



An  
Coimisiún  
Pleanála

## Inspector's Report

**ABP-321555-25**

<b>Development</b>	Construction of 15 houses with all associated site works.
<b>Location</b>	Dangan, Kilmacow, Co. Kilkenny.
<b>Planning Authority</b>	Kilkenny County Council.
<b>Planning Authority Reg. Ref.</b>	2460364.
<b>Applicant(s)</b>	CSC Construction Ltd.
<b>Type of Application</b>	Outline Permission.
<b>Planning Authority Decision</b>	Refuse Outline Permission.
<b>Type of Appeal</b>	First Party.
<b>Appellant(s)</b>	CSC Construction Ltd.
<b>Observer(s)</b>	Eamonn Augustine O'Duibhgeannain.
<b>Date of Site Inspection</b>	3 <sup>rd</sup> April 2025. 30 <sup>th</sup> October 2025.

**Inspector**

Kathy Tuck.

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## **1.0 Site Location and Description**

- 1.1. The subject site which has a stated area of 0.55ha is situated within the townland of Kilmacow Co. Kilkenny. Kilmacow is located approximately c.43.3km to the south of Kilkenny City Centre and approximately c.4km to the north of the boundary of Co. Kilkenny and Co. Waterford.
- 1.2. The appeal site is backland in nature and situated to the rear of a bungalow dwelling which has been recently extended and modified. Access to the subject site is proposed from the Dangan Road. The site is relatively flat in nature and rectangular in form.
- 1.3. A housing development on an adjacent site to the south is currently under construction and the immediate uses in close proximity to the site comprise of a mix of agricultural and residential uses. There are a number of community uses including a school in close proximity to the site.

## **2.0 Proposed Development**

- 2.1. The proposed development is seeking Outline Permission for the following:
  - 15 no fully serviced dwelling houses.
  - upgrading of existing entrance and access road.
  - associated public service connections and upgrades.
  - all associated and ancillary site work

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Following a request for further information, the Planning Authority issued on the 27<sup>th</sup> November 2024, a notification to refuse outline planning permission for the following reasons:

1. The development has a proposed density of 27.2 units per hectare, which, when considered against Section 3.3.5 Rural Towns and Villages (<1,500 population) of the Sustainable Residential Development and Compact

Settlements Guidelines for Planning Authorities 2024, and, the recommended 15-20 units per ha in the Kilkenny City and County Development Plan 2021-2027, is excessive, out of character and fails to provide a transitional arrangement for Kilmacow, a small town without adequate employment facilities to adsorb the proposed development density on its own and in combination with other adjacent sites and which, given its location towards the edge of the village, also fails to respond positively to the established context, including the surrounding village scape and pattern of development to the north, east and west (which mainly comprise of detached dwelling houses). The proposed development is therefore contrary to Section 3.3.5 Rural Towns and Villages (<1,500 population) of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024, and, Sections 4.8 and 13.4.1 of the Kilkenny County Development Plan, and, to the proper planning and sustainable development of the area both at present and into the future.

2. The proposed development is premature pending the adoption of the Kilmacow Masterplan as a variation to the Kilkenny County Development Plan 2021-2027 and as such may prejudice the delivery of a necessary east to west link route from the L3403 in Dangan to the L3401 in Narabane, which will help alleviate existing traffic congestion in the village centre and associated road safety concerns whilst also providing a key piece of infrastructure for the future development of Upper Kilmacow Village to the west and north. This link road is specifically stated in 'Section 5.3 Guiding Principles, Movement' of the amended draft Kilmacow Masterplan which has been agreed by elected members and is pending adoption as part of a variation to the Kilkenny County Development Plan 2021-2027. The granting of the development in the interim will thus be contrary to the proper planning and sustainable development of the village.
3. The proposed development has failed to demonstrate that adequate visibility splays required can be achieved. The proposed development therefore would result in a substandard form of development and result in a potential traffic hazard.

4. The proposed development is premature pending the delivery of sustainable transport infrastructure in terms of adequate footpaths cycleways and public lighting to serve the proposed development linking the proposed scheme to the various community, recreational and commercial uses within the village. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The 1<sup>st</sup> report of the Planning Officer, dated the 20<sup>th</sup> September 2024, notes the site location and site details, provides for an EIA and AA screening determination, provides details of the planning history pertaining to the subject site, provides details of consultee reports received and a summary of objections received, and provides for a summary of all relevant national, regional and local planning policies.

The assessment notes that the subject site is situated within the development boundary of Kilmacow as per the Kilkenny County Development Plan 2021-2027 and that the local area plan for Kilmacow expired in 2015. As there is no longer a local area plan in place for Kilmacow, the appeal site is currently not zoned.

The assessment raises concern over the layout proposed and the implications it may have upon the delivery of an east west access link road in the absence of the Draft Kilmacow Masterplan. The density proposed of 27.2 units per hectare was considered high having regard to Section 3.3.5 (rural towns and villages) of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities. Concern was also raised with regard to sightlines, and the absences Traffic and Transport Assessment. As such a request for the following further information was issued:

1. Consider a revised the density to comply with Section 3.3.5(rural towns and villages) of the Sustainable Residential Development and Compact Settlements Guidelines and the delivery of an east to west access route from the L3403 in Dangan to the L3401 in Narabane.

2. Amend sightlines from the junction of the access road to the L3403 Dangan Road showing clear unobstructed sightlines for a distance of 45m in both directions (50 kmph zone) from a 2.4m setback, and also provision of 45m sightlines for any right turning vehicle into the site off the L3403 Dangan Road.
3. Submit a Traffic and Transport Assessment.

The applicant submitted the following response on the 1<sup>st</sup> November 2024 which can be summarised as follows:

1. Guidance set out in the sustainable residential development in urban area guidelines 2009 is that development must strike a balance in meeting the needs and demands of modern life, but in a way that is sensitive and responsive to the past. Centrally located development in small towns and villages could achieve densities of up to 30-40 dwellings per hectare, whereas edge of centre sites should achieve 20-35 dwellings per hectare. Reference made to permission granted under ABP-306289-19 ruled that 30 dwellings per hectare was suitable. The proposed density for this site is 27.2 and is line with precedent and is similar in density to its surroundings and sustainable use of land.

Future Kilmacow Masterplan is still some time away from being adopted. Draft Masterplan is not a statutory document and does not provide proposals or policy objectives for a link road between L3403 Dangan and L3401 Narabaun roads and none earmarked at this location.

2. Revised PL03 site layout to show clear and unobstructed 45m sightlines (from that previously proposed at 65m) set back 2.4m from the roadside edge as advised.
3. No revised transport or access arrangements in relation to this proposal or any further clear proposal from the Local Authority as to its ambitions or location for the East to West Link Road, a Traffic and transport assessment at this moment would be fictional and premature and is not appropriate in this case.

The second report of the Planning Officer dated the 19<sup>th</sup> November 2024 provides for an assessment of the further information received and notes that the Kilmacow Masterplan is currently at draft stage. The Chief Executive's draft was recently presented and approved by councillors in early November and now includes for the



following text 'it is proposed to provide a new link road linking the Narrabane Road to the Dangan Road north of the church and graveyard lands which will create a new urban street enhance pedestrian and vehicular connectivity and provide appropriate access to development lands'. Therefore, it was considered that the proposed development is premature pending adoption of this variation which will facilitate a vital piece of infrastructure for the future development of Upper Kilmacow assisting to alleviate significant traffic disruption and congestion in the centre of the village.

The report further notes that ABP decision on planning permission reg. ref.19/731/PL10.306289 in December 2020 predated the adoption of the Sustainable Residential Development and Compact Settlement Guidelines in 2024. The density and pattern of development in its current form is considered to be excessive and out of character with the surrounding village scape and pattern of development to the north. The report concluded with a recommendation to refuse permission in line with Reason 1 and Reason 2 of the decision issued.

It is noted, that additional comments were included in this report by the Senior Planner which recommend that the further reasons for refusal should be included which related to development failing to provide adequate sightlines and issues with the proposal being premature pending the delivery of sustainable transport infrastructure within Kilmacow.

### 3.2.2. Other Technical Reports

Kilkenny Fire Services: Notes that a Fire Safety Certificate is not required before works commences on site.

#### Roads Department:

Dated the 20<sup>th</sup> September 2024 - Reference is made to the Draft Local Plan for Kilmacow which gives consideration to include an objective to provide a link road between the L3403 and the L3401 – however there would be limited opportunity to provide such due to the level of ribbon development along the road. The layout of this development would prejudice one such option – considered premature pending the finalisation of the Kilmacow Local Area Plan.

Applicant should be requested to reconsider the layout which would preserve the option to provide a link from the L3403 to the L3401 and allow for some level of development on site.

Dated 19<sup>th</sup> November 2024 – Site visibility splays as detailed require works to lands outside applicants' ownership. No letter of consent was submitted. Applicant has not proposed an alternative design layout as requested to allow the Link Road from the L3403 to the L3401 and such to permit the proposed development would prejudice one such option. Recommends the permission be refused.

### **3.3. Prescribed Bodies**

None received.

### **3.4. Third Party Observations**

The Planning Authority received 3 no. submissions in response to the proposed development. They can be summarised as follows:

- Development of rural homes within the village of Kilmacow is welcomed, in order to provide for existing demand and strengthen the role and viability of the Village into the future.
- all such development must have due regard to prevailing spatial, environmental and planning requirements, in the interest of achieving equitable and sustainable development of the Kilmacow rural area.
- Proposal does not accord with the sequencing of residential development established within the Kilkenny County Development Plan 2014-2020 which require the proportionate growth of Kilmacow in agreement with the principles of small town/village growth outlined in the National Planning Framework.
- Considering the number of extant development permissions identified along the Dangan Road it is asserted that Kilmacow has seen a significant level of planning activity in recent years.

- Current proposal seeks permission for a high density of residential units (30 per hectare) - evidence based justification to address the overdevelopment of the subject site has not been provided.
- Proposed development is clearly contrary to the provisions of the 2014 Development Plan, and the Draft 2021 Plan, with a gross density of over 30 units per hectare in a style befitting of an urban infill site.
- The submitted site layout plan (Drawing Ref, 21-111-PL03) does not provide for integration of the scheme with the wider village - the scheme presents as an insular, high-density development, terminating in a cul-de-sac, with little reference to the surrounding characteristics of predominately detached rural dwellings in the surrounding village area.
- The proposed development does not seek to integrate with the established
- Vernacular heritage as unique to Kilmacow. Design and layout as proposed is more suited to an urban setting, providing little embellishment to the existing village attributes.
- Layout has not had cognisance to the prevailing rural characteristics of Kilmacow and cannot be compared with low density, sensitively designed schemes such as that at Elderwood.
- This will have a detrimental impact upon the currently 'under pressure' Local Road - subject development will incrementally exacerbate road traffic conditions and decrease pedestrian and cyclist safety along the Dangan Road.
- Sightlines are not feasible from the proposed entrance.
- Long-standing issues regarding storm water capacity affecting development within Kilmacow.
- Careful consideration needs to be given to the fact that this development is on a landbank that is one of the last remaining 2 options for a One-Way Management system in Kilmacow Upper village
- Proposal does not address the previous concern raised regarding privacy.
- Will add to ongoing congestion issues.

## 4.0 Planning History

### 4.1. Subject site

#### **PA Reg. Ref. 21/463 (ABP-311117-21)**

Permission refused and upheld on appeal to the ABP for 17 houses, upgrading of existing entrance and access road and all associated and ancillary site works. Reasons for refusal:

*‘Having regard to the policies and objectives of the Kilkenny City and County Development Plan 2021-2027, Section 4.17 of the Sustainable Residential Development in Urban Areas – Planning Guidelines 2009, the design and layout of the proposed development, it is considered that the proposed development would result in a poor design concept that is substandard in form and layout due to the lack of sufficient high quality appropriately landscaped useable open space, and where the public open space proposed comprises a narrow tract of land, would lead to conditions injurious to the residential amenities of future occupants, would not be in compliance with section 13.20.2.1 of the Development Plan and would conflict with Ministerial Guidelines. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.’*

### 4.2. Within the Vicinity

#### Lands Immediately to the north:

##### **PA Ref: 17/636**

Permission GRANTED for a dwelling and all associated site works.

##### **PA Ref: 22115**

Extension of permission GRANTED for PA Ref 17/636 up to the 17<sup>th</sup> November 2027.

#### Lands Immediately to the south:

##### **ABP-306289-19 (PA Ref. 19/731)**

Permission GRANTED on appeal to An Bord Pleanála for the construction of 4 no. 1 bedroom single storey dwelling houses, 15 no. 2 bedroom two storey dwelling houses, 6 no. 3 bedroom two storey dwelling houses, proposed entrance and access road and

all associated ancillary site works and associated public service connections and upgrades.

**PA Ref 24/37**

Permission GRANTED for amendment to the permitted development (Kilkenny County Council Planning Ref: (19/731) including a change from two bed two storey to three bed two storey dwellings for proposed house numbers: 1,2,3,4,5,17 and 21 and all associated ancillary site works.

**PA Ref: 25/65**

Extension of permission GRANTED for PA Ref 19/731 up to the 7<sup>th</sup> December 2026.

Lands to the south – adjoining the Cemetery

**ABP-306289-19 (Pa Ref: 21/363**

Permission GRANTED on appeal to An Bord Pleanála for the following:

- demolition of single storey annex to the Former Creamery Building, and 3 No. Out-Buildings on the site.
- Renovation and change of use of the Former Creamery Building to 4 No. residential apartments, comprising of 2 no. two-bedroom apartments and 2 No. three-bedroom apartments.
- Provision of vehicular and pedestrian entrances onto Dangan Road with associated upgrade works to include a new section of footpath.
- 2 No. parking spaces and a pedestrian crossing.
- Construction of: 2 No. dormer two-bedroom semi-detached houses; 2 No. two-storey three-bedroom semi-detached houses; and 1 No. two-storey three-bedroom detached house and all associated site development works.

## 5.0 Policy Context

### 5.1. National Planning Framework, First Revision 2025.

A number of overarching national policy objectives (NPOs) are of relevance, targeting future growth within the country's existing urban structure. NPOs for appropriately located and scaled residential growth include:

**National Policy Objective 3:** Eastern and Midland Region: approximately 470,000 additional people between 2022 and 2040 (c. 690,000 additional people over 2016-2040) i.e. a population of almost 3 million Northern and Western Region: approximately 150,000 additional people between 2022 and 2040 (c. 210,000 additional people over 2016-2040) i.e. a population of just over 1 million; Southern Region: approximately 330,000 additional people over 2022 levels (c. 450,000 additional people over 2016-2040) i.e. a population of just over 2 million.

**National Policy Objective 7:** Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements and ensure compact and sequential patterns of growth.

**National Policy Objective 9:** Deliver at least 30% of all new homes that are targeted in settlements other than the five Cities and their suburbs, within their existing built-up footprints and ensure compact and sequential patterns of growth.

**National Policy Objective 11:** Planned growth at a settlement level shall be determined at development plan-making stage and addressed within the objectives of the plan. The consideration of individual development proposals on zoned and serviced development land subject of consenting processes under the Planning and Development Act shall have regard to a broader set of considerations beyond the targets including, in particular, the receiving capacity of the environment.

**National Policy Objective 12:** Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

**National Policy Objective 22:** In urban areas, planning and related standards, including in particular building height and car parking will be based on performance criteria that seek to achieve well-designed high quality outcomes in order to achieve targeted growth.

**National Policy Objective 43:** Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location

**National Policy Objective 45:** Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration, increased building height and more compact forms of development.

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

- 5.2.1. The RSES supports the implementation of the NPF by providing a long-term strategic planning and economic framework for the region up to 2031.
- 5.2.2. *Regional Policy Objective 3.1:* Key stakeholders, including local authorities in the Region shall, through their policies and objectives including development plans, commit to the delivery of the Growth Strategy as detailed in the RSES. The growth strategy for the Region includes, inter alia, delivering the sustainable growth of the Metropolitan Area through the Dublin Metropolitan Area Strategic Plan (MASP) and embedding a network of Key Towns through the Region to deliver sustainable regional development.
- 5.2.3. *Regional Policy Objective 3.2:* Local authorities, in their core strategies shall set out measures to achieve compact urban development targets of at least 50% of all new homes within or contiguous to the built-up area of Dublin city and suburbs and a target of at least 30% for other urban areas.

### 5.3. Section 28 Guidelines

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

- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the 'Building Height Guidelines').
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009).
- Nature-based Solutions to the Management of Rainwater and Surface Water Runoff Urban Areas Water Sensitive Urban Design Best Practice Interim Guidance Document, 2022.

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

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

According to the results from the 2022 Census, Kilmacow has a population of 671 people and as such in accordance with Section 3.3.5 of the Guidelines identify areas with a population less than 1500 people to be considered to be a 'Rural Towns and Village'. Table 3.7 of the guideline's states that:

*'The density of development at such locations should respond in a positive way to the established context and does not prescribe a specific quantum. It is a policy and objective of these Guidelines 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).'*

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



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

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

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

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

#### **5.4. Kilkenny City and County Development Plan 2021-2027**

- 5.4.1. The site is governed by the policies and provisions contained in the Kilkenny City and County Development Plan 2021-2027. Relevant policy includes the following:
- 5.4.2. Chapter 4 – Core Strategy

Kilmacow is identified as a Rural Town and Village as per Table 4.3. of the Plan. Section 4.6 sets out the policy for smaller towns and villages and notes that the smaller towns and villages within the County need to be developed in a way that strengthens their role as local service centres whilst respecting their existing character. A total of 22 settlements have been identified in this category. Housing development within the

development boundary of the small towns included in Table 4.3 County Settlement Hierarchy will not be subject to the rural housing policy as outlined in Section 7.8 Rural Settlement Strategy.

The Plan further states that in order to offer an alternative to the provision of single houses in surrounding serviced rural areas, proposals for developments with densities of up to 10 dwellings per hectare will be considered in smaller towns and villages.

The scale and density of development in these settlements will depend on a number of factors including:

- Availability of infrastructure including appropriate social, waste water treatment facilities and water supply,
- Contribution to the enhancement of the village form by reinforcing the street pattern or assisting in the redevelopment of backlands
- Contribution to the protection of the architectural and environmental qualities of the village
- Capacity of the existing services in the village to accommodate the proposed development.

Objective 4La seeks: To develop a set of criteria and a programme to carry out an analysis of the Smaller Towns and Villages (Tier 4) to consider:

- (a) The provision of zoning maps where appropriate (particularly for Ballyragget, Mooncoin, Paulstown, Piltown, Kilmacow and Urlingford)
- (b) Developing specific objectives for core areas, focal spaces, amenities and opportunity sites etc.,
- (c) Identify land with development constraints. This programme to be commenced within 12 months of the coming into effect of the Plan.

Figure 4.15 - Site is located within the settlement boundary for Kilmacow.

Section 4.8 of the Plan relates to development management requirements and states that for smaller towns and villages with settlement boundaries, individual serviced sites for individual houses and appropriately designed small housing schemes are

promoted where social and engineering infrastructure are available. Housing will be encouraged at 15-20 units to the hectare and design should be sympathetic to the character of the existing settlement. Designs for the development of backlands should seek, where feasible, to maximise permeability for pedestrians and connectivity to existing streets and roads, rather than creating cul-de-sacs and dead-ends.

#### 5.4.3. Chapter 6 - Housing and Community.

Strategic Aim: To develop and support vibrant sustainable communities in an attractive living and working environment where people can live, work and enjoy a high quality of life, with access to a wide range of community facilities and amenities, while ensuring coordinated investment in infrastructure that will support economic competitiveness.

Strategic Objectives:

- 6A - To ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- 6B - To secure, through the application of Development Management Requirements within the Plan, the making of quality urban spaces embodying inclusive and universal access design principles for our building stock, public realm, amenities and transport services.
- 6Ba - To ensure that people are at the centre of all placemaking activities. To ensure that co-design and participatory processes are used to engage people in shaping their built environment, with a particular focus on supporting harder to reach communities to take part in public engagement processes

#### 5.4.4. Chapter 10 – Infrastructure and Environment.

Objective 10B - To implement the measures of the River Basin Management Plan, including continuing to work with communities through the Local Authority Waters Programme to restore and improve water quality in the identified areas of action.

#### 5.4.5. Chapter 12- Movement and Mobility

Table 12.1 Modal Share targets for County Kilkenny.

Modal Share Objective 12G: To achieve a modal shift from the private car to walking or cycling in accordance with the targets in Table 12.1 for County Kilkenny.

Table 12.2: Bicycle parking requirements.

5.4.6. Chapter 13 - sets out requirements for developments.

Strategic Aim: To encourage the creation of living and working environments of the highest quality by ensuring a high quality of design, layout and function for all development under the Planning Acts and Regulations, to conserve and build upon positive elements in the built and natural environment, and to protect amenities.

- Section 13.3 Urban Design.
- Section 13.4 Compact Growth.
  - Section 13.4.1 Density.
- Section 13.5 Infill Development

It is Council policy to facilitate infill development where minimum requirements can be met and where the proposed development will not materially impact the residential amenity or character of neighbouring developments.

- Section 13.9 Separation Distance between Houses.
- Section 13.10 Boundary Treatment of House Sites.
- Section 13.10 Boundary Treatment of House Sites.
- Section 13.13.4 Daylight and Sunlight.
- 13.19 Phased Residential Development.

5.5. **Kilmacow Masterplan 2025**

- 5.5.1. Kilkenny County Council adopted a Masterplan for Kilmacow in November 2024 at the Piltown Municipal District Meeting. The purpose of the Masterplan is to guide the development of Kilmacow into the future and to influence and deliver on real change for the town in order to make it a more attractive destination in which to live, work, visit and do business. I note that this masterplan is a non-statutory document.

- 5.5.2. The subject site is situated within the settlement boundary of Kilmacow Upper as per Figure 1.1 of the Masterplan and is indicated on Figure 3.23 Land Use as having a residential use.
- 5.5.3. Section 5.0 of the Masterplan sets out the vision for the development of Kilmacow and states as follows: 'The vision for Kilmacow is to embrace its unique rural village form, sense of community and strategic position between rolling Kilkenny countryside, the City of Waterford and strategic road network to enhance Kilmacow as a sustainable and attractive rural village to live, work and play for everyone in its community'.
- 5.5.4. Section 5.3 of the Masterplan sets out the guiding principles which have been developed as a set of principles to help guide the ideas, actions and strategies and include: Streets and Public Spaces; Movement; Heritage and identity; Built Form and Use; Vitality and Vibrancy; and Sustainability and Climate Resilience. It is stated under the heading movement '*To provide a new link road, linking the Narrabaun Road to the Dangan Road, north of the church lands, which will create a new urban street, enhance pedestrian and vehicular connectivity and provide appropriate access to development lands.*'

## 5.6. Natural Heritage Designations

The subject site is not situated within or adjacent to any Natura 2000 sites. The subject site is situated c.4.225km to the north of the Lower River Suir SAC (Site code 002137).

## 6.0 EIA Screening

The development does fall within a class of development set out in Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, (as amended). However, the scale of the proposed development does not exceed the thresholds set out and I do not consider that any characteristics or locational aspects (Schedule 7) apply. I conclude that the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Appendix 1 and Appendix 2 of my report refers.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

This is a 1<sup>st</sup> party appeal against the decision of Kilkenny County Council to refuse outline permission. The grounds for appeal may be summarised as follows:

- Refusal Reason 1 (density/principle of development).
  - Proposed development accords with National guidance Sustainable Residential Development in Urban Areas Guidelines, 2009.
    - Aim is to strike a balance between meeting need and demands of modern life but that is sensitive and responsive to the past.
    - Centrally located sites in small towns and villages should achieve a density of 20-35 units per hectare – Stated by inspector ABP-311117-21.
    - Adjoining site to the south (in the ownership of the Local Authority) has a density permitted at 34 units per hectare and to the north a density of 2.7 units per hectare.
    - Proposed development creates a gradual softening downwards from 34 units/ha which is appropriate use of serviced lands within the settlement boundary – achieving NPF objectives 3a, b and c.
    - Planning Authority in direct violation with refusal – no basis in legislation.
    - Land is not zoned but within development boundary.
  - ABP accepted 30 units per hectare under ABP-311117-25
    - Also stated that development to the north of village (Elderwood Estate) for 8 dwellings with a density of 4.3units/hectare was considered to be a very low density.
    - There needs to be a balance between the provision of higher densities and higher quality of development – no one size fits all approach.
  - Difficult to pinpoint exactly where the Village Centre is – Kilmacow divided into and upper and lower area.

- Site not strictly centre or edge of centre – multiple housing developments exists further north of appeal site.
- Historically village centre has been located around the village amenities and services – Local Authority have considered the site to be more peripheral.
- Local Authority has not defined what they consider the village centre to be – perhaps 200/300m of church and facilities.
- If the Local Authority considered the site in line with the adjoining site to the south then the density of 34 units/ha is acceptable but if considered against development permitted to the north then 2.7units/ha is acceptable
- Unclear how this is weighted.
- Site directly adjoins varying densities as such proposal should be considered on its own merits.
- Development will provide for much needed affordable homes.
- Development to the south has been purchased by the Local Authority so wont come to market.
- Refusal Reason 2 (Kilmacow Master plan/road objective).
  - Draft Kilmacow Masterplan still not adopted and available on Kilkenny County Councils web page – under non statutory plans.
  - Refusal reason refers to amended draft pan which was agreed by member on the 7<sup>th</sup> Nov 2024 – not available to view so public don't have accurate and up to date information.
  - Draft Plan does not include a proposed policy or objective for a road link between the L3403 and the L3401.
  - Second reason for refusal relies upon non compliance with Section 5.3 of the draft plan stating this development may prejudice the delivery of the plan.
  - Subject site does not span between upper and lower village so wont improve connectivity –
    - Site is wholly in upper village thus this refusal is not relevant

- Section 5 of the Masterplan outlines that a feasibility study for east-west connection will be explored.
- A meeting on the 7<sup>th</sup> November 2024 - 3 months post the lodgement of this application – changes were made to and the wording seemed to focus on access to development lands west of appeal site.
- Unclear how Local Authority got from draft objective seeking a feasibility study to refusing permission because this is the only site in the development boundary that could potentially fulfil a draft objective in a draft plan – yet to be adopted.
- Applicant cannot adhere to something where there is no guidance.
- Planning Authority prematurely refusing permission pending an actual masterplan.
- Traffic must be addressed at source:  
  
Upper relief road and 1 way traffic system theme was highlighted through submission on draft plan will have no impact if cannot be access and in order to access upper relief road people still have to travel through village bottleneck:
- On street parking needs to be addressed.
- Dedicated street parking is required for village users.
- Parking on double yellow line is adding to congestion.
- Appeal site not earmarked in any current/proposed/draft legislation for a link road – refusal reason is hypothetical with no legislative background.
- Refusal Reason 3 (traffic issues).
  - Sightlines of 45m provided at a height of 1.15m were required by the Planning Authority.
    - Planning Officer notes that these sightlines would require works to adjoining site.
    - Roads Department state that the fact that boundaries are currently low does not negate the fact that they will grow.
    - Senior Planner states if applicant considers the provision of east-west link road and a lower density then issue of traffic hazard could be overcome.



- Access has not changed from previous scheme – same sightlines were achievable.
- Planning Authority narrative is aimed to support a pre-determined outcome – a fundamental lack of legislative guidance to back up refusal.
- Refusal Reason 4 (active travel infrastructure).
  - Policy did not inform the outcome of permission sought under Reg Ref 24/37 – increased the development on the adjoining site to the south from 52 to 59 bed spaces:
    - No reference to the Draft Kilmacow Masterplan.
    - Permission was granted without IW feasibility, no increase in private or public open space – now all under the interest of the Local Authority.
  - Site to the north – permission for a single dwelling.
    - Extension of duration permitted -gross shortcoming on behalf of the Planning Authority facing into a new masterplan– inappropriate use of serviced land within settlement boundary.
    - Site is still greenfield with not works has started and applicants no longer reside in the county.
    - For Planning Authority to CPO this land to create link would only dipole 1 no. house – by refusing permission for subject application would loss 15 possible dwellings.

## 7.2. Planning Authority Response

A response from the Planning Authority was received on the 29<sup>th</sup> January 2025 and can be summarised as follows:

- Refusal Reason 1.
  - Site location:
    - Although immediately north of a permitted residential development and within walking distance of village centre the site is nevertheless in an area

which is more separated from the village centre – affording to both distance and limited footpaths and streetlights.

- Site is located due north of the further away from the village centre (Church, graveyard, primary school, and Garda Station – pattern of development is predominantly detached dwellings and not terrace or semi-detached dwellings.
- Policy
  - Reference to National Policy 3a, 3b and 3c not relevant as they relate to development within built up areas – do not specifically refer to the achievement of density within Villages.
  - Pre-amble to these objectives refers to achieving an increase in compact forms of growth in the development of settlements of all sizes from the largest city to smallest village – however this is subject to site specific circumstances for which in this case involves the requirement for an east to west link road in addition to a lower density of development more in keeping with the village grain which includes less dense development due north.
  - ABP decision on site to the south predated the adoption of the Compact Guidelines – Table 3.7 of the compact guidelines do not prescribe a density range for Rural Towns and Villages.
  - Section 4.6 of the Kilkenny City and County Plan 2021-2027 (adopted post ABP-306289-19) states: *‘In order to offer an effective alternative to the provision of single houses in surrounding unserviced rural areas, proposals for developments with densities of 15-20 units per hectare will be considered in smaller towns and villages where social services such as a school, church, pub etc.’*
- Transition
  - Acknowledged that detached dwellings in a settlement does not always represent an efficient use of land – transition for proposed 27 unit per ha as part of a sub-urban style development to existing detached houses would appear abrupt in terms of urban grain.

- Permission previously granted on this site was refused on foot of the design and layout not providing an adequate level of amenity.
- Kilmacow Upper Village is much less dense – given the site location and its surroundings provision of high quality development is of utmost importance.
  - Need to design a site-specific development that relates to both to the development to the south but also to the north is imperative.
- Future Development in Kilmacow.
  - Noteworthy that a revised scheme including provision of an east west link road would open up a significant quantum of undeveloped land due north within the settlement boundary thereby providing additional residential units and helping to enable the sustainable future growth of Kilmacow Upper Village.
- Refusal Reason 2.
  - Objective 4La of the Kilkenny County Development Plan 2021-2027 - objective to develop a set of criteria and a programme to carry out an analysis of the Smaller Towns and Villages (Tier 4) to consider ... ‘the provision of zoning maps where appropriate.... particularly for Kilmacow’
  - Kilmacow Draft Masterplan includes for the subject east west access route is to be included as a variation as part of the review of the Kilkenny County Development Plan 2021-2027 in early 2025 for which will provide it with a stronger footing.
  - Acknowledged that the Kilmacow Draft Masterplan was not adopted at the time of Planner’s Report or decision, however importance for the future growth and development of Kilmacow including the provision of a vital piece of infrastructure for the sustainable growth and development of the upper village cannot simply be ignored, even if it may significantly impact upon the development of one particular application site.
  - Addressing current parking and traffic issue in the village will now negate the necessity for the provision of an east to west link road – provision of such

and improved access and parking arrangements in the village centre (for the many uses it provides) are not mutually exclusive.

- Traffic issues in the village centre, including the lack of parking, are identified in the amended draft Kilmacow Masterplan
  - Section 3.4.3 - acknowledges the lack of designated on street parking -attributes it to the narrowness of the streets already restricting movement, lack of one-way systems, lack of designated cycle routes and cycle parking.
- Absence of an east to west link road, due to the narrowness of the street, traffic management options in the village centre would be significantly limited into the future. This would also impact upon improving provisions for vulnerable road users, pedestrians and cyclists.
- Considering the significant quantum of lands in between the Dangan L3403 and Narrabane L3401 roads, the proximity of Kilmacow to Waterford City including connections to the national transport network, the provision of an east to west link road would future proof the long-term development of Kilmacow Upper.
- Alternative corridors for link road - process of route selection for the east to west link is not yet finalised:
  - In order to safeguard all options of which this may be the preferred one, it is prudent to refuse the application (in its current format) as the route corridor and layout still has to be fully determined.
  - Due south would involve transversing through the planning permission reg. ref. 19/731/ABP306289-19 continuing onto the existing Shamrock Grove estate - parking spaces are located immediately perpendicular to the spine road hence road safety would resultantly be significantly compromised.
  - site immediately due north, this is subject of planning permission 17/636 which was extended by Extension of Duration 22/115 -planning permission and subsequent renewal has ruled out this site for consideration as a suitable alternative.

- Delivery further north from the junction of the L3403 Dangan Road and the L7445 would occur in an area that is current detached from the built-up/developed area of the village.
- lands due south of this potential route are within the settlement boundary, none of these are developed/under development at this stage. The construction of a link road at this location would not be as effective as through/near the application site and may result such a link becoming a 'rat run' rather than an access/distributor road.
- Creation of an east to west link road was under consideration since public consultation stage for the draft Kilmacow Local Area Plan (12th of July to the 30th of August 2024) the period in which the planning application was submitted (received 1st of August 2024).
- Minutes of this meeting held on the 07th of November 2024 where local members approved updates to the draft Kilmacow Masterplan are available on written request to the planning authority.
- Refusal Reason 3.
  - acknowledge that these boundaries are already low, this does not negate the necessity to set them back as these residents/property owners have the ability to plant hedgerow atop which may obstruct sightlines in the future
  - Section 4.4.6 of DMURS states required envelope of forward visibility in the vertical plane is illustrated in Figure 4.67. The envelope should encompass the area between a driver eye height in the range of 1.05 metres to 2.00 metres, and an object height in the range of 0.6 metres to 2.00 metres.
  - Roads department have stated that their comments '45m clear sightlines are required and which are provided at a height of 1.15m, the required height for clear sightlines when sitting in a vehicle' are inaccurate,
  - Roads department have stated that applicant's comments that An Bord Pleanála considered adequate sightlines achievable under ABP-31117-19 this is incorrect - 'Inspector's Report' and Roads Section Report do not mention sightlines.

- It is the position of the Roads Department that sightlines were unresolved at the time of appeal ABP 31117.
- Refusal Reason 4.
  - Objectives of the Kilkenny City and County Development Plan 2021-2027 (Objectives 4La and 4M) to prepare masterplan/criteria for the smaller towns and villages.
  - Amended draft masterplan was carried out to fulfil these objectives and a final version will be grounded in the Kilkenny City and County Development Plan 2021-2027 (statutory plan).
  - Section 3.4.4 the amended draft Kilmacow Masterplan outlines the absence of continuous footpaths within the village and comments on the narrowness of those which exist including the lack of potential for street furniture or people friendly meeting spaces, and, failure to link up to provide safe pedestrian movement around the wider village.
  - Kilmacow requires the provision of additional traffic measures, enhanced public realm and landscape improvements, the provision of priority signalised junctions and upgraded public transport to better support the needs of all road users.
  - footpath is located to the opposite eastern side of the road only and is also very narrow in places with very limited traffic calming measures and no pedestrian crossing- no footpath to the same side of the road travelling due south towards the village centre and no cycle provision.
  - Permission granted under 24/37 was for amendments and did not increase the unit numbers - planning authority was not in a position to raise the issue of the deficiencies in sustainable transport infrastructure.
  - Kilmacow Upper Village is difficult to access/transverse by foot and bicycle from the application site and there are also significant barriers to pedestrian and cycle accessibility within the upper village.

### 7.3. Observations

The Commission received 1 no. observation from Eamonn Augustine O'Duibhgeannain and can be summarised as follows:

- Development is out of context with the surrounding area.
- No objective need for this development.
- No infrastructure resources or amenities to cope with it.
- No thought given to the wildlife and general aesthetic character of the area.
- Give rise to traffic congestion as well as public transport requirements.
- Dwellings should be built in cities where the infrastructure and services already exist.
- Expert is required to ensure concrete being used is of a high standard.
- Demolition and construction phase will create disturbance with dust and noise.
- It is possible that project will be abandoned unfinished given fragile world affairs.
- Request permission be refused.

### 7.4. Further Responses

None received.

## 8.0 Assessment

### 8.1. Introduction

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

- Refusal Reason 1 (density/principle of development).
- Refusal Reason 2 (Kilmacow Master plan/road objective).

- Refusal Reason 3 (traffic issues).
- Refusal Reason 4 (active travel infrastructure).
- Issues Arising

## 8.2. Refusal Reason 1 (density/principle of development).

- 8.2.1. The appellant within their 1<sup>st</sup> party appeal makes reference to the guidance set out in the Sustainable Residential Development in Urban Area Guidelines (2009). I note that these Section 28 guidelines have been replaced by the Sustainable Residential Development and Compact Settlements Guidelines, 2024 (referred to as the Sustainable Compact Guidelines) as per details set out on the department of Housing Local Government and Heritages web site.
- 8.2.2. The appeal site is situated within the village of Kilmacow which has a population of 671 people as per the latest census. As such, Kilmacow is considered to be a rural town and village as per the Sustainable Compact Guidelines. The guidelines recognise that these settlements are not identified for significant population growth under the NPF and should grow at a limited pace that is appropriate to the service and employment function of the settlement, and the availability and capacity of infrastructure to support further development.
- 8.2.3. Table 3.7 of the Compact Settlement Guidelines states that *‘development in rural towns and villages should be tailored to the scale, form and character of the settlement and the capacity of services and infrastructure (including public transport and water services infrastructure). Lands zoned for housing at the edge of rural towns and villages at locations that can be integrated into the settlement and are connected to existing walking and cycling networks can offer an effective alternative, including serviced sites, to the provision of single houses in the countryside. The density of development at such locations should respond in a positive way to the established context’*. They do not therefore provide for a prescribed density range which should be applied in this instance.
- 8.2.4. The guidance set out in Section 4.6 of the Kilkenny City and County Development Plan 2021-2027, variation no. 2, in relation to smaller towns and villages is that in order to offer an effective alternative to the provision of single houses in surrounding un-



serviced rural areas, proposals for developments with densities of up to 15-20 dwellings per hectare will be considered where social services such as a school, church, pub etc. and appropriate infrastructure are available. Where a housing scheme is proposed, this will need to be proportionate to the scale of the settlement.

8.2.5. The scale and density of development in small towns and villages within a settlement boundary will depend on a number of factors as follows:

- Availability of infrastructure including appropriate social, waste water treatment facilities and water supply,
- Contribution to the enhancement of the village form by reinforcing the street pattern or assisting in the redevelopment of backlands,
- Contribution to the protection of the architectural and environmental qualities of the village,
- Capacity of the existing services in the village to accommodate the proposed development. Future growth in smaller towns and villages will be incremental, small in scale and appropriate in the size, scale and character of the village.

I note that the density prescribed under section 4.6 of the City and County Plan is not included within a specific policy of objective of the Plan.

8.2.6. The applicant is seeking outline permission for a total of 15 houses on a site of 0.55ha which would generate a density at 27 dwellings per hectare. I note that permission was previously sought (ABP-321117-21) for a development which generated a density of 30 units per hectare on the subject site. While permission was ultimately refused, the density proposed did not form part of the reason for refusal and was considered acceptable by the Planning Inspector. Furthermore, permission was granted under ABP-306289-19 on a site immediately to the south of the subject site for a residential development with a density of c.34 units per hectare.

8.2.7. The Planning Authority further contend that pattern of development is predominantly detached dwellings and not terrace or semi-detached dwellings and while it is acknowledged that detached dwellings in a settlement does not always represent an efficient use of land, it is considered that the transition for the proposed 27 unit per ha as part of a sub-urban style development to existing detached houses would appear abrupt in terms of urban grain.

- 8.2.8. The Planning Authority further states that although there is a permitted residential development immediately south of the subject site, and that the subject site is within walking distance of village centre, the site is nevertheless in an area which is more separated from the village centre affording to both distance and limited footpaths and streetlights.
- 8.2.9. The Village of Kilmacow has been divided into an upper and lower section. The appeal site is situated within the development boundary of the upper village and situated approximately c.333m to the north of what the Planning Authority have identified as being the upper Village Core. It is indicated by the applicant that the units proposed would be serviced via a connection to the municipal services.
- 8.2.10. From undertaking a site visit and walking from the appeal site to the Village Centre I note that there is a footpath which afford a pedestrian link from the subject site, albeit on the eastern side of Dangan Road, to the Village Core. I therefore do not accept the comments from the Planning Authority and consider that the appeal site can be considered as proximate to and accessible to the village core as that of the development site permitted under ABP-306289-19. Therefore, I consider that the proposed scheme would be in keeping with the scale and character which has been established within this section of Kilmacow Village.
- 8.2.11. Furthermore, I do not accept the assumption of the Planning Authority with regard to impacts on urban grain, given the precedent established on the site situated immediately to the south of the appeal site which provides for a mix of tenures and a density of c.34 units per hectare, the provision of the proposed development, which has a reduced density than that permitted, will offer a more appropriate transition to the single detached dwellings situated further north of the subject site to that permitted further south.
- 8.2.12. The Sustainable Compact Residential Guidelines state under section 3.3.5 that Rural Towns and Villages should grow at a limited pace that is appropriate to the service and employment function of the settlement. I note that the appeal site is situated approximately 9km to the north of Waterford City which would offer an additional range of employment opportunities and services which residents of Kilmacow could further avail of.

8.2.13. Overall, having regard to the established character of Kilmacow Lower, and the immediate environs of the site subject site, the availability of water services infrastructure, the proximity of the site to the Village Core and its connection via an existing footpath, I consider that the density proposed would be acceptable and accord with the requirements of Section 3.3.5 and Table 3.7 of the Sustainable Residential Development and Compact Settlements Guidelines, 2024. I consider that the development would offer a more sustainable approach to providing residential accommodation within the Kilmacow Settlement as opposed to the provision of single houses in the countryside.

### **8.3. Refusal Reason 2 (Kilmacow Masterplan/road objective).**

- 8.3.1. From the outset I note that there are several conflicting comments from the Appellant and the Local Authority with regard to the current status of the Kilmacow Masterplan. At the time of lodgement of the Planning Application the Masterplan was at draft stage. Following the public display period the draft plan was amended at a Piltown Municipal District Meeting 7th of November 2024. According to the Kilkenny County Council Web site [Kilmacow Masterplan - Kilkenny County Council](#), the Masterplan was fully adopted in November 2024.
- 8.3.2. Objective 4La of the Kilkenny City and County Development Plan 2021-2027 seeks to develop a set of criteria and a programme to carry out an analysis of the Smaller Towns and Villages (Tier 4) to consider the provision of zoning maps where appropriate, including Kilmacow, to developing specific objectives for core areas, focal spaces, amenities and opportunity sites, and Identify land with development constraints. The response from the Planning Authority states that the Masterplan is to be included as a variation as part of the review of the Kilkenny County Development Plan 2021-2027 in early 2025 for which will provide it with a stronger footing. However, I note that this has not yet been undertaken by the Planning Authority.
- 8.3.3. The Appellant contends that the Draft Masterplan does not include a specific policy or objective for the provision of a link road between L3403 and the L340. It is unclear to the Appellant as to how the Planning Authority got from the wording in a draft Masterplan, which is seeking a feasibility study to be undertaken, to refusing

permission for the proposed development, as this is not the only site within the development boundary that could potentially fulfil a draft objective in a draft plan.

- 8.3.4. The Planning Authority in response to the Appellant states that the importance for the future growth and development of Kilmacow including the provision of a vital piece of infrastructure for the sustainable growth and development of the upper village cannot simply be ignored, even if it may significantly impact upon the development of one particular application site and they acknowledge that the process of route selection for this road is as of yet still to be finalised.
- 8.3.5. On review of the Kilmacow Masterplan, I note that under Section 5.3 'Guiding Principles' under the heading movement the plan states 'To provide a new link road, linking the Narrabaun Road to the Dangan Road, north of the church lands, which will create a new urban street, enhance pedestrian and vehicular connectivity and provide appropriate access to development lands.' The Masterplan does not include for a zoning map or a transportation objective map.
- 8.3.6. As such, I note that nowhere within the Masterplan is there a specific objective or policy to indicate where the proposed road link is to be provided. I further note that on review of the Capital Program of Works for Kilkenny County Council that this road provision has not been included.
- 8.3.7. I consider that if this piece of infrastructure was required, that the Planning Authority had ample time during the preparation of the Masterplan to undertake the necessary assessments to and feasibility studies to identify a clear route for this link road which could have been provided as a specific objective.
- 8.3.8. Therefore, having regard to the wording of the Kilmacow Masterplan relating to the provision of a link road between the L3403 and the L3401, which is considered to be aspirational as opposed to specific, together with the acceptance of the Planning Authority that the route selection of this road has not yet been finalised and that this Masterplan has not been incorporated into the Kilkenny City and County Development Plan 2021-2027, as per Objective 4La, I consider that the proposed development cannot be consider premature and cannot prejudice the delivery of a necessary east to west link route given that this route has not yet been identified within the Adopted Kilmacow Masterplan.

#### 8.4. Refusal Reason 3 (traffic issues).

- 8.4.1. The 3<sup>rd</sup> reason for refusal by the Planning Authority stated that the applicant failed to demonstrate that adequate visibility splays required can be achieved and as such if permitted the proposal would result in a substandard form of development and result in a potential traffic hazard.
- 8.4.2. The Appellant contends that the proposed entrance has remained unchanged from the previously proposed scheme under ABP-311117-21, where sightlines were not raised as being an issue by either the Planning Authority or within the Inspector report or subsequent decision of An Bord Pleanála.
- 8.4.3. The Planning Authority response to the 1<sup>st</sup> Party Appeal states that the following statement of the Appellant '*legislation at this location dictates that 45m clear sightlines are required and which are provided at a height of 1.15m, the required height for clear sightlines when sitting in a vehicle*' is inaccurate and that the reference to An Bord Pleanála considering, under the previous assessment, that adequate sightlines were achievable is also incorrect. It is contended by the Roads Department of the Planning Authority that sightlines do not appear to have been mentioned, and that they were unresolved at the time of appeal ABP-311117-19.
- 8.4.4. The Planning Authority makes reference to Section 4.4.6 of DMURS with a specific reference to 'Vertical Alignment' and figure 4.67 where it states that '*the envelope should encompass the area between a driver eye height in the range of 1.05 metres to 2.00 metres, and an object height in the range of 0.6 metres to 2.00 metres.*'
- 8.4.5. In the first instance, from a review of the previous decision pertaining to the subject site, I note that visibility splay and sightlines did not form part of the assessment of the Planning Inspector as set out under ABP-311117-19 and that the Planning Authority only made reference to a traffic hazard in terms of traffic generation.
- 8.4.6. Drawing no. 21-111-PL03, Site Layout Plan submitted to the Planning Authority on the 1<sup>st</sup> November 2024 in response to the request for further information, demonstrates the provision of 45m sightlines in both directions at a setback of 2.4m from the road edge which would accord with the requirements of Table 4.2 of DMURs for an area with a speed limit of 50km.

- 8.4.7. I note that the layout plan submitted does indicate that the visibility splay to the north does appear to be obstructed by part of the boundary of lands to the north. From undertaking a site visit, this adjoining boundary is currently formed by mature hedging which appears to be within the boundary of the adjoining landholder. The planning application and response to further information submission was not accompanied by a letter of consent from the adjoining landholder to allow the applicant to maintain this boundary so that the visibility splays required could be maintained.
- 8.4.8. Therefore, in the absence of the applicant obtaining consent and demonstrating such through the submission of a letter from the adjoining landowner, I consider that the Planning Authority were correct in their assertion that to permit the proposed development, where the applicant has failed to demonstrate that adequate visibility splays required can be achieved and maintained in accordance with Section 4.4.6 and Figure 4.6.7 of DMURS, may result in a potential traffic hazard. In conclusion, I recommend that permission be refused on this issue.

#### **8.5. Refusal Reason 4 (active travel infrastructure).**

- 8.5.1. The Planning Officer, within their second report, states that there are significant physical barriers within the village which reduce pedestrian / cyclist permeability and comfort, including lack of visibility and space along local roads, and the lack of connectivity between residential developments and local amenities / facilities and that few footpaths exist in the villages with the exception of those provided within individual housing developments and the footpaths in the Upper Village. The Planners report further notes that the Council have no overall plan or strategy to cater for the provision of sustainable modes of transport to service the existing village.
- 8.5.2. Section 5.3 of the Kilmacow Masterplan sets out the Guiding Principles for the development of Kilmacow. The principles have been divided into 6 headings with 'streets and public spaces' and 'movement' being two of such. Under the heading of 'streets and public spaces' it states *'Enhance connectivity of streets and places to encourage pedestrian and cycle movements for short journeys, reducing car dominance and enhancing connectivity'* while under the heading Movement the masterplan states *'Provide an integrated pedestrian and cycle network to promote sustainable travel to, from and around the village centres. The new network will allow*

*for public realm enhancement and link to the new public amenity space and the River Blackwater’.*

- 8.5.3. Having regard to the above, I do not accept the comments made by the Planning Authority that there is ‘*currently no overall plan or strategy to cater for the provision of sustainable modes of transport*’ as the Kilmacow Masterplan has clearly set out such under Section 5.3.
- 8.5.4. I consider that it is the responsibility of the Local Authority to provide and ensure that strategies set out within the Masterplan for Kilmacow in terms of Active Travel is delivered and that this can be achieved through a comprehensive approach to the development of the Village area. This may involve seeking permissions, like subject to this appeal, to include for measures such as set back’s which can later provide for the necessary infrastructure links.
- 8.5.5. From assessment of the proposed site layout plan submitted, I note that the application has provided for a active travel connection between units no. 12 and no. 13 which could facilitate cycle and pedestrian connections to the wider area to the west, which is situated within the development boundary of Kilmacow, in the event that similar residential developments are proposed.
- 8.5.6. Furthermore, the issue of Active Travel Infrastructure was not raised within the 1<sup>st</sup> report of the Planning Officer and was only included as a subsequent comment made by the Senior Planner on the 26<sup>th</sup> November 2024, after the Kilmacow Masterplan was adopted. If this issue was considered to be so substantive by the Planning Authority, I am of the opinion that it should have been raised within the 1<sup>st</sup> assessment, and the applicant should have been afforded an opportunity to address this concern. While they may not have been able to overcome the entire issue of pedestrian and cycle connectivity improvements for the village of Kilmacow, they may have been able to provide for an interim solution such as a toucan crossing to link the subject site to the existing footpath, which is situated on the opposing side of the Dangan Road.
- 8.5.7. Overall, I do not consider that this reason for refusal should therefore be included in the event the Commission are minded to uphold the decision of the Planning Authority.

## 9.0 AA Screening

- 9.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The site is situated 4.8km west of South Dublin Bay Special Area of Conservation as well as South Dublin Bay and River Tolka Estuary Special Protection Area.
- 9.2. The proposed development is seeking outline permission for 15 no. dwelling houses and all associated site works.
- 9.3. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site.
- 9.4. The reason for this conclusion is as follows:
- The small scale and domestic nature of the works in a serviced urban area,
  - The distance from the nearest European site and lack of connections, and
  - Taking into account screening report/determination by the Planning Authority.
- 9.5. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## 10.0 Water Framework Directive

- 10.1. The subject site is located approximately c.327m to the west of the Blackwater River. The proposed development is seeking outline permission for 15 no. dwelling units and all associated site works. No water deterioration concerns were raised in the planning appeal.
- 10.2. I have assessed the proposed development 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.

10.3. The reason for this conclusion is as follows:

- The nature of the development in an urban environment.
- There are no waterbodies within the site.
- The location of the site approximately c.327m to the west of the Blackwater River and the lack of a hydrological connection.

10.4. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

## **11.0 Recommendation**

I recommend that the decision of the Planning Authority be upheld, and outline permission be refused for the following reasons and considerations as set out below.

## **12.0 Reasons and Considerations**

Having regard to the restricted sight lines availability in the northern direction, where the Applicant has not demonstrated the required legal interest to maintain adjoining private lands free of impediments, it is considered that the vehicular existing vehicular entrance would not accord with Section 4.4.6 and Figure 4.6.7 of Design Manual for Urban Roads and Streets (DMURS) and Section 13.22.1 of the Kilkenny City and County Development Plan 2021-2027 which requires developments to clearly demonstrate that safe vehicular access to and from a proposed site is provided in terms of visibility from a proposed entrance and the requirements of DMURS and would therefore result in a potential traffic hazard. Therefore, to grant permission would be contrary to the proper planning and sustainable development of the area.

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

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Kathy Tuck  
Planning Inspector

5<sup>th</sup> November 2025

## Appendix 1

### EIA Pre-Screening

<b>Case Reference</b>	ABP-321555-24
<b>Proposed Development Summary</b>	Outline permission is sought for 15no. residential units and associated works.
<b>Development Address</b>	Dangan, Kilmacow, Co. Kilkenny
	<b>In all cases check box /or leave blank</b>
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (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.
	<input type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>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?</b>	
<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.  <b>No Screening required.</b>	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.  <b>EIA is Mandatory. No Screening Required</b>	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.	S. 5 P.2 10(b)(ii) construction of more than 500 dwelling units.

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 checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

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

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

## Appendix 2

### EIA Preliminary Examination

<b>Case Reference</b>	ABP-321555-24
<b>Proposed Development Summary</b>	Outline permission is sought for 15no. residential units and associated works.
<b>Development Address</b>	Dangan, Kilmacow, Co. Kilkenny
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
<b>Characteristics of proposed development</b>  (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).	<p>The proposed development is seeking outline permission for 15 no. dwellings and all associated site works. The subject site is backland in nature and currently in agriculture use. It is proposed to serve the proposed dwellings with a connection to the municipal services.</p> <p>The development would not result in the production of significant waste, emissions, or pollutants</p>
<b>Location of development</b>  (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).	<p>There is no hydrological connection present which would give rise to significant impact on nearby water courses (whether linked to any European site or other sensitive receptors).</p> <p>There would be no significant cumulative considerations.</p>
<b>Types and characteristics of potential impacts</b>  (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	<p>There are no other locally sensitive environmental sensitivities in the vicinity of relevance.</p>

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.

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

## Appendix 3

### Appropriate Assessment Screening

I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The proposed development comprises the proposed development is seeking outline permission for 15 no. dwellings and all associated site works. The subject site is backland in nature and currently in agriculture use. It is proposed to serve the proposed dwellings with a connection to the municipal services.

The Planning Authority, within their assessment, undertook a screening assessment which concluded that no significant environmental impact is likely having regard to the distance of the subject site from any Natura 2000 site (Lower River Suir 4.25km due southeast) and the absence of any direct connecting pathways (River Blackwater c.327m due southeast to the opposite side of the village). The development is proposing connection to public drainage and water network. It is therefore concluded that a Natura Impact Statement was not required.

#### **European Sites**

The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation or Special Protection Area (SPA).

The boundary of the nearest European Site is within 15 km or 1 no. of European being the Lower River Suir SAC (Site code 002137). There are no direct natural hydrological connections from the subject site to this SAC or the River Blackwater which is situated c.327m east of the site on the opposite side of the village.

The applicant is proposing to connect to existing municipal services in terms of water supply and wastewater/drainage.

### **Likely impacts of the project (alone or in combination)**

It is proposed to separate the surface water and wastewater drainage networks, which will serve the proposed development.

All wastewater generated from the new development site is to discharge to the Irish water local wastewater drainage network. All wastewater from the upper levels of the block shall be routed by a piped network and then discharged to the final manhole on the site prior to discharging to the local network.

I do not consider that the increased loading from the proposed development would generate any significant demands on the existing municipal sewers for foul water. I acknowledge that there would be a marginal increase in loadings to the sewer and the WWTP.

Having regard to the distance separating the site to the nearby Natura 2000 site there is no pathway for loss or disturbance of important habitats or important species associated with the feature of interests of any of the SPA/SAC's identified above.

Furthermore, there are no plans or projects which can act in combination with the proposed development which can give rise to significant effect to Natura 2000 sites located within the zone of influence.

### **Overall Conclusion**

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European Site and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- The scale of the development;



- The lack of any direct connections to the nearest Nature 2000 site; and
- Taking into account appropriate assessment screening undertaken by the Planning Authority.

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

## **Appendix 4**

### **Kilmacow Masterplan**