



Development

Permission for (a) refurbishment of two-bed house; (b) refurbishment and change of use of a separate adjoining building from a nil use to retail use; (c) demolition of family flat which forms part of the existing two-bed house at item (a) above and alterations/improvements to this existing two-bed house; (d) new vehicular access and ten no. car parking bays and ten bicycle spaces; (e) construction of a residential building and (f) all associated site works.

Location

Main Street, Ballymore Eustace,
County Kildare.

Planning Authority

Kildare County Council

Planning Authority Reg. Ref.

2360386

Applicant(s)

Novel Property Developments Limited

Type of Application

Permission

Planning Authority Decision

Grant permission

Type of Appeal	First Party V. Condition 24 Third Part V. Decision
Appellant(s)	Farry Town Planning on behalf of Novel Property Developments Limited (First Party) Linda Lynch and others (Third Party)
Observer(s)	Edel O'Keefe Emma Marshall Clarke Megan O'Neill Martina Nolan Byrne Gail Kinsella Lucia Dorotikova Jane Perry
Date of Site Inspection	15/12/25
Inspector	Ronan Murphy

1.0 Site Location and Description

- 1.1. The appeal site is located to the west of the village centre of Ballymore Eustace, Co. Kildare. The area surrounding the site is mixed use in character with a school to the west and to the north and residential / commercial uses associated with the village centre to the east.
- 1.2. The appeal site which is long and narrow has a stated area of c.0.176 ha and is enclosed by existing buildings to the south, a wall to the east and predominantly open boundaries to the west and to the north.
- 1.3. The appeal site is primarily bounded to the north and west by a school, to the south by Main Street to the south and by residential and commercial building to the east.

2.0 Proposed Development

The proposed development comprises of the following:

- Demolition of family flat (formerly a hair salon) which forms part of the existing 2-bed house.
- Refurbishment of existing 2-bed house.
- refurbishment and the change of use of a separate adjoining building (often referred to as 'The Forge') from a nil use to retail use.
- creation of a new vehicular access which leads to the rear of the site and the provision of 11 no. car parking bays and ten bicycle spaces.
- construction of a residential building containing two floors and the provision of 4 no. 2-bed duplex apartments, 4 no. 2-bed apartments and 2 no. 1-bed apartments
- all associated site works including but not limited to the provision of communal and private open spaces, site landscaping, boundary treatment and connections to the mains water supply, stormwater drainage, and public sewerage system.

- 2.2 The proposed apartment building would have a maximum height of c. 6.8m and would have a nap plaster finish. The following key parameters are noted:

Site area	0.176ha
Residential Units	11 (10 apartments and 1 refurbished existing dwelling)
Total floor space	1206.12m ²
Building Height	6.8m
Density	68 units per hectare
Public open space	2,550m ² (17.61%)
Access	Vehicular and pedestrian (via Main Street)
Car parking	11 car parking spaces

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1 By order dated 29/7/24 the local authority decided to grant planning permission, subject to 25 No. conditions. **Condition No.24** which relates to development contributions states:

24. The Applicant/Developer to pay to Kildare County Council the sum of €61,998.76 being the appropriate contribution to be applied to this development in accordance with the Development Contribution Scheme adopted by Kildare County Council on 19th December 2022 in accordance with Section 48 of the Planning and Development Act 2000 as amended. Payments of contributions are strictly in accordance with Section 34 of the Development Contribution Scheme adopted by Kildare County Council on 19th December 2022.

Note: Please note water and wastewater development contribution charges now form part of the water connection agreement, if applicable, with Uisce Éireann.

Reason: *It is considered reasonable that the Developer should make a contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.1.1 There are two planning reports on file. The first planners report dated 11/124 states that the principle of development including the demolition of the existing flat and refurbishment of the existing dwelling is acceptable. In addition to this, the use of the Forge building as retail is acceptable in principle.

The area panner raises concerns with respect to the finish of the proposed apartment block and the length of the corridor at ground floor level. The area planner notes that the Roads Department requested further information with respect to the width of the internal carriageway, footpaths, measures for visibility of pedestrians and cars, sight lines, car parking to be provided at 1.5 spaces per unit, surfacing of the car park and provision of bicycle spaces, swept path drawings, Road Safety Assessment and details of a street lighting system.

It was also noted that the Water Services Department requested further information with respect to a number of items including surface water management system to maximise the drainage of surface water at source, an overflow should be provided from all Suds systems back to the main surface water system, surface water from the proposed development does not create a flood risk or on the neighbouring property ,

3.2.2. Other Technical Reports

Chief Fire Officer: Report dated 19/12/23 outlining no objections, subject to conditions.

Environment: Report dated 20/12/23 outlining no objections, subject to conditions

Housing: Report dated 8/1/24 outlining No objections, subject to conditions

Naas MD Engineer: Report dated 8/1/24 stating that Further Information is required.

Roads: Report dated 4/1/24 stating that Further Information is required.

Water Services: Report dated 20/12/23 stating that Further Information is required.

3.3. Prescribed Bodies

Uisce Eireann: No response on file

3.4 Response to Further Information

3.4.1 The applicant responded to Further Information on 3/7/24 consisting of the following:

- Cover letter from Farry Town Planning Limited
- Letter relating to Bicycle spaces from Gary Gleeson and Sons Dream Homes Limited
- Report from Donnachadh O'Brien and Associates Consulting Engineers
- Letter from Colin Gamble and Associates Engineering Limited
- Letter from Novel Properties
- Outdoor Lighting Report from Sabre Electrical Services Limited
- Stage 1 Road Safety Audit from Traffico
- Drawing No. NOV-PRO/LMP/001 '*Landscape Masterplan and Boundary Treatments*'
- Drawing No. 23/8/10 Rev 1 '*Proposed Ground Flood Layouts*'
- Drawing No. 23/8/11 Rev 1 '*Proposed First Floor Layouts*'
- Drawing No. 23/8/12 Rev 1 '*Proposed Elevations*'
- Drawing No. 23/8/13 Rev 1 '*Proposed Sectional Elevations*'
- Drawing No. 23/08/24 Rev. 1 '*Proposed Ste Layout Dimensioned*'
- Drawing No. SES09524 '*Public Lighting Layout*'
- Drawing No. 2328-DOB-XX-SI-DR-C-0020 Rev PO2 '*Proposed Surface Sewer Layout*'
- Drawing No. 328-DOB-XX-SI-DR-C-0050 Rev PO3 '*Proposed Site Layout*'
- Drawing No. 2328-DOB-XX-SI-DR-C-0060 Rev PO3 '*Proposed Road Markings and Signage*'
- Drawing No. 2328-DOB-XX-SI-DR-C-0070 Rev PO2 '*Proposed Autotrack*'

- Drawing No. 2328-DOB-XX-SI-DR-C-0110 Rev PO2 '*Proposed Attenuation and SuDS Details*'
- Concept 3D Renders for Further Information Request

3.4.2 Planning Report

3.4.2.1 The second planning report dated 23/7/24 states that the Planning Authority is satisfied that all items of Further Information have been addressed and recommends that planning permission is granted, subject to conditions.

3.4.2.2 Other Technical Reports (Post Further Information)

- **Naas MD Engineer:** Report dated 22/7/24 outlining No objections, subject to conditions.
- **Roads:** Report outlining No objections, subject to conditions

4.0 Planning History

Appeal site

Reg. Ref. 06/998: Application for Construction of a two-storey extension to the rear. Permission granted, subject to conditions.

Reg. Ref. 21/1767: Application for the sub-division of existing site for the construction of 4 no. dwellings (2 blocks of 2 semi-detached two storey houses, Type A - 4 bedroom two storey house with attic conversion, Type B - 3 bedroom two storey), partial demolition of existing building to allow access road and public footpath, connection to public foul sewer and all associated site work. Permission refused for two reasons:

1. *Policy RR1 seeks to maintain and improve the capacity, safety and function of the regional road network, Policy PK5 seeks to ensure new private car parking facilities are provided to an appropriate standard, proximate to the development which it serves. The proposed new junction to the R411 immediately adjacent to a pedestrian crossing constitutes a traffic hazard. The subsequent lack of car parking proximate to the subject site. The proposed development would therefore contravene policies RR1 and PK5 of the Kildare County Development*

Plan 2017-2023 and would therefore be contrary to the proper planning and sustainable development of the area.

2. *Policy DL1 and Objective HD1 of the Kildare County Development Plan 2017-2023 seek a high-quality design and layout for all new residential developments with a balanced approach to movement, placemaking and streetscape design. The Ballymore Eustace Village Plan set out in Volume 2 of the Kildare County Development Plan 2017-2023 zones the land A- Village Centre. Policy VC1 seeks to ensure the design of any development in the village centre are of high quality and do not impinge on the unique character of the village. Policy VC4 restricts new development to 2 storeys. Having regard to unacceptable access proposals, suburban dwelling design with a poor layout, 'left over' public open space, proposal to partially remove the forge and the subdivision of the curtilage of a structure included on the National Inventory of Architectural Heritage ref. 11820038 it is considered that the proposed development constitutes a piecemeal overdevelopment of the site. Further, the proposed development of 2.5 storey dwellings which extend higher than the existing dwelling on the street together with the removal of the forge structure which significantly contributes to the history and character of the village and the introduction of a suburban house type which does not integrate with the character of Ballymore Eustace constitutes a development which would negatively impact and detract from the streetscape, fabric and character of the village and would be visually intrusive. The proposed development contravenes Policies DL1, VC1 and VC4 and Objective HD1 of the Kildare County Development Plan 2017-2023 and is contrary to the proper planning and sustainable development of the area.*

4.1 It is noted that the location of the vehicular access and the design of residential development is different to that which refused planning permission in this case. In addition to this 'The Forge' building is proposed to be retained and refurbished as part

of the application currently being considered. It is also noted that the development plan has changed to the *Kildare County Development Plan 2023-2029*.

Lands to the west

Reg. Ref. 2460312. Application for: the provision of a single storey extension to front of existing two storey School Building (existing floor area = 1,820sqm) consisting of a 2no. Classroom Special Education Unit and Boiler Room (proposed floor area of extension = 463sqm), together with 7no. additional car parking spaces, secure external soft play area, sensory garden, additional hard surfaced playground area, and all ancillary site development works. Permission granted, subject to conditions.

Lands to the south (on the opposite side of Main Street)

Reg. Ref. 2560591. Application for the erection of 13 no. dwellings on lands located at the north-east of the existing River Walk residential development. This application is currently on Further Information.

5.0 Policy Context

5.1. Development Plan

Kildare County Development Plan 2023-2029

- 5.1.1 The *Kildare County Development Plan 2023-2029* is the operative plan for the area. The appeal site is within the 'A – Village Centre' zone.
- 5.1.2 In addition to this, the appeal site is also within the area covered by *the Ballymore Eustance Village Plan 2023-2029* which is within Volume 2 of the *Kildare County Development Plan 2023-2029*. The land is shown within the 'A' – Village Centre" zone.
- 5.1.3 Relevant policies and objectives include:
HO P6: Which seeks to promote and support residential consolidation and sustainable intensification and regeneration through the consideration of applications for infill development.

HO 08: Which seeks to support new housing provision over the plan period to deliver compact and sustainable growth in towns and villages in the County and supporting urban renewal and infill development.

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

HO 016: Which seeks to promote the provision of high-quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development.

HO 017: Which requires new apartment developments to comply with the Specific Planning Policy Requirements and standards set out in the Apartment Guidelines for Planning Authorities (Department of Housing, Environment and Local Government, 2020), where relevant particularly in relation to paragraph 3.8(a) of same.

HO 018: Which seeks to support high-quality design in new housing and to promote housing that is attractive, safe, and adaptable.

HO 019: Which seeks to support housing design that contributes to climate resilience and climate mitigation.

TM P10: Which seeks to balance the demand for parking against the need to promote more sustainable forms of transport.

TM O113: Which requires that the quantum of car parking or the requirements for any such provision for apartment developments will have regard to the proximity and accessibility to urban locations, public transport.

TM P11: Which seeks to ensure that street lighting is provided in accordance with Kildare County Councils 'Street Lighting and Planning Guidance' policy document.

IN O22: Which requires the implementation of Sustainable Urban Drainage Systems (SuDS) and other nature-based surface water drainage as an integral part of all new development proposals.

UD O1: Which requires 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.

Development Management Standards:

15.2.1: Plot Ratio / Site coverage

15.2.2 Overlooking

15.2.3 Overshadowing

15.2.4 Soft landscaping

15.2.5 Hard landscaping

15.4.3 Residential Density

15.4.4 Housing Mix

15.4.5 Design, Layout and Boundary Treatments

15.4.7 Apartment Developments

15.4.10 Management Companies for Apartments

15.6.6 Public Open Space for Residential Development

15.7.5 Stopping Distances and Sightlines

15.7.8 Car Parking

Ballymore Eustance Village Plan

V BE1 Ensure new development complements and enhances the village scape, uses quality building materials, and employs best conservation practice in relation to protected structures.

V BE2 Restrict the maximum building height to two storeys.

5.2 Section 28 Guidelines:

National Planning Framework - Project Ireland 2040-updated in April 2025 sets out the focus on pursuing a compact growth policy at national, regional, and local level. From an urban perspective the aim is to deliver a greater proportion of residential development within existing built-up areas; to facilitate infill development and enable greater densities to be achieved, whilst achieving high quality and design standards.

Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (January 2024). These Guidelines set national planning policy and guidance in relation to the planning and development of urban and rural

settlements, with a focus on sustainable residential development and the creation of compact settlements.

Sustainable Urban Housing: Design Standards for New Apartments, (July 2023)

These guidelines were originally issued in 2018, as an update of the Sustainable Urban Housing: Design Standards for New Apartments guidelines published in 2015.

Quality Housing for Sustainable Communities (2007) These guidelines identify principles and criteria that are important in the design of housing and to highlight specific design features, requirements and standards that have been found, from experience, to be particularly relevant.

5.3 Water Framework Directive

- 5.3.1 The purpose of the EU Water Framework Directive is an initiative aimed at improving water quality throughout the European Union. The Directive was adopted in 2000 and requires governments to take a new approach to managing all their waters; rivers, canals, lakes, reservoirs, groundwater, protected areas (including wetlands and other water dependent ecosystems), estuaries (transitional) and coastal waters.
- 5.3.2 An Coimisiún Pleanála and other statutory authorities cannot grant development consent where a proposed development would give rise to a deterioration in water quality.
- 5.3.3 The appeal site is located c. 170 m from the LIFFEY_050 River Waterbody IE_EA_09L010600. This waterbody is classified as good ecological status in proximity to this appeal site. This is illustrated on the EPA mapping (<https://gis.epa.ie/EPAMaps/agriculture>).
- 5.3.4 I have assessed the application for the construction of an apartment building and a building refurbishment and site development works for which permission is sought and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale, and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

5.3.5 The reason for this conclusion is as follows:

- The small scale and nature of the development; and
- The site is connected to public water, sewer, and wastewater services.

5.4 Natural Heritage Designations

- 5.4.1 The subject site is not located within or adjacent to a European Site. The nearest designated site is Poulaphouca Reservoir SPA (Site code: 004063) which is located c. 2.7km to the east of the site.
- 5.4.2 In addition to this, the Red Bog, Kildare SAC (Site code: 000397) is c.8km to the north-east of the appeal site and the Wicklow Mountains SAC (Site Code: 002122) is c.8.8km to the east of the appeal site.
- 5.5.3 The appeal site is located c.544m to the east of the Liffey Valley Meander Belt pNHA (Site code: 000393), and c. 2.3km to the north-west of the Poulaphouca Reservoir pNHA (Site code: 000731)
- 5.5.4 A screening exercise for Appropriate Assessment will be undertaken in Section 8 below.

5.2. EIA Screening

- 5.2.1 The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

First Party Appeal

6.1.1 A first party appeal against the inclusion of condition 24 in the decision to grant planning permission for the development has been received from Farry Town Planning Limited on behalf of the applicant. Condition 24 seeks the payment of a Development Contribution in the amount of €61,998.76 for being the appropriate contribution to be applied to this development in accordance with the Development Contribution Scheme adopted by Kildare County Council on 19th December 2022. The reason for the condition states 'it is considered reasonable that the Developer should make a contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority.' The grounds of appeal are summarised as follows:

- The total sum was calculated on the basis of 11 new dwelling units. However, unit No.11 is an existing dwelling which is shown on drawing 23/08 titled '*Existing Site Survey*' and on aerial image 2 of the initial submission and is illustrated on drawing No.1 and photographs No's 4 and 5 of the planning report.
- Section 10.3 of the Scheme titles Supporting Town and Village Centre Development provides that 'a reduction of development contributions shall apply to land zoned as town centre for each of the relevant towns and villages as designated in the County Development Plan...Village Centre Zoning.... Ballymore Eustace.
- The Coimisiún is requested that the Council is directed to reduce the sum sought from €61,988 to €54,825 to take account of the fact that the Planning Authority has levied a charge for existing floorspace and to then apply the 33% reduction set out in the Development Contributions Scheme so that the amount due would be €36,732.

6.2 Planning Authority response to the First Party Appeal

6.2.1 The Planning Authority responded to the first party appeal by letter dated 27/8/24 which states that:

- Drawing No's 23/8/05, 23/8/10 and 23/8/11 submitted with the Further Information response state that the total floor areas of the various elements of this development are 31.56 m² (retail) and 911.4m² (apartment building). Floor areas are also provided for the existing house, but these are not included here as development contributions are not chargeable for this element of the development.
- Contributions are charged at €62 per m² and for the residential element of the scheme in accordance with Section 8.1 of the Development Contributions Scheme and €62 per m² for the retail element of the scheme.
- A 33% reduction has also been applied for Village Centre Zoning in accordance with Section 10.3 of the Development Contribution Scheme 2023-2029.
- A revised development contribution sheet is enclosed and shows a total contribution required of €39,170.56.

6.3 First Party Response

6.3.1 The first party responded to the Planning Authority correspondence by letter dated 9/9/24 and can be summarised as follows:

- The planning authority accepts that the sum of €61,988.76 is incorrect and should be replaced with a requirement for €39,170.56 to be paid.
- It is open for Coimisiún to reduce this further by €1,956.72 which is the council's charger for the 31.56m² retail unit. This outlet would not entail the construction of new floorspace and would be entirely within the footprint of the existing building.
- Section 2 of the Development Contributions: Guidelines for Planning Authorities advises that planning levies '*are not cash cows*' and states that a Council '*must ensure that it avoids levying development contributions that are excessively high*'. This approach accords with approach of An Bord Pleanála in appeal PL09.222386 in which the Board placed great weight on the need for a link between new developments and additional demands for services when calculating an appropriate contribution.
- The principle of proportionality, which is well established in the planning code, suggest there is a need for a nexus between the sum sought by Council on the

one hand and the infrastructure needs of a particular scheme and this is reflected in section 10.6 of the Development Contribution Scheme.

- The fact that the Council refused to apply this clause is inexplicable and the Coimisiún is invited to deduct the levy for this small shop from the sum which is now being sought.

6.4 Third party appeal

6.4.1 A third party appeal has been received from Linda Lynch and a number of other co-signed. The appeal can be summarised as follows:

- Although partially screened from public view the building is completely incongruous to its village centre location and includes elements such as balconies on the western elevation which form no part of existing architectural vocabulary.
- From the elevation on Drawing No. 23/08/09 the proposed development looks like a commercial or institutional building and is not in keeping with the character of the village in any way.
- Due to its scale, design and density, the proposed development is not in harmony with the traditional and rural nature of Ballymore Eustace.
- Inadequate parking at a village location where the same criteria to large urban centres do not apply.
- A total of 12 car parking spaces is required plus 1 additional accessible space are required to fully address the Council requirements as set out in the Further Information request letter. In their response the applicants did not put forward any other solutions to the parking capacity issue. According to the Councils statement this planning application did not meet the requirements to grant planning permission.
- A previous application was refused on the appeal site due to its proximity to the existing pedestrian crossing and the school area. The vehicular access to the proposal now being considered has been relocated to within a close proximity to both the pedestrian crossing and the school and therefore is still a concern. Can the Council advise what has changed with this development which is larger with more residential units and not enough dedicated parking when the

previous, smaller development with the same concerns was refused planning permission.

- The applicant has proposed that the site boundary is extended to include a full width section of the R411 to accommodate the proposed ingress / egress of the development. The Further Information response contains significant additional data and therefore the Council were not in a position to grant permission for this development and should have been requested to be re-advertised.
- The new entrance layout is an attempt to circumvent the planning condition in the request for Further Information item 4(c) to provide sight lines from the entrance by removing available car spaces positioned on a street with limited parking. This will eliminate 5 existing street parking spaces.
- The property, consisting of 12 dwellings will only have 10 dedicated parking spaces within the curtilage of the original property, so the net additional number of dedicated parking spaces is only 4. This proposal would make it more difficult for residents, visitors, and vulnerable members of the community to find safe and convenient parking, leading to more cars being parked in unsafe or unsuitable locations.
- The risk of accidents will be heightened due to the proposed development vehicular entrance being bound by the new modified wall of the building on the Naas side and the pillar and high wall of the adjoining property on the village side.
- A reduced sight line and lack of visibility of the drivers in vehicles exiting the proposed development regardless of where the stop sign is located is an impingement point for pedestrians and vulnerable residents using the footpath.
- The proposed development does not adhere to principles of sustainable development as it appears to prioritise short-term economic gains over the long-term well-being of the community.
- The lack of communal and private open space for future residents is a serious concern for both residents and the village. All new developments in the village reflect the small scale of the village and the need for reasonable levels of private open space for all.

- The density of development permitted should reflect the ambiance of the village and not that of a central city location.

6.5 First party response

6.5.1 A first party response to the third-party appeal has been received from Farry Town Planning Limited on behalf of the applicant. This can be summarised as follows:

- The heritage characteristics of Ballymore Eustance comprise a pivotal element in the design concept for the scheme and the proposed development would not be visible from the historic village.
- The west facing elevation is screened by existing trees, a boundary wall and proposed landscaping. The set back of the building from the street would reduce its impact when viewed from the public arena. While the eaves are higher than the building fronting the street, this house would act as a leading edge, so that the development would not form part of the historic street scene.
- The balconies are a necessary element required by the development plan.
- The Council require 1.5 spaces per unit and 1 visitor space per 4 apartments as set out in Table 15.8. These are maximum car parking standards and should not be viewed as a target as set out in the Development Plan.
- The third-party submission does not oppose the site layout or the juxtaposition of the proposed bays with either the proposed development block or any of the adjacent buildings on separate sites, it instead suggests that the Development Plan is incorrect, and the number of spaces provided is inadequate.
- The third-party objection is predicated on a misunderstanding that the proposed development consists of 12 residential units. The proposal will consist of 11 residential units only. At Further Information stage the design team added an additional parking space so there are 11 parking spaces for 11 units.
- Given the village centre location of the site and the convenient nature of local facilities and the bus terminal, future residents of this development are likely to exhibit relatively low car ownership rates. Most of the occupiers will

be able to park within the curtilage of the property and those who are not able will use kerbside spaces.

- The third-party appeal does not explain who the proposed access would prejudice road safety on or otherwise identify the actual source of any threat to public safety. Any jeopardy to members of the public would not stem from this particular development but rather from irregular parking by parents of school children within the village centre. The application was accompanied by a Road Safety Audit.
- The third party greatly overestimates the volume of traffic generated by the proposed development.
- The initial application included double yellow lines however as a result of the road safety audit at Further Information stage double yellow lines were replaced with appropriate physical measures, changing the kerb line by widening the footpath was used as the appropriate physical measure to prevent cars from parking on either side of this access.
- A solid white line was also introduced in the centre of the main road to prevent vehicles overtaking in the area to the front of the proposed new vehicle entrance. The red line boundary was extended to the east and west along the R-411 to allow for the additional street marking works recommended by the Road Safety Audit. These were deemed as being not significant by Kildare County Council and therefore re-advertising was not required.
- The view of the school entrance and playground for future residents is very limited due to the height of the boundary fence and the change in ground levels between the subject site and school.
- The school footpath and playground are close to the inter-allotment boundary fence which has the effect of further shielding children from any potential overlooking.

6.6 Planning Authority response to the Thid Party Appeal

- 6.6.1 The Planning Authority responded to the third-party appeal by letter dated 9/9/24 which states that the Planning Authority confirms its decision refers attention to the

Planning reports, internal department reports and prescribed bodies reports in relation to the assessment of this application.

6.7 Observations

6.7.1 A total of seven* observations have been received from the following:

1. Edel O'Keefe
2. Emma Marshall Clarke
3. Megan O'Neill
4. Martina Nolan Byrne
5. Gail Kinsella
6. Lucia Dorotikova
7. Jane Perry

*An eight observation was invalidated.

Edel O'Keefe

- Child safety concerns with residents and visitors will have full view of children arriving and departing school.
- Road safety concerns with reduced parking in the village and particularly beside the school will add to traffic congestion which is chaotic particularly at school times.
- Building design is out of sync with the current buildings in the village.
- Reduced parking in the village as a result of the proposed development, especially at the school.

Emma Marshall Clarke

- Traffic safety implications of the proposed development located adjacent to a primary school, during drop off and pick up this area the volume of traffic is significant.
- The traffic audit report submitted is wholly inadequate and is gross negligence. The Traffic report does not consider the specific traffic conditions which prevail

during school hours. Any development in this area should be subject to a thorough traffic assessment.

- The proposed development includes a number of balconies and windows that overlook the school yard. This presents a significant privacy and safety concern as young children will be exposed to the activities and scrutiny from the apartments.
- The previous planning notice was displayed at the same time as that for the proposed development, and many residents felt that no new application was being made. This was misleading and potentially deceptive. This underhanded approach undermines transparency and fairness of the planning process.

Megan O'Neill

- The proposal would significantly reduce the already limited parking in the village. The plan to include curved entrances and widen the footpaths on either side will further exacerbate the parking shortage, potentially removing 5 to 6 parking spaces from the street. The number of parking spaces within the development will lead to overspill parking, further congestion and it is unacceptable that community parking is being sacrificed for a private development.
- The plan to narrow the main road will increase congestion and pose significant risks for pedestrians and cyclists. This is concerning given the road's importance in maintaining safety and accessibility in the community. On weekly waste collection days, it is uncertain whether the bin lorry will be able to navigate the narrow entrance.
- The design of the apartment block is inconsistent with the character of Ballymore Eustace, a heritage village. The scale and design are completely out of place and do not enhance the village's streetscape.
- Safety and privacy concerns with respect to school children in the adjacent school at pick up, drop off and within the school yard.

Martina Nolan Byrne

- Permission previously refused on this site for smaller developments. The previous grounds of refusal still apply.
- Reduced parking is a major issue in the village. The removal of 5-6 on streetcar parking spaces would remove already limited car parking.
- Only 10 proposed car parking spaces for 11 units would lead to overflow of vehicles onto the streets of the village and into other local developments. Community parking for existing Ballymore Eustance is therefore being sacrificed for a private development. The proposal would exacerbate traffic congestion at school pick up and drop off times. Dangerous conditions will be created for the most vulnerable members of the village.
- The main road will be narrowed which is already congested and essential for traffic flow. This will pose a risk for pedestrians and cyclists and will make emergency vehicle access more difficult, putting lives at risk.
- The size and design of the proposed development is totally inappropriate for the location in a heritage village and is inconsistent with and does not enhance the streetscape and out of scale with the village.
- Views of children entering and exiting the school and views of the school yard.

Gail Kinsella

- The proposal would radically reduce parking in the village, and the entrance will remove 5-6 spaces on the street, contributing to an already critical parking shortage.
- The proposal would lead to overspill parking and more congestion, adversely affecting residents and visitors, particularly the elderly who rely on accessible parking.
- The proposed development will make the existing congestion at school pick up and drop off worse.
- The village has minimal public transport and is 10+km from the nearest train station, people cannot get to work without cars. Dublin Bus takes two hours to get into Dublin.

- The main road will be made narrower and will lead to congestion, endanger pedestrians and cyclists and hinder access for emergency vehicles. The bin lorry cannot fit into the proposed development.
- The scale and design are inappropriate for a heritage village, is modernistic and inconsistent with the character of the village. The proposed development does not enhance the streetscape and is out of scale with its surroundings.
- Risk of privacy and safety of the children attending the adjacent school. The inclusion of balconies overlooking the school yard is particularly troubling.
- The school is at full capacity, there is no doctor's surgery, playground, a creche and these facilities are needed more than extra housing.

Lucia Dorotikova

- The proposal would significantly reduce the available parking in the village and would remove 5-6 on-street car parking spaces. This will lead to more cars circling the village, worsening the traffic conditions.
- There are only 10 spaces for 11 units and the volume of cars entering and exiting the site would pose a significant safety issue.
- Narrowing the main road will increase traffic congestion and pose risks for pedestrians and cyclists and make it difficult for emergency vehicles, putting lives at risk.
- The proposed large rectangular building is inconsistent with the heritage character of the village and does not enhance the streetscape and is out of scale for this location.
- Residents and guests will have full view of children arriving and leaving the school and pre-school. Two properties have views of the school yard, and the development includes balconies from which children can be observed.

Jane Perry

- Support for a number of appeals with regard to the application.
- Primary concern relates to the proposed properties give residents and their guests would have visual access to children arriving and leaving the school and visual access to the playground from two of the properties. In addition, the

proposed development would include balconies, which allow residents to openly sit and watch the Children who attend the school.

- No justification for granting planning permission for dwellings that place our children and grandchildren in danger.
- Safety concerns relating to school drop off and pick up due to the proximity of the site to the school. Also, the inadequate number of car parking spaces and reduction of on-street car parking will put significant pressure on the village.

6.8 Further Responses

6.8.1 There are no further responses on file.

7 Assessment

7.1 I make the Coimisiún aware that this assessment is based on the updated plans and particulars submitted at Further Information stage. Having examined the appeal details and all other documentation on file, including submissions / observations, the reports of the local authority and inspected the site, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of development
- Refurbishment of two-bed house
- Density
- Residential amenity impacts
- Quality of the proposed units
- Traffic / Transportation
- Flooding
- Development Contributions- First Party Appeal
- Other matters
- Appropriate Assessment

7.2 Principle of development

7.2.1 As per the current village plan for Ballymore Eustace, the appeal site is within the 'A – Village Centre' zone with the objective '*To provide for the development and*

improvement of appropriate village centre uses including residential, commercial, office and civic use. It is noted that the purpose of this zone is to protect and enhance the special character of the village centre and to provide for and improve retailing, residential, commercial, office, cultural and other uses appropriate to the centre of a developing village. It will be an objective of the Council to encourage the use of buildings and backland and especially the full use of upper floors. The size and scale of all new developments, particularly retail developments shall not be out of character with the already established village centre area. Warehousing and other industrial uses will generally not be permitted in the village centre.

- 7.2.2 Dwellings and shop are permitted in principle in the Village Centre Zone. I am satisfied that the proposed development is acceptable in principle, subject to a full assessment of the proposed development.

7.3 Refurbishment of two-bed house

- 7.3.1 The proposed development includes the refurbishment of an existing two-bed house fronting Main Street to the southern boundary of the land.
- 7.3.2 While not a Protected Structure, this building is recorded on the National Inventory of Architectural Heritage (Entry No. 11820038). The NIAH appraisal notes that the house is of some social and historic interest, representing a component of the continued development of the historic core of Ballymore Eustace in the mid nineteenth century.
- 7.3.3 The refurbished dwelling would have a floor area of 115.7m², this floor area would exceed the minimum floor area requirements set out in table 5.1 of the Quality Housing for Sustainable Communities Design Guidelines. I note that some of the rooms are marginally below the required floor area standards, however having regard to the overall floor area being greater than the requirements, on balance the amenity provided for future residents would be acceptable. In addition to this, the private open space area to the rear would be below the standard set out in SPPR2 of the Sustainable and Compact Settlements Guidelines for Planning Authorities 2024. However, I note that for building refurbishment schemes on sites of any size or urban infill schemes on smaller sites (e.g. sites of up to 0.25ha) the private open space standard may be relaxed in part or whole, on a case-by-case basis, subject to overall

design quality and proximity to public open space. In this regard, the appeal site is within the centre of Ballymore Eustace and is proximate to amenities such as the Ballymore Bridge Loop and the Ballymore Eustace GAA Club and as such I am satisfied that the relaxation of the private open space standard is acceptable in this instance.

- 7.3.4 In addition to this, it is proposed to demolish the eastern and part of the northern portion of the existing dwelling on to the front of the site, which was previously in use as a 'Granny Flat'. The floor area proposed to be demolished is c. 79.32m² as stated on the application form. The purpose of the partial demolition is to make way for the vehicular access to the proposed apartment building.
- 7.3.5 The initial application included a report titled 'Assessment of the Proposed Works on the Existing Architectural Heritage' prepared by Chris Ryan notes that there would be minimal loss of historic fabric and that there would be no impact on the significance of the structure.
- 7.3.6 Overall, I am satisfied that the partial demolition of part of the existing dwelling to the front of the site is acceptable and would not have any impact on the character of the dwelling to the front of the site. The portion of the building to be demolished is an addition to the original building and its removal would allow for the reinstatement of the original shape and form of the house. Returning this building to its original form would be a benefit to the existing streetscape.

7.4 Density

- 7.4.1 The third parties have outlined concerns that the density of the proposed development is not in harmony with the traditional and rural nature of Ballymore Eustace.
- 7.4.2 The proposed scheme comprises the development of 10 apartments and the refurbishment of an existing dwelling on the land; to provide a total of 11 units on a site with a stated area of 0.176 ha this would equate to a density of 62.5 units per hectare. Ballymore Eustace is identified as a Village in Core Strategy of the *Kildare County Development Plan 2023-2029*. Table 2.5 of the Core Strategy defines Towns and Villages as *settlements with local service and employment functions*.
- 7.4.3 Table 3.7 of the Sustainable Residential Development and Compact Settlement Guidelines 2024 states that it is a policy and objective that development in rural towns

and villages is tailored to the scale, form and character of the settlement and the capacity of services and infrastructure (including public transport and water services infrastructure). In essence the Sustainable Residential Development and Compact Settlement Guidelines 2024, do not define a rigid universal density for rural villages such as Ballymore Eustace, however, increased density should respond to the context of the village.

- 7.4.4 In addition to the above, I note the direction of the National Planning Framework (First Revision) 2025 which broadly seeks to promote compact growth. National Strategic Outcome 1 seeks to deliver a greater proportion of residential development within the existing built-up areas of our cities, towns, and villages. This is combined with a focus on infill development, integrated transport and promoting regeneration and revitalisation of urban areas, pursuing a compact growth policy at national, regional, and local level will secure a more sustainable future for our settlements and for our communities. In addition to this, National Policy Objective 20 states that there will be a presumption in favour of development at 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.
- 7.4.4 While I note the concerns of the third parties (both objectors and submitters) I am satisfied that the proposed density at 62.5 units per hectare is acceptable in this case having regard to the infill / backland village centre location of the appeal site, in proximity to services and public transport (including Bus Route 65 and Route 884) is acceptable. I also note the direction provided in the National Planning Framework (First Revision) in terms of the promotion of compact growth and the need to deliver a greater proportion of residential development within the existing built-up areas of our cities, towns, and villages.

7.5 Residential Amenity of surrounding properties

- 7.5.1 Concerns are raised in relation to the scale and design of the proposed development which is not considered to be harmonious with the traditional and rural nature of Ballymore Eustace.
- 7.5.2 The first party states that the heritage characteristics of Ballymore Eustance comprise a pivotal element in the design concept and that the set back of the from the street would reduce its impact when viewed from the public arena.

Height / Layout / design

- 7.5.3 The plans submitted with the applicant's Further Information response show that the proposed apartment block would comprise of a two-storey building with a part hipped roof / part flat roof and a maximum height of 6.8m. I note that Objective V BER 2 of the *Ballymore Eustance Village Plan* included in Appendix 2 of the *Kildare County Development Plan 2023-2029* states that the maximum building height is restricted to two storeys. Having been on site, I note that the village centre of Ballymore Eustace complies of buildings of two storeys. However, it is noted that the school building to the west of the site is a single storey building.
- 7.5.4 Having considered the elevations and sections submitted with the initial application and at further information stage and having regard to Objective V BER 2 of the Ballymore Eustance Village Plan and the general two storey character of the buildings within the village centre, I am satisfied that the height of the proposed development is acceptable within its context.
- 7.5.5 Having considered the elevation drawings and CGI impacts submitted in the initial application and at Further Information stage, I note that the proposed apartment block is finished with a nap plaster finish, a horizontally laid timber cladding element and glazed balconies. Having considered the elevation and CGI's, I do have concerns relating to the widespread use of nap plaster, I am not satisfied that this finish would harmonise successfully with the village centre location of the proposed development. The proposed nap plaster finish should be replaced with a suitable high-quality finish such as brick. Subject to this alteration, I consider that the development would assimilate in a reasonable manner with the character of the area. This matter could be dealt with by way of condition, if the Coimisiún is of a mind to grant planning permission.
- 7.5.6 I note the concerns of third parties with respect to the heritage character of the village. However, I note that the proposed two storey apartment block would be to the rear of the site and would be screened from views from the public realm by the existing buildings to the front of the site. In this regard I refer the Coimisiún to CGI images submitted with the initial application and at Further Information stage which demonstrate that the apartment building would be visible from limited vantage points.

I am satisfied that the proposal would not have a detrimental impact on the character of Ballymore Eustace.

- 7.5.7 In addition to the above, I note that the single storey to the front of the site known as 'The Forge' is proposed to be retained, refurbished and changed into a retail space. Works to this building include the replacement of the existing concrete tile roof finish with natural slate, refurbishment of the existing windows, the replacement of the existing door with timber to match existing. The refurbishment of this building would be a benefit to the existing streetscape.

Overlooking

- 7.5.8 I note that both the third-party objector and all of the third-party submitters have raised concerns with respect to the potential for the proposed development to cause overlooking of the school. There are concerns that the proposal would give visual access to children arriving and leaving the school and visual access to the playground from the balconies and within two of the proposed apartments.
- 7.5.9 The proposed apartment block would be set back c. 4.195m from the western (school) boundary of the land. While I note that there are 6 first floor balconies which face towards the car park and pedestrian access to the school on the western elevation of the proposed development, these balconies do not face directly towards the front school yard, they face towards the car park and pedestrian entrance of the school. However, there is a potential for views into the school yard from the north facing side of these balconies. In this regard, I would recommend that full height screens are provided on the northern side of these balconies to ensure that there is no potential for overlooking into the front school yard. This matter could be dealt with by way of condition requiring an updated landscape plan, should the Coimisiún be of a mind to grant planning permission.
- 7.5.10 The proposed landscape plan submitted with the initial application (Drawing No. NOV-PRO/LMP/001) shows that a number of trees are proposed along the western boundary of the land including *Betula pubescens* (Downy Birch which grows to a height of 15-20m), *Betula Carpinus* (Hornbeam which grows to a height of 12-28m) and *Tilia Rubra* (Red Twigged Lime which grows to a height of 15-20m). In my opinion, the planting shown on the Landscape Plan should be further enhanced to ensure appropriate screening and this could be requested by way of condition seeing an

updated Landscape Plan. In addition to this, a boundary wall comprising of a 900mm high rendered block retainer wall with 1800mm high concrete post & timber panel fence is proposed along the western boundary. I am satisfied that these measures would effectively screen the proposed development from the school to the west.

7.5.11 In addition to this, I note that the proposed apartment building would be set back c. 2.9m from the northern boundary of the land. The front school yard is proximate to this area. There are two balconies at the north-western side of the building, which would have views into the school yard from their north-facing side of the balconies. In this case I would recommend that full height screens are provided on the northern side of these balconies to ensure that there is no potential for overlooking into the front school yard. In addition to this, I note that the windows on the northern elevation are proposed to serve bathrooms and the windows would be obscured by opaque glazing. I am of the opinion that there would be no overlooking from these windows. I note from the submitted landscape plan that a 900mm high rendered block retainer wall with 1800mm high concrete post & timber panel fence (similar to that proposed on the western boundary) is proposed along the northern boundary of the land. This should be augmented with similar planting to the western boundary. This matter could be dealt with by way of condition requiring an updated landscape plan, should the Coimisiún be of a mind to grant planning permission.

7.5.12 Having considered the foregoing and subject to appropriate conditions, I believe the proposed development would not have a detrimental impact on surrounding properties by way of overlooking.

Overshadowing

7.5.13 The proposed development comprises of a two-storey apartment with a maximum height of c. 6.8m which has a combination of pitched and flat roof. Given the limited height of the proposed building and the set back from the boundaries of the land, I am satisfied that the proposed development would not constitute an undue impact on the amenity of the adjoining properties by way of undue overshadowing.

7.6 Quality of the proposed units

7.6.1 The proposed development comprises of 10 units within a two-storey apartment block. I make the Coimisiún aware that I have assessed this element of the proposed scheme considering the Sustainable Urban Housing: Design Standards for New Apartments

2023 as the application was made prior to the Planning Design Standards for Apartments 2025 coming into effect.

Unit mix

- 7.6.3 In terms of national policy, Specific Planning Policy Requirement (SPPR) 2 of the 2023 Apartment Guidelines outlines that the housing mix specified under Specific Planning Policy Requirement 1 of the Apartment Guidelines, is relaxed where 1 to 49 residential units are proposed in building refurbishment schemes on sites of any size, or urban infill schemes on sites of up to 0.25ha.
- 7.6.3 Notwithstanding this, SPPR2 also highlights that all standards set out in this guidance shall generally apply to building refurbishment schemes on sites of any size, or urban infill schemes, but there shall also be scope for planning authorities to exercise discretion on a case-by-case basis, having regard to the overall quality of a proposed development.
- 7.6.4 The overall unit mix comprises of 2 no.1 bed unit, 4 no. 2 bed duplex units and 4 no. 2 bed apartments. I note that all of the two bed apartments comprise of two bed, 3 person units.
- 7.6.5 Paragraph 3.6 of the apartment guidelines states that planning authorities may consider two-bedroom apartments to accommodate 3 persons in apartment schemes and that this type of unit may be particularly suited to certain social housing schemes such as sheltered housing. In addition to this, paragraph 3.7 of the apartment guidelines states that it would not be desirable that 2 bed three person units would displace two bed four person units and therefore, no more than 10% of the total number of units in any private residential development may comprise this category of two-bedroom three-person apartment.
- 7.6.6 There is no evidence that the proposed development would cater for any form of sheltered accommodation and the number of 2 bed three person units within the scheme is in excess of 10%. I acknowledge the flexibility afforded building refurbishment schemes/urban infill schemes on sites of up to 0.25ha regarding these requirements, and I am satisfied that having regard to the overall unit mix within the proposed development and having regard to the location of the proposed development within the village centre, that the proposal is acceptable in this regard.

Floor area and room sizes

- 7.6.7 I refer the Board to SPPR3 and Appendix 1 of the Apartment Guidelines which outline minimum apartment floor areas and aggregate floor areas for living/dining/kitchen rooms; widths for the main living/dining rooms; bedroom floor areas/widths; and aggregate bedroom floor areas. Further to this, pursuant to paragraph 3.8 states that the majority of all apartments in any proposed scheme of 10 or more apartments shall exceed the minimum floor area by a minimum of 10%.
- 7.6.8 From an inspection of the submitted drawings and the accommodation schedule, I am satisfied that the overall floor areas comply with paragraph 3.8 of the Apartment Guidelines. In addition to this, I am satisfied that the room areas and widths comply with the Apartment Guidelines.

Dual Aspect

- 7.6.9 The Apartment Guidelines state that levels of natural light in apartments is an important planning consideration. More specifically, SPPR 4 of the Guidelines outlines that a minimum of 33% of dual aspect units will be required in more central and accessible urban locations. Furthermore, on urban infill schemes on sites of up to 0.25ha, planning authorities may exercise further discretion to consider dual aspect unit provision at a level lower than the 33% minimum outlined above on a case-by-case basis, but subject to the achievement of overall high design quality in other aspects.
- 7.6.10 Upon review of the plans 5 of the units are dual aspect. This represents a total of 50% and I am satisfied that the proposed development would comply with SPPR4.

Private Open space

- 7.6.11 Private open space is provided by way of terraces at ground floor level and balconies at first and second floors. Appendix 1 of the Apartment Guidelines require a private open space are of $5m^2$ for 1 bed apartments, $6m^2$ for 2 bed, three person apartments and $7m^2$ for 2 bed four person units.
- 7.6.12 All private amenity space achieves the required minimum depth of 1.5m and achieve the required areas. I am satisfied that the proposed private open space for all units is acceptable.

Public Open Space

7.6.13 Section 15.6.6 of the *Kildare County Development Plan 2023-2029* states that public open space should be provided at a rate of 15% of the total site area, the landscape plan submitted with the initial application shows an area of c. 436m² set aside for public open space. This represents a total of 26% of the site area. This would comply with the requirements of the *Kildare County Development Plan 2023-2029*.

Communal Open Space

7.6.14 Appendix 1 of the Apartment Guidelines sets out a minimum of 5m² communal open space per 1 bed apartment, 6m² for 2 bed 3 person apartments and 7m² per 2 bed 4 person apartments. On these figures, the proposed development is required to provide a communal open space area of c. 62m² of communal open space.

7.6.15 The landscape plan submitted with the application does not show an area specifically set aside for the purposes of communal open space. For building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha communal amenity space requirements may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality.

7.6.17 In my opinion an area of 62m² should be set aside for communal open space to serve the proposed development. I note that removing an area of 62m² from the area set aside for public open space would reduce the public open space area to 374m². This would still represent an area of public open space 21.2% which would comply with Section 15.6.6 of the *Kildare County Development Plan 2023-2029*.

7.6.18 The area of communal open space could be located to ensure that it is distinct from the public open space area, in my opinion, this could be located in the north-eastern corner of the site. In any case, this matter could be dealt with by way of condition which requires the provision of a landscape plan which shows the location of separate communal and public open space areas, should the Coimisiún be of a mind to grant planning permission.

7.7 Traffic / Transportation

7.7.1 Concerns have been raised by third parties in relation to traffic safety and traffic congestion within Ballymore Eustace, especially during school drop offs and pickups. Concerns have also been raised with respect to the impact that the removal of 6-6 car

parking spaces would have on the public on-street car parking spaces in Ballymore Eustace.

- 7.7.2 In response to this, the first party states that the third-party appeal does not explain who the proposed access would prejudice road safety on or otherwise identify the actual source of any threat to public safety. Any jeopardy to members of the public would not stem from this particular development but rather from irregular parking by parents of school children within the village centre.

Safety of the vehicular access to the site

- 7.7.3 I note that the further information response included by a Road Safety Audit prepared by Traffico. The Road Safety Audit highlights a number of potential issues with the design of the initial application, including vehicles emerging from the development into the R411, parking partially obscuring sight lines at the access to the proposed development and vehicles not being directed to for vulnerable road users.
- 7.7.4 The Road Safety Audit recommends a number of design changes to mitigate the highlighted concerns. These include moving the pedestrian crossing away from building lines to improve intervisibility between drivers and pedestrians, replacing double yellow line to the front of the proposed development (along the R411) and their replacement with physical measures to restrict errant parking on either side of the access. Finally, it is recommended that the stop road markings should be relocated upstream in advance of the pedestrian crossing.
- 7.7.5 I note that the planning officers report outlines that the Roads Department of Kildare County Council were satisfied with the information provided by the applicant with respect to the Road Safety Audit. Notwithstanding this, I am required to satisfy myself that the proposals are acceptable.
- 7.7.6 With regard to access to the site for large vehicles (fire tenders and bin lorries) I note that the Transportation Department requested further information with respect to the need for the applicant to show an internal Turning Bay to allow a bin lorry and a fire engine to turn at the end of the development. The applicant provided an autotrack drawing which shows that a fire tender can access this development either in a forward gear or in reverse from the main street without any constraints. In this regard I refer the Coimisiún to the Drawing No. 2328-DOB-XX-SI-DR-C-0070 Rev PO2 'Proposed Autotrack' which demonstrates such. I note that the area planners report states that

the roads department have assessed this response and had no objections and I am broadly satisfied that the proposals in this respect are acceptable. Notwithstanding this, I would recommend a condition requiring a Stage 3 road safety audit to be agreed with the planning authority prior to the occupation of any part of the development. This would ensure vehicular and pedestrian safety.

Footpath / Road width

- 7.7.7 I note concerns with respect to the increase in width of the footpath and the resultant decrease in width of the main carriageway at this location. I am satisfied the increase in width of the footpath proposed at this location would generally improve pedestrian safety and enhance accessibility in the area close to the school.
- 7.7.8 While I note that the road width would be reduced, I note from Drawing No. 2328-DOB-XX-SI-DR-C-0050 Rev P03 '*Proposed Site Layout*' submitted with the further information response that the eastbound carriageway would be reduced to c.3.5m. I refer the Coimisiún to Section 4.4.1 of the DMURS which shows that a standard lane width should lie in the range of 2.75m to 3.5m. As the eastbound lane would be 3.5m in width as shown on Drawing No. 2328-DOB-XX-SI-DR-C-0050 Rev P03 '*Proposed Site Layout*', I am satisfied that this width would not constitute a road safety issue.

Sightlines

- 7.7.9 I refer the Coimisiún to Drawing No. 2328-DOB-XX-SI-DR-C-0060 Rev P03 '*Proposed Road markings and Signage*' which shows sightlines of 49m in both directions at the entrance to the proposed development. This would comply with Table 4.2 of DMURS, and I am satisfied that this is acceptable.

Car Parking

- 7.7.10 Third parties and submitters highlight concerns with respect to the number of car parking spaces proposed as part of the development. The concerns relate to the fact that the number of car parking spaces is inadequate and as a result would lead to overspill parking throughout Ballymore Eustance and would have the knock -on effect of exacerbating existing traffic congestion in the village.

- 7.7.11 I refer the Coimisiún to Drawing No. 23/08 Rev 1 '*Proposed Site Layout Dimensioned*' which shows that the proposed development, as amended by way of Further

Information provides for 11 car parking spaces at a ratio of 1 car parking space per unit (10 apartments and 1 for the existing dwelling)

7.7.12 I note that table 15.8 of the *Kildare County Development Plan 2023-2029* sets out maximum car parking standards for both apartments and houses at a rate of

- 1.5 spaces per apartment and one visitor space per 4 apartments; and
- 1 space per house up to 3 bedrooms.

7.7.13 Section 15.7.8 states that residential development in areas within walking distances of town centres (800 metres i.e. a 10-minute walk) and high-capacity public transport services should be designed to provide for fewer parking spaces, having regard to the need to balance demand for parking against the need to promote more sustainable forms of transport, to limit traffic congestion and to protect the quality of the public realm from the physical impact of parking.

7.7.14 The provision of reduced parking standards below the maximum level allowable is acceptable in the case of this development as this would be in accordance with Development Plan policy and National policy to facilitate a reduced level of parking and encourage the shift to more sustainable modes of transport where feasible.

7.7.15 Having regard to the above, I am satisfied that the proposed parking is acceptable and complies with the *Kildare County Development Plan 2023-2029*.

7.7.16 I note the concerns of the third parties with respect to the removal of public car parking spaces from the roadway to the front of the site as a result of footpath widening to facilitate the proposed development. I note that some car parking spaces would be required to be removed. Having regard to Drawing No. 2328-DOB-XX-SI-DR-C-0060 Rev P03 '*Proposed Road markings and Signage*', I am of the opinion that a number of car parking spaces could be retained to the east of the site entrance without impacting on the sightline as shown. This would require the reduction of the footpath widening to the east of the site entrance. Should the Coimisiún be of a mind to grant planning permission then I would recommend a condition requiring an updated drawing to showing the maximum number of on-street car parking spaces to be retained to the east of the vehicular entrance, while maintain the appropriate sightline.

Congestion

7.7.17 I note the appeal concerns regarding overspill parking as a result of the proposed development and that such overspill parking could reduce the capacity of the road and parking in the area. While I acknowledge the concerns of the third parties, I am satisfied that in the event that overspill car parking becomes problematic; this could potentially be managed by the introduction of restrictive measures (such as double yellow lines) in the surrounding road network by the local authority.

7.7.18 Concerns are also raised that the proposal development would add to traffic congestion in the area. The proposal seeks to open 1 new vehicular access onto Main Street. In my opinion, the additional traffic movements which would arise on foot of this small-scale, infill residential scheme would have no significant impact on the operation of the existing road network. I note that the Kildare County Council had no objection to the proposed development subject to conditions. Having considered all the foregoing, I am satisfied that the proposed development would not cause or lead to traffic congestion on the surrounding road network.

7.8 Flooding

7.8.1 I have consulted the flood mapping system (www.floodinfo.ie) and I note that the subject land is within Flood Zone 'C'.

7.8.2 Having considered all the foregoing; I consider the proposed development would not result increase the risk of flood either within the site itself or the surrounding area. The proposal is acceptable from a flood risk perspective.

7.9 First Party Appeal

7.9.1 A first party appeal has been lodged by Farry Town Planning Ltd on behalf of the applicant against Condition No.24 of the Notification of Decision to Grant Planning Permission.

7.9.2 The first party make the case that the contributions set out in Condition 24 was calculated on the basis of 11 new dwelling units, however the proposal is for 10 new dwelling units. Further to this, Section 10.3 of the Development Contributions Scheme titled *Supporting Town and Village Centre Development* provides that 'a reduction of development contributions shall apply to land zoned as town centre for each of the relevant towns and villages as designated in the County Development Plan. This reduction was not applied in this case. The Coimisiún is requested that the Council is

directed to reduce the sum sought from €61,988 to €54,825 to take account of the foregoing.

- 7.9.3 By letter dated 27/8/24 the planning authority which includes a revised development contribution sheet and shows a total contribution required of €39,170.56 (this figure included a 33% reduction has also been applied for Village Centre Zoning in accordance with Section 10.3 of the Development Contribution Scheme 2023-2029).
- 7.9.4 However, by letter dated 9/9/24 the first party acknowledges that the planning authority has reduced the fee to taken into account the 33% reduction but states that it would be reasonable to reduce this amount further by €1,956.72 which is the Councils charge for the 31.56m² of retail floorspace. It is argued that the need for new or improved infrastructure because of the change of use to retail has not been identified. This imposition is not proportionate and does not reflect the demands of the proposal.
- 7.9.5 I make the Coimisiún aware that I have considered the Kildare County Council Development Contribution Scheme 2023-2029 and I note that Section 10.3 states that a 33% reduction of development contributions shall apply to land zoned as Town Centre including each of the relevant towns, villages and settlements as designated in the *Kildare County Development Plan 2023-2029*. I note that Ballymore Eustace is identified as a Village.
- 7.9.6 Having considered the foregoing; I am satisfied that a 33% reduction in fees is applicable in this case. I note the response of the Planning Authority to the first party appeal dated 27/8/24 including the revised development contribution sheet which a total contribution required of €39,170.56. This is considered to be acceptable.
- 7.9.7 I note the first party response dated 9/9/24 and the contents therein. However, I am of the opinion that the building which is the subject of the change of use has been vacant for some time and that the change of use would require the increase in use of services of that building. I am therefore of the opinion that the imposition of a fee of €31.56 per m² is reasonable and in line with the *Kildare Development Contribution Scheme 2023-2029*.
- 7.9.10 I recommend that Condition 24 be amended as set out below to require a financial contribution of **€39,170.56** in compliance with the *Kildare County Council Development Contribution Scheme 2023-2029*.

7.10 Other matters

Process of the application

7.10.1 Concerns have been outlined that the Further Information response contains significant additional data and therefore the Council could not grant permission for this development and should have been requested to be re-advertised. In addition to this, concerns were highlighted that the previous planning notice was displayed at the same time as that for the proposed development, and many residents felt that no new application was being made.

7.10.2 I note that issues relating to the validity of an application is a matter for the Planning Authority and is outside the remit of the Coimisiún.

8 AA Screening

- 8.1 I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The application is for the demolition of part of an existing house, the refurbishment of an existing house, the change of use of an existing building from vacant to retail and the construction of a two storey apartment block containing 10 units and associated site works in proximity to Ballymore Eustance Village Centre, Co. Kildare.
- 8.2 The subject site is not located within or adjacent to a European Site. The nearest designated site is the Poulaphouca Reservoir SPA (Site code: 004063) which is located c. 3.5km to the east of the site. In addition to this, the Red Bog, Kildare SAC (Site code: 000397) is c.8km to the north-east of the appeal site and the Wicklow Mountains SAC (Site Code: 002122) is c.9.6km to the east of the appeal site.
- 8.3 The appeal site is located c.544m to the east of the Liffey Valley Meander Belt pNHA (Site code: 000393), and c. 2.3km to the north-west of the Poulaphouca Reservoir pNHA (Site code: 000731)
- 8.4 There is no hydrological link between the subject site and the European sites.
- 8.5 Having considered the nature, scale, and location of the proposed development, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.

9 Recommendation

9.1 I recommend that planning permission be granted.

10 Reasons and Considerations

10.1 Having regard to the provisions of the *Kildare County Development Plan 2023-2029*, its location within the existing village of Ballymore Eustace and to the nature and scale of the proposed development and the prevailing pattern and character of development in the area it is considered that subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not negatively impact on the built heritage of Ballymore Eustace and would be acceptable in terms of traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11 Conditions

1. The proposed development shall be carried out and completed in accordance with the documentation and particulars lodged with the Planning Application on 16/11/23 as revised by Further Information received on 3/7/24 except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be conducted and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to the commencement of the development the following shall be agreed in writing with the Planning Authority:

(a) Revised drawings showing the retention of the maximum number of public car parking spaces along Main Street (R-411) to the front of the proposed

development without impacting on the sightlines to comply with Table 4.2 of DMURS.

Reason: In the interests of roads and traffic safety

3. The proposed development shall be amended as follows: -
 - (a) The proposed nap plaster finish of the apartment block shall be replaced with a high-quality finish such as brick.
 - (b) The north facing elevations of the balconies on the western elevation of the proposed apartment building at first floor level shall have full height, solid screening.
4. No development shall commence on the site until such time as the following have been agreed and complied with:
 - (a) A storm water drainage plan and storm water management plan are agreed to in writing with the planning authority.
 - (b) Detailed designs for all road works at the entrance to the site including the widening of the footpath works to Main Street (R-411) are agreed in writing by the planning authority.
 - (c) Requirements of Kildare County Council's Environment Section, the Naas Area Engineer, Transportation Section and Water Services Section.
 - (d) Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

- (e) Full details shall be agreed with the Planning Authority prior to commencement of development, and all works shall be completed by the applicant, to the satisfaction of the Planning Authority prior to the occupation of any house within the proposed development.

Reason: In the interests of roads and traffic safety, protection of the natural environment, public health and the proper planning and sustainable development of the area.

5. Prior to commencement of development and/ or occupation of the residential units, as applicable, a final Road Safety Audit(s) and/ or Quality Audit(s) of the development, including the main entrance, internal road, and path layouts, shall be submitted to, and agreed in writing with the planning authority.

Reason: In the interest of sustainable transportation, and traffic and pedestrian safety.

6. a) The permitted ground floor retail unit shall be used solely for retail purposes unless otherwise agreed in writing with the planning authority.
- (b) The retail unit shall operate between the hours of 0.700 and 22.00 unless otherwise agreed to in writing with the planning authority.
- (c) Prior to the commencement of the retail use details in relation to the signage for the retail unit shall be agreed in writing with the planning authority.

Reason: In the interest of visual amenity and to protect the character of the area

7. Notwithstanding the provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, no advertisement signs including any signs installed to be visible through the windows, advertisement structures, banners, canopies, flags, or other projecting elements shall be displayed or erected on the retail unit or within the curtilage of the site, unless authorised by a further grant of planning permission.

Reason: To protect the visual amenities of the area.

8. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
 - (a) Enhanced screening planting along the western of the land.
 - (b) Appropriate boundary wall and screen planting along the northern boundary of the land to match the planting on the western boundary of the land
 - (c) An area set aside for the purposes of communal open space for the apartment building. This area should be demarcated from the public open space area.

Reason: In the interest of visual amenity

9. The developer shall enter into water and wastewater connection agreements with Uisce Eireann, prior to commencement of development.

Reason: In the interest of public health

10. Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

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

11. All service cables associated with the proposed development, such as electrical, telecommunications and communal television, shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity

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

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

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

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

14. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the 'Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects,' published by the Environmental Protection Agency in 2021.

Reason: In the interest of sustainable waste management.

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

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

16. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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

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

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

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

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

19. The developer shall pay to the planning authority a financial contribution of **€39,170.56 (Thirty nine thousand one hundred and seventy euro and fifty six cent)** in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer, or,

in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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

Ronan Murphy
Planning Inspector

18 December 2025

Form 1 - EIA Pre-Screening

Case Reference	ABP-320328-24
Proposed Development Summary	Permission for (a) refurbishment of two-bed house; (b) refurbishment and change of use of a separate adjoining building from a nil use to retail use; (c) demolition of family flat which forms part of the existing two-bed house at item (a) above and alterations/improvements to this existing two-bed house; (d) new vehicular access and ten no. car parking bays and ten bicycle spaces; (e) construction of a residential building and (f) all associated site works.
Development Address	Main Street, Ballymore Eustace, County Kildare.
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project.' Proceed to Q2.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	

3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?

<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5, or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	Part 2 Class 10 (b) (i) Construction of more than 500 dwelling units. The proposed development is for 10 dwellings

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?

Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____

Form 2 - EIA Preliminary Examination

Case Reference	ABP-320328-24
Proposed Development Summary	Permission for (a) refurbishment of two-bed house; (b) refurbishment and change of use of a separate adjoining building from a nil use to retail use; (c) demolition of family flat which forms part of the existing two-bed house at item (a) above and alterations/improvements to this existing two-bed house; (d) new vehicular access and ten no. car parking bays and ten bicycle spaces; (e) construction of a residential building and (f) all associated site works.
Development Address	Main Street, Ballymore Eustace, County Kildare.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The development comprises a small-scale residential development in village centre so is not exceptional in the context of the existing environment. A short-term construction phase and permanent operational phase will generate different waste streams, emissions, and pollutants but none are considered significant due to the limited scale of the proposal.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	Briefly comment on the location of the development, having regard to the criteria listed. The development is situated on a backland site and surrounded within a Village centre by a school to the west and residential to the east. The development site is landlocked but is proposed to be accessed from Main Street, Ballymore Eustace to the south. There is no direct hydrological links to any European sites.

	The development is removed from sensitive natural habitats, dense centres of population and designated sites and landscapes of identified significance in the County Development Plan.
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).	Having regard to the nature of the proposed development, its location removed from sensitive habitats/ features; likely limited magnitude and spatial extent of effects; and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	
There is a real likelihood of significant effects on the environment.	

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)