



An  
Bord  
Pleanála

## Inspector's Report ABP-318401-23

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<b>Development</b>	Large scale residential development consisting of 168 residential units and childcare facility.
<b>Location</b>	Southgreen Road & Old Road, Kildare Town, Co. Kildare.
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	23/416
<b>Applicant</b>	Pousterle Limited
<b>Type of Application</b>	Large-Scale Residential Development
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party vs. Refusal
<b>Appellants</b>	Pousterle Limited
<b>Observers</b>	None
<b>Date of Site Inspection</b>	7 <sup>th</sup> December 2023
<b>Inspector</b>	Stephen Ward

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## 1.0 Site Location and Description

- 1.1. The subject site has a stated gross area of 5.057 hectares and is located within the northern suburban environs of Kildare Town. It is c. 700m walking distance from the main street in the town centre (Claregate St) and is c. 900m walking distance from Kildare Train Station on the Dublin (Hueston) line. The M7 Motorway runs to the southern side of the town.
- 1.2. The northern environs of the town mainly comprise a mixture of modern suburban housing and undeveloped lands. The site bounds onto a recently developed urban link road with cycleways, footpaths, and public lighting to the north. To the south, it bounds onto the rail line and a small housing development on the opposite side of the line. The western side of the site is bound by Southgreen Road, which is of limited width but has recently benefitted from some pedestrian improvements. The eastern side is bound by Old Road, which is of a narrow rural character and has no pedestrian/cyclist facilities. At its southeast corner, a long narrow portion of the site extends into an undeveloped field to the east towards a wastewater pump station.
- 1.3. The site itself comprises undeveloped agricultural fields and on-site vegetation consists mainly of trees/hedgerows along the southern and eastern site perimeter. The site generally falls from north to south and from west to east, with slopes being particularly pronounced in some sections around the site perimeter.

## 2.0 Proposed Development

- 2.1. The proposed development consists of the construction of a new residential development (density of 38 units/hectare) consisting of 168 no. units (24 no. 1 bed units; 52 no. 2 bed units; 77 no. 3 bed units; and 15 no. 4 bed units) in a mixture of houses, apartments and duplex units ranging in height from 2 to 3 storeys together with a childcare facility.
- 2.2. The residential element of the scheme will consist of:
  - 108 no. Houses (30 no. Semi Detached Houses and 78 no. Terraced Houses) in a range of house types (all 2 storeys in height); and
  - 36 no. Duplex Units and 24 no. Apartment Units across Block A (3 storeys); Block B (3 storeys); Block C (2 storeys); and Block D (3 storeys).

- 2.3. The remaining elements of the development can be summarised as follows:
- A separate building (2 storeys) will accommodate a Childcare Facility of approx. 343.91m<sup>2</sup> with outdoor play area space of approx. 91.5m<sup>2</sup>.
  - Public open space (16.1% of the site area) is proposed in the form of large central play areas, outdoor seating and planting.
  - A total of 203 no. car parking spaces (183 no. for residents, 11 no. for visitors and 9 no. for creche staff and creche set down/drop off) are provided at surface level, including 3 no. Accessible spaces.
  - 2 no. Bicycle/Bin Storage Buildings (both single storey / 2.5 m in height) are proposed to accommodate (a) 165 no. bicycle spaces (128 no. for residents, 24 no. for visitors and 13 no. for creche staff and children) in the form of 3 no. bicycle storage areas (approx. 66.3 sq m); and (b) 2 no. Bin storage areas (approx. 17.9 sq m).
  - New vehicular access point from the Southgreen Road. New pedestrian and cyclist access points will be provided on to Southgreen Road, Old Road and the Southern Link Road from the site. A double-lane cycle track and footpath are also proposed along Southgreen Road.
  - The associated site and infrastructural works include provision for water services; foul and surface water drainage and connections; attenuation proposals; permeable paving; all landscaping works; boundary treatment; internal roads and footpaths; electrical services and all associated site development works.

2.4. The proposed development was amended in response to the planning authority's further information request. The amendments relate mainly to boundary treatment, internal roadways, and drainage proposals. The response also reduced the net developable area to allow for the required Irish Rail setback, resulting in a revised density of 38.5 units/hectare and a total public open space at a rate of 15.3% of the site area.

2.5. In addition to the standard plans and particulars, the application is accompanied by the following documents and reports:

- Planning Report & Statement of Consistency
- LRD Opinion Response Document
- EIAR Screening Report
- Social Infrastructure Audit
- Appropriate Assessment Screening Report
- Ecological Impact Assessment
- Architectural & Masterplanning Design Statement
- Operational Waste Management Plan
- Construction Environmental Management Plan
- Acoustic Assessment
- Preliminary Construction Management Plan
- Resource and Waste Management Plan
- Archaeological Assessment Report
- Engineering Assessment Report (including Drainage & SuDS Strategy)
- Masterplan Infrastructure Strategy
- Building Life Cycle Report
- Flood Risk Assessment
- Geophysical Survey
- Hydrogeological Assessment Report
- Traffic and Transport Assessment (including Stage 1&2 Road Safety Audit)
- DMURS Statement of consistency
- Lighting Layout and Report
- Landscape Design Rationale
- Arboricultural Report (including Impact Assessment and Tree Survey)

- Tree Survey Plan, Tree Removal Plan, Tree Protection Plan
- Housing Quality Assessment & Development Schedules
- Universal Access Statement
- Statement of Compliance with Principles of Universal Design
- Sustainability and Energy Statement
- Photomontages.

2.6. The above information was updated and supplemented by the information submitted with the further information response and by the appeal documentation.

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

3.1. The proposals for the subject site have been subject to Section 247 discussions, with the first formal consultation being held on 4<sup>th</sup> May 2022. A pre-application LRD meeting under Section 32C of the Planning and Development Act 2000 (as amended) took place on 18<sup>th</sup> November 2022 between the representatives of the applicant and the planning authority.

3.2. A Large-Scale Residential Development (LRD) Opinion was issued under Section 32D of the Act on the 16<sup>th</sup> of December 2022. This Opinion concluded that the documents submitted would not constitute a reasonable basis for making an LRD application. The reasons can be summarised as follows:

1. The SuDS strategy and Surface Water drainage proposal are not fully developed and therefore inadequate and prejudicial to the orderly development of the site.
2. The documents do not adequately demonstrate that the proposal does not require a Natura Impact Statement and Environmental Impact Assessment Report.
3. The proposal does not demonstrate compliance with the 12 criteria set out in the Urban Design Manual.

3.3. The Opinion stated that, in the event that the above issues are addressed by the relevant documents to constitute a reasonable basis to make an LRD application, any such application should, in accordance with Article 16A of the Planning and

Development Regulations 2001 (as amended), include the following information (in summary).

#### Surface Water

1. A revised SuDS Strategy
2. Clarification of suitable outfall proposals for run-off

#### Ecological/Appropriate Assessment/Environmental

3. Revised AA Screening and Ecological Impact Assessment to address impact on the Curragh Aquifer and Pollardstown Fen.
4. Information specified in Schedule 7A for EIA Screening.
5. Operational Waste Management Strategy.

#### Use/Layout/Design/Mix

6. Revised layout/design to address a range of issues.
7. Additional site section drawing details.
8. Social Infrastructure Audit.
9. Justification for the provision of 54.5% 3-bed units.
10. A revised location for the proposed creche.
11. Revised access, parking, and design proposals for the creche.
12. Revised phasing plans.
13. Clarification of any proposals to raise site levels.
14. Clarification of drawings and labelling.

#### Roads/Transportation

15. Proposals for restricted vehicular access and footpaths on Old Road.
16. Proposals for a Greenway connection.
17. Indicative details of the proposed new bridge on the Southgreen Road upgrading works.
18. Proposals for EV charging points.
19. Clarification of road/footpath widths.

20. Proposals for 2m footpath along western side of site.
21. Submit Stage 1&2 RSA, swept path analysis, DMURS Quality Audit, CBR Test, Lighting Report and draft CMP.
22. Liaise with Iarnrod Eireann regarding separation distances and submit Acoustic Design Methodology.

#### Fire Safety

23. Clarification of swept path analysis and compliance with Fire Regulations.
24. Clarification of car-parking proposals.

#### Open Space, Landscaping and Boundary Treatment

25. Arboriculture Impact Assessment and tree information.
26. Details of tree/hedgerow protection.
27. Landscape section drawings.
28. Clarification of landscape impacts on underground services etc.
29. Clarification of landscape proposals to deal with level changes.
30. Revisions to play proposals.

#### Natural & Built Heritage

31. Proposals for biodiversity gain and compliance with Green Infrastructure policies in the Development Plan.
32. Archaeological Impact Assessment.

#### Flood Risk

33. Revisions to the FRA submitted.

#### Waste Services & Irish Water

34. Engage with Irish Water.
35. Water Services Masterplan shall be devised for the Southgreen development area.
36. Allowance for the applicant's land to the north of the site in the design.



## Housing/Part V

37. Clarification of Part V proposals.

### 4.0 **Planning Authority Decision**

#### 4.1. **Decision**

By order dated 12<sup>th</sup> of October 2023, the planning authority made a decision to refuse permission for the following reason:

*The Draft Kildare Town Local Area Plan 2023-2029, currently under preparation, contains objectives to prepare a Surface Water Masterplan for Kildare Town, based on information contained within the Surface Water Study that accompanies the Draft LAP. It also contains objectives to incorporate nature-based water drainage solutions as part of all plans and projects in Kildare Town and to ensure a network of Surface Water Corridors (surface water pathway corridors) are provided in accordance with the indicative locations shown, including with the proposed development site. Policy IN P4 of the Kildare County Development Plan 2023-2029 seeks to ensure that developments provide adequate surface water drainage systems and promotes the use of SuDS. Objectives IN O24 and IN O26 of the Kildare County Development Plan 2023-2029 limit the placing of attenuation/storage structures under public open space and seek to ensure that the design of SuDS enhances the quality of open spaces. Furthermore it is an action of the Kildare County Development Plan 2023-2029 to Develop a 'Sustainable Urban Drainage Systems Guidance Document' for County Kildare within one year of the adoption of the Kildare County Development Plan 2023-2029.*

*Having regard to the above, noting in particular the significant surface water issues affecting Kildare Town, the failure to incorporate a surface water corridor indicated in the Draft LAP within the proposed development and the uncertainty regarding surface water drainage features affecting public open spaces within the proposed development, it is considered that the proposed development would be premature pending the adoption of the Kildare Town Local Area Plan 2023-2029, would be contrary to objectives IN O24 and IN O26 of the Kildare County Development Plan 2023-2029 and premature pending the development of Sustainable Urban Drainage Systems Guidance Document for County Kildare (to supercede these objectives).*

*The proposed development would therefore be prejudicial to the appropriate and orderly drainage of surface water within the site and surrounding area, and prejudicial to the provision of high quality public open space within the residential development, which would detract from the amenities of future Occupants of the development and would therefore be contrary to the proper planning and sustainable development of the area.*

## 4.2. Planning Authority Reports

### 4.2.1. Planning Reports

The KCC assessment is outlined in two planning reports (i.e. the initial report and the subsequent report on the further information response). The main aspects of the assessment can be cumulatively summarised under the following headings.

#### Response to LRD Opinion

The initial report assesses the response and raises some concerns in relation to the following points.

6. The applicant has not adequately responded to a number of issues relating to layout, boundary treatment, and storage space. These issues can be addressed through conditions of any permission.

7. Adequate site section drawings have not been submitted.

25 - 27. A boundary treatment plan has not been included and is required.

33. Unforeseen technical issues have arisen, and further information is required with reference to, inter alia, assessment of pluvial flood risk and compliance with the draft LAP, justification test, requirement for a minimum of 500mm between FFLs and 100-year event top water levels in adjacent SuDS.

#### Core Strategy and Zoning

- Legacy zonings and extant permissions exceed the housing unit allocation for Kildare Town and may be considered contrary to the Core Strategy. However, this has been addressed in the preparation of the draft LAP and should not preclude a grant of permission in this case.

- The zoning of the site as 'C1 (New Residential)' in the Kildare Town LAP 2012-2018 would not materially conflict with the CDP.
- The land is zoned 'CP2 New Residential Phase 2' in the draft LAP, under which the proposed development would not be acceptable in principle. However, a Material Alteration to the draft LAP proposes to amend the zoning to 'C: New Residential' and it would be inappropriate to conclude that the principle would materially conflict with the CDP.
- It is concluded that the principle of the development is acceptable.

#### Development Management Standards

- The proposal would be acceptable in accordance with CDP standards for plot ratio, site coverage, housing mix, density, private open space, car-parking, childcare provision, Part V, and 'Taking in Charge'.
- Public Open Space generally meets CDP requirements, but concerns apply in relation to the associated impacts of drainage/SUDS measures.
- The housing units generally comply with standards but there are concerns that some units have insufficient storage space and revisions/clarifications are suggested for the design/layout and levels of some units.
- The applicant's response to the further information request includes a boundary treatment plan but further details are required.

#### Transportation

- There is no objection to the proposed access, layout, pedestrian/cycle, or traffic generation arrangements.
- The FI response has clarified that the development does not encroach onto Iarnrod Eireann (IE) lands and boundary treatment has been revised. Correspondence from IE indicates agreement with the proposals. IE recommends that a condition should be applied in relation to the completion of the upgrading of the bridge at Southgreen Rd prior to commencement of development.

#### Surface Water

- The further information response altered the drainage strategy to include primary infiltration wetlands within the south and central open space, as well as other

mechanisms such as landscaping, permeable paving, swales, green roofs, rainwater harvesting tanks. The central open space still includes 6 no. infiltration trenches and a pluvial attenuation storage tank.

- However, the applicant does not propose drainage pathways as indicated in the draft LAP. The drainage pathway along the Irish Rail embankment could be offset a safe distance.
- The applicant has not addressed section 15.6.6 of the CDP in relation to storage tanks/systems under public open space, which has greater significance given the widespread surface water issues throughout the town due to the absence of significant watercourses to act as an outfall.
- If a drainage pathway is provided to the south in accordance with the surface water strategy, it would further diminish the quantum of public open space and Objective IN O26 is to ensure that the design of SuDS enhances open spaces. Due to the uncertainty of such impacts, the development is inadequate and premature pending the adoption of the LAP. The conditions recommended in the Water Services report (j and k) are substantial and detailed and would not be considered precise or reasonable.

#### Flood Risk

- The further information response includes significant detailing in terms of the FRA and engineering report. The response was referred to Water Services and the conditions recommended by this section are substantial and detailed and would not be considered precise or reasonable.

#### Heritage & Ecology

- Potential ecological impacts have been adequately identified and suitable mitigation measures have been included.
- Archaeological assessment has been carried out and conditions have been recommended for any grant of permission.

#### Urban Design Manual Criteria

The report outlines general satisfaction with the proposed design and layout. Some concerns are raised in relation to:

- The streetscape design approach along 'Southern Internal Link Road'.
- The impact of gradient changes at the northwest and southwest site corner, and the relationship of the development with road/rail levels. The FI response addressed site levels and the subsequent assessment outlined that proposals would be acceptable subject to the omission of 2 dwellings in Cell 4 which face Southgreen Rd.
- The design/layout of some portions of the development.
- The lack of nature-based solutions for surface water drainage.

### Conclusion

While the principle of development is acceptable, there are serious concerns about surface water management; the delivery of draft LAP objectives; the impact on the quantum and quality of public open space; and the overall surface water management strategy for the town. The following points are noted:

- The proposal does not include a drainage pathway along the southern site boundary as per the draft LAP. Due to uncertainties about detailed design, the surface water masterplan for the town, and the required setback from the railway line, the undetermined drainage pathway could significantly impact on public open space provision to the south of the site.
- Having regard to CDP objectives IN O24, IN O26, an IN 030, there are concerns that the presence of underground storage could significantly impact on the central open space in terms of malfunction or maintenance. These concerns cannot be disregarded prior to the adoption of the draft LAP and Surface Water Strategy or prior to the finalisation of the 'Sustainable Urban Drainage Systems Guidance Document' (to supersede existing objectives) as per action 'IN A3' of the CDP.

The report recommends refusing permission and this forms the basis of the KCC decision.

#### 4.2.2. **Other Technical Reports**

Roads: No objections subject to conditions.

Chief Fire Officer: No objections subject to conditions.

Environment: No objections subject to conditions.

Kildare/Newbridge MD: Requests further information regarding road/footpath tie-ins.

Water Services: Following the further information response, the report outlines that there are no objections subject to conditions.

Housing: No objections subject to conditions.

Parks: No objections subject to conditions.

Heritage Officer: No objections subject to conditions.

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

Uisce Eireann: No objections subject to conditions.

DAU: No objections subject to conditions regarding archaeological monitoring.

EHO: No objections subject to conditions.

Iarnrod Eireann: Objects to the application on the basis that existing bridges cannot accommodate increased traffic, footpaths, and cyclepaths, and recommends conditions to be imposed in the event of a grant of permission.

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

None.

### 5.0 **Planning History**

5.1. On the southern portion of the site, an application (**P.A. Reg. Ref. 05/2516**) for an enclosed temporary wastewater treatment plant (1,000 sq m GFA) was withdrawn. Under **ABP-316476-23** (RZLT case), the Board set aside the local authority's inclusion of the site on the draft RZLT Map on the basis that the LAP (2012-2018) had expired, and the lands were no longer zoned. There would not appear to be any other relevant planning history relating to the appeal site.

**ABP Ref. 316476**: RZLT appeal case where the appeal site formed part of a larger landholding. The Board set aside the determination of the local authority and allowed the appeal against the inclusion of the land on the residential zoned land tax draft map. The reason for the determination was based on the conclusion that the Kildare Town LAP 2012-2018 had expired and the lands were not zoned.

5.2. In the surrounding area, lands to the northeast and northwest of the site are currently under construction and the following history applies:

Sites to northeast

**P.A. Reg. Ref. 18/1026:** Permission granted for 99 dwellings, childcare facility, provision of the Southern Internal Link Road and associated upgrade works.

**P.A. Reg. Ref. 18/1027:** Permission granted for 50 dwellings, provision of the Southern Internal Link Road and associated upgrade works.

**P.A. Reg. Ref. 18/1028:** Permission granted for 96 dwellings, childcare facility, provision of the Southern Internal Link Road and associated upgrade works.

Sites to northwest

**P.A. Reg. Ref. 17/764:** Permission granted for modifications to development permitted under Reg. Ref. 07/1450 & Reg. Ref. 13/155 to provide for the construction of a 2-storey residential scheme comprising 187 no. dwelling units; development of the Southern Internal Link Road including junction upgrade works; new pumping station within the site and all associated site service connections.

**P.A. Reg. Ref. 13/155:** Extension of Duration for Reg. Ref. 07/1450 granted until 6 August 2018.

**P.A. Reg. Ref. 07/1450:** Permission granted for development consisting of 210 no. dwellings and the delivery of the Southern Internal Link Road.

## 6.0 Policy Context

### 6.1. National Policy

6.1.1. Having considered the nature of the proposal, the receiving environment, and the documentation on file, including the reports and submissions from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024), Department of Housing, Local Government and Heritage.

- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023) (i.e. ‘the Apartments Guidelines’).
- Delivering Homes, Sustaining Communities (2007) and the accompanying Best Practice Guidelines - Quality Housing for Sustainable Communities.
- Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme.
- Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities (May 2021).

Other relevant national guidelines include:

- Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities (Department of Environment, Heritage and Local Government, 2009).
- Nature-based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas Water Sensitive Urban Design Best Practice Interim Guidance Document, Department of Housing, Local Government and Heritage (2021).

6.1.2. ‘Housing for All - a New Housing Plan for Ireland (September 2021)’ is the government’s housing plan to 2030. It is a multi-annual, multi-billion-euro plan which aims to improve Ireland’s housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes:

- To purchase or rent at an affordable price
- Built to a high standard in the right place
- Offering a high quality of life.

6.1.3. ‘Project Ireland 2040 – The National Planning Framework (NPF)’ is the Government’s high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a



commitment towards ‘compact growth’, which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains several policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (c) aims to 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 promotes attractive, well-designed liveable communities.
- NPO 6 aims to regenerate towns and villages of all types and scale as environmental assets.
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards.
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking.
- NPO 27 seeks to integrate alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility.
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location.
- NPO 35 seeks to increase densities through a range of measures including site-based regeneration and increased building heights.

6.1.4. The Climate Action Plan 2023 implements carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050. By 2030, the plan calls for a 40% reduction in emissions from residential buildings and a 50% reduction in transport emissions. The reduction in transport emissions includes a 20% reduction in total vehicle kilometres, a reduction in fuel usage, significant increases in sustainable transport trips, and improved modal share.

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

6.2.1. The CDP has designated Kildare as a Self-Sustaining Growth Town. The CDP Core Strategy allocates 4.7% of the county housing and population target to the town of Kildare (a target increase of 1,182 persons or 430 units). Objective CS O1 is that

future growth and spatial development is in accordance with the population and housing allocations contained in the Core Strategy.

6.2.2. Section 6.6 of the CDP deals with Surface Water/Drainage and highlights the importance of compliance with best practice guidance and the use of Sustainable Urban Drainage Systems (SuDS). Relevant policies, objectives, and actions can be summarised as follows:

IN P4 - Ensure adequate systems which meet the requirements of the EU Water Framework Directive and the River Basin Management Plan in order to promote the use of Sustainable Drainage Systems.

IN O21 - Facilitate the development of nature-based SuDS.

IN O22 - Require SuDS and other nature-based surface water drainage as an integral part of all new development proposals.

IN O23 – Reduce storm water run-off and ensure that it is disposed of on-site OR attenuated and treated prior to discharge with consideration for ground infiltration, storage, and slow-down.

IN O24 - Only consider underground retention solutions when all other options have been exhausted. Underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution.

IN O26 - Ensure as far as practical that the design of SuDS enhances the quality of open spaces. SuDS do not form part of the public open space provision, except where it contributes in a significant and positive way to the design and quality of open space. In instances where the Council determines that SuDS make a significant and positive contribution to open space, a maximum of 10% of open space provision shall be taken up by SuDS. The Council will consider the provision of SuDS on existing open space, where appropriate. The 'Sustainable Urban Drainage Systems Guidance Document' prepared as an action of this plan shall supersede this standard.

IN O30 - Require all plans and projects to comply with the Best Practice Interim Guidance Document 'Nature-based solutions to the management of rainwater and surface water runoff in Urban Areas (2021)' published by the Department of Housing, Local Government and Heritage, or any subsequent updates to same.

IN A3 - Develop a 'Sustainable Urban Drainage Systems Guidance Document' for County Kildare within one year of the adoption of the Plan.

6.2.3. Section 6.7 of the CDP deals with Flood Risk Management and highlights the need to consider/manage risk as part of the planning process. Objective IN O33 is to manage flood risk in accordance with the sequential approach and requirements of the Planning System and Flood Risk Management Guidelines for Planning Authorities, DECLG and OPW (2009) and circular PL02/2014 (August 2014), and to require, for lands identified in the Strategic Flood Risk Assessment, a site-specific Flood Risk Assessment.

6.2.4. Section 12.14.11 deals with Green Infrastructure and SuDS and relevant policies and objectives can be summarised as follows:

BI P15 - Promote SuDS to ensure surface water is drained in an environmentally friendly way by replicating natural systems.

BI O76 - Promote SuDS such as integrated constructed wetlands, permeable surfaces, filter strips, ponds, swales and basins at a site, district and county level and to maximise the amenity and bio-diversity value of these systems.

BI O77 - Integrate nature-based solutions and climate change considerations into the design, planning, and implementation of infrastructure provision/ works and development proposals at the earliest possible stage.

BI O78 - Actively promote and encourage nature-based approaches and green infrastructure solutions as viable mitigation and adaptation measures to surface water management.

6.2.5. Section 13.7 deals with Urban Recreation and Amenity. Objective LR O82 requires the provision of good quality, well located and functional open space in new residential developments, including landscaping with native species and scale appropriate natural play areas to cater for all age groups.

6.2.6. Chapter 15 deals with Development Management Standards and relevant aspects can be summarised as follows:

Section 15.6.6 outlines a range of standards relating to public open space in residential developments. On greenfield sites, the minimum portion of open space is 15%, which may include Natural / Semi-Natural Green Spaces up to a maximum of

8%. In cases where there is a shortfall in the provision of open space due to the practicalities of the site (e.g., unsuitable due to topography, flooding, gradient, SuDS, overhead powerlines etc.) the council will require an equivalent monetary contribution in lieu of remaining open space provision via the Kildare County Council Development Contribution Scheme. SuDS are not generally acceptable as a form of public open space provision, except where they contribute in a significant and positive way to the design and quality of open space. Where the Council considers that this is the case, in general a maximum of 10% of the open space provision shall be taken up by SuDS. Underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution.

Section 15.8 sets out a range of guidance and standards for surface water. It states that SuDS are the most appropriate for surface water management and that Nature Based solutions should be considered in the first instance.

### **6.3. Kildare Town Local Area Plan 2023-2029**

6.3.1. Shortly after the making of the local authority decision on this case (12<sup>th</sup> October 2023), the LAP was adopted (26<sup>th</sup> October 2023) and took effect from 6<sup>th</sup> December 2023.

6.3.2. The LAP expands on the CDP Core Strategy to target 502 additional housing units (1,380 persons) within the plan period. The site is zoned as 'C: New Residential', the objective for which is 'To provide for new residential development'. It is identified as a Tier 2 site as per the 'Settlement Capacity Assessment', which is considered suitable to potentially deliver housing over the lifetime of the plan.

6.3.3. Chapter 7 deals with Movement and Transportation and Objectives MTO 1.1 and MTO 3.2 aim to implement specific measures relating to the appeal site, which can be summarised as follows:

PERM 6 - Extend footpaths along Southgreen Road north of the train line.

PERM 11 & Cycle 3 - Creation of a new Greenway extending along the rail line.

PERM 33 - Install new footpaths along Old Road.

Cycle 28 - Southgreen Road Upgrade - Cycle track/cycle lane (part of road scheme and bridge upgrade).

Cycle 33 - Old Road - active mode priority as closure of Old Road Bridge will eliminate through traffic - Active mode priority, local vehicle access.

RD 1 - Closure of Old Road Bridge to vehicular traffic and the replacement/upgrade of Southgreen Bridge to facilitate two-way traffic with improvements to approach roads (the upgrade must be delivered prior to the closure).

6.3.4. Section 10.3 deals with Surface Water and Groundwater and confirms that there is no municipal surface water management scheme in the town. As part of the preparation of the LAP, the Kildare Town Surface Water Study was commissioned to provide a municipal-level, multi-site nature-based solution(s) to surface water management in the town. The locations for Nature-Based Management Areas (NBMAs) and indicative surface water pathways / natural drainage paths are shown on Map 10.1, which includes a 'surface water pathway' along the southern margin of the appeal site. Relevant objectives can be summarised as follows:

IO 2.1 - Pursue opportunities to increase surface water drainage capacity in the town as identified in the Surface Water Study.

IO 2.2 - Prepare a Surface Water Masterplan based on the Surface Water Study.

IO 2.3 - Incorporate nature-based water drainage solutions as part of all plans and projects. Proposals shall align with the Surface Water Study, the Surface Water Masterplan (once finalised), and the County Kildare Sustainable Urban Drainage Systems Guidance Document (once finalised).

IO 2.4 - Ensure NBMAs are reserved free from development and integrated into design proposals for nature-based surface water drainage purposes; whilst also ensuring a network of Surface Water Corridors (surface water pathway corridors) are provided in accordance with the indicative locations shown on Map 10.1.

6.3.5. Section 10.4 deals with Flood Risk Management. Objective IO 3.1 is to require a site-specific FRA for developments within the Pluvial Flood Risk Area as outlined on Map 10.2.

## 6.4. Environmental Impact Assessment Screening

### Introduction

- 6.4.1. The application includes an EIAR Screening Report prepared by Brock McClure Planning & Development Consultants. The purpose of the report is to demonstrate that there is no requirement for the preparation of an Environmental Impact Assessment Report for the proposed development. The methodology section of the report confirms that the report has had regard to the criteria set out in in Schedule 7 of the Planning and Development Regulations 2001, as amended (the 2001 Regs) and to the requirements under Schedule 7A of the 2001 Regs. This section outlines my assessment of the need for an Environmental Impact Assessment Report (EIAR), which will enable the Board to make a determination on the matter.

### Mandatory Thresholds

- 6.4.2. Schedule 5 Part 2 of the 2001 Regulations provides that mandatory EIA is required for a range of development classes. Those with relevance to the proposed development are discussed in the following sections.
- 6.4.3. Under Class 10 (b)(i) the threshold relates to the construction of more than 500 dwelling units. The proposed development involves the construction of 168 units and is therefore significantly below the mandatory threshold.
- 6.4.4. Class 10(b)(iv) relates to *'Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, "business district" means a district within a city or town in which the predominant land use is retail or commercial use)'*. I do not consider that the application site is within a 'business district'. I consider that the site is within part of a 'built-up area' where the 10ha threshold applies. The application site has a total area of 5.05ha and is therefore significantly below the applicable threshold.

### Sub-Threshold Development

- 6.4.5. Class 15, Part 2, Schedule 5 of the Regulations provides that EIA will be 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'.*

- 6.4.6. I am satisfied that the applicant's EIA Screening Report and the other information submitted with the application includes the information specified in Schedule 7A of the Regulations, and that the relevant information has been compiled taking into account the relevant criteria set out in Schedule 7 of the Regulations. I am also satisfied that the application has provided any further relevant information on the characteristics of the proposed development and its likely significant effects on the environment, including information on how the available results of other relevant assessments of the effects on the environment carried out pursuant to European Union legislation have been taken into account. Accordingly, the Board is required under Art. 109 (2B)(a) of the Regulations to carry out an examination of, at the least, the nature, size or location of the development for the purposes of a screening determination regarding the likelihood of significant effects on the environment.

#### Submissions

- 6.4.7. No third-party submissions have been received and the content of the prescribed body submissions is outlined elsewhere in this report. The prescribed body submissions do not specifically raise issues relating to EIA.

#### Screening Determination for EIA

- 6.4.8. In carrying out a screening determination under Art. 109 (2B)(a) of the 2001 Regulations, the Board is required to have regard to the criteria outlined in Article 109 (4)(a). As previously outlined, I am satisfied that the application contains sufficient information in accordance with these criteria, and I have completed an EIA screening assessment as outlined in Appendix 1 of this report.
- 6.4.9. The characteristics of the development would be consistent with the existing and planned residential uses in the area. The character and scale of the development would be consistent with existing/permitted development and would not have significant effects on the visual amenity, landscape, or character of the area.
- 6.4.10. The use of natural resources, materials, and substances would be typical of such development and would not result in significant effects for human health or the environment. The construction stage has the potential for contaminants, noise, dust, and other disturbances, but I am satisfied that these potential impacts will be

satisfactorily addressed through the Construction Management Plan (CMP), the Resource and Waste Management Plan (RWMP), the Construction Environmental Management Plan (CEMP), the Noise Impact Assessment (NIA), the Ecological Impact Assessment (EclA), and related measures. There would be an increased local population, but I am satisfied that this has been appropriately planned in the Development Plan/LAP and would be adequately serviced by existing and planned physical infrastructure and social/community facilities.

6.4.11. The proposed development is not located in, on, or adjoining any European site, any designated or proposed Natural Heritage Area, or any other listed area of ecological interest or protection. The EclA and AA Screening Report have considered the proximity and potential for connections to such designated/ecological sites in the wider surrounding area and I am satisfied that there would be no significant effects on same. Similarly, I am satisfied that it has been demonstrated that there will be no significant effects on protected, important, or sensitive species of flora or fauna which use areas on or around the site.

6.4.12. The EclA has included bat surveys and outlines that the site does not provide significant habitat suitability for bats, with only four trees within the hedgerow boundaries identified as having low bat roosting potential. Only two of these trees are to be removed and mitigation measures are included to ensure no direct or indirect disturbance or mortality to bats that may be present. This includes pre-felling surveys, compliance with 'Bat Mitigation Guidelines for Ireland', and if necessary, compliance with any derogation licence that will be required from the NPWS. The EclA also acknowledges potential impacts in relation to lighting and the loss of commuting/foraging hedgerow. However, mitigation is included in the form of light spill reduction and replacement landscaping/planting. Following the implementation of the proposed mitigation measures, I am satisfied that there will be no significant residual effects on bats.

6.4.13. There are no significant landscape, historic, or cultural features likely to be affected by the development. The site and surrounding lands do not contain high quality or scarce resources and the surrounding water resources are not likely to be significantly affected. As outlined in section 8.4 of this report in response to the Iarnrod Eireann submission, there would not be any significant congestion effects on key transport routes and the development would be suitably designed and managed



to promote sustainable transport modes, thereby avoiding significant environmental problems such as excessive transport emissions etc. Surrounding land use and facilities have been considered and I do not consider that there would be any significant effects as a result of the proposed development.

- 6.4.14. The potential cumulative effects with existing and approved development have been considered, for both the construction and operational phase. The majority of existing/planned development is of a similar residential nature and includes potential cumulative effects at construction stage (e.g. traffic, noise, dust) and operational stage (e.g. traffic, wastewater, and surface water emissions). However, I consider that these effects are consistent with the existing and planned use of the area and that they would be suitably mitigated by design measures and conditions to avoid significant effects. In particular, the surface water concerns raised by the Planning Authority are addressed in section 8 of this report.
- 6.4.15. Having regard to the foregoing, I have concluded that the proposed development would not be likely to have significant effects on the environment (in terms of extent, magnitude, complexity, probability, duration, frequency, or reversibility) and that the preparation and submission of an environmental impact assessment report is not therefore required.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

- 7.1.1. The KCC decision to refuse permission has been appealed by the applicant (Pousterle Limited). The appeal is accompanied by a report and drawings prepared by Waterman Moylan Consulting Engineers, as well as drawings prepared by Hayes Ryan Landscape Architects and MCORM Architects. The appeal outlines that the proposed development is in accordance with national and local planning policy and expresses disappointment that the outstanding servicing concerns were not addressed via conditions of permission. The appeal submission proposes minor changes to the scheme and contends that these address all outstanding concerns. The grounds of appeal can be summarised under the following headings.

## Kildare Town LAP 2023-2029 (Surface Water Drainage Corridor)

- The Surface Water Study (SWS) includes the appeal site (Site K) within Subcatchment 5 and proposes that surface water from Subcatchment 6 (i.e. Site J to the west) be diverted east to Subcatchment 06 (*sic* – Section 3.6.2 of the SWS actually states ‘diverted east to Subcatchment 05’).
- The SWS identifies a NBMA within Site I/H (to the east of appeal site), where infiltration is proposed through bioretention areas, infiltration basins or similar. This approach is wholly consistent with the approach adopted in the proposed development, which seeks to facilitate infiltration to ground through an infiltration basin to underlying gravels.
- The proposed development includes a 20-30m open space area to the south to facilitate the drainage corridor. This corridor currently facilitates a 105m combined swale and integrated wetland along its northern edge, which would be extended 25m west and 5m east to meet the objectives of the Surface Water Masterplan (as indicated on an attached drawing no. ‘19-051-P200 Rev B’ for the Board’s consideration).
- The corridor is only required to facilitate runoff from Site J (1.14 ha) and Site K (i.e. the appeal site of 4.53ha). Assuming runoff rate of 2-5 l/s per ha., the peak attenuated runoff from the site would be 11-28 l/s, which would generate a flow depth of up to 50mm in a 1.5m wide channel for the 28 l/s flow at 1:100 gradient.
- Given the relatively minor flows to be facilitated and the minimal amendments required, delaying the scheme would be unreasonable, particularly given the other road/wastewater upgrades and planning gain included in the development.
- The KCC Water Services section sought the provision of this channel by condition, and this can be achieved without any material issues arising.
- Regarding potential impacts on the railway, extensive discussions were held with Irish Rail and no concerns have been raised about the swale/wetland setback at least 20m from the top of the railway embankment. Given the minor upstream catchment (1.14ha) the proposed corridor would resemble a swale/minor ditch and could be unlined, lined, or enclosed in accordance with Irish Rail requirements.

### Kildare CDP (Below ground attenuation under Open Space)

- There is a clear economic and environmental logic to the proposal to include an element of below ground attenuation where it is proposed to ‘fill’ the excavation void above the infiltration trenches with a proprietary below ground attenuation system which still promotes infiltration to ground, combined with an above ground ‘amphitheatre’ which can cater for extreme rainfall events (as detailed in Drg. No. 19-051-P245 Rev A in Further Information submission).
- Notwithstanding this, it is feasible to reprofile the above ground open space and omit the below ground attenuation system whilst maintaining the appropriate freeboard from the 100-year top of water level and the lowest FFL on site, should this be deemed an appropriate response. This would require a reduction in the basin level by 150mm (or alternatively raising the FFL of the lowest units on site by 150mm) and expanding of the amphitheatre element (as detailed on drawing no. 19-051-P245 Rev. B).
- The proposed strategy results in the integration of the rainwater management function into the various urban spaces rather than the need to construct separate areas that function primarily as ‘SuDS’ areas, as set out in the Best Practice Interim Guidance Document ‘Nature Based solutions in the management of rainwater and surface water in urban areas (2021) published by DHLGH, which aligns with CDP Objective IN O30. It will further enhance the SuDS strategies proposed by the multi-disciplinary design team.
- Waterman Moylan Drawing No. 19-051-P192 demonstrates how SuDS mechanisms have been incorporated:
  - The roadside swales are proposed to be bio-retention swales with intermittent wetlands and will be landscaped appropriately.
  - The strategy includes c. 885m<sup>2</sup> of bio-retention swales (including wetlands) which will be free-draining to the ground where feasible.
  - 100% of hardstanding area will be intercepted by a SuDS device.
  - The wetland area to the south of the site will promote nature-based SuDS.
  - All of the SuDS will be designed and maintained in accordance with the CIRA SuDS Manual.

- This issue may be dealt with by condition as recommended by KCC Water Services section.
- The planning authority did not raise any concerns about the quantity or quality of open space.
- The use of below ground attenuation is common practice and the potential for catastrophic failure is low. Notwithstanding that, it has been demonstrated how the development can be redesigned to omit the below ground attenuation if required.
- Regarding IN O26, there is no suggestion in the CDP that any/all developments could or should be considered premature pending the completion of the SuDS Guidance document. This would place all development in the county in limbo pending the completion of the document.
- The proposal has been designed to accord with all relevant policies of the CDP and the recently adopted LAP has been assessed in detail.

#### Removal of Units

- In response to the KCC Planner's Report, MCORM Architects have provided a drawing showing how 2 no. units in Cell 04 could be omitted to address concerns and gradient and levels.

#### 7.2. **Observations**

None.

#### 7.3. **Prescribed Bodies**

None.

#### 7.4. **Planning Authority Response**

The Planning Authority response can be summarised as follows.

#### Surface Water Drainage Strategy

While the development includes a series of high-quality open spaces, to encumber a large section with underground storage tanks is of concern and does not fully align with the CDP (IN O24). A Surface Water Drainage Masterplan as required by the LAP is noted, however, the surface water flow path to the south of the development

as provided in the revised plans is welcome. In the event that permission is granted, it is required that conditions be included to clarify the design/capacity of the proposed bioswale corridor and the design/levels of the central open space.

### Layout and Design

The proposed revision to Cell 04 is welcome subject to clarification of boundary treatment. If permission is granted, the conditions outlined by the internal departments of KCC and the prescribed bodies should be included. Additional conditions are recommended in relation to design/layout, boundaries, hedgerow retention, and materials/finishes.

## **8.0 Assessment**

### **8.1. Introduction**

- 8.1.1. I have considered all of the documentation and drawings on file, the planning authority reports, the submissions from prescribed bodies, the statutory Development Plan and Local Area Plan, as well as relevant national policy, regional policy and section 28 guidelines.
- 8.1.2. I note that the planning authority has no objection to the principle of the development and has not raised any significant objection to matters such as density; mix of units; design and layout; access, parking, and traffic; or water and wastewater proposals. And while the planning authority's assessment made various references to the evolving zoning status of the site, and section 5 of this report has outlined the Board's determination (i.e. under ABP Ref. 316476) that the 2012-2018 LAP had expired and the land was not zoned, I note that the new LAP 2023-2029 has now been adopted and the site is zoned as 'New Residential' in accordance with the requirements for LRD applications. The LAP has been prepared in accordance with the CDP Core Strategy and I am satisfied that the principle of residential development on this site would be acceptable in accordance with relevant local, regional, and national policy. Furthermore, consistent with the planning authority's view, I am satisfied that except for the issues assessed hereunder, the proposed design/layout and servicing arrangements would be acceptable in accordance with the relevant local and national guidance / standards.

8.1.3. Having regard to the foregoing, I consider that the main planning issues arising from this LRD appeal can be addressed under the following headings:

- Surface Water Drainage and Flooding
- Public Open Space
- The Rail Line Bridges
- Design & Layout Issues.

## 8.2. **Surface Water Drainage and Flooding**

8.2.1. This is the substantive issue in the planning authority's reason for refusal. The individual elements of the refusal can be addressed under the following headings.

### Surface Water Pathway in the southern open space

8.2.2. I note the planning authority concerns that a surface water pathway/corridor was not provided along the southern margin of the site. There were further concerns about the uncertainty of the design of any such pathway and the potential implications for the quantity/quality of open space and the adjoining rail line.

8.2.3. In response to these concerns, the appeal submission proposes to incorporate the surface water pathway through the southern portion of the site. This would be achieved through the extension of the previously proposed combined swale and integrated wetland to span the full width of the site. The proposal would facilitate connection with the upstream flow from Site J (from the west) and the downstream flow to the NBMA on Site I/H to the east. In principle, I am satisfied that this would be consistent with the Surface Water Study strategy as contained within the LAP.

8.2.4. In terms of the design and capacity of the pathway, I would acknowledge that Site J (to the west) is envisaged as the only upstream addition as per the SWS strategy. Site J has a limited area of 1.14ha and the appeal submission estimates that the combined flow from Site J and the appeal site (Site K) would generate a maximum flow depth of 50mm in a 1.5m wide channel. I am satisfied that this could be accommodated without significantly detracting from the quantity or quality of the southern open space area.

8.2.5. I acknowledge that the proposed arrangements would be temporary pending the development of Site J and the provision of a NBMA on Site I/H as envisaged in the

SWS strategy. In the interim however, I am satisfied that the application and appeal proposals have demonstrated that surface water can be adequately addressed through infiltration to ground, an approach which is supported in the LAP (e.g. in the proposed NBMA on Site I/H).

- 8.2.6. In relation to the potential implications for the rail line, I would accept that the proposed corridor is of limited size as previously outlined. It would be well setback from the rail line and would be largely consistent with setback for the previously proposed swale/wetland measures. Accordingly, I am satisfied that the proposed corridor would not significantly impact on the rail line.
- 8.2.7. I note that the planning authority's response to the appeal welcomes the proposed surface water corridor. It outlines that any grant of permission would have to be subject to detailed design and the outcome of the Surface Water Masterplan. I consider this to be an acceptable approach and, subject to the agreement of detailed design by condition, I am satisfied that the proposals would be acceptable in accordance with the LAP and the accompanying SWS strategy.

#### Underground attenuation under the central open space

- 8.2.8. The planning authority outlined concerns about the proposal to include an underground attenuation tank beneath the central open space. The concerns were based on a preference for nature-based solutions and potential adverse impacts on the quality of the open space as a result of malfunction and/or maintenance requirements.
- 8.2.9. The appeal submission points to an economic and environmental justification for the proposed attenuation tank and outlines that it would simply fill the excavation void above the infiltration trenches. However, it also includes an option to remove the underground attenuation while maintaining the appropriate freeboard from the 100-year top of water level and the lowest FFL on site.
- 8.2.10. Despite the relatively common practice of including underground attenuation/storage as part of SuDS, I note that the objectives and standards of the CDP and the LAP outline a clear preference for nature-based solutions. I consider that this approach is reasonable and consistent with 'Nature-based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas' (DHLGH, 2021). In particular, CDP Objective IN O24 is to only consider underground retention solutions when all

other options have been exhausted. It also states that underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution. It is clear that the appeal submission includes an 'other option' to remove the underground attenuation and, therefore, I consider that its inclusion under public open space would conflict with Objective IN O24. Accordingly, I consider it appropriate to remove the underground attenuation in accordance with the appeal option.

8.2.11. I note that the removal of underground attenuation requires amendments to the ground/FFLs levels in order to maintain the appropriate freeboard from the 100-year top of water level and the lowest FFL on site. However, as outlined in the appeal submission, this would require a relatively minor reduction in the basin level by 150mm (or alternatively raising the FFL of the lowest units on site by 150mm) and a limited expansion of the amphitheatre element. I am satisfied that this would not significantly impact on the quantity or quality of the central open space, and I would have no objections in relation to CDP Objective IN O26 which seeks to ensure as far as practicable that the design of SuDS enhances the quality of open spaces.

8.2.12. I note that the planning authority's response to the appeal again raises concerns about underground storage, which I am satisfied can be removed in accordance with the appeal submission and the foregoing. It outlines that any grant of permission would have to be subject to detailed design applying a 30% climate change factor and 10% urban creep factor to determine the 100-year storm event water level in the central open space, which would be used to determine the adjoining FFLs to achieve a minimum 500mm freeboard. I consider this to be an acceptable approach and, subject to the agreement of detailed design by condition, I am satisfied that the proposals would be acceptable in accordance with the policies and objectives of the CDP and the LAP.

### Flooding

8.2.13. The LAP outlines that flood risk is generally restricted to pluvial risk and Map 10.2 outlines the Pluvial Flood Risk Area. Objective IO 3.1 of the LAP requires a site-specific Flood Risk Assessment for developments within this risk area. However, the appeal site is not within or adjoining the flood risk area.



- 8.2.14. The application includes a Flood Risk Assessment which outlines that the lands are within Flood Zone C (low risk of flooding). It concluded that, subject to appropriate drainage design, overland flood routing, and setting of floor levels, the residual flood risk associated with the proposed development would remain low.
- 8.2.15. Having regard to the foregoing and the revisions included with the appeal, I am satisfied that, subject to agreement of detailed design by conditions, the proposed development would include appropriate drainage design, overland flood routing, and floor levels. Accordingly, I am satisfied that the flood risk associated with the proposed development is acceptable in accordance with the provisions of the CDP, the LAP, and the national Flood Risk Management Guidelines (2009).

#### Prematurity

- 8.2.16. The planning authority raised concerns that the proposed development would be premature pending the preparation and/or adoption of various policy/guidance documents related to surface water. The status and implications of these documents are now addressed in the following paragraphs.
- 8.2.17. As previously outlined, the LAP has now been adopted. It includes a drainage strategy for the subcatchments 5 & 6, which are the areas relevant to the appeal site, as well as a conceptual overview of the proposed surface water management measures for the town (i.e. Appendix A of the SWS). As previously outlined, I am satisfied that the proposed development would be consistent with these measures and would not be premature in this regard.
- 8.2.18. I note that LAP Objective IO 2.2 is to prepare a Surface Water Masterplan based on the SWS, and Objective IO 2.3 states that new development shall align with the SWS and the Masterplan (once finalised). The LAP has only recently been adopted and the Masterplan has not been finalised at the time of writing. I would consider it unreasonable to deem the proposed development premature pending the completion of the Masterplan, particularly given that the development is consistent with the guiding principles of the SWS.
- 8.2.19. Finally, I note that CDP Action IN A3 is to develop a 'Sustainable Urban Drainage Systems Guidance Document' for County Kildare within one year of the adoption of the Plan (i.e. by 9<sup>th</sup> December 2023). The document shall supersede the standards outlined in CDP objective IN O26, and LAP Objective IO 2.3 states that new

development shall align with the SuDS document (once finalised). I note that the KCC Planner's report indicates that the preparation of the document has commenced and was due to be completed in Q4 2023. However, at the time of writing, there is no evidence that the SuDS document has been finalised<sup>1</sup>. I would consider it unreasonable to deem the proposed development premature on this basis, and I am satisfied that the application has demonstrated satisfactory compliance with other relevant guidance in the form of the SWS contained in the LAP and other CDP policies including compliance with 'Nature-based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas' (DHLGH, 2021). In the event that the SuDS document is finalised prior to the Board's decision, I am satisfied that its guidance could be satisfactorily incorporated through the agreement of detailed design measures as per the conditions of any permission.

### Conclusion

8.2.20. Having regard to the foregoing and the proposals submitted with the appeal, I am satisfied that, subject to conditions regarding the agreement of detailed design, the surface water proposals would be acceptable in accordance with local and national policy/guidance and would not warrant a refusal of permission in this case.

## **8.3. Public Open Space**

8.3.1. Section 15.6.6 of the CDP outlines that the minimum portion of open space is 15% on greenfield sites. The further information response included a proposal for 15.3% open space and the planning authority did not have any objection in principle to the quantity or quality of the proposal. However, the planning authority was concerned about the implications of surface water proposals and requirements, i.e. the proposed underground attenuation within the central open space and the required surface water pathway in the southern open space.

8.3.2. However, as outlined in section 8.2 of this report, the appeal proposals now allow for the removal of the underground attenuation and the incorporation of the surface water pathway. I acknowledge that the CDP (Objective IN O26 and section 15.6.6) outline restrictions on the inclusion of SuDS as part of open space. However, I am satisfied that the amendments included in the appeal involve relatively minor

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<sup>1</sup> <https://kildarecoco.ie/AllServices/Planning/> - Accessed on 15<sup>th</sup> January 2024

alterations to the open space areas which would not significantly affect the overall quantity or quality of open space.

- 8.3.3. In the event that the planning authority determines that (subsequent to finalisation of detailed design) there is a shortfall in public open space as a result of the proposed amendments, I note that Section 15.6.6 of the CDP allows for such shortfalls as a result of the practicalities of the site (including SuDS). In this case, I also note that the net site area has been significantly reduced as a result of the rail line setback and the exclusion area for a new rail line bridge at the southwest corner of the site. Therefore, while I do not consider that the proposed amendments would significantly impact on public open space, I note that s. 15.6.6 of the CDP provides for any shortfall in CDP requirements to be addressed through a development contribution in lieu via the Kildare County Council Development Contribution Scheme. I am satisfied that this would be a satisfactory resolution to any perceived shortfall in open space.

#### **8.4. The Rail Line Bridges**

- 8.4.1. The Iarnrod Eireann (IE) submission objected to the proposed development on the basis that four existing bridges cannot accommodate the increased traffic, footpaths, and cyclepaths associated with the proposed development. In the event that permission is granted, IE requested that a range of conditions would be applied, including that the upgrading of the bridge is completed prior to the development proceeding. It also requested further assessment and revisions in relation to construction traffic arrangements and the capacity of the bridges to cater for the additional development.
- 8.4.2. The KCC Planner's assessment refers to the internal KCC Transport Department report, which has no objection to the proposed development subject to conditions. The Transport Department Report recommends that the developer shall facilitate and reserve lands for the future upgrade of the bridge but does not state that the works must be completed in advance of the proposed development.
- 8.4.3. I note that the further information request included issues in relation to the rail infrastructure and the applicant's response includes details of extensive liaison and agreement with IE. However, these matters relate primarily to the protection/treatment of IE property/infrastructure and setback requirements, rather than the issue of bridge capacity.

- 8.4.4. It is confirmed in the IE submission that it was made without the benefit of having reviewed the applicant's 'Traffic Impact Reports'. In this regard, I note that the application included a Traffic and Transport Assessment (TTA) prepared by Waterman Moylan Consulting Engineers. The TTA was reviewed by the planning authority and the Transport Department report agrees with its conclusions.
- 8.4.5. The TTA has included modelling of the impact of the proposed development and other permitted development on the bridge to the southwest of the site (Junction 6). I note that no vehicular access is proposed to Old Road, and I am satisfied that development impacts on the other three bridges would be minimal. Junction 6 is a signalised shuttle link junction over the rail line. The TTA uses TRANSYT software analysis which measures a Degree of Saturation percentage (DOS%) figure and a queue length for each link. Typically, a junction is said to be working satisfactorily when the DOS does not exceed 0.85/85%, with acceptable values considered to be in the range of 0.85/85% to 1.0/100%.
- 8.4.6. The TTA modelling considers a range of scenarios for 2023 (Baseline) as well as the 'do nothing' and 'do something' scenarios for 2025 and 2040. It demonstrates that the junction is currently operating well during both peak (AM and PM) hours, with a maximum DOS of just 6%. When the approved and proposed developments are added, it demonstrates that there would be a maximum DOS of 32% on the Northbound arm during the 2040 'do something' AM peak. I am satisfied that this demonstrates that the Southgreen road rail bridge has sufficient capacity to cater for the additional traffic envisaged from the proposed development and other relevant permitted developments on the northern side of the town.
- 8.4.7. Having regard to the above, I do not consider that a condition would be warranted to restrict the commencement of development until after the proposed bridge upgrade is completed. Furthermore, I note that the LAP has been informed by a Transport Strategy and infrastructural deficits have been considered in the phasing/implementation of the LAP. It does not include any restriction on the development of the appeal site prior to completion of the rail bridge upgrade. I am satisfied that the application would appropriately facilitate any such works in the future and that this approach would be in accordance with the proper planning and sustainable development of the area.

## 8.5. Design & Layout Issues

- 8.5.1. The planning authority's response to the appeal outlines a range of design and layout issues to be addressed in the event of a grant of permission.

### Omission of units in Cell 04

- 8.5.2. Concerns were raised about the significant level difference between 2 no. houses 'Type E' and the adjoining Southgreen Road. The appeal has demonstrated how 2 no. 'Type C' houses can be omitted and the 2 no. 'Type E' can be significantly setback from the road to provide a suitable transition in levels while maintaining active frontage to all streets/public spaces. I am satisfied that this will satisfactorily address the matter.

### Streetscape

- 8.5.3. The planning authority has raised concerns about the northern streetscape appearance along the Southern Link Road and other aspects of elevational treatment. As per the planning authority's appeal response, I am satisfied that the required elevational revisions can be satisfactorily address via conditions of any grant of permission.

### Internal Storage Space

- 8.5.4. The planning authority has raised concerns that some units incorporate insufficient internal storage space. I am satisfied that overall unit sizes are sufficient, and that opportunity exists to provide additional storage space within the units. As per the planning authority's appeal response, I am satisfied that the required layout revisions can be satisfactorily address via conditions of any grant of permission.

### Private amenity Space

- 8.5.5. The planning authority has raised concerns that the ground floor terraces for Blocks C and D have not been clearly demarcated or detailed. I am satisfied that opportunity exists to provide adequate ground floor amenity space in these cases. As per the planning authority's appeal response, I am satisfied that this can be satisfactorily address via conditions of any grant of permission.

### Boundary Treatment

- 8.5.6. The planning authority's Further Information request raised concerns about boundary treatment, and these were largely addressed by the applicant's response. However, there are some outstanding issues that require clarification and agreement, including the extent of hedgerow to be retained along the eastern site boundary. As per the planning authority's appeal response, I am satisfied that this can be satisfactorily address via conditions of any grant of permission.

### Materials and finishes

- 8.5.7. As per the planning authority's appeal response, I am satisfied that the proposed materials and finishes can be satisfactorily agreed via conditions of any grant of permission.

## **9.0 Appropriate Assessment Screening**

The requirements of Article 6(3) of the Habitats Directive, as related to screening the need for Appropriate Assessment of a project under Part XAB (section 177U) of the Planning and Development Act 2000 (as amended), are considered fully in this assessment.

### **9.1. Background to the application**

- 9.1.1. As part of the application, an Appropriate Assessment Screening Report was compiled by Scott Cawley consultants. In summary, the AA Screening report concluded that the possibility for any significant effects on any European sites, whether arising from the project alone or in combination with other plans and projects, can be excluded, and that the proposed development does not require a Stage Two Appropriate Assessment and the preparation of a Natura Impact Statement (NIS). The planning authority concurred with this view.
- 9.1.2. Having reviewed the documents, drawings and submissions included in the appeal file, 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.
- 9.1.3. 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 would

have any possible interaction that would be likely to have significant effects on a European Site(s).

## 9.2. Description of the development and site

- 9.2.1. A detailed description of the development is outlined in section 2 of this report. In summary, it includes the construction of 168 no. residential units, a childcare facility, and all associated siteworks and services. As outlined in section 8 of this report, surface water measures have been appropriately designed as part of a SuDS strategy that is in accordance with relevant guidance and standards. Foul effluent will be disposed to the Irish Water system and water supply will be via the Irish Water system.
- 9.2.2. The site has a stated gross area of c. 5.05 hectares and is located within the suburban northern environs of Kildare Town. The habitat types on site consist mainly of 'GS2 – Dry Meadows and grassy verges' and 'ED3 – Recolonising bare ground', as well as 'WL1 – Hedgerows' along the southern and eastern site boundaries. The applicant's desk study did not identify any protected plant species listed on the Flora Protection Order (2022) within 2km.
- 9.2.3. No non-native invasive species were identified within or adjacent to the site. No evidence of use of the proposed development site by otter was recorded during multi-disciplinary surveys. Bird species recorded commuting over the proposed development site included a single Annex I species (golden plover) and four SCI species (black-headed gull *Chroicocephalus ridibundus*, common gull, herring gull *Larus argentatus* and lesser black-backed gull *Larus fuscus*), but the AA Screening Report deems the nature and location of the site to be unsuitable to support wintering species. One breeding bird (herring gull) was recorded but these species prefer to nest on coastal habitats and therefore this species was not considered further as a potential breeder onsite. No Annex I invertebrate species were returned from the 2km desk study search or considered further in the assessment.
- 9.2.4. The nearest surface water feature is the Tully Stream located approximately 2.1km to the south-east. The proposed development is located within the Curragh Gravels West Ground Waterbody (GWB) which lies adjacent to the GWDTE-Pollardstown Fen SAC Ground Waterbody (GWDTE – Groundwater Dependant Terrestrial Ecosystem). Pollardstown Fen is located c. 4.5km north-east of the proposed

development site. According to the Geological Survey Ireland, the Curragh Gravels GWB is considered to be highly permeable. The main discharge mechanisms for this aquifer present as baseflow discharge to rivers (including the River Barrow and its tributaries), discharge via springs and seepages at the extremities of the waterbody.

### 9.3. Submissions and Observations

9.3.1. The submissions and observations received during the application and appeal process have not raised the issue of European Sites or AA Screening.

### 9.4. European Sites

9.4.1. The applicant's AA Screening Report considers a Zone of Influence (Zol) generally based around a 15km radius. The relevant sites and their QI's/SCI's are outlined in the following table.

European Site (Code)	Distance (km)	Qualifying Interests / Special Conservation Interests (*Priority Annex I Habitats)
Pollardstown Fen SAC [000396]	c.4.5km north-east	7210 Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> * 7220 Petrifying springs with tufa formation ( <i>Cratoneurion</i> )* 7230 Alkaline Fens 1013 Geyer's Whorl Snail <i>Vertigo geyeri</i> 1014 Narrow-mouthed Whorl Snail <i>Vertigo angustior</i> 1016 Desmoulin's Whorl Snail <i>Vertigo moulinsiana</i>
Mouds Bog SAC [002331]	c.7km north-east	7110 Active raised bogs* 7120 Degraded raised bogs still capable of natural regeneration 7150 Depressions on peat substrates of the <i>Rhynchosporion</i>
River Barrow and River Nore SAC [002162]	c.8.2km south-west	1016 Desmoulin's whorl snail <i>Vertigo moulinsiana</i> 1029 Freshwater pearl mussel <i>Margaritifera margaritifera</i> 1092 White-clawed crayfish <i>Austropotamobius pallipes</i> 1095 Sea lamprey <i>Petromyzon marinus</i> 1096 Brook lamprey <i>Lampetra planeri</i> 1099 River lamprey <i>Lampetra fluviatilis</i> 1103 Twaité shad <i>Alosa fallax</i> 1106 Atlantic salmon <i>Salmo salar</i> (only in fresh water) 1130 Estuaries 1140 Mudflats and sandflats not covered by seawater at low tide 1310 <i>Salicornia</i> and other annuals colonizing mud and sand



		<p>1330 Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>)</p> <p>1355 Otter <i>Lutra lutra</i></p> <p>1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>)</p> <p>1421 Killarney fern <i>Trichomanes speciosum</i></p> <p>1990 Nore freshwater pearl mussel <i>Margaritifera durrovensis</i></p> <p>3260 Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitriche-Batrachion</i> vegetation</p> <p>4030 European dry heaths</p> <p>6430 Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels</p> <p>7220 * Petrifying springs with tufa formation (<i>Cratoneurion</i>)</p> <p>91A0 Old sessile oak woods with <i>Ilex</i> and <i>Blechnum</i> in the British Isles</p> <p>91E0 * Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>)</p>
Ballynafagh Lake SAC [001387]	c.14.6km north-east	<p>7230 Alkaline fens</p> <p>1016 Desmoulin's Whorl Snail <i>Vertigo moulinsiana</i></p> <p>1065 Marsh Fritillary <i>Euphydryas aurinia</i></p>
Ballynafagh Bog SAC [000391]	c.16km north-east	<p>7110 Active raised bogs*</p> <p>7120 Degraded raised bogs still capable of natural regeneration</p> <p>7150 Depressions on peat substrates of the <i>Rhynchosporion</i></p>
Poulaphouca Reservoir SPA [004063]	c.22.7km east	<p>A043 Greylag Goose <i>Anser anser</i></p> <p>A183 Lesser Black-backed Gull <i>Larus fuscus</i>.</p>

9.4.2. Consistent with the applicant's subsequent assessment of potential effects, I would concur that due to the significant separation distances and lack of connectivity with other sites, the only sites that warrant further consideration in this AA Screening exercise are Pollardstown Fen SAC and River Barrow and River Nore SAC. The potential for effects on the other sites can be excluded at this preliminary examination stage.

## 9.5. Potential effects on European Sites

### Habitat loss/fragmentation

- 9.5.1. The site is not within any European Site, and it does not support any fauna species linked with the QI/SCI populations of any relevant European sites. Therefore, there is no potential for habitat loss or fragmentation.

### Hydrogeological Impacts

- 9.5.2. Surface water run-off and discharges (including the revised proposals submitted with the appeal) are to be entirely treated within the site using a combination of attenuation and infiltration. Therefore, surface water run-off will enter the underground receiving environment via the proposed attenuation / infiltration systems.
- 9.5.3. As previously outlined, the development lies within the Curragh Gravels West GWB, the same GWB which supports the GWDTE of Pollardstown Fen SAC. All of the Qualifying Interests of Pollardstown Fen SAC are dependent on the quality and quantity of groundwater flow rates within this aquifer.
- 9.5.4. The application outlines that a site-conceptual model hydrogeological assessment has been carried out. Following site investigations, this assessment concluded that the development and associated stormwater design is not anticipated to have a significant environmental impact or risk to the existing groundwater quality given there is a thick unsaturated zone with good capacity to accept storm water. The proposed SuDS stone filled infiltration trenches in the centre of the site would not be located in areas where the underlying groundwater is vulnerable given that there is thick unsaturated zone beneath the site with no direct infiltration to bedrock. This will allow for natural attenuation of any potential contaminants in the stormwater discharge. Routine monitoring of the wells on-site will ensure no adverse impact is occurring to the aquifer beneath the site. Therefore, I would accept that there is negligible risk of groundwater contamination and no potential for any perceptible impacts on groundwater within the Curragh Gravels West GWB.
- 9.5.5. Therefore, there is no possibility of the proposed development to undermine the conservation objectives of any of the Qualifying Interests of Pollardstown Fen SAC, or the aquatic Qualifying Interests of the River Barrow and River Nore SAC, either

alone or in combination with any other plans or projects, as a result of hydrogeological effects.

- 9.5.6. I acknowledge that the surface water management proposals were revised in the appeal submission and that the detailed design of same is yet to be agreed. However, I consider that any revisions are minor and would not materially affect the conclusions outlined herein.

#### Hydrological Impacts

- 9.5.7. Foul water will be treated at the Kildare Town WwTP, prior to discharge to the Tully Stream and then downstream environment of the River Barrow, designated as the River Barrow and River Nore SAC. The River Barrow has a 'Good' WFD status. The most recent information from the Irish Water Wastewater Treatment Capacity Register (2023) indicates that the plant is operating below its capacity of 28,000 P.E. The 2021 IW Annual Environmental Report indicates that there is an 'Organic Capacity (PE) – Remaining' of 17,125.
- 9.5.8. Having regard to the available WWTP capacity and the 'good' WFD status of the River Barrow, it is considered that foul water discharges from the proposed development would equate to a very small percentage of the overall discharge volumes sent to Kildare WwTP for treatment and would not impact on the overall water quality status of the River Barrow. Therefore, there is no possibility of the proposed development undermining the conservation objectives of any of the QIs or SCIs of the European sites in, or associated with, the River Barrow as a result of foul water discharges.
- 9.5.9. With regard to the potential for 'in-combination' effects with other projects that may influence the River Barrow in the functional areas of Kildare, Offaly, Laois, Carlow, Kilkenny, Wexford, and Waterford, it is noted that the respective Development Plans and the overarching Eastern & Midland Regional Assembly Regional Spatial & Economic Strategy 2019-2031 include a range of policies and objectives relevant to the protection of European sites and the protection of water quality in surface water features. Any other projects will have to comply with these provisions, which will ensure that the potential for projects acting in combination with the proposed development to give rise to significant effects on any European site in, or associated with, the River Barrow can be excluded.

### Non-native Invasive species

- 9.5.10. The site does not support any non-native invasive species that could be accidentally spread or introduced to habitats within European sites and there is no potential for any in-combination effects to occur in that regard.

### Displacement / Disturbance Impacts

- 9.5.11. There are no European sites within the disturbance Zol (the nearest European site is c.4.5km away). There are also no habitat areas within the disturbance Zol that support populations of qualifying/special conservation interest species of any European site. The proposed development will not result in the disturbance/displacement of the QI/SCI species of any European site and, accordingly, there is no potential for any in combination effects to occur in that regard.

## **9.6. In combination or Cumulative Effects**

- 9.6.1. The application and the AA Screening Report has considered cumulative / in-combination impacts, including other existing and granted developments in the vicinity of the site. These have been considered in section 9.5 (above) and I would concur that there is no potential for any such in-combination/cumulative impacts.

## **9.7. Mitigation Measures**

- 9.7.1. I confirm that 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. I am satisfied that the construction stage management measures and the operational stage surface water and foul water management measures should be considered standard best practice measures and/or measures which have not been designed or intended to avoid or reduce any harmful effects of the project on a European Site. Therefore, these measures can be considered in the AA Screening determination.

## **9.8. AA Screening Determination**

- 9.8.1. The proposed development was considered in light of the requirements of section 177U of the Planning and Development Act 2000 (as amended). Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project, individually, or in combination with other plans or projects, would not be likely

to give rise to significant effects on Pollardstown Fen SAC (000396) and River Barrow and River Nore SAC (002162), or any European Sites, in view of the sites' conservation objectives, and Appropriate Assessment (Stage 2), including the submission of Natura Impact Statement is not, therefore, required.

9.8.2. This determination is based on the following:

- The nature and scale of the proposed development and the location of the site on serviced lands;
- The distance of the proposed development from European Sites and the limited potential for pathways;
- The incorporation of best-practice construction management, surface water management, and operational design measures;
- The presence of a thick unsaturated zone beneath the site with good capacity to accept storm water;
- The available capacity of the Kildare Town WWTP to facilitate future development in compliance with the provisions of the Water Framework Directive.

## 10.0 Recommendation

Having regard to the foregoing assessments, I recommend that permission be granted for the proposed development, subject to conditions, and for the reasons and considerations set out in the following Draft Order.

## 11.0 Recommended Draft Board Order

**Planning and Development Acts 2000 to 2022**

**Planning Authority: Kildare County Council**

**Planning Register Reference Number: 23/416**

**Appeal** by Pousterle Limited, c/o Brock McClure Planning & Development Consultants, 63 York Road, Dun Laoghaire, Co. Dublin, against the decision made on the 12<sup>th</sup> day of October 2023, by Kildare County Council to refuse permission for the proposed development.

**Proposed Development:**

The development will consist of a Large Scale Residential Development (LRD) scheme on a site of approximately 5.057ha. bounded generally by Southgreen Road, Old Road, the Southern Link Road, and the Dublin to Cork Railway line.

The proposed development (38.00 units/ha) will consist of the construction of a new residential development of 168 no. units (24 no. 1 bed units; 52 no. 2 bed units; 77 no. 3 bed units; and 15 no. 4 bed units) in a mixture of houses, apartments and duplex units ranging in height from 2 to 3 storeys together with a childcare facility of approx. 343.91sqm.

The residential element of the scheme will consist of;

- 108 no. Houses (30 no. Semi-Detached Houses and 78 No. Terraced Houses) in a range of house types (all 2 storeys in height); and
- 36 no. Duplex Units and 24 no. Apartment Units across Block A (3 storeys); Block B (3 storeys) Block C (2 storeys); and Block D (3 storeys).

A separate building (2 storeys) will accommodate a Childcare Facility of approx. 343.91sqm with associated outdoor play area space of approx 91.5sqm, fully accessible from all locations within and adjacent to the scheme.

Each residential unit will be afforded with private open space in the form of a balcony in the case of the apartment & duplex units and a rear garden in the case of the housing units. Public open space is proposed in the form of large central play areas, outdoor seating and planting.

A total of 203 no. car parking spaces (183 no. for residents, 11 no. for visitors and 9 no. for creche staff and creche set down/drop off) are provided at surface level, including 3 no. Accessible spaces. 2 no. Bicycle/Bin Storage Buildings (both single storey/2.5m in height) are proposed to accommodate (a) 165 no. bicycle spaces (128 no. for residents, 24 no. for visitors and 13 no. for creche staff and children) in

the form of 3 no. bicycle storage areas (approx. 66.3sqm); and (b) 2 no. Bin storage areas (approx. 17.9sqm).

The development shall be served via a new vehicular access point from the Southgreen Road. New pedestrian and cyclist access points will be provided on to Southgreen Road, Old Road and the Southern Link Road from the site. A double-lane cycle track and footpath are also proposed along Southgreen Road adjacent to the proposed scheme.

The associated site and infrastructural works include provision for water services; foul and surface water drainage and connections; attenuation proposals; permeable paving; all landscaping works; boundary treatment; internal roads and footpaths; electrical services and all associated site development works.

## **Decision**

**GRANT permission for the above proposed development, in accordance with the said plans and particulars, based on the reasons and considerations under and subject to the conditions set out below.**

## **Reasons and Considerations**

In coming to its decision, the Board had regard to the following:

- (a) The location of the site within a serviced area on lands with the zoning objective 'C: New Residential' as per the Kildare Town Local Area Plan 2023-2029, the objective for which is 'To provide for new residential development';
- (b) The nature, scale and design of the proposed development, which is in accordance with the policies and objectives of the Kildare County Development Plan 2023-2029 and the Kildare Town Local Area Plan 2023-2029;
- (c) The pattern of existing and permitted development and the availability of adequate social and physical infrastructure in the area;

- (d) The provisions of Housing for All – A New Housing Plan for Ireland issued by the Department of Housing, Local Government and Heritage in September 2021;
- (e) The provisions of Project Ireland 2040 - National Planning Framework, which identifies the importance of compact growth;
- (f) The provisions of the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in July 2023;
- (g) The provisions of Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, issued by the Department of Housing, Local Government and Heritage in January 2024;
- (h) The provisions of Delivering Homes, Sustaining Communities (2007) and the accompanying Best Practice Guidelines - Quality Housing for Sustainable Communities, issued by the Department of the Environment, Heritage and Local Government in 2007;
- (i) The provisions of the Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of Environment, Community and Local Government in 2019;
- (j) The provisions of the Eastern and Midland Regional Assembly Regional Spatial and Economic Strategy 2019-2031, which supports compact sustainable growth and accelerated housing delivery integrated with enabling infrastructure;
- (k) The Climate Action Plan 2023 prepared by the Government of Ireland;
- (l) The Planning System and Flood Risk Management Guidelines for Planning Authorities (including the associated Technical Appendices), 2009;
- (m) The submissions and observations received;
- (n) The reports from the Planning Authority; and
- (o) The report of the Planning Inspector.

### **Appropriate Assessment Screening**

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, the distances to the nearest European sites and the hydrological pathway considerations, submissions and observations on file, the information and reports submitted as part of the subject application, and the Planning Inspector's report. In completing the screening exercise, the Board agreed with and adopted the report of the Planning Inspector 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 Screening**

The Board completed an environmental impact assessment screening of the proposed development and considered that the Environmental Impact Assessment Screening Report and other documents and drawings submitted by the applicant identifies and describes adequately the direct, indirect, secondary and cumulative effects of the proposed development on the environment.

Having regard to:

- (a) The nature and scale of the proposed development, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended,
- (b) The location of the site on lands that are zoned for residential use under the provisions of the Kildare Town Local Area Plan 2023-2029 and the results of the strategic environmental assessment of this Plan undertaken in accordance with the SEA Directive (2001/42/EC),
- (c) The location of the site in an area served by public infrastructure and the existing pattern of development in the vicinity,
- (d) The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations,

- (e) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),
- (f) The criteria set out in Schedule 7 and 7A of the Planning and Development Regulations 2001, as amended,
- (g) the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive, and
- (h) the features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Preliminary Construction Management Plan, the Hydrogeological Assessment Report, the Construction Environmental Management Plan, the Resource & Waste Management Plan, the Operational Waste Management Plan, the Ecological Impact Assessment, the Flood Risk Assessment, and the Noise Impact Assessment,

the Board concluded that, by reason of the nature, scale and location of the proposed development, the development would not be likely to have significant effects on the environment and that the preparation of an environmental impact assessment report would not, therefore, be required in this case.

### **Conclusions on Proper Planning and Sustainable Development:**

The Board considered that, subject to compliance with the conditions set out below, the proposed development would be consistent with the zoning objectives and other policies and objectives of the Kildare County Development Plan 2023-2029 and the Kildare Town Local Area Plan 2023-2029, would constitute an acceptable quantum of development at this location which would be served by an appropriate level of transport, social and community infrastructure, would provide an acceptable form of residential amenity for future occupants, would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of design and layout, would be acceptable in terms of traffic safety and

convenience, would incorporate appropriate surface water management measures which would not generate any unacceptable drainage/flooding concerns or seriously detract from the quality of the proposed public open space, would not result in any unacceptable ecological or biodiversity impacts, and would be capable of being adequately served by wastewater and water supply networks. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 15th day of September 2023 and by the further plans and particulars received by An Bord Pleanála on the 7<sup>th</sup> day of November 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 stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

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

2. In accordance with proposals submitted to An Bord Pleanála on the 7<sup>th</sup> day of November 2023, the proposed development shall:
  - (a) Incorporate an east-west surface water corridor including swales and wetlands for the full length of the southern open space.
  - (b) Omit the underground attenuation tank(s) proposed beneath the central open space and revise the ground levels to achieve a minimum 500mm

freeboard between the 100-year storm event water level and the finished floor levels of the proposed dwellings.

(c) Omit two houses in Cell 4 and revise the site layout accordingly.

Detailed design proposals in relation to (a), (b), and (c) above shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of clarity, to ensure adequate drainage and servicing of the development, and in the interest of visual amenity.

3. The developer shall provide:

(a) Internal storage space for all residential units in compliance with Kildare County Development 2023-2029 standards.

(b) Revised design proposals for the north elevations of Blocks A and B, and the front and western elevations of Block D, to include improved articulation and entrance arrangements for the duplex units.

(c) Details of the demarcation and detailed design of the ground floor terraces serving Blocks C and D.

(d) Details of a final boundary treatment plan to include a revised approach to the proposed 'gossip wall' between mid-terrace units, retention of a greater extent of the existing hedgerow along Old Road, and brochures and samples of all boundary treatment within the development.

Detailed design proposals in relation to (a), (b), (c), and (d) above shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

4. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

**Reason:** To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

5. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

6. 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.

7. The internal and external road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works, and shall comply, in all respects, with the standards set out in Design Manual for Urban Roads and Streets (DMURS) issued by the Department of Transport, Tourism and Sport and the Department of the Environment, Community and Local Government in March 2019, as amended. Details of same shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

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

8. A minimum of 10% of the proposed car parking spaces shall be provided with electric vehicle charging stations or points. The remaining car parking spaces shall be fitted with ducting for electric connection points to allow for future fitout of charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of sustainable transport.

9. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through the communal open spaces, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development/installation of lighting. The lighting scheme shall incorporate the requirements of the Ecological Impact Assessment mitigations measures. Such lighting shall be provided prior to the making available for occupation of any apartment unit.

**Reason:** In the interests of amenity, public safety, and nature conservation.

10. 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.

11. (a) Drainage arrangements including the management, treatment, and disposal of surface water, shall comply with condition no. 2 (above) and the requirements of the Planning Authority for such works and services.

(b) Full details of surface water drainage proposals, including a management and maintenance plan, shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

**Reason:** In the interest of public health and surface water management.

12. The developer shall enter into water and wastewater connection agreement(s) with Irish Water, prior to commencement of development.

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

13. (a) The site shall be landscaped in accordance with a detailed comprehensive scheme of landscaping and play facilities, details of which shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

(b) The landscaping proposals shall be managed and maintained in accordance with the Landscape Strategy Report submitted with the application, unless as otherwise agreed in writing with the planning authority.

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

14. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each unit shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of the development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

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

resources) pursuant to the agreed RWMP shall be made available for inspection at site offices at all times.

**Reason:** In the interest of sustainable waste management.

16. The construction of the development shall be managed in accordance with a Construction Environmental 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 with measures to reflect mitigation described in the application, in addition to the following:

- 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;
- 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 public road network and for the cleaning of the same;
- i) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public 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 Environmental Management Plan shall be kept for inspection by the planning authority.

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

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

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

18. (a) 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 legally-constituted management company contract, and drawings/particulars describing the parts of the development for which the legally-constituted management 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. The management scheme shall provide adequate measures for the future maintenance of public open spaces, roads and communal areas.

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

19. 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 hydrological and geotechnical investigations) relating to the proposed development, and
- (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 area and to secure the preservation (in-situ or by record) and protection of any archaeological remains that may exist within the site.

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

**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.

21. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an

agreement in writing with the Planning Authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the Planning Authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

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

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

23. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and

Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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

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Stephen Ward  
Senior Planning Inspector  
15th January 2024

## Appendix 1: Environmental Impact Assessment Screening Determination Form

A. CASE DETAILS		
<b>An Bord Pleanála Case Reference</b>		<b>ABP 318401-23</b>
<b>Development Summary</b>		Large scale residential development consisting of 168 residential units and childcare facility.
	<b>Yes/ No/ N/A</b>	<b>Comment (if relevant)</b>
1. Has an AA screening report or NIS been submitted?	Yes	An AA Screening Report has been submitted with the application.
2. 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	
3. 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	<p>The following has been submitted with the application:</p> <ul style="list-style-type: none"> <li>• Ecological Impact Assessment (EclA) and AA Screening Report which consider the Habitats Directive (92/43/EEC), the Birds Directive (2009/147/EC), and the Water Framework Directive (2000/60/EC).</li> <li>• Hydrogeological Assessment which considers the Water Framework Directive (2000/60/EC).</li> <li>• Construction Management Plan, Construction Environmental Management Plan, and Resource and Waste Management Plan, which consider the EC (Waste Directive) Regulations 2011 and the Directive of the landfill of Waste (1999/31/EC)</li> <li>• A Sustainability and Energy Report which has regard to the Energy Efficiency Directive 2018/20 (subsequently revised by the Energy Efficiency Directive (EU/2023/1791),</li> <li>• A Flood Risk Assessment which has regard to the Floods Directive (2007/60/EC).</li> </ul>

		<ul style="list-style-type: none"> <li>An Operational Waste Management Plan which considers the WEEE Directive (2002/96/EC) and Hazardous Waste Directive (1991/689).</li> </ul> <p>SEA and AA were undertaken by the planning authority in respect of the Kildare County Development Plan 2023-2029. SEA and AA Screening was undertaken in respect of the Kildare Town Local Area Plan 2023-2029.</p>
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<b>B. EXAMINATION</b>	<b>Response : Yes/ No/ Uncertain</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</b> (including demolition, construction, operation, or decommissioning)			
<b>1.1</b> Is the project significantly different in character or scale to the existing surroundings or environment?	No	The project would be generally consistent with the character and scale of existing and emerging development.	No
<b>1.2</b> Will construction, operation, decommissioning, or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	The project works will cause physical changes to the topography and land use, but I consider that these changes would be consistent with the existing and emerging pattern of development. The works will be appropriately managed in accordance with a Construction and Environmental Management Plan (CEMP), Construction Management Plan (CMP), A Noise Impact Assessment (NIA), and a Resource and Waste Management Plan (RWMP). Together with the mitigation measures included in the EclA, I am satisfied that there will be no significant effects on waterbodies.	No

<b>1.3</b> 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?	Yes	<p>The redevelopment of the land will provide a more suitable and efficient use which is consistent with the existing and planned use of the area. A volume of 27,684m<sup>3</sup> of material (no bedrock is envisaged) will be excavated and 22,147m<sup>3</sup> will be retained and reused onsite for landscaping and fill. The remaining material will be removed offsite for appropriate reuse, recovery, recycling and / or disposal.</p> <p>The predicted water demand would be consistent with normal residential development. Irish Water have confirmed that there are no objections, and it is not proposed to extract groundwater.</p> <p>The materials/minerals and energy associated with the development would be typical of urban development and would be suitably designed as outlined in the Building Life Cycle Report, the Sustainability and Energy Report, and the proposed transport arrangements.</p> <p>Biodiversity resources have been considered in the EclA and the AA Screening Report and I am satisfied that there would be no significant effects on relevant habitats or species.</p>	No
<b>1.4</b> Will the project involve the use, storage, transport, handling, or production of substance which would be harmful to human health or the environment?	Yes	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Such use will be typical of construction sites. Any impacts would be local and temporary in nature, and implementation of the CMP, CEMP, and RWMP will satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated. Conventional waste produced will be managed through the implementation of the OWMP.</p>	No
<b>1.5</b> Will the project produce solid waste, release pollutants or any hazardous/ toxic/ noxious substances?	Yes	<p>Waste produced from construction activity, including 27,684m<sup>3</sup> of excavated material and construction waste of 640.4 tonnes will be managed through the implementation of the RWMP which</p>	No

		<p>estimates that 70% of the waste will be reused / recycled / recovered. Mitigation measures have been included for potentially hazardous construction wastes.</p> <p>Construction noise and dust emissions are likely. Such construction impacts would be local and temporary in nature and implementation of a CMP and CEMP will satisfactorily mitigate potential impacts.</p> <p>Operational phase of project does not produce or release any pollutant or hazardous material. Conventional waste will be managed through the OWMP (c. 14m<sup>3</sup> per week). Other significant operational emissions are not anticipated.</p>	
<p><b>1.6</b> 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?</p>	Yes	<p>Project involves underground excavation works and installation of new services infrastructure. However, it uses standard construction methods, materials and equipment, and the process will be managed through the implementation of the CEMP to satisfactorily address potential risks in relation to contamination of land/ groundwater.</p> <p>Project includes for appropriate surface water management systems (see section 8 of this report) and a Hydrogeological Assessment has been completed. Wastewater will be appropriately discharged to the public system.</p>	No
<p><b>1.7</b> Will the project cause noise and vibration or release of light, heat, energy, or electromagnetic radiation?</p>	Yes	<p>Potential for construction activity to give rise to noise, light, and vibration emissions. Such emissions will be localised, short term in nature and their impacts will be suitably addressed by the CMP, CEMP, NIA, and the Public Lighting Report (including associated mitigation measures).</p>	No



		<p>Operational phase of project will cause noise and light impacts which would be consistent with the established residential uses in the area and would not result in significant effects.</p> <p>It has also been demonstrated that the noise, lighting or other potential disturbance impacts would not significantly impact on any habitats or species of biodiversity interest (including Habitats Directive Annex IV species such as bats and otters).</p>	
<p><b>1.8</b> Will there be any risks to human health, for example due to water contamination or air pollution?</p>	Yes	<p>Potential for construction activity to give rise to dust emissions but such emissions will be localised, short term in nature and their impacts will be suitably addressed by the CMP, CEMP, and Hydrogeological Assessment mitigation measures.</p> <p>The site is not within a drinking water protection area and is served by public mains, and therefore water contamination is not expected to impact on human health. Any potential water impact is also to be addressed by the CEMP.</p> <p>The operational phase will not result in significant effects for human health.</p>	No
<p><b>1.9</b> Will there be any risk of major accidents that could affect human health or the environment?</p>	No	<p>No significant risk having regard to the nature and scale of development. Any risk arising from construction will be localised and temporary in nature. There is no significant Flood Risk. The site is not located within close proximity to any Seveso / COMAH sites.</p>	No
<p><b>1.10</b> Will the project affect the social environment (population, employment)</p>	Yes	<p>Project increases localised temporary employment activity at the site during construction stage. The construction stage impacts on the local population are short term and impacts arising will be temporary, localised, and addressed by the mitigation measures in the CMP and CEMP.</p> <p>The development will result in increased population in the area. This would not be significant given the existing and planned</p>	No

		residential uses in the area and the proximity of the site to a wide range of supporting uses and facilities.	
<b>1.11</b> Is the project part of a wider large scale change that could result in cumulative effects on the environment?	No	The surrounding area is being developed with housing and other uses. However, the lands on which housing has been developed are residentially zoned lands, the development of which has been foreseen by the Kildare County Development Plan 2023-2029 and the Kildare Town LAP 2023-2029, which have undergone SEA. Other developments in the wider area are not considered to give rise to significant cumulative effects.	No
<b>2. Location of proposed development</b>			
<b>2.1</b> 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 c) Designated Nature Reserve d) Designated refuge for flora or fauna 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	Yes	Project not located in, on, or adjoining any European site, any designated or proposed Natural Heritage Area, or any other listed area of ecological interest or protection.  The EclA and AA Screening Report has considered the proximity and potential connections to designated/ecological sites in the wider surrounding area. I am satisfied that there would be no significant effects on same.	No
<b>2.2</b> 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?	Yes	The EclA has appropriately surveyed and classified the habitat and flora on the site and surrounding area. I would concur that any loss of habitat would be limited and that adequate mitigation measures have been included.  There is no significant evidence of terrestrial mammal activity on site. There is no evidence of otter activity. The potential loss of bat roosting features has been acknowledged and appropriate mitigation measures have been included. Furthermore, the relatively small population of common species	No

		<p>would not be significantly affected in terms of commuting/foraging habitat or flight lines.</p> <p>Mitigation measures to avoid mortality will avoid any significant residual effects on breeding birds. There is no risk of impacting the local non-coastal non-SCI wintering bird populations.</p> <p>The AA screening exercise (section 9 of my report) has satisfactorily established that the development would not be likely to have significant effects on any European Sites.</p>	
<b>2.3</b> Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	No	The proposed development would not significantly impact on any landscape, historic, or cultural features. Archaeological monitoring will satisfactorily address the potential for archaeological findings.	No
<b>2.4</b> 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?	No	No such resources on or close to the site.	No
<b>2.5</b> Are there any water resources including surface waters, for example: rivers, lakes/ ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	No	As previously outlined, the site is not at significant risk of flooding. The surface water management measures have been assessed and are considered acceptable (see section 8 of my report).	No
<b>2.6</b> Is the location susceptible to subsidence, landslides or erosion?	No	No evidence identified of these risks.	No
<b>2.7</b> Are there any key transport routes (eg National Primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	No	The site is served by a local urban road network, as well as a range of pedestrian/cycle links. The applicant's Traffic and Transport Assessment has demonstrated that there would be no unacceptable impacts on same. The site adjoins a rail line	No

		and the concerns raised by Iarnród Éireann have been addressed in section 8 of my report.	
<b>2.8</b> Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be significantly affected by the project?	No	The proposed development would be adequately distanced from such facilities and the Social Infrastructure Audit has demonstrated that the development would not place excessive pressure on community facilities.	No
<b>3. Any other factors that should be considered which could lead to environmental impacts</b>			
<b>3.1 Cumulative Effects:</b> Could this project together with existing and/ or approved development result in cumulative effects during the construction/ operation phase?	No	The applicant's EIA Screening Report and other assessments submitted with the application appropriately consider the nature and extent of existing/permitted development in the vicinity of the site. The majority of existing/planned development is of a similar residential nature and includes the potential for cumulative effects at construction stage (e.g. traffic, noise, dust) and operational stage (e.g. traffic, wastewater, surface water emissions). However, I consider that these effects are consistent with the existing and planned use of the area and that they would be suitably mitigated by design measures and conditions to avoid significant effects.	No
<b>3.2 Transboundary Effects:</b> Is the project likely to lead to transboundary effects?	No	No transboundary considerations arise.	No
<b>3.3</b> Are there any other relevant considerations?	No	No	No
<b>C.CONCLUSION</b>			
<b>No real likelihood of significant effects on the environment.</b>	Yes	EIAR Not Required	

<b>D. MAIN REASONS AND CONSIDERATIONS</b>		
<p>Having regard to:</p> <p>(a) The nature and scale of the proposed development, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended,</p> <p>(b) The location of the site on lands that are zoned for residential use under the provisions of the Kildare Town Local Area Plan 2023-2029 and the results of the strategic environmental assessment of this Plan undertaken in accordance with the SEA Directive (2001/42/EC),</p> <p>(c) The location of the site in an area served by public infrastructure and the existing pattern of development in the vicinity,</p> <p>(d) The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations,</p> <p>(e) The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003),</p> <p>(f) The criteria set out in Schedule 7 and 7A of the Planning and Development Regulations 2001, as amended,</p> <p>(g) the available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the Environmental Impact Assessment Directive, and</p>		

(h) the features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including measures identified in the Preliminary Construction Management Plan, the Construction Environmental Management Plan, the Resource & Waste Management Plan, the Operational Waste Management Plan, the Ecological Impact Assessment, the Hydrogeological Assessment, the Flood Risk Assessment, and the Noise Impact Assessment,

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 is not therefore required.

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

Stephen Ward

Senior Planning Inspector

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