



An  
Bord  
Pleanála

## Inspector's Report

### ABP-318365-23

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<b>Development</b>	132 no. residential units and a creche
<b>Location</b>	Blackparks, Athy, Co. Kildare ( <a href="http://www.blackparksathyld.ie">www.blackparksathyld.ie</a> )
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	23/656
<b>Applicant</b>	ESJ Blackparks Limited
<b>Type of Application</b>	Large-Scale Residential Development (LRD)
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Parties v Grant of Permission
<b>Appellants</b>	<ol style="list-style-type: none"><li>1. Kevin &amp; Geraldine Carton</li><li>2. Tonlegee Lawns Residents Association</li><li>3. Brian &amp; Caroline Watchorn</li><li>4. Paddy &amp; Tina O'Donoghue</li></ol>
<b>Observers</b>	<ol style="list-style-type: none"><li>1. Mark Kerrigan &amp; Ita Flood</li></ol>

**Date of Site Inspection**

18<sup>th</sup> December 2023

**Inspector**

Anthony Kelly

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## 1.0 Site Location and Description

- 1.1. The site is located in Athy in south west Co. Kildare, approximately 500 metres south west of the zoned town centre area.
- 1.2. The subject site comprises a flat, greenfield site. The housing developments of Holmcroft and Tonlegee Lawns are adjacent to the north of the subject site and Branswood is adjacent to the west. The recently opened Athy Distributor Road forms the southern boundary, and Fortbarrington Road runs along the eastern boundary.
- 1.3. The site has a gross area of 4.21 hectares and a net area of 3.79 hectares.

## 2.0 Proposed Development

- 2.1. The proposed development will comprise 132 no. residential units and a two-storey creche.
- 2.2. The residential units comprise:
  - 102 no. two storey semi-detached/terraced houses (2 no. two-beds, 77 no. three-beds, and 23 no. four-beds),
  - 30 no. three storey duplexes/apartments (15 no. one-bed, 15 no. two-beds) in two blocks,with associated private gardens/balconies/terraces facing north/south/east/west.
- 2.3. New vehicular and pedestrian/cyclist accesses via Fortbarrington Road and Tonlegee Lawns<sup>1</sup>, with additional pedestrian accesses via Tonlegee Lawns, Branswood, and the Athy Distributor Road including associated upgrade works. The application includes an amendment to the Athy Distributor Road permission (Reg. Ref. HA09.HA0050) to facilitate the new pedestrian accesses.
- 2.4. All associated site development works including cycle and car parking spaces, open spaces, landscaping, SuDS features, boundary treatments, waste management areas/bin stores, and services provision including ESB substations, are also proposed.

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<sup>1</sup> The proposed vehicular access through Tonlegee Lawns was removed by condition 3(a) of the planning authority's decision.

2.5. The following tables set out some key aspects of the proposed development.

**Table 1 – Key Figures**

Site Area	4.21 hectares (gross) / 3.79 hectares (net)
Number of Units	132 no. – 102 no. houses, 30 no. duplex units
Building Heights	Two-storey houses and two three-storey duplex blocks
Density	Approx. 35 units per hectare (net)
Plot Ratio	0.34
Site Coverage	17%
Dual Aspect	Every unit has dual aspect at minimum
Open Space / Amenities	<p><u>Public open space</u></p> <p>0.57 hectares in three separate areas (15% of net site area)</p> <p><u>Amenities</u></p> <p>Creche</p>
Pedestrian/Cyclist Infrastructure	Footpaths throughout along with filtered permeability links to adjoining housing estates and public roads. New cycle infrastructure proposed along both sides of Fortbarrington Road frontage.
Car and Bicycle Parking	<p><u>Car Parking</u> – 249 no. spaces (39 no. duplex, 204 no. housing, and 6 no. creche spaces)</p> <p><u>Bicycle Parking</u> – 101 no. spaces (34 no. to the front of mid-terrace houses, 60 no. duplex, and 7 no. creche spaces)</p>

**Table 2 – Unit Breakdown**

Type	Bedroom Numbers				Total
	1-Bed	2-Bed	3-Bed	4-Bed	
Houses	0	2	77	23	102 (77.3%)
Duplex	15	15	0	0	30 (22.7%)
Total	15 (11.4%)	17 (12.9%)	77 (58.3%)	23 (17.4%)	132 (100%)

2.6. The proposed development is a standard residential development. There are multiple pedestrian/cyclist access points. The vehicular access is from Fortbarrington Road. A second vehicular access proposed via Tonlegee Lawns was removed by the planning authority. The proposed creche is located relatively close to the main vehicular access and the two duplex blocks are oriented parallel to the Distributor Road. There are three areas of public open space.

2.7. In addition to standard plans and particulars the planning application was accompanied by a number of supporting documents. These include (but are not limited to):

- a 'Planning Report Including Statement of Consistency and Statement of Housing Mix' prepared by McGill Planning dated June 2023,
- an 'Environmental Impact Assessment Screening Report' (EIA Screening Report) prepared by McGill Planning dated June 2023,
- an 'Appropriate Assessment Screening Report' (AA Screening Report) prepared by Panther Ecology Ltd. dated 8<sup>th</sup> June 2023,
- an 'Ecological Impact Assessment Bat & Bird Survey' (EclA) prepared by Panther Ecology Ltd. and dated 8<sup>th</sup> June 2023,
- an 'Architectural Design Statement' prepared by MCORM Architects (undated),
- a 'Landscape Design Statement' prepared by Cunnane Stratton Reynolds Land Planning & Design dated June 2022,

- an 'Arboricultural Impact Assessment & Method Statements – Stage 3 LRD' document prepared by John Morris Arboricultural Consultancy dated 9<sup>th</sup> June 2023,
- an 'Archaeological Assessment' (AIA) prepared by John Purcell Archaeological Consultancy dated September 2022,
- a 'Daylight, Sunlight and Overshadowing Analysis' prepared by Passive Dynamics Sustainability Consultants dated 6<sup>th</sup> June 2023,
- a 'Construction Environmental Management Plan' (CEMP) prepared by Panther Ecology Ltd. dated 8<sup>th</sup> June 2023,
- a 'Visually Verified Views Methodology Report' prepared by Urban3D dated June 2023,
- an 'Engineering Planning Report' prepared by Punch Consulting Engineers dated June 2023,
- a 'Traffic and Transportation Assessment' (TTA) prepared by Punch Consulting Engineers dated June 2023,
- a 'Site Specific Flood Risk Assessment' prepared by Punch Consulting Engineers dated June 2023,
- a 'Sustainable Urban Drainage Strategy' document prepared by Punch Consulting Engineers dated June 2023,
- a 'Hydrogeological Assessment' prepared by BlueRock Environmental Ltd. dated 31<sup>st</sup> May 2023, and,
- a 'Preliminary Ground Investigation Factual and Interpretative Report' prepared by Geotechnical Environmental Services Ltd. dated November 2022.

### **3.0 Planning Authority Pre-Application Opinion**

- 3.1. An LRD meeting took place on 14<sup>th</sup> November 2022 between the applicant and Kildare County Council following an earlier section 247 meeting on 8<sup>th</sup> September 2022.

- 3.2. In the LRD opinion issued on 12<sup>th</sup> December 2022, Kildare County Council did not consider that the submitted particulars would constitute a reasonable basis for an LRD application for reasons relating to sustainable urban drainage systems (SuDS), compliance with the Urban Design Manual, and roads / movement / transportation issues.
- 3.3. The opinion specified issues that, if addressed by the relevant documents, could result in the documents constituting a reasonable basis on which to make the application and also referenced specific information that should be submitted with any LRD application as per article 16A (7) of the Planning & Development Regulations, 2001 (as amended). The issues cited were under the headings of SuDS, use/layout/design, movement, flood risk, Irish Water, environment, fire safety, housing, trees and hedgerows, landscape design, open space, boundary treatment, play areas, and natural heritage/ecology. There were 88 no. items in total.
- 3.4. Pages 19-59 of section 5 of the applicant's 'Planning Report' outlines the issues cited in the planning authority's opinion and provides a 'Statement of Response' to each item.

## **4.0 Planning Authority Decision**

### **4.1. Decision**

- 4.1.1. Kildare County Council granted permission for the proposed development subject to 56 no. conditions. Conditions include:
- 3 (a) – The omission of all vehicular permeability links to Tonlegee Lawns.
- 6 – The proposed creche is to be provided in the first phase of development and no residential unit shall be occupied prior to completion of the creche.
- 9 (b) – Higher quality boundary treatments to nos. 58 and 81.
- 11 – Detailed design for the proposed upgrading works along Fortbarrington Road and these works are to be completed prior to occupation.
- 29 – Noise mitigation to be incorporated into the fabric of the buildings.



## 4.2. Planning Authority Reports

### Planning Reports

- 4.2.1. Two Planning Reports were prepared, dated 04<sup>th</sup> August 2023 and 12<sup>th</sup> October 2023. The first planning report sought further information. Following the further information response, the second Planning Report recommended a grant of permission subject to conditions.
- 4.2.2. Both reports contain the same, inter alia, site location and context, summary of submissions, pre-planning consultation, detailed policy context, and summary of both the applicant's statement of response to the 88 no. items that the planning authority were of the opinion should be submitted in any LRD application and the planning authority's assessment of same.
- 4.2.3. A quantitative assessment of the proposed development is set out in section 12 of both Planning Reports. This can be summarised as follows:

*Principle of development* – The proposed development complies with the core strategy and zoning objective.

*Development management standards* – Elements of the proposed development such as plot ratio, site coverage, housing mix, density, public and private open space layout and provision, apartment standards, and car parking are compliant with relevant guidance and standards. A creche is proposed with a capacity for 35 no. children. The creche design reflects the design of proposed houses and duplexes. Housing Section comments in relation to Part V were noted. A taking-in-charge site plan was submitted.

*Transportation* – The proposed development will have very good permeability.

*Water services* – No concern noted in relation to surface water, water supply, or flood risk. A section of the foul sewer network raises concern about 'dead space'.

*Waste management* – Various plans have been submitted for both the construction and operation phases.

*Heritage and Ecology* – No concern is raised in relation to the submitted EclA. Archaeological testing is recommended.

- 4.2.4. In terms of a qualitative assessment the proposed development was assessed in section 13 of the Planning Report in the context of the twelve criteria contained in the Urban Design Manual.
- 4.2.5. AA Screening was carried out by the planning authority (appendix 1 to both reports) which concluded that the proposed development would not require stage 2 AA / submission of a Natura Impact Statement (NIS) as it would not, either alone or in combination, have a significant impact on any European site.
- 4.2.6. EIA screening was also carried out by the planning authority (appendix 2 to both reports) which concluded that the proposed development would not be likely to have significant effects on the environment and an environmental impact assessment report (EIAR) was not required.
- 4.2.7. The first Planning Report concluded that, generally, the principle of the proposed development was considered acceptable however further information was required.
- 4.2.8. Further information was sought by the planning authority on issues of boundary treatments to the Distributor and Fortbarrington Roads and an alteration to the site layout to incorporate a foul sewer wayleave within garden areas, a reduction in attic storage for house types C and C1, and Part V. The responses to the issues i.e. revised boundary treatments and incorporation of a foul wayleave within two house boundaries, additional non-attic storage space for house types C and C1, and revised Part V proposals, were summarised and assessed in the second Planning Report. The report considers that the further information requests were answered satisfactorily.
- 4.2.9. A grant of permission was recommended in the second Planning Report. Schedule 1 of the recommendation states, 'Having regard to the policies and objectives of the Kildare County Development Plan 2023-2029 and the Athy Local Area Plan 2021-2027, the nature and design of the proposed development, and the character of adjoining development, it is considered that, subject to compliance with the conditions attached, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be in accordance with the proper planning and sustainable development of the area'.

#### 4.2.10. **Other Technical Reports**

**Transport, Mobility & Open Spaces Department** – The initial report dated 25<sup>th</sup> July 2023 included comments and recommended no objection subject to conditions.

A second report dated 6<sup>th</sup> October 2023 noted the acoustic analysis of the revised boundary treatment with the Distributor Road. In relation to the proposed vehicular access to Tonlegee Lawns, which had been noted and agreed in the initial report, the revised report states ‘at this point in time it is considered that full vehicle permeability should not be provided onto the existing residential Tonlegee Lawns’. No rationale has been provided. There is no objection subject to conditions.

**Water Services** – No objection subject to conditions.

**Environment Section** – Conditions set out.

**Heritage Officer** – The EclA, AIA, and AA Screening Report are considered. A grant of permission is recommended subject to conditions.

**Parks Section** – It is recommended that permission be granted subject to required conditions.

**Housing Section** – Observations and comments made on foot of the further information response.

**Athy MD** – No objection.

**National Roads Office** – The proposed development should not have a significant impact on either the N78 or the Athy Distributor Road.

**Strategic Projects and Public Realm** – Observations/comments made.

**Environmental Health Officer** – Observations made on the application and some conditions are recommended.

**Fire Service** – No objection subject to a condition relating to a Fire Safety Certificate.

#### 4.3. **Prescribed Bodies**

4.3.1. None received.

#### **4.4. Third Party Observations**

4.4.1. Fifty eight observations were received by the planning authority from local residents, political representatives, and residents' associations. The main issues raised are largely covered by the grounds of appeal with the exception of the following:

- Proposed vehicular linkage
- Impact on wildlife
- Location of the proposed vehicular access to Fortbarrington Road
- Buried asbestos
- Connectivity to Branswood

#### **5.0 Planning History**

5.1. There has been no relevant planning history on site.

5.2. Permission was granted in 2017 by the Board under Reg. Ref. 09.HA0050 for the Athy Distributor Road Scheme which has been recently completed.

#### **6.0 Policy Context**

##### **6.1. Project Ireland 2040 National Planning Framework (NPF)**

6.1.1. The NPF is a high level strategic plan to shape the future growth and development of the country to 2040. It is focused on delivering 10 National Strategic Outcomes (NSOs). NSO 1 is 'Compact Growth', and it is expanded upon on page 139 of the NPF. It states, inter alia, 'From an urban development perspective, we will need to deliver a greater proportion of residential development within existing built-up areas of our cities, towns and villages ... pursuing a compact growth policy at national, regional and local level will secure a more sustainable future for our settlements and for our communities'.

6.1.2. Relevant National Policy Objectives (NPOs) include:

NPO 3(a) – Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.

NPO 3(c) – Deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints.

NPO 4 – 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.

NPO 27 – Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.

NPO 33 – Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

## **6.2. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)**

6.2.1. The Guidelines set out policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements.

## **6.3. Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031 (RSES)**

6.3.1. The RSES provides for the development of nine counties / twelve local authority areas, including Kildare County Council. It is a strategic plan which identifies regional assets, opportunities, and pressures and provides appropriate policy responses in the form of Regional Policy Objectives. It provides a framework for investment to better manage spatial planning and economic development throughout the region.

## **6.4. Kildare County Development Plan 2023-2029**

6.4.1. The Plan is the key strategy document which structures the proper planning and sustainable development of land-use across County Kildare. It seeks to address the

physical, economic, social, and environmental needs of the community, in terms of supporting structured new development, protecting the environment, enhancing valued assets and amenities. The preparation of the Plan has regard to key recent development trends and national, regional, and local policy documents, in particular, the NPF and the RSES.

- 6.4.2. Housing is addressed in chapter 3 of the Plan. Urban design, placemaking, and regeneration is addressed in chapter 14 and development management standards are contained in chapter 15.

## **6.5. Athy Local Area Plan 2021-2027 (LAP)**

- 6.5.1. The LAP sets out an overall strategy for the proper planning and sustainable development of Athy in the context of the Kildare County Development Plan 2017-2023 (as varied), the RSES, and the NPF.
- 6.5.2. The site is in an area zoned 'C: New Residential [R1.6]' and the zoning objective is 'To provide for new residential development'. Dwellings and a creche/playschool are permitted in principle in this zoning.

## **6.6. Natural Heritage Designations**

- 6.6.1. The nearest designated area of natural heritage to the main development site is Grand Canal proposed Natural Heritage Area (pNHA) approx. 480 metres to the north east. The nearest European site is River Barrow and River Nore Special Area of Conservation (SAC) (site code 002162) approx. 500 metres to the east.

## **6.7. EIA Screening**

- 6.7.1. The application was lodged after the 1<sup>st</sup> September 2018, after the commencement of the European Union (Planning & Development) (Environmental Impact Assessment) Regulations 2018 which transpose the requirements of Directive 2014/52/EU into Irish planning law.
- 6.7.2. Paragraph 10(b) of Part 2 of Schedule 5 of the Planning & Development Regulations, 2001 (as amended), and s.172 (1)(a) of the Planning & Development Act, 2000 (as

amended), provides that an EIA is required for infrastructure projects that would equal or exceed, inter alia:

- construction of more than 500 dwelling units, or,
- urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. A business district means a district within a city or town in which the predominant land use is retail or commercial use.

6.7.3. Paragraph 15 of Part 2 provides that EIA is required for 'Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7'.

6.7.4. The proposed development of 132 no. residential units (102 no. houses and 30 no. duplex units) and a creche on a site of 4.21 hectares on residentially zoned greenfield land is therefore substantially below the applicable threshold for mandatory EIA. Article 109 2(a) of the 2001 Regulations (as amended) states that 'Where an appeal relating to a planning application for subthreshold development is not accompanied by an EIAR, the Board shall carry a preliminary examination of, at the least, the nature, size or location of the development'.

6.7.5. The application was accompanied by an EIA Screening Report which includes the information set out in Schedule 7A of the Planning & Development Regulation, 2001 (as amended), and I have had regard to same. I also note the other related assessments and documents submitted in support of the planning application e.g. AA Screening Report, EclA, AIA, TTA, site specific Flood Risk Assessment etc.

6.7.6. Having regard to the nature, size, and location of the proposed development and to the criteria set out in Schedule 7 of the 2001 Regulations (as amended), I have concluded that there is no real likelihood of significant effects on the environment arising from the proposed development, as set out in appendix 1 to this inspector's report. EIA, therefore, is not required. In this regard it is noted that the proposed development is residential in nature, its size is well below the applicable numerical and area thresholds, and its location on a greenfield site surrounded by existing residential development and roads infrastructure does not have any particular environmental sensitivity.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

7.1.1. Four separate grounds of appeal have been received from:

- Kevin & Geraldine Carton, 37 Tonlegee Lawns,
- Tonlegee Lawns Residents Association, c/o Pawel Rozmus Chairperson (which includes approximately 56 no. signatures and photographs illustrating footpaths and grass margins in the estate and parked vehicles oversailing footpaths),
- Brian & Caroline Watchorn, 25 Tonlegee Lawns, and,
- Paddy & Tina O'Donoghue, 31 Tonlegee Lawns.

7.1.2. Nos. 25, 31, and 37 all share a common boundary with the subject site.

7.1.3. Though the four grounds of appeal were submitted separately they are similar in content. Therefore, I have summarised the contents of the separate grounds collectively, using the headings contained within the grounds. The main issues raised can be summarised as follows:

#### *Preamble*

- All grounds state that there is no objection to the principle of the decision to grant permission but there are serious concerns in relation to certain aspects of the decision.

#### *Permeability*

- Condition 3(a) of the planning authority's decision to remove the proposed vehicular access link is fully supported and must be maintained. Submission of a site layout plan for the written agreement of the planning authority is required prior to commencement of development. However, this must be submitted prior to the granting of permission in order for the revised layout and its impact to be assessed. Revised drawings should be submitted to the Board to allow residents an opportunity to provide an opinion on the proposal prior to a potential grant of permission.



- The proposed permeability links through Tonlegee Lawns does not create any greater ease of access to amenities, services, or transport for future residents than would be provided by the Fortbarrington and Distributor Roads. Access onto these two roads should be actively encouraged. Links through Tonlegee Lawns will be of no benefit to future residents but would be to the great detriment of Tonlegee Lawns residents.
- The proposed interconnections are of no benefit to Tonlegee Lawns residents in terms of access to the town or its amenities. The Distributor Road can be accessed from the Kilkenny Rd. 600 metres from the estate.
- The lack of detail in drawings and documentation in relation to the proposed links is astonishing. Concern is expressed about how the shared active travel widths outlined in the Cycle Design Manual 2023 will be achieved in Tonlegee Lawns. Residents would strongly oppose any attempt to remove grass margins or mature trees in Tonlegee Lawns to facilitate a cycle path.
- The exit from Tonlegee Lawns to the Kilkenny Road is an extremely dangerous junction. There is no cycle way on Kilkenny Road whereas the Distributor Road has a shared active travel facility and a cycle way is proposed along Fortbarrington Road as part of the development.
- The Draft Athy LAP 2021-2027 contained proposals for permeability links between established housing estates in the town but these were removed from the adopted Plan following submissions and representations. This sets a precedent.
- While permeability may be desirable to Kildare Co. Co. it should not be imposed on and to the detriment of residents of existing estates.
- Houses in Tonlegee Lawns were purchased because they were in a 54-unit cul-de-sac development. It was not envisaged that it would become part of a 186 unit development.
- The Carton appeal states that the removal of permeability links and the redesign of the block of terraced houses [as per 'Overlooking and loss of privacy', below], would deal satisfactorily with issues of loss of amenity, devaluation of property, and loss of privacy/overlooking.

- Areas are outlined where it is considered that the proposed development has disregarded and is inconsistent with the provisions of the National Transport Authority (NTA) Permeability Best Practice Guide 2015 e.g. consultation with residents, direct accessibility, and absence of appraisal. There is not, and will not be, any buy-in for the permeability.

#### *Health and safety*

- The proposed connection to Tonlegee Lawns through footpaths and cycle paths will create a hazard. There is limited traffic in the estate, and it is safe for children to play on roads, footpaths, and the open space. The massive increase in pedestrian and cyclist volumes will create a significant risk to children's health and safety.
- Children in Tonlegee Lawns are known to residents and are always monitored. There is currently only one entrance. With permeability there would be three which would pose a significant danger to children's safety and welfare as they may, for example, wander away.
- Vehicles in Tonlegee Lawns are parked end-to-end in driveways, so as not to obstruct the roadway, and oversail footpaths presenting a barrier to pedestrians and cyclists. The occupants of culs-de-sac houses cannot park on the cul-de-sac turning head to the front of the house as this would interfere with the ability of drivers to safely turn. Oversailing of the footpath is not currently an issue as there is no passing pedestrian or cycle traffic. However it will cause a barrier to the safe movement of pedestrians and cyclists at the point of the connection and render the proposed permeability unworkable.
- One appellant is a disabled driver and the increase in pedestrian and cycle traffic is a concern. In addition the appellant is experiencing added stress as a result of the proposed development, impacting on their health.

#### *Overlooking and loss of privacy*

- The most serious aspect of the Carton appeal. There would be direct overlooking of the house and garden of no. 37 due to the orientation of the terrace of six houses which would share a common boundary. There is a health-related ground floor rear bedroom/treatment room extension to no. 37 where light and air is important.

- The pedestrian/cycle interconnectivity will unacceptably destroy the sense of privacy at the end of the Tonlegee Lawns culs-de-sac.
- The removal of the vehicular permeability link presents an opportunity to redesign the housing layout in the north west area of the site. A single-storey/dormer block of houses allowing for ground floor bedrooms would cater for elderly and/or less mobile members of the community which are not catered for in the development while eliminating overlooking of no. 37, retaining the house orientations and overlooking of open space, and enhancing the housing mix.
- While nos. 24, 25, and 31 are not directly overlooked they will be passively overlooked, resulting in a loss of privacy.

#### *Common boundary treatment*

- The current boundary between no. 25 and the site is a concrete post and open-slatted timber panel fence and between no. 31 and the site it is a 1.8 metres high block wall. A 2.0 metres high wall for no. 25 should be constructed in place of this at the applicant's expense with agreement and details lodged prior to a grant of permission. A new wall of undefined height should be provided for no. 31.
- A 2.0 metres high wall should be constructed at both culs-de-sac at the applicant's expense with agreement with the Residents Association and details lodged prior to a grant of permission.

#### *Anti-social behaviour*

- Anti-social behaviour occurs from groups of youths from outside Tonlegee Lawns crossing the subject site and climbing boundary fence/hedging along the culs-de-sac. The provision of permeability will increase the potential for on-going anti-social behaviour.

#### *Lack of consultation*

- Serious concern is expressed about the lack of any prior consultation in relation to the adverse impact of the proposed development on residents, in particular the proposed interconnections, by either the applicant or Kildare Co. Co. During pre-planning Kildare Co. Co. recommended that the developer should consult with Tonlegee Lawns residents. This did not occur. It is essential in the interests of

natural justice that residents be consulted and that legitimate concerns be fully addressed.

- The Board is requested to ensure adequate consultation between the applicant and appellants during the appeal process.

#### *Loss of amenity and noise disruption*

- An increase in pedestrians and cyclists will create a significant level of disruption and completely alter the setting of Tonlegee Lawns. The permeability links are wholly unacceptable to residents.

#### *Devaluation of property*

- Tonlegee Lawns is a sought after location. The proposed connectivity will completely alter the atmosphere. It will be part of a larger estate/development and lose its attractiveness.

#### *Disruption and nuisance during construction*

- As a result of the proposed permeability and connection to services huge disruption and nuisance will be caused to residents for a considerable period from construction works.
- Construction noise and dust will be generated for many years which is unacceptable.

#### *Lack of clarity and information*

- There is a lack of information on works to be carried out in Tonlegee Lawns compared to that submitted for the development itself e.g. drainage, interconnectivity, and boundaries. No timescale is provided.
- Concern is expressed at the number of conditions and level of additional detail requested by Kildare Co. Co. 'prior to the commencement of works'. Residents have no opportunity to assess or make their views known as permission has been granted. The Board is requested to ensure all necessary documentation is submitted during the appeal process and not prior to commencement of development.

## 7.2. Applicant's Response

7.2.1. The main points made can be summarised as follows. For clarity I use the same headings as those used in the applicant's response to the grounds of appeal.

### *Support of the local authority*

- The Council granted permission for the proposed development finding that it is in accordance with both the Athy LAP 2021-2027 and Kildare County Development Plan 2023-2029. The planning authority considered issues of zoning, permeability, layout, overlooking, and design.

### *Principle of development*

- The appellant's support of the proposed development is welcomed.

### *Overlooking and loss of privacy*

- The proposed links would only impact the front of the four houses at the end of the culs-de-sac. Members of the public can already look at the front of these houses and gardens. There would be no significant additional loss of privacy.
- Proposed nos. 82-87 are approx. 14 metres from the common boundary with no. 37, approx. 16.65 metres from the gable, and approx. 17.86 metres – 18.59 metres from the rear extension. The 22 metres distance cited is traditionally required between opposing first floor windows. There are no directly opposing windows. The angle of viewing prevents undue overlooking. There will be a similar relationship to that between nos. 37 and 38 Tonlegee Lawns and no. 70 Branswood and is a common occurrence in built-up areas.
- Should the Board share the appellants concerns an alternative dormer style house type is submitted.
- There is no direct line of site between proposed houses and nos. 25 and 31 and any views will be angled. Nos. 25 and 31 already overlook each other , as do their adjoining neighbours causing a greater privacy impact than the proposed houses would.

### *Anti-social behaviour*

- Through provision of access routes along with housing on site the opportunity for continuing anti-social behaviour as described will be removed. Additional houses will further inhibit anti-social behaviour.

### *Lack of consultation*

- There has been no direct consultation with individual residents or the Residents Association. However consultation has been carried out in accordance with the Planning & Development Act, 2000 (as amended). Statutory public notices were published and a website was created ensuring the public has an opportunity to comment.
- All residents were afforded an opportunity to comment on the LAP. Linkages were agreed following this public consultation and are embodied in the Plan.

### *Permeability*

- The applicant is happy to accept the omission of the vehicular access and provide only filtered access for vulnerable road users. These links are in line with WN21 of the LAP.
- Boundary treatments and links were shown on landscape drawings. A further drawing is submitted with this response to show the revised filtered links as per condition 3 of the planning authority decision.
- There is concern that Tonlegee Lawns will be subject of road upgrades to accommodate cycle tracks. There is no proposal for this. The existing road will act as a shared surface for cyclists.
- While existing residents do not want to travel south this may become more attractive once the Distributor Road and Ardrew Key Development Area developments are delivered. New areas of public open space and a creche are also provided.
- The proposed connections are in accordance with the NTA's Best Practice Guide which strongly advises against the preponderance of culs-de-sac. The removal of walls and provision of overlooked links provide safe and accessible routes.

- Should the Board feel it appropriate to maintain existing boundaries and culs-de-sac the links can be omitted by way of condition.

#### *Health and safety*

- While there will be more usage of the culs-de-sac it will be by pedestrians and cyclists which have minimal impact on traffic. Activity and animation on streets will make it safer by passive surveillance. It will encourage a modal shift away from cars.

#### *Loss of amenity and noise disruption / disruption during construction*

- It is considered that the increased activity along the street would have minimal impact.
- Temporary disruption during construction will occur irrespective of any links. A CEMP sets out mitigation measures. Construction will last approx. 24 months.

#### *Devaluation of property*

- This cannot be considered a valid reason to appeal. It is based on speculation and could also result in Tonlegee Lawns properties increasing in value.

#### *Lack of clarity of information*

- Other than boundary treatment alterations at the access points there are no alterations to Tonlegee Lawns.
- Road excavations will be required to provide the wastewater connection.
- The applicant agrees that 56 no. conditions may be unwarranted. The applicant suggests a number of conditions that could be removed, reworded to be an instructive or imperative condition, or merged.

#### *Common boundary treatment*

- To the south of nos. 37, 31, and 24 the existing approx. 2 metres high wall will be retained. It is proposed to provide a 1.8 metres high concrete post and panel infill to no. 25.
- Where it is proposed to alter an existing wall in the public realm sections have been illustrated. A filtered access drawing in response to condition 3 has been provided.

- Full boundary treatment drawings were submitted with the application.

### **7.3. Planning Authority Response**

- 7.3.1. The contents of the grounds of appeal are largely the same as in submissions made to the planning authority. The planning authority had regard to these issues in its assessment. The planning authority has no further comment to make and requests that the Board uphold the decision.

### **7.4. Observations**

- 7.4.1. One observation was received from Mark Kerrigan & Ita Flood, 153 Branswood. The issues raised are largely covered by the grounds of appeal. However, the observation also references loss of green area as a result of the proposed permeability links and an increase in traffic and parking in Branswood.

### **7.5. Further Responses**

- 7.5.1. None.

## **8.0 Planning Assessment**

Having examined the application details and all other documentation on file, including the grounds of appeal and the applicant's response to same, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal, other than those set out in detail within the EIA Screening and AA section, are as follows:

- Zoning
- Permeability
- Impact on Adjoining Properties
- Residential Amenity for Future Occupants and Compliance with Development Management Standards
- Health and Safety



- Lack of Consultation
- Anti-Social Behaviour
- Loss of Amenity, Noise Disruption, and Nuisance
- Devaluation of Property
- Lack of Clarity and Information
- Boundaries

## 8.1. Zoning

8.1.1. The site is in an area zoned 'C: New Residential' on map no. 6 of the Athy LAP 2021-2027. The land use zoning objective of the site is 'To provide for new residential development'. Dwellings and a creche/playschool are identified as permitted in principle in this zoning as set out in the zoning matrix (table 11.5). I consider that the principle of development is therefore acceptable, subject to the detailed considerations below.

## 8.2. Permeability

8.2.1. Vehicular permeability through Tonlegee Lawns was proposed as part of the original planning application but was removed as part of Kildare Co. Co.'s decision to grant permission. A Transportation Section report stated that 'at this point in time it is considered that full vehicle permeability should not be provided onto the existing residential Tonlegee Lawns'. Though no explanation is provided for the change of attitude in relation to the vehicular permeability from the section's original position I have no objection to its removal. I consider that the focus in this urban area should be on pedestrian and cyclist permeability, rather than vehicular permeability.

8.2.2. The removal of vehicular permeability was welcomed by the appellants. However, Kildare Co. Co. permitted pedestrian and cycle permeability at two locations in Tonlegee Lawns and at two locations in Branswood and these permeability links, particularly at Tonlegee Lawns, are the primary issue contained in the grounds of appeal.

- 8.2.3. Among the concerns raised are the submission of the link designs prior to commencement of development which does not allow assessment of same by residents, the necessity for such permeability, the absence of a cycle way on Kilkenny Road, the removal of proposed permeability links between existing housing estates contained in the draft LAP from the adopted LAP, consistency with the NTA's Permeability Best Practice Guide (2015), and the basic opposition of Tonlegee Lawns residents to such permeability. The grounds of appeal request that all proposed permeability links with Tonlegee Lawns be removed.
- 8.2.4. A number of other issues raised in the grounds of appeal e.g. loss of amenity, anti-social behaviour, health and safety etc., are also heavily influenced by the appellants objection to the principle of permeability. These issues are addressed separately in this inspector's report.

*Relevant planning framework*

- 8.2.5. In considering the appellants concerns I note initially that the broad concept of permeability in urban areas is widely encouraged and supported. The RSES, in relation to guiding principles of land use plans, states 'New development areas, including peripheral areas, should be permeable for walking and cycling and the retrospective implementation of walking and cycling facilities should be undertaken in existing neighbourhoods, in order to a give competitive advantage to these modes. Where possible, developments shall provide for filtered permeability' (page 187).
- 8.2.6. Section 4.4 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024) outlines the key indicators of quality design and placemaking. One of these is 'sustainable and efficient movement' and one of the key principles to be considered in planning applications is 'New developments should, as appropriate, include a street network (including links through open spaces) that creates a permeable and legible urban environment, optimises movement for sustainable modes (walking, cycling and public transport) and is easy to navigate' (page 41). Another key principle is that new developments should, inter alia, connect to the wider urban street and transport networks and improve connections between communities.
- 8.2.7. Chapter 5 (Sustainable Mobility & Transport) of the Kildare County Development Plan 2023-2029 contains, inter alia, objective TM O21, 'Ensure site layout proposals detail

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

- 8.2.8. Chapter 14 (Urban Design, Placemaking and Regeneration) of the Plan considers that all settlements will benefit from greater levels of permeability and improved walking and cycling facilities (page 489). The chapter also states that 'A high level of permeability is considered a positive attribute of urban design, as it allows ease of movement, and assists in the development of integrated communities' (page 503).
- 8.2.9. Of particular relevance is the Athy LAP 2021-2027. Its vision statement states, inter alia, 'The vision ... will ensure that growth planned for the town ... occurs in a sustainable and sequential manner, characterised by a compact, consolidated and permeable pattern of development linked by sustainable modes of transport including a robust network of pedestrian and cycle routes, providing a high level of connectivity; facilitating and enabling the creation of a healthy, safe and age friendly community'.
- 8.2.10. Map Ref. 1.1 (Movement and Transport – Walking and Connectivity Measures) identifies 'New Connectivity Links'. One of these, WN21, identifies a connection from the south east corner of the site at the junction of Fortbarrington Road and the Distributor Road, through the site, to both Tonlegee Lawns and Branswood. Table 7.1 (Walking and Connectivity Measures) of the LAP provides a description, a type, and a timeframe for the new connectivity links. In the case of WN21 it is described as 'Tonlegee Lawns and Branswood – Athy Distributor Road / Fortbarrington Road Junction. As part of new development'. The 'type' is new residential lands link, and the timeframe is dependent on when lands are developed.
- 8.2.11. Therefore, not only is the concept of permeability strongly supported in principle in the relevant planning framework, but the interconnections proposed in this planning application are specifically outlined in the current LAP. Having regard to the foregoing, I consider the proposed permeability links to be acceptable in principle.

*Issues raised in the grounds of appeal*

- Link design – The appellants state that the requirement for a revised site layout plan to be agreed with the planning authority prior to commencement of development does not afford the residents the opportunity to assess and comment on the revised link design. They consider that this should be submitted during the

appeal process so as to allow full assessment and comment by all interested parties.

While I acknowledge the appellants concerns in this regard, I am satisfied that the impact of a pedestrian/cyclist link in lieu of a vehicular link would be no greater than that originally proposed. Plan layouts of the connections and a section drawing of the more significant connection between nos. 31 and 37 have been submitted as part of the applicant's response to the grounds of appeal and I consider that these illustrate normal pedestrian and cyclist links.

I am satisfied that the planning authority is best placed to consider the detailed design of these links and ensure appropriate design and overlooking, adequate intervisibility etc. I consider that, in the context of the overall development, it is a relatively minor point of detail that has already been largely illustrated and the locations are set. The planning authority is the appropriate authority to make a decision on this and I do not consider that this necessitates the input of residents. The planning authority's condition is a standard condition, is not in any way unusual, and can be adequately and appropriately assessed by the planning authority.

- Degree of use of accesses created – The appellants consider that the proposed filtered permeability will not create any greater ease of access for proposed residents than would be provided by the Fortbarrington or Distributor Roads.

While I acknowledge the point being made by the appellants in terms of the specifics of the proposed development, I consider that time savings would be achieved by the filtered permeability, albeit to a limited range of services/amenities. There is a combined Top service station/Centra, a community hall, and a funeral home along the south side of Kilkenny Road to the north of the subject site. The walking distance between a house in the centre of the subject site e.g. no. 66, and the community centre, without permeability, would be approx. 800 metres along Fortbarrington Road and Kilkenny Road. With permeability through Tonlegee Lawns the distance would be approx. 440 metres. A more extreme example would be from proposed no. 87 to the funeral home. Without permeability this would be a distance of approx. 1.02km along Fortbarrington and Kilkenny roads, as opposed to approx. 410 metres through Branswood. Therefore,

reductions in distances would occur to some services/amenities for future residents through the proposed filtered permeability.

The appellants also consider that the proposed filtered permeability would be of no benefit to them. I agree that the advantages of permeability are currently limited. There is a football pitch on the opposite side of Fortbarrington Road that would be more easily accessible but, that apart, there is limited reason for Tonlegee Lawns residents to travel in a southerly direction to access services and amenities. However, the proposed filtered permeability would also allow shorter distances to future development such as the proposed creche and the new open space areas. In addition in this regard the applicant, in its response to the grounds of appeal, notes the Ardrew Key Development Area on the south side of the Distributor Road. This incorporates an approx. 5 hectares recreational area which it is proposed to convert into a sports training hub. The LAP envisages that the facility will be home to a range of passive and active recreational activities and will have a number of training pitches. This would likely be a destination for many residents. The walking distance from a house in the centre of Tonlegee Lawns, e.g. no. 13, without permeability, would be approx. 900 metres along Kilkenny Road through Branswood and using the permeability from that estate onto the Distributor Road and using the pedestrian access to Ardrew as illustrated on figure 11.1 of the LAP. With the proposed filtered permeability the distance would be approx. 350 metres.

In addition, at its most basic level, the proposed filtered permeability would allow all residents of three separate developments i.e. Tonlegee Lawns, Branswood, and the proposed development to visit each other and interact, fostering a wider community without having to travel longer distances along busier public roads.

Having regard to the foregoing, I am satisfied that the proposed filtered permeability would benefit both future and existing residents.

- Extent of pedestrian and cycle links – The appellants appear to be of the belief that pedestrian and cycle facilities will be constructed through Tonlegee Lawns and state that the existing infrastructure cannot accommodate a cycle way. It is pointed out that Kilkenny Road has no cycle way but that there is one on the Distributor Road and proposed along the Fortbarrington Road site frontage.

However, there are no works proposed to Tonlegee Lawns in terms of the construction of footpaths or cycle paths. Pedestrians will use existing footpaths and cyclists will share the road, as currently happens. There are no proposals to remove grass verges and/or trees to accommodate a cycle path as part of the proposed development and these works would be outside the red line site boundary. If pedestrians or cyclists consider that using Fortbarrington or Distributor Roads would shorten their journey or be safer, they would be likely to use the facilities available on those roads.

- Draft LAP – It is stated that permeability links between established estates were contained in the draft LAP but were removed from the adopted plan following submissions and representations. It is contended that this sets a precedent for the non-provision of permeability in respect of established estates.

In this regard I note, as set out earlier, that the adopted LAP clearly contains proposals for permeability through the subject site to Tonlegee Lawns and Branswood. Therefore the proposal is consistent with the adopted LAP.

- Contrary to the NTA's Permeability Best Practice Guide – The grounds of appeal outline a number of areas where the appellants consider that the proposed development does not comply with this Guide e.g. the degree of use of accesses created, consultation with residents, and journey time savings.

A number of the areas cited have been addressed in this inspector's report. Ultimately the links proposed were illustrated in the draft LAP, and are contained in LAP adopted by the members of the local authority.

8.2.12. Having regard to the foregoing, I consider the proposed permeability links are acceptable and appropriate and should be retained in any grant of permission that may issue. The focus of the grounds of appeal are based on perceived negative implications of permeability rather than the benefits of permeability. Permeability can result in social benefits where neighbours who are in some cases only metres apart can interact, fostering a community atmosphere, rather than being physically divided by estate walls.

### 8.3. Impact on Adjoining Properties

- 8.3.1. The impact of the proposed development on adjoining properties is one of the main issues in the grounds of appeal. I consider that the impact on adjoining properties can be assessed under subheadings of permeability links, overlooking, daylight and sunlight, and mass and scale.

#### Permeability links

- 8.3.2. A concern raised is that the permeability links would significantly increase movement through the estate from non-residents where there is currently no such pedestrian and cycle traffic. I acknowledge that the permeability links would create additional movement in areas where no such movement currently exists. However, the permeability link users would use the footpaths and roads and views would not be available to any area which is not currently visible from public areas to the front or sides of houses. Therefore, I do not consider that undue invasion of privacy would occur from the use of the footpaths and roads by non-residents. This applies to both Tonlegee Lawns and Branswood.

#### Overlooking

- 8.3.3. Overlooking of existing properties in Tonlegee Lawns forms a significant element of the grounds of appeal. Overlooking impact to adjacent properties can be assessed as follows.

#### *To no. 37 Tonlegee Lawns*

- 8.3.4. Overlooking of the rear extension/garden area of no. 37 is a main focus of the Carton grounds of appeal, and is referenced in the other grounds received, and I acknowledge the concern expressed. Proposed nos. 82-87 is a terrace of six two-storey houses in the north west corner of the subject site whose rear elevations address no. 37. I note initially that proposed nos. 82-84 directly overlook the front and side of no. 37 with limited overlooking potential to the private area to the rear. Nos. 85-87 have a more direct overview of the rear of no. 37.
- 8.3.5. There are no mandatory separation distances. The separation distance between the proposed terrace and the common boundary is approx. 14 metres which is a reasonable separation distance/rear garden depth in an urban residential development. As noted in the applicant's response to the grounds of appeal a similar

positional scenario arises between nos. 37 and 38 Tonlegee Lawns and no. 70 Branswood i.e. the rear elevations of nos. 37 and 38 address the side of no. 70. This positional scenario is equally applicable with nos. 39-44 Tonlegee Lawns and nos. 70 and 56 Branswood. Though there appears to be slightly greater separation distances involved (by a metre or two) between the houses in Tonlegee Lawns and Branswood, the proposed layout/juxtaposition of house footprints between no. 37 and the proposed terrace reflects that occurring in the immediate vicinity.

- 8.3.6. The appellants suggest an alternative housing layout in the north west corner, facilitated by the removal of the vehicular link, involving single-storey or dormer houses for less mobile residents. However, vehicular access still has to be provided for proposed nos. 77-81 so the vehicular link cannot be entirely removed, and single storey houses would require a substantially increased footprint which would have private and public open space implications.
- 8.3.7. As part of the applicant's response to the grounds of appeal slightly revised house types for nos. 85-87 were submitted should the Board share the appellants overlooking concerns. The revision involves replacing the flush two-storey rear elevation of these houses with a dormer style in line with the appellants comments. In my opinion, the revised dormer style would negligibly reduce any overlooking potential but would result in a visually incongruous rear elevation and an excessively dominant roof and I consider that the original house types are more appropriate.
- 8.3.8. Having regard to the separation distances proposed and the established pattern of development in the immediate vicinity I consider that no undue overlooking would occur such that the proposed terrace of houses should be amended or omitted. I would point out that it is open to residents who may feel that their property is unduly overlooked to, for example, provide appropriate boundary landscaping.

*To nos. 31, 25, and 24 Tonlegee Lawns and Holmcroft*

- 8.3.9. Concerns about indirect overlooking were set out in the grounds of appeal in relation to the other houses in Tonlegee Lawns which share a common boundary with the subject site.
- 8.3.10. Other than in the north west corner the orientation of the proposed houses along the northern boundary of the subject site reflects the orientation in Tonlegee Lawns and Holmcroft i.e. the 'lines' of houses combining both existing and proposed



developments are consistent and are oriented in the same directions. Separation distances to the common boundary of between 4.19 metres and 11.995 metres are provided.

- 8.3.11. The proposed houses along the northern boundary reflect the pattern of development established by the adjacent developments, provide a greater separation distance between the existing and proposed houses (between 8.058 metres and 15.852 metres) than the separation distances between the existing houses themselves (approx. 5 metres), and I am satisfied that no undue overlooking impact would occur.

*To Fortbarrington Road*

- 8.3.12. To the north east corner of the subject site there is a two-storey detached house and a two-storey semi-detached house and single-storey commercial property (a florist). No overlooking concern to this area has been expressed in the grounds of appeal or observation.

- 8.3.13. Proposed nos. 1 and 2 have a closer building line to Fortbarrington Road than the existing properties to the north have. There is a first floor side elevation bedroom window on the side elevation, but this overlooks the front area of the adjacent detached property. There are no first floor habitable room windows to the rear elevation.

- 8.3.14. Proposed nos. 3-9 have views of the rear areas of the existing properties from their rear elevation, though some are indirect views. The proposed houses that share a common boundary with the existing detached property have separation distances of approx. 12.8 metres, which I consider to be reasonable. As mentioned previously, should existing residents feel it necessary, they could provide boundary landscaping within their own properties. Notwithstanding, given the separation distance achieved I am satisfied that no undue overlooking would occur.

- 8.3.15. Four semi-detached houses (nos. 10-13) are positioned so that their rear elevations address the rear of the existing Fortbarrington Road properties. They are two-storey houses and the rear garden depths to the common boundary are in the range of approx. 8 metres to 9.3 metres, which is below the generally accepted 11 metres standard. However, the first floor rear elevation windows on these four houses serve storage rooms, bathrooms, and halls i.e. non-habitable rooms. The separation distances between the structures themselves are 24.247 metres and 27.045 metres. I am satisfied that no undue overlooking would occur, including to Holmcroft.

### *To Branswood*

- 8.3.16. The side elevation of proposed no. 87 does not overlook Branswood because there is only a first floor side elevation bathroom window on this elevation, notwithstanding that public open space and an internal circulation road are the adjacent uses in Branswood.
- 8.3.17. The two terraces of houses oriented east-west centrally along the Branswood boundary follow the orientation set by Branswood at this location and similarly to the northern site boundary and Tonlegee Lawns and Holmcroft I do not consider any undue overlooking arises.
- 8.3.18. Proposed nos. 100-102 in the south west corner do not result in overlooking as a result of the minimum 11.88 metres separation distance to the shared boundary and the fact that the houses overlook a public area of Branswood.

### Daylight and Sunlight

- 8.3.19. A daylight assessment to ascertain impact on existing properties was undertaken by the applicant in the Daylight, Sunlight and Overshadowing Analysis. All windows in Avondale Drive on the opposite side of Fortbarrington Road, Fortbarrington Road, Holmcroft, Tonlegee Lawns, and Branswood comply with Building Research Establishment (BRE) criteria except two east/side elevation ground floor windows to nos. 137 and 148 Branswood (the Analysis refers to no. 138 Branswood but no. 137 is the correct house number). These appear to be secondary (bathroom) windows which the BRE Guide considers need not have been analysed, but were for completeness.
- 8.3.20. BRE guidance recommend that at least half of amenity space should receive at least two hours of sunlight on 21<sup>st</sup> March. All gardens in Branswood, Tonlegee Lawns, Holmcroft, Fortbarrington Road, and Avondale Drive achieve this and would not be adversely affected by the proposed development in this regard.
- 8.3.21. Appendix A of the Analysis contains overshadowing images illustrating the existing and proposed impact. There would be some minor impact but, having regard to the zoned nature of the site, the separation distances involved, and the low/two-storey scale of the proposed houses I do not consider undue overshadowing impact would result. The Analysis notes that these images are included for reference and that the BRE Guide 'makes no reference to any quantifiable measure of overshadowing'.

8.3.22. I do not consider that the proposed development would have any notable daylight or sunlight impact on adjoining properties.

#### Mass and Scale

8.3.23. In my opinion the proposed house types i.e. two-storey houses and three-storey duplex units, are not of a scale that would result in undue overbearing impact to adjacent properties. It is the type of development typical of edge-of-centre urban greenfield areas. The Visually Verified Views document submitted with the application provides an indication of the mass and scale of the proposed development in the context of the surrounding environment and I consider it to be acceptable, notwithstanding that development of any reasonable scale on this undeveloped greenfield site would have an impact on the receiving environment.

#### **8.4. Residential Amenity for Future Occupants and Compliance with Development Management Standards**

8.4.1. No concern was expressed in relation to the residential amenity of future occupants. Notwithstanding, this section briefly summarises relevant aspects and standards of the proposed development.

8.4.2. Density – The proposed density is approx. 35 no. units per hectare (net). Table 3.4 of the LAP provides an indicative density of 35 no. units per hectare for new residential development in Blackparks. Therefore the proposed density is consistent with the LAP.

8.4.3. Site layout – The site layout is supported by the Architectural Design Statement. I note that the houses along Fortbarrington Road address the road and the semi-detached block (nos. 1 and 2) provides an urban building line/streetscape. The three-storey duplex blocks and two-storey houses also provide an urban frontage to the Distributor Road, notwithstanding the boundary treatment along this frontage which is outlined in section 8.11 of this inspector's report. The first-floor duplex terraces overlook the road and house nos. 34, 35, and 102 are dual frontage houses which overlook both the Distributor Road and internal circulation roads so there are no side/rear elevations addressing public areas. The open space areas are of sufficient sizes and are well-overlooked. There is an absence of long, straight internal roads and there is good, filtered permeability through the site and with adjoining estates and public roads. I consider that the proposed site layout is acceptable.

- 8.4.4. Floor areas – The applicant submitted an updated Housing Quality Assessment, among other documents, with the further information response. I am satisfied that the various floor areas set out for the proposed houses and duplex units are adequate to ensure an appropriate level of residential amenity in line with the Kildare County Development Plan 2023-2029 and the Quality Housing for Sustainable Communities Guidelines (2007).
- 8.4.5. Daylight – The applicant’s Daylight, Sunlight and Overshadowing Analysis used EN17037 and the British Annex BS EN 17037 to ascertain internal daylight results. 619 no. spaces were assessed. Using the slightly more flexible British Annex all 372 no. bedroom spaces and all 115 no. living room spaces passed the ‘test’, while 117 no. of 132 no. kitchen / kitchen/dining/living (KDL) passed.
- 8.4.6. The 11 no. mid-terrace ground floor north facing apartment KDLs in the two duplex blocks did not pass BS EN 17037. It is likely that the four end of terrace units passed because their KDL rooms are dual aspect. The floor areas of the KDL rooms are 28sqm; 5sqm in excess of the 23sqm required by the Design Standards for New Apartments Guidelines (2022). The 54.5sqm apartment floor areas are larger than the 45sqm required. The 20sqm south facing private open space is four times the 5sqm required. I consider that this, and the fact that each bedroom complied with BS EN 17037 and the KDL passed the sunlight test, as set out in paragraphs 8.48-8.49 below, is reasonable compensation for the daylight in the KDLs.
- 8.4.7. It also appears that four House Type A kitchens fail to comply with BS EN 17037. It appears these are house nos. 43, 47, 67, and 71. The Quality Housing for Sustainable Communities Guidelines (2007) does not provide a minimum kitchen floor area. The kitchen floor area proposed in House Type A is 27.3sqm. The target gross floor area for a two-storey four-bed house in the Guidelines is 110sqm and an overall floor area of 130.3sqm, approx. 18% larger than required, is provided. I consider this, the fact that all other rooms complied with BS EN 17037, and the kitchen passed the sunlight test, as set out below, to be adequate compensation for one room failing to comply.
- 8.4.8. Sunlight – The BRE Guide states that, in general, a house will appear reasonably sunlit provided at least one main window wall faces within 90° of due south and a habitable room, preferably a main living room, can receive at least 1.5 hours of sunlight on March 21<sup>st</sup>. Analysis in this regard was carried out and all windows will appear reasonably

sunlit in line with BRE guidance as would be expected 'due to the low-rise nature of the development'.

- 8.4.9. BRE Guidelines recommend that at least half of amenity space should receive at least two hours of sunlight on 21<sup>st</sup> March. Private gardens and the public open spaces were assessed and all achieved the minimum requirement.
- 8.4.10. Private open space – Each unit has private open space. All garden spaces comply with the planning authority standards at a minimum.
- 8.4.11. Public open space – Combined public open space of 5,679sqm has been provided comprising three separate areas of 985sqm (north west area of the site), 3,070sqm (centrally on site), and 1,624sqm (along the western boundary). The first and second open space areas also contain play areas. Public open space comprises approx. 15% of the site area as required for greenfield sites by the planning authority. The spaces are well overlooked by houses and, in the case of the first open space area, is adjacent to an area of open space in Branswood. Page 19 of the applicant's Architectural Design Statement states the separating wall will be removed to join the open spaces.
- 8.4.12. Housing mix – The development proposes 15 no. 1-bed units, 17 no. two-bed units, 77 no. three-bed units, and 23 no. four-bed units. I consider this mix to be consistent with relevant policies HO P7 of the County Development Plan 2023-2029 and HC2 of the LAP.
- 8.4.13. Creche – A creche is to be provided as part of the proposed development.
- 8.4.14. Car parking – 249 no. spaces are provided (39 no. duplex, 204 no. housing, and 6 no. creche spaces).
- 8.4.15. Cycle parking – 101 no. spaces (34 no. to the front of mid-terrace houses, 60 no. duplex, and 7 no. creche) are provided.
- 8.4.16. Having regard to the foregoing, I consider that the proposed development would result in an appropriate quality of residential amenity for future occupants which would be in line with relevant standards contained within the Athy Local Area Plan 2021-2027, the Kildare County Development Plan 2023-2029, and other pertinent guidelines.

## 8.5. Health and Safety

- 8.5.1. The appellants cite a number of concerns in this regard e.g. the increase in pedestrian and cyclist volumes, children playing on roads and open spaces, the ability of children to wander away from additional points of egress, car parking practices, and impact on disabled drivers.
- 8.5.2. While there would obviously be an increase in the number of pedestrians and cyclists through Tonlegee Lawns as a result of the permeability links I do not consider that any particular hazard would arise. Footpaths are in place for pedestrians and cyclists would share the road. This is normal. The permeability links would be adequately designed for adequate sightlines and inter-visibility at the point of connectivity. The additional pedestrian and cycle traffic would have negligible impact on the ability of children to play on the roads or open spaces, as set out in the grounds of appeal.
- 8.5.3. I acknowledge the concerns outlined in relation to the ability of children to wander. However, I consider that with appropriate supervision the likelihood of this happening is limited and removing permeability links to combat this theoretical event would not be a balanced response given the benefits to the wider area of the permeability links being in place.
- 8.5.4. The appellants state that permeability is unworkable because of the practice within Tonlegee Lawns of cars parking end-to-end in driveways, oversailing and blocking footpaths, therefore affecting pedestrians and cyclists. Relying on very poor parking practice which obstructs and endangers pedestrians to justify removing permeability links is not reason enough to reconsider the links and would only encourage similar activity elsewhere.
- 8.5.5. One appellant cites concern, as a disabled driver, at the increase in pedestrian and cycle traffic. As noted previously there would be adequate intervisibility between users and motorists and I do not foresee any particular issue that would result to a licenced driver.
- 8.5.6. In conclusion, I consider that negligible health and safety issues would result from the proposed development and the increase in pedestrian and cycle traffic through Tonlegee Lawns, or Branswood.

## 8.6. Lack of Consultation

- 8.6.1. The appellants outline their disappointment at the lack of consultation prior to or during the planning process, in particular relating to the permeability links, and state that at no time were their views sought. The appellants also request the Board to ensure adequate consultation between the applicants and appellants during the appeal process.
- 8.6.2. In relation to the appellants concerns I note initially that the pre-planning process is not a public process. It is a process between the planning authority and applicant and many pre-planning consultations ultimately do not result in any planning application being made. Therefore there is generally no public involvement prior to the submission of a planning application.
- 8.6.3. While there is no barrier to any applicant informing local residents of their plans and seeking feedback e.g. some prospective wind farm applicants hold public meetings, there is no obligation for them to do so. Similarly, while the planning authority may have recommended that the applicant consult with local residents during the pre-planning process the planning authority has no authority to compel an applicant to do this. Further, the planning authority itself cannot inform residents of a planning application that may or may not be submitted as it is not a public process.
- 8.6.4. The grounds of appeal state that at no time during the planning process were the appellants views sought. However, views were specifically sought by the public notices that are required as part of the planning application and fifty eight separate observations were received by the planning authority setting out views on the proposed development.
- 8.6.5. The appellants also request the Board to ensure adequate consultation between both parties during the appeal. While consultation at this stage may occur between the parties, the Board has no authority to require this to happen.
- 8.6.6. Having regard to the foregoing, while early consultation could have been carried out between the applicant and local residents, there is no obligation on the applicant to do this and there is no power for the planning authority to require it.
- 8.6.7. Notwithstanding the content of the previous paragraphs, I note that the permeability links proposed in this application form part of the Athy LAP 2021-2027. The LAP went

through a public consultation procedure. Therefore development of the type proposed was flagged in advance of any planning application and I do not consider the application to be in any way deficient in terms of consultation with third parties.

## **8.7. Anti-Social Behaviour**

- 8.7.1. The appellants state that they have long-suffered anti-social behaviour from groups of non-residents crossing the subject site and climbing the boundary hedging and fencing. They are concerned that the proposed permeability will increase the potential for anti-social behaviour to residents. However, as noted in the applicant's response to the grounds of appeal the provision of formal permeability links would eliminate the climbing of the existing boundaries.
- 8.7.2. I also note the content of the Urban Design Manual (2009). It states that 'It is sometimes perceived that the urban design objective of making well-connected, highly permeable places conflicts with the objectives of security and safety ... There is a ... view that pedestrian connections encourage antisocial behaviour, providing opportunities for loitering, places for muggers to hide, escape routes for criminals or access for burglars' (page 21). In the proposed development, as per the Manual, I consider that the proposed interconnections would generate sufficient activity to justify the links, they would be appropriately passively supervised by existing and proposed houses in immediate proximity, and there would not be 'hiding' opportunities.
- 8.7.3. The proposed development itself would not create or increase anti-social behaviour and I do not consider this is an appropriate reason to remove the proposed permeability.

## **8.8. Loss of Amenity, Noise Disruption, and Nuisance**

- 8.8.1. Issues raised in the grounds of appeal in this regard relate to the increase in pedestrian and cycle volumes altering the quiet and peaceful setting, and from construction noise and nuisance.
- 8.8.2. I do not concur with the grounds of appeal that the activities currently carried out by Tonlegee Lawns residents, such as neighbours gathering in gardens or on the open space, would be significantly disrupted or altered by the increased number of pedestrians and cyclists. While there is likely to be increased movement, I consider



that it would have a limited impact on the setting of the estate or on residents' informal social activities.

- 8.8.3. Construction nuisance from, for example, dust or noise, is inevitable with projects of this type and scale. An impact to neighbouring areas is unavoidable though mitigation measures contained in various plans such as the CEMP aim to reduce the impact of these. This is a standard construction project. While there are works proposed in Tonlegee Lawns, and Branswood, these are relatively limited in scale and of short-term duration.
- 8.8.4. I do not consider the permeable links would have any significant adverse impact on the setting of neighbouring properties in terms of loss of amenity and though there would be an adverse impact during the construction phase mitigation measures would be implemented.

## 8.9. Devaluation of Property

- 8.9.1. The grounds of appeal state that Tonlegee Lawns is one of the most sought after developments in Athy. The proposed interconnectivity would alter the atmosphere in the estate and result in Tonlegee Lawns becoming part of a much larger development. Tonlegee Lawns would therefore lose its attractiveness and devalue property.
- 8.9.2. I note initially that neither Tonlegee Lawns, nor Branswood, are being subsumed into, or would become a part of, a larger development. The proposed permeability simply allows pedestrian and cyclist interconnectivity through the area. Each estate would still retain its own identity and names. The proposed development would clearly be of a different construction/design era than the existing more mature estates, and there would be different house styles and external finishes. All of the estates have their own separate, dedicated vehicular entrances. The residents' associations would still relate to the individual estates.
- 8.9.3. Having regard to the foregoing, to the residential zoning of the lands, the permeability objectives of the LAP, and the overall assessment contained within this inspector's report, I am satisfied that the proposed interconnectivity would not adversely affect the value of property.

## 8.10. Lack of Clarity and Information

- 8.10.1. The appellants express concern about the lack of information and drawings submitted for works within Tonlegee Lawns, the absence of a timescale, and both the level of detail required and the number of 'prior to commencement of development' conditions required by the planning authority. The appellants consider that sufficient detail should have been submitted so it could have been commented upon prior to granting permission and submitting documentation on foot of a grant does not provide residents with an opportunity to make their views known. The Board is requested to ensure all necessary documentation is submitted during the appeal process to allow residents to assess and comment.
- 8.10.2. Relatively limited works are proposed within Tonlegee Lawns and Branswood relating to the permeability links. There are no footpaths or cycleways proposed other than relatively minor works at the interconnection points. There is a surface water connection point in Tonlegee Lawns, and it is proposed to upgrade the foul sewer through Tonlegee Lawns. A foul sewer layout, levels, longsections etc. are provided as with any standard planning application. I do not consider that there is any particular deficiency in detail submitted with the application for works outside the main development site.
- 8.10.3. In terms of a timeline the applicant has clarified that construction would take approx. 24 months. A phasing plan was provided with the application. Phase 1 contains 73 no. units, including the duplex units, the creche, and two open space areas in the eastern/southern site area. Phase 2 comprises 59 no. houses and one open space area.
- 8.10.4. There is an established and common practice of planning authorities, including the Board, including conditions which require certain matters to be agreed with the planning authority prior to commencement of development or prior to the occupation of the structure etc. This practice is permitted under section 34(5) of the Planning & Development Act, 2000 (as amended), which states that conditions 'may provide that points of detail relating to a grant of permission be agreed between the planning authority and the person carrying out the development ...' Section 7.10 of the Development Management Guidelines for Planning Authorities (2007) states that

‘such conditions should be avoided in cases where the matters involved are of a fundamental nature or such that third parties could be affected’.

- 8.10.5. The appellants identify 17 no. ‘prior to commencement of development’ conditions in the planning authority’s decision and reference the level of additional detail required. The Board is requested to ensure that all of this detail is submitted during the appeal to allow assessment and comments from residents. These conditions relate to a revised site layout plan incorporating various details, restriction of sale to corporate entities, Part V, creche signage, boundary treatment, works to Fortbarrington Road, duplex bicycle and bin storage, submission of a CEMP, submission of a public lighting scheme, CBR tests (to determine the subgrade strength of the site access roads), detail of the tree root management system, noise mitigation for the proposed buildings, agreements with Uisce Éireann, surface water, and submission of a Construction and Demolition Resource Waste Management Plan for C&D Projects.
- 8.10.6. I consider that these particular conditions relate to issues that are commonly granted as standard compliance conditions which relate to relatively minor points of detail which can be agreed at the post-decision stage between the developer and the planning authority, and which have limited impact on third parties. The compliance issues in the planning authority decision are not fundamental to the decision.
- 8.10.7. Therefore, I consider that the use of compliance conditions by the planning authority is standard, established practice, is acceptable, and does not unduly affect third parties.

#### 8.11. **Boundaries**

- 8.11.1. There is a 1.8 metres high concrete block wall along the common boundary with No. 31 Tonlegee Lawns and a concrete post and open-slatted timber panel fence of unspecified height in the case of No. 25 which are considered to be wholly inadequate in terms of providing privacy and security. The residents require that the wall at No. 31 be significantly raised in height, with a new 2.0 metres high wall at No. 25, constructed at the applicant’s expense, following consultation, and incorporated into drawings submitted prior to a grant of permission.
- 8.11.2. The grounds of appeal also require walls to be constructed at both existing culs-de-sac in Tonlegee Lawns in lieu of the current boundaries. However, as permeability

links were granted by the planning authority and my recommendation is to retain these, I do not consider walls should be constructed at these locations.

- 8.11.3. The boundary treatments drawing submitted with the planning application (drg. no. 22195-2-111) indicates that the common boundary with nos. 37, 31, and 24 Tonlegee Lawns, and no. 4 Holmcroft, is an 'existing concrete block wall with brick and render, approx. 2000mm high'. The Branswood boundary is similarly labelled except at the open space area where the boundary is to be removed. To no. 25 Tonlegee Lawns and the open space area in Holmcroft it is 'proposed back garden side boundary, 1800mm high concrete post and concrete panel infill'. A 2.0-2.5 metres high timber acoustic barrier was proposed along the Distributor Road boundary and a 900mm high plinth wall with 1800mm high pillars and 900mm high railings were proposed along the open space to Fortbarrington Road.
- 8.11.4. Kildare Co. Co. was not satisfied with the proposed Distributor Road or Fortbarrington Road boundary treatments and further information was sought in this regard. The revised boundary treatments are shown on drg. no. 22195-2-111 (the same drawing number as the original application). The Distributor Road fence was replaced by a limestone clad block wall with some lengths of 400mm high stone wall and 800mm high railings at permeability points and adjacent to open space, and the revised Fortbarrington Road boundary comprised a native hedgerow with trees. The planning authority considered that the further information request had been satisfactorily answered.
- 8.11.5. I note that in the revised boundary treatment drawing, and notwithstanding that it was not cited in the further information request, the boundary indicated to no. 25 Tonlegee Lawns and the Holmcroft open space has been revised to 'Proposed back garden site boundary, 2000mm high concrete block wall and brick render to match existing BW1 wall' i.e. it has been revised to be consistent with the neighbouring properties. Having regard to this I note that page 18 of the applicant's response to the grounds of appeal refers to the original 1800mm high concrete post and concrete panel infill boundary along the side of no. 25. It is unclear if this is a typographical error or a mistake because the photographs on page 19 reflects the revised boundary treatment drawing. A matching wall as set out in the drawing should be provided. A condition to this effect can be included for clarity.

- 8.11.6. Uisce Éireann consented to the inclusion of the foul sewer within the side gardens of proposed nos. 58 and 81. The applicant proposes timber panel boundary fencing to the sides of both houses which will ensure a degree of flexibility in terms of their removability than compared a solid concrete block boundary wall if access if ever required to access the wayleave. The planning authority, in condition 9 (b) of its decision, considered that a higher quality boundary was required and fencing was not acceptable at public facing locations. While I agree with the planning authority that a timber fence is generally not appropriate at public facing locations, given the fact that these are located on a wayleave, I consider that they are acceptable in this instance.
- 8.11.7. I consider that the revised boundaries to the public roads are an improvement on those originally proposed. Having regard to the specific boundary treatment issues cited in two of the grounds of appeal I consider that the boundary treatment was adequately illustrated in the documentation submitted to the planning authority i.e. a 2.0 metre high concrete block wall with brick and render will be provided along the northern site boundary with Tonlegee Lawns and Holmcroft, except at the proposed permeability links, and it is acceptable and typical of such residential development boundaries.

## 9.0 **Appropriate Assessment (AA)**

### **Appropriate Assessment (AA) Screening**

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

- 9.1. The requirements of article 6(3), as related to screening the need for AA of a project under part XAB, section 177U of the Planning & Development Act, 2000 (as amended) are considered fully in this section.

#### Background on the Application

- 9.2. The applicant submitted an Appropriate Assessment Screening Report as part of the planning application. It was prepared by Panther Ecology Ltd. and is dated 8<sup>th</sup> June 2023.
- 9.3. The aim of the screening report 'is to assess whether significant effects to European sites (the Natura 2000 network) are likely to occur as a result of this project ...' (page

4). Desktop research and a site survey were carried out. Chapter 4 describes the proposed development and the existing environment. The site is described as an agricultural field used for the growth of cereals. A site-specific flood risk assessment concluded that the site is at low risk of flooding. Site investigations were carried out to a depth of 6 metres and a hydrogeological assessment was also carried out. It is proposed to discharge surface water by infiltration to natural on-site gravel. Only one European site (River Barrow and River Nore SAC (site code 002162)) is considered to be within the zone of influence (Zol).

- 9.4. The applicant's AA screening report concludes 'a Stage 2 Appropriate Assessment of the Proposed Development is not required as it can be excluded, on the basis of objective scientific information following screening ... that the Proposed Development, individually or in combination with other plans or projects, will not have a significant effect on any European site. It can be objectively concluded that no significant effects arising from the proposed development are likely to occur in relation to the River Barrow and River Nore SAC or indeed any other Natura 2000 site in the wider hinterland'.
- 9.5. Having reviewed the application documentation 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.

#### Submissions and Observations

- 9.6. The planning authority's Planning Report agrees with the applicant's AA screening report conclusion.
- 9.7. No submission or observation has raised any concern in relation to AA.

#### Screening for AA – Test of Likely Significant Effects

- 9.8. The project is not directly connected with or necessary to the management of a European site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
- 9.9. The proposed development is examined in relation to any possible interaction with European sites designated SAC and SPA (special protection area) to assess whether it may give rise to significant effects on any European site(s).

### Brief Description of the Development

- 9.10. The proposed development is described in section 2 of this inspector's report and section 4.1 of the applicant's AA screening report. The development involves the construction of 132 no. residential units (102 no. houses and 30 no. duplexes) as well as circulation roads, public open space areas, boundaries etc.
- 9.11. The site comprises an agricultural field with residential development to the north and west and public roads to the south and east.

### European Sites

- 9.12. The development site is not located in or immediately adjacent to a European site. The nearest European site is River Barrow and River Nore SAC approx. 500 metres to the east.
- 9.13. European sites within the Zol of a proposed development must be evaluated on a case by case basis. Section 5 and appendix C of the applicant's AA screening report identify two European sites in the vicinity/within a 15km radius; River Barrow and River Nore SAC and Ballyprior Grassland SAC (site code 002256, approx. 8.95km to the west). I consider that there is no other European site with a potential link to the subject site. The applicant has excluded Ballyprior Grassland SAC from being within the Zol given the nature of the SAC's conservation objective (semi-natural dry grasslands), the distance from the subject site, and the absence of a source-pathway-receptor link. I agree with the applicant that this SAC is not within the Zol of the proposed development.
- 9.14. In terms of the possibility of on-site foraging by special conservation interest (SCI) species of SPAs (of which there are none within 15km), I note the content of the EclA submitted with the application which did not record any annex I bird species during the summer or winter surveys. I do not consider that the site could be described as representing an ex-situ foraging site or area of any importance for any SCI species.
- 9.15. Therefore, I consider that only one European site is relevant for AA screening.

**Table 3 – European Sites Relevant for AA Screening**

European site (code)	List of conservation objectives	Distance from and connection to proposed development
River Barrow and River Nore SAC (002162)	<p>Estuaries [1130]</p> <p>Mudflats and sandflats not covered by seawater at low tide [1140]</p> <p>Reefs [1170]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows [1330]</p> <p>Mediterranean salt meadows [1410]</p> <p>Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260]</p> <p>European dry heaths [4030]</p> <p>Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</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>Desmoulin's whorl snail [1016]</p>	Approx. 500 metres to the east



	<p>Freshwater pearl mussel [1029] (The status of this species as a conservation objective is currently under review)</p> <p>White-clawed crayfish [1092]</p> <p>Sea lamprey [1095]</p> <p>Brook lamprey [1096]</p> <p>River lamprey [1099]</p> <p>Twaite shad [1103]</p> <p>Salmon [1106]</p> <p>Otter [1355]</p> <p>Killarney fern [1421]</p> <p>Nore pearl mussel [1990]</p>	
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### Identification of Likely Effects

9.16. The applicant identified seven project elements that were examined for relevance to possible effects on the SAC: earthworks and excavation, sediment and hydrocarbon runoff, stormwater and wastewater, disturbance to protected species, impact on protected habitats, dust and noise, and invasive species.

9.17. These elements were combined in section 6 of the applicant's screening report under three separate sub-headings. These can be synthesised as follows.

#### *1. Disturbance to protected habitats and species*

9.18. Given the approx. 500 metres distance between the site and the boundary of the SAC there are no direct impacts on the conservation objective habitats or species of the SAC. No ex-situ annex I habitats are found on site and the habitat is not suitable for whorl snails. Though it is likely otters are present in the general area, given the nature of the habitat, its loss is not likely to be significantly adverse. The site is in an urban setting and fauna would be accustomed to anthropologically generated noise. Dust is not considered to be a concern during construction due to the transient nature of the works and the scale. It is not considered that the proposed development would result

in a significant risk to the conservation objectives of the SAC due to habitat fragmentation or loss, disturbance, or reduction in species density.

## *2. Invasive species*

9.19. The spread of invasive species can negatively impact the conservation objectives of certain habitats and species. None were noted during the site assessment. The risk of their introduction is low. There is no significant risk to the SAC from invasive species on site.

## *3. Potential impacts on water quality*

9.20. Though the general site area would be hydrologically linked to the SAC the proposed development would not be considered to impact on the conservation objectives 'due to deleterious effects on water quality, owing to the location of the development, the nature and duration of works and the small scale of the development'.

9.21. Though the site is approx. 500 metres from the River Barrow/SAC boundary, the site is approx. 300 metres east of the Bennetsbridge Stream which is a tributary of the Barrow. However, foul water will discharge to the public foul system and stormwater will be discharged to ground on-site via a hydrocarbon interceptor and attenuation tank. The drainage system also includes permeable paving, green roofs, rainwater harvesting, and landscaping. Therefore, 'it is not anticipated that there will be a deleterious effect on water quality' in the Bennetsbridge stream or Barrow as a result of the proposed development.

9.22. The AA screening report notes that no works will be taking place near a riparian or aquatic habitat so construction phase concerns from the potential release of suspended solids, uncured concrete, or hydrocarbons, do not apply in terms of a deterioration in water quality. There is limited deep excavation works. The Hydrogeological Assessment states that 'the impact on groundwater from the proposed development is considered to be low and the proposed development will not have a significant impact on the River Barrow'.

9.23. Having regard to the content of the AA screening report and the site location, I agree with the applicant that the foregoing are the relevant potential impacts to be considered and that they would not be likely to have a significant effect on the River Barrow and River Nore SAC.

### In-Combination Effects

- 9.24. Table 6.4 of the AA screening report tabulates recent planning applications in proximity to the subject site. These are limited developments in terms of scale. There does not appear to have been any significant relevant planning application lodged in the vicinity of the site since this LRD application was submitted.
- 9.25. The AA screening report notes that the proposed development would not, in itself, pose a significant risk to a European site and it would not have a significant in-combination effect with existing or proposed developments. I agree with this conclusion.

### Mitigation Measures

- 9.26. No measures designed or intended to avoid or reduce any harmful effects of the project on a European site have been relied upon in this screening exercise.

### Screening Determination

- 9.27. The proposed development was considered in light of the requirements of section 177U of the Planning & Development Act, 2000 (as amended). Having carried out screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European site no. 002162, or any other European site, in view of the site's conservation objectives, and Appropriate Assessment (and submission of a Natura Impact Statement) is not therefore required.
- 9.28. This determination is based on the following:
- The distance between the subject site and the relevant European site and the absence of a hydrological connection,
  - The absence of any habitat loss or fragmentation to any European site or annex I habitat,
  - The disposal of foul water to the public foul sewer system for required treatment, and,
  - The discharge of surface water to ground after appropriate SuDS treatment.

## 10.0 Recommendation

10.1. Having regard to the foregoing, I recommend that permission is granted for the Large-Scale Residential Development (LRD) as proposed for the reasons and considerations set out below.

## 11.0 Reasons and Considerations

11.1. In coming to its decision the Board had regard to the following:

- (a) The nature, scale, and extent of the proposed development and the pattern of existing development in the area,
- (b) The provisions of the Project Ireland 2040 National Planning Framework,
- (c) The provisions of the Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (2024),
- (d) The provisions of the Eastern and Midland Regional Assembly Regional Spatial & Economic Strategy (RSES) 2019-2031,
- (e) The provisions of the Kildare County Development Plan 2023-2029,
- (f) The provisions of the Athy Local Area Plan 2021-2027 including the 'C: New Residential' zoning for the site,
- (g) The documentation submitted with the planning application, such as the Appropriate Assessment Screening Report, plus the applicant's response to the grounds of appeal,
- (h) The submissions and observations received on file including from the planning authority and third parties,
- (i) The likely consequences for the environment and the proper planning and sustainable development of the area in which it is proposed to carry out the proposed development and the likely significant effects on European sites, and,
- (j) The report of the Inspector.

### **Appropriate Assessment (AA) Screening**

- 11.2. The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on European sites, taking into account the nature and scale of the proposed development on serviced lands, the nature of the receiving environment which comprises a greenfield site in an urban area, the distances to the nearest European sites, the hydrological pathway considerations, the information submitted as part of the applicant's Appropriate Assessment Screening Report, and the Inspector's report.
- 11.3. In completing the screening exercise, the Board agreed with and adopted the report of the Inspector and that, by itself or in combination with other development, plans and projects in the vicinity, the proposed development would not be likely to have a significant effect on any European site in view of the conservation objectives of such sites, and that a Stage 2 Appropriate Assessment is not, therefore, required.

### **Environmental Impact Assessment (EIA) Screening**

- 11.4. The Board completed an environmental impact assessment screening of the proposed development and considered that the Environment Impact Assessment Screening Report submitted by the applicant, which contains information set out in Schedule 7A to the Planning & Development Regulations, 2001 (as amended), identifies and describes adequately the effects of the proposed development on the environment. Having regard to:
- (a) the nature and scale of the proposed development, which is substantially below the thresholds in respect of Paragraphs 10 (b) (i) and (iv) of Part 2 of Schedule 5 of the Planning & Development Regulations, 2001 (as amended),
  - (b) the existing use of the site and the pattern of development in the vicinity,
  - (c) the availability of public water and foul services to serve the proposed development,
  - (d) the criteria set out in Schedule 7 of the Planning & Development Regulations, 2001 (as amended) and the content of the applicant's EIA Screening Report, and,

- (e) the measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction Environmental Management Plan,

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report would not therefore be required.

### **Proper Planning and Sustainable Development**

- 11.5. The Board considered that, having regard to the zoning of the site and the other provisions of the Kildare County Development Plan 2023-2029 and the Athy Local Area Plan 2021-2027, and to the established pattern of development in the area, the proposed residential development, subject to compliance with the conditions set out below, would make efficient use of an appropriately zoned greenfield site within the boundary of Athy immediately adjacent to the built-up urban area, would positively contribute to compact growth and an increase in housing stock in this urban area, would be acceptable in terms of urban design including filtered permeability links with existing housing developments and the public roads, would be acceptable in terms of pedestrian and traffic safety, and would provide an acceptable form of residential amenity for future occupants. The proposed development would not seriously injure residential or visual amenities in the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **12.0 Conditions**

- 1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on 15<sup>th</sup> September 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 or as otherwise indicated and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The mitigation measures identified and contained within the Construction Environmental Management Plan, Ecological Impact Assessment and other plans and particulars submitted with the application shall be implemented in full, except where otherwise required by conditions attached to this permission.

**Reason:** In the interests of clarity, and of protecting the environment and public health.

3. Filtered pedestrian and cycle permeability shall be provided at the locations illustrated on the site layout plan. The detailed design of these links shall be agreed in writing with the planning authority prior to the commencement of development on site.

**Reason:** In the interest of encouraging and facilitating the use of sustainable modes of transport.

4. Prior to the commencement of development, the developer shall submit for the written approval of the planning authority a detailed design for the proposed upgrading works along Fortbarrington Road which shall be generally as indicated on the documentation received by the planning authority. These works shall be completed prior to the first occupation of the proposed development at the developer's expense.

**Reason:** In the interests of pedestrian, cyclist, and vehicular safety and the proper planning and sustainable development of the area.

5. The development shall be carried out in accordance with the phasing programme specified.

**Reason:** In the interest of orderly development.

6. Details of the materials, colours, and textures of all the external finishes to the proposed development shall be as submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development. Roof tiles or slate shall be blue/black.

**Reason:** In the interest of visual amenity.

7. Proposals for a development name and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

**Reason:** In the interest of urban legibility.

8. (a) Prior to the first occupation of the residential units hereby permitted the permitted creche shall be fully fitted out and suitable for immediate occupation and operation.

(b) Details of all creche signage shall be submitted to, and agreed in writing with, the planning authority prior to operation of the creche.

**Reason:** In the interests of orderly development of the site and the visual amenities of the area.

9. Prior to commencement of development the developer shall submit, for the written approval of the planning authority, details of the noise mitigation measures to be incorporated into the fabric of the buildings to comply with noise insulation requirements.

**Reason:** In the interest of residential amenity.

10. A 2.0 metres high concrete block wall with brick and render shall be provided along the northern site boundary with Tonlegee Lawns and Holmcroft, except at the proposed permeability links.



**Reason:** In the interests of clarity and residential amenity.

11. 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.

12. Public lighting shall be provided in accordance with the Public Lighting Report unless otherwise 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 residential amenity and public safety.

13. 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 interests of public health and surface water management.

14. The developer shall enter into water and waste water connection agreement(s) with Uisce Éireann prior to commencement of development.

**Reason:** In the interest of public health.

15. The road network serving the proposed development, including turning bays, junction with the public road, parking areas, footpaths and kerbs, homezones, raised tables, signage, shall be in accordance with the detailed construction standards and requirements of the planning authority for such works and with the relevant provisions of the Design Manual for Urban Roads and Streets

(DMURS). In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

**Reason:** In the interests of amenity and of traffic and pedestrian safety.

16. (a) The car parking facilities hereby permitted shall be reserved solely to serve the proposed development. All car parking spaces shall be assigned permanently for the residential development and creche and shall be reserved solely for that purpose.

(b) A minimum of 10% of communal car parking spaces shall be provided with functioning electric vehicle charging stations or points, and ducting shall be provided for all remaining car parking spaces, facilitating the installation of electric vehicle charging points or stations at a later date.

(c) The bicycle parking quantity shall be provided as per the bicycle parking standards of the Kildare County Development Plan 2023-2029. Resident cycle parking spaces shall be secure, conveniently located, sheltered, and well lit. Key/fob access shall be required to resident bicycle compounds. All cycle parking design including visitor parking shall allow both wheel and frame to be locked. Electric bike charging facilities within the resident cycle parking areas shall be provided. All cycle parking shall be in situ prior to the occupation of the development.

(d) A Parking Management Plan shall be prepared for the development and shall be submitted to, and agreed in writing with the planning authority, prior to the occupation of the development.

**Reason:** To ensure that adequate car and bicycle parking facilities are available to serve the proposed development.

17. Prior to occupation of the development or as otherwise agreed in writing with the planning authority, a Stage 3 Road Safety Audit shall be carried out by the developer for the written approval of the planning authority.

**Reason:** In the interests of the safety of vulnerable road users and motorists.

18. The site shall be landscaped in accordance with the detailed comprehensive scheme of landscaping which was submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interests of residential and visual amenity.

19.(a) The communal open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage, and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.

(b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

20.(a) 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 duplex unit shall be submitted to, and agreed in writing with, the planning authority not later than 6 months from the date of commencement of the

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

(b) This plan shall provide for screened communal bin stores, the locations, and designs of which shall be included in the details to be submitted.

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

21. Prior to commencement of development, the developer shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for 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 all 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.

22. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) Location of access points to the site for any construction related activity;
- (c) Location of areas for construction site offices and staff facilities;

- (d) Details of site security fencing and hoardings. Hoardings shall include a one square metre area on each frontage detailing site management contact details;
- (e) Details of on-site car parking facilities for site workers during the course of construction;
- (f) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (g) Measures to obviate queuing of construction traffic on the adjoining road network;
- (h) Measures to prevent the spillage or deposit of clay, rubble or other debris on the road network;
- (i) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any road or footpath during the course of site development works;
- (j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;
- (k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;
- (l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;
- (m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains;
- (n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority;
- (o) A community liaison officer shall be appointed for the duration of the construction works.

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

23. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 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.

24.A Construction and Environmental Management Plan (CEMP) shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The CEMP shall include but not be limited to construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

**Reason:** In the interests of environmental protection and orderly development.

25. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall:

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including any hydrological or geotechnical investigations) relating to the proposed development,
- (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and,
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements the matter shall be referred to An Bord Pleanála for determination.

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

26. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning & 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 & Development Act, 2000 (as amended), and of the housing strategy in the development plan of the area.

27. Prior to the commencement of any house or duplex unit 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 or duplex unit), pursuant to Section 47 of the Planning & Development Act, 2000 (as amended), that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

**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.

28. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, 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 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 of the development.

29. 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 & 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 & 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.

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.

---

Anthony Kelly

Planning Inspector

15<sup>th</sup> January 2024



## Appendix 1

### EIA Screening Determination – ABP-318365-23

<b>A. Case Details</b>		
<b>Development Summary</b>	Construction of 132 no. residential units (102 no. houses and 30 no. duplex units) and a creche	
	<b>Yes/ No / N/A</b>	<b>Comment (if relevant)</b>
Was a Screening Determination carried out by the PA?	Yes	Concluded that EIA was not required
Has Schedule 7A information been submitted?	Yes	
Has an AA screening report or NIS been submitted?	Yes	AA Screening Report
Is an IED/IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	
Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA?	Yes	AA Screening Report  Development Plans subject to SEA

<b>B. Examination</b>	<b>Where relevant, briefly describe the characteristics of impacts i.e. the nature and extent, and any mitigation measures proposed to avoid or prevent a significant effect (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact)</b>	<b>Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain</b>
<b>1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)</b>		
1.1 Is the project significantly different in character or scale to the existing surrounding environment?	No. The proposed residential development is similar in scale and use to the existing established housing areas to the north and west	No
1.2 Will construction, operation, decommissioning, or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	The site is a greenfield site in the urban area of Athy. It would change agricultural land to a residential development.  No demolition works are proposed.	No
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals, or energy, especially resources which are non-renewable or in short supply?	Construction materials would be typical of such developments.	No
1.4 Will the project involve the use, storage, transport, handling, or production of substance which would be harmful to human health or the environment?	Construction activities would require use of potentially harmful materials e.g. hydrocarbons. These are typical of construction sites. A CEMP is submitted with the application.	No.
1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?	This is a standard housing development. Typical construction phase activities would be carried out. These would be temporary and localised. A CEMP and Operational Waste & Recycling Management Plan are submitted with the application.	No

1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters, or the sea?	No significant risk is identified. There are no surface waters on or in the immediate vicinity of the site. A Hydrogeological Assessment was submitted. It is proposed to discharge surface water by infiltration to natural on-site gravel. Foul effluent is to be connected to the public foul system.	No
1.7 Will the project cause noise and vibration or release of light, heat, energy, or electromagnetic radiation?	The development is a standard residential development. Noise would be generated during the construction phase and mitigation measures are contained in the CEMP.	No
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	Normal construction phase impacts would be mitigated as per the CEMP. No operational phase impacts are anticipated.	No
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No particular risk having regard to the nature and scale of development.	No
1.10 Will the project affect the social environment (population, employment)	The proposed development would result in a change of use of the site and an increase in population though this would be in line with anticipated growth as per the core strategy.	No
1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?	The proposed development is a greenfield site located in an established urban area	No
<b>2. Location of proposed development</b>		
2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following: a) European site (SAC/ SPA/ pSAC/ pSPA) b) NHA/ pNHA	It is not located on, in, or adjoining any of these sites.  Likely significant effects on European sites are screened out in section 9 of this inspector's report	No

<p>c) Designated Nature Reserve</p> <p>d) Designated refuge for flora or fauna</p> <p>e) Place, site or feature of ecological interest, the preservation / conservation / protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan</p>		
<p>2.2 Could any protected, important, or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be significantly affected by the project?</p>	<p>An EclA was submitted with the application. It concludes that there would be no potential for any significant impact on protected species. Ecology/biodiversity mitigation measures are outlined.</p>	<p>No</p>
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	<p>There are no recorded monuments or protected structures on site or in the vicinity. An AIA was submitted with the application which recommended archaeological monitoring.</p>	<p>No</p>
<p>2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?</p>	<p>No such features arise in this urban location</p>	<p>No</p>
<p>2.5 Are there any water resources including surface waters e.g. rivers, lakes / ponds, coastal or groundwater which could be affected by the project, particularly in terms of their volume and flood risk?</p>	<p>None</p>	<p>No</p>
<p>2.6 Is the location susceptible to subsidence, landslides, or erosion?</p>	<p>No</p>	<p>No</p>
<p>2.7 Are there any key transport routes e.g. national primary roads, on or around the location which are susceptible to congestion or which</p>	<p>The site is immediately adjacent to the recently constructed Athy Distributor Road.</p>	<p>No</p>

cause environmental problems, which could be affected by the project?	No significant contribution to any traffic congestion is anticipated.	
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc.) which could be significantly affected by the project?	No	No
<b>3. Any other factors that should be considered which could lead to environmental impacts</b>		
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No developments have been identified in the vicinity which would give rise to significant cumulative environmental effects.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No
3.3 Are there any other relevant considerations?	No	No

<b>C. Conclusion</b>		
<b>No real likelihood of significant effects on the environment</b>	X	EIAR not required
<b>Real likelihood of significant effects on the environment.</b>		EIAR required

<b>D. Main Reasons and Considerations</b>
<p>Having regard to:</p> <ul style="list-style-type: none"> <li>(a) the nature and scale of the proposed development, which is substantially below the thresholds in respect of Paragraphs 10 (b) (i) and (iv) of Part 2 of Schedule 5 of the Planning &amp; Development Regulations, 2001 (as amended),</li> <li>(b) the location of the site on land zoned 'C: New Residential' which has a land use zoning objective 'To provide for new residential development' in the Athy Local Area Plan 2023-2029,</li> <li>(c) the existing use of the site and the pattern of development in the vicinity,</li> <li>(d) the availability of public water and foul services to serve the proposed development,</li> </ul>

(e) the criteria set out in Schedule 7 of the Planning & Development Regulations, 2001 (as amended) and the content of the applicant's EIA Screening Report, and,

(f) the measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Construction Environmental Management Plan,

it is considered that the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an Environmental Impact Assessment Report would not therefore be required.

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

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