



An  
Bord  
Pleanála

## Inspector's Report

### ABP-318553-23

|                                     |   |
|-------------------------------------|---|
| <b>Development</b>                  | 53 dwellings comprising 11 no. houses, 24 no. duplex units and 18 no. apartments, including a commercial unit (retail/restaurant) and all associated site development, landscaping, and access works. |
| <b>Location</b>                     | Rath Ullórd, Bonnetsrath, Kilkenny  |
| <b>Planning Authority</b>           | Kilkenny County Council   |
| <b>Planning Authority Reg. Ref.</b> | 2360065   |
| <b>Applicant</b>                    | Madill Property Limited.  |
| <b>Type of Application</b>          | Permission.   |
| <b>Planning Authority Decision</b>  | Grant, subject to conditions.   |
| <b>Type of Appeal</b>               | Third Party   |
| <b>Appellants</b>                   | Aine Ryan and Shane Burke<br>Eithne Lacey<br>Councillor Joe Malone<br>Alicia Coyle and others.  |
| <b>Observers</b>                    | None.   |

**Date of Site Inspection**

24<sup>th</sup> September 2024.

**Inspector**

Terence McLellan

## 1.0 Site Location and Description

- 1.1. The appeal site measures approximately 1.4 hectares and is located to the north-east of Kilkenny City. The site adjoins the existing Rath Ullórd residential development on its northern and western sides, a larger development permitted under previous planning permissions. The site is located to the front of the existing estate and is fenced off from the public footpath at the front of the site on the Bonnettsrath Road and New Orchard Road which mark the south-west and south-east/east boundaries of the site respectively. The N77 outer ring road is located to the north-east of the site.
- 1.2. The site is currently undeveloped with the exception of an electricity substation. The site is generally level and without any significant vegetation, although there are a number of soil heaps located on site. The access from the Bonnettsrath Road, as well as providing access to the appeal site, also provides access to the recent housing developments of Rath Ullórd which is characterised by large two storey detached dwellings. The neighbouring development also includes a creche and religious community building. Land immediately to the south of the appeal site appears to be in agricultural use and is zoned Strategic Reserve. Beyond that to the south there is further low density, low rise housing.
- 1.3. There are segregated cycle facilities on both Orchard Road and the immediately adjoining section of the N77. The nearest bus stop is located on Johnswell Road, approximately 1.3km from the appeal site.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for the development of the site to provide 53 new homes in addition to a commercial unit for retail/restaurant use. The development would comprise the following:

| Unit Type             | 1 Bed | 2 Bed | 3 Bed | 4 Bed | 5 Bed | Total |
|-----------------------|-------|-------|-------|-------|-------|-------|
| House (Detached)      |       |       |       | 5     | 2     | 7     |
| House (Semi-detached) |       |       | 2     | 2     |       | 4     |
| Apartment             |       | 18    |       |       |       | 18    |

|              |    |    |    |   |   |    |
|--------------|----|----|----|---|---|----|
| Duplex       | 12 |    | 12 |   |   | 24 |
| <b>Total</b> | 12 | 18 | 14 | 7 | 2 | 53 |

- 2.2. All of the proposed dwellings would be two storey in height and located in the north-east section of the site. The south-west portion of the site would comprise the 24 no. three storey duplex units in addition to two apartment blocks accommodating a total of 18 apartments. Apartment Block A would be bookended by duplex units and would rise to four storeys. Apartment Block B would be located adjacent to the site entrance and would accommodate the commercial unit (158sqm) at ground floor.
- 2.3. All of the houses would be provided with two off-street car parking spaces in addition to a layby with two visitor spaces. Approximately 48 spaces would be provided for the remaining 42 residential units and commercial unit. This would include two accessible parking bays and EV bays.

#### Further Information

- 2.3.1. Following the receipt of Further information the development was amended to extend the site boundary and provide an additional nine parking spaces to serve the apartments/duplex units and commercial unit. This additional parking area would be located on the opposite side of the site entrance to the west of the main development site. Further amendments were made to the position of houses 9, 10 and 11 in order to align them with houses 3-8. This included a change in house type of house for dwellings 9-11 from type C (1 no.), type J (1 no.), and type C (1 no.), to type J (2 no.) and type C (1 no.). This did not result in any change to dwelling numbers or the schedule of accommodation.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Notification of the Decision to Grant Permission was issued by Kilkenny County Council on 3<sup>rd</sup> November 2023 subject to 30 conditions. Conditions of note include:

18. (a) The Commercial use shall be restricted to a local café/coffee shop which shall operate between the hours of 8am and 9pm only. The café shall not

operate as a takeout for hot food for consumption off the premises and any change of use will require the benefit of a separate planning permission.

(b) A grease trap shall be provided and shall be maintained in accordance with the manufacturer's specifications.

**Reason:** In the interest of proper planning and development

30. Prior to commencement of development the Applicant shall submit a revised proposal for the combination of houses J9 and J10 into a single house (type H8) the site of which will be similar in dimensions to H8. The space gained shall benefit the public open space and C11 should be repositioned accordingly.

**Reason:** In the interest of proper planning and improved residential amenity.

### **3.2. Planning Authority Reports**

- 3.2.1. The first Planner's Report (dated 19<sup>th</sup> April 2023) notes that the original permission of the developed lands to the north was for a total of 104 units and a density of 11.42 units per hectare (4.61 hectares). Subsequent permissions increased this density to 15 units per hectare. These developments have now been completed. The report raises concerns with the density proposed on the subject site which has two zoning designations, one of which is for low density residential. The report states concerns that there is no clear demonstration of the division of zonings on this site, and therefore compliance with the low density zoning (max 10 uph) is unclear.
- 3.2.2. The report concluded that Further Information was required, and 27 points of Further Information were requested from the Applicant, summarised as follows:
1. Provision of an updated Traffic and Transport Assessment.
  2. Independent review of the Quality Audit, consideration of the cycle transition area, further detail on shared surface tie-in, provision of 3m wide shared surface access, clarification on pedestrian footways and crossings, duplex/apartment access to be assessed under audit, traffic calming surfacing to be clarified.
  3. Sightlines and visibility splays.
  4. Provision of a Mobility Management Plan.

5. Lighting design.
6. Provision of parking assessment and delivery/loading arrangements.
7. Revised bicycle parking layout.
8. Details of EV charging.
9. Revised site layout plan showing overlay of zonings.
10. Provision of a Design Statement.
11. Reconsider narrow pedestrian access between car parking area and Bonnettsrath Road.
12. Provision of a daylight and sunlight report.
13. Demonstrate sufficient legal interest.
14. Review and amend the Construction Management Plan
15. Irish Water issues.
16. Investigate the option of increased noise abatement measures.
17. Clarify the use, noise and parking impact of the commercial unit.
18. Confirm the location of temporary stockpiles of topsoil/subsoil for reuse on site and measures to protect watercourses or drains.
19. Provision of a Waste Management Plan.
20. Clarify the use of the commercial unit and measures required with regards to waste and grease traps.
21. Clarification on infiltration area, including minimum separation distances to boundaries and incorporating the proposed landscape proposals.
22. Full specification of separator/interceptor.
23. Clarification on Surface Water Management Plan.
24. Clarification on infiltration showing the specific locations of test locations and also photographic record of testing.
25. Clarity on finishes to the proposed site, including details of surface water drainage for each individual site.

26. Permission to connect to the existing surface water drainage system on the public road.

27. Clarification on the capacity of the communal refuse area for use by the apartment, duplex, and commercial units proposed, including ongoing management and maintenance.

3.2.3. Further Information was submitted on 9<sup>th</sup> October 2023 and was considered in the second Planner's Report dated 5<sup>th</sup> November 2023, which contains the following points of note:

- Part of the site has a low density objective (max 10 uph). Due to legacy issues dating back to the mid noughties, the overall Rath Ullórd development has a density exceeding the 10 uph stipulated in the 2021-2027 Kilkenny City and County Development Plan.
- The further information received superimposed the zoning on the plans and changes were made to the layout in the low density zoned lands. The area zoned "Low Density Residential" is 0.66 Ha in extent and accommodates approximately 8 houses, amounting to c. 12 units per hectare.
- The Planner recommends that the semi-detached units J9 and J10 be consolidated by condition into a single unit and that unit C11 be repositioned so as to provide more open space. This would bring the density to 10.6 uph which is, in broad terms, not more than 10 uph and, having regard to earlier developments granted in Rath Ullórd at a higher density, adequately complies with the density requirements on lands zoned "Low Density".
- Lands zoned "General Business" allocates development potential separate to the low density lands and extends to 0.81 hectares. General Business allows for dwellings subject to normal density considerations, which, in accordance with current density guidelines are well in excess of 30 units per Ha. The remaining 0.81 Ha is to provide for approximately 46 units, which would raise the density to 52 units per hectare. The average density across the overall site would be 36 uph.

- Density is considered acceptable having regard to national guidance, compact growth, the location within the ring road and the Active Travel and public transport infrastructure that will continue to be rolled out over the coming years.
- The historic low-density zoning associated with Rath Ullórd has been superseded by the imperatives to address the climate crisis, which necessitates densification and optimal use of existing infrastructure. The achievement of higher densities in urban areas has become essential in order to make such engineering and mobility infrastructure more viable.
- Car parking standards are now considered a maximum rather than a minimum. The additional nine parking spaces proposed opposite the café would bring the total to 79 however these would be located on an existing swale, which is not acceptable and therefore should be omitted.
- The report concluded that the Further Information requests had either been satisfied or could be dealt with by condition and planning permission was granted on this basis.

#### 3.2.4. **Other Technical Reports**

3.2.5. **Chief Fire Officer (21.03.2023):** The development will require a Fire Safety Certificate prior to works commencing on site.

3.2.6. **Environment (19.04.2023):** Further information was requested with regards to waste, surface water drainage (infiltration, separator/interceptor specification and maintenance, run-off infiltration rates and assessment clarifications), waste management, and noise and dust. These are covered in points 18 and 21-27 of the Further Information request. The Planning Authority have confirmed in the Planner's Report that the Environment Section was satisfied with the Further Information response and the measures proposed with matters relating to the management of environmental impacts to be conditioned.

3.2.7. **Housing Section:** No response.

3.2.8. **Municipal District Engineer:** No response.

3.2.9. **Parks:** No response.



- 3.2.10. **Roads (31.03.2023, 20.09.2023, 03.11.2023):** The initial response notes that the proposed development comprises part of Phase 4 of the overall development at the Rath Úllord residential estate. Concerns were raised regarding the shortfall in car parking for the duplex units/apartments. Further Information was requested regarding a Traffic and Transport Assessment, a Mobility Management Plan, an Acoustic Assessment, details of EV parking, details of sightlines and visibility, details of lighting design, revised cycle parking layout and a Parking Assessment including details of loading arrangements. It was further requested that the Applicant submit an independent review of the Quality Audit, review of the cycle transition area, further detail on shared surface tie-ins, provision of 3m wide shared surface access, clarification on pedestrian footways and crossings, duplex/apartment access audit assessment, and clarifications on traffic calming surfacing. These are set out as points 1-8 of the Further Information request.
- 3.2.11. Following receipt of Further Information, the Roads Section considered the Traffic and Transport Assessment and Quality Audit to be acceptable. Outstanding points could generally be addressed by way of conditions (lighting, noise, surfacing, EV parking, interfaces, Road Safety Audit, CEMP, Mobility Management Plan).
- 3.2.12. The response notes the additional nine parking spaces provided at FI and their location on an existing swale. On this matter the Roads Section maintained their concerns regarding the shortfall in car parking for the duplexes and apartments, noting the limited public transport infrastructure and the lack of public parking facilities in the vicinity which could lead to haphazard car parking on the estate.

### 3.3. Prescribed Bodies

- 3.3.1. **Transport Infrastructure Ireland (24.03.2023):** The Authority will entertain no future claims in respect of impacts (e.g. noise and visual) on the proposed development, if approved, due to the presence of the existing road or any new road scheme which is currently in planning.
- 3.3.2. **Uisce Éireann (22.03.2023):** No objections, subject to conditions. Conditions relate to a connection agreement, compliance with codes and practices, written approval of diversion or build over works (if required), and compliance with 'Code of Practice and Standard Details' with regards to separation distances.

### 3.4. Third Party Observations

- 3.4.1. A total of 32 observations were made on the planning application and an additional seven observations were submitted in response to the Significant Further Information submission. The responses are summarised in the Planner's Report and included on file for the Board's information. The issues raised are generally reflected in the grounds of appeal, set out in detail in Section 6.0 below.

## 4.0 Planning History

### Subject Site

- 4.1.1. **Planning Authority Reference P.21/948:** Permission refused for 55 no. dwelling units consisting of 15 no. Houses (1 no. Type E four bedroom semi-detached house, 1 no. Type F four bedroom semi-detached house, 11 no. Type J three bedroom semi-detached houses, 2 no. Type K three bedroom house), 24 no. Duplex units (12 no. three bed dwellings and 12 no. one Bed Dwellings), 1 no. three storey mixed Use Retail / Apartment building (4 no. two bed apartments over ground floor retail / restaurant use) and 1 three storey apartment building (12 no. two bed apartments), 1 no. single storey facilities management building, 1 no. communal refuse storage pavilion, provision of internal roads and footpaths including associated pedestrian crossing facilities, surface level car parking, public lighting, landscaping, public open space, boundary treatments, provision of foul and surface water disposal and all associated site works. The application was refused for the following reason:

*Reason for refusal: Having regard to the existing low density residential zoning pertaining to approximately half of this site under application, the existing density of housing within this overall estate on low density residential zoned lands and the proposed development is considered to materially contravene the zoning objectives for the lands as defined in Section 2.9.2 of the Kilkenny City and County Development Plan 2021 – 2027.*

- 4.1.2. **Planning Authority Reference P.13/368:** Permission granted in April 2014 for 2 no. two storey structures and 1 no. three storey structure with a gross floor area of 1,967sqm to provide for a small mixed use commercial community facilities and retail development. The proposed development provides for a two storey medical centre of

519sqm and a two storey pharmacy of 424sqm. The proposed development includes a three storey structure with a small convenience store retail unit of 410sqm at ground floor and upper floor offices with a floor area of 516sqm at first floor and second floor level..

Adjoining site at Rath Ullórd to the north and west

- 4.1.3. **Planning Authority Reference P.20/151:** Permission was granted by Kilkenny County Council in June 2020 for an additional proposed 7 no. houses, comprising a mix of semi-detached and detached four bedroom two storey houses and change of existing permitted house types under previously permitted planning reference P18/410. This development was a continuation of an existing scheme previously granted under planning reference P.05/478, P13/369, P17/533 and P18/410.
- 4.1.4. **Planning Authority Reference P.19/410:** Permission granted by Kilkenny County Council in December 2019 for the development of 44 no. houses consisting of 3 no. Type C - five bedroom detached, 4 no. Type D - four bedroom detached, 30 no. Type E - four bedroom semi-detached, 6 no. Type F - four bedroom semi-detached, 1 no. Type G - five bedroom detached house, continuation of public open space, minor amendments to previously permitted boundaries of house numbers 85-89 under planning ref P18/410, provision of foul and surface water disposal, and all associated site development works. This development was a continuation of an existing scheme previously granted under planning references P.05/478, P.13/369, P17/533 and P.18/410.
- 4.1.5. **Planning Authority Reference P.18/410:** Permission granted by Kilkenny County Council in January 2019 for development at this site. 59 houses are being proposed consisting of 44 no. Type B four bedroom semi-detached, 5 no Type C five bedroom detached and 10 no. Type D four bedroom detached houses and all associated site development works. This development was a continuation of an existing scheme previously granted under planning references P05/478, P13/369 and P17/533 at Rath Ullórd.
- 4.1.6. **Planning Authority Reference P.17/533:** Permission granted by Kilkenny County Council in December 2017 for changes of house types from A, B, C, E, G to A, C and G and the proposed minor alteration to house types A, C, D, G previously granted

under planning reference P.13/369 and P.05/478, and all associated site development works.

- 4.1.7. **Planning Authority Reference P.13/369:** Permission granted in April 2014 for a 20 residential unit development, the balance of the residential development granted under Planning Reference P.05/478, comprising six house types including access road, and all associated site development works.
- 4.1.8. **Planning Authority Reference P.05/478:** Permission granted in July 2006 to College Road Partnership for the development of 34 no. two storey detached dwellings comprising four house types including access road, new road entrance from Bonnettsrath Road, roundabout and associated services. The proposed development will include a new foul pipeline connection to the public mains via New Orchard Townland and Newpark Upper Townland and all associated site development works. Duration of permission was extended through reference 05/479.

## 5.0 Policy Context

### 5.1. Kilkenny City and County Development Plan 2021-2027

#### Zoning

- 5.1.1. The site benefits from two zoning objectives. The north-east portion of the site is zoned 'Existing Low Density Residential', the stated objective of which is to protect, provide and improve residential amenities at a low density. Low density housing is defined as not more than 10 units per hectare (4 per acre) on average and must have regard to the character of the area. The south-west portion of the site is zoned 'General Business', the stated objective of which is to provide for general development.
- 5.1.2. Transitional Areas - While the zoning objectives indicate the different uses permitted in each zone, it is important to avoid abrupt transitions in scale and use at the boundary of adjoining land use zones. In these areas, it is necessary that developments are designed in a manner which would not be detrimental to the amenities of the more environmentally sensitive zone. For instance, in zones abutting residential areas particular attention must be paid to the uses, scale, density and appearance of development proposals and to landscaping and screening proposals in order to protect the amenities of these residential areas.

### Core Strategy Objectives

- 4C To actively promote the redevelopment and renewal of areas in need of regeneration whether urban or rural through appropriate active land management measures during the period of the Plan.
- 4E To strengthen the role of Kilkenny City as a self-sustaining regional economic driver with a significant zone of influence and a Key Town on Dublin – Carlow-Kilkenny-Waterford M9 Road/Rail.
- 4G To achieve a growth of more than 30% in population for Kilkenny City from 2016 to 2040 to 34,500, subject to capacity analysis and sustainable criteria under Section 3.3 of the RSES,
- 4H To deliver 30% of that growth within the current built footprint of the city.

### Residential Development

- 6A To ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- 6E To implement the provisions of the Housing Strategy contained in Appendix B.
- 6F To require 10% of the land zoned for residential use, or for a mixture of residential and other uses, be made available for the provision of social housing.
- 6G To require that a mixture of residential unit types and sizes are developed to reasonably match the requirements of different categories of households within the city and county.
- 6J To ensure the widest possible range of housing options in each new development and to prevent the proliferation of limited option house types in any particular area.

### Movement and Mobility

- 12A - To plan for and progressively implement a sustainable, integrated and low carbon transport system by enhancing the existing transport infrastructure

in terms of road, bus, rail, cycling and pedestrian facilities and interfacing different modes as the opportunity arises.

- 12B - To plan for a transition towards sustainable and low carbon transport modes, through the promotion of alternative modes of transport, and 'walkable communities' together with promotion of compact urban forms close to public transport corridors to encourage more sustainable patterns of movement in all settlements.
- C5D - To promote compact urban forms close to public transport corridors to encourage more sustainable patterns of movement.

### **Regional Spatial and Economic Strategy for the Southern Region 2019-2031**

5.2. The primary statutory objective of the Strategy is to support implementation of Project Ireland 2040 - which links planning and investment through the National Planning Framework (NPF) and ten year National Development Plan (NDP), and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region. The RSES seeks to promote compact urban growth by making better use of under-used land and buildings within the existing built-up urban footprint and to drive the delivery of quality housing and employment choice for the Region's citizens. The RSES seeks to build a resilient economic base and promote innovation and entrepreneurship ecosystems that support smart specialisation, cluster development and sustained economic growth.

### **5.3. National Policy**

#### **The National Planning Framework - Project Ireland 2040**

5.3.1. The government published the National Planning Framework (NPF) in February 2018. Objective 3a is to deliver 40% of all new homes nationally, within the built-up footprint of existing settlements. Objective 11 is to prioritise development that can encourage more people to live or work in existing settlements whilst Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location. Objective 35 is to increase residential density in settlements through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

#### **5.4. Section 28 Ministerial Guidelines**

5.4.1. Having considered the nature of the proposal, I consider that the directly relevant section 28 Ministerial Guidelines and other national policy documents are:

- Sustainable Residential Development and Compact Settlement - Guidelines for Planning Authorities (2024). The guidelines allow greater flexibility in residential design standards and cover issues such as open space, car and cycle parking, and separation distances.
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2023).

#### **5.5. Natural Heritage Designations**

5.5.1. The appeal site is not within or immediately adjacent to any European Sites. The nearest European Sites are as follows:

- River Nore SPA (004233) c. 1.5km to the south west.
- River Barrow and River Nore SAC (002162) c.0.76km to the south east

#### **5.6. EIA Screening**

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

### **6.0 The Appeal**

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

6.1.1. Four Third Party Appeals have been received as follows:

- Aine Ryan and Shane Burke, 29 Chestnut Crescent, Rath Ullórd.
- Eithne Lacey, 38 Chestnut Drive, Rath Ullórd.

- Councillor Joe Malone, 11 Maiden Hill Estate, Kilkenny.
- Marston Planning for and on behalf of:
  - Alicia Coyle and Dave Hurley 66 Hawthorn Close
  - Maurice Murphy, 41 Rath Ullórd.
  - Mary and James Kelly, 37 Chestnut Drive.

6.1.2. The grounds of appeal for the various submissions can be summarised as follows:

6.1.3. Scale and Character

- Development should have regard to the character of the area. The site is on the edge of Kilkenny City in a low density residential area.
- It is considered that the significant degree of change to the urban form as a result of apartment and duplex units will negatively alter the streetscape and established area character.
- The proposed high density of residential units in three storey block formations within the lands currently zoned for 'General Business' does not accord with the principle of general business lands as outlined in Section 2.9.5 of the 2021 Development Plan and would be contrary to the established permitted character of the area.
- The taller buildings do not integrate with the wider low density setting and there would be an abrupt transition in scale, contrary to the CDP.
- Precedent examples of apartment/duplex units bear little relationship to a small infill site on the outer edge of Kilkenny City.
- The scale of development proposed would be more suited to a location proximate to accessible services and granting permission would set a negative precedent for development of similar lands in the outer suburban area.
- The CDP requires such scale of development to be located on lands identified in the Core Strategy for large scale medium to high density housing (Loughmacask and Bregagh Valley).
- Rath Úllord is not identified as a significant contributor to future projected housing demands and the 2021 Plan identifies the site as suited to a lower density of residential development.



- It is noted that the density of units as currently proposed upon the General Business zoned lands exceeds that of the defined strategic areas. The apartment/duplex blocks are of an incongruous scale and mass and would overwhelm the low density residential function of the area.
- Climate considerations relating to density and viability of infrastructure are noted however the consideration of local character and scale is a material planning consideration in the determination of applications for high density development and the principles applicable to urban core development are not relevant in this instance as Rath Ullórd is an outer urban area.
- The subject lands are not served by high frequency public transport infrastructure and there are no evident plans to provide enhanced mobility infrastructure.
- The overall height, scale, and massing of the development proposed on the General Business zoned lands would result in overdevelopment of the site, out of character with the surrounding area and injurious to amenity.
- The open spaces are poorly located which impact on their usability and there is a failure to transition from the urban to the amenity zone under this application.

#### 6.1.4. Density

- The Planner's Report does not list the previous refusal of permission, which was refused on density, nor provides any assessment of the subject development against the previous refusal reason (density considerations) and the precedent set therein.
- While proposed density on the low density residential zoned lands is in keeping with the 2021 Plan requirements (10 uph), density on the general business lands is contrary to Sections 2.9.2 of the 2021 CDP and contrary to the range of density identified for peripheral lands in association with the 2023 Draft Sustainable & Compact Settlement Guidelines.
- Section 2.9.16 of the 2021 CDP requires development to have regard to the scale and use of adjoining lands, avoiding abrupt transitions in scale and use at the boundary of adjoining land use zones in order that development is not detrimental to amenity.

- Density has been calculated incorrectly and would represent a material contravention of the Development Plan.
- The proposal is an unacceptable quantum of development at this location, at variance with the extant character of the area with regards to building height, unit typology, and material finishes.
- Local character and scale are a material consideration of National Guidance. The Apartment Guidelines state that scale and extent of apartment development should increase in close proximity to core urban centres, existing public transport nodes or where high frequency public transport can be provided, close to locations of employment and a range of urban amenities/services.
- The provision of apartments/duplex units at the scale and density proposed in this outer urban location would be contrary to the guidelines.
- The site is on the periphery with limited public transport and no public parking facilities. The shortfall in parking would displace vehicles to other parts of the estate
- The site is not close to employment locations which are located in the city centre, the west of the city and in enterprise parks to the south and west.
- Community facilities, large landscaped open spaces and children playgrounds remain outstanding to serve the local area. Increasing the population further will not improve this situation. The nearest shops and local services are c. 1.7km away.
- Clarity is required as to the overall dwelling numbers on the total land holding against the low-density zoning of the overall land holding.
- Without granting this application, the land holding has been approved planning permission for 136 units or 15 units per hectare. Already 50% higher than the objectives and aims of the Kilkenny City and County Draft Development Plan 2021 - 2027.
- The current area of proposed housing is part of the overall land holding "open space" provision, as the number of houses built on these lands and with planning granted exceeds the overall density of 10 uph.

- The zoning issues are not ‘legacy’ issues as set out in the Planner’s Report. Zoning of these lands were reviewed as early as 2021 by elected officials, who did not accept proposals to change it from low density.
- Apartments are not reflective of the area or the zoning densities.
- Granting a final high density development would exacerbate problems with one-off housing in the countryside.

#### 6.1.5. Transport, Parking, and Access

- There is a significant shortfall in parking and a lack of parking for the public. The engineering department were not supportive of the inclusion of nine spaces on an existing attenuation area.
- The Planning Authority agreed that nine spaces on the attenuation area were not acceptable and should be omitted but this was not secured by condition. It is not clear where further parking could be provided on the site.
- Parking remains deficient, and taking account of the deficiency in high frequency public transport linkages available to the subject site and its outer edge location the Applicant should revise density downwards to ensure compliance and sufficient parking provision.
- Many of the parking spaces are unusable, with cars having to mount footpaths to enter and exit bays, leading to conflict with pedestrian footpaths.
- The additional parking is not within the Applicant’s ownership, it has been Taken in Charge by Kilkenny County Council and a letter of consent is needed.
- The parking is on the opposite side of the road to the development and rather than use this, cars will mount and park on the pavement on the development side of the road.
- The removal of the roundabout and replacement with a T junction is also on lands outside of the Applicant’s control.
- Sightlines at the main entrance are inappropriate.
- The Road Safety Audit is not based on the updated drawings and is obsolete and cannot be assessed.
- Road widening and a right running lane to Bonnettsrath Road are required.

#### 6.1.6. Title

- The development requires works to facilitate parking and access infrastructure which is dependent upon the consent of a third party.
- At FI stage the overall site layout was significantly modified to include 9 No. additional car parking spaces in an area formerly constructed as a surface water swale which was not connected to the drainage network. It is noted that this car-park is located outside the original red-line boundary.
- The amendments as proposed relate to lands outside of the Applicant's control. These lands and those incorporating the estate entrance, and extant roundabout infrastructure have been Taken In Charge by the Local Authority.
- The Applicant claims that the swale is non-functioning, but it is understood from the Engineering Department, that the attenuation area is in use and functional, as clarified via drainage investigations required in compliance with planning consent.
- Further TIC works to address the site entrance and roundabout have been held in abeyance pending the outcome of the subject application and the time frame by which these works can be completed is diminishing.

#### 6.1.7. Appropriate Assessment

- The Appropriate Assessment does not consider a number of existing site mammals, such as bats, and environmental surface and sub surface receptors impacted by this development. No winter bird surveys have been undertaken and correctness/robustness of the Appropriate Assessment is questioned.

#### 6.1.8. Environmental

- Soakaway tests are not provided with a site location map, it is expected that geophysical surveys would have been completed and submitted by the Applicant. Given the location in a known Karst Area, a ground investigation report should have been requested by the Local Authority with suitable mitigation measures where required.
- Unintentional ground water flooding should also have been considered in addition to an appropriate Flood Risk Assessment, referencing the Kilkenny County Council owned public well on the site.
- The proposed infiltration area is over a regionally important aquifer within the River Pococke catchment area, which is a salmon spawning river, the water

quality of which should be protected. No assessment of the impacts of the proposed infiltration is included.

- The Irish Water response does not confirm if existing infrastructure can cater for the development. It is not clear what upgrades would be required or compliance with previous planning permissions regarding wastewater systems.

#### 6.1.9. Amenity

- Nos. 35-38 Rath Ullóird would experience amenity impacts in terms of overlooking, overshadowing of private space, overshadowing of dwelling internal spaces, loss of privacy in relation to the rear wall location between dwellings 35 - 38 and the new dwellings on the northern boundary of the proposed site.
- There would be daylight and sunlight impacts to nos. 35-38 and 42. The Daylight and Sunlight Assessment is deficient and contrary to the Applicant's response to FI point 12, the proposed dwellings remain in the same position as before. These houses are A rated and rely on solar gain, this will be affected by the development and overshadowing.
- The Daylight and Sunlight Assessment should have been updated to address point 12(a) of the Council's request.
- No attempt to regularise the rear boundaries between the existing nos. 35 - 38 and the proposed dwellings to achieve a rear wall centred between new and existing properties in accordance with the building standards of Kilkenny City and County Development Plan 2021 – 2027, where a rear boundary wall should be centred between properties.
- A masterplan for the overall landholding was requested but never submitted. Should a masterplan have been submitted for review from commencement, then the rear walls to existing Rath Ullóird dwellings 35 - 38 would not be located in close proximity of the rear building line and this should not be permitted to occur now as a result of the Applicant's haphazard approach to developing the overall land holding.
- The rear boundaries to dwellings 35 to 38 and 42 were set up tight to these houses due to the building line established under granted application 13/368. It was never intended that the boundary wall to existing dwellings 35 to 38 and

42 would be adjacent private gardens in the agreed master plan of the overall land holding.

- Separation distances are insufficient.
- It has not been demonstrated that the existing infrastructure can absorb the uplift in population.
- The proposed dwellings to the northern boundary should be removed or re-located.
- The plans do not include any external levels or finished floor levels (FFL).
- Dwellings on Orchard Close will be overlooked and overshadowed.

#### 6.1.10. Procedural Matters

- Discrepancies in application, lack of site plan under FI response and implications for Condition 1 where it is not clear which version of the site plan the permission is predicated on.
- The Planning Report has little assessment of compliance with the Development Management policies of the CDP.
- Number of conditions imposed is excessive, including 17 pre-commencement conditions which represent a significant level of Further Information required by the Planning Authority.
- The subject proposal provides little address to the previous reason for refusal.
- There are outstanding enforcement issues on earlier phases.
- The telecoms mast installed last year is not shown on the plans, it is not clear what implication this has for the development.

## 6.2. Applicant Response

6.2.1. A First Party response was received from RW Nolan and Associates, for and on behalf of the Applicant. The response can be summarised as follows:

#### 6.2.2. Density

- Important factors in considering density on residentially zoned land are the location of the site within the ring road and national policy on densification to address climate change. Furthermore, the proposal forms the final phase of a development that is under construction and not completed. Policy has changed

since the first phase and the proposal is an opportunity to address the change in policy.

- Compact Settlement Guidelines state residential densities in the range of 30dph to 50dph. Whilst the proposal is at the upper end of this, the prevailing density across the overall development is 36dph and it is considered that a higher density is appropriate to achieve appropriate densities for the overall development and to achieve compliance with government guidance.

#### 6.2.3. Residential Character

- The subject site faces the distributor road and the ring road. The proposal is to present an appropriate entrance to the estate by means of the choice of use, building heights, and building line.
- It is not accepted that the inclusion of apartments/duplex units is inappropriate given the established character of the area.
- Building heights are appropriate given the location of the development in relation to the entrance and main roads.
- Adequate separation distances are provided, and the design follows the character of the existing development, with building lines followed.
- There will be no overshadowing or overlooking impacts.

#### 6.2.4. Car Parking and Junction Sightlines

- Car parking for the apartments/duplex units is considered adequate. As the commercial unit will serve local need, parking is not necessary. The Applicant would accept the Planning Authority's condition omitting these spaces.
- Sightlines are acceptable and appropriate to design speed.

#### 6.2.5. Material Contravention

- A discrepancy between a density stated in a development plan and a development proposal does not in itself constitute a material contravention of the development plan.

- Having regard to the Development Management Guidelines and that the open space is being provided to serve the immediate area, the Planner's density calculation is correct.

#### 6.2.6. Water and Wastewater Infrastructure

- The proposal is not premature, and the development has been assessed by Irish Water, who recommend a condition, which has been included on the decision notice of the Planning Authority.

#### 6.2.7. Inadequate Interest in the Land

- The Appellants question the Applicant's interest in the land, this refers to lands that have been taken in charge by the Planning Authority that were added at Further Information stage to accommodate some additional parking. This parking has been omitted by the Planning Authority and the Applicant accepts this omission.

### 6.3. Planning Authority Response

- 6.3.1. Kilkenny Planning Authority considers that although stated in the body of the planning report and considered at the time of the planning authority's decision, the conditions may not have expressly clarified that the area that was identified for 9 no. additional parking spaces to the west of the site was engineered as a swale under permission 05/478 and 07/2210 and has accordingly been taken in charge by Kilkenny County Council. Should the Board be disposed to grant permission, the Planning Authority would recommend a condition be imposed to omit this parking and retain the swale as approved.

### 6.4. Observations

- 6.4.1. None.

### 6.5. Further Responses

- 6.5.1. The Planning Authority response was circulated to the relevant parties. Responses were received from:



- Aine Ryan and Shane Burke, 29 Chestnut Crescent, Rath Ullórd.
- Eithne Lacey, 38 Chestnut Drive, Rath Ullórd.
- Marston Planning for and on behalf of:
  - Alicia Coyle and Dave Hurley 66 Hawthorn Close
  - Maurice Murphy, 41 Rath Ullórd.
  - Mary and James Kelly, 37 Chestnut Drive.

6.5.2. I have reviewed these responses, which are on file for the Board's information, and I am of the view that they do not raise any new issues further to those already covered in the summarised grounds of appeal.

## 7.0 **Assessment**

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

- Zoning, Density, Scale, and Character
- Transport
- Residential Amenity
- Flooding and Drainage
- Other Matters

### 7.2. **Zoning, Density, Scale and Character**

7.2.1. The primary issue raised by the Appellants is that the proposed development would be excessive in density on what is considered to be a peripheral site, particularly having regard to the low density zoning designation of part of the site, and that the scale and character of the proposal would be at odds with the established character of the area. Concerns regarding density and scale are particularly prevalent with regard to the overall height, scale, and massing of the development proposed on the general business zoned lands and the Appellants consider that this would result in

overdevelopment of the site which would be out of character with the surrounding area and injurious to amenity. Further concerns are raised that there would be an abrupt transition in scale and use at the boundary of adjoining land use zones and that the open space provision is not acceptable. It is stated that the proposed density would be a material contravention of the development plan.

- 7.2.2. The Applicant considers that the density of the development is justified on the basis of the location of the site within the ring road and national policy on densification to address climate change. It is stated that the proposal forms the final phase of a development that is under construction and not completed and that policy has changed since the first phase and the proposal is an opportunity to address this change in policy. The Applicant notes the Compact Settlement Guidelines range of 30uph-50uph and the density of 36uph when taken across the entire development site, noting that a higher density is acceptable in order to achieve appropriate densities for the overall development and to achieve compliance with government guidance. With regard to a potential Material Contravention, the Applicant argues that a discrepancy between a density stated in a development plan and a development proposal does not in itself constitute a material contravention of the development plan.
- 7.2.3. In terms of scale and character, the Applicant considers the proposal to be acceptable given its particular location facing the distributor road and the ring road and that the proposal presents an appropriate entrance to the estate by means of the choice of use, building heights, unit mix, and building line.
- 7.2.4. The site benefits from two zoning objectives. The north-east part of the site is zoned 'Existing Low Density Residential', the stated objective of which is to protect, provide and improve residential amenities at low density. Low density housing is defined as not more than 10 units per hectare (4 per acre) on average and must have regard to the character of the area. The south-west portion of the site is zoned 'General Business', the stated objective of which is to provide for general development. The development can be considered in two parts, with the houses generally located to the north and east on the low density residential area and the apartments/duplexes and commercial unit to the south and west on the general business lands. For clarity, I intend to deal with the assessment along these lines.

*Houses*

- 7.2.5. As stated previously, the northern and eastern parts of the site are on lands zoned for low density residential. A total of 11 houses are proposed, eight of these would be within the low density residential designation and the remaining three are just over the zoning line but in terms of scale and character I am of the view that all of the houses should be considered together as they form an integral feature in townscape terms.
- 7.2.6. The proposed dwellings are a mixture of detached (7 no.) and semi-detached (4 no.), set within generous garden ground with off-street parking and rising to a maximum of two storeys. Materials proposed include brickwork, painted render and slate tile roofs. In my opinion, the scale, form and character of the proposed houses are very much in line with the established character of Rath Ullórd and would tie in well with the existing estate.
- 7.2.7. In terms of density, the low density designation seeks a maximum provision of 10 uph (or four per acre). The site area given for the low density designation is 0.66 hectares and eight of the proposed houses would be located within this designation, resulting in a density of 12 uph which is slightly in excess of the 10 uph set out in the zoning objective and would be a material contravention of the development plan in density terms, given the zoning requirements. In order to address density, the Planning Authority have imposed Condition 30 which would require houses 9 and 10 (type J – 3 bedroom) to be combined into a single house (type H – 4 bedroom). This would reduce the number of dwellings on the low density zoned lands to 7, bringing the proposed density to 10.6 uph. On that basis the Planning Authority do not consider that there would be a material contravention.
- 7.2.8. In my opinion, Condition 30 is unnecessary and should not be applied. Whilst omitting the condition would result in a density of 12 uph, and as such would constitute a material contravention, I am of the view that the reduction of a single house would not offer any material benefit in townscape or density terms. The provision of eight houses on the low density zoned lands (in addition to the three that sit just across the line in the general business zoned lands), are entirely acceptable in townscape, character and density terms. The houses would align with the established character and appearance of the estate and I note that the zoning objective states that development must have regard to the character of the area. I also note that the earlier phases of the Rath Ullórd development had densities in the region of 15dph. In planning terms, I can see no material benefit in the Councils condition to combine houses 9 and 10

into a single unit other than to come closer to the numerical density stated in the zoning objective.

- 7.2.9. This would of course constitute a material contravention of the development plan and as such the Board are required to have regard to Section 37(2)(a) of the Planning and Development Act 2000 (as amended) which states:

*37(2)(a) - Subject to paragraph (b), the Board may in determining an appeal under this section decide to grant a permission even if the proposed development contravenes materially the development plan relating to the area of the planning authority to whose decision the appeal relates.*

- 7.2.10. In this instance, section 37(2)(b) and its subsequent requirements (i-iv) would not apply as the Planning Authority did not refuse planning permission. In these circumstances the Board should not consider itself precluded from granting planning permission. Having regard to Section 37(2)(a) of the Planning and Development Act 2000 (as amended), I am of the view that the density of 12 uph on this final phase of the Rath Ullórd development would be acceptable having regard to the surrounding local character, form and density, which is in excess of 10 uph on the wider Rath Ullórd estate, which is also zoned for low density residential. The excess density in this case is minor in nature and relates to a single dwellinghouse. I am of the opinion that a density of 12 uph on the low density zoned lands would not fundamentally prejudice the Council's ability to deliver the objectives of the development plan, noting that the zoning objective also requires development to have regard to local character and I consider that the density of 12 uph would be entirely acceptable in terms of sustainable development and proper planning.

*Apartments/Duplexes and Commercial Unit*

- 7.2.11. The south-west part of the site is zoned general business and accommodates the apartments (18 no.), duplexes (24 no.), and a commercial unit (158sqm). The apartments would be spread across two blocks (A and B). Apartment Block A would rise to four storeys (set back) and would be bookended by two rows of three storey duplexes. Apartment Block B would be located adjacent to the site entrance and would adjoin a further row of duplex units, separated from the duplexes attached to Apartment Block A by a pedestrian passageway. The Commercial unit would be located on the ground floor of Block B, fronting the estate entrance.

- 7.2.12. Under the Compact Settlement Guidelines, the site is a peripheral location and access to public transport is very limited. The nearest bus service being c.1.3km away and operating on a half hourly basis. In these locations, the Compact Settlement Guidelines advocate a density range of between 30dph-50dph. The Applicant gives a site area of the General Business land of 0.81 hectares. Taking account of the 42 apartment/duplex units proposed on this site (removing the three houses that I have considered in the preceding section), the proposed density would be c.52dph which is in excess of the range given in the Compact Settlement Guidelines. Given the peripheral nature of the site and the issues relating to accessibility on public transport, I am of the view that there is no justification for such a high density development in this location, notwithstanding the climate objectives raised by the Planning Authority.
- 7.2.13. As stated previously, the surrounding area is characterised by two storey detached dwellings. Whilst I would have no objections to a change in typology, I am of the view that the scale, form and massing of the two wider blocks is excessive for this site which sits on the periphery of the city. The overall development on the General Business lands would be a significant transition in scale and density that would offer little benefit to the area and would be incongruous when considering the prevailing character and nature of the estate and wider area.
- 7.2.14. Furthermore, whilst the lands are zoned for general business, the overwhelming land use proposed is residential. The only commercial or non-residential use proposed is the retail/café/restaurant which would be 158sqm. It is my view that the scale and nature of the residential development on the general business zoned lands would prejudice the overall intent of this zoning objective. Arguably, had the Planning Authority envisaged a fully residential scheme on this site then that would be reflected in the zoning, rather than a general business designation which, whilst allowing residential, also includes a range of business uses such as retail, offices, cultural or educational buildings, medical and related consultants, restaurants and public houses. Given the peripheral nature of the site and the lack of shops and services in the immediate vicinity, I am of the view that the provision of a majority residential scheme on this zoning designation would not be appropriate, and I note that previous permissions on this site were for mixed use commercial community facilities and retail development

- 7.2.15. For the reasons set out above, I am of the view that the apartments, duplexes and commercial unit should be omitted from the plans, to allow matters with regards to density, scale and use to be addressed.

### **7.3. Transport**

- 7.3.1. Parking is a primary transport concern of the Appellants, notably that there is a significant shortfall in parking, that the additional parking provided at Further Information stage is outside of the Applicant's ownership and located on an operational swale, and that some of the parking spaces are unusable or poorly located and would result in cars parking on the pavements. It is the view of the Appellants that parking remains deficient, particularly in view of the deficiency in high frequency public transport linkages available to the site and its outer edge location.

#### *Parking*

- 7.3.2. The proposed development would provide a total of 24 spaces for the houses (inclusive of two visitor spaces) and 48 spaces for the apartments/duplex units and commercial unit. The Planning Authority note that the parking standards set out in the CDP are maximums. Based upon the standards set out in Table 12.3 of the CDP, the development would have an overall maximum parking requirement of 96 spaces, equating to 25 spaces for the houses (inclusive of three visitor spaces), 63 spaces for the apartments/duplex units (inclusive of 11 visitor spaces) and eight spaces for the commercial unit.
- 7.3.3. The Apartment Guidelines set out a reduced standard for apartments of 52.5 spaces for the apartments/duplexes. This would equate to 85 spaces overall when considering the houses and commercial unit. National policy seeks an overall reduction in car parking, and it is further noted in the Compact Settlement Guidelines that it will be necessary to apply a graduated approach to the management of car parking within new residential development.
- 7.3.4. The guidelines note that the approach should take account of proximity to urban centres and sustainable transport options, in order to promote more sustainable travel choices. Car parking ratios should be reduced at all urban locations, and should be minimised, substantially reduced or wholly eliminated at locations that have good access to urban services and to public transport.

- 7.3.5. SPPR 3 of the Compact Settlement Guidelines sets out maximum parking provisions tailored to the location/characteristics of each site. Section (iii) would apply to the appeal site, given its peripheral location and the guidelines state maximum rate of car parking shall be 2 no. spaces per dwelling.
- 7.3.6. It is clear, even when applying the reduced maximum standards of the Apartment Guidelines, that there would be a shortfall in car parking of approximately 13 spaces. Whilst I acknowledge and support the need to reduce car parking, appropriate alternative options need to be in place to encourage a modal shift. In this regard I am cognisant of the peripheral nature of this site and the poor availability of public transport, the closest service being 1.3km away and operating on a half hourly basis.
- 7.3.7. Whilst I note the cycle paths that connect the site to the city centre, I am of the view that this development would largely be car dependant due to the peripheral location and lack of public transport availability. As such, I do not agree that a significant reduction in car parking would be warranted. In my opinion, this is directly related to the density being proposed on the general business zoned lands, due to the provision of 42 apartments and duplexes and I note that 12 no. of the duplex units would be three bedroom and as such it is likely that there would be at least some instances of multi car households. In my opinion, in the absence of public transport alternatives, it is likely that the shortfall in parking would result in overspill parking within the wider estate. In my opinion, these issues are directly related to the density being proposed on the general business lands and reinforces my view that the apartment/duplexes should be omitted from the permission in lieu of a more balanced proposal that fully considers the peripheral location, public transport availability and local character.

#### *Cycle Parking*

- 7.3.8. Key to encouraging a modal shift to more sustainable forms of transport is the provision of high quality cycle parking facilities. I note the Applicants proposal that the dwellings and duplex units would have cycle parking provided on this individual plots. The apartments would be provided with cycle parking in two sheltered cycle parking areas. These shelters would accommodate up to 32 spaces however they are located a considerable distance from Apartment Block B. Should the Board be minded to approve the apartment/duplexes then I would advise that a condition be imposed to

secure full details of cycle parking, including quantum, storage and location in order to address this issue.

#### *Traffic, Infrastructure, and Sightlines*

- 7.3.9. In terms of trip generation and impacts on traffic and junctions, I note the findings of the Traffic and transport Assessment and acknowledge that there would be a slight increase in traffic and vehicular movements which would be expected for a development of this nature however the figures presented in the TTA are reasonable in my opinion and do not indicate that there would be any significant adverse impact on the local road network. The development suitably ties into the existing cycle lane infrastructure, and it is also likely that there would be an element of modal shift that would reduce, or at least moderate vehicular activity associated with the development.
- 7.3.10. It is also stated that sightlines at the main entrance are inappropriate, that road widening and a right running lane into Bonnetsrath Road is required and that the Road Safety Audit is not based on the updated drawings. In my opinion appropriate sightlines to the main entrance to the estate have been demonstrated and these would be in line with DMURS requirements. For the limited number of dwellings being proposed and the trip generation figures presented as part of the TTA, I do not consider that a right running lane into Bonnetsrath Road is warranted.
- 7.3.11. Specific concerns have been raised that the Road Safety Audit is not based on the revised drawings. Whilst this is the case, the amendments to the road layout as a result of Further Information were limited and a large part of the amendments, such as the parking on the swale, have been omitted by the Planning Authority. Additionally, it is my recommendation that the apartments/duplexes/commercial unit be omitted from the permission. In any event, I am satisfied with the original road safety audit, in light of the recommended omissions from the permission, and I am of the view that a Stage 3 audit can be suitably secured by condition.

#### **7.4. Residential Amenity**

- 7.4.1. The grounds of appeal raise various residential amenity concerns with regards to overlooking and loss of privacy, overshadowing and loss of daylight, and insufficient separation distances. Specific concerns are raised with regards to Nos 35-38 and 42 Rath Ullóird and the dwellings on Orchard Close.



*Separation Distances, Overlooking/Loss of Privacy, Overbearance*

- 7.4.2. Proposed houses 5-11 share a northern boundary with nos. 35-38 Rath Ullórd. Houses 9-11 were repositioned as part of the Further Information submission and are now in alignment with proposed houses 3-8, which are orientated south-east. The separation distance between houses 5-11 and their respective northern boundaries is in excess of 12m and the separation distance between the first floor windows and the neighbouring homes on Rath Ullórd is well in excess of the minimum 16m specified in the Compact Settlement Guidelines. The relationship between the proposed dwellings and nos. 35-38 Rath Ullórd has therefore been improved, with adequate separation distances proposed and a more neighbourly relationship with regards to siting and proximity.
- 7.4.3. Proposed house 1 has a typical side by side relationship with no. 42 Rath Ullórd and I do not consider that this raises any amenity concerns. The side facing windows on 42 Rath Ullórd are double aspect and in any event, I consider the positioning to generally reflect the current layout on Rath Ullórd and a typical domestic relationship for housing areas. In my opinion, the separation distances proposed for All of the proposed houses and their relationship to the adjacent dwellings and garden ground at nos. 35-38 and 42 Rath Ullórd is such that there would be no overlooking, no loss of privacy, and no issues with regards to overbearance.
- 7.4.4. The proposed apartments and duplex units would have no significant impact on any of the homes on Rath Ullórd or Orchard Close as raised in the appeals, in terms of loss of loss of privacy or overbearance, due to the considerable separation distances involved.
- 7.4.5. In terms of the positioning of the proposed dwellings, further concerns raised are that there has been no attempt to regularise the rear boundaries between the existing nos. 35 - 38 and the proposed dwellings to achieve a rear wall centred between new and existing properties in accordance with the building standards of Kilkenny City and County Development Plan 2021 – 2027, where it is stated that a rear boundary wall should be centred between properties. I also acknowledge the point raised in the grounds of appeal that should a masterplan have been submitted for review from commencement, then the rear walls to existing Rath Ullórd dwellings 35 - 38 would not be located in close proximity of the rear building line and this should not be

permitted to occur now as a result of the Applicant's approach to developing the overall land holding, which the Appellants consider to be haphazard.

- 7.4.6. In my opinion the concerns around this point are unfounded and the position and layout of the proposed houses, their garden ground, separation distance, and their boundary treatment are such that there would be no visual or residential amenity impacts that would justify withholding planning permission.

#### *Overshadowing and Daylight*

- 7.4.7. The grounds of appeal argue that there would be daylight and sunlight impacts to nos. 35-38 and 42 Rath Ullórd and the dwellings on Orchard Close and that the Daylight and Sunlight Assessment is deficient and fails to address point 12(a) of the Council's request. I acknowledge that the Applicant has failed to address Point 12(a) of the Further Information request, which specifically referred to the potential loss of sunlight to the dwellings and private open space of the existing dwellings located adjacent to the site, particular to the north of the site, having regard to the proximity of the proposed development to the north site boundary. I note that the Planning Authority did not address this omission. In any event, I am satisfied that the scale/height of the proposed dwellings and apartments/duplexes and the separation distance from adjacent dwellings and garden ground is such that there would be no significant adverse daylight, sunlight, overshadowing or solar gain impacts.

#### *Infrastructure Capacity*

- 7.4.8. The appeals raise concerns that it has not been demonstrated that existing infrastructure can absorb the uplift in population. The development would connect to the municipal sewage system, and I note that Uisce Éireann have raised no objections, subject to conditions. These conditions relate to a connection agreement, compliance with codes and practices, written approval of diversion or build over works (if required), and compliance with 'Code of Practice and Standard Details' with regards to separation distances. In my opinion, there are no grounds on which to take the view that infrastructure capacity in the area would be compromised as a result of the proposed development and I further note the Planning Authority's imposition of a Section 48 Development Contribution condition which will require a financial contribution in respect of public infrastructure and facilities, and I consider this to be

an appropriate provision. I will address issues raised with regards to roads infrastructure separately.

## **7.5. Flooding and Drainage**

- 7.5.1. The grounds of appeal raise several issues with regards to drainage and flooding. It is stated that ground water flooding should also have been considered in addition to an appropriate Flood Risk Assessment, referencing the Kilkenny County Council owned public well on the site. Further concerns are raised with regards to the soakaway tests as they were not provided with a site location map and that ground investigations should have been undertaken as this is a known Karst area. Further concerns are raised that the infiltration area is over a regionally important aquifer within the River Pockocke catchment area, which is a salmon spawning river, the water quality of which should be protected.
- 7.5.2. The Board should be advised that the site is not located within an identified flood risk area in the Kilkenny County and City Development Plan and as such a Flood Risk Assessment is not a requirement. The site would drain foul drainage to the existing municipal system. Surface water would infiltrate to ground in the first instance, with a high level overflow to the main surface water network.
- 7.5.3. I note that the surface water run-off from the development will infiltrate to ground. Individual houses would have a local soakaway within their own sites and a there would be a high-level overflow to the main surface water network. The principal infiltration area for the site would comprise an attenuation tank which would attenuate the surface water run-off from the site and allow it to infiltrate to the ground. In the case of a storm event greater than the 1 in 100 year period, a high-level overflow would be installed that would connect to the existing surface water network that was constructed as part of previous permissions on Rath Ullórd and I note that the system has been designed with a 20% allowance for climate change and would be limited to 2 l/s/ha (litres per second per hectare). The proposal includes the provision of a bypass separator that can cater for a maximum flowrate of 150 l/s which is in excess of the maximum flow rate calculated, which is 108.5 l/s and I am of the view that this would protect groundwater from polluting substances such as oil and petrol.
- 7.5.4. The Council's Environment Section were satisfied with the proposed drainage provisions and the information submitted at Further Information Stage and whilst I note

that a site plan has not been provided showing the infiltration test pits, I am broadly satisfied with the balance of information submitted, including that detailed above and I am therefore satisfied that this would provide appropriate protection to groundwater as well as a suitable surface water drainage scheme.

## **7.6. Other Matters**

- 7.6.1. Concerns have been raised in the grounds of appeal that the number of conditions (including pre-commencement conditions) is excessive and represents a significant level of Further Information required by the Planning Authority. It is also stated that the proposal does little to address the previous reason for refusal, that enforcement issues on earlier phases have not been addressed and that the Planning Report has little assessment of compliance with the Development Management policies of the CDP.
- 7.6.2. In my opinion the majority of the conditions imposed are standard, relate to detailing and standard development issues and traffic measures would not result in significant Further Information. Whilst I note that the Appellants raise concerns regarding ongoing enforcement issues on other parts of the wider estate, enforcement is not a matter for the board and remains the jurisdiction of the Planning Authority. In any event, I am not aware of any significant enforcement issues that would preclude a grant of planning permission in this instance.

### *Plan Discrepancies*

- 7.6.3. The grounds of appeal state that there are discrepancies in application regarding a lack of an updated site plan under the Further Information response and implications for Condition 1 where it is not clear which version of the site plan the permission is predicated on. Concerns are also raised that the plans do not include external levels of finished floor levels (FFL).
- 7.6.4. In terms of external levels, these are shown on the Topographical Site Survey plan, and I note that FFLs are shown on the proposed plans as well as on the Roads and General layout Plan (reference 17058-C-DR-420 Rev PL3) and I am satisfied that sufficient information has been provided in this regard.
- 7.6.5. In terms of the revised Site layout Plan, I agree with the Appellants that this does not appear to have been submitted. However, the revised site layout and position of dwellings is shown in the revised Site Layout Plan shown on page 18 of the Design

Statement as well as being shown on the General Drainage Layout (reference 17058-C-DR-430 Rev PL3) and Roads and Streets General layout (reference 17058-C-DR-420 Rev PL3), all of which were submitted at Further Information Stage. Whilst the Planning Authority could reasonably have required the provision of a standalone plan rather than relying on the Design Statement, I am satisfied that there is enough information available to provide clarity on the approved site layout and that this can be conditioned.

- 7.6.6. I also note that the contextual elevations were not updated to account for the amendments to proposed houses 9-11 in terms of house type and position. Again, plans and elevations for each house type have been provided and the amended position of the dwellings is clearly shown on the plans and documents outlined in the preceding paragraph and I remain satisfied that there is sufficient information available to provide clarity on this matter and that this can be conditioned.
- 7.6.7. Concerns have been raised about the implications of the development for the recently erected telecoms mast on the site. This mast is located on the eastern edge of the development close to the substation and I do not consider that the development would have any impact on its position or operation. In any event, my recommendation is that the apartments/duplexes be omitted from the approved development.

*Title Issue*

- 7.6.8. Several issues have been raised with regards to title, notably that the Applicant is proposing works on land that is outside of their control and dependent upon the consent of a Third party. It is further stated that some of the land has been Taken in Charge by Kilkenny County Council, including lands around the estate entrance and the swale to the west.
- 7.6.9. The Applicant acknowledges that this refers to lands that have been taken in charge by the Planning Authority that were added at Further Information stage to accommodate some additional parking and notes that this parking has been omitted by the Planning Authority and that they accept this omission.
- 7.6.10. The Applicant submits that they are in control of the lands subject of the application, a letter of consent has been provided by a relevant Third Party and the remaining lands are in the ownership/control of the Council who, in any event, are aware of the application/appeal. As such, in terms of the legal interest, I am satisfied that the

Applicant has provided sufficient evidence of their legal intent to make an application. Any further legal dispute is considered a Civil matter and are outside the scope of the planning appeal. In any case, this is a matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act.

## **8.0 AA Screening**

- 8.1. I have considered the apartment development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located approximately 380m from the River Barrow and River Nore Special Area of Conservation (002162) and River Nore Special Protection Area (004233).
- 8.2. The proposal comprises a mixed use development of 53 residential units and a commercial unit. The residential aspect of the development would comprise 11 dwellinghouses, 24 duplex units and 14 apartments.
- 8.2.1. The appeals raised concerns regarding the fact that the Appropriate Assessment does not consider a number of existing site mammals, such as bats, and environmental surface and sub surface receptors impacted by this development. It is further raised that no winter bird surveys have been undertaken for the site.
- 8.2.2. I have had regard to the qualifying interests of the both the SAC and SPA outlined above. Noting that the site is not within or immediately adjacent to the European Sites, I have also had regard to potential ex-situ impacts. The site does not contain habitats or species for which the SPA and SAC have been designated. The site itself does not contain any woodland and does not contain habitat that would provide an important link to other important habitats.
- 8.3. Having considered the nature, scale, and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- Nature of works and the location of the site within a built up serviced area.
  - The lack of suitable habitat, the distance from the nearest European site and lack of connections.
  - The use of existing municipal services with regards to surface water, foul drainage and water supply.

- Taking into account screening determination by LPA

8.3.1. I conclude that on the basis of objective information, the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded, and therefore, an Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000) is not required.

## **9.0 Recommendation**

9.1.1. I recommend that the Board partially uphold the decision of Kilkenny County Council and that permission be granted for the 11 houses, with the apartments/duplexes and commercial unit being omitted from the development for the reasons and consideration set out below.

## **10.0 Reasons and Considerations**

10.1.1. Having regard to the zoning objective relating to the site and the nature and extent of the proposed development, in addition to the form, scale, and density of surrounding development, it is considered that the proposal, subject to the conditions set out below, would not seriously injure the amenities of the area or property in the vicinity. A material contravention is noted in terms of density on the low density zoned lands. On this matter the Board have had regard to Section 37(2)(a) of the Planning and Development Act 2000 (as amended) and in considering the material contravention, the Board conclude that the density of the development would be suitable given the surrounding townscape, the density on adjacent lands which are also zoned low-density, and the requirement in the zoning objective for development to have regard to local character. The scale, massing, and density of the development would therefore be acceptable and would be in line with the prevailing context. Residential amenity impacts associated with the development can be appropriately mitigated by conditions as can issues regarding transport and drainage. The development would not have any significant environmental impacts and would bring forward housing on serviced residential zoned lands. The development would not be prejudicial to public health or the environment and would generally be acceptable in terms of design, traffic safety, drainage, and amenity.

## 11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 7<sup>th</sup> day of September 2023 and the 9<sup>th</sup> day of October 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity

2. The proposed development shall be amended as follows:
  - (a) The apartments, duplexes, and commercial unit shall be omitted.
  - (b) The proposed parking area on the existing swale to the west of the site entrance shall be omitted and the swale shall remain as originally proposed under permissions 05/478 and 07/2210.
  - (c) A revised site layout plan detailing the above shall be submitted to and approved in writing by the Planning Authority prior to commencement of development.
  - (d) The boundary wall to the Public Open Space adjacent to house C11 shall be reduced to 1.2m in height along the front and side to the point at the side gate and visibility along this boundary shall not be obstructed by planting. The footpath shall connect to the public footpath along the ring road and the cost for the tie in connection shall be for the developer.

Detailed plans demonstrating compliance with (a)-(d) above shall be submitted to the Planning Authority for approval prior to the commencement of development.



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

3. The construction of the development shall be managed in accordance with a Construction and 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, including hours of working, noise and dust management measures, waste management and recycling of materials, environmental protection measures, welfare facilities, site deliveries, complaints procedure, pest control and traffic management arrangements as well as all measures undertaken to ensure orderly development and for the storage of materials.

**Reason:** In the interest of public safety, environmental protection, and residential amenity.

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

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

5. 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 the site office at all times.

**Response:** In the interests of sustainable waste management.

6. The areas of public open space shown on the plans shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation unless otherwise agreed with the planning authority and shall be maintained as public open space by the developer until taken in charge by the local authority.

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

7. The applicant shall carry out a post construction assessment of the development to demonstrate that the noise mitigation measures proposed in the noise Impact Assessment has been adequately implemented and where required, shall propose such additional measures as is required to meet same.

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

8. The development shall comply with the transport and access requirements of the Planning Authority, including surface materials, tie ins, car and cycle parking standards, traffic calming measures, provision of EV charging, traffic management, and compliance with the Code of Practice. The details shall be submitted to and approved in writing by the Planning Authority prior to development commencing.

**Reason:** To facilitate safe pedestrian and vehicular access within the proposed development.

9. The development shall comply with the drainage requirements of the Planning Authority, including surface water drainage, run-off rates, attenuation, flood mitigation, surface materials/paving, and details of sustainable urban drainage.

Details shall be submitted to, and approved in writing by the Planning Authority, prior to development commencing.

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

10.(a) Prior to commencement of development, the developer shall enter into a connection agreement with Uisce Éireann and adhere to the standards and conditions set out in that agreement.

(b) All development shall be carried out in compliance with Uisce Éireann Standards codes and practices.

(c) Any proposals by the applicant to divert or build over existing water or wastewater services shall be submitted to Uisce Éireann for written approval prior to works commencing.

(d) Separation distances between the existing Uisce Éireann assets and proposed structures, other services, trees, etc. have to be in accordance with the Irish Water Codes of Practice and Standard Details. Reason: To ensure adequate provision of water and wastewater facilities

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

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

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

12.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.

13. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any dwelling unit.

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

14. (a) Prior to the commencement of 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, that restricts all residential 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.

(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified residential units, in which case the planning authority shall confirm in writing to the developer or any person with an interest in the land, that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

**Reason:** To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

15. 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 96(4) and 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 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

16. Prior to commencement of development, the applicant shall submit to and agree in writing with the Planning Authority full details, including relevant areas, for the proposed Taking in Charge of the development, which shall be carried out and completed at least to the construction standards required by the Taking in Charge Protocol as operated by Kilkenny County Council. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

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

17. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, pending taking in charge by the Local Authority. A management scheme providing adequate measures for the future maintenance of public

open spaces, roads and communal areas shall be submitted to, and agreed in writing within, the planning authority prior to commencement of development.

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

18. Prior to commencement of development the applicant shall carry out a Stage 3 Road Safety Audit of the approved development and recommendations or additional works arising from the Audit shall be incorporated in the proposed development and funded by the developer.

**Reason:** In the interests of traffic and public safety and in the interests of orderly and sustainable development.

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

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

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

21. 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 the 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.

---

Terence McLellan  
Senior Planning Inspector

29<sup>th</sup> November 2024



## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

|   |   |  |   |
|---|---|--|---|
| <b>An Bord Pleanála<br/>Case Reference</b>  | ABP-318553-23   |  |   |
| <b>Proposed Development<br/>Summary</b>   | 53 dwellings comprising 11 no. houses, 24 no. duplex units and 18 no. apartments, including a commercial (retail/restaurant) unit and all associated site development, landscaping, and access works. |  |   |
| <b>Development Address</b>  | Rath Ullórd, Bonnetsrath, Kilkenny.   |  |   |
| <b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b><br>(that is involving construction works, demolition, or interventions in the natural surroundings)  |   | <b>X</b>   | X   |
|   |   | <b>No</b>  | No further action required                  |
| <b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>   |   |  |   |
| <b>Yes</b>  |   |  | EIA Mandatory<br>EIAR required              |
| <b>No</b>   | X   |  | Proceed to Q.3                              |
| <b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b> |   |  |   |
|   |   | <b>Threshold</b>   | <b>Comment<br/>(if relevant)</b>            |
| <b>No</b>   |   | N/A  | No EIAR or Preliminary Examination required |
| <b>Yes</b>  |   | Class 10 Infrastructure Projects (b):<br>(i) Construction of more than 500 dwelling units. | Proceed to Q.4                              |

|  |  |  |  |  |
|--|--|--|--|--|
|  |  | (iv) - Urban Development >10 hectares. |  |  |
|--|--|--|--|--|

| 4. Has Schedule 7A information been submitted? |   |                                  |
|--|---|----------------------------------|
| No   | X | Preliminary Examination required |
| Yes  |   | Screening Determination required |

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

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

## Appendix 2

### Form 2

#### EIA Preliminary Examination

|  |  |                              |
|--|--|------------------------------|
| <b>An Bord Pleanála Case Reference</b>   | ABP-318553-23  |                              |
| <b>Proposed Development Summary</b>  | 53 dwellings comprising 11 no. houses, 24 no. duplex units and 18 no. apartments, including a commercial (retail/restaurant) unit and all associated site development, landscaping, and access works.  |                              |
| <b>Development Address</b>   | Rath Ullórd, Bonnetsrath, Kilkenny.  |                              |
| <p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p> |  |                              |
|  | <b>Examination</b>   | <b>Yes/No/<br/>Uncertain</b> |
| <p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>                                   | <p>The proposed development is for residential, in an area that is largely characterised by residential use. The proposed development would therefore not be exceptional in the context of the existing environment in terms of its nature.</p> <p>The development would not result in the production of any significant waste, emissions or pollutants.</p> | No.                          |
| <p><b>Size of the Development</b></p> <p>Is the size of the proposed development exceptional in the</p>  | <p>The development would generally be consistent with the scale of surrounding developments and would not be exceptional in the context of the existing environment.</p>   | No.                          |

|  |   |            |
|--|---|------------|
| <p>context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>  | <p>There would be no significant cumulative considerations with regards to existing and permitted projects/developments.</p>  |            |
| <p><b>Location of the Development</b></p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p> | <p>The development would be located in a serviced residential area and would not have the potential to significantly impact on an ecologically sensitive site or location. There are no significant hydrological connections present such as would give rise to significant impacts on any nearby water courses (whether linked to any European site or other sensitive receptors). The proposed development would not give rise to waste, pollution or nuisances that differ significantly from that arising from other urban developments.</p> <p>Given the nature of the development and the site/surroundings, it would not have the potential to significantly affect other significant environmental sensitivities in the area. It is noted that the site is not designated for the protection of the landscape or natural heritage and is not within an Architectural Conservation Area.</p> | <p>No.</p> |
| <p><b>Conclusion</b></p>   |   |            |
| <p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required.</p>  |   |            |

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

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