



An
Bord
Pleanála

Inspector's Report

ABP-319442-24

Development	Development of 43 no. housing units. Natura Impact Assessment (NIS) submitted with application.
Location	Skenagun/Garterfarm, Castledermot, Co. Kildare.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	23/194.
Applicant(s)	Corestone 11 Limited.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party.
Appellant(s)	Corestone 11 Limited.
Observer(s)	None.
Date of Site Inspection	23 rd October 2024.
Inspector	Kathy Tuck.

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1.0 Site Location and Description

- 1.1. The subject site, which has a stated area of c.2.19ha, is located at Skenagun/Garterfarm, Castledermot, Co. Kildare. Located to the c.600m to the north-west of the centre of Castledermot.
- 1.2. The site is a greenfield in nature being undeveloped and irregular in shape. It is overgrown in places and transversed on the north-south axis by the Ballyvass Stream. From undertaking a site visit I note that there were areas of ponding on site located proximate to the north-eastern boundary. The site is relatively flat in nature rising slightly from west to east.
- 1.3. The site is bounded to the west by the R418 with the boundary treatment being fencing and mature planting. A private lane which provides for access to a scrap metal operation runs along the southern boundary of the site. There is an existing residential development located to the east known as 'The Friary'. There are a number of informal connections from the site to the Friary development. Scoil Diarmada is located to the south-west of the site on the opposing side of the R418.

2.0 Proposed Development

- 2.1. The applicant sought permission for a residential development comprising of 43 no. housing units. The mix of housing units is given as:
 - 15 no. 3 bed single storey courtyard units;
 - 4 no. 4 bed single storey courtyard units;
 - 12 no. 2 bed 2 storey houses;
 - 12 no. 3 bed 2 storey houses.
- 2.2. Permission was also sought for the provision of 55 no. dedicated car parking spaces comprising of 10 no. visitor car parking spaces and 45 no. residential car parking spaces. The provisions of bicycle and bin storage.
- 2.3. Vehicular access is proposed from the R418 in addition to the provision of new access road connecting to existing estate roads (Oak Road and Beech Close). The provision

of 2 no. pedestrian footbridges and a single new vehicular access over the existing stream.

2.4. The provision of a linear park 10 metres either side of the stream, a natural play area, attenuation area, open space. It is proposed to provide for an on site pumping station. The application was accompanied by a Natura Impact Statement.

2.5. On foot of the request for additional information the proposed development was amended as follows:

- the previously proposed single storey dwelling houses were omitted and replaced with 2 storey house types and the relocation of a number of dwellings/ the resulted in the unit mix proposed being as follows:
 - 2 no. 2 bed 2 storey houses;
 - 39 no. 3 bed 2 storey houses; and
 - 2 no. 4 bed 2 storey houses.

It is noted that the unit number proposed remained unchanged at 43 no. units.

- Introduction of 4m wide segregated pavement/cycleway to the north and west boundaries adjoining the L8054 and R418;
- realignment of 2 no. footbridges and vehicular bridge; and
- relocation of Irish Water pump kiosk.

3.0 Planning Authority Decision

The Planning Authority following a request for additional information, issued a Notification of Decision to REFUSE Permission for the following reasons:

- UD 01 of the Kildare County Development Plan 2023-2029 seeks to ensure ‘a *high standard of urban design to be integrated into the design and layout of all new development and ensure compliance with the principles of healthy placemaking...*’. Furthermore, Policy and Objective 4.2 of the Sustainable and Compact Settlement Guidelines for Planning Authorities, DHLGH 2024 seeks to ensure that new development is fully integrated, well designed and responds to its setting and that the key indicators of quality urban design and placemaking

set out in section 4.4 are integrated in consideration of individual planning applications.

Due to the inadequate layout and design of units which fail to properly address the proposed linear park or provide adequate Passive Surveillance of same, and due to the poor articulation of corner units along new and existing streets and public open space, it is considered the proposed development would provide an inappropriate interface between residential development and public realm, which would be contrary to UD01 of the Kildare County Development Plan 2023-2029 and to the Sustainable Development and Compact Settlement Guidelines for Planning Authorities, DHLGH, 2024, issued under Section 28 of the Planning and Development Act 2000, as amended. The Proposed development would therefore represent a substandard form of residential development and would be contrary to the proper planning and sustainable development of the area.

- *Policy IN P4 of the Kildare County Development Plan 2023-2029 seeks to ensure that developments provide adequate surface water drainage systems and promotes the use of SuDS. Objectives IN 024 and IN 026 of the Plan limit the placing of attenuation/storage structures under public open space and seek to ensure that the design of SuDS enhance the quality of open spaces.*

Having regard to the above, noting in particular the provision of 3 no. underground attenuation tanks beneath the proposed public open space, it is considered that the proposed development would materially contravene Objective IN 024 and IN 026 of the Kildare County Development Plan 2023-2029. The proposed development would therefore be prejudicial to the provision of high quality public open space within the residential development, which would detract from amenities of future occupants of the development and would therefore be contrary to the proper planning and sustainable development of the area.

3.1. Planning Authority Reports

3.1.1. Planning Reports

The first report of the Planning Officer dated the 20th April 2024, sets out details of the proposed development, the site location, relevant planning history and all relevant national, regional, and local planning policy.

The report notes that there is a stream running through the subject site which requires a 10m buffer either side and as such the development potential is restricted. The net density proposed of 25 units per hectare was considered acceptable.

The report generally notes concerns over a range of issues. Subsequently, a request for Further Information was issued on the 24th April 2023 and sought the following:

Item 1 - Overall Layout/design amendments:

- a. Amended Visual Assessment required.
- b. Design quality on approach to Castledermot. Architectural expression is lacking – elevation treatment to be reconsidered.
- c. Following concerns over single storey dwellings need to be addressed:
 - i. Doesn't achieve a strong urban edge to the R418 & L8054
 - ii. Odd juxtaposition (units 7-10 and 11-17) not visually positive outlook to bin store and parking area for residents.
 - iii. No relationship to linear park and stream – no privacy for future residents.
 - iv. Unit 30 on corner site with northern elevation addressing street.
 - v. The turning bay between unit 30 and 31 not appropriate.
 - vi. Unit 16 no adequate frontage and direct overlooks blank wall of unit 17.
- d. Following concerns over two storey dwellings need to be addressed:
 - i. Layout and juxtaposition of unit 28 and 29 – rear of dwelling visible from service road – poor streetscape.
 - ii. Relationship between unit 42 with the rear of unit 41 – jarring outlook.
- e. Dominance of on-street car parking and bin store at key entry points – clarity over requirement for communal bins.

- f. Location of the pumping station at streetscape of R418 and impact of proximity to adjacent units.

Item 2 – Clarity required over compliance with sequential standards (S. 28 Guidelines & Kildare Development plan 2023-2029)

Item 3 – clarify discrepancy relating to house type F plans.

Item 4 – Address legacy issues of phase 1 of development (permitted under PA Ref 01/1876).

Item 5 – Submit an amended Surface Water Drainage proposal.

Item 6 – Demonstrate drainage proposal will not lead to flooding.

Item 7 – Submit detailed survey of the Ballyvass Stream to where it outfalls into the River Lerr.

Item 8 - Revised Tree Protection Plan.

Item 9 – Revisions to landscape plan required.

Item 10 – Submit design and sections of community shared space & brake out area.

Item 11 – Clarity on mitigation measure included in the EcIA – EcIA may need to be updated.

Item 12 – Submit an Invasive species survey of the site & subsequent management/eradication plan.

Item 13 – Submit an Archaeological Impact Assessment.

Item 14 – Widen footpath to be 2m and cycle track to be 2m along the R418 and L8054.

Item 15 – revise parking layout to provide for E charging.

Item 16 – Consideration to provide additional car parking for (i) units opposing the existing school (ii) for courtyard units 11-17 inclusive.

Item 17 – revised swept path analysis for refuse truck.

Item 18 - clarity over internal road speed signage to be utilised.

Item 19 – clarity on material to be used for internal roads & footpaths.

Item 20 – clarity over permeable paving.

Item 21 -Clarity over material for home zone areas.

Item 22 – ensure size of internal car parking spaces.

Item 23 – clarity over Part V proposal.

The applicant submitted a response to the request for further information on the 12th December 2023 which included for a cover letter, amended plans and a range of assessment and studies providing for a response to each of the items of concern raised. The responses provided can be summarised as follows:

Item 1 response:

- 1(a)- Photomontage submitted to show key vantage points. Elevations and section provide for internal views.
- 1(b) – new house types and elevational treatment proposed.
- 1(c) – response to all items can be summarised as follows:
 - Single story courtyard building replaced with wide frontage 2 storey .
 - Units 31-43 now overlook the main open space while 95% of units overlook linear park.
 - Unit 30 relocated.
 - Turning area removed and relocated to end of short cul-de-sac.
 - Unit 16 relocated – provides adequate street frontage.
- 1(d) – response to all items can be summarised as follows::
 - Units 28 and 29 relocated – this section has been reduced from 12 to 10 units.
 - Units 42 and 43 relocated – area now provided as open space with attenuation tank.
- 1(e) – Layout amended – parking now provided internally in the site and removed from access points.
- 1 (f) - Pumping station relocated and reduced in scale based on guidance from Uisce Eireann.

Item 2 response –

- 2(a) – Critical dimensions now provided.
- 2(b) – Additional storage areas indicated.
- 2(c) – House Type H increased in size.

Item 3 response – Plans misinterpreted by Planning Authority: House Type F had no second floor.

Item 4 response – Full CCTV survey undertaken. Applicant has engaged with Building Control to this extent.

Item 5 response –

5 (a)

- a. Refers to WDG drawings. Proposal includes a number of SuD features.
- b. Notes poor and non-existent infiltrations and high water table .
- c. Attenuation tanks are required – having regard to constraints of site.

5(b) - Permeable paving proposed for all hardstanding areas

5(c) -Redesigned surface water network to the west of watercourse now attenuated in small tank before discharging to Ballyvass Stream

5(d) - Drainage incorporates 30% climate change factor and 10%urban factors.

5(e) - section of watercourse: hydrobrakes and attenuation structure proposed.

5(f) – refers to amended plans.

Item 6 response – Flood risk assessment submitted.

Item 7 response – Survey undertaken and submitted.

Item 8 response – Revised Tree Protection Plan submitted.

Item 9 response – Griffin Landscape Architects submitted a response.

Item 10 response - Griffin Landscape Architects submitted a response.

Item 11 response – Meadow is proposed and indicated on revised site layout plan. Mitigation of EcIA updated accordingly.

Item 12 response – Invasive Species Management Plan submitted.

Item 13 response - Archaeological Impact Assessment submitted.

Item 14 response – 2m cycle path and 2m footpath indicated onsite plan.

Item 15 response – 4 no. public charging points provided with a total of 7 points.

Item 16 response –

16(i) – providing for 6 no additional car parking spaces.

16(ii) – Courtyard developments omitted.

Item 17 response – Revised AutoTrack submitted.

Item 18 response – Drawings submitted.

Item 19 response - Griffin Landscape Architects submitted a response.

Item 20 response - Griffin Landscape Architects submitted a response.

Item 21 response – Home Zone area no longer proposed.

Item 22 response:

- all on street perpendicular spaces are 2.5m wide and a depth of 5m.
- All parallel on-street spaces are 6m long and 2.6m wide.

Item 23 response –

23(a) – total plot size of 9,569sq.m – 10% is 956.9sq.m. Total proposed is 963%.

23(b) – units are spread out.

23(c) – en-suite units are excluded.

23(d) – required distances met

23(e) – Part V costings submitted.

The second report of the Planning Officer dated the 5th March 2024, notes that while the extended studies and reporting on the various engineering elements together within the legacy issue and constraints of the site are noted, serious concerns remain with regard to elements of the design which do not comply with either the Kildare County Development Plan 2023-2029 or the S. 28 Guidelines - Sustainable and Compact Settlement Guidelines for Planning Authorities 2024.

The report recommends that permission be refused consistent with the Notification of Decision which issued.

3.1.2. Other technical reports

- Development control department: Seeking additional information to address legacy issues with regards to the adjoining residential estate: clarity over the attenuation proposal.
- Parks Section: Seeking the following additional information: a revised tree protection plan; a revised landscape plan; and detail design and sections for the proposed community shared space and break out areas and how passive supervision has been designed into the adjacent buildings to provide passive supervision.

A second report was received on the 1st March 2024 which recommend a grant of permission subject to 16 no. conditions.

- Water services: Seeking the following additional information: Outline the current situation with regard to taking in charge of phase 1 and a detailed timeline for carrying out work required; amended SuDS design; and demonstrate the development and drainage proposal will not create a flood risk.

A second report dated the 1st March 2024 from the transportation section notes no objection subject to 14 no. conditions.

- Transportation Department: Seeking additional information to address the blockage occurring in the stream on site; Risk of oil contamination of the stream what mitigation has been put in place; comments required with regard to flooding and access; and car parking does not comply with Table 17.9 of the Kildare Development Plan.

A second report dated the 31st Jan 2024 from the transportation section notes no objection subject to 29 no. conditions.

- Kildare Fire Service: notes no objection.
- Heritage Officer: A report was received on foot of review of the additional information received from the applicant and is dated the 26th of February 2024. The report notes no objection subject to condition.

3.2. Prescribed Bodies

Department of Housing, Local Government and Housing: Archaeological Impact Assessment required to be submitted.

Uisce Eireann: Seeking the following additional information: outline the current situation regarding Taking In Charge of Phase 1 and indicate a detailed timeline for carrying out the required remedial works for same.

3.3. Third Party Observations

The Planning Authority received 5 no. observations. Concerns raised can be summarised as follows:

- Access road;
- Loss of Parking;
- Loss of public open space;
- Subject site is a flood plain;
- Adjoining properties have been subject to flooding;
- Public Safety in terms of additional traffic;
- Pumping station hazardous to public health;
- Road widths are narrow;
- Entrance to the R418 will create illegal parking;
- Not in keeping with the Irish Climate Action Charter;
- Number of protected wildlife visible on site;
- Issue with surface water proposal.

4.0 Planning History

PA Ref. 01/1876 Permission GRANTED for 148 no. dwelling and retention of existing 2 storey dwelling together with site works and access road. This application pertained to the subject site and lands to

the east. The appellant notes that this application was not completed.

- | | |
|-----------------|--|
| PA Ref. 04/1420 | Permission Granted for 44 no, dwellings units with access roads. This pertained solely to the lands subject to this appeal. |
| PA Ref. 07/2179 | Permission Granted for 36 residential units. This application pertained to the north-western corner of the subject site. |
| PA Ref. 13/485 | REFUSED Extension of duration of PA Ref. 07/2179. The reason for refusal was that there has been a significant change in the development Objectives since the time of permission being granted in that a Variation no. 1 of the 2011-2017 Kildare County Development Plan has introduced Flood Risk Assessment for the Castledermot area and the subject site was identified as being subject to flooding and would now require a Site Specific Flood Risk Assessment. |

5.0 Policy Context

5.1. National Planning Context

5.1.1. National Planning Framework (NPF)

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

National Policy Objective 11: In meeting urban development requirements, there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

National Policy Objective 35: Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights.

5.1.2. 'Housing for All - a New Housing Plan for Ireland (September 2021)'.

This is the government's housing plan to 2030. It is a multi-annual, multi-billion-euro plan which aims to improve Ireland's housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes: - To purchase or rent at an affordable price, - Built to a high standard in the right place, - Offering a high quality of life,

5.2. Regional Planning Context

5.2.1. Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands Regional Assembly (EMRA) (2019-2031)

The RSES supports the implementation of the NPF by providing a long-term strategic planning and economic framework for the region up to 2031.

Regional Policy Objective 3.1: Key stakeholders, including local authorities in the Region shall, through their policies and objectives including development plans, commit to the delivery of the Growth Strategy as detailed in the RSES. The growth strategy for the Region includes, inter alia, delivering the sustainable growth of the Metropolitan Area through the Dublin Metropolitan Area Strategic Plan (MASP) and embedding a network of Key Towns through the Region to deliver sustainable regional development.

Regional Policy Objective 3.2: Local authorities, in their core strategies shall set out measures to achieve compact urban development targets of at least 50% of all new homes within or contiguous to the built-up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

5.3. Section 28 Guidelines

5.3.1. Having considered the nature of the proposal, the receiving environment, and the documentation on file, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024).

- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020, updated in 2023) (the ‘Apartment Guidelines’).
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the ‘Building Height Guidelines’).
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Nature-based Solutions to the Management of Rainwater and Surface Water Runoff Urban Areas Water Sensitive Urban Design Best Practice Interim Guidance Document, 2022.

5.3.2. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, (2024)

These Guidelines set out national planning policy and guidance in relation to the creation of settlements that are compact, attractive, liveable and well designed. There is a focus on the renewal of settlements and on the interaction between residential density, housing standards and placemaking to support the sustainable and compact growth of settlements.

According to the results from the 2022 Census, Castledermot has a population of 1,685 people and as such in accordance with Section 3.3.4 of the Guidelines identify areas with a population greater than 1500 – 5000 people are consider to be a ‘Small and medium town. Table 3.6 of the guidelines states that small/medium town edge sites should aim to achieve a density of 25-40 units per hectare (net).

Development standards for housing are set out in Chapter 5, including:

1. SPPR 1 in relation to separation distances (16 m above ground floor level),
2. SPPR 2 in relation to private open space (2-bed 30 m² ; 3-bed 40 m² ; 4+bed 50 m²),
3. SPPR 3 in relation to car parking (1.5 spaces per dwelling in accessible locations) and
4. SPPR 4 in relation to cycle parking and storage.

Section 4.4 of the Guidelines set out Key Indicators of Quality Design and Placemaking. It considers that achieving quality urban design and creating a sense of place is contingent on the provision of an authentic identity that is specific to the settlement, neighbourhood or site in question. Section 4.4 (V) relates to responsive built form.

Policy and Objective 4.2 states that it is a policy and objective of these Guidelines that the key indicators of quality urban design and placemaking set out in Section 4.4 are applied within statutory development plans and in the consideration of individual planning applications

Policy and Objective 5.1 relates to public open space provision and requires development plans to make provision for not less than 10% of the net site area and not more than a min. of 15% of the net site area save in exceptional circumstances. Sites with significant heritage or landscape features may require a higher proportion of open space.

5.4. Climate Action Plan (CAP) 2023

- 5.4.1. This plan implements the carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve our emissions by 2030 and reach net zero no later than 2050.
- 5.4.2. Section 5.3.2 of the CAP recognises that decades of focus on dispersal of residential settlements, commercial zones, and workplaces in peripheral areas, instead of concentrating on central areas and locations served by public transport, has led to an over-reliance on the private car. To deliver systems change, policy measures aimed at better aligned transport and spatial and land use planning are critical. Policies already in place in this context are the NPF, Housing for All (HfA) and Town Centres First (TCF), and a number of relevant actions are already reflected in the SMP. Embedding transport-oriented development at all stages of planning and development is key, particularly the siting of services and multi-use development at transport nodes.

5.5. National Biodiversity Plan 2023-2030

The National Biodiversity Plan identified 5 objectives which include for Adopt a Whole-of Government Whole-of-Society Approach to Biodiversity; Meet Urgent Conservation

and Restoration Needs; Secure Nature's Contribution to People Enhance the Evidence Base for Action on Biodiversity; and Strengthen Ireland's Contribution to International Biodiversity Initiatives.

5.6. Kildare County Development Plan 2023-2029

The subject site is identified on the Castledermot Small Town Map as being zoned under objective 'New Residential'.

5.6.1. Core and Settlement Strategy

Castledermot is identified in the Core Strategy as a "Town" which is defined as "Local Service and employment functions in close proximity to higher order urban areas. Table 2.8 of the plan (core strategy) identifies a population target of 126 persons and a housing unit target of 46 for Castledermot to the end of Q4 2028, with a target residential density of 30-35 units/ha.

Objective CS O5: Promote compact growth and the renewal of towns and villages through the development of underutilised town centres and brownfield sites, and where appropriate, pursue through active land management measures a coordinated planned approach to developing appropriately zoned lands at key locations, including regeneration areas, vacant sites and under-utilised areas in cooperation with state agencies, while also maintaining a 'live' baseline dataset to monitor the delivery of population growth on existing zoned and serviced lands to achieve the sustainable compact growth targets of 30% of all new housing within the existing urban footprint of settlements.

5.6.2. Housing

Policy HO P5: Promote residential densities appropriate to its location and surrounding context.

Objective HO O6: Ensure a balance between the protection of existing residential amenities, the established character of the area and the need to provide for sustainable residential development is achieved in all new developments.

Policy HO P6: Promote and support residential consolidation and sustainable intensification and regeneration through the consideration of applications for infill

development, backland development, re- use/adaptation of existing housing stock and the use of upper floors, subject to the provision of good quality accommodation.

Objective HO O8: Support new housing provision over the Plan period to deliver compact and sustainable growth in the towns and villages in the County, and supporting urban renewal, infill and brownfield site development and regeneration, to strengthen the roles and viability of the towns and villages, including the requirement that at least 30% of all new homes in settlements be delivered within the existing built-up footprint.

Policy HO P7: Encourage the establishment of sustainable residential communities by ensuring a wide variety of housing typologies and tenures is provided throughout the county.

5.6.3. **Infrastructure & Environmental Services**

Surface Water

Policy IN P4: Ensure adequate surface water drainage systems are in place which meet the requirements of the EU Water Framework Directive and the River Basin Management Plan in order to promote the use of Sustainable Drainage Systems.

Objective IN 021: Facilitate the development of nature based Sustainable Urban Drainage Systems, including the retrofitting of SuDS in established urban areas. Culverting entire drains and streams will generally be prohibited; interference with natural drainage systems is to be minimised and the Council will explore opportunities to remove culverted drainage systems in favour of open, natural drainage systems.

Objective IN 022: Require the implementation of Sustainable Urban Drainage Systems (SuDS) and other nature-based surface water drainage as an integral part of all new development proposals.

Objective IN 024: Only consider underground retention solutions when all other options have been exhausted. Underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution

Objective IN 025: Promote the use of green infrastructure (e.g., green roofs, green walls, planting, and green spaces) as natural water retention measures

Objective IN 026: Ensure as far as practical that the design of SuDS enhances the quality of open spaces. SuDS do not form part of the public open space provision, except where it contributes in a significant and positive way to the design and quality of open space. In instances where the Council determines that SuDS make a significant and positive contribution to open space, a maximum of 10% of open space provision shall be taken up by SuDS. The Council will consider the provision of SuDS on existing open space, where appropriate. The ‘Sustainable Urban Drainage Systems Guidance Document’ prepared as an action of this plan shall supersede this standard.

Flooding

Policy IN P5: Ensure the continued incorporation of Flood Risk Management and National Flood Risk Policy (2018) into the spatial planning of Kildare, to meet the requirements of the EU Floods Directive and the EU Water Framework Directive and to promote a climate resilient Count.

Objective IN 035: Require development proposals which may affect canals and their associated infrastructure to prepare a Flood Risk Assessment in accordance with the relevant guidance.

5.6.4. Biodiversity and Green Infrastructure

Policy BI P1: Integrate in the development management process the protection and enhancement of biodiversity and landscape features by applying the mitigation hierarchy to potential adverse impacts on important ecological features (whether designated or not), i.e. avoiding impacts where possible, minimising adverse impacts, and if significant effects are unavoidable by including mitigation and/or compensation measures, as appropriate. Opportunities for biodiversity net gain are encouraged.

Objective BI O29: Require the undertaking of a comprehensive tree survey carried out by a suitably qualified arborist where development proposals require felling of mature trees; the tree survey shall assess the condition, ecological and amenity value of the tree stock proposed for removal as well as mitigation planting and a management scheme. It should be noted that rotting and decaying trees are an integral part of a woodland ecosystem and can host a range of fungi and invertebrates, important for biodiversity. While single or avenue trees that are decaying may be removed, others that are part of group or cluster may be subject to retention.

Objective BI O30: Ensure a Tree Management Plan is provided to ensure that trees are adequately protected during development and incorporated into the design of new developments

Policy BI P15: Promote and support the development of Sustainable Urban Drainage Systems (SuDS) to ensure surface water is drained in an environmentally friendly way by replicating natural systems.

5.6.5. Urban Design, Placemaking and Regeneration.

Objective UD P1 Apply the principles of people-centred urban design and healthy placemaking as an effective growth management tool to ensure the realisation of more sustainable, inclusive, and well-designed settlements resilient to the effects of climate change and adapted to meet the changing needs of growing populations including aging and disabled persons.

Objective UD 01 Require a high standard of urban design to be integrated into the design and layout all new development and ensure compliance with the principles of healthy placemaking by providing increased opportunities for physical activities, social interaction and active travel, through the development of compact, permeable neighbourhoods which feature high-quality pedestrian and cyclist connectivity, accessible to a range of local services and amenities.

Objective UD P2 Develop towns and villages of all types and scale as environmental assets and ensure that their regeneration and renewal forms a critical component of efforts to achieve compact growth development and increased climate resilience within settlements across the county

5.6.6. Development Management

The development management standards for residential development are set out in Chapter 15 of the development plan. Regard has been had to all relevant standards contained therein in the assessment of this appeal case.

5.6.7. Volume 2 of the Kildare county Development plan 2023-2029

The subject site is identified on the Castledermot Small Town Map as being zoned under objective New Residential.

The subject site is identified as being located within an area requiring a Flood Risk Assessment. There is an objective along the norther, eastern and southern boundary of the site to provide for a footpath and cycle track.

The follow is a site specific objective pertaining to the subject site:

- *Any development of the 'C' zoned lands identified within the yellow boundary on Map V2-1.1A shall incorporate a 10m 'open space/amenity' buffer either side of the stream that runs in a north-south direction through the subject lands. Where a 10m buffer cannot be satisfactorily achieved, for stated reasons, compensatory open space for the quantum of open space that cannot be provided, shall be provided at an alternative, suitable, central location to be agreed with the Planning Authority noting that in accordance with Section 2.1.6, lands within the flood zone area must be accompanied by a sitespecific flood risk assessment. There shall be no requirement for any additional open space to be provided on the lands outlined in yellow, in addition to the open space as required above.*

5.7. Castledermot Small Town Renewal Master Plan, 2024

- 5.7.1. This Renewal Masterplan is identified within the County Plan as effectively being a blueprint to guide the rejuvenation of a town or village. It is informed by a robust analysis, including for example the historical context (urban morphology), urban 'health checks,' land use surveys, building condition surveys, analysis of movement patterns (pedestrian movement/footfall and vehicular movement), car parking analysis, architectural heritage appraisals and urban design character and it is generally supported by extensive public consultation. As part of the Renewal Masterplan process a number of priority projects are identified for delivery. It is note that this is not a statutory document however the Masterplan supports the objectives of the County Development Plan and the relevant Local Area Plans.
- 5.7.2. The subject site is identified as being zoned for residential development within the masterplan with connections noted to the adjoining existing residential are to the east. The site is not included within the Key Delivery Projects identified or any other aspects of this plan.

5.8. Natural Heritage Designations

The subject site is not located within or is not adjoining any Natura 2000 Sites. The subject site is located 0.4km to the west of the River Barrow and River Nore SAC. The application has been accompanied by an Appropriate Assessment Screening Report and a Natura Impact Assessment.

5.9. EIA Screening

- 5.9.1. The scale of the proposed development does not exceed the thresholds set out by the Planning and Development Regulations 2000 (as amended) in Schedule 5, Part 2(10), and I do not consider that any characteristics or locational aspects (Schedule 7) apply. I conclude that the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Appendix 1 and Appendix 2 of my report refers.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first party appeal against the decision by Kildare County Council to refuse permission. The grounds of appeal are as follows:

- **Response to refusal reason no. 1**
 - **Design and layout - Objective UD 01 of the Kildare County Development Plan 2023-2029.**
 - Placemaking – layout emerges from utilising and enhancing existing site features. High quality urban design all demonstrated by amended CGI's submitted as part of the appeal. Provides for permeable compact development.
 - Permeability – providing internal and external connections with the additional provision of bridges over stream. Enhancing connectivity in the area.
 - Diversity – provided through the retention and addition of natural planting and landscaping and through built heritage with the diverse housing typology. Treatment responds to individual locations within the site.

- Architecture – style harmonises with and does not detract from natural surrounding through undertaking a holistic approach. Corner units are provided with multiple opes which also help with passive surveillance. Active street frontage has been achieved.
- **Passive surveillance.**
 - Proposed linear park covers 1.4 acres of the site and is overlooked by the majority of the proposed units.
 - All units are design with passive surveillance in mind – provided with tall floor to ceiling windows/ground floor layout places living accommodation to the front.
 - Calculated that 50% of opes within the scheme address the open space.
 - All demonstrated on CGI's submitted.
 - The rear elevation of units addressing the R418 are less than 50m viewing distance to the open space.
- **Interface**
 - Back to back layout not possible with the buffer zone requirement.
 - Street frontage onto R418 considered more appropriate. Dual aspect units to R418 provide overlooking to the stream and main road.
- **Section 4.3 of the Sustainable Residential and Compact Settlement Guidelines, 2024.**
 - Reference to S.4.2 of the Compact guidelines is considered to be a typo – should state S. 4.3.
 - Site is well connected and accessible to sustainable modes of transport.
 - Mix of house types is provided and all exceed minimum sequential standards.
 - 50% of units are dual aspect and maximise daylight achieved.
 - Protects natural habitats.
 - Creates a coherent development that compliments existing area and local character.
 - Private open space provided in excess of requirement.

- Linear park covers 27% of the site and is the focus point of the development – it is overlooked by the majority of the dwellings proposed and provides connections to the existing development to the east.
- **Response to refusal reason no. 2 – Surface Water Proposal.**
 - Assessment of the Planning Authority relies solely upon the second part of Objective IN 024 which states “....Underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution”.
 - Surface water proposal was accepted by the Local Authority Area Engineer – this position was not acknowledged by the Planning Officer.
 - Assessment submitted by the applicant demonstrated that the subject site was largely unsustainable for retention ponds or bio swales.
 - An independent consultant – IE Consultants – undertook a review of the engineers assessment submitted and found that nature-based proposals were prioritised and the use of underground tanks were only resorted to as all other options were not obtainable. This demonstrates compliance with Objective IN 024.
 - Condition no. 3 of the Water Service Section report requested that tank 1 and 3 be replaced with constructed wetlands or bio retention areas – this was not acknowledged by the Planning officer.
 - There is a conflict in the Water Services Report with reference to tanks not being acceptable – this only related to under open space.
 - Query over where are tanks acceptable if not under open space.
- **Other/Issues**
 - **Material Contravention**
 - In the event the Board consider the proposed to be in contravention of Objective IN 024 – it is requested that it be considered in light of Section 37 (2)(a) of the Planning and Development Act 2000 (as amended).
 - The proposal is consistent with Town Centre First; Our Rural future; housing for all and Quality Housing for Sustainable development Guidelines.

- In order to remove the attenuation tanks the achievable density would fall below that set out in Section 28 guidelines.
- Compact Settlement Guidelines - population identifies site as part of a Small – Medium Town.
- Proposal consistent with Section 4.4 of Compact guidelines – key indicators of quality design and placemaking:
 - i. Proposal protects, restores and enhances natural features, provides public open space linked to existing open space networks; manages urban surface water in the most effective way and will overcome previous legacy flooding issues; maximising the development potential of the subject site; and in line with section 4.4 (iii) which notes that the use of Nature-based Solutions at ground level may not be possible in every instance – the proposal has applied SuDs as far as possible.
 - ii. There is no reference within the Compact Settlement Guidelines that would prohibit the provision of open space above where it remains the intention to proposed attenuation tanks.
- Open Space
 - Concern raised within the Planning Officers Report regard the impact the use of attenuation tanks could have on the open space was not raised at RFI Stage, was not raised at any meetings held and was not included in the report from the Water Services Section of the Local Authority.
 - Any concerns can be over come with a condition of planning requiring a management regime.
 - The proposal complied with IN 024 as tanks were only suggested as a last resort.
 - Reference made to the SuDS guidance document which is currently being prepared on foot of an action of the Development Plan – unclear as to the relevance of this document.
 - Planning Officer failed to consider alternative proposed by the Water Services Section in their report.

- All consultee reports recommended a grant of permission.
- In the event that the Board are minded to grant permission and include a condition omitting tank no. 1 it should be noted that this tank has been designed to fix a legacy issue relating to phase 1 which is located to the east.
- The wetlands if constructed would equate to an area less than 10% of the open space and accord with IN 026.
- Section 21.7 of the SuDs manual 2015 states that the ground above tanks can be provided as amenity or recreational space.
- Total shared open space (the proposed development together with phase 1) equates to 10,410.85sq.m. The area to be used for attenuation equates to 604sq.m – this would be 5.7% of all open space falling well below the maximum of 10%.
- Open space proposed will serve not only potential but existing residents.
- No works are proposed on the open space above the attenuation tanks – which can be subject to a planning condition.
- To state as KCC have that lands above attenuation tanks should be sterilised for use even for open space would greatly diminish what the Sustainable and Compact Settlement Guidelines are trying to achieve.
- Castledermot already has a number of active sports facilities.
 - Propper Planning and Sustainable development of the area
- The introduction of the two proposed attenuation tanks will alleviate flooding in the area which was raised as a concern by adjoining properties.
- The current proposal of 43 no. residential units on this brownfield, centrally located site is aligned in principle with a national objective.
- Proposal seeking to alleviate Irelands housing crises.
- Proposal is supported by regional policy objective – RPO 9.13; R PO 9.14; and RPO 9.16.

- Proposal accords with all objectives and policies of the Kildare County Plan with only Objectives IN 024 and IN 026 being the only invoked objectives in the reason for refusal.

6.2. **Planning Authority Response**

A response was received from the Planning Authority dated the 29th April 2024, the report refers the board to the Planners Report, internal department reports and reports from prescribed bodies and requests that the decision to refuse permission be upheld.

6.3. **Observations**

None received.

7.0 **Assessment**

Having examined the application details and all other documentation on file, including the appeal, having inspected the site, and having regard to the relevant national and local policy and guidance, I consider the main issues in relation to this appeal are as follows:

- Principle & Quantum of Development
- Placemaking & Design
- Surface Water Proposal
- Other Issues

7.1. **Principle & Quantum of Development**

- 7.1.1. The subject is zoned under objective C – New Residential within Volume 2 of the Kildare County Development Plan 2023-2029 (KCDP) and is identified on the Castledermot Small Town Map. As such the principle of development is considered to be acceptable.
- 7.1.2. Castledermot is identified within the Core Strategy of the KCDP as a “Town”. Table 2.8 of the Core Strategy identifies a population target of 126 persons and a housing

unit target of 46 for Castledermot to the end of Q4 2028, with a target residential density of 30-35 units/ha.

- 7.1.3. Castledermot has a population of 1,685 people (census 2022). The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities identifies, under Section 3.3.4, that areas with a population between 1500 – 5000 people are considered to be a ‘Small and medium towns’. Table 3.6 of the guidelines states that small/medium town edge sites should aim to achieve a density of 25-40 units per hectare (net).
- 7.1.4. The proposed development is seeking permission to provide for 43 no. residential dwelling on a site with a stated area of 2.19ha. As such, the proposed development would generate a gross density of 20 units per hectare and a net density of 25 units per hectare. It is noted that the subject site is transversed by a the Ballyvass Stream and as such there is a site specific objective pertaining to the subject site which requires the provision of a 10m buffer zone to be provided either side of the stream.
- 7.1.5. Overall, having regard to the land use zoning, the core strategy of the Kildare County Development Plan 2023-2029, and the requirements of the Sustainable Residential Development and Compact Settlements Guidelines, 2024 the proposed development is considered to be acceptable in principle and would provide for an adequate net density which accords with Table 3.6 of the aforementioned guidelines.

7.2. Placemaking & Design

- 7.2.1. Kildare County Council issued a notification to refuse permission with the first reason for refusal relating to inadequate layout and design of units which would not provide for an appropriate interphase between residential development and the public realm which in turn would be contrary to UD 01 of the Kildare County Development Plan 2023-2029 and to the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024.
- 7.2.2. Objective UD01 of the County Plan seeks to “*Require a high standard of urban design to be integrated into the design and layout of all new development and ensure compliance with the principles of healthy placemaking by providing increased opportunities for physical activities, social interaction and active travel, through the development of compact, permeable neighbourhoods which feature high-quality*

pedestrian and cyclist connectivity, accessible to a range of local services and amenities.”

- 7.2.3. Concerns were raised by the Planning authority with regard to the overall layout and design as part of the further information request issued on the 23rd of April 2024. The Planning Officer acknowledged that the subject site is significantly constrained having regard to the location of the Ballyvass Stream which transverses the subject site, centrally, on the north/south axis; the potential flood risk having regard to the location of the site within flood zone C and legacy issues; and the overall configuration of the site.
- 7.2.4. The Planning Authority concluded that the proposal would not comply with the 12 urban Design criteria of the Section 28 Guidelines (Urban Design Manual), failed to provide for active street frontage or passive surveillance to the amenity space, and failed to provide or adequate design response to prominent locations of the site where the site addressed the R418 and the L8054.
- 7.2.5. On foot of the further information request the applicant submitted an amended site layout plan, supporting photomontages which depicted views of the proposal from external view points on the surrounding road network, revised house types addressing the R418 and the L8054 which are two storey in nature and finished with a simple nap plaster, and a range of supporting assessment and documentation.
- 7.2.6. The Planning Authority concluded that the amended layout received did not overcome the original concerns raised and would not comply with the provisions of the Kildare County Development Plan 2023, with specific reference to Objective UD 01 and Objective 4.2 of the Section 28 Guidelines - the Sustainable and Compact Settlement Guidelines for Planning Authorities, 2024.
- 7.2.7. From undertaking a review of the original plan submitted and the further information submitted, while I note that while some amendments have been undertaken to the layout, I would consider the amendments made to be tokenistic in nature. The applicant did not have due regard to the prominent location of the site that forms the entrance to Castledermot, or the concerns raised with regard to passive surveillance of open space and the quality of design. These issues are addressed further within my report.

- 7.2.8. The appellant has set out a detailed assessment of how they consider the proposal accords with Objective UD 01 and the Sustainable and Compact Settlement Guidelines and is of the view that in terms of the design and layout that the proposed scheme emerges from utilising and enhancing the existing site features and provides for internal external connections creating for a permeable development.
- 7.2.9. With regard to the concerns relating to passive surveillance raised by the Planning Authority, the appellant states that the proposed linear park covers 1.4 acres of the site and is overlooked by the majority of the proposed units and it is calculated that that 50% of opes within the scheme address the open space. The appellant further state that they have submitted as part of the appeal documentation CGI images to demonstrate such. The appellant is of the view that the use of back-to-back design idiom would not be possible due to the buffer zone requirement.
- 7.2.10. I consider that the subject site is constrained in nature due to the location of the Ballyvass Stream transversing the site and I also note that there were also a number of legacy issues pertaining to the lands to the east which were developed and now known as the Friary residential estate.
- 7.2.11. While I consider that the units proposed along the north-eastern section of the site, units 24-33, and along the south-eastern section, units 34-43, are considered to be acceptable, I consider the remaining layout needs to be reconsidered.
- 7.2.12. The appellant states that they consider that the Planning Authority should of referenced section 4.3 of the Compact Settlement Guidelines as opposed to Section 4.2. The Planning Authority in their reason for refusal makes reference to Objective 4.2 of the guidelines not Section 4.2. Objective 4.2 states *“It is a policy and objective of these Guidelines that the key indicators of quality urban design and placemaking set out in Section 4.4 are applied within statutory development plans and in the consideration of individual planning applications.”*
- 7.2.13. Section 4.3 of the 2024 Compact Guidelines relate to Urban Design and Quality Placemaking Processes and set out the general steps which should be followed when preparing a masterplan or urban design framework for an area. Section 4.4 of the guidelines relate to Key Indicators of Quality Design and Placemaking.
- 7.2.14. I am of the opinion that the Planning Authority considered the correct section of the Guidelines. My assessment below considers the proposed scheme in terms of

Objective 4.2 and the requirements of Section 4.4 of the S.28 Compact Settlement Guidelines 2024. I have serious concerns regarding the remainder of the development for reasons set out below.

- 7.2.15. The northern boundary of the subject site is shared with the L8054 and also with the access point to the existing residential area of The Friary. The applicant is proposing to address the L8054 and the entrance to the Friary with a terrace of 3 no. two storey dwellings and an area of parking to the east to serve these 3 no. dwellings. Access to this parking area is provided from the shared access to the Friary known as Oak Road. At present on arrival to the Friary the area proposed to serve as a car parking area is provided as open space. I do not consider the location of a parking area on the primary entrance to an existing residential area to be acceptable or in accordance with what is described as Responsive Built Form under Section 4.4 (V) of Compact Guidelines for Planning Authorities. Section 4.4 (V)(d) states *Buildings should generally present well-defined edges to streets and public spaces to ensure that the public realm is well-overlooked with active frontages*. I consider that the juxtaposition of the proposed parking area between the two gable ends of proposed units 17 and 18 fails to provide a well defined edge to the existing streetscape of Oak Road. This concern is reiterated by view no. 2 of the photomontages submitted to the Planning Authority as part of the further information response.
- 7.2.16. I note that documentation submitted with the appeal included some internal photomontages of the proposed scheme. While I welcome the addition of such, I consider that they remain limited to the extreme centre of the site in what is being presented and do not include any images of the entrance to the site from the L8054.
- 7.2.17. Furthermore, I have significant concern over this section of the proposed layout in terms of residential amenity and passive surveillance. Units 15 – 22 have been orientated in a manner where the front elevation of these units address the L8054 and Oak Road resulting in the rear boundary of these dwellings addressing an area of public open space. The rear elevations of dwelling units 18-21, at first floor level, are set between c.26m to c.15m from the rear boundary which is shared with the public open space. This area of public open space forms part of the linear park and buffer area of the Ballyvass stream where access is provided to not only future potential residents of the proposed scheme but also members of the wider public. The interface of rear boundary walls of residential units to an area of public open space is not

considered to be acceptable or good practice in terms of healthy placemaking. Having regard to the separation distance from the rear elevation of the surrounding dwellings I consider that this area would not be provided with an adequate level of passive surveillance and could become an attractive area for issues of anti-social behaviour. As such, in its current form I consider that the proposed layout would fail to comply with Section 4.4(V)(d) of the Sustainable and Compact Settlement Guidelines, 2024, which seeks “.....to ensure that the public realm is well-overlooked with active frontages.”

7.2.18. The most western corner of the subject site is located at a prominent junction where the R418 meets the L8054. The site layout plan, amended by further information, indicates the provision of a small area of open space which seems to provide for some hard scape passage way and is bookended by the side gables of unit 12 and unit 13. While I consider that the layout of units 1 to unit 11 provide for a strong urban edge addressing the R418, albeit lacking in architectural merit which I address further in this report, I have concern over the treatment of this western corner of the site. With reference to Section 4.4(v)(d) of the Sustainable and Compact Settlement Guidelines, buildings should generally present well-defined edges to streets. I consider that the layout of the scheme at this section fails to achieve this. I consider that the juxtaposition of the side elevation of unit no. 12 which sits forward of unit 13 is jarring and does not provide for a strong urban edge. In addition, the use of open gable design addressing the R418 is not considered to be acceptable. I consider that the use of a turn the corner unit or something similar at this location would have been a more appropriate approach to the amended layout.

7.2.19. It is also my view that the proposed material finish of the scheme is an issue. Section 4.4 (V)(E) of the Sustainable and Compact Settlement Guidelines states “*New development should embrace good modern architecture and urban design that is innovative and varied, and respects and enhances local distinctiveness and heritage*” while point (f) of same states that “*materials and finishes should be of high quality, respond to the local palette of materials and finishes and be highly durable.*” I note that this was also raised by the Planning Authority. The applicant has indicated that all of the units proposed within the development are to be finished entirely with a nap render on all elevations. In my opinion the use of a single finish on all dwellings would not be visually acceptable, would not create a sense of place, be lacking in distinctiveness

and overall lack any architectural merit. I note that while the adjoining estate has been finished in a similar material. As such, the use of a single material finish throughout the entire estate would not provide for any level of distinctiveness either through the estate or within the wider area, would not be of high quality and as such would fail to comply with Section 4.4(v)(e) or (f) of the Sustainable and Compact Settlement Guidelines.

7.2.20. In the amended design submitted in response to the further information request, the appellant omitted 2 no. dwellings, previously denoted as unit no. 30 and 31 and a turning head and provided this area as part of the public open space where the playground is to be located. There is also a hard standing area proposed which has been indicated to be provided for a dual use as a hammerhead and also a hard play area. The south-eastern boundary of the proposed open space/play area is addressed with 3 parallel parking bays. I consider that the dual use of a hammerhead and hard play area would not be compatible and not provide for a safe play environment for the future potential residents of this development. The location of car parking spaces proximate to a designated playground which, from review of the landscape masterplan submitted, is not provided with any defensive boundary's.

7.2.21. Having regard to the foregoing, I am of the view that the proposed development does not to comply with the basic principles of placemaking, does not provide for a high standard of urban design and is lacking in architectural expression. Notwithstanding the constrained nature of the site, I consider the layout as proposed is ad-hoc in nature and while there may be some amendments which could be undertaken to provide for an appropriate layout, I do not consider appropriate that they should be addressed by condition if the Board is of a mind to grant permission. I consider that the proposed development does not comply with Objective UD 01 of the Kildare County Development Plan 2023-2029 and Policy Objective 4.2, with specific reference to Section 4.4(V) of the Sustainable and Compact Settlement Guidelines for Planning Authorities, 2024.

7.3. Surface Water Proposal

7.3.1. The Planning Authority within their second reason for refusal considered that the proposed development would constitute a material contravention of both Objective IN 024 and Objective IN 026 of the County Development Plan 2023-2029 on foot of the

inclusion of the 3 no. underground attenuation tanks which are located beneath the proposed public open space. It was therefore concluded that the proposed development would be prejudicial to the provision of high quality public open space detracting from amenities of potential occupants.

- 7.3.2. As part of the further information a revised surface water design, drawings and calculations which maximised the use of nature-based solutions was requested to be submitted. Reference was specifically made under item 5(a)(i) of the request for further information that underground concrete tanks not being permitted for attenuation.
- 7.3.3. The applicant submitted a revised surface water solution which provided for the use of 3 no. attenuation tanks two of which were indicated to be located under areas of public open space within the remainder being under a parking area. The solution also proposed the use of roadside filter drains, permeable paving and raingardens within the curtilage of dwellings, roadside bio-retention tree pits, and water butts.
- 7.3.4. Kildare County Council Water Services Section report noted that the underground tanks are not permitted under the County Development Plan and there is a 10% restriction in open spaces under same. However, the report further states that underground tanks are a recognised SuDS measure when all other SuDS have been excluded. It was considered that the use of underground storage tanks are unavoidable and that the proposed underground attenuation tanks 2 and 3 are retained as a last option. The report concludes that the final SuDS be agreed prior to the commencement of development which includes tanks 1 and 3 being replaced with a nature-based SuDS feature such as a wetlands or bioretention area.
- 7.3.5. Objective IN 024 of the Kildare County Development Plan 2024-2029 states *“Only consider underground retention solutions when all other options have been exhausted. Underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution”* and the Planning Authority concluded that this could not be disregarded given the extent of the attenuation tanks being proposed under public open space and in the instance of malfunction/maintenance the impact, in terms of disturbance, it may have upon the residential amenity.
- 7.3.6. The Planning Officer considered that it would not be reasonable to request this amendment as a condition as the provision of same could have a detrimental effect

on the quality and useability of the open space and may therefore render the majority of the open space provision for passive recreation only.

- 7.3.7. The appellant considers that the Planning Authority reliance on the second part of Objective IN 024 which states “....*Underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution*” failed to acknowledge or mention the position taken by the Water Services department subsequent to the additional information response.
- 7.3.8. The appellant further stated that an independent consultant – IE Consultants – undertook a review of the engineer assessment submitted, on foot of a request for the Area Engineer of the Local Authority. The assessment found that nature-based proposals were prioritised, and the use of underground tanks were only resorted to as all other options were not an option and that this demonstrates compliance with Objective IN 024.
- 7.3.9. I note that the appellant has undertaken further assessment and provided more reporting on the surface water proposals. From review of the Planning Officer report, I note that the assessment acknowledged the water services report and provided an robust assessment with regard to the alternative proposed by the water engineer to eliminate the use of attenuation tanks. I am of the view that to amend the surface water proposal by way of condition to such an extent may still have the same impact on the open space and subsequently on the residential amenity of future residents. In my opinion it is clear from the wording of Objective IN 024 that while attenuation tanks are acceptable, only where all other nature-based solutions have been exhausted – they are not acceptable under public open space as part of SuDS solutions. Therefore, the proposed scheme is a material contravention of Objective IN 024 of the Kildare County Development Plan 2023-2029.
- 7.3.10. The Planning Authority also reference Objective IN 026 as part of the reason for refusal. Objective IN 026 makes reference to a ‘*Sustainable Urban Drainage Systems Guidance Document*’ which was to be prepared as an action of the County Development Plan. It is noted that the guidance document had not been prepared at the time of when the Planning Authority undertook their assessment. It was published in April 2024 and may have been available to the Appellant to review during the preparation of the subject appeal. The strategy provides clear guidance on all aspects

of what is acceptable to the Local Authority. Section 5.5 of the guidance document refers specifically to the use of SuDS on areas of Open Space.

- 7.3.11. I do not consider that the appellant has demonstrated to the Planning Authority how the proposed SuDS features which are located on and under the proposed open space make a positive contribution. In addition, it is unclear to me, after reviewing all of the Surface Water Proposal documentation, as to how much of the area of the open space SuDS features would occupy. While the Planning Authority considered that the proposal also materially contravened Objective IN 026, I would consider that due to the lack of clarity within the response provided, that the proposal may contravene the objective but it would not constitute a material contravention.

7.4. Material Contravention

- 7.4.1. The appellant has requested that the Board consider granting permission for the proposed scheme under Section 37(2)(a) of the Planning and Development Act, 2000 (as amended). The argument set out by the Appellant considers that in light of Section 37(2)(a)(iii) of the 2000 Act, (as amended), which states '*permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government*'.
- 7.4.2. The Appellant recognises how the proposal could be a material contravention of Objective IN 026 of the County Plan. However, it is contended that there would be no other option to obtain a development which would comply with all other relevant objectives and policies with a specific reference to obtaining a sustainable density which accords with the requirements of the Sustainable and Compact Settlement Guidelines for Planning Authorities, 2024. The appellant is requesting in light of the aforementioned, that the Board therefore considers the proposed development under the Section 28 - Sustainable and Compact Settlement Guidelines for Planning Authorities, 2024.
- 7.4.3. The appellant sets out that the subject site is within walking distance of the town centre and is opposing a new school which is served with a number of amenities – this site is sequentially preferred for development to meet the chronic housing need. The

appellant states that nowhere in the S.28 Guidelines does it prohibit the provision of open space above where it is intended to provide attenuation tanks.

- 7.4.4. The Appellant asserts that the proposal would comply with Section 4.4 of the Compact Guidelines (Key Indicators of Quality Design and Placemaking) with a particular reference on subsection (iii) Green and Blue Infrastructure. It is asserted that the proposal protects, restores and enhances natural features, provides public open space linked to existing open space networks; manages urban surface water in the most effective way and overcomes previous legacy flooding issues; and maximising the development potential of the subject site.
- 7.4.5. A heavy emphasis is placed, by the Appellant, on section 4.4 (iii)(D) of the S. 28 guidelines which states “*the use of Nature-based Solutions at ground level may not be possible on certain brownfield sites due to historic land contamination. In such cases, alternative solutions such as green roofs and walls can be considered.*” The appellant has made the assertion that the subject site is a brownfield site.
- 7.4.6. While the subject site may have at one point in time formed part of a development site, which was never completed, it was never developed and as such I am of the opinion that the subject site is a Greenfield site. I note that the applicant in their response to the Additional information request has set out a rationale detailing the constraints of the site in terms of infiltration rates and ground water levels. However, the assessment of the Water Services Section of Kildare County Council provided an alternative to these measures which were SuDs based. I therefore consider that the over-reliance of the attenuation tanks to be a tokenistic response.
- 7.4.7. Section 4.4(iii)(d) of the Sustainable and Compact Guidelines relates to the development of brownfield sites which due to historic land contamination would not be suitable for nature based solutions. The site subject to this appeal is a greenfield site which has no history of land contaminations. There is no other reference to the use of attenuation tanks under open space provisions within the Sustainable and Compact Section 28 Guidelines.
- 7.4.8. In conclusion, I consider that the proposed development would constitute a material contravention of Objective IN 024 of the Kildare County Development Plan, 2023-2029 and I do not consider that the justification set out by the Appellant would allow the

Board to consider this application under S. 37(2)(a)(iii) of the Planning and Development Act 2000 (as amended) Act.

7.5. Other Issues

7.5.1. Residential amenity

The Planning Authority raised concerns that the proposed dwellings would not comply with Section 15.4.6 of the County Development Plan as storage areas within each of the dwellings have been indicated as being located within bedrooms and kitchens.

Section 15.4.6 of the Current County Development Plan states that *Storage should be additional to kitchen presses and bedroom furniture*. Having reviewed the floor plans on file I note this is not provided. However, having regard to the sequential standards set out within the Quality Housing for Sustainable Communities - Best Practice Guidelines for delivering homes (DHLGH) I note that all of the proposed dwellings provide for rooms sizes and widths which are in excess of that set out under Section 5.3.2 – Space Requirement and Room Sizes of this guidance document.

While the Current County Development Plan does not provide for any flexibility in terms of how storage space is provided, I note that the requirements are not set out within an objective or policy but rather provided as text only and having regard to the fact the room sizes provided are in excess of the requirements of Section 5.3.2 of the Quality Housing for Sustainable Communities I consider that the proposed development would provide for an adequate level of internal residential amenity for future potential residents.

7.5.2. Ecological

An Ecological Impact Assessment (EclA) was submitted with the planning application. A multi-disciplinary walkover of the appeal site was conducted on the 19th April 2022 and also on the 30th August 2022 to identify habitats. In addition, an aquatic ecology survey was carried out on the 1st of September 2022 in order to assess the surface watercourses within and downstream of the subject site. The EclA examines the potential ecological impact of the proposed development, noting the location of the appeal site, impacts on bats, birds, trees and water quality predominate the assessment.

The Planning Authority raised concern within their request for additional information with regard to the mitigation measures set out within the EclA. The concern related to the buffer zone proposed between the stream and proposed development and if it is to be planted creating a meadow. The applicant clarified that this area is to be a meadow and that the Mitigation proposed within the EclA were updated to that extent.

The habitats present on the appeal site are deemed low value, comprising dry meadows and grassy verges, recolonising bare ground, and wet grassland. No Annex I habitats as listed under the EU Habitat Directive were found to be present on site.

No evidence of protected mammal species or evidence of underground mammal dwellings were noted within the site during either of the field studies that were undertaken. The report further notes that no otters or otter activities were noted on site. However Otters were recorded downstream within the River Lerr.

With regards to Bats, the EclA notes that the site is likely to be used by bats for foraging due to the presence of a watercourse, trees, and semi-natural habitat. A bat survey, utilising a passive survey detector, was undertaken over nine nights in August and September 2022. The survey recorded 6 bat species all of which are noted as being a common specie.

I note that the bat survey was undertaken in August and September which is within the correct period for doing so as outlined by the National Parks and Wildlife on their website. The subject site is located within a sub-urban area with lands located to the east having already been developed for housing and bounded to the west and south with regional roads which are all served with streetlights. Mitigation measures have been proposed in terms of the use of directional lighting during the construction phase which will restrict excessive light pollution from the site for bats. Therefore, I do not consider that the development as proposed will be detrimental to the species which were found on site.

With regards to Birds, during the field study 10 species were identified. Two of the species found are amber listed species. No evidence of breeding was found. In addition, it was found that the site would not be suitable for ground nesting due the evidence of cats being present on site. While the birds species found on site may be impacted during the constitution phase, having regard to the riparian strip being proposed I consider that the impact will be short lived. In addition, I note that the lands

to the north and south of the site remain undeveloped and provide the possibility for alternative locations for the species found on site to forage and nest.

The EcIA concluded that the subject site could be considered as being of Local Importance with a Lower Value overall. Section 6.0 of the report sets out the potential impacts of the proposal on each of the habitats, bats, bird and mammals identified during the field studies. Overall, I consider that the assessment put forward within the section 6 to be robust and the mitigation measures set out within Section 7.0 of the report would overcome any of the impacts identified.

A Construction Environment Management Plan (CEMP) was included as part of the application which reviewed and considered the environmental commitments relating to the management of the construction phase of the development. On review of the CEMP I consider that the document has set out general measures in addition to a series of discipline specific measures that all align with the monitoring measures and the mitigation measures identified within the EcIA. The assessment is considered to be acceptable and accords with guidance set out with best practice.

From review of the EcIA submitted to the Planning Authority on the 2nd March 2023 and amended report submitted on the 17th January 2024, together with the CEMP, I am satisfied that on foot of the mitigation measures set out being implemented that the potential negative impacts of the proposed works would not impact upon the ecology of the subject site. In the event that the Board are minded to grant permission for the proposed development a specific condition should be included to ensure that mitigation measures proposed within the EcIA and updated documentation together with the CEMP, are adhered to during the construction phase.

8.0 Appropriate Assessment

8.1. Stage 1 – Appropriate Assessment Screening

- 8.1.1. I am satisfied that the information on file which I have referred to in my assessment allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites. I have reviewed the applicant's 'Screening for Appropriate Assessment' and 'Natura Impact Assessment' which was submitted to the Planning

Authority 2nd March 2023¹ and I have carried out a full Screening Determination for the development and it is attached to this report in Appendix 3.

- 8.1.2. In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information I conclude that the proposed development is likely to have a significant effect on the qualifying interests of the River Barrow and River Nora SAC (Site Code 002162) and 'alone' in respect of effects associated with the deterioration of water quality in the Ballyvass Stream which connects to the River Lerr which in turn forms part of the Natura 2000 Site.
- 8.1.3. An appropriate assessment is required on the basis of the effects of the project 'alone'. It is therefore determined that Appropriate Assessment (stage 2) under Section 177V of the Planning and Development Act 2000, is required on the basis of the effects of the project 'alone'.

8.2. Stage 2 – Appropriate Assessment

- 8.2.1. The following is an objective assessment of the implications of the proposal on the relevant Conservation Objectives (CO) of River Barrow and River Nora SAC (Site Code 002162) based on the scientific information provided by the applicant and taking into account expert opinion. It is based on an examination of all relevant documentation, analysis and evaluation of potential impacts, findings and conclusions. A final determination will be made by the Board. All aspects of the project which could result in significant effects are assessed and mitigation measures designed to avoid or reduce any adverse effects on site integrity are examined and evaluated for effectiveness. Possible in-combination effects were also considered. A full description of the proposed development is set out in section 1.2 of the Screening report and the potential impacts from the construction and operational phases are set out in Section 6.3 of the NIS.

8.2.2. Relevant European Sites

In the absence of mitigation, the potential for significant effects could not be excluded for:

- River Barrow and River Nora SAC (Site Code 002162)

¹ The Appropriate Assessment Screening Report relates to the original layout submitted.

I have reviewed the Conservation Objectives listed for each of the sites on the NPWS website (www.npws.ie). The table below provides for a summary of the information provided within the NIS and the site integrity test. This information has been compiled from the information contained in the NIS and the NPWS Website.

River Barrow and River Nora SAC (Site Code 002162)			
		Summary of Appropriate Assessment	
Special Conservation Interest (SCI)	Conservation Objectives	Potential Adverse Effects	Mitigation measures
River Lamprey (Lampetra fluviatilis [1099])	To restore the favourable conservation condition of River lamprey in the River Barrow and River Nore SAC,	In-direct impact: During construction phase – possible increase sediment loading into watercourse. Water Quality deterioration during construction, possible accidental release of silt laden run-off or hydrocarbon leak.	Mitigation measures are listed in Section 6.3.1 of the NIS and in the Construction Environmental Management Plan, Surface Water Management Plan and Ecological Impact Assessment which all accompanied the application. The measures are designed to protect water quality during the construction and operational phases. They include standard measures such as good construction practice in accordance with relevant guidelines and site-specific measures such

			as the installation of silt traps, stockpiling materials away from drains and appropriate storage of chemicals.
Brook Lamprey (Lampetra planeri) [1096]	To restore the favourable conservation condition of Brook lamprey in the River Barrow and River Nore SAC	In-direct impact: During construction phase – possible increase sediment loading into watercourse. Water Quality deterioration during construction, possible accidental release of silt laden run-off or hydrocarbon leak.	Mitigation measures are listed in Section 6.3.1 of the NIS and in the Outline Construction Management Plan, Surface Water Management Plan and Ecological Impact Assessment which all accompanied the application. The measures are designed to protect water quality during the construction and operational phases. They include standard measures such as good construction practice in accordance with relevant guidelines and site-specific measures such as the installation of silt traps, stockpiling materials away from drains and appropriate storage of chemicals.
Atlantic salmon (Salmo salar only in	To restore the favourable conservation	In-direct impact: During construction phase – possible increase sediment	Mitigation measures are listed in Section 6.3.1 of the NIS and in the Outline Construction Management

fresh water {1106])	condition of Salmon in the River Barrow and River Nore SAC,	loading into watercourse. Water Quality deterioration during construction, possible accidental release of silt laden run-off or hydrocarbon leak.	<p>Plan, Surface Water Management Plan and Ecological Impact Assessment which all accompanied the application.</p> <p>The measures are designed to protect water quality during the construction and operational phases. They include standard measures such as good construction practice in accordance with relevant guidelines and site-specific measures such as the installation of silt traps, stockpiling materials away from drains and appropriate storage of chemicals.</p>
Otter (Lutra lutra) [1355]	To restore the favourable conservation condition of Otter in the River Barrow and River Nore SAC	<p>In-direct impact:</p> <p>During construction phase – possible increase sediment loading into watercourse affecting prey.</p> <p>Water Quality deterioration during construction, possible accidental release of silt laden</p>	<p>Mitigation measures are listed in Section 6.3.1 of the NIS and in the Outline Construction Management Plan, Surface Water Management Plan and Ecological Impact Assessment which all accompanied the application.</p> <p>The measures are designed to protect water quality during the construction and</p>

		run-off or hydrocarbon leak.	operational phases. They include standard measures such as good construction practice in accordance with relevant guidelines and site-specific measures such as the installation of silt traps, stockpiling materials away from drains and appropriate storage of chemicals.
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8.2.3. Integrity Test

The applicant determined that following the implementation of mitigation measures the construction and operation of this proposed development alone or in combination with other plans and projects will not adversely affect the integrity of this European site.

On foot of an objective of the Kildare County Development Plan 2023- 2029, the applicant is required to provide for a 10m buffer zone either side of the Ballyvass Stream that transverses the site. I am satisfied that the buffer zone proposed if constructed will act as a natural barrier to any surface water contamination.

Based on the information provided in the application, I am satisfied that no adverse effects from deterioration of the water quality in the Ballyvass Stream and River Lerr can be excluded for potential impact on the QI of River Barrow and River Nora SAC (Site Code 002162). I conclude that the integrity of River Barrow and River Nora SAC (Site Code 002162) and its QI will not be adversely affected in view of the Conservation objectives for the site.

8.3. **Appropriate Assessment Conclusion**

The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act, 2000, as amended. Having carried out screening for Appropriate Assessment of the project, it was concluded that it may have a significant effect on River Barrow and River Nora SAC (Site Code 002162).

Consequently, an Appropriate Assessment was required of the implications of the project on the qualifying features of those sites in light of their conservation objectives. Following an Appropriate Assessment, it has been ascertained that the proposed development, individually or in combination with other plans or projects, after the mitigation measures identified have been undertaken, would not adversely affect the integrity of River Barrow and River Nora SAC (Site Code 002162). This conclusion is based on:

- A full and detailed assessment of all aspects of the proposed project including proposed mitigation measures in relation to the Conservation Objectives of River Barrow and River Nora SAC (Site Code 002162).
- Detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans.
- No reasonable scientific doubt as to the absence of adverse effects on the integrity of River Barrow and River Nora SAC (Site Code 002162).

9.0 Recommendation

I recommend that planning permission be refused for the reasons and considerations set out below.

10.0 Reasons and Considerations

1. Having regard to the inadequate layout of the proposed development, the proposed development fails to provide for an adequate level of passive surveillance of the proposed linear park, does not comply with the principles of placemaking or provide for a high standard of urban design or architectural expression. The developer has not demonstrated that the proposed development complies with Objective UD 01 of the Kildare County Development Plan 2023-2029 and Policy Objective 4.2 (with specific reference to Section 4.4(V)) of the Sustainable and Compact Settlement Guidelines for Planning Authorities, 2024 and therefore not be in keeping with the proper planning and sustainable development of the area.
2. Having regard to the policies and objectives pertaining to Surface Water Management within the Kildare County Development Plan 2023-2029, with

specific reference to Objective IN 024 and Objective IN 026, and the Kildare SuDS Guidance Document, which all seeks to ensure that the design of SuDS proposals contribute positively to the design, quality and useability of open space and restrict the use of attenuation tanks under such, it is considered that the proposed design of surface water management, involving the use of 3 no underground attenuation tanks, would not be an appropriate design response to this specific site and would materially contravene Objective IN 024 and be contrary to Objective IN 026 of the Kildare County Development Plan 2023-2029 and be contrary to the proper planning and sustainable development of the area.

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.

Kathy Tuck

Inspector

5th December 2024

Appendix 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-319442-24		
Proposed Development Summary	Construction of 43 houses, construction of a pumping station and all associated site works and services.		
Development Address	Skenagun/Garterfarm, Castledermot, Co. Kildare.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	S. 5 P.2 10(b)(ii) construction of more than 500 dwelling units.	Proceed to Q3.
No			Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	S. 5 P.2 10(b)(ii) construction of more than 500 dwelling units.	Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			

No	X	Screening determination remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ **Date:** _____

Appendix 2

EIA Preliminary Examination

An Bord Pleanála Case Reference Number	ABP- 319442-24
Proposed Development Summary	Construction of 43 houses, construction of a pumping station and all associated site works and services
Development Address	Skenagun/Garterfarm, Castledermot, Co. Kildare.
<p>The Board carried 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.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>	
Characteristics of proposed development	<p>The proposed development is for 43 no. dwelling houses. The proposal is on a site which forms the eastern boundary with an existing residential area and provides vehicular and pedestrian connections. The proposed development would not be exceptional in the context.</p> <p>The development would not result in the production of significant waste, emissions, or pollutants</p>
Location of development	<p>The proposed development is 43 no. dwelling. The size is not exceptional.</p> <p>There is a hydrological connection present which would give rise to significant impact on nearby water courses (whether linked to any European site or other sensitive receptors). The application has been accompanied by a Natura Impact Assessment which sets out adequate mitigation measures which will protect the European site. On foot of the mitigation measures been undertaken the development would not have the potential to significantly impact on an ecologically sensitive site or location.</p>

		There would be no significant cumulative considerations.
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).		There are no other locally sensitive environmental sensitivities in the vicinity of relevance.
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	NO
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	NO
There is a real likelihood of significant effects on the environment.	EIAR required.	NO

Inspector: _____

Date: _____

Appendix 3

AA Screening Determination

Screening for Appropriate Assessment Screening Determination

Step 1: Description of the project

I have considered the Construction of 43 houses, construction of a pumping station and all associated site works and services in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The subject site is located 0.4km to the west of the River Barrow and River Nore SAC.

The site is transversed by the Ballyvass Stream which flows on the north-south axis of the site and is located c.400m north of the River Leer. The River Leer is designated as a section of the River Barrow and River Nore SAC. The Leer joins the River Barrow c. 7.7km to the southwest of the subject site.

The proposed development comprises the construction of 43 houses, construction of a pumping station and all associated site works and services on a site which forms a prominent corner location on the outskirts of Castledermot, Co. Kildare. The site is bounded to the west by the R418 with the boundary treatment being fencing and mature planting. A private lane which provides for access to a scrap metal operation runs along the southern boundary of the site. There is an existing residential development located to the east known as the Friary. There are a number of informal connections from the site to the Friary development. Scoil Diarmada is located to the south-west of the site on the opposing side of the R418.

The site is located within Flood Zone C as per the SSFRA. Areas of ponding were noted on site at the time of inspection following a period of heavy rainfall and poor drainage characteristics of the site. The application was accompanied by a Flood Risk Assessment.

Step 2: Potential impact mechanisms from the project

The applicant has applied the source-pathway-receptor model in determining possible impacts the effects of the proposed development comprising 43 dwelling houses, 1 pumping station and associated site works and identified:

Potential link to River Barrow and River Nore SAC via the Leer river from the Ballyglass Stream.

There is potential for indirect impacts from the project arising from:

Deterioration of water quality from pollution of surface water during site preparation and construction phase through the release of silt/hydrocarbons/oil into the adjoining watercourse.

Deterioration of water quality arising from pollution of surface water runoff during the operational phase through vehicular movements and contaminated runoff.

Deterioration of water quality arising from operational wastewater discharges.

The project is directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

The proposed development will not result in any direct effects such as habitat loss on any European site.

Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

Habitat loss/ fragmentation/alteration

Habitat degradation as a result of hydrological impacts.

Disturbance and displacement impacts on QI/SCI

Changes in water quality and resource

The application site is not located within or adjacent to any European site. There is a potential indirect hydrological connection arising in the form of surface water discharge to River Barrow and River Nore SAC and the Leer river at construction and operational stages. The foul sewer water would be connected to the public network system and a pumping station required. As such there is an indirect connection to River Barrow and River Nore SAC via the Ballygalss Stream which transverse the site and connects to the Leer River. The Planning Authority did not raise concerns regarding the operations of the pumping station in its planning assessment or appropriate assessment determination.

I consider surface waters from the proposed development will ultimately drain to River Barrow and River Nore SAC and therefore may indirectly have an impact. Therefore, the European site with qualifying interests, which are potentially linked to the proposed development is River Barrow and River Nore SAC and could be impacted as follows:

Surface water pollution (silt/ hydrocarbon/ construction related) from construction works resulting in changes to environmental conditions such as water quality/ habitat degradation.

Groundwater pollution (silt/ hydrocarbon/ construction related) from construction works resulting in changes to environmental conditions such as water quality/ habitat degradation.

Step 3: European Sites at risk

A indirect pathway exists from the subject site to River Barrow and River Nore SAC via the Ballyvass Stream which transverses the site and flows into the Leer River which discharges and forms part of the River Barrow and River Nore SAC.

Table 1 European Sites at risk from impacts of the proposed project

Effect mechanism	Impact pathway/Zone of influence	European Site(s)	Qualifying interest features at risk
Deterioration of water quality, siltation via surface water, construction related pollutants during construction phase	direct pathway via the Ballyvass Stream which connects to the River Leer	River Barrow and River Nore SAC	<p>Brook Lamprey (Lampetra planeri) [1096]</p> <p>Atlantic salmon (Salmo salar only in fresh water {1106])</p> <p>Otter (Lutra lutra) [1355]</p> <p>River Lamprey (Lampetra fluviatilis [1099])</p>

I note that the applicant included a second European site in their initial screening consideration with sites within 15km of the development site. This was the Slaney River Valley SAC located 9km from the site. Having regard to the nature and scale of the project, separation distance from the site, and lack of potential pathways I do not consider that, with the exception of River Barrow and River Nore SAC (002162),

that further consideration of same is required and can be excluded from the project's zone of influence.

River Barrow and River Nore SAC

The site passes through eight counties – Offaly, Kildare, Laois, Carlow, Kilkenny, Tipperary, Wexford and Waterford. Major towns along the edge of the site include Mountmellick, Portarlington, Monasterevin, Stradbally, Athy, Carlow, Leighlinbridge, Graiguenamanagh, New Ross, Inistioge, Thomastown, Callan, Bennettsbridge, Kilkenny and Durrow. The larger of the many tributaries include the Lerr, Fushoge, Mountain, Aughavaud, Owenass, Boherbaun and Stradbally Rivers of the Barrow, and the Delour, Dinin, Erkina, Owveg, Munster, Arrigle and King's Rivers on the Nore.

Both rivers rise in the Old Red Sandstone of the Slieve Bloom Mountains before passing through a band of Carboniferous shales and sandstones. The Nore, for a large part of its course, traverses limestone plains and then Old Red Sandstone for a short stretch below Thomastown. Before joining the Barrow, it runs over intrusive rocks poor in silica. The upper reaches of the Barrow also run through limestone. The middle reaches and many of the eastern tributaries, sourced in the Blackstairs Mountains, run through Leinster Granite. The southern end, like the Nore runs over intrusive rocks poor in silica. Waterford Harbour is a deep valley excavated by glacial floodwaters when the sea level was lower than today. The coast shelves quite rapidly along much of the shore.

The site is a Special Area of Conservation (SAC) selected for the following habitats: Estuaries, Tidal Mudflats and Sandflats, Reefs, Salicornia Mud, Atlantic Salt Meadows, Mediterranean Salt Meadows, Floating River Vegetation, Dry Heath, Hydrophilous Tall Herb Communities, Petrifying Springs, Old Oak Woodlands, Alluvial Forests, Desmoulin's Whorl Snail (*Vertigo moulinsiana*), Freshwater Pearl Mussel (*Margaritifera margaritifera*), White-clawed Crayfish (*Austropotamobius pallipes*), Sea Lamprey (*Petromyzon marinus*), Brook Lamprey (*Lampetra planeri*), River Lamprey (*Lampetra fluviatilis*), Twaite Shad (*Alosa fallax*), Atlantic Salmon (*Salmo salar*), Otter (*Lutra lutra*), Killarney Fern (*Trichomanes speciosum*).

The site is very important for the presence of a number of E.U. Habitats Directive Annex II animal species including Freshwater Pearl Mussel (*Margaritifera margaritifera*), White-clawed Crayfish, Salmon, Twaite Shad, three lamprey species – Sea Lamprey, Brook Lamprey and River Lamprey, the tiny whorl snail *Vertigo moulinsiana* and Otter. This is one of only a handful of spawning grounds in the country for Twaite Shad. The freshwater stretches of the River Nore main channel is a designated salmonid river. The Barrow/Nore is mainly a grilse fishery though spring salmon fishing is good in the vicinity of Thomastown and Inistioge on the Nore. The

upper stretches of the Barrow and Nore, particularly the Owenass River, are very important for spawning.

Step 4: Likely significant effects on the European site(s) 'alone'

The habitats within the site are not of value for qualifying species of the Natura 2000 sites. The site itself does not provide suitable habitats/environments for these species. No ex-situ impacts on qualifying species are therefore considered likely. The application was accompanied by an invasive species assessment which noted the presence of Japanese's Knotweed being located along the southern boundary of the site. The applicant states that this has since been professionally removed.

Table 2: Could the project undermine the conservation objectives 'alone'

River Barrow and River Nore SAC	Conservation Objectives	Could the conservation objectives be undermined (Y/N)?		
		Deterioration of water quality through pollution		
Brook Lamprey (Lampetra planeri) [1096]	To restore the favourable conservation condition of Brook lamprey in the River Barrow and River Nore SAC	Y		
Atlantic salmon (Salmo salar only in fresh water [1106])	To restore the favourable conservation condition of Salmon in the River Barrow and River Nore SAC	Y		
Otter (Lutra lutra) [1355]	To restore the favourable conservation condition of Otter in the River Barrow and River Nore SAC	Y		
River Lamprey (Lampetra fluviatilis [1099])	To restore the favourable conservation condition of River lamprey in the River Barrow and River Nore SAC	Y		

The table above includes QIs which could potentially be considered at risk from the project and is not all the QIs for which a relevant site may have been designated.

The subject site is transversed by the Ballyvass Stream. This stream is considered as being a hydrological pathway connecting the proposed development to a Natura 2000 site - River Barrow and River Nore SAC (002162). The Ballyvass Stream runs on the north south axis of the site and meets the River Lerr 400m to the south of the site boundary. The River Lerr is designated as a section of the River Barrow and River Nore SAC. The River Leer joins the main part of the River Barrow and River Nore SAC c. .4km to the southwest of the site where it is in confluence with the Ballyvass Stream.

Having regard to the foregoing I consider the proposed development has the potential to undermine the conservation objectives of the wetland habitat at River Barrow and River Nore SAC.

I conclude that the proposed development would have a likely significant effect 'alone' on – the QI for which of the River Barrow and River Nore SAC is designated, from effects associated with contaminated surface water discharge, and potential deterioration in the water quality of the Leer River/Ballyvass Stream river which flow into the River Barrow and River Nore. An appropriate assessment is required on the basis of the effects of the project 'alone'. Further assessment in-combination with other plans and projects is not required at this time. Proceed to AA.

Where relevant, likely significant effects on the European site(s) 'in combination with other the plans and projects'

No significant in-combination or cumulative effects are identified in relation to potential effects associated with other plans or projects. This has been considered within Table 3 of the NIS submitted.

Subject to appropriate drainage and wastewater treatment requirements being implemented for developments/projects within the immediate vicinity then there will be no significant adverse effects due to the proposed project as a result of any in combination effects with these individual planning applications.

I conclude that the proposed development would have no likely significant effect in combination with other plans and projects on the qualifying features of any European site(s).

Overall Conclusion- Screening Determination

In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information

I conclude that the proposed development is likely to have a significant effect on the QI of River Barrow and River Nore SAC 'alone' in respect of effects associated with the deterioration of water quality through pollution.

It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is required on the basis of the effects of the project 'alone'.