Our Ageing Population (DHPLG -2019) and The Age Friendly Principles Guidelines for Planning Authorities (Age Friendly Ireland, 2021).
- Managing and Resolving Unfinished Housing Developments – Guidance Manual 2011

5.2. **Carlow County Development Plan 2022-2028**

Chapter 2: Core Strategy and Settlement Strategy

Section 2.7 provides Carlow's Settlement Strategy. As per Table 2.1 Tullow is within Settlement Tier 2 and with the Settlement Typology of a 'District Town'.

Section 2.8.2 refers to District Towns, described as settlements of over 1,500. The population in 2016 was given as 4,673. This has increased to 5,138 in the 2022 Census of Population. Tullow is a market town. *While there is capacity for growth in the town, there is also a commensurate need to develop supporting services and in particular to support sustainable travel and alternatives to car-based commuting.*

District Town - Policies CSP 6 – CSP 9 seek to support compact growth, urban regeneration and sustainable development.

Objective CS01- seeks to carry out an Area Based Transport Assessment for the town as an iterative process with the review of the relevant Local Area Plan.

Section 2.15 refers to compact growth and serviced zoned lands.

Chapter 3 – Housing

As per Chapter 3 the Aim for housing in the county seeks: *To facilitate the provision of sustainable residential neighbourhoods based on healthy placemaking in accordance with the core strategy, informed by high quality design principles, an appropriate density of development at suitable locations; an appropriate mix of house sizes, types and tenures to meet a variety of household needs and to promote balanced and sustainable communities.*

Regard is had to National, Regional and Local Planning Policies.

Section 3.4 refers to the Housing Strategy/Housing Need Demand Assessment.

Section 3.5 to Housing in Towns and Villages. Table 3.2 provides the Key Considerations for Housing Delivery. Housing in Towns and Villages Policies TV. P1 – TV. P2 refer.

TV.P2: *Enhance and develop the fabric of existing urban and rural settlements in accordance with principles of good urban design.*

Section 3.6 refers to Creating Sustainable Communities and Neighbourhoods. Policies SC.P1 – SC.P3 refer.

Section 3.7 refers to Quality Design and Placemaking in Residential Developments. Policies DP.P1 -DP.P5 refer.

Section 3.8 – Densities/Increased Heights. Table 3.3 outlines indicative net densities for Tier 1-3 Settlements within the County.

Policies DN.P1 – DN.P6 refer.

Section 3.9 refer to Mix of Units/Adaptable Housing/Tenure. Policies MX.P1 – MX.P3

Section 3.12: Specific Needs Housing, this includes 3.12.1 – Housing for Older People. Policies OP.P1 and OP.P2 relate.

Section 3.15 refers to Other Residential Development in Urban Areas.

Policy UI.P1 refers to Urban Infill and Backland Development.

Chapter 5: Sustainable Travel and Transportation

Regard is had to planning policy and guidelines, including DMURS relative to urban areas. Policies and Objectives are included having regard to Integration of Land Use

and Transportation and Sustainable Mobility/Modal Shift. Also to promoting Walking and Cycling and to Public Transport. Reference is also had to Electric Vehicles and Low Emission Vehicles.

Section 5.8 refers to the Roads Infrastructure. Section 5.8.3 refers to Regional Roads. Table 5.4 refers to Strategic Regional Roads and this includes the R725: *Carlow Town to Tullow Village extending to the Wicklow Border*. Regional Roads Policies RR.P1 – RR.P3 apply. Objective RR. 02 includes plans for the future provision of the Tullow Outer Relief Road.

Section 5.8.5 refers to Urban Roads and Streets and to the application of DMURS. Policies UR.P1- URP2 refer.

Section 5.14 refers to Car Parking. Policies CP.P1 – CP. P7 refer.

Section 5.15 – Bicycle Parking facilities, policy BP.P1 refers.

Section 5.17 – Accessibility. Policy AC.P1: *Support suitable access for people with disabilities, including improvements to buildings, streets and public spaces.*

Chapter 6- Infrastructure and Environmental Management

This has regard to the Policies and Objectives relevant to Water Services, Water Supply – Public Water. Policies WS.P1 – WS. P6 refer.

Section 6.2 relates to Public Wastewater Collection and Treatment.

Objective PW.01: *Facilitate the required upgrade of wastewater projects that may arise during the lifetime of this Plan subject to compliance with all relevant EU and national legislation and normal planning and environmental criteria including upgrade and improvement works on current and planned IW schemes for Tullow WWTP, Bagenalstown/Leighlinbridge WWTP, Mortarstown WWTP, and Borris WWTP.*

Section 6.5 refers to Surface Water Drainage/SuDS – Policies SW.P1- SW.P6 relate.

Objective SW.O1: *Require all development (including extensions to existing development) proposals to incorporate design criteria and SuDS measures in accordance with Carlow County Council SuDS Policy in order to reduce the potential impact of existing and predicted flood risks and to improve biodiversity and amenity value.*

Section 6.6 refers to Waste Management.

Chapter 8 – Community Development

Section 8.2 refers to Sustainable and Inclusive Communities.

Policy SI.P2: *Work with all target groups, including young people, older people, people with disabilities, migrants, ethnic minorities, including the Traveller Community, to advance their full participation in society.*

Section 8.8 – Planning for Diversity and Inclusivity. This includes regard to Older People. Section 8.8.2 refers.

Section 8.8.2.1 refers to the Carlow Age Friendly Strategy: Strategic Plan 2017-2022. Older People – Policies OP.P1 – OP.P2 relate to settlement policies for the location of such accommodation.

Objective OP.O1: *Support the Carlow Age Friendly Initiative, and the implementation of the Carlow Age Friendly Strategy 2017-2022, and any subsequent such initiatives, programmes, or updated plans.*

Chapter 12 – Urban Design and Placemaking

Aim: *To ensure the use of good urban design and placemaking in Carlow's towns and villages, which protects and enhances their unique character and heritage, contributes to the achievement of compact growth, improved health and well being and to attractive, vibrant and inclusive environments in which to live and work.*

Section 12.1 provides the Policy Context and Guidance. Section 12.2. refers to Urban Design and the Importance of Placemaking and the Public Realm. Policies UD P1 – UD P3 apply to high quality public realm.

Section 12.3 refers to Health and Wellbeing in the Built Environment. Policies HW P1 – HW P3 apply.

Section 12.4 refers to Designing for Climate Change Adaption and Resilience.

The emphases is on focusing and consolidating growth in the core areas of towns and villages. Policies CC P1 and CC P2 refer.

Section 12.5 refers to retaining vibrancy and vitality in Town and Village Centres. Policies TVC P1 – TVC P6 refer.

Section 12.6 to Compact Growth and Urban Regeneration. Policies CGR. P1 – CGR P4 refer.

Section 12.7 refers to Best Practice Principles for Urban Design and Placemaking.

Section 12.7.1 to Town and Village Centre Consolidation.

Section 12.8 – Detailed Urban Design Considerations

Section 12.9 to Urban Layout, Road and Street Design. Regard is had to Permeability and Connectivity, Streetscape and to Transport Network, Pedestrians and Cyclists.

Regard is had to Design Statements – Policy DS P1 refers.

District Towns - Tulllow and Muine Bheag

Section 15.2 refers and notes that these comprise well developed serviced settlements with jobs supporting services and community facilities. It notes that it is an objective of the Council to commence a review of the LAPS for both of these towns, demonstrating compliance with the Core Strategy.

Map 15.3: Tullow Strategic Policy Constraints Map.

Chapter 16 – Development Management Standards

The fundamental aim is to achieve high standards in design and to build sustainable, healthy communities where people can enjoy a high quality of life. The importance of universal equality of access and inclusive design within all aspects of the built environment is recognised by the Council.

Section 16.2.1 refers to Appropriate Assessment.

Section 16.2.2 to Environmental Impact Assessment.

Section 16.2.5 to Flood Risk Assessment.

Section 16.3 to Universal Access and Design and Section 16.4 to Sustainable Design. Section 16.5 to Landscaping

Section 16.6 to Site Coverage and reference is had in Section 16.7 to Plot Ratio.

Section 16.8 to Residential Development. This has regard to Urban Design, Density, Height, Layout, Residential Amenity, Boundary Treatments, Public Open Space, Private Open Space etc.

Section 16.8.11 refers to Design Standards for New Apartments and refers to the requirements of the Apartment Guidelines (2018) unless otherwise updated. Reference is made to compliance with the Specific Planning Policy Requirements (SPPRs). Table 16.4 provides Standards for Apartments.

Section 16.10 refers to Sustainable Travel and Transport and has reference to national guidance documents.

Section 16.10.1 refers to Road Design - *In towns, villages and settlements the Council will have regard to the Design Manual for Urban Roads and Streets, DTTS and DECLG (2013, updated 2019) (DMURS).*

Section 16.10.2 – Assessment of Road Traffic Safety and reference is had to Traffic and Transport Assessments. Regard is also had in Section 16 to Road Safety Audits/Road Safety Impact Assessment, Travel Plans, Access onto Public Road, Entrances and Sightlines, Access to National, Regional and Local Roads.

Section 16.10.11 refers to Car Parking. Table 16 provides: Car and Bicycle Parking Standards.

Section 16.11 to Infrastructural and Environmental Management. This includes regard to Public Water Supply and Wastewater Collection and Sustainable Urban Drainage Systems. Reference is also had to Construction and Environmental Management Plans, Waste Management and Recovery/Disposal etc.

Section 16.14 refers to the Natural and Built Heritage. This includes reference to Protected Habitats, Plants, Animals and Birds.

Land Use Zoning

Section 16.18 refers to Land Use Zoning. *This section sets out the general land use and zoning objectives for the town and village plans contained in Chapter 15 of this Plan. Guidance on each of the land use zoning categories is provided, as well as the objectives that apply to them.*

Section 16.8.9 and Table 16.8 provides the Land Use Zoning Categories. Table 16.9 refers to Land Use Zoning Categories, Objectives and Land Use Acceptability.

5.3. Tullow Local Area Plan 2017-2023

Chapter 2 – This has regard to Tullow Town in Context and to the Function and Role of the Town. The increase in population has been noted (based on the 2011 census). Table 4 provides Tullow Housing Unit Targets 2016-2022.

Section 2.3.6 refers to the role of the Town Centre.

Section 2.3.7 to Movement and Access noting the private car is the main means of accessibility in Tullow and that Bus Eireann provides a limited service.

Section 2.3.8 notes that the protection of the River Slaney has been considered in detail in the SEA and AA which accompanies this Plan. The new LAP will contribute towards the protection of the environment. It also provides that Tullow benefits from a range of social and community services and amenities within walking distance of the town centre.

Section 2.3.10 has regard water and wastewater and to upgrade works carried out.

The Conclusion in Section 2.4 notes that the policies and objectives as contained in this Plan will facilitate the planned, integrated economic and sustainable development of the town by balancing the needs of the community and preserving or enhancing the natural and built environment.

Chapter 3 provides the Vision and Development Strategy for Tullow. Section 3.2 provides the Strategic Objectives and Priorities. These include the following:

SO 1: *To create vibrant integrated communities in a more consolidated urban form.*

These includes Creating Sustainable Neighbourhoods, Providing Quality Homes, and Connecting Infrastructure.

Chapter 5 refers to Housing and Sustainable Neighbourhoods and refers to the strategic approach to sustainable communities.

Section 5.4 refers to Policies and Objectives and to Compliance with the Core Strategy. Map 6 identifies the location of permitted residential schemes, and key infill residential sites which comprise the balance of lands associated with unfinished housing schemes within the town including Glendale Estates.

Policies HP1 – HP5 and Objective HPO 1 refer.

Section 5.4.2 refers to Sustainable Residential Areas. Policies HP6 – HP11 refer.

Section 5.4.6 refers to Unfinished Estates. Policy HP15 refers.

Section 6.10 provides Guidelines for Future Development.

Chapter 7 has regard to Transportation and Movement. The Strategic Approach seeks to encourage smarter travel and a modal change from private car usage to a more sustainable means such as walking, cycling and increased usage of public transport. Policies TP1 – TP4 refer.

Objective TO3: *To investigate the feasibility of providing the Tullow Relief Road to facilitate by-passable traffic using the N81 or the R725, R726 or R418.*

Chapter 8 – Community, Social and Recreational Development.

Policy CF2: *To promote the development of sustainable communities on the basis of a high quality of life where people can live, work and enjoy access to a wide range of community, health and educational facilities suitable for all ages, need and abilities.*

Chapter 9 relates to Utilities Infrastructure, Climate Change and Environmental Management. Section 9.4.1 relates to Water Supply and Quality – Policies WSP1 – WSP7 and Objectives WSO1 – WSO9 apply.

WSOP: *To facilitate the identification and securing of service corridors for any future new water supply for Tullow.*

Section 9.4.2 refers to Wastewater. Policy WW4: *To facilitate Irish Water in providing additional and improved wastewater treatment capacity by the upgrading of the Tullow Treatment Plant and to facilitate the provision and safeguarding of infrastructure corridors required to facilitate the sustainable development of the town.*

Surface Water Drainage: Policy SW1: *To require the use of Sustainable Urban Drainage Systems in all new developments where appropriate. The following measures will apply; - The infiltration into the ground through the development of porous paving, swales and detention basins. - The holding of water in storage areas through the construction of green roofs, rainwater harvesting, detention basins, ponds and wetlands. - The slowdown of the movement of water.*

Land Use Zoning

Map 15 and the Tables presented identify the land use zonings. The site is identified as being within the 'existing *residential/infill*' zoning. The objective seeks:

To protect and improve existing residential amenity; to provide for appropriate infill residential development; to provide for new and improved ancillary services.

This zoning principally covers existing residential areas. The zoning provides for infill development within these existing residential areas. The primary aims of this zoning objective are to preserve and improve residential amenity and to provide further infill residential development at a density that is considered suitable to the area and to the needs of the population. Such areas, particularly where bordering the commercial centre, will be protected from the pressure of development of higher order uses such as retail and offices.

Regard is had to the Flood Risk Requirements.

The Appendix contains the SEA Statement and Environmental Report for the Tullow LAP 2017-2023. Figure 4.4 provides the Land Use Zoning Map.

5.4. Natural Heritage Designations

The site is c. 200m from the Slaney River Valley SAC. An AA Screening Report and an NIS have been submitted and these are discussed in the Assessment below.

5.5. EIA Screening

An Environmental Impact Assessment Screening report was not submitted with the application.

Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere.

The subject development is in summary for the completion of works to existing buildings as constructed on site pursuant to permissions 03/572 and 08/438 along with the erection of 8no. semi-detached dwellings to provide for a total of 70 no. dwellings on a site area of c.3.77ha. The development falls well below the threshold of 500 dwelling units noted above and also the applicable site area threshold of 10ha. The site is not in an area where the predominant land-use is retail or commercial, so the 2ha threshold is not applicable.

I have given consideration to the requirement for sub-threshold EIA. The site is located on residentially zoned lands and is within an urban area, which is characterised by a mix of uses, primarily residential, and it is also serviced. The proposed development will not have an adverse impact in environmental terms on surrounding land uses. The site is not designated for the protection of the landscape or of natural or cultural heritage. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Carlow County Council, upon which its effects would be marginal.

Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site within an urban area and on lands that are serviced,
- The location of the site outside of any sensitive location specified in Article 109 of the Planning and Development Regulations 2001 (as amended),
- The character and pattern of development in the vicinity,
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended).

I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case.

Reference is had to Appendix 1- Form 1 (EIA Pre-Screening) and Appendix 2 – Form 2 (EIA Preliminary Examination) attached to this Report. I conclude that the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

Genesis Planning Consultants has submitted an appeal on behalf of the First Party Nimbus Property LTD.

Overview

This provides a summary of the grounds of appeal, relative to each of the Council's 3no. reasons for refusal and these are discussed more fully in the context of the appeal, as noted below.

The format of the appeal statement is set out under the following headings:

- Section 2 – Site Context & background
- Section 3 – National and Regional policy context & responses
- Section 4 – Local Policy context & responses
- Section 5 - Responses to refusal reasons & other matters
- Section 6 – Summary & Conclusions
- They ask the Board to assess the appeal de novo.

Planning status & legislative context

- Of particular relevance to this appeal is the status of the site and the settlement limit as defined for Tullow under the provisions of the Tullow LAP.

- The site is zoned 'Existing Residential' and they submit that no zoning objectives of this LAP are contravened by the proposal and that the P.A are satisfied in this regard.
- They refer to legal cases relative to zoning objectives, noting such enjoy enhanced status over that of other policies and objectives under a development plan.
- That the Board has greater discretion and powers to grant permission for the proposal as no material contravention of the development plan arises.
- On this basis it is their considered assessment that the Board is empowered to grant permission in the interests of the proper planning and sustainable development of the area.

Background and Rationale

- They provide details of the relevant planning history. Regard is had to Reg.Refs.03/572 and 08/438.
- They note the overall design rationale includes provision of public and communal open spaces, utilising existing buildings constructed on site to provide a mixture of house types, retirement housing and new build dwellings. That private and social housing is to be provided.
- The project rationale is to deliver the proposed scheme on these brownfield lands, with existing buildings being utilised and a layout that suits the already installed infrastructure.
- They provide details of the background of the current proposal and note their response to the Council's further information request.

Planning Policy Responses

- For reference they set out in this section key extracts from policy documents and how the proposal is compliant. They submit that this section is to be read in conjunction with the accompanying planning statement, further information response and their response to the reasons for refusal. They have regard to and note policy objectives from the stated policy documents and guidelines.

- They submit that on this basis there is clear support from all relevant policies that seek to deliver the existing buildings on-site for use as residential accommodation and reducing vacancy of existing buildings.

Planning Authority Decision and Response to Reasons for Refusal

Refusal reason 1

- The accompanying Housing Quality Assessment, details how all units are generously sized and exceed the size requirements of The Guidelines on 'Quality Housing for Sustainable Communities'.
- The Urban Design Manual which is the National standard. They also note Section 4.4 of the Urban Design Manual and submit that the private amenity spaces proposed are acceptable.
- In terms of storage provision, there will be adequate space within each unit, and note the provision of additional external storage buildings as per the F.I response.
- They submit that reason for refusal 1 is unjustified. That having regard to the size of the units, wider National policy context on private amenity space and unit size requirements and that it is therefore appropriate for the Board to reach a conclusion that this refusal reason is not justified.

Refusal reason 2

- They submit that it is incorrect for the refusal reasons to apply policy as referred to under this refusal reason which refers to the 'Housing Options for Our Ageing Population' and also the provisions of the Carlow CDP, as the housing units are constructed and not proposed.
- They refer to case law relevant to existing authorised development and planning status. They submit that the existing buildings and curtilage as per the parent permission on-site are authorised in terms of land-use, and therefore matters in relation to building typology, separation distances and overall site layout cannot be deemed as unacceptable.
- The design and layout and configuration of the Retirement Housing Units will achieve a satisfactory standard of residential development.

- The existing buildings are capable of being occupied, with only relatively minor completion works to ancillary site works required (such as provision of open space, parking and access roads).
- As per the F.I site layout plan submitted on the 11th of May 2023, the existing retirement houses are to remain in-situ, specifically in blocks M,N,O & P.
- They highlight to the Board that the design rationale is not for a substandard form of development, and that the existing development has authorised planning status.

Reason for Refusal no. 3

- The existing building and the site layout are authorised as retirement housing units and the planning status which enures on the lands settles matters in terms of layout and existing buildings.
- It is unreasonable for the P.A to have issues with public open space, as the layout is the same as the parent permission and also incorporates 8no. new build dwellings (block Q) to provide additional surveillance and active streetscapes.
- The site layout is configured to suit existing buildings with the provision of generous public and communal open space, storage buildings, bicycle stores and bin stores. Storage units are within walking distance of residential units.
- The Architectural Design and Landscape design proposals will provide for a satisfactory residential environment, with a quality public realm proposed that will create a quality sense of place.
- The P.A did not have regard to the wider planning context seeks to deliver housing units in such an unfinished estate. They submit that the policy context provides for flexibility and seeks stakeholders to facilitate completion of developments such as Glendale.
- The Masterplan for the lands for which the scheme has also been designed to deliver.
- They submit that reason no.3 is unwarranted and it is therefore appropriate for the Board to reach a conclusion that this refusal reason is fully addressed.

Other matters

- They note that there is an extensive demand for the delivery of new housing and shortage of housing in the Carlow/Tullow areas. They include Table 2 – Core Strategy- Housing Targets for Carlow County & New dwelling completions in all settlements 2015-2023 as per CSO new dwelling completion database.
- They highlight that the proposal is to be delivered as a combination of both standard housing units and retirement housing.
- They note the HSE Service Plan objectives and that there is a demand for housing for older people to live through a community based approach in their own homes.
- If going forward the Board considers that the duplex units proposed are better suited being delivered as terrace housing this will be acceptable to their client. They highlight that the rationale to deliver these units (23no. duplex apartments) was driver to address their concerns by the P.A that private amenity spaces were not adequately sized.

Summary and Conclusion

- This is provided relative to each of the Council's 3no. reasons for refusal and summarises the points made in their grounds of appeal.
- They conclude that it is their considered assessment that the Board is empowered to grant permission in the interests of the proper planning and sustainable development of the area. They summarise the key material considerations as follows:
 - The policy context for brownfield and regeneration lands;
 - The status of existing buildings in-situ which are ready for occupation and only require ancillary site works to deliver a quality residential environment;
 - The fact that these units can be delivered in a prompt manner;
 - The mix of housing tenure that will be delivered;

- The acute housing shortage and the context that core strategy objectives for either the County or Tullow are not being met since 2015;
- The demand for the proposal.

It is their contention that once all relevant information is taken into consideration, then the Board is empowered to, and should, grant permission in the interests of the proper planning and development of the area.

Appendices include the following:

- Appendix 1 – Copy of Council’s F.I request
- Appendix 2 – Copy of High Court J.R. – Michael Redmond & An Bord Pleanala. [2019 No.709 J.R].

6.2. Planning Authority Response

They provide that having reviewed the appeal documentation, they have no further comment and are satisfied that the position of the Planning Authority is addressed in the Planning Reports on file.

6.3. Observations

None noted on file.

7.0 Assessment

- 7.1.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant national/regional/local policies and guidelines, I consider the substantive issues in this appeal to be considered are as follows:

- Planning Policy Considerations
- Background and Rationale
- Design and Layout (discussion of Reasons for Refusal)

- Material Contravention
- Access and Traffic
- Drainage issues
- Flood Risk Assessment
- Appropriate Assessment

7.2. Planning Policy Considerations

- 7.2.1. Project Ireland 2040: National Planning Framework (NPF) is concerned with securing compact and sustainable growth. Objective 4 seeks to: *Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.* Of relevance, objectives 33 and 35 of the NPF seek to prioritise the provision of new homes at locations that can support sustainable development and seeks to increase densities in settlements, through a range of measures.
- 7.2.2. The Regional Spatial and Economic Strategy for the Southern Region 2020-2032 (RSES) notes the importance of Carlow as the County Town and one of the Key Towns in the Waterford Metropolitan Area. Such towns are described as strategically located urban centres with accessibility and significant influence in a sub-regional context, driving regional growth for the South-East, noting its connectivity including rail and strategic road network. Objective RPO14 has regard to facilitating economic integration between urban centres within the county, including Tullow and Bagnelstown and other centres within the region.
- 7.2.3. It is of note that the Carlow County Development Plan 2022-2028 includes reference to policies for sustainable development including compact growth, regeneration, sustainable residential development, including housing mix and accessibility. Section 2.7 provides Carlow's Settlement Strategy. As per Table 2.1 Tullow is within Settlement Tier 2 and with the Settlement Typology of a 'District Town'. Described as: *Well-developed serviced settlements with a moderate level of jobs supporting services and community facilities with good transport links and capacity for continued commensurate growth to become more self-sustaining.* Section 15.2 notes that it is an objective of the Council to commence a review of the Tullow LAP, demonstrating

compliance with the Core Strategy and policies therein. *The Local Area Plans will ensure a co-ordinated plan-led approach informs future development, facilitates regeneration and renewal and promotes economic development while ensuring the protection of environmental qualities, including bio-diversity.* Map 15.3 provides the 'Tullow Strategic Policy and Constraints. This shows the subject site is within the Tullow LAP Boundary 2017-2023.

- 7.2.4. Section 3.9 refers to Mix of Units/Adaptable Housing/Tenure and Policy MX.P1 seeks to: *Ensure that housing is available to meet the needs of all people, through the delivery of an appropriate mix of housing sizes, building typologies, types and tenures in suitable locations.* Section 3.12 which refers to Housing for Older People Policy OP.P1 refers. Section 3.10 refers to high quality design and layout in Apartment development. Policy AP.P1 seeks to: *Require apartment developments to be in accordance with Design Standards for New Apartments updated in 2020 or any amendments thereto during the life of this Plan.*
- 7.2.5. It is noted that these 'Sustainable Urban Housing Design Standards for New Apartments' have been subsequently amended. Section 1.18 of the 2023 Apartment Guidelines includes: *Planning authorities and An Bord Pleanála are required to have regard to the guidelines and are also required to apply any specific planning policy requirements (SPPRs) of the guidelines, within the meaning of Section 28 (1C) of the Planning and Development Act 2000 (as amended) in carrying out their functions. Also, where SPPRs are stated in this document, they take precedence over any conflicting, policies and objectives of development plans, local area plans and strategic development zone planning schemes.*
- 7.2.6. In addition, regard is had to the more recent 'Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)', and to the amendments to the SPPRs therein as relevant to the subject application. These Guidelines replace the 'Sustainable Residential Developments in Urban Areas Guidelines for Planning Authorities' issued as Ministerial Guidelines under Section 28 of the Act in 2009 (now revoked). There is a renewed focus in the Guidelines on the renewal of existing settlements and on the interaction between residential density, housing standards and quality urban design and placemaking to support sustainable and compact growth.

- 7.2.7. The site is within the town boundaries to the east of Tullow Town Centre and the River Slaney. Development in recent years has taken place largely on the periphery of the town. Reference is had to the Tullow Local Area Plan 2017-2023. It is noted that Map 15 and the Tables presented identify the land use zonings. The site is identified as being within the 'existing residential/infill' zoning. The Objective being: *To protect and improve existing residential amenity; to provide for appropriate infill residential development; to provide for new and improved ancillary services.* The site is within the settlement boundary but is edge of town. The land to the east which contains the existing nursing home and housing for retirement that have been constructed is zoned 'Community Services & Education'. The lands to the west of the site are within the 'Agriculture' zoning. Therefore, the principle of a residential development on the subject site is acceptable in accordance with the zoning objective.
- 7.2.8. Chapter 5 of the Tullow LAP refers to Housing and Sustainable Neighbourhoods. This notes that Tullow has experienced rapid population growth in a short period of time. That housing and associated physical and community infrastructure in Tullow should be of a high standard for all who want to live in the town. Regard is had to the Strategic Approach, which seeks to encourage the uptake of vacant units, providing appropriate quantity and quality of residential accommodation incorporating sustainable densities and designs and variety of housing typologies. Providing for the creation of attractive mixed use sustainable neighbourhoods which benefit from the phased delivery of supporting infrastructure.
- 7.2.9. In this case regard is had to the planning history and background to the residential development that has taken place on the site (Reg.Refs. 03/572 and 08/438). This estate, on zoned land, while partially complete, remains unfinished and the units remain unoccupied. For reference the First Party includes the as consented layout from the 2008 permission and existing units and those which are the subject of this application are highlighted. In summary under 08/438 the site remains from this permission with a total of 62 units currently in-situ in a series of blocks.
- 7.2.10. Regard is had to the Background to and Rationale for the current application below. Note is had of the Council's reasons for refusal and the First Party grounds of appeal. It needs to be ascertained whether the Planning Authority's reasons for

refusal can be overcome and whether the proposal would comply with planning policy and the proper planning and sustainable development of the area.

7.3. Background and Rationale

- 7.3.1. The Planning & Design Statement submitted with the application and the First Party Grounds of Appeal provides details of the Planning History of the site. In summary reference is had to the following:
- Permission granted for a total of 151no. units as part of a retirement village and associated works under application Reg.Ref.03/572
 - Permission granted for an amended scheme under application Reg.Ref. 08/438. In summary the existing site development remains unfinished with a total of 62 units in-situ in a series of blocks.
- 7.3.2. It is noted that the current application site forms part of the wider development site. The nursing home and retirement homes to the east have been constructed. The site immediately adjoining to the east contains as referred to on the Site Layout Plan submitted '*Existing dilapidated foundations to be demolished in future planning application to allow for the Masterplan*'. This is not part of the subject site.
- 7.3.3. As per the existing status of the site considerable development works were carried out on the lands under these permissions with 62no. units constructed on the subject site, but that due to the economic recession from 2009 onwards the site was not completed for delivery of the retirement housing scheme as granted permission at that time. In this context the project rationale is now seeking to deliver the proposed residential scheme on these brownfield lands, with the existing buildings on site being utilised and a layout that corresponds to the as-built site.
- 7.3.4. The First Party provides that the over-arching design rationale is to achieve a sustainable re-use and completion of existing buildings, as to demolish existing buildings would be contrary to all Government policy and sustainable development principles which seek to both deliver housing and also re-use existing buildings. That on the basis of the information submitted in terms of justification the project rationale is to deliver the proposed scheme on these brownfield lands, with existing buildings being utilised and in a layout that suits the already installed infrastructure. They

reference National, Regional and Local Planning Policy and Guidelines and provide that there is clear support from all relevant policies that seek to deliver the existing buildings on-site for use as residential accommodation and reducing vacancy of existing buildings.

- 7.3.5. Section 5.4.6 of the Tullow LAP refers to Unfinished Estates and includes: *Where appropriate the Council will seek the completion of unfinished schemes to ensure public health and safety is maintained and that essential services such as roads, public lighting, footpaths, piped services and amenity areas are satisfactorily completed. The onus is on the developer to demonstrate that the completion of any unfinished estate complies with the principles of sustainable development and is of a high quality standard.* Reference is also had to Policy HP15 which seeks: *To have regard to the DoECLG's 'Stakeholders Code of Practice, between the Representative Bodies Dealing with Unfinished Housing Developments (2011).*
- 7.3.6. As detailed in the Planning & Design Statement a Masterplan is referred to which sets out the density and context and the design approach and the overall vision for the lands. It is submitted that given the extent of lands available this strategic vision is also consistent with the zoning objectives for the lands and the residential scheme now proposed is a key aspect of this new neighbourhood. They provide that this Masterplan has been incorporated into the assessments for traffic and infrastructure with adequate upgrade works proposed for the site entrance. That it is the interests of the proper planning of Tullow and the wider area to bring these existing buildings into residential use, including for retirement homes and which will contribute significantly towards the acute housing shortage.
- 7.3.7. The Council's reasons for refusal note their concerns about substandard residential development in this scheme. That the development is located c.2km from Tullow Town Centre and is remote from services and amenities required to support older persons housing. There are no on-site services necessary to support a retirement proposal of 19no. retirement units. They do not consider that the proposal complies with planning policy and guidelines for such residential development. This includes having regard to accommodation for older people, provision of private, public open space etc. They also note that the previous permissions have now lapsed and consider that there are no current permissions relevant to the site.

- 7.3.8. In response, the First Party consider that planning matters relating to existing buildings are settled given that they are completed as per the relevant permission and not proposed as new retirement units. That the duration of permission does not prohibit the completion of ancillary works at this stage relating to same under the provisions of Section 40 (2a)(iii) and (iv) of the Planning and Development Act 2000 (as amended). This refers to Limit of duration of permission.
- 7.3.9. In this case I noted on site that some of the buildings, externally appear relatively complete but remain unfinished (have not been occupied), public open space has not been laid out, the access has not been established, the ground levels, roads layout and infrastructure including drainage within the site also remain unfinished. In summary, the rationale is as described in the Public Notices is to complete this unfinished estate and to provide an additional 8no. houses and all ancillary services.

7.4. Reason no.1 – Design and Layout - Residential Development

- 7.4.1. The Council's First Reason for Refusal in summary concerns substandard residential development and material contravention of the Carlow CDP 2022-2028. Regard is had to the issues raised and the latter is dealt with separately in the Material Contravention Section below.

Density

- 7.4.2. Section 3.8 of the Carlow CDP refers to the 'Sustainable Residential in Urban Areas' Guidelines and accompanying 'Urban Design Manual' and Circular Letter NRUP 02/2021 outline recommendations regarding appropriate densities for different contexts based on site factors and the level of access and facilities, including transport. Section 3.8 refers to Densities/Increased Heights. Table 3.3 outlines indicative net densities for Tier 1-3 Settlements within the County. This is given for Tullow as >30ha (Town Centre) and 20-30ha (Edge of Centre). This includes the provisory: *Densities in excess of 30 units per ha may be considered on appropriate edge of centre sites in Carlow, Tullow and Muine Bheag subject to high quality design and layout.* Section 4.3 of the Planning & Design Statement submitted provides that a net residential density of 19.88 units per ha is proposed which is consistent with the objectives of the Carlow CDP and the Tullow LAP to achieve appropriate densities relative to context.

- 7.4.3. As noted above regard must now be had to the more recent standards and guidelines in the 'Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities' 2024. Section 3.3 refers to Settlements, Area Types and Density Ranges. On the basis of population (Census of population 2022, notes that the population of Tullow was 5,138), therefore, it would now appear to fall within 'Key Towns and Large Towns (5000 +population)' where residential densities in the range of 30dph to 50dph would generally be applied at suburban locations. It is noted that when the permissions on the site were originally granted the population of the town would have been lower. The 'Small/Medium' Town Edge i.e 25dph to 40dph (net) would have been more applicable.
- 7.4.4. The proposed development provides for a residential development comprising of 70no. units on this site of c. 3.77ha. It is noted that the Planning Authority considered the proposed density (which is primarily not a new build) to be acceptable. On site I noted the scheme, which is in a peripheral edge of town location, appears to have a higher density and includes more compact development than other residential developments in the area. Also, there are limited public transport options in the area. Therefore, I would not consider that a higher density would be appropriate to the site context.

Design and Layout

- 7.4.5. The Site Layout Plan shows the design and layout of the scheme as previously granted and as proposed. The existing terraced blocks are two storey as are the semi-detached dwellings proposed in the current application. It is submitted that blocks E,F,G,H,J,K,L,M,N,O&P are existing buildings (constructed in 2009 under Reg.Ref.08/438) and externally appear to be substantially complete onsite. It is noted that Blocks M,N,O&P are to be retained as 'retirement housing units' as per the parent permissions 3/572 and 08/438. Block Q are the proposed new dwellings.
- 7.4.6. A variety of house types are proposed to include for semi-detached, duplex and terraced residential units. A Statement of Housing Mix has been submitted with the application. This seeks to demonstrate the need for smaller residential units in the Tullow area. Regard is had to the Site Layout Plan submitted including at F.I stage which shows the buildings colour coded as follows:
- Houses to be converted to duplex apartments

- Existing retirement houses on site to be left as previously constructed – note buildings are classified as substantially complete
- Block Q - New buildings.
- Bulk stores.

7.4.7. The overall development is to comprise the construction of a scheme comprising 23no. duplex apartments along with residential dwellings and retirement housing. The F.I submitted provides that the apartment units are broken down into blocks at various locations within the site layout, utilising existing buildings as constructed. They provide that all apartments have been designed to fully accord with the guidelines: 'Sustainable Urban Housing: Design standards for new Apartments'.

7.4.8. As shown on the revised plans (colour coded) duplex units are to be provided in blocks E, L and parts of blocks F, G, H, J and K. Table 1 of the F.I response provides a Summary of Housing Mix proposed. This now incorporates 73% 2 bed and 27% 3 bed units (with the 19 retirement units as per blocks M,N,O & P now excluded and that the previously proposed 4 bed unit has now been omitted). They provide that this approach allows for smaller households. That having regard to the brownfield nature of the site and the constraints of the existing buildings as constructed, it is submitted that the scheme incorporating for 2-3 bed units is acceptable. That the proposal is capable of delivering 52 residential units and 19 retirement housing units and is appropriate in terms of unit mix for the town and will provide for sustainable development within the town boundaries.

7.4.9. It is noted that the Council's S.E Architect reviewed the scheme as originally submitted and having regard to the F.I submitted. They provided an analysis of the accommodation within each of the blocks and note their concerns about the quality of the units within the scheme. In particular, they had concerns about inadequate storage, provision of private open space and separation distances between the blocks. They also noted that some of the room sizes are below the minimum standards as recommended in the Guidelines. They consider the separation distance between M/N and O/P to be too little and the quality of the public realm and transitional spaces from public to private to be of poor quality and insufficient to mitigate the lack of separation. That some of the units did not comply with the 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for

Planning Authorities, December 2022'. That the premise of granting residential units that were below minimum development standards and guidelines would only have been acceptable as part of an overall development that included significant support facilities and amenities for the entire development. That the residential units should not be considered in isolation as a way of circumventing minimum standards.

7.4.10. Regard is had to the Apartment Guidelines as amended (July 2023) and to the SPPRS therein. This includes regard to standards relevant to apartment and duplex accommodation. A Housing Quality Assessment has been submitted with the application and in response to the Council's F.I request. This provides details of the residential units per block. It is colour coded showing the variety of units including that the majority of the units are 2 bed as existing. I note that there is a predominance of two bedroom duplexes but that the total floor area of the units exceeds the Guidelines (SPPR3 refers). That all of the units are dual aspect. In this respect SPPRS 3 and 4 are complied with. Also, that having regard to floor to ceiling heights SPPR 5 is complied with.

7.4.11. Section 3.30 of the Apartment Guidelines 2023 and Appendix 1 refer to Internal Storage. I would note that some of the storage areas to be provided within the units would not comply with minimum standards. However, these units have been constructed, the F.I submission shows the inclusion of storage areas, albeit some of them are marginally below the minimum standards. Regard is had below of the external bulky storage units to be provided. It is provided that if the duplex units were conditioned to be terraced houses, then the minimum internal storage requirements in Appendix 1 of the Guidelines would not apply.

Separation Distances

7.4.12. Regard is had to the 'Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)'. Chapter 5 provides the Development Standards for Housing. This refers to compact development and the key characteristics of low-rise compact 'own door' housing. SPPR 1 refers to Separation Distances and allows for: *At least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained. Separation distances below 16 metres may be considered acceptable in circumstances where there are no*

opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces. This also provides: There shall be no specified minimum separation distance at ground level or to the front of houses, duplex units and apartment units in statutory development plans and planning applications shall be determined on a case-by-case basis to prevent undue loss of privacy.

7.4.13. Having regard to the Site Layout Plan, it appears that the separation distances between the existing blocks would comply with SPPR 1 of these Guidelines. This is taking account of the first floor opposing windows. I would note that the new units proposed within block Q would allow for greater separation distances from blocks O/P (proposed retirement units). Also, that the configuration of the existing blocks would allow for the 16m separation distance at first floor level.

7.4.14. Therefore, while the development would not comply with standards including the 22m separation distances referred to in Section 16.8.5 'Residential Amenity' of the Carlow CDP 2022-2028, they would comply with the minimum standard in SPPR 1 which is now the current minimum standard in the more recent Compact Settlement Guidelines 2024.

Private Open Space

7.4.15. Section 3.35 of the Apartment Guidelines 2023 refers to Private Amenity Space. The standards for apartments are set out in Appendix 1. Section 3.39 includes: *For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha, private amenity space requirements may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality.*

7.4.16. Section 5.3.2 of the Sustainable and Compact Settlement Guidelines 2024, refers to Private Open Space for Houses. It supports a more graduated and flexible approach that supports the development of compact housing and takes account of the value of well designed private and semi-private open space. SPPR 2 provides the Minimum Private Open Space Standards for Houses. It is noted that as shown on the Site Layout Plan and the Housing Quality Assessment submitted at F.I stage the rear garden areas would comply with these minimum standards. SPPR2 provides that apartments and duplex units shall be required to meet the private and semiprivate open space requirements set out in the Sustainable Urban Housing: Design

Standards for New Apartments, Guidelines for Planning Authorities 2023 (and any subsequent updates). Appendix 1 of these Guidelines refer.

7.4.17. The F.I submission refers to the provision of high quality communal and public open spaces. In addition, that where dwelling units do not comply with private open space standards, these units are to be converted to duplex units thereby achieving compliance with the private amenity space standards of the apartment guidelines. I would also note that as shown on the Site Layout Plan, retirement unit nos. P83 – P87 are shown to have access to 374sq.m of communal open space and do not have private open space allocated.

7.4.18. The First Party provide that the duplex gardens now proposed meet the requirements for private open space in the Apartment Guidelines. That careful consideration has been given to ensure the separation distances between existing private amenity spaces and the proposed buildings. They also provide that if the Board considers the duplex units proposed are better suited being delivered as terrace housing this will be acceptable to their client. They highlight that the rationale to deliver these units (23no. duplex apartments) was driven to address concerns by the Planning Authority that private amenity spaces were not adequately sized.

7.4.19. I would note that some of the rear gardens would be below those private open space as per the minimum standards in Table 16.3 of the Carlow CDP, however they would comply with SPPR 2 of the Compact Settlement Guidelines.

Sunlight and Daylight

7.4.20. It is noted that the existing and proposed development comprises 2 storey terraced/duplex and semi-detached dual aspect units in a compact form of development. Section 16.8.5 refers of the Carlow CDP includes: *Minimise overshadowing by applying the recommendations of 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice' – Second Edition (B.R.E.).*

7.4.21. Section 3.16 of the Apartment Guidelines 2023 refers to the availability of sunlight relevant to dual aspect apartments/duplexes. Section 5.3.1 of the Compact Settlement Guidelines refers to 'Separation Distances' and includes regard to sunlight, daylight and privacy.

- 7.4.22. A Sunlight and Daylight Assessment by Digital Dimensions has been submitted in response to the Council's F.I request. This report assesses the quality of daylight and sunlight to specific units which are proposed as duplex units within the proposed development. This refers to current Guidelines and includes reference to BR209:2022 which updates guidance in two areas i.e. impact on daylight and sunlight to adjacent buildings and interior daylight and sunlight to proposed buildings.
- 7.4.23. Section 4 of the Assessment provides that habitable rooms within the relevant units were assessed for daylight. That the results indicate a high level of compliance with current standards and that the rooms in the dwellings will achieve high levels of daylight. The F.I submission has regard to the daylight provision for each of the blocks. This notes that all private amenity spaces assessed are well oriented for sunlight, more that 50% of the areas will have in excess of 2 hours of available sunlight on the 21st of March. That the proposed development meets the recommendations of the BRE guidelines (2022). Therefore, mitigation measures are not required, taking into account all units being dual aspect, all units exceeding the minimum requirements for 2 bed duplex units and the provision of private, communal and public open spaces.

Proposed New Build

- 7.4.24. This proposal includes for the erection of an additional 8no. 3 bedroomed, semi-detached dwellings. These are proposed to the east of 'retirement' blocks P & O and are referred to as 'Block Q' on the drawings. Each of them is to be 92sq.m and dimensions are colour coded in pink in the Housing Quality Assessment included as part of the F.I submission. These all comply with the minimum standards in the Carlow CDP of 60sq.m for private open space (Table 16.3 refers) for a 3 bed house and are shown 22m from the rear of Blocks P and O. As these are new build and will provide a variety of house type, I would consider that they will appear acceptable, in having a greater separation distance than the existing development.
- 7.4.25. I note that the Council's S.E Architect has some concerns about inadequate storage space being provided and relative to room sizes in the new build Block Q. If the Board decides to grant permission, I would recommend that all works in this new build be in compliance with current standards. Also, that it be conditioned that Block Q only be constructed when the existing estate has been completed to the

satisfaction of the Planning Authority. This would be to ensure that new build would not be constructed until all the other works that are part of the proposed development relative to this unfinished estate be completed.

7.5. Reason 2 - Housing for Ageing Population

- 7.5.1. The Council's second reason for refusal in summary concerns substandard development in the design and layout of the retirement units proposed for older people and material contravention of the Carlow CDP 2022-2028. Regard is had to the issues raised and the latter is dealt with separately in the Material Contravention Section below.
- 7.5.2. It is of note that this reason for refusal refers to Policy OP.P1: *Ensure that residential care homes for older people, retirement homes, nursing homes, independent living units, assisted living units, retirement villages and sheltered accommodation are located within defined settlement boundaries and are appropriate in scale to the size of the settlement. The provision of residential care homes and nursing homes within the open countryside is considered only in such cases where it is clearly demonstrated that due to the nature of the services to be provided, the open countryside is necessary and that no suitable alternative sites are available within a nearby settlement.*
- 7.5.3. As has been noted the site is on residentially zoned lands and is adjacent to an existing nursing home and within the settlement boundary for Tullow. Section 4.4 of the 'Sustainable and Compact Settlements Guidelines (2024)' refers to Key Indicators of Quality Design and Placemaking. Section (ii)(f) notes that the creation of sustainable communities also requires a diverse mix of housing and variety in residential densities across settlements. It supports a greater housing choice that responds to the needs of a variety of people, including older people.
- 7.5.4. Section 8.8 of the Carlow CDP 2022-2028 has regard to – Planning for Diversity and Inclusivity. This includes regard to Older People. Section 8.8.2 refers: *The need to meet the needs of an ageing population in their own homes and communities, through optimum housing choices and an attractive and safe built environment, is recognised in the NPF (NPO 30) and the RSES (RPO 182). It is also further supported in the Policy Statement "Housing Options for Our Ageing Population"*

(DHPLG, published in 2019) and The Age Friendly Principles Guidelines for Planning Authorities (Age Friendly Ireland, 2021). The former i.e. 'Housing Options' provides six principles/ housing for an ageing population. The aim of these guidelines is to ensure that older people have a greater choice by developing a range of housing options that are suited to sustainable lifetime housing principles and develop age friendly environments. Reference is had to the projected need for older person housing which is considered to be significant.

- 7.5.5. The 'Age Friendly Principles and Guidelines' document provides guidance on how a planning authority can continue to facilitate the above commitments as set out in Housing Options for our Ageing Population and in doing so meet the objectives and expectations set out in the 2020 Programme for Government. It provides guidance for County/City or Area Development Plans to reflect an age friendly approach to support an aging population. This includes regard to housing context, social integration and accessibility. An objective is to facilitate the development of housing for older people across the cities, smaller towns and villages as well as rural areas which is appropriate in order to improve the quality of living for our ageing population.
- 7.5.6. The First Party provide that in the National context under the NPF, Housing for All, the RSES, the HSE Service Action Plan and the policy context set out by the Carlow CDP all seek to achieve retirement housing/facilities for older persons. They submit the provision of retirement housing is acceptable particularly so on this site wherein residents can avail of communal facilities in the Nursing Home and wider Glendale site context.
- 7.5.7. It is noted that a letter from the Sonas Group who are the operators of the Nursing Home on the site to the east has been submitted with the application. This provides that there is a market demand for retirement housing within the area as identified by the developer. That once the development is completed Sonas will liaise with the developer regarding the possible use of the retirement housing units as constructed pursuant to permission 03/572 (19 units within blocks M,N,O & P) as identified under the current application. That in this context they fully support the application given the lack of residential units and retirement units within the Tullow area.

- 7.5.8. In this respect I would note that the site while connected by footpaths is c.2kms from the town centre. However, it must be noted that it is within the area zoned residential and the existing town boundaries of Tullow. Having regard to the proposed Layout the blocks proposed for retirement housing will be seen as an integral part of the development scheme. The site is proximate to the retirement complex, which includes the nursing home to the east. It is noted that the parent permission Reg.Ref. 03/572 included for the provision of a clubhouse consisting of multi-purpose room, shop, bar, restaurant and ancillary stores to be built and this has not been constructed. If the Board decides to permit and the area is to be further developed, it would be beneficial to provide more facilities for local residents, in particular relative to the needs of older people. Also, I note the Schools and Childcare Capacity submitted. It is noted that the scale of development as per the Section 28 Childcare Guidelines marginally falls below the threshold (75) for the provision of a childcare facility.
- 7.5.9. However, these issues relative to the provision of such facilities, would be the subject of a separate application. If the Board decides to permit, I would recommend that it be conditioned that these blocks M,N,O,P be retained for older persons/retirement housing use.

7.6. Reason no.3 - Impact on Residential Amenities

- 7.6.1. The Council's third reason for refusal concerns a number of issues relative to impact on residential amenities including public open space surveillance, the locational context of the bulk storage and bicycle storage and being remote from the residential units they are intending to serve, provides a poor-quality public realm and would result in a substandard form of development. They consider that it would be contrary to the Principles for Urban Design and Placemaking as contained in Chapter 12 of the Carlow CDP and seriously injure the residential amenities of future occupants and to the proper planning and sustainable development of the area. These issues are considered further below.

Landscaping and Public Open Space

- 7.6.2. A Landscape Design and Access Statement has been submitted with the application. This notes that the landscape design aims to create a sense of connectivity between

spaces and promote a sense of place and well-being within the residential development. It provides that overall the design will create high quality open space with areas for passive and active recreation and social interaction. This notes that 16% public open space is to be provided which is in excess of 10% required. Section 16.8.7 of the Carlow CDP refers to Public Open Space and includes that all applications for residential developments shall: *Provide public open space on greenfield sites equating to a minimum of 15% of the total site area, a minimum 10% on large infill sites / brownfield sites and 20% on institutional lands. The areas of public open space shall be clearly identified on the site layout/ landscaping plan.*

7.6.3. Section 4.4 of the Compact Settlements Guidelines 2024 refers to 'Key indicators of Quality Design and Placemaking'. Section 4.4 (iv) refers to the provision of Public Open Space. It is of note that Section 5.3.2 refers to Private Open Space for Houses and SPPR2 refers. This includes: *For building refurbishment schemes on sites of any size or urban infill schemes on smaller sites (e.g. sites of up to 0.25ha) the private open space standard may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality and proximity to public open space.* Policy and Objective 5.1 refers to Public Open Space and includes: *The requirement in the development plan shall be for public open space provision of not less than a minimum of 10% of net site area and not more than a minimum of 15% of net site area save in exceptional circumstances.*

7.6.4. The Site Layout Plan submitted with the F.I details the areas of open space to be provided. This includes the following main areas of public open space:

- Area 1: 3,664.4sq.m – southeastern part of the site between the internal road and the Shilleagh Road (indicated as 'informal kick around area')
- Area 2: 2,789.5sq.m – eastern part of the site and shown to include a proposed new play area.

7.6.5. I would consider that the distribution of the public open space is not optimum and that there is a lack of passive surveillance in the design of the existing scheme. However, much of the development is extant and the addition of the play area and the footpath linkages are positive. It will be seen as part of the overall scheme having regard to the larger Masterplan area. The Landscape Design and Access Statement includes for Communal Open Space for the retirement housing and the duplex units.

I would recommend that if the Board decides to permit that it be conditioned that details be submitted relative to landscaping and boundary treatment for these specific areas. Open space, landscaping and linkages are seen to be important to improve the quality of the public realm.

- 7.6.6. As part of the F.I drawings showing Landscaping and Boundary Treatment Proposals and a Landscape Management and Maintenance Plan have been submitted. I note the Landscaping Plan includes a 10m riparian woodland as existing to be retained and augmented along the northern boundary of the site with the tributary of the River Derreen. This also includes regard to boundary treatments and landscaping throughout the site. I note the planning authority had some concerns about the proposals for boundary treatment. I would recommend that in the interests of the character and amenities of the area that if the Board decides to permit that it be conditioned that landscaping and boundary treatment be in accordance with details to be submitted to the written agreement of the planning authority.

Storage and Bicycle units

- 7.6.7. The third reason for refusal is concerned about the proposed location of the storage and bicycle units away from the residential units within the public open space. The Site Layout Plan shows the proposed location of 'Bulk stores 1 and 2' within area 1 – public open space and no.3 in the northwestern part of the site. The F.I submission provides that whilst storage provision in all duplex apartments complies with the Apartment Guidelines, the provision of external buildings is also proposed as good practice to enable storage of bulky items for duplex apartment residents. Details have been submitted with the F.I including a drawing showing the internal layout of the stores and the noting the units they are to serve. Each of these units is to be provided with an additional 3sq.m of storage.
- 7.6.8. The First Party provide that given the brownfield and existing buildings they submit that the storage solutions proposed are the best for the site, with additional storage buildings proposed for the duplex apartments and associated bulky items. That having regard to storage the assessment by the Planning Authority fails to recognise the 'head room' available internally (they have included a drawing showing storage shelving units). They note the provision of additional external storage buildings which were proposed under the F.I response. These 3no. 'bulky storage buildings' are

shown on the open space adjacent to the parking areas and bicycle stores. Floor plans of these bulk storage units have been provided in drawing no. P-01-575 included as part of the F.I submission.

- 7.6.9. If the Board decides to permit, I would recommend, that proposed 'bulk stores nos. 1 and 2 be amalgamated, to form one larger unit to the rear of the proposed parking spaces 26 -33 as shown on the revised Site Layout Plan. These would then be alongside the proposed bicycle storage building. This would serve to limit the proliferation of such buildings on the site, be further from the rear of the units and allow for screen landscaping.
- 7.6.10. Bicycle storage units are also proposed. These are shown to be accessible from the internal roads layout. I note that it is provided, that maintenance of the bicycle storage areas will be the responsibility of the management company. As per section 6.13 of the Apartment Guidelines 2023, if the Board decides to permit the duplex units it should be conditioned that a management company be set up. I would note that while not ideal these units will provide for additional storage, including bicycle storage which will be to the benefit of residents within the estate.

Conclusion

- 7.6.11. I would consider that having regard to the public realm, the design and layout of this development is not optimal, as regards the proximity of the blocks and open space surveillance. However, the proposals submitted will serve to finish this estate and provide for a compact form of residential development and the layout as existing and proposed. It is not out of context with the residential land use zoning or the Compact Housing Guidelines 2024. Also, I would note the need for smaller housing units and housing for older people in the Tullow area has been stated in the course of this application and this proposal will be beneficial in this respect.

7.7. Material Contravention

- 7.7.1. The Council's First reason for refusal refers to substandard development leading to a material contravention of the provisions of the Carlow County Development Plan 2022-2028 as outlined, which together with Policy TV P2 seeks to: *Enhance and develop the fabric of existing urban and rural settlements in accordance with principles of good urban design*. This reason considers that if the substandard form

of development is permitted this would seriously injure the amenities of the intended occupants and would therefore be contrary to the proper planning and development of the area.

- 7.7.2. Their Second reason for refusal considers that the development would materially contravene the provisions of the Carlow CDP 2022-2028 which seeks to facilitate the implementation of the Policy Statement *Housing Options for Our Aging Population* (ref: Policy OP.P1) and to key considerations for housing delivery which include high quality design, compliance with development management standards and the creation of attractive places to live being the focus of every development. As has been noted above the layout, includes the allocation of housing units for older people and is within the settlement boundaries of Tullow and proximate to an existing retirement complex.
- 7.7.3. Section 34(6) of the Planning and Development Act 2000 (as amended) sets out the procedure under which a planning authority may decide to grant permission for such a development. Section 37(2) of the 2000 Act provides the constrained circumstances in which the Board may grant permission for a material contravention. These include whether the development is of strategic or national importance, where the development should have been granted having regard to regional planning guidelines and policy for the area etc., where there are conflicting objectives in the Development Plan or they are not clearly stated, or permission should be granted having regard to the pattern of development and permissions granted in the area since the making of the Plan.
- 7.7.4. Reference is had to section 7.15 of the Development Management Guidelines and the First Party submit that the direction as set out in the Guidelines was not correctly adhered to by the Planning Authority in the determination of the application along with the appropriate weighting of relevant planning matters to achieve delivery and completion of this development as set out under 6.4 of these guidelines. Section 7.15 advises that caution, should be exercised when refusing permission on the grounds that the proposed development would materially contravene the development plan. That where such a reason is given it must be clearly shown that specific policies/objective of the plan would be breached in a significant way. The aforementioned 6.4 refers to *Planning reports – Importance of a balanced approach*.

- 7.7.5. In this instance the location of the proposed development (much of which is partially completed under previous earlier permissions) is in accordance with the residential zoning for site as shown on Map 15 of the Tullow LAP 2017-2023. Planning Policies and Guidelines support compact residential development, within town/village boundaries. The issue in this case is whether the development as submitted, would constitute substandard development, including for older people that would be in material contravention of the National, Regional and Local Planning Policy and Guidelines.
- 7.7.6. As has been noted above, it is of significance that the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) have now replaced the Sustainable Residential Developments in Urban Areas Guidelines for Planning Authority issued as Ministerial Guidelines under Section 28 of the Act in 2009. There is a renewed focus in the Guidelines on the renewal of existing settlements and on the interaction between residential density, housing standards and quality urban design and placemaking to support sustainable and compact growth. Section 2 notes that: *The policy and guidance contained within these Guidelines are to be implemented through statutory development plans and in the consideration of individual planning applications.*
- 7.7.7. Section 2.1.2. of the Guidelines refers to Development Management and this includes: *In accordance with the provisions of Section 34 of the Act when making a decision in relation to an application that includes a residential element or other elements covered by these guidelines, the planning authority is required to have regard to the policies and objectives of the Guidelines and to apply the specific planning policy requirements (SPPRs).*
- 7.7.8. Therefore, the residential standards as set out in the SPPRs of the Section 28 'Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)', relative to sustainable compact development now take precedence. These include, relative to separation distances (SPPR 1) and minimum private open space standards for houses (SPPR 2). In addition, relative to the SPPRs in the Apartment Guidelines 2023.
- 7.7.9. I would conclude that this application has been discussed relative to planning history, background and rationale, design and layout and the need for housing for our ageing

population and the impact on the residential amenities of future occupants. That regard has been had the Council's reasons for refusal and the documentation submitted, including the First Party Appeal in this Assessment. On balance, taking the issues raised into account, and having regard to the site context, I would not consider that a material contravention of the aforementioned policies of the Carlow County Development Plan 2022-2028 has occurred.

7.8. Other issues – Part V

- 7.8.1. The Council's Housing Department provide that in accordance with Part V of the Planning and Development Acts 2000 as amended by the Affordable Housing Act 2021 and given that the property was acquired before 1st of September 2015, there is a 20% requirement under Part V. The application details 14 units proposed to transfer under Part V. They confirm that there is an ongoing social housing demand in Tullow and are satisfied with the proposal to comply with Part V of the Planning and Development Act 2000 as amended. It is of note that drawing no. P04-513 has been submitted with the application showing the housing to be transferred.

7.9. Construction Management

- 7.9.1. An Outline Construction Management Plan has been submitted with the application. This provides an overview and project description. It has regard to and provides details of Construction Phases:
- Stage 1 – Excavation and site preparation works.
 - Stage 2 – Remedial Superstructure works (where required to existing dwellings) and installation/completion of services.
 - Stage 3 – Completion of site area works and internal fit-out works.
- 7.9.2. Details are given of Site Management, hours of working, hoarding, site compound and material storage. It is noted that a dust minimisation plan is to be formulated for the construction phase of the plan. That the level of monitoring and adoption of mitigation measures will vary throughout the construction works depending on the type of activities being undertaken and the prevailing weather at the time. That given the volumes of traffic generated by aspects of the construction works, particularly

during site excavation stage, it shall be a requirement that the main contractor shall provide wheel washing facilities. Also, that they shall be responsible for clearing any blockages of local gullies and drains due to construction materials and will carry out drain clearing if required. A road sweeper is to be available on-site at all times to ensure the public road adjacent to the site is maintained clean as required.

- 7.9.3. Regard is had to Noise and Vibration and it is provided that these will comply with current standards, having regard to limitations for daytime, evening and nighttime hours. The Report provides that a condition attached to planning will ensure that the current parameters and best practice are adhered to.
- 7.9.4. Section 4 of the Report refers to Construction Traffic Management. They provide that given the relatively low number of residential units proposed in each phase it is not anticipated that construction traffic will generate excessive traffic volumes. That for the duration of construction works the associated traffic will access the site via the existing entrance. That given the existing road width and capacity it is considered no issues will arise in terms of traffic movements from construction activities. Details are given of vehicle movements during construction. An appropriate traffic management plan is to be developed by the main contractor. That a condition attached to planning will ensure that the aforementioned parameters and best practice are adhered to.
- 7.9.5. Section 5 refers to Construction Management and has regard to the parameters for site works noting that a site-specific construction management is to be developed. and. Details are given of site-specific measures proposed for the project, relative to maintaining water quality and protection. Regard is also had to pollution prevention measures to be implemented during the construction phase of the proposed works. Noting that a detailed construction waste management plan is to be prepared. That this plan will outline the proposals and methodology to achieve compliance with the current waste management and associated EPA legislation. They provide that the contractor shall be vigilant in ensuring that no activities will give rise to pollution of surface water pathways onsite with suspended solids or other polluting substances. They also seek to maximise the opportunity for re-use/recycling of materials.
- 7.9.6. I note the Council's Environment Section recommends that a Construction Environmental Management Plan (CEMP) to include a Waste Management Plan be

submitted. If the Board decides to permit, I would recommend, that it be conditioned that this be submitted for the written approval of the planning authority.

7.10. Access and Parking

- 7.10.1. The Site Layout Plan shows that it is proposed to provide access from the R725 via a new entrance point. This is to be separate and to the west of the existing entrance into the Glendale estate and nursing home. Also to provide pedestrian pathways and linkages. It is submitted that in overall terms that the site is well-located for the residential development as proposed with connection to existing footpaths, roads and services available.
- 7.10.2. The development site is connected to the town by footpath linkages. Provision of dedicated pedestrian and cycle linkages are proposed within the site. The Site Layout Plan submitted at F.I stage shows that it is proposed to provide a new footpath to tie into the existing from the southeastern part of the site. That it is proposed to incorporate an additional pedestrian access point at the closest point to Tullow and which has been designed solely for pedestrian use via the existing footpath. However, there are no cycle lanes along this section of the R725.
- 7.10.3. The Site Layout Plan shows the internal roads layout. As shown on the revised Plan submitted at F.I. stage, provision is made for a proposed future entrance to the adjoining lands (indicated as raised shared TableTop crossing), to be provided at the junction, with the estate road. This is to serve future residential development and enable connections to the adjoining site to the northeast. The development of these lands is not part of the subject application.
- 7.10.4. I would note that Section 7 of the Infrastructure Design Report submitted by the Consulting Engineers refers to Roads Infrastructure. This notes the locational context and that adequate sightlines in accordance with standards are available in each direction of the proposed development access to the R725. The proposed entrance is to be approximately 75m to the west of the existing entrance to the Nursing Home as sightlines at the existing entrance do not achieve the 150m sight line distance requirements in each direction as required in Section 16.10.7 of the current Carlow CDP – Table 16.5 refers.

- 7.10.5. It is noted that the new access road has provided connection to the existing nursing home to the east and for linkages for potential future development to the north and east of the proposed development. They provide that the proposed roads layout has been designed in accordance with the Design Manual for Urban Roads and Streets (DMURS) and the 'Recommendations for site development works for Housing Areas'. That this in order to tie the new portion of the development in with the existing partially complete housing units.
- 7.10.6. Details are given of the proposed internal layout and traffic calming measures. Reference is had to a change in surface materials and appropriate road markings and signage which shall serve to slow traffic speeds along longer lengths of road. Also, to the 2m wide footpaths which have been provided throughout the site with linkages to open spaces and with uncontrolled crossings. In addition, that pedestrian routes have been placed along pedestrian desire lines and designed into the landscaping plans.
- 7.10.7. Note is had, of the swept path analysis and reference is had to the drawings submitted showing this. Also, it is provided that the development provides adequate car parking spaces and that facilities for pedestrians are included in the internal layout. A Traffic Impact Assessment that has been carried out and this is summarised below.

Traffic Impact Assessment

- 7.10.8. Details have been submitted in the TIA of existing and proposed traffic conditions. This includes regard to the R725/Glendale Estate Priority Junction. This notes that the speed limit of the R725 at the access to the development is 60km/h. Regard is had to traffic generation and trip distribution and to use of traffic modelling (TRICS).
- 7.10.9. Reference is had to Future Development. The TIA notes that the lands adjacent to the proposed development form part of an overall masterplan of the residential zoned lands. Access to the residential development would be via the proposed R725/Development Access priority junction. A capacity assessment has been undertaken to determine the impact that the Phase 2 residential development will have on the proposed R725/Development Access priority junction with the masterplan for the residential lands fully operational. These figures relate to the

years 2024, 2029 and 2039. Full details of the predicted traffic flows are provided in Appendix C - Traffic Flow Sheets.

- 7.10.10. Section 5 of the TIA contains the Operational Assessment. This notes that traffic generated by the proposed development will have some effect on the local road network surrounding the site. The proposed R725/Development Access priority junction was assessed. Reference is had to Appendix C and to Appendix E – PICADY Results. The summary predictions shown, indicate that within the years outlined above, up to 2039, with the residential development operational and an increase in background flows the proposed R725/ Development Access priority junction operates within capacity with no queues and minimal delays during the AM and PM peak period.

Road Safety Audit

- 7.10.11. A Road Safety Audit (RSA) Stage 1/2 has been submitted with the application. This is to examine the road safety implications of the scheme. This notes problems and provides recommendations. The latter include to revise the internal roads layout at the bends to ensure that two vehicles can safely pass one another, and that adequate stopping sight distance is provided throughout. It also recommends provision of footpaths and crossing facilities within the internal roads layout of the scheme. That regard be had in the overall layout to the accessibility of parking and to cycle parking, including within the proposed storage units.
- 7.10.12. A 'Designer's Response to the Road Safety Audit' has been submitted by the applicants. They refer and provide a response to each of the problems and recommendations raised in the RSA. This includes reference to autotrack drawings submitted, drawings showing amendments to the layout, details of signage, footpath and crossing facilities to cater for drivers and pedestrians accessing the scheme both the internal roads layout and the public open space. They have included facilities to allow cyclists access the bicycle storage facilities as indicated on the drawings. They provide details relative to onsite parking for residents and note the provision of visitor parking. That adequate junction control to clearly define vehicular priority at all internal junctions has been provided. In addition, that dropped kerbs and tactile paving has been provided at the access junction, at junctions within the

development and at other locations within the development where pedestrians are expected to cross.

Special Development Contribution

7.10.13. It is noted that the Tullow Municipal Engineer does not object to the proposal and provides that the applicant has addressed pedestrian access points and bicycle storage areas as requested. They note that the applicant has indicated that they will not provide public lighting back into Tullow along the existing footpath and as such as stated in the application a contribution towards the lighting of the path should be sought. They advise that the cost of erecting lighting from the development back to the existing lights opposite the cemetery will cost in the order of €80,000.

7.10.14. Section 48 of the Planning and Development Act 2000 (as amended) refers to Development Contributions. Section 48(2)(c) to special development contributions:

A planning authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development.

7.10.15. Regard is had to Section 7.12 of the Development Management Guidelines. This includes that 'special' contribution requirements of a particular development may be imposed under section 48(2)(c) of the Planning Act where specific exceptional costs not covered by a scheme are incurred by a local authority in the provision of public infrastructure and facilities which benefit the proposed development. This includes: *A condition requiring a special contribution must be amenable to implementation under the terms of section 48(12) of the Planning Act; therefore it is essential that the basis for the calculation of the contribution should be explained in the planning decision. This means that it will be necessary to identify the nature/scope of works, the expenditure involved and the basis for the calculation, including how it is apportioned to the particular development.*

7.10.16. In this case if the Board decides to permit, I would not consider that such a condition for a special development contribution could be included as the local authority have not explained the basis for this calculation or given a breakdown of how the expenditure involved would be apportioned to the proposed development.

Parking

7.10.17. The TIA in Section 6 refers to car parking and notes that a total of 165 parking spaces will be provided to cater for the proposed residential development – the architects drawings contained in Appendix A refers. It has regard to parking standards in the previous Carlow CDP 2015-2021. They provide that for 70 dwellings 140 parking spaces are required. That the proposed residential development will provide for 154 parking spaces, with additional being provided to ensure adequate provision for visitors. That provision of spaces for drivers with impaired mobility will also be provided in the parking areas. They note policies for electric vehicle charge points in this CDP and in the Tullow LAP – Smart Travel Policy ‘TP4’ refers. They provide that in response the proposed development will incorporate provision of infrastructure for a total of 20 charge points. Overall, they submit that the parking provision is appropriate and in accordance with section 5.3 of the CCDP 2015-2021 and section 7.4 of the Tullow LAP and the Government’s Climate Action Plan.

7.10.18. I would now have regard to the standards in the current CDP 2022-2028. Section 16.10.11 and Table 16 refers to Car and Bicycle Parking Standards. For a Dwelling House this is given as 2 per unit (car) and 1 per unit (cycle) and Apartment/Flat – 1.5 per unit and 1 space per bedroom/studio. Table 16.6 provides: Car Parking and Loading Dimensions.

Section 16.10.11 includes the following:

- Age Friendly parking shall be provided where possible.
- Planting and Landscaping of all car parks shall be required.
- Parking facilities for mobility impaired drivers shall be appropriately sited and provided at a minimum rate of 5% where there is a requirement for 10 or more spaces.
- Lighting and car park signage as deemed appropriate by the P.A.

Section 16.10.12 refers to the provisions of EV Charging Points *for the charging of battery-operated cars in accordance with the standards in S.I. No. 393/2021 EU (Energy Performance of Buildings) Regulations 2021 or as maybe updated by national legislation and guidance.*

7.10.19. Section 16.10.13 to Cycling Parking noting that it shall be provided at a minimum in accordance with Table 16.7 and be conveniently located, secure, easy to use and adequately well sign posted. I would also note that there are no cycle lanes to and from Tullow town centre along this section of the R725, and that there is little public transport in the area, so the site is relatively car dependant. Storage buildings for bicycles are to be provided onsite.

7.10.20. As shown on the Site Layout Plan, while the majority of parking for the units is to be provided (2 spaces - per dwelling unit) onsite, parking for the 19no. retirement units in blocks M/N and O/P is to be provided in central communal parking areas to the south, in view of the compact nature of these sites. Parking for blocks E, F are also, to be provided centrally as is for part of block H. This is in view of the size and orientation of the sites and lack of road frontage. However, it must be noted that the parking standards in the current CDP have been complied with and that there is ample parking to be provided onsite.

Conclusion

7.10.21. The Council's Transportation Section notes that the subject proposal is served by a regional road (R725) carrying a daily traffic load of c. 4,040 vehicles within a speed limit of 60km/ph. They provide that having reviewed the supporting documentation and considered the Municipal Engineer's Report, in principle the Roads Section have no objection to the proposal.

7.10.22. If the Board decides to permit, I would recommend that an appropriate roads infrastructural condition regarding the access, internal roads layout, parking spaces to be marked out etc be included for the written agreement of the planning authority.

7.11. Drainage issues

7.11.1. The Infrastructure Design Report submitted includes regard to Surface Water Drainage and Foul Water Drainage and to Water Supply and the details are summarised as follows:

Surface Water Drainage

7.11.2. This notes that the 3.77ha site comprises rubble, gravel roads and concrete paths with a number of partially constructed foundations and ground level flood slabs. That

there are some partially complete surface water drains from the partially completed development however these have been ignored as the levels did not facilitate their reuse. They note that the existing Tullowphelim Stream runs west-east along the northern boundary of the site.

- 7.11.3. This Section has regard to existing and proposed surface water drainage and seeks to demonstrate compliance with the requirements of the Greater Dublin Strategic Drainage Study (GDSDS) and CCC. It details how the proposed development shall implement SuDS measures to achieve a surface water treatment process which will intercept surface water run-off and treat the water by filtration and treatment through natural material and convey this water to attenuation facilities.
- 7.11.4. They have regard to ground investigations carried out in 2022 and to infiltration testing, some trial holes having poor infiltration rates. They provide that the existing ground conditions have been determined to be predominantly Soil Type 3 for the purpose of surface water design. They provide details of proposed SuDS elements. These include Linear Bioretention Swales and Filter Drains to treat and reduce peak run-off rates prior to discharge into the surface water drainage system. Permeable Paving to be provided to each car parking space throughout the entire development. A Proprietary Surface Water Treatment System to include proposed Class 1 bypass petrol interceptors is to be incorporated into the drainage system to intercept run-off and improve the quality of surface water discharging into the receiving system in compliance with best drainage practice and SuDS requirements.
- 7.11.5. It is provided that the management and maintenance of the proposed Surface Water system and associated SuDS features for the entire site is the responsibility of the proposed development's Management Company. They note that the Management Company shall prepare a detailed maintenance schedule for each SuDS feature as part of the overall management strategy.
- 7.11.6. Section 4.5 of the Infrastructure Design Report provides details on the Design of the proposed SuDS. This describes the performance of the proposed surface water drainage system when measured against the relevant GDSDS drainage criterion. This includes River Quality Protection, River Regime Protection, Level of Service (flooding) for the site, and River Flood Protection. It provides that the requirements of SuDS are typically addressed through the provision of Interception Storage,

Treatment Storage (not required if interception storage is provided), Attenuation Storage and Long Term Storage. That the surface water network has been designed to comply with these criteria. Details are given relative to these methods of storage and their relevance to the site. Note is had of the Engineering Calculations included in the Appendices.

- 7.11.7. The Report provides that the lowest proposed floor level is set 1.0m above the highest water level on site, in addition to no pluvial out of manhole flooding occurring in the system. They refer to the proposed detention basin and that it will allow for the 1:100 year plus 20% climate change storm. That in the event of such a storm event exceeding this and the outfall becoming blocked, a high-level overflow is to be provided to allow a controlled discharge to the adjacent Tullowphelim Stream to the north of the site. That the Appendices demonstrate that no pluvial out of manhole flooding occurs when the outfall is set to the high level overflow and details are provided of levels. Having regard to River Flood Protection they note that the proposed Q_{bar} for the site is 14.9 l/s and as the surface water run-off generated on site does not exceed Q_{bar} there is no requirement for long term storage to limit the impact on the receiving watercourse.
- 7.11.8. Regard is had to the details as shown on the drainage drawings submitted. It is submitted that the proposed piped surface water network design parameters and the SuDS methods detailed which include the proposed surface attenuation and associated detention basin have been designed to accord with current standards. The Council's Environment Section does not object to the proposed development subject to conditions regarding surface water drainage.

Foul Drainage

- 7.11.9. The Infrastructure Report notes in Section 5 that there is an existing 225mm dia. concrete foul sewer and a foul rising main located to the south of the proposed development along the R725. The gravity sewer discharges foul to the existing Shillelagh Road Wastewater Pump Station located on the R725, 700m to the east of the site. That the existing rising main pumps effluent from the Shillelagh WWPS to a standoff manhole located adjacent to the existing Tullow graveyard located on the R725, 600m west of the site.

- 7.11.10. Details are provided of the Proposed Foul Drainage system. They refer to Engineering drawings submitted with the application. It is provided that the existing rising main from the Shillelagh Road Pumping Station shall be intercepted and a new stand-off manhole is to be constructed onto the R725 at the entrance to the proposed development.
- 7.11.11. The Site Layout Plan submitted shows a strip within the redline boundary to the northeast of the site described on the drawings as being provided: *To allow adjacent Nursing Home to discharge existing foul into proposed Type 3 FPS*. The Infrastructure Report provides that a new foul manhole and dedicated foul line shall be constructed to the east of the development which has been designed to cater for foul flows from the existing nursing home, existing residential units in the Glendale Estate development and future possible residential development on the applicant's land. That this length of foul sewer will allow the nursing home and adjacent residential units in the Glendale Estate discharge to the proposed Type 3 Foul Pumping Station (FPS) without the need to discharge to the Shillelagh Road.
- 7.11.12. Flows from the above in addition to foul flows from the proposed development shall be conveyed by gravity through the proposed underground network to the lowest point on the site at the proposed Type 3 Foul Pumping Station as illustrated on the drainage drawings. Further details relative to foul drainage are given in the Infrastructure Report, noting Foul Network calculations are given in Appendix F. It is stated that the foul sewer network has been designed in accordance with the principles and methods set out in Irish Water's Code of Practice for Wastewater Infrastructure. Details are given of the estimated peak foul loading generated by the proposed development.
- 7.11.13. They have regard to their pre-connection enquiry and to Irish Water's response concerning overloading of the existing system (Appendix E refers). As part of the Council's F.I request they noted that Irish Water has made a submission on this application indicating that the upgrade works to the Tullow Wastewater Treatment Plant are not expected to be completed until November 2023 and that there remains issues on network capacity in Tullow to be resolved. They were requested to engage with Irish Water and to submit evidence of a full connection agreement with Irish Water to facilitate the water servicing of the proposed development.

7.11.14. In response the Consulting Engineers provided that the Applicant confirms that no connection to the existing wastewater system shall be made until the Tullow Wastewater Treatment Plant is completed. They also note that they have engaged with Irish Water and their response states that potential network upgrade works required to facilitate the development can be resolved during the connection application process. Also, that Irish Water cannot issue a connection agreement for any until it has full planning permission.

7.11.15. Therefore, it appears that the upgrade of the Tullow Wastewater Treatment Plant is in progress, but no evidence has been submitted to say that it has been completed. If the Board decides to permit, I would recommend that connection works from the proposed development not commence until the upgrade has been completed.

Water Supply

7.11.16. The Infrastructure Report notes that the existing watermain is located along the R725 to the south of the proposed development as illustrated on the Irish Water web map included in Appendix B. That there is partially complete water infrastructure on the existing partially complete site, however, this shall be removed as part of the proposed development.

7.11.17. They provide details of the proposed connections to water supply. This includes that a watermain shall be installed on site and connect to the existing watermain present on the R725 to the south of the site. That the new bulk meter, watermain layout, connections, valves, hydrants, meters etc are designed in accordance with Irish Water's CoP for Water Infrastructure and current standards. The estimated peak hour water demand generated by the proposed development is given and reference is had to drainage drawings showing the proposed watermain layout submitted with the application.

7.11.18. They note that Irish Water have responded to their pre-connection enquiry with a Confirmation of Feasibility. They provide that a water connection is feasible without infrastructure upgrade by Irish Water. The IW enquiry and response are included in Appendices D and E of their Report.

7.12. Site Specific Flood Risk Assessment

- 7.12.1. The Tullow Local Area Plan includes the Land Use Zoning Map and a Map showing 'Lands to the East of Tullow' that incorporates OPW CFRAM mapping. This shows that the subject site is to the west of and is not within Flood Zones A or B. Also, potential flood risk from the Derreen River tributary (Tullowphelim Stream) to the existing residential site and to land zoned for agricultural uses. It is noted that the Coppengh Stream approaches from the northwest and floods agricultural land as a result of the limited capacity of a farm culvert.
- 7.12.2. A Site Specific, FRA has been carried out and submitted with the application. Figure 5 (OPW CFRAMS Extract) demonstrates that the site is outside of the low, medium and high probability flood zones. It notes that 2 nodes have been identified east and west of the site on the watercourse along the northern boundary. One node is located at the northwest of the site on the Tullowphelim Stream and the other is located at the northeastern corner of the adjacent property and is approx. 207m from the eastern boundary of the site. They note that the FFL of the lowest proposed building has been set at +81.26m OD which is 1.69m above the 0.1% flood level.
- 7.12.3. Reference is made to the Tullow Flood Defence Scheme, constructed from 2011-2012. The Scheme comprises of flood defence walls and embankments along the Slaney River and an upgrade of the drainage and details are provided of this. It is noted that the subject site is further to the east of this area, as the Slaney River runs through the centre of Tullow.
- 7.12.4. It is provided that the likelihood of Fluvial Flooding occurring on the site from the Tullowphelim Stream is low as the site is located outside the low medium and high probability risk areas. The site has been designed such that the lowest road level is +80.900m while the lowest house level is +81.206mm which is 1.33m and 1.69m above the 0.1% Flood Level of +79.570m in the adjacent Tullowphelim Stream. In addition, the lowest level of the site is the proposed level of the proposed Type 3 Foul Pumping Station which is set at +79.87m and provides 300mm freeboard to the 0.1%Flood Level in the Tullowphelim Stream. That the consequence of Fluvial Flooding occurring is low. They conclude that there is no residual risk as the site is located outside the low medium and high probability risk areas.

- 7.12.5. The SSFRA has regard to pathways and receptors for Pluvial Flooding – Table 1 refers. It is proposed to discharge surface water as shown on the Engineering Drawings and as described in the calculations of the Infrastructure Design Report submitted with the application. This notes that the application has demonstrated that no 'out of manhole' pluvial flooding occurs on site during a 1:100 year + 20% Climate Change event assuming that the outfall is blocked and the Tullowphelim Stream has reached its 1:100 Year fluvial flood event. They refer to a high-level discharge (as shown on the Engineering drawings) at Qbar is set at +79.50m which is 170mm above the adjacent Tullowphelim Stream 1% AEP Flood Level.
- 7.12.6. They note that the proposed surface water drainage network has been designed and adequately sized in accordance with GDSDS and best practice SuDS to accommodate flows in peak rainfall events. They refer to the calculations in Appendix C and provide that the likelihood of surcharging the onsite drainage system is considered low. Similarly, the likelihood of overland flooding from the surrounding areas is considered low. They provide that the surface water discharge from the proposed development will not be hydraulically connected to the surrounding drainage networks. That the likelihood of surface water discharge from the site leading to downstream flooding is low and is therefore a positive impact on the area.
- 7.12.7. That notwithstanding, that the drainage system has been designed to cater for a 1:100 year high intensity short duration storm events plus 20% Climate Change in line with the precautionary approach principle adopted in the Flood Risk Management. That the site has been designed considering over-land flow paths through the site to the lowest point of the detention basin. That in localised high points, roadside swales have been provided which intercept overland flows and direct surface water into the surface water drainage network. That the likelihood of pluvial overland flooding from the subject site is low.
- 7.12.8. Having regard to Groundwater they note that as the entire site falls within an area of high groundwater vulnerability and with no known history of ground water/springs seeping through the ground in this area, the likelihood of ground water levels rising through and seeping out at ground level is low. Reference is had to Appendix A Geotechnical Interpretative Report. They note that the minimum habitable building FFLs have been set to ensure that any seepage of ground water onto the development does not flood the blocks. The maximum recorded ground water levels

have been recorded at +79.57m OD while the minimum habitable +81.26mOD. They provide details relative to Human/Mechanical Error and submit that as a result of the flood risk management outlined, there is a low residual risk of flooding.

7.12.9. A Source-Pathway-Receptor Model is used to assess and inform the management of the flood risk. The likelihood, consequence and risk associated with each component have been assessed and mitigation measures are also summarised. Table 2 of the SSFRA provides a Summary of Source-Receptor-Pathway model assessment and in summary finds as follows:

- Tidal – No residual Risk
- Fluvial – Habitable Ground FFLs and roads set above the adjacent watercourse 1% and 0.1% Fluvial flood levels.
- Pluvial – Low Risk
- Ground Water – Low Risk
- Human/Mechanical Error – Low Risk.

7.12.10. Section 6 refers to 'The Planning System and Flood Risk Management Guidelines for Planning Authorities (2009)'. This refers to the Sequential Approach and Justification Tests procedures. This makes use of flood risk assessment and of prior identification of flood zones for river and coastal flooding and classification of the vulnerability to flooding of different types of development. Table 3.1 of the Guidelines provides a 'Classification of Vulnerability of different types of development'. This notes that residential is highly vulnerable. Table 3.2 provides a 'Matrix of vulnerability versus flood zone to illustrate appropriate development and that required to meet the Justification Test'. As has been noted the application site is not within Flood Zones A or B, residential is appropriate in Flood Zone C. Therefore, a Justification Test is not required in this case.

7.12.11. The Summary Conclusion notes that the subject site has been analysed for risks from flooding in accordance with the said Guidelines. The site is located in Flood Zone C, and design measures have been adopted as part of the proposed development to mitigate risks against flooding. The primary flood risks identified for the proposed development site are fluvial attributed to the adjacent Tullowphelim

Stream and pluvial, however the risks are deemed to be low. Having regard to all these issues, I would concur that a Justification Test is not necessary in this case.

8.0 Appropriate Assessment

8.1. Stage 1 - Screening

Compliance with Article 6(3) of the Habitats Directive

- 8.1.1. The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.
- 8.1.2. In accordance with the obligations under the Habitats Directives and implementing legislation, to take into consideration the possible effects a project may have, either on its own or in combination with other plans and projects, on a European site; there is a requirement on the Board, as the competent authority, to consider the possible nature conservation implications of the proposed development on the Natura 2000 network, before making a decision, by carrying out appropriate assessment. The first stage of assessment is 'screening'.
- 8.1.3. The methodology for screening for Appropriate Assessment as set out in EU Guidance and the Department of Environment, Heritage and Local Government is:
 - 1) Description of the plan or project and local site or plan area characteristics.
 - 2) Identification of relevant European sites and compilation of information on their qualifying interests and conservation objectives.
 - 3) Assessment of likely significant effects-direct, indirect, and cumulative, undertaken on the basis of available information.
 - 4) Screening Statement with conclusions.
- 8.1.4. The Applicant submitted an Appropriate Assessment Screening Report and an Appropriate Assessment Stage II Report: Natura Impact Statement. These Reports have been prepared by Flynn Furney Environmental Consultants. The purpose of these reports is to examine the development for possible impacts on the integrity of the Natura 2000 network.

- 8.1.5. This Section deals with the Stage 1 Appropriate Assessment Screening report which 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. Having reviewed the document, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

Project Description

- 8.1.6. In summary the proposed development is for the completion of works to existing buildings as constructed on site pursuant to permissions 03/572 and 08/438 along with the erection of 8no. semi-detached dwellings to provide for 70 no. dwelling units and all associated site works at Glendale Estate, Shillelagh Road, Tullow. This includes for completion and provision of open space and infrastructural works, including access, internal roads layout and drainage.
- 8.1.7. The project area is not within but is hydrologically connected to the *River Slaney Valley SAC (site code. 000781)* via a small stream bordering the north edge of the area, which drains into the Derreen River ca.700m to the east. The works area lies within the Slaney and Wexford Harbour 12 WFD catchment, Slaney_SC_030 sub catchment (Figure 2 of the Screening Report).
- 8.1.8. The principal risks posed from the proposed project relate to the potential losses of suitable habitat for birds and mammals within the site and its immediate vicinity and potential losses of polluting material to any of the Natura 2000 sites nearby during development. Long term risks include habitat fragmentation and species disruption due to increased noise and light levels from the operation of the estate.

European Sites

- 8.1.9. The AA Screening notes that there are three European Sites within 15k boundary of the site. These are shown listed on Table 3 of the Screening Report and are as follows:
- Slaney River Valley SAC (site code:000781) – c. 271m from the project site.
 - Holdenstown Bog SAC (site code: 001757) – c.11.5m distant
 - River Barrow and River Nore SAC (site code: 002162) – c.14kms distant.

No potential for impacts

8.1.10. The Screening Report provides that no potential for impacts that might have negative effects on the conservation objectives of the River Barrow and River Nore SAC or the Holdenstown Bog SAC are considered likely due to the following:

- 1) Lack of connectivity between the proposed works and the designated area.
- 2) Significant buffer between the proposed works and the designated area
- 3) Nature of the designated sites conservation objectives
- 4) Nature of the proposed development
- 5) No impact or change to the management of the designated area or;
- 6) No change to chemical or physiological condition of the designated site as a result of the proposed development;

8.1.11. It provides that applying the concept of source-pathway-receptor model, the proposed development does not present potential for a source of effects on these sites and there is no identifiable direct pathway between these sites and the proposed development. That there is therefore no need to consider these Natura 2000 designated sites further.

Potential for impacts

8.1.12. Regard is had to the source-pathway-receptor approach. The Slaney River Valley SAC is within 200m of the development over land but is connected directly by the adjacent stream (pathway) which flows into the SAC. This European Site is identified as having hydrological pathways and being at risk of likely significant effects from the project.

The Qualifying Interests and General Conservation Objectives of the Slaney River Valley Designated Natura 2000 are shown on Table 1 below.

European Site (code) and distance from proposed development	List of Qualifying interest/Special Conservation Interest	General Conservation Objectives	Connections (source, pathway receptor)	Considered in further screening Y/N
Slaney River Valley SAC 000781 c.200m southeast	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Atlantic salt meadows (Glauco-Puccinellietalia maritimae) [1330]</p> <p>Mediterranean salt meadows (Juncetalia maritimi) [1410]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitriche-Batrachion vegetation [3260]</p> <p>Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]</p> <p>Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) [91E0]</p> <p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Lampetra fluviatilis (River Lamprey) [1099]</p>	To maintain or restore the favourable conservation condition of the Annex I habitats(s) and/or the Annex II species for which the SAC has been selected.	<p>There is source – pathway-receptor connectivity between the proposed development and the Slaney River Valley SAC</p> <p>This is within c.200m of the southern part of the site and the SAC is hydrologically connected, via the stream to the north of the site.</p>	Yes

	Alosa fallax fallax (Twaité Shad) [1103] Salmo salar (Salmon) [1106] Lutra lutra (Otter) [1355] Phoca vitulina (Harbour Seal) [1365]			
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Assessment of likely Effects (Direct/Indirect)

8.1.13. This has regard to the direct, indirect, and cumulative effects undertaken on the basis of available information (as submitted). It is noted that the development site is not located within or adjacent to a Natura 2000 site. The project is not directly connected with or necessary for the future conservation management of any European Site. Therefore, no Habitat loss/ fragmentation will occur.

Slaney River Valley SAC

8.1.14. Note is had in the Table above of the qualifying interests and conservation objectives relative to this SAC. The overall Conservation Objective for the qualifying features of interest of the Slaney River Valley SAC is to maintain or restore the favourable conservation status of these features of interest.

8.1.15. Table 4 of the Screening Report provides a summary of: *Likely changes to the Natura 2000 site*. In summary this includes the following:

- No works will take place within the boundary of the Natura 2000 site.
- Construction of housing could cause potential disruption of European Badger and European Otter transport networks.
- Any pollution to the river adjacent to the site will likely reach the nearby SAC and any species within. Changes to any watercourse flowing into an SAC can affect species composition.
- The IUCN Red List of Threatened Species, notes Residential and Commercial Development and Pollution as two of the ongoing threats facing European Otter populations in Western Europe. (IUCN, 2021).

- Excess spill and intensity of artificial lighting can disrupt the flight routes and food availability of Daubenton's Bat. The two main threats to this species are Pollution to surface waters and Light pollution.
- The European Badger and European Otter often use multiple foraging routes. Severance of one or more foraging pathway may lead to greater fragmentation over time reducing habit holding capacity and future species density.
- Uncontrolled spread of INNS from the site can negatively impact species density in the habitats they invade. Likelihood of species spread to the nearby SAC increases with time left untreated.
- Pollution of large water bodies often stems from multiple smaller sources. Any form of pollution to the adjacent river could affect water quality within the SAC.
- No damage to any sites as a result of climate change predicted.
- The likelihood of interference with the key relationships that define the structure and function of the Natura 2000 Site as a whole is considered to be low to moderate:
 - Impacts upon the water course within the SAC will only arise if a pollution event occurs.
 - Negative impacts from excess artificial lighting upon invertebrate and mammal populations are dependent on the degree of light spill and intensity.
 - Habitat fragmentation due to loss of foraging routes depends on the connectivity of other habitats in the area and whether the site can still facilitate transport post-development.

Development of individual elements of the project likely to give rise to impacts on the Natura 2000 site include:

- Loss of sediment, cement or other polluting materials to the watercourse of groundwater may negatively affect water quality flowing into the SAC.
- Loss of unit semi-natural areas will contribute to the inability of the site to act as a habitat corridor.

- Increases in lighting and noise from construction may negatively impact invertebrate populations and /or species that feed on them.
- Uncontrolled INNS could spread into the SAC and reduce native species density.

Description of any Likely Significant Impacts/Indeterminate Impacts

- Negative effects on water flowing into the nearby SAC (change in pH reduction in light permittivity, changes in dissolved oxygen/mineral levels) could reduce its holding capacity for invertebrates and aquatic plants, upon which many of the protected water bird species listed as conservation objectives for the Slaney River Valley SAC feed on.
- The loss of habitat corridors over time for terrestrial mammals, including European Otter and European Badger, could reduce the overall area's holding capacity for said species by reducing connectivity to foraging areas, breeding sites or new habitat to expand into.
- Increases in light pollution can reduce the density of invertebrates which are a food source for multiple species listed as conservation objectives for the Slaney River Valley SAC. Light pollution can also disrupt mammal foraging routes.

Screening Statement Conclusion

- 8.1.16. The AA Screening Report provides that elements of the project that may give rise to impacts include but are not limited to, concreting, refuelling of plant, tarmac surfacing, plumbing and the installation of other underground services during construction, as well as potential habitat loss and light pollution from the operation of the development.
- 8.1.17. It provides that given the nature and scale of the proposed development and the connectivity to the designated site, in particular the proximity to the river flowing into the nearest SAC, it cannot be assumed that impacts on the said designated site are unlikely. That in conclusion, significant impacts to the Slaney River Valley SAC cannot be ruled out as a result of the proposed project. That it is therefore concluded that an Appropriate Assessment Stage II is required.

Conclusion – Stage I AA

8.1.18. In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude in the Screening for Appropriate Assessment of the project, that the proposed development is likely to have a significant effect on European Site Nos.000781, in view of the sites Conservation Objectives. It is therefore determined that an Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is required on the basis of the effects of the project.

8.2. Stage II Appropriate Assessment

8.2.1. The requirements of Article 6(3) as related to appropriate assessment of a project under part XAB, sections 177U and 177V of the Planning and Development Act 2000 (as amended) are considered fully in this section. The areas addressed in this section are as follows:

- Compliance with Article 6(3) of the EU Habitats Directive
- Screening the need for appropriate assessment
- The Natura Impact Statement and associated documents
- Appropriate assessment of implications of the proposed development on the integrity each European site.

Compliance with Article 6(3) of the EU Habitats Directive

8.2.2. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal will not adversely affect the integrity of the European site before consent can be given.

The need for AA

- 8.2.3. Following the screening process, it has been determined that Appropriate Assessment is required for the following Natura 2000 site as it cannot be excluded on the basis of the objective information submitted in the Screening Report for AA:

- Slaney River Valley SAC (site code 000781)

Measures intended to reduce or avoid significant effects have not been considered in the screening process, but have been put forward in the context of the NIS.

The Natura Impact Statement

- 8.2.4. The Stage 2 NIS submitted examines and assesses potential adverse effects of the proposed development on the European Site, and regard is had to the Site Synopsis (details from the NPWS website).

Slaney River Valley SAC (site code 000781)

The Site Synopsis (Appendix III of the NIS) relevant to the River Slaney SAC details the general attributes and qualifying interests and conservation objectives of the site.

Analysis of Potential Impacts on Natura 2000 site

- 8.2.5. The principal risks posed from the project proposal relate to surface water discharge from the site during the construction phase that may contain elevated sediment/nutrient levels impacting on the integrity of the Slaney River Valley SAC to the east via the small stream adjoining the works area to the north, as well as long-term changes in the composition of surface water runoff during the operations phase of the project impacting on the protected site or any watercourses draining the project area.

- 8.2.6. An Ecological Assessment of the site relative to the SAC has been included in Section 4 of the NIS. This includes that since the proposed works area lies entirely outside the boundaries of the SAC, with limited direct connectivity, it is the potential for indirect impacts on the aquatic qualifying interests of the European site that are associated with the Derreen River that are of principal concern in this assessment. The designated area immediately to the southeast of the works area is an area of heavily modified agricultural land, designated based on historical flooding regimes. A heavily modified watercourse runs along the northern edge of the proposed works area, separating it from a large tillage field to the north. The watercourse runs under

a culvert for approx.200m before passing under the road and entering the SAC at its confluence with the Derreen River (Figure 3 of the NIS relates).

Appropriate Assessment of the implications of the proposed development

- 8.2.7. The Screening for AA identified that the potential impacts that could (without mitigation) cause a significant effect on the qualifying interests and thereby undermine the conservation objectives of the Slaney River Valley SAC during the proposed construction works, including any impacts on water quality resulting from the construction phase of the proposed development. Uncontrolled runoff could enter into the adjacent riparian and aquatic habitats adversely affecting the quality of these habitats and the aquatic species they support within these Natura 2000 sites. That the application of preventive measures will ensure that impacts do not reach the SAC and that adverse effects on the relevant qualifying interests can be avoided.

Mitigation Measures

- 8.2.8. Construction and operational phase mitigation measures are required on the project site in view of the construction works proposed and in the absence of mitigation would lead to silt laden and contaminated runoff entering existing surface water drainage network, streams, and the environment. Table 1 of the NIS provides details on the: *Slaney River Valley SAC 000781 – Qualifying interests, potential for impact and proposed mitigation*. This relates to each of the Qualifying interests within the SAC and potential for impact. The mitigations proposed in this Table are aggregated as they constitute the same outcome for all of the Qis listed – reduced sedimentation, siltation and other changes in water quality resulting from discharge of contaminated surface runoff from the proposed works area. This along with the Potential for Impact and Mitigation measures are summarised below.

Construction Mitigation

- While the watercourse to the north of the works area will not be directly impacted, and there is a vegetated buffer between the site boundary and the watercourse, given the lack of site hoarding along that boundary, a silt fence is to be installed along the length of the interface with the watercourse as additional protection.

All water protection measures laid out in the CEMP to be followed, including the following:

- Excavation works to be in accordance with the requirements of the Office of Public Works (OPW) and the Irish Fisheries Ireland (IFI).
- Pollution prevention measures in accordance with the guidance from the IFI (2016). This will include the installation sediment traps and culverting of drainage ditches 'in the dry', where required.
- No direct discharges made to storm or land drains where there is potential for cement or residues to discharge.
- Designated impermeable cement washout areas must be provided.
- Any in-situ concrete work to be lined and areas bunded (where possible) to stop accidental spillage.
- Temporary storage of waste material on site at approved location prior to removal to an accepting waste disposal facility.
- All new infrastructure to be installed and constructed to the relevant codes of practice and guidelines.
- Surface water infrastructure to be pressure tested by approved method during construction phase.
- Connection to the public network be to carried out to the approval and /or under the supervision of the Local Authority.
- All new sewer to be inspected by CCTV survey post construction to identify any possible physical defects for rectification prior to operational stage.
- Care will be required for the environmental management of the site to ensure that no potential contamination issues are experienced which may impact on the overall surface water quality.
- Potential issues can be mitigated against by ensuring that the development's environmental management plan is adhered to prevent accidental on-site oil spillages and the regular maintenance of on-site plant to eliminate potential risks.

- Implement best practice construction methods and practices complying with relevant legislation to avoid or reduce the risk of contamination of watercourses or groundwater.
- Surface water runoff from areas stripped of topsoil and surface water collected in excavations will be directed to on-site settlement ponds where measures will be implemented to capture and treat sediment laden runoff prior to discharge of surface water at a controlled rate.
- Weather conditions and seasonal weather variations shall be taken into account when planning excavations, to minimise soil erosion.
- Concrete batching will take place off site or in a designated area with an impermeable surface.
- Concrete wash down and wash out of concrete trucks will take place off site or in an appropriate facility.
- Discharge from any vehicle wheel wash areas is to be directed to onsite settlement ponds.
- Oli and fuel stored on site for construction to be store in designated areas. These areas to be bunded and located away from surface water drainage and features.
- Refuelling of construction machinery to be undertaken in designated areas away from surface water drainage to minimise potential contamination of the water environment. Spill Kits required.
- Storage of fuels and oils classified as hazardous materials in designated site compound areas.
- Hazardous construction materials to be stored appropriately to prevent contamination of watercourses or groundwater.
- Dewatering measures to be only employed where necessary.
- Inspection and monitoring of the impact of construction works on surface water networks.

- Disposal and discharge of any wastewater from the site to designated settlement ponds or as necessary to a licensed facility.
- All design measures laid out in the architects and engineering construction plans with regard to surface water drainage, attenuation areas and attenuation tanks to be adhered to, to remove the risk of watercourse contamination during the operational phase of the project. They refer to Appendix 1 for surface water and foul water drainage plans and reference the drawings.

Table 2 – AA summary matrix for the Slaney River SAC (Table 1 of the NIS refers)

Slaney River Valley SAC (Site Code 000781) Summary of Key issues that could give rise to adverse effects <ul style="list-style-type: none"> ○ Potential water pollution - Water Quality and water dependant habitats ○ Potential sedimentation from surface water runoff - Water Quality and water dependant habitats. 					
		Summary of Appropriate Assessment			
Qualifying Interest feature	Conservation Objectives	Potential adverse effects	Mitigation measures	In-combination effects	Can adverse effects on integrity be excluded?
	Targets and attributes (as listed in detail in the Conservation Objectives in the NPWS website for the Slaney River Valley SAC: (site code: 000781)	Habitat degradation Dust deposition Pollution Silt Ingress from site runoff Downstream impacts Negative impacts on the aquatic environment, aquatic species and qualifying interests.	Mitigation measures required and detailed in full in Table 1 of the NIS		

		If this were to occur during construction, it could lead to a localised degradation of habitat quality.			
The following Qualifying interests of the Slaney River Valley SAC are present in the SAC (as stated in Table 1 of the NIS as having the potential for adverse effects):					
Freshwater Pearl Mussel	The status of the freshwater pearl mussel (as a qualifying Annex II species for the Slaney River Valley SAC is currently under review.	As above	As above	None	Yes
Atlantic Salmon (only in freshwater)	To restore the favourable conservation condition of Salmon in the Slaney River Valley SAC, which is defined by a list of attributes and targets. No decline, subject to natural processes	As above	As above	None	Yes
Brook Lamprey	To restore the favourable conservation condition of Brook Lamprey in the Slaney River Valley SAC, which is defined by a list of attributes and targets.	As above	As above	None	Yes

	No decline, subject to natural processes.				
River Lamprey	To restore the favourable conservation of River Lamprey in the Slaney River Valley SAC, which is defined by a list of attributes and targets. No decline, subject to natural processes	As above	As above	None	Yes
Otter	To restore the favourable conservation condition of Otter in the Slaney River Valley SAC, which is defined by a list of attributes and targets. No significant decline, subject to natural processes	As above	As above	None	Yes
Twaite shad	To restore the favourable conservation condition Twaite shad in the Slaney River Valley SAC, which is defined by a list of attributes and targets	As above	As above	None	Yes

	No decline, subject to natural processes				
Sea Lamprey	To restore the favourable conservation condition	As above	As above	None	Yes
Water courses of plain to montane levels etc.	To maintain the favourable conservation condition	As above	As above	None	Yes
Other Qualifying interests of the Slaney River Valley SAC that are not listed as having the potential for being impacted by the proposed development (Table 1 of the NIS) - include the following:					
Estuaries	<p>To maintain the favourable conservation condition of Estuaries in the Slaney River Valley SAC, which is defined by a list of attributes and targets.</p> <p>No decline, subject to natural processes</p>	None - Absent	None	None	Yes
Common (Harbour Seal)	To maintain the favourable conservation condition of the Harbour Seal in the Slaney River Valley SAC, which is defined by a list of attributes and targets.	None - Absent	None	None	Yes

	No decline, subject to natural processes				
Atlantic salt meadows	To maintain the favourable conservation condition of Atlantic salt meadows which is defined by a list of attributes and targets. No decline, subject to natural processes	None - Absent	None	None	Yes
Mudflats and sandflats not covered by seawater at low tide	To maintain the favourable conservation condition of Mudflats and sandflats not covered by seawater at low tide in the Slaney River Valley SAC, which is defined by a list of attributes and targets. No decline, subject to natural processes	None - Absent	None	None	Yes
Mediterranean salt meadows	To restore the favourable conservation condition	None - Absent	None	None	Yes
Alluvial forests	To restore the favourable conservation condition	None - Absent	None	None	Yes

Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles.	To restore the favourable conservation condition	None - Absent	None	None	Yes
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Evaluation of Mitigation Measures

- 8.2.9. The NIS provides that a robust series of mitigation measures are proposed. That these would ensure that surface water runoff from the proposed works site is clean, uncontaminated and that construction works would not significantly impact on the stream to the north of the site and downstream to the Natura 2000 site.
- 8.2.10. That the project design together with adherence to the relevant mitigation measures set out in Table 1 of the NIS will ensure that potential residual impacts do not arise and that the project itself will not prevent or obstruct the Qualifying Interests or Special Conservation Interests of the Slaney River Valley SAC from reaching or maintaining favourable conservation status.

In Combination Effects

- 8.2.11. Section 4.3 of the NIS provides that the proposed development was considered in combination with other plans or projects in the area that could result in cumulative effects on European Sites. That a search of the online planning system for Carlow County Council for recent (within the last 3 years) planning applications was carried out on 16th of May 2022. No other applications other than the present one were found in the vicinity of the project area. They also noted that there are no other cases on appeal in the vicinity of the project area that could contribute to a cumulative effect from the project. They also consulted the EPA website and no active licenses, permits or discharge points were found in the vicinity of the project that might contribute to a cumulative effect from the project.

Conclusion of the NIS

- 8.2.12. It has been concluded in the NIS that significant effects on the integrity of the Slaney River Valley SAC are likely from the proposed works in the absence of mitigation measures. This is primarily as a result of hydrological connection via a pathway in the form of the small stream to the north of the site which is connected to the

Derreen River. This NIS notes that it is a heavily modified low gradient agricultural drain however and lies a considerable distance from the SAC. They provide that the works therefore pose little risk of significant impact on any of the qualifying interests of the European site. That mitigation measures for further impact reduction have been proposed in the NIS, the implementation of which will remove any potential to adversely affect the conservation objectives of Slaney River Valley SAC.

- 8.2.13. The NIS concludes that in light of the objective scientific information, that when the above mitigation measures are implemented, the project, individually or in combination with other plans and projects, will not have an adverse effect on the integrity of any Natura 2000 site, in view of their conservation objectives and in view of best scientific knowledge.

Appropriate Assessment Conclusion

- 8.2.14. Therefore, based on the information provided in the NIS, it can be concluded that the proposed development, has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 as amended.
- 8.2.15. Having carried out Screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on Slaney River Valley SAC. Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of European site Nos. 000781 in light of the conservation objectives.
- 8.2.16. It has been concluded in the NIS that subject to the implementation of the mitigation measures outlined that there are no significant likely negative effects on the Slaney River Valley site. Potential impacts from construction and operation will be removed with the prevention measures built-in to the project and the mitigation measures as set out in Table 1 of the NIS. Therefore, it may be concluded, in light of best scientific knowledge that the project will not have any significant effect on the integrity of the Natura 2000 site network, in particular on the Slaney River Valley SAC. That neither will it have any influence on the attainment of the site conservation objectives
- 8.2.17. 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 Nos. 000781, or any other

European site, in view of the site's Conservation Objectives. 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.

9.0 Recommendation

- 9.1. Having regard to the above assessment, I recommend that planning permission be granted subject to the conditions below.

10.0 Reasons and Considerations

Having regard to the planning history of the site, the provisions of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, which are Section 28 Guidelines, issued by the Department of Housing, Local Government and Heritage in January 2024, the Carlow County Development Plan 2022-2028, and to the Tullow Local Area Plan 2017-2023, to the residential land use zoning of the site, to the nature of the proposed development and to the pattern of development in the surrounds, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or the amenities of property in the vicinity and would constitute an acceptable form of development at this location. 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 and as amended by further plans and particulars submitted on the 11th of May 2023 and by the further plans and particulars received by An Bord Pleanála on the 27th of July 2023, 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 interests of clarity.

2. (a) As shown on the Site Layout Plan submitted on the 11th of May 2023 (drawing no. P18 - 502), this permission relates to the completion of 62 number units and the provision of 8 number semi-detached units, and all associated infrastructure and site works.
- (b) The construction of the 8no. semi-detached units shall not be commenced until the 62no. existing units and all associated infrastructure and site works as proposed have been completed, in accordance with the written agreement of the planning authority.
- (c) Blocks M, N, O and P shall be completed and retained for use as retirement units in accordance with the written agreement of the planning authority.

Reason: In the interests of clarity and sustainable development.

3. Prior to the commencement of development, the developer shall submit details of the following for the written agreement of the planning authority:
 - (a) Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
 - (b) All bathroom windows shall be obscure glazed.
 - (c) Bulk stores nos. one and two shown within the open space in the southern area of the site shall be redesigned and amalgamated into one building and be located adjoining the bicycle store and to the rear of parking spaces.

Reason: In the interests of residential amenity.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations 2001, as amended, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the units, without a prior grant of planning permission.

Reason: In the interest of the amenities of the area.

5. (a) 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, that restricts all houses 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.
- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated, to the satisfaction of the planning authority, that it has not been possible to transact each specified house or duplex unit for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified residential units, in which case the planning authority shall confirm in writing to the developer or any person with an interest in the land, that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good in accordance with the 'Regulation of Commercial Institutional Investment in Housing Guidelines for Planning Authorities', May 2021.

6. The mitigation and monitoring measures outlined in the plans and particulars including the Natura Impact Statement relating to the proposed development, shall be implemented in full or as may be required in order to comply with the following conditions. Where any mitigation measures set out in the Natura

Impact Statement or any conditions of approval required further details to be prepared by or on behalf of the local authority, these details shall be placed on the file and retained as part of the public record.

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

7. The site including the areas of open space and the detention basin area shown on the approved plans shall be landscaped in accordance with a landscape scheme which shall be agreed in writing with the planning authority prior to the commencement of development. The landscape scheme shall be implemented fully in the first planting season following completion of the development, and any trees or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. This work shall be completed before any of the dwellings are made available for occupation.

Reason: In order to ensure the satisfactory development of the open space areas, and their continued use for this purpose.

8. Final details of all proposed site boundary treatments shall be agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual and residential amenities.

9. The access from the public road and internal road and vehicular circulation network serving the proposed development, including turning bays, parking areas, footpaths and kerbs, signage and traffic calming measures, shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in the Design Manual for Urban Roads and Streets (DMURS), issued by the Department of the Environment, Community and Local Government in March 2019, as amended. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of amenity and of traffic and pedestrian safety.

10. 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 services.

Reason: In the interest of public health.

11. The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development. A Confirmation of Feasibility for connection to the Irish Water network shall be submitted to the planning authority prior to the commencement of development.

Reason: In the interest of public health.

12. Public lighting shall be provided in accordance with a final scheme to reflect the indicative details in the submitted Public Lighting Report, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development/installation of lighting.

Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interests of amenity and public safety.

13. 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.

Reason: In the interests of visual and residential amenity.

14. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

15. A management plan for the control of alien invasive species, including a monitoring programme, shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of visual amenity and to prevent the spread of alien plant species.

16. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

17. The construction of the development shall be managed in accordance with a Construction Environment 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 the intended construction practice for the proposed development, including measures for the protection of existing residential development, hours of working, traffic management during the construction phase, noise and dust management measures and off-site disposal of construction/demolition waste.

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

18. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each unit shall be submitted to, and agreed in writing with, the planning authority not later than six months from the date of commencement of the

development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

19. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness, these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

20. Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours 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.

21. Prior to commencement of development, the developer or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the

matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

22. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

23. 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.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Professional Declaration

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.

Angela Brereton
Planning Inspector

21st of June 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317669-23			
Proposed Development Summary	Completion works to existing buildings as constructed on site pursuant to permissions 03/572 and 08/438 along with the erection of 8no. semi-detached dwellings and all associated site works. This application is accompanied by an NIS.			
Development Address	Glendale Estate, Shillelagh Road, Tullow, Co. Carlow.			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓	
		No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes		Class 10(b), Schedule 5 Part 2	EIA Mandatory EIAR required	
No	✓	Below Threshold	Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No		N/A		No EIAR or Preliminary Examination required
Yes	✓	10(b), Schedule 5 Part 2		Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	✓	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____

Appendix 2 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-317669-23	
Proposed Development Summary	Completion works to existing buildings as constructed on site pursuant to permissions 03/572 and 08/438 along with the erection of 8no. semi-detached dwellings and all associated site works. This application is accompanied by an NIS.	
Development Address	Glendale Estate, Shillelagh Road, Tullow. Co. Carlow	
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.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, emissions or pollutants?	The proposed development to include 70 units (stated area 3.77ha) is within the Tullow settlement boundaries Carlow County Development Plan 2022-2028 (Map 15.3 relates) and within an area zoned residential in the Tullow Local Area Plan 2017-2023 The proposed development is to connect to public services. As per the documentation submitted, including regard to Construction Management it will not result in significant emissions or pollutants.	No No
Size of the Development Is the size of the proposed development exceptional in the context of the existing environment? Are there significant cumulative considerations having regard to other existing and/or permitted projects?	This proposal is for the construction of 8no. units and the completion of 62no. residential units previously granted permission (70 units in total) and is well below the threshold of 500 units and below 10ha as per Class 10(b) of Schedule 5 of Part 2 of the Planning and Development Regulations 2001 (as amended). Please refer to the Planning History Section of this Report. No significant cumulative considerations	No No
Location of the Development Is the proposed development located on, in,	Residential Development on serviced site on zoned lands and proposal includes regard to surface water drainage and the incorporation of SuDS. A Flood Risk Assessment has been submitted and the Justification	No

<p>adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>Test is not required as the site is not with Flood Risk zones A and B.</p> <p>The proposal includes the implementation of SuDS in surface water drainage. This has been assessed in the documentation and shown on the drawings submitted, and it is concluded that it will not have a significant effect. Separately an NIS has been submitted.</p>	<p>No</p>
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required</p>	<p>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</p> <p>Schedule 7A information required to enable a Screening Determination to be carried out.</p>	<p>There is a real likelihood of significant effects on the environment.</p> <p>EIAR required.</p>

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)