Inspector's Report
ABP-321624-25

Development	Residential development of 38 houses with all associated site works.
Location	Tomard, Athy, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	24111
Applicant(s)	Bettystown Development Limited.
Type of Application	Planning Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party
Appellant(s)	Whitecastle Lawns Residents Association. Cois Bhearú – Cluain Bhearú Residents Association.
Observer(s)	Department of Housing Local Government and Heritage.
Date of Site Inspection	7th of April 2025.

Inspector	Elaine Sullivan

Contents

1.0 Site Location and Description

1.1. The subject site has a stated area of 1.85 hectares and is in the townland of Tomard in the outskirts of Athy town, Co. Kildare. It forms the southern part of a wider development site to the east of the Whitecastle Lawns housing estate and to the south of the Cois Bhearú housing estate. The site is irregular in shape and is generally flat with a slight fall from north to south. To the east the site is bounded by the Irish Rail Dublin – Waterford line, to the north, west and southeast, by residential properties and to the south by greenfield lands.

1.2. Access to the site is from the R417, (Monasterevin / Rathstewart Road), via the Cois Bhearu housing estate. To the north of the existing estate are 4 no. schools which are all accessed from the R417. The site is brownfield in nature with an industrial history. It has been mostly cleared of vegetation but to the south of the site the ruins of two conjoined stone buildings are still in place: a former mill and its associated miller's house with return. There is a concurrent application on appeal (**ABP-321623-25, PA Ref. 24/111**) for part of the overall housing development adjoining the subject site to the north.

2.0 Proposed Development

2.1. Planning permission was initially sought for 50 no. houses, (19 no. 4-bedroom and no. 31 no. 3-bedroom). Associated site development works would include hard and soft landscaping, car parking, drainage works and the construction of an ESB substation and the demolition of all structures on the site.

2.2. The development would be accessed from two separate points at the adjoining Cois Bhearú estate to the north of the site, which is subject to a concurrent appeal, (**ABP-321623-25**).

2.3. During the further information stage, the development was significantly altered. The red line boundary along the northern site boundary was altered to align with the alterations requested by the PA for the concurrent application to the north of the site (**PA Red. 24/112 / ABP-321623-25**). The former Millers House was retained and restored to residential use. Alterations to the layout and unit type resulted in the

provision of 38 residential units, comprising 6 no. 1-bedroom houses, 31 no. 3-bedroom houses, 1 no. 2-bed maisonette.

3.0 Planning Authority Decision

3.1. Decision

3.2. Planning permission was granted for the development subject to 46 no. planning conditions.

3.3. The following conditions are bespoke conditions for the development.

Condition No. 3 – omitted the balconies from the Millers House.

Condition No. 31 - The Developer shall provide filtered permeability links, for walking and cycling, at the four locations shown on drawing 23-109-P600 Rev A, received by the Planning Authority on November 13th, 2024. Prior to the commencement of development, the developer shall obtain the written agreement of the Planning Authority on the detailed design, timing, phasing of the delivery of the permeability links. The works shall include internal footpath / cycle path design, associated public lighting and landscaping. The Developer shall ensure that all works are completed to the site boundaries; and where estates have been taken in charge that tie in facilities are provided for pedestrians and cyclists prior to occupation of the last 25 residential units. The developer shall be liable for all costs associated with the connections for pedestrians and cyclists.

Reason: to promote active travel.

Condition No. 39 - Prior to commencement of development the Developer shall submit revised road and footpath layout plan for the written approval of the Planning Authority. The Developer shall demonstrate how all of the residential units will be connected via a footpath. The developer shall revise drawing ATHY-WMC-XX-00DR-C-P1100 Rev A accordingly and comply with the Design Manual for Urban Roads and streets.

Reason: In the interest of pedestrian safety

Condition No. 40 – The Developer shall construct a four-metre-wide shared surface from the school to the internal western footway and carriageway Cois Bhearu as

shown on Drawing P605 Rev A received by the Planning Authority on the 13/11/2024. The Developer shall also install a staggered open gate to allow pedestrian and cyclist only access, at a T-junction with the Main Road Footpath to the written agreement of the Planning Authority.

Reason: In the interest of Road Safety.

Condition No. 43 - The Developer shall ensure that an upgrade is made to the existing signalised pedestrian crossing (KCC Ref. P651) located at the R 417 Stanhope Street near the church in Athy. The signal shall be upgraded to a signal-controlled pedestrian crossing with an ELV controller with LED signals and IP communications. (Design details included in the condition).

Reason: To minimise overall queueing delay and facilitate the development.

3.4. Planning Authority Reports

3.4.1. Planning Reports

The decision of the Planning Authority (PA) was informed by two reports from Planning Officer (PO). The first report dated the 24th of May 2024 recommended that further information (FI) was requested. A response to the FI was submitted on the 13th of November 2024. This PA considered this response to be significant and requested that the application was readvertised. The second report of the PO dated the 3rd of December 2024 recommended that planning permission was granted.

The first report of the PO included the following,

- The proposal is in accordance with the zoning objective for the site.
- The development would have a combined net density of 35 units per hectare (uph), which is in accordance with the *Sustainable Development and Compact Settlements Guidelines,* (hereinafter the Compact Settlements Guidelines).
- A lack of 2-bedroom units was noted.
- The development would require the demolition of two structures on the site which are listed on the National Inventory of Architectural Heritage (NIAH).

Whilst it is acknowledged that the Mill is in a poor state of repair, the developer should consider if the Mill house can be integrated into the scheme.

- The design of the houses does not reflect the industrial, architectural heritage of the overall landholding.
- The Kildare Permeability Guidelines, (*Reimagining Permeability in Kildare – Reconnecting our Communities: Permeability Guidelines 2024)* are referenced. The applicant is requested to follow steps outlined in Table 3 of the Guidelines, which relates to the permeability requirements for new development.
- The PO notes that a small portion of open space is within the Athy Flood Risk Assessment Zone as per Map No. 2 of the *Athy LAP 2021-2027*. A Site Specific Flood Risk Assessment (SSFRA) appears to have been carried out for the concurrent application (PA Ref. 24/112) but not the subject application.
- Further information was requested on 36 points which included,
    - Carrying out additional surveys on each of the heritage buildings on the site to determine if either structure can be reused. Revisions to the architecture of the development to reflect the industrial heritage of the site.
    - Revisions to the unit types to the rear of the single storey dwellings at Whitecastle Lawns and revisions to the units near the public open space to ensure passive surveillance.
    - Compliance with Table 3 of the Kildare Permeability Guidelines with full elevations and details of each proposed permeability link.
    - Reviewing the proposed permeability links on the application drawings with a commitment to contributing to works in both housing estates, with filtered permeability links designed for Moneen Lane and Whitecastle Lawns.
    - A design for upgrading the existing signalised pedestrian crossing at the R147, Stanhope Street near the church in Athy.

- Detailed design for segregated cycle lanes along the R417 and details for a cycle lane along the R417 from the development junction with Corrain Bhearu northwards to the school campus.
- Reassessment of the open space area in the southernmost section of the development to ensure overlooking.

The second report of the PO noted the changes made by the applicant in their response to FI, which included altering the red line boundary to align with the application on the adjoining site, (which was also altered through FI), a reduction in the number of units from 50 to 38, restoration and renovation of the former Millers House, revisions to the layout and unit types to increase the number of 1-bedroom units which resulted in 14 no. proposed houses being incorporated into the adjoining development, and by committing to provide permeability links to the neighbouring estates. The PO found the responses to be generally acceptable and recommended that planning permission was granted.

3.4.2. Other Technical Reports

- Athy Municipal District office – No objection.
- Transport Mobility and Open Spaces – The first report recommended that FI was requested on 15 points. The second report dated the 27th of November 2024 still had concerns regarding boundary treatment and its impact on the root zone of the hedge. Additional play equipment should also be provided. Conditions were recommended to address the concerns.
- Environment Section –No objection. Planning conditions recommended to manage the construction phase of the development.
- Water Services Department – No objection to the development. Planning conditions recommended.
- Fire Officer – Details of how the development complies with Section 5.4.4 of Technical Guidance Document B: Fire Safety – Volume 2 of the Building Regulations.
- Housing Section – No objection. Planning conditions recommended.

- Environmental Health Officer – No objection. Planning conditions recommended.

3.5. Prescribed Bodies

- Iarnród Éireann – Observations submitted regarding rail safety and measures that should be incorporated into the development.
- Uisce Éireann – No objection in principle.

3.6. Third Party Observations

3.6.1. A total of 12 no. third party submissions were received by the PA during the public consultation stage. The issues raised included,

- Lack of consultation.
- Impact of new connections to existing estates.
- Devaluation of property.
- Lack of existing pedestrian and cycle facilities to tie-in to.
- Impact on road safety.
- Increased traffic.
- Potential for flooding in Whitecastle Lawns.
- Concerns re. boundary treatments & removal of hedgerows.
- Lack of capacity for water and wastewater services.
- Disturbance during construction.
- Lack of clarity in the application details.
- Overlooking and loss of privacy.
- Overshadowing.
- Issues relating to the creche in the adjoining development to the north.

A further 3 no. observations were received during the FI stage. These observations did not include any new planning issues.

4.0 Planning History

ABP-321623-25, (PA Ref 24/112) – A concurrent application and subsequent appeal was lodged on an adjoining site to the south of the subject site. Planning permission is sought for 91 no. houses and a creche with all associated works including landscaping, car parking, open spaces and electricity substation. Access to the development would be from the Cois Bhearu housing estate to the north of the site.

ABP-316733-23 - Inclusion of the land on the residential zoned land tax draft map. The Board confirmed the decision of the Planning Authority and the site was included on the draft map.

PA Ref. 08/300023 – Planning permission granted by the PA in 2009 for 55 residential units comprising town houses and apartments with all associated works and with access through Cois Bhearu housing estate. This duration of this permission was extended to 2020 under Ref. **14/804**. A second extension of duration was applied for under Ref. **19/1060** but was refused as development had not commenced.

5.0 Policy Context

5.1. <u>County Development Plan</u>

Kildare County Development Plan 2023-2029

Athy is designated as a Self-Sustaining Growth Town in the Settlement Hierarchy for Kildare.

Table 2.8 in the Core Strategy recommends a Target Residential Density of 35-40 Units per Hectare (UPH).

Chapter 3 – Housing

Section 3.7 – Residential Densities - Table 3.1 outlines the density levels for different settlement types as per Sustainable Residential Development in Urban Areas - Guidelines for Planning Authorities, DEHLG (2009).

Objectives –

HO 07 - Support new housing provision over the Plan period to deliver compact and sustainable growth in the towns and villages in the County, and supporting urban renewal, infill and brownfield site development and regeneration, to strengthen the roles and viability of the towns and villages, including the requirement that at least 30% of all new homes in settlements be delivered within the existing built- up footprint.

HO O15 - a) Require that new residential developments provide for a wide variety of housing types, sizes and tenures. b) Specify target housing mixes, as appropriate, for certain sites and settlements as part of the Local Area Plan process. c) Require the submission of a 'Statement of Housing Mix' with all applications for 10 or more residential units. d) Require that all new residential developments in excess of 5 residential units provide for a minimum of 20% universally designed units in accordance with the requirements of 'Building for Everyone: A Universal Design Approach' published by the National Disability Centre for Excellence in Universal Design.

Chapter 14 – Urban Design, Placemaking and Regeneration

Objectives

UD O1 - Require a high standard of urban design to be integrated into the design and layout all new development and ensure compliance with the principles of healthy placemaking by providing increased opportunities for physical activities, social interaction and active travel, through the development of compact, permeable neighbourhoods which feature high-quality pedestrian and cyclist connectivity, accessible to a range of local services and amenities

Chapter 15 – Development Management Standards

15.2.2 – Overlooking / Separation Distances – sets out a minimum distance of 22m between opposing first floor windows.

15.2.4 – Soft Landscaping – sets out requirements for landscaping, tree and hedgerow retention and replacement.

15.4.5 – Design, Layout and Boundary Treatments – sets out the requirements for landscaping, boundary treatment and layout of open space. Residential development

in towns should address the criteria set out in the Urban Design Manual – A Best Practice Guide (DoEHLG, 2009) and must comply with the Design Manual for Urban Roads and Streets (2019).

15.4.6 – House Design – Table 15.2 sets out the minimum floor space and open space requirements for houses.

15.6.6 – Public Open Space for Residential Development – a minimum of 15% open space is required for greenfield sites. This section also sets out the design requirements for public open space.

Athy Local Area Plan 2021-2027

The subject site is zoned C - New Residential, the objective of which is *'To provide for new residential development'.* A creche is listed as 'Permitted in Principle' within this zoning.

Table 3.3 states that the total residential units target to 2027 for Athy is 510.

Table 3.4 sets out the estimated residential capacity for Tomard and states that there is capacity for 147 units at a density of 35 uph,

Objective HCO1.2 – seeks to 'Encourage the appropriate redevelopment of brownfield and infill sites for residential uses within the footprint of the existing built-up area'.

Section 4.4 – Residential Density, Mix and Design – states that Athy has a high proportion of 3-bed, semi-detached houses. Accordingly residential schemes should provide for both a mix of dwelling size and dwelling type.

Policy HC2 - Residential Density, Mix and Design HC2 - It is the policy of the Council to ensure that all new residential development provides for a sustainable mix of housing types, sizes and tenures and that new development complements the existing residential mix.

Table 4.4 – Social Infrastructure Requirements – identifies that an additional 206 childcare places are required. The potential location for additional services is 'adjacent to / within new residential developments' which could be delivered by private developers alongside new development.

Objective HCO3.3 – seeks to 'Require the provision of appropriately located and purpose-built early learning and childcare facilities to meet the pro-rata childcare needs of housing development during the plan period'.

Section 7.2 – Area Based Transport Assessment (ABTA) – states that the LAP was informed by an ABTA which was carried out for the Athy. The promotion of active modes of transport in the town was a key output of the ABTA.

Map based objectives CL15, 16 and 17 all seek to provide a new cycle track/lane along sections of the R417.

Map Based Objective WN 18a is to provide an additional access point from Moneen Lane to Ardscoil na Tríonóide.

Objective MTO1.1 - Support and promote the use of sustainable active transport modes in Athy and seek to implement a connected network of walking and cycling infrastructure in the town as detailed in Table 7.1 and 7.2 and illustrated on Map 1.1 and 1.2, in conjunction with the National Transport Authority, other statutory agencies, and the relevant stakeholders. The final design details shall be subject to appropriate environmental assessment, where applicable, and undergo a separate public consultation process.

Objective MTO1.6 - Ensure that all development within Athy allows for connectivity (pedestrian, cyclist and vehicular) to adjacent lands in accordance with the *National Transport Authority's Permeability Best Practice Guide (2015)*, or any updated version of same.

Section 10.1 – Water Supply and Wastewater – this section notes that Irish Water (Uisce Éireann) is responsible for the provision of public water services (water supply and foul drainage). Mains water for Athy is supplied from the Srowland Water Treatment Plan and new connections will be prioritised for housing and domestic sanitation purposes. Wastewater is treated at the Athy Wastewater Treatment Plan which has an existing capacity of 15,000PE with capacity for future expansion. The LAP notes that modelling of the sewer network identified some issues that will require new systems to be implemented with the growth of the catchment. However, there should be sufficient headroom to provide for the majority for the projected population.

Policy 12 – Surface Water and Groundwater - It is the policy of the Council to maintain and enhance the existing surface water drainage systems in Athy and to protect surface and ground water quality in accordance with the Water Framework Directive.

Objective IO2.2 - Ensure that all new developments maintain surface water discharge at greenfield run-off rate, including an allowance for climate change.

Objective IO2.3 – Incorporate Sustainable Drainage Systems (SuDS) and other nature-based surface water drainage solutions as part of all plans and development proposals in Athy. Priority shall be given to SuDS that incorporate green infrastructure and promote biodiversity including green roofs, walls and rain gardens.

Section 10.3 – Flood Risk Management –

The subject site is not within an area identified in the Athy Flood Risk Zone as shown on Map 2 – Strategic Flood Risk Map. However, the concurrent application on the adjoining site is within the Flood Risk Zone.

Map 4 – Green Infrastructure Map shows the site within the Athy Stream & Prusseltown catchment.

Section 11.3 – Phasing and Infrastructure Delivery Schedule – sets out the key infrastructure requirements for sites zoned 'New Residential'. For lands at Tomard, Table 11.2 of the LAP identifies that the following infrastructure issues are required,

- General cycling infrastructure improvements – to be delivered in tandem with new development.
- Sewer and watermains in adjacent housing estates but would have to be reviewed for suitability. Combined sewers to the south could be constrained – subject to agreement with Irish Water (Uisce Éireann) prior to development.
- Fluvial flooding in higher return periods along the line of the stream at the site boundary. It may be possible to mitigate the flood risk through the construction of a flood risk management scheme. This would require a site-specific assessment and a catchment-based approach which would demonstrate that the mitigation of any existing risk would not result in increased flood risk elsewhere. There are no plans to reduce the flood risk on these lands – this will be addressed in tandem with new development.

Reimagining Permeability in Kildare – Reconnecting our Communities (Permeability Guidelines).

The guidelines were prepared in accordance with Action TM A13 in Chapter 5 of the Kildare County Development Plan 2023-2029

They are intended as technical guidance for use in Development Management and Permeability Improvement Project processes.

The objective of the guidelines is to achieve the '10-minute neighbourhood' approach.

It is an aim of the guidelines to improve levels of access to services by retrofitting new connections in the urban environment though Permeability Improvement Projects.

Section 4.1 relates to permeability in new developments.

Section 4.2.3.3 relates to the design of the new links

Table 3 includes a list of steps to be carried out to ensure the delivery of connected neighbourhoods.

Table 4 sets out the requirements for Supporting Documentation where a new link is proposed to adjoining land that is either taken in charge by the local authority or in private ownership.

National Planning Policy

Project Ireland 2040 - National Planning Framework

The first revision to the NPF was approved by Government on the 10th of April 2025. The NPF provides a series of National Policy Objectives (NPOs) which seek to strengthen and consolidate existing settlements. Some of the NPO's relevant to the development are listed below.

- NPO 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.

- NPO 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.
- NPO 42 - To target the delivery of housing to accommodate approximately 50,000 additional households per annum to 2040.
- NPO 43 - Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- NPO 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.

5.1.1. **Sustainable Residential Development and Compact Settlement Guidelines 2024**

These Section 28 Guidelines replace the *Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009)* and support the application of densities that respond to settlement size and different contexts within each settlement type.

The Guidelines were not in place when the Development Plan was adopted and as such, references to density in the Development Plan relate to the provisions of the *'Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (2009)'.*

In accordance with the principles contained in the NPF (2025), the Guidelines seek to prioritise compact growth and a renewal of existing settlements. Section 3.3 of the Guidelines refers to Settlements, Area Types and Density Ranges. For each settlement tier it sets out,

- priorities for compact growth,
- areas common to settlements at each tier, and
- recommended density ranges for each area.

For each application it is necessary for the planning authority to identify,

- the most applicable settlement category based on the categories described in Section 3.34,
- the most applicable area type based on the area descriptions detailed in Section 3.3 (e.g. central, urban, suburban or edge- refer also Figure 3.1), and,
- the recommended density range for that area.

Section 3.3.3 – Key Towns and Large Towns (5,000+ population)

Athy is categorised as a 'Key Towns and Large Towns' (5,000+ population).

The strategy for Key Towns and Large Towns is to support consolidation within and close to the existing built-up footprint. In order of priority the key principles for their development are,

a. plan for an integrated and connected settlement overall
b. strengthen town centres,
c. protect, restore and enhance historic fabric, character, amenity, natural heritage, biodiversity and environmental quality,
d. realise opportunities for adaptation and reuse of existing buildings and for incremental backland, brownfield and infill development, and
e. deliver sequential and sustainable urban extension at locations that are closest to the urban core and are integrated into, or can be integrated into, the existing built-up footprint of the settlement.

Density – Within the 'Key Town' settlement, the site would be further categorised as a Suburban/Urban Extension. It is an objective of the Guidelines that residential densities of 35-50 units per hectare (net) shall generally be applied at suburban and urban extension locations.

- SPPR 1 – relates to separation distances between buildings and requires a minimum of 16 metres between opposing windows above ground level.

- SPPR 2 – sets out the minimum private open space standards for houses; 1 bed – 20sqm, 2 bed – 30sqm, 3 bed – 40sqm and 4bed + - 50sqm.
- SPPR 3 – relates to car parking standards. In city centres car parking should be minimised, substantially reduced or wholly eliminated. In accessible location (defined in Table 3.8) the maximum rate should be 1.5 car spaces per dwelling. In intermediate and peripheral locations (defined in Table 3.8) the maximum rate of car parking shall be 2 spaces per dwelling. The subject site is categorised as a 'peripheral location'.
- SPPR 4 – relates to cycle parking and storage facilities.
- Policy and Objective 5.1 – Public Open Space - The requirement in the development plan shall be for public open space provision of not less than a minimum of 10% of net site area and not more than a minimum of 15% of net site area save in exceptional circumstances.

5.2. Natural Heritage Designations

5.2.1. No designations apply to the subject site.

5.2.2. The site is approximately 380 m to the east of the River Barrow and River Nore SAC, which is the closest designated site.

5.3. EIA Screening

5.3.1. The proposed development has been subject to preliminary examination for environmental impact assessment (I refer to Form 1 and Form 2 in Appendix 1 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

Two third party appeals were lodged, one from Whitecastle Lawns Residents Association and the second from Cois Bhearú - Cluain Bhearú Residents Association. Both appeals raise issues that relate to the wider development site and include issues which relate to development proposed in the adjoining development, (**ABP-321623-24 / PA Ref. 24/112**). In the interest of clarity, I will summarise the issues raised below. However, only the issues that relate to development proposed within the subject red line will be assessed in Section 7.0 below. Issues relating to development within the adjoining development to the north are addressed in full in the Inspectors Report for **ABP-321623-25**, which should be read in conjunction with this report.

Whitecastle Lawns Residents Association.

- Consultation - The appellants state that they were not consulted by the applicant, or the council and their views were not sought. It is the appellants view that the planning authority did not give due cognisance to their concerns during their consideration of the application.
- Permeability / Connections –The draft LAP for Athy included permeability links between existing estates, but these were removed in the adopted LAP on foot of objections during the public consultation phase. The appellants object to the proposal for filtered permeability between the proposed development and the Whitecastle Lawns housing estate. It is argued that the pedestrian and cycle link between the developments will not create any greater access to amenities or services that would not be provided by the main access point to the development at Cluain Bhearú.
- The Permeability Link Report submitted with the application demonstrates that the gains for the Whitecastle Lawns residents are negligible as any reduction in walk times to key destinations will be minor and access to the town centre will not be improved.

- There is insufficient detail in the drawings to demonstrate the actual design of any potential cycle or pedestrian links through Whitecastle Lawns. The existing footpaths are narrow, (1.8m wide), and could result in a conflict between pedestrians and cyclists should through traffic increase.
- Concerns were raised regarding the potential for anti-social behaviour from increased permeability between the new and existing estate.
- Increase in through traffic would result in safety concerns for children and pedestrians.
- Increased permeability would result in loss of privacy for existing residents and would result in a devaluation of property values.
- The appellants note that the proposed link is indicated on the Site Layout Plan as a 'possible future cycle and pedestrian link' to the adjoining estate'. The provision of any such link should have been included in the public notices. The proposed Permeability Link was not specifically applied for in the application yet permission for the link was granted and conditioned by the PA. The planning application was flawed in this regard and the Board is requested to remove the proposed link and to remove the related Condition No. 31 should they grant permission for the development.
- Flood risk - The appellants have concerns regarding an increase in flood risk as a result of the proposed development. It is stated that the public open space in Whitecastle Lawns floods due to natural springs in the area. The springs have been piped to the open ditch that forms the boundary between the Whitecastle estate and the subject site. Any increase in water to this ditch would cause flooding. The applicant should be requested to provide a detailed proposals for any works to this ditch.
- Creche - Previous concerns regarding the location of the creche were addressed during the FI stage.
- Boundary Treatment - There is a lack of information as to what the boundary treatment will be between Whitecastle Lawns and the proposed development. The existing hedgerow is not sufficient to provide privacy and security for existing residents. The Board is requested to attach a condition requiring the

construction of a 225mm concrete, blockwork wall to a height of 2m along the entirety of the common boundary should planning permission be granted.

- Overlooking – Concerns were raised regarding overlooking from the proposed 2-storey houses adjacent to the common boundary and to the east of No's 62-69 Whitecastle Lawns. Concerns were also raised regarding the proposed 2-storey houses overlooking the single storey houses at No's 11-16 Whitecastle Lawns. It is requested that all 2-storey houses are removed from the boundary between the developments.
- Construction Phase – The construction phase of the development will result in disruption and nuisance for existing residents for the duration of the build. The appellants consider the proposed hours of working to be excessive.
- Lack of information – There is a lack of clarity and detail as to the nature and extent of the proposed works to be carried out in Whitecastle Lawns because of the permeability connections. In the interests of natural justice this information should be part of the public record. There is an inordinate number of conditions regarding development in the decision of the PA. This restricts access to the planning process for third parties.

Cois Bhearu / Cluain Bhearú Residents Association

- Consultation – Although the FI request from the PA directed the developer to engage with the neighbouring residents' associations regarding permeability links, no consultation occurred.
- Concerns were raised regarding the scale of the development which increased in unit numbers from 126 to 129 (combined number) during the planning process.
- Traffic Management – The methodology and robustness of the Traffic and Transport Assessment (TTA) was questioned. Whilst the TTA states that the junction at the R147 and Corrain Bhearú can accommodate the traffic, the appellants note that this junction is uncontrolled, and the level of traffic will cause delays to people exiting the estate. It is unclear if the traffic from the creche and the existing estate (including the 39 recently completed houses) was taken into account.

- Additional traffic at the R417 junction will conflict with the incidental and haphazard parking that occurs at this junction and at the entrance to the estate for school collections during term time.
- The Board is requested to consider the adequacy of the conditions imposed by the PA as they relate to roads and traffic management and the responsibility of Kildare County Council to make improvements to traffic management and safety on the main access routes to the estate.
- Appellants submit that issues raised regarding inadequacies in the road and footpath network in the Stage 1 Quality Audit should be dealt with prior to the planning stage and should not be addressed at 'detailed design stage' or through planning conditions.
- Road Safety – The grounds of appeal object to the location of houses 8-15 which have individual driveways directly accessing the internal road of Corrain Bearú. (Objective TM063, Policy TM P8 and Objective TM 0110) are referenced. Allowing direct vehicular access onto the internal road contravenes objective TMO110 as it would result in conflict and additional risk for pedestrians using the road. The road alignment at this section is designed for traffic calming with limited forward visibility. The location of the houses could also result in haphazard parking along the road which could exacerbate the situation.
- The provision of a second vehicular entrance into Cluain Bearú is unnecessary and would present an additional potential traffic risk and reduce the existing residential amenity.
- Surface Water / Drainage – Although Uisce Éireann states that the existing sewer network can facilitate the expansion without any additional infrastructural upgrades the residents note the historic issues with the system in the estate. Residents state that the pumping station and network is subject to regular and frequent inspections by the planning authority and that residents still experience issues and have to engage private drain clearance companies on a regular basis.

- Flooding – The appellants state that there are historic flooding issues on the site and are concerned that the flood issue is not properly addressed through planning conditions. They are also concerned that the flood risk has not been adequately considered and that there may be a combined risk from flooding and the inadequate wastewater system. The surface water system at Cois Bhearu / Cluain Bhearu does not have the capacity to deal with heavy rainfall and become inundated. An additional 129 houses will exacerbate this situation.
- Water Supply – Despite the comments from Uisce Éireann stating that the water supply is adequate, the existing residents experience low water pressure on an ongoing basis. The additional houses will exacerbate this issue, and the concerns expressed have not been sufficiently addressed by the developer or Uisce Éireann.
- Environmental conservation – The residents object to the removal of most of the existing mature hedgerow, trees and shrubs along the shared boundary with the site. The results of the tree survey/arboricultural survey are disputed.
- Creche & associated parking – The relocation of the creche to the entrance of the proposed development will result in a traffic hazard given its proximity to a junction and would be risk to users of the creche. Only 6 parallel, car parking spaces / drop off places have been provided. The proximity of these spaces to the junction would result in a hazard. The RFI states that car parking is provided adjacent to the creche but no details are shown. Parking on the other side of the road would not be satisfactory. There is a lack of parking spaces in the estate for existing residents and the number of spaces for the creche will increase demand in the estate. The appellants wish the creche to be relocated to its original location.
- Permeability links to Whitecastle Lawns – The residents appeal the provision of the links to the adjoining estates which were indicated to be ‘possible’ and ‘potential’ walkways. The application description is vague, and no details have been provided to show the level or extent of work required or proposed. There are concerns that the existing estate will become a through-way to schools on the R147 and that the residents will be subject to anti-social behaviour.

- Widening the pedestrian link – The appeal objects to the provision of Condition No. 40 to widen the existing pedestrian link to the pathway on the R147 at the northwest of Corrain Bhearu, Cois Bhearu as the 4m width is excessive. The provision of a cycle path for such a short stretch would create a health and safety hazard at either end, and should only be undertaken after the incorporation of a safe cycleway along the pathway on the R147 for at least the length of the road from Cois Bhearu to the school's campus.
- Safety – There are concerns that the increase in vehicular and cycle traffic will impact on the safety of residents and children. There is a specific concern regarding the location of 8 houses on the main access road on the estate with direct access onto the road from all 8 driveways which could result in conflict between vehicles and pedestrians.
- Disruption during construction – There is a concern regarding disruption during the construction phase. Residents have experienced disruption during pervious construction works due to non-compliance with working hours and haphazard parking which blocked driveways and access.
- Lack of Clarity in drawings – Despite the information lodged through FI, the appellants are of the view that there is a lack of clarity for the overall development proposal. It is noted that 28 of the 46 conditions require actions or additional information to be submitted/agreed prior to commencement of development. This removes the opportunity for third party access or engagement. The Board is requested to address this issue.

6.2. **Applicant Response**

A response to the appeal was received on the 6th of February 2025 and includes the following,

- The applicant sets out how the development complies with national and local policy in terms of its land use, context and design, unit mix and density and outlines the alterations made to unit type and mix during the FI stage.

Permeability links –

- On foot of a request from the PA, the development proposal was assessed against the new permeability guidelines, *'Reimagining Permeability in Kildare – Reconnecting our Communities: Permeability Guidelines'* (hereinafter referred to as the Permeability Guidelines), and the applicant confirmed that four permeability links within the development have followed the steps for all applications in the new Permeability Guidelines. Filtered permeability links for walking and cycling were designed for Moneen Lane, White Castle Lawns and Corrain Bhearu.
- The applicant also agreed to extend the existing footpath through the open space at Corrain Bhearu to the R417 to provide a 4m wide pathway, (as shown on Drawing 12-109-P600-RevA-Permeabilty Links).
- It is not proposed to provide any segregated cycle tracks or to remove any householder parking in adjoining estates.
- No vehicular access is proposed from the proposed development, or the concurrent development, to Moneen Lane or White Castle Lawns. Upon consent being obtained from the relevant landowners / bodies in charge the applicant can facilitate 1 no. pedestrian cyclist link from the development to White Castle Lawns
- Condition No. 43 attached to the grant of permission requires the applicant to upgrade an existing signalised pedestrian crossing to the front of the church at Stanhope Street. The applicant states that the works to upgrade an existing crossing in the town, which is more than 1km away from the development is work in excess of the needs of the development as per Section 34(4)(m) of the Planning and Development Act 2000 (as amended). The Board is requested to remove this obligation should permission be granted.

Flooding and Services –

- A Flood Risk Assessment (FRA) was carried out for the development and submitted with the application.

- The FRA found that there was a low risk of fluvial flooding and recommended that the development designed to ensure that the finished floor levels on the site were above the predicted flood levels. Design measures were recommended to minimise the risk from surcharges, surface water and overland flooding. The FRA concluded that that following the implementation of the design measures there would be a low residual risk of flooding from each of the risks identified.
- The applicant notes that no concerns were raised by the PA regarding flooding at any stage in the application process.
- Uisce Éireann confirmed that water and wastewater connections to serve the development are feasible without any required upgrades to existing infrastructure. The Water Services Department of the PA also deemed the development to be appropriate and raised no significant concerns regarding surface water.

Boundary Treatments -

- Although the application contains comprehensive landscaping details, the applicant wishes to confirm that, apart from where the pedestrian / cycle connection is proposed into White Castle Lawns, the boundary treatment along the western side of the site is a 1.8m high concrete post and timber panel fence.

Residential Amenity -

- The applicant notes the concerns raised by third parties which relate to impacts on residential amenity such as safety for residents, antisocial behaviour, noise and dust pollution, impacts from the construction phase, devaluation of property, overlooking, quantum of residential units etc., and does not intend to respond to each item individually.
- Instead, it is submitted that the applicant endeavoured to design a development that will be viable and sustainable, and which meets the standards and guidelines of planning policy. The applicant engaged with the PA extensively and is of the opinion that the planning conditions attached to

the permission will ensure that the construction phase will not have negative impacts on residential amenity.

Traffic –

- The proposed development was subject to a Traffic and Transport Assessment (TTA) and a Road Safety Audit (RSA) which were submitted with the application. The proposed development has also been designed in accordance with the Design Manual for Urban Roads and Streets (DMURS).
- Some of the issues raised in the appeal relate to matters that are outside of the subject site / proposed development and are not within the power or control of the applicant to deal with.

Creche –

- A creche is proposed to serve the overall development, i.e. the subject application and the concurrent application (24/111 and ABP-321624-25) in accordance with the 2001 Childcare Facilities Guidelines. Car parking and cycling for the creche has been adequately provided in accordance with the County Development Plan. Excessive parking has not been provided to support the planning objectives for sustainable travel.
- The position of the creche to the front of the development will facilitate easier access from neighbouring estates.

6.3. Planning Authority Response

- A response was received from the PA on the 5th of February 2025. The PA had no further comments to make.

6.4. Observations

- Department of Housing Local Government and Heritage – The Board is requested to retain Condition No. 25 of the Planning Authority's decision (archaeological monitoring) should permission be granted.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal relate to the following:

- Principle of Development
- Procedural Issues
- Design and Layout
- Traffic and Transport
- Infrastructure and Flood Risk
- Other Issues

7.2. **Principle of Development**

7.2.1. The proposed development is on land zoned 'New Residential' to the rear of an existing housing estate within the settlement boundary of Athy. The proposed use is acceptable within the zoning objective and would be in accordance with the provisions of the County Development Plan (CDP) and the Athy LAP. On this basis the proposed development is acceptable in principle subject to the policies and objectives of the CDP and can be assessed on its merits.

7.3. **Procedural Issues**

Consultation

7.3.1. Two third party appeals were lodged from residents' associations in the neighbouring estates. Both appellants contend that they were not adequately consulted prior to or during the application process and that their submissions on the application were not adequately considered by the PA in their assessment. They also submit that design details to be agreed by condition restrict full third-party engagement in the planning process.

7.3.2. Under Part 4 of the Planning and Development Regulations 2001 (as amended) the applicant is required to publish public notices in a newspaper and to erect a site

notice on the land or structure in a conspicuous position so as to be easily visible and legible when lodging a planning application. I note that both matters were considered acceptable by the planning authority and the application was validated. The Planning Act and Regulations require no additional consultation with the public during the application process and anything over and above these obligations would be at the discretion of the applicant.

7.3.3. I note that 12 no. observations were received by the PA during the public consultation phase for this application and 27 no. observations were received for the application for the adjoining site. The scheme was readvertised on foot of a request from the PA in response to the applicant's response to FI, and a further 3 no. submissions were received. On this basis, I am satisfied that the applicant fulfilled their obligations regarding the requirements of the Planning Act and Regulations as they relate to public consultation.

7.3.4. The issues raised in the submissions were listed in the report of the PO and on that basis, I am satisfied that they were considered in the assessment. The issues will further be examined and assessed by the Board in this appeal.

7.3.5. I note that point 11 of the PA's request for FI relates to the provision of permeability links to adjoining land and states that *'There should be full engagement with the adjoining Developer, Residents Association, Management Company and the Kildare County Council Project Engineer for the Athy DR'*. The appellants state that this consultation did not occur, and the applicant notes that a meeting took place with the PA prior to submitting their response. Whilst the FI request states that consultation 'should' take place, the PA were satisfied with the with the response of the applicant without such consultation. It is also of note that the report of the report of the PO refers to the Athy LAP and states that public consultation was carried out for the link to Whitecastle Lawns under the statutory process and as such was not required by the applicant. The appellants are also concerned about the lack of clarity regarding the design of the permeability links and submit that in the interest of natural justice design details should be subject to public consultation. The issue of permeability connections to the adjoining lands is expanded on and addressed in full in Section 7.4 below.

7.3.6. The agreement of details by condition was also queried by the appellants. This is standard practice and is sometimes unavoidable as projects advance to detailed design stage. Such conditions are not included to preclude consultation and generally relate to details which would not have any additional impacts other than those considered during the application and public consultation process.

7.3.7. In summary, I am satisfied that the applicant undertook their statutory obligations regarding public consultation as per Part 4 of the Planning and Development Regulations 2001 (as amended) and that third parties were not excluded from the application process or from the processes of natural justice.

7.4. Design and Layout

7.4.1. The grounds of appeal raised several objections to the design and layout of the proposal. They mainly relate to the impact of the development on adjoining houses in terms of loss of privacy and disturbance, road safety, the location of the creche and the potential for the proposed permeability links to negatively impact on existing residential amenity. The issues raised in relation to the creche are outside the redline boundary for this application and are addressed in the Inspectors Report for the concurrent appeal, **ABP-321623-25**.

In terms of the overall design and layout of the development, I am satisfied that it is in accordance with the development management requirements set out in the County Development Plan and the Compact Settlements Guidelines as they relate to density, open space, private open space and housing quality and mix. I note the proposed demolition of the historic Mill building on the site, and I am satisfied that its removal has been justified in the reports submitted with the application. The issue of the heritage buildings was not raised in either appeal, as such I will not address it in detail.

<u>Proximity to Existing Houses</u> –

7.4.2. The report of the PO raised a concern regarding the units proposed along the western site boundary and the impact they would have on the existing single storey houses at No's 11-16 Whitecastle Lawns. The applicant was requested to revise the unit types at this location. In response the two-storey units were replaced with 6 no. single storey, 1-bedroom cottages with a ridge height of 5.6m and separation

distances between existing buildings ranging from 15.6m to 28m. This arrangement was accepted by the PA, and I am also satisfied that the amended layout would not result in any loss of residential amenity in terms of overbearing impact, overshadowing or overlooking.

Boundary Treatment

7.4.3. A query was raised regarding the boundary treatment between the new and existing estates and the appellants requested that the Board apply a planning condition requiring the applicant to construct a 225mm concrete block wall to a minimum height of 2m along the entire common boundary. The 'Hard Landscape & Boundary Treatment Plan' submitted with the application, shows the boundary treatment along the western site boundary, between Bearú Mhór and Whitecastle Lawns as 'Boundary Type 2 – 2m high block wall'. This is also shown on the Landscape Plan (23186_Athy_FI_LP_P2) and on the annotated drawing on the 'Hard Landscape Plan & Boundary Treatment drawing, Revision B' submitted with FI. However, there is a discrepancy between the drawing and the legend on the Hard Landscape Plan which lists the boundary on the western side as 'Boundary Type 1 – 1.8m high concrete post and timber panel fence'. The applicant's response to the appeal also states that the western site boundary would be 1.8m high concrete post and panel fence. I note that Section 15.4.6 of the CDP states that special consideration should be given to boundary treatment where developments adjoin existing dwellings and that a 1.8m to 2m high wall of solid brick, capped and plastered is generally acceptable. It is also stated that situations which lead to the creation of two walls or fences with a gap in between should be avoided. I note the concerns of the appellants, and I consider it reasonable that a block work boundary wall to a height to a height of 2m, as stated in the application, is installed. A condition of this nature can be attached should the Board be minded to grant permission.

Permeability Links

7.4.4. The appellants object to the inclusion of permeability links between the proposed development and the existing housing estate at Whitecastle Lawns. Concerns were raised regarding the impact of additional footfall on residential amenity in terms of loss of privacy, disturbance, anti-social behaviour and devaluation of property. I note to the Board that the proposed connection to Whitecastle Lawns is not within the

redline boundary for the subject application and is within the layout for the concurrent appeal, **ABP-321623-25**. However, as the issue is raised in several third-party submissions and a condition is attached to the decision of the PA, I will assess the issues arising from the proposed link.

7.4.5. Drawings submitted with the application show 'Possible future Cycle & Pedestrian links' to the adjoining estate at Whitecastle Lawns to the west of the site and to lands to the south of the development which would lead to Moneen Lane. Point No. 11 of the FI request directs the applicant to review the proposed permeability links and commit to contributing to works on existing estates so that the proposals are mutually beneficial to both existing and new residents. The applicant is requested to design filtered permeability / connectivity links for Moneen Lane and Whitecastle Lawns (which is taken in charge by the PA). The request also notes that the applicant should have full engagement with the adjoining developer, residents' association, management company and the PA. The applicant is requested to identify works that would be beneficial to existing residents at Whitecastle Lawns, Moneen Lane and Corrain Bhearu. A detailed design for the permeability links showing boundary treatments was also requested by the PA.

7.4.6. In response, the applicant prepared a Permeability Link Report which follows all the steps outlined in Table 3 of the Permeability Guidelines, as requested by the PA. The applicant also stated that details of the permeability links were agreed with the PA at a meeting prior to lodging the FI response and that filtered permeability links for walking and cycling are designed for,

- Moneen Lane, where the connection will be brought to the site boundary for future connection with the adjacent landowner,
- Whitecastle Lawns – for a permeability connection for cyclists and pedestrians where the pedestrian connection will be to the existing footpath and cyclists will travel on the road,
- Corrain Bhearu – which will have full permeability at the site entrance with cycle and pedestrian connectivity to the northeast boundary.

7.4.7. Drawing No. 23-109 – P600-Rev A – Proposed Permeability Link was submitted by the applicant and shows the location of all permeability links proposed.

7.4.8. The report of the PO refers to Table 3 in the Kildare Permeability Guidelines which sets out the steps for potential applicants to carry out prior to seeking planning permission to ensure the development is well connected. Step 1.b requires that the applicant/developer engage in non-statutory public consultation at pre-planning stage with stakeholders that may be affected by new permeability links. This consultation is only required for links that have nor previously undergone consultation as part of the LAP process. The PO notes that the permeability link between Whitecastle Lawns and the subject site was included in the draft Athy LAP but was subsequently removed and is not in the current LAP. On this basis the PO determined that public consultation is not required by the applicant.

7.4.9. The decision of the PA attached condition No. 31 which relates to the permeability links and states that the developer shall provide filtered permeability links at the four locations identified on Drawing 23-109-P600-Rev A. Prior to the commencement of development, the developer is to obtain the written agreement of the PA on the detailed design, timing, phasing and delivery of the works. The condition requires that the developer ensure that all works are completed to the site boundaries, and where estates are taken in charge, that tie-in facilities are provided prior to the occupancy of the last 25 residential units.

7.4.10. In their response to the appeal, the applicant states that they have complied with the requests of the PA as they relate to the planning policy and the provision of permeability links and do not wish to antagonise existing residents.

7.4.11. The grounds of appeal object to the permeability links on the basis that they are unnecessary as they will not improve travel times to services and that they will result in loss of privacy, anti-social behaviour and devaluation of property.

7.4.12. Third parties are correct in their observation that travel times to services will not be greatly improved by the provision of connections to existing estates. The permeability report submitted by the applicant confirms that the walk times to services will not be greatly improved by the provision of new links to existing estates. However, well-connected neighbourhoods are one of the principles of good urban design and encourage walking and cycling through quieter routes. Third party concerns regarding loss of privacy and anti-social behaviour are acknowledged but there is no evidence to confirm that this is an outcome from a well-connected

neighbourhood. No evidence has been submitted to support this argument, and I do not consider that the proposed pedestrian and cycle connections would lead to antisocial behaviour. The connections would be of benefit to existing communities as well as new ones and potential positive outcomes are sometimes overlooked. New connections would provide ease of access to a new community for social reasons and to use or work in the creche. The devaluation of property is also raised as a concern, however there is no basis for this argument and no evidence has been put forward to support it.

7.4.13. The grounds of appeal note that the design details of the proposed connections have not been submitted and that, in the interest of natural justice, residents should be consulted prior to approval. Although the response to FI states that the elevation and details of all four links are provided in Drawings 23-109-P601 / 602 and 603, which are referenced as 'Drawings for each Permeability Link', none of the drawings contain elevations, sections or details on boundary treatment. Instead, each drawing provides an aerial image of the site and the adjoining area which his annotated with the location and description of each of the proposed links. The planning condition attached to the decision of the PA requires the detailed design of the links to be agreed with the PA prior to the commencement of development. Third parties submit that the lack of detailed drawings is not in accordance with the principles of natural justice as they are not afforded an opportunity to comment on the proposals.

7.4.14. I agree with the third parties that the response to FI should have included details of the proposed connections to existing estates for the information of the residents and for clarity. In particular, the link to Whitecastle Lawns requires careful consideration. The proposed link at this location would connect to a vehicular turning circle which has just enough space for a footpath along its eastern side. The housing estate is designed to be open in character with no walls or boundaries to the front of any of the houses and there are two houses on either side of the turning circle, (No's 65 and 66). Both houses are in close proximity to the existing site boundary which comprises a blockwork wall. No. 65 has open access to the side of the house and up to the site boundary wall. Given the design of the estate and the proximity of the existing houses to the boundary, concerns regarding the design and impact of the proposed connection are reasonable. To prevent conflict with vehicles and intrusion on private property the location and design of this link should be carefully

considered. Whilst, existing residents would have benefitted from sight of detailed drawings, I am cognisant that the proposed connection would be for pedestrians and cyclists only and as such would be of limited scale and disruption. I note that the proposed connections were included on the initial drawings for the application and were the subject of several third-party submissions both at initial public consultation stage and as FI stage. As such I am satisfied that the proposed links were advertised publicly and that. members of the public were not excluded from commenting on the proposal. The report of the PO also states that public consultation was carried out for the links as part of the Athy LAP.

7.4.15. I am satisfied that, given the limited scale of the pedestrian and cycle connections to the existing estate at Whitecastle Lawns that the detailed design can be agreed with the PA prior to the commencement of development with the link to be delivered by the developer as part of the overall development. As noted above, this connection is outside of the redline boundary for the subject development and is addressed in the concurrent appeal, **ABP-321623-25**.

7.4.16. The PA have also requested that the applicant also provide a permeability link to Moneen Lane to the south of the site. This delivery of this connection would be more difficult as it would require a connection through third party lands to connect with Moneen Lane which is taken in charge. The exact route of the connection has not been detailed or designed, and it is unclear as to whether a link could be provided. In the absence of such details, it is reasonable that the applicant is requested to facilitate a landscaped pathway within the site boundary to facilitate a future connection to Moneen Lane which can be delivered by the PA or a third party later.

7.4.17. Concerns were also raised in the appeal regarding the provision of cycle facilities through the estate to Whitecastle Lawns and the potential conflict with pedestrians. Appellants note that the existing housing estate does not have dedicated cycling facilities and are concerned that conflicts may occur between cyclists and pedestrians on the narrow footpaths as a result on the permeability connection. The applicant has clarified that dedicated cycle facilities are not proposed for the new estate. As the environment will be a low-speed residential area cyclists can share the carriageway through the estate, which already occurs. This would align with the existing environment in the neighbouring estate and would not result in any additional pedestrian and cycle conflict.

7.4.18. As part of works to be provided outside of the red line boundary, the applicant has agreed to upgrade the existing footpath through the open space at Corrain Bhearu to provide a 4m wide path with a connection to the R417 where they would provide a cycle lane to the school entrance to the north of the site. The location of the connection is shown on Drawing P600 Rev A and on Drawing P603 Rev A. Concerns were raised that the upgraded link would result in loss of parking for residents should a dedicated cycle lane be provided. The applicant has confirmed that the upgrade works will not include a dedicated cycleway, and that no loss of parking will occur. The Quality Audit and Stage 1 Road Safety Audit submitted with FI highlighted the poor visibility at the pedestrian connection with the R417 as an issue to be addressed in the detailed design stage. The lack of cycle facilities on the R417 was also highlighted in the audit. The grounds of appeal question the safety of providing a partial cycle lane from the pedestrian link at Corrain Bhearu to the school, without a plan for a fully integrated cycleway along the R417. Whilst an integrated cycle route would be a preferred option, the provision of a dedicated and properly designed link from the existing estate to the school will benefit cyclists coming from the estate and would be of value to existing and future residents attending the schools. A wider response is required for cycling facilities along the R417, but this is outside the remit of the subject application.

7.5. **Traffic and Transport**

7.5.1. Issues raised regarding traffic and transport were raised in both appeals that relate to the wider site. As the traffic issues mainly relate to development on the adjoining site which contains the creche and the main access to the estate, they are dealt with in full in the Inspectors Report for **ABP-321624-25.**

7.5.2. In summary, a Traffic and Transport Assessment (TTA) was carried out for the development and submitted with the application. The TTA describes the scope of the study and states that its purpose was to assess the impact on the overall residential development on the road network and to understand whether the potential future traffic arising from the parallel proposed development. The report also states that the TTA was prepared to assess the impact of the overall development, i.e. Phase 1 (to the north) and Phase 2 (the subject development). Sections 1.5 of the

assessment states that the TTA was prepared in accordance with the requirements of the *Traffic and Transport Assessment Guidelines* published by the National Roads Authority (NRA) / Transport Infrastructure Ireland (TII) in May 2014. The guidelines set out the methodology for traffic assessments which includes all aspects of the existing and proposed environment to be considered. The TTA modelled how the existing junction at Corrain Bhearu estate and the R417 would function with the proposed development in place and in future scenarios which allowed for traffic growth on the road network. The results of the TTA show that the junction operated well within capacity for all years modelled and under all traffic growth scenarios with the maximum queueing time at less than 12 seconds at the peak pm hour of 14.00 to 15.00.

7.5.3. Queries were raised by appellants regarding the methodology applied in the TTA and whether the results included the creche development and the new development in the Corrain Bhearu estate. As the creche is located in the adjoining development and outside the redline boundary for the subject development, this issue is addressed in full in the Inspectors Report for the adjoining site, **ABP-321623-25**.

7.6. Infrastructure and Flood Risk

7.6.1. Third party submissions raised concerns regarding the capacity of surface water and wastewater services in the area and whether they could cope with an additional 129 housing units without significant infrastructural upgrades. Appellants state that the existing sewer network has capacity problems and that the pumping station for Corrain Bhearu requires frequent inspections and drain clearance is required by residents on a regular basis. In the past heavy rains have overwhelmed the surface water system and there is a concern that additional surface water could cause flooding. It is also stated that mains water pressure in the estate is very low and has caused problems for residents.

7.6.2. The proposed development will be connected to the public mains and foul water services. A pre-connection enquiry was submitted to Uisce Éireann and the response was included in the application. Uisce Éireann confirmed the feasibility of the project and indicated that no infrastructure upgrades were required to facilitate the development. The applications states that the foul water infrastructure for the

development would be constructed in accordance with the requirements of Uisce Éireann and details are provided in the Engineering Assessment Report and on the drawings submitted. Section 10.1 of the Athy LAP notes that Uisce Éireann is responsible for the provision of public water services (water supply and foul drainage). Mains water for Athy is supplied from the Srowland Water Treatment Plan and new connections will be prioritised for housing and domestic sanitation purposes. Wastewater is treated at the Athy Wastewater Treatment Plan which has an existing capacity of 15,000PE with capacity for future expansion. The LAP notes that modelling of the sewer network identified some issues that will require new systems to be implemented with the growth of the catchment. However, there should be sufficient headroom to provide for the majority for the projected population. Two reports are on file from the Water Services Department of the PA. Neither report had any objection to the development and planning conditions were recommended. No reference was made to capacity issues or existing problems in the public water system. Whilst existing residents may experience legacy issues from the development of the estate, no evidence has been submitted. Uisce Éireann have confirmed that capacity exists to accommodate the development without infrastructural upgrades and there was no objection from the PA. As Uisce Éireann are the body responsible for public water services, and in the absence of any evidence to the contrary, I accept their confirmation that the development can be accommodated.

7.6.3. Surface water for the site will drain by gravity and discharge at a rate equivalent to a greenfield rate to the existing drainage ditch to the south of the site. The subject development represents Phase 2 of the overall development. Each phase of the development has been designed to have its own surface water catchment. Surface Urban Drainage Systems (SuDS) measures are incorporated into the proposed development to slow down and attenuate runoff. The drainage system for each phase would direct surface water runoff from hardstanding areas to an attenuation basin in each of the public open space areas. Each basin would have an underground storage area for stormwater and an aboveground vegetated area for surface water runoff. This surface water would ultimately outfall to the existing drainage ditch to the south of the site.

7.6.4. The grounds of appeal raised a concern that the additional water discharging to the existing drainage ditch that runs to the rear of houses on Whitecastle Lawns (No's 9-12) could result in flooding. Appellants also noted that some areas of Whitecastle Lawns are in a Low-Risk Flood Zone on OPW maps and questioned whether the development would impact on health and safety in the estate by virtue of an increase in flood risk.

7.6.5. The surface water drainage system for the site has been designed to drain the south of the site and should not have any impact on the drainage system to the rear of Whitecastle Lawns and along the western site boundary. Notwithstanding this, I am satisfied that details submitted in the application clarify that surface water from the site will be discharged at the existing greenfield runoff rate, the calculations for which are detailed in the Engineering Assessment Report. As such the existing drainage system would not experience any outfall of surface water over and above what it already facilitates.

7.6.6. A Flood Risk Assessment (FRA) was prepared for the development. The FRA considered the risk to the development from tidal, fluvial (river), pluvial (surface water), groundwater and mechanical errors. The assessment noted that, as per OPW maps, the subject site is not within a Flood Zone for pluvial flooding and no overland flood events have been recorded on the site. Regarding increased risk of flooding from the development to other areas, the FRA considered the risk from surcharging of the proposed on-site drainage systems, surface water discharge from the site, overland flooding from the site and human/mechanical errors. The risk to neighbouring areas was found to be low given the adequate sizing of the surface water drainage network, the provision of SuDS devices and the restriction of the surface water discharge rated via hydro brake. I am satisfied that the potential risk to neighbouring sites was considered by the applicant and that sufficient measures have been designed into the drainage system to minimise flood risk to adjoining developments. I note that the reports of the Water Services Department of the PA had no objection to the surface water drainage system proposed and no concerns were raised regarding flood risk.

7.7. **Other Issues**

7.7.1. Appellants raised concerns regarding the disturbance to residential amenity during the construction phase. There will be additional noise and disturbance during the construction phase. However, this phase is temporary in nature and should the Board grant permission for the development, planning conditions will be attached to minimise disruption to residents. Any operations outside of the parameters set by the planning application could represent unauthorised development which would be dealt with through the enforcement powers of the PA.

7.7.2. The grounds of appeal object to the removal of trees and hedgerows on the site and contend that not all of the trees are of poor quality. A Tree Report and Tree Survey was submitted with the application. The report notes that there is no record of tree protection orders on the trees within the site and that all trees to be retained are within the Construction Exclusion Zone as shown on Drawing No. 23186_Athy_FI_TPP_P1&P2. Trees and hedgerows along the southern and western site boundaries will be retained where possible and where they are in good condition. Where hedgerows along the boundary will be partially removed, they will be subject to additional planting to supplement the loss. Whilst the loss of established planting is regrettable, the implementation of the Landscaping Plan would help to improve biodiversity through planting native species and supplementary planting of hedgerows where required. On this basis I consider the removal of trees to be acceptable.

7.7.3. In their response to the appeal, the applicant objected to planning condition No. 43 which requires the applicant to upgrade an existing signalised pedestrian crossing to the front of the church at Stanhope Street. The applicant states that the works to upgrade an existing crossing in the town, which is more than 1km away from the development is work in excess of the needs of the development as per Section 34(4)(m) of the Planning and Development Act 2000 (as amended). The Board is requested to remove this obligation should permission be granted.

7.7.4. The *Development Management Guidelines for Planning Authorities, (2007)* state that planning conditions should be Necessary, Relevant to planning, Relevant to the development permitted, Enforceable, Precise and Reasonable. I note the location of the existing pedestrian crossing, which is approximately 1km from the entrance to

the Cois Bhearu estate, which will serve as the main entrance to the proposed development and I would agree with the applicant that the request to upgrade the crossing would be excessive to the immediate needs of the development and would not be in accordance with the requirements of Section 34(4)(m) of the Planning and Development Act 2000 (as amended) as it relates to conditions for the upgrading of public facilities. I also consider that the condition is not necessary for the development and is not reasonable. Furthermore, should permission be granted for the development, it would be subject to a Development Contribution under Section 48 of the Planning and Development Act 2000 (as amended). The contribution would be applied in accordance with the Kildare Development Contribution Scheme which requires the payment of a contribution in respect of public infrastructure, which includes the provision of cycle and pedestrian facilities and traffic calming measures.

7.7.5. Given the location of the pedestrian crossing, approximately 1km from the subject site and the lack of connection or inter-dependence with the proposed development I consider the provision of Condition No. 43 to be unreasonable and onerous and I recommend that it be omitted should permission be granted.

8.0 AA Screening

8.1. See Appendix 2 for Screening information. 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 the River Barrow and River Nore SAC (Site Code 002162) in view of the conservation objectives of this sites and is therefore excluded from further consideration. Appropriate Assessment is not required.

8.2. This determination is based on:

- Scientific information provided in the Screening report.
- Distance from and weak indirect connections to the European sites.
- No potential for ex-situ impacts.
- Possible impacts identified would not be significant in terms of site-specific conservation objectives for the River Barrow and River Nore SAC (Site Code

002162) and would not undermine the maintenance of favorable conservation conditions or delay or undermine the achievement of restoring favorable conservation status for those qualifying interest features of unfavorable conservation status.

8.3. No mitigation measures aimed at avoiding or reducing impacts on European sites were required to be considered in reaching this conclusion.

9.0 Recommendation

9.1. I recommend that planning permission is granted for the development.

10.0 Reasons and Considerations

Having regard to the nature of the development for the construction of 91 houses and a creche facility on an infill site with a 'New Residential' zoning objective, in the urban suburb of Tomard, Athy it is considered that the proposed development would be in accordance with the Kildare County Development Plan 2023-2029 and with the provisions of the Athy Local Area Plan 2023-2029. It would also be in accordance with national planning policy as set out in the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities. The proposed development would not seriously injure the amenities of the area or of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

11.1. The PA attached 46 no. planning conditions to their decision to grant permission, some of which are bespoke to the development. In the interest of clarity, the following table sets out where the PA's conditions are contained within the standard conditions of the Board.

Condition No.	What it relates to / Reason	Board Condition
1	Standard plans & particulars	Standard condition no. 1
2	Use of units & phasing plan	Included
3	Millers House	Included
4	Landscape Masterplan	Standard condition no. 5

5	Boundary treatment – specific details	Included - condition no. 8
6	Landscaping Bond	Included – condition no. 15
7	Construction hours	Included – condition no. 32
8-12 & 14	SuDS	Standard condition No. 16 & 23
13	Surface water / public road (construction phase)	Standard condition No. 17
15	Section 47 restrictions	Standard condition No. 21
16	Part V	Standard condition no. 36
17	Bond for taking in charge areas	Standard condition no. 14
18	Naming of Developments	Standard condition no. 10
19	Construction & Demolition Waste Management Plan	Standard condition no. 13
20	Surface water management	Standard condition No. 16
21	Noise & dust	Standard condition no. 13
22	Operational Waste Management Plan	Standard condition No. 19
23	Uisce Éireann	Standard Condition No. 11
24	Surface water / debris	Standard condition no. 34
25	Archaeology	Standard condition no. 18
26	Landscape Architect / Landscape	Standard condition no. 5
27	Arborist / tree protection	Standard condition no. 9
28	Play equipment details	Standard condition no. 6
29	Pathway details	Standard condition no. 24
30	Boundary details	Included – condition no. 9
31	Permeability links – bespoke	Included – condition no. 25
32, 33, 34	Design details pathways & roads	Standard condition no. 24
35	Noise mitigation measures	Included – condition no. 31
36	Permeable paving	Standard condition no. 22
37	EV charging details	Standard condition no. 20
38	Construction Management Plan	Standard condition no. 12
39	Footpath connection details – bespoke	Included – condition no. 29
40	Details 4m wide shared surface – bespoke	Included – condition no. 27
41	Road opening licence	Included – condition no. 29
42	Stage 3 RSA	Included – condition no. 28
43	Signalled pedestrian crossing upgrade works – bespoke	Removed
44	Public Lighting	Standard condition no. 17
45	Section 47	Standard condition no. 21
46	Development Contributions	Standard condition no. 35

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 13th day of November 2024, except as may otherwise be required in order to

	comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. **Reason:** In the interest of clarity.
2.	(a) Each residential unit shall be used as an individual residential unit and shall not be subdivided into separate living units or for commercial or trade purposes. (b) Prior to the commencement of development, the Developer shall submit for the written agreement of the planning authority, a detailed phasing plan for the development which shall include that the creche is fully completed prior to the occupation of the 75th unit on the overall landholding. **Reason**: In the interests of clarity and to ensure the timely delivery of the creche.
3.	The development shall be amended as follows, (a) The proposed balconies shall be omitted from the Millers House. (b) The Millers House shall be finished in blue/black natural slate roof, napp plaster, aluminium rainwater goods and granite cills. The windows, doors and rainwater goods shall not be white uPVC. **Reason:** In the interest of visual amenity.
4.	Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. **Reason:** In the interest of visual amenity
5.	The landscaping scheme as submitted to the planning authority on the 13th day of November 2024 shall be carried out within the first planting season following substantial completion of external construction works. Additional

	tree planting shall be included in the overall scheme with details to be agreed in writing with the planning authority. In addition to the proposals submitted in the scheme the developer shall submit, for the written agreement of the planning authority, details of the proposed play area and equipment and shall ensure that the proposal provides for imaginative, constructive and active play with universally accessible play areas. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority. **Reason:** In the interest of residential and visual amenity.
6.	The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be landscaped in accordance with the landscaping scheme submitted to the planning authority on the 13th day of November 2024. This work shall be completed before any of the dwellings are made available for occupation unless otherwise agreed in writing with the planning authority. **Reason:** In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.
7.	A schedule of landscape maintenance shall be submitted to, and agreed in writing with, the planning authority prior to occupation of the development. The schedule shall cover a period of at least three years and shall include details of the arrangements for its implementation **Reason:** To provide for the satisfactory future maintenance of this development in the interest of visual amenity.
8.	Prior to the commencement of development, the Developer shall submit for the written agreement of the planning authority a revised Boundary Treatment Plan with boundary treatment Type 1 (1.8-metre-high concrete

	post and timber panel fence) omitted from all areas adjoining public spaces / roads and a revised boundary treatment for units 84,97,105,108 and 115. The Boundary Treatment Plan shall include plan and section drawings that detail a permanent boundary type which allows for the retention and protection of existing trees and hedgerows and their root systems, and which shall be installed to avoid the creation of areas of 'no man's land' or inaccessible areas. The plan shall clearly identify the site boundaries and land ownership. The western site boundary shall comprise boundary treatment Type 2 (2m high block wall with pre-cast concrete capping) for its full extent. **Reason:** In the interests of clarity and visual amenity.
9.	Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum radius of two metres from the trunk of the tree or centre of the shrub, and to a distance of two metres on each side of the hedge for its full length and shall be maintained until the development has been completed. No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained. . **Reason:** In the interest of visual amenity and to protect trees and planting during the construction period
10.	. Proposals for an estate numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs,

	and house numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name. **Reason**: In the interests of urban legibility and to ensure the use of locally appropriate placenames.
11.	Prior to the commencement of development, the developer shall enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network. **Reason:** In the interest of public health and to ensure adequate water/wastewater facilities.
12.	Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a detailed Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority. The CEMP shall incorporate details for the following: collection and disposal of construction waste, surface water run-off from the site, on-site road construction, and environmental management measures during construction including working hours, noise control, dust and vibration control and monitoring of such measures. A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development. **Reason:** In the interest of residential amenities, public health and safety and environmental protection.
13.	A detailed construction traffic management plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The plan shall include details of arrangements for routes for

	construction traffic, parking during the construction phase, the location of the compound for storage of plant and machinery and the location for storage of deliveries to the site. **Reason:** In the interest of sustainable transport and safety.
14.	Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory completion of roads, sewers, watermains, drains, car parks, open spaces and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development. The security to be lodged shall be as follows - (a) an approved insurance company bond in the sum of €152,000.00 (one hundred and fifty-two thousand euro), or (b) a cash sum of €152,000.00 (one hundred and fifty-two thousand euro), to be applied by the planning authority at its absolute discretion if such services are not provided to its satisfaction, or (c) such other security as may be accepted in writing by the planning authority. **Reason:** To ensure the satisfactory completion of the development.
15.	Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the satisfactory completion of the landscaping plan, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion of any part of the development. The security to be lodged shall be as follows - (a) an approved insurance company bond in the sum of € 50,000.00 (fifty thousand euro), or

	. (b) a cash sum of € 50,000.00 (fifty thousand euro), to be applied by the planning authority at its absolute discretion if such services are not provided to its satisfaction, or . (c) such other security as may be accepted in writing by the planning authority. . The security shall remain in place until the landscape plan has been implemented to the satisfaction of the planning authority and for a further period of 1 year following completion of said landscaping works, or otherwise agreed by the planning authority. **Reason:** To ensure the satisfactory completion of the development.
16.	The attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority. **Reason:** In the interest of public health.
17.	Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of trees within the landscape plan. Such lighting shall be provided prior to the making available for occupation of any residential unit. **Reason:** In the interest of amenity and public safety.
18.	(a) The developer shall engage a suitably qualified (licensed eligible) archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks, dredging and/or the implementation of agreed preservation in-situ measures associated with the development following consultation with the Local Authority Archaeologist. Prior to the commencement of such works the archaeologist shall consult with and forward to the

	Local Authority archaeologist or the NMS as appropriate a method statement for written agreement. The use of appropriate tools and/or machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the National Monuments Service, regarding appropriate mitigation. (b) The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer. (c) Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer. **Reason:** To ensure the continued preservation of places, caves, sites, features or other objects of archaeological interest.
19.	A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials within each house plot shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and waste shall be managed in accordance with the agreed plan.

	Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.
20.	All the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. **Reason:** In the interest of sustainable transportation.
21.	(a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing. (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing. (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement

	has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit. **Reason:** To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.
22.	The development hereby permitted shall be carried out and completed at least to the construction standards as set out in the planning authority's Taking In Charge Standards. In the absence of specific local standards, the standards as set out in the 'Recommendations for Site Development Works for Housing Areas' issued by the Department of the Environment and Local Government in November 1998. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority. **Reason:** To ensure that the development is carried out and completed to an acceptable standard of construction.
23.	Drainage arrangements including the attenuation and disposal of surface water, shall comply with the requirements of the relevant Section of the Council for such works and services. Prior to the commencement of development, the developer shall submit to the Planning Authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit. Upon completion of the development a Stage 3 Completion Stormwater Audit to demonstrate Sustainable Urban Drainage System measures have been installed, and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction, shall be submitted to the planning authority for written agreement. **Reason:** In the interest of public health and surface water management.
24.	The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs, shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads

	and Streets (DMURS). **Reason:** In the interest of amenity and of traffic and pedestrian safety.
25.	The Developer shall provide a filtered permeability link for walking and cycling to connect with the existing estate at Whitecastle Lawns on the western site boundary of the development, and at the location shown as Linkage 3 on Drawing ATHY-WMC-ZZ-XX-DR-C-P600 Rev A – Permeability Links, which was submitted to the Planning Authority on the 13th of November 2024. Prior to the commencement of development, the developer shall obtain the written agreement of the planning authority on the detailed design, timing, phasing of the delivery of the permeability links. The works proposed shall include internal footpath / cycle path design, associated public lighting and landscaping. The developer shall ensure that all works are completed to the site boundaries and where estates have been taken in charge, that tie-in facilities are provided for pedestrians and cyclists prior to the occupancy of the last 25 residential units. The developer shall be liable for all costs associated with the connection for pedestrians and cyclists. **Reason:** In the interest of providing connected neighbourhoods and to promote Active Travel.
26.	Prior to the commencement of development, the Developer shall submit a revised Road and Footpath Layout Plan detailing how the existing and proposed residential units will be connected via a footpath and shall also demonstrate compliance with the requirements of the Design Manual for Urban Roads and Streets. **Reason**: In the interest of pedestrian safety.
27.	The Developer shall provide a 4-metre-wide shared surface from the school to the north of the Cois Bhearu estate to the internal western footway and carriageway at Cois Bhearu as shown on Drawings ATHY-WMC-ZZ-XX-DR-C-P600, ATHY-WMC-ZZ-XX-DR-C-P603 Rev A and ATHY-WMC-ZZ-XX-DR-C-P605 Rev A, which were received by the planning authority on the 13th of November 2024.

	The developer shall also install a staggered open gateway to allow pedestrian and cyclist only access at a T-junction where the estate footpath meets the footpath on the R417 to the written agreement of the planning authority. **Reason:** In the interest of pedestrian and road safety.
28.	Prior to the occupancy of the development the developer shall conduct a Stage 3 Road Safety Assessment (RSA). The Stage 3 RSA shall be conducted by an independent, approved and certified auditor. The recommendations of the Stage 3RSA shall be incorporated into the remedial works. **Reason:** In the interests of road safety.
29.	All works involving the opening of public roads or footpaths shall be carried out under a Road Opening Licence submitted to the relevant municipal district area office through the MRL system. **Reason:** in the interest of proper planning and development.
30.	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. All existing over ground cables shall be relocated underground as part of the site development works. **Reason:** In the interests of visual amenity.
31.	The developer shall implement all of the mitigation measures identified in the Amplitude Acoustics report received by the planning authority on the 2nd of April 2024. **Reason**: To mitigate the effects of noise and vibration.
32.	Site development and building works shall be carried out only between the hours of 0800 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.
33.	Prior to commencement of development, 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) shall be prepared and submitted to the planning authority for written agreement. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. 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 reducing waste and encouraging recycling.
34.	The site development and construction works shall be carried out such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried on the adjoining public roads by the developer and at the developer's expense on a daily basis. **Reason:** To protect the residential amenities of property in the vicinity.
35.	The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper

	application of the terms of the Scheme. **Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.
36.	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 transfer of land in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on the land in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Bord Pleanála for determination. **Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

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.

Elaine Sullivan
Senior Planning Inspector

22nd of April 2025

Appendix 1 –

Form 1 - EIA Pre-Screening

Case Reference	ABP-321624-25
Proposed Development Summary	. Housing development with 38 units. . See Section 2.0 of Inspectors Report.
Development Address	Tomard, Athy, Co. 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)	☒ Yes, it is a 'Project'. Proceed to Q2. ☐ No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1. **EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.**	
☒ 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?	
☐ 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.**	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold. **EIA is Mandatory. No Screening Required**	
☒ Yes, the proposed development is of a Class but is sub-threshold. **Preliminary examination required. (Form 2)**	Class 10(b)(i) – Threshold 500 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 ☐	
No ☒	**Pre-screening determination conclusion remains as above (Q1 to Q3)**

Form 2 - EIA Preliminary Examination

Case Reference	ABP-321624-25
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).	**Briefly comment on the key characteristics of the development, having regard to the criteria listed.** The proposed development would involve the construction of 38 houses that would be provided in a standard two-storey built form. The development forms part of a wider development site for which planning permission is being sought for 91 houses of standard two-storey design with a separate creche with all ancillary works, (ABP- 321623-25). The developments would be delivered in phases and would share an entrance to the site. The development would include all ancillary drainage works, including attenuation basins, and connections to the public foul water and mains water system. Domestic waste generated from the development will be collected by a contractor. Each development phase in the overall site would have its own catchment for surface water drainage. Car parking would be provided at surface level, and no deep excavations would be required. Demolition works would not be required as the site has been cleared. Natural resources would be used in the construction of the development through materials and the use of the brownfield site. There are no major risks and/or disasters that are relevant to the development and the risks to human health would be from accidents occurring during the construction stage.
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,	**Briefly comment on the location of the development, having regard to the criteria listed** The development is located on a flat, vacant site, to the rear of existing housing on the outskirts of Athy town centre. The site is a brownfield site that was previously used for industry with a former mill and mill house located on the southern part of the site. Although the site was cleared, some vegetation remains with hedgerows and treelines around the site boundaries. There are no water courses running through the site and no features or species of conservation value have been identified within the site.

cultural or archaeological significance).	The site is not designated as a Natural Heritage Area (NHA) or a Proposed NHA. It is not designated as a European site and contains no protected structures or national monuments.
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 characteristics of the development and the sensitivity of its location, consider the potential for SIGNIFICANT effects, not just effects.** Potential impacts would be limited to impacts from construction such as noise, nuisance and dust. These would be short term, and any potential impacts would be unlikely to have significant effects on environmental parameters. Any impacts would be local and would have limited magnitude and spatial extent. 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.** The proposed development has been subject to preliminary examination for environmental impact assessment. 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.

Inspector: _____Date: _____

DP/ADP: _____Date: _____

(only where Schedule 7A information or EIAR required)

Appendix 2
Standard AA Screening Determination Template
Test for likely significant effects

Screening for Appropriate Assessment Test for likely significant effects	
Step 1: Description of the project and local site characteristics **Case File ABP-321624-25**	
Brief description of project	Planning permission is sought for a residential development comprising 38 houses hard and soft landscaping, internal road network, ESB substation and all associated works. See Section 2.0 of Inspectors Report for full description.
Brief description of development site characteristics and potential impact mechanisms	The subject site has a stated area of 1.85 ha and is a brownfield site on the suburban outskirts of Athy. The site is bounded to the west and south by existing housing and to the east by a railway line. It forms part of a wider development site which has a concurrent appeal before the Board for the development of 91 houses and a creche. (ABP Ref. 321623-25). The site has been cleared and levelled with some structures and hedgerows remaining within the overall boundary. The closest European site is the River Barrow and River Nore SAC (Site Code 002162), which is c. 380m to the west of the subject site. There are no surface water bodies within the site. The Athy Stream (EPA Code: 14A06) also known as the Moneen Stream flows approximately 35m to the south of the site and on to the River Barrow. The stream is c.100m from the area where construction works will occur and all vegetation, hedgerows and trees in this area will be retained. The proposed development would involve standard construction methods which would result in noise, disturbance and emissions to air from machinery and plant, and emissions to surface and ground water because of runoff from construction activities.
Screening report	Y – A Report to Inform Screening for Appropriate Assessment was submitted.
Natura Impact Statement	N
Relevant submissions	The issue of AA was not raised in third party submissions or in submissions from prescribed bodies.
Step 2. Identification of relevant European sites using the Source-pathway-receptor model	

The River Barrow and River Nore SAC was identified in the report to inform screening as the only designated site within the zone of influence of the development.

European Site (code)	Qualifying interests[1] Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections[2]	Consider further in screening[3] Y/N
River Barrow and River Nore SAC (Site Code 002162), which is c.380m to the west of the subject site.	Estuarine and coastal habitats, freshwater habitats, dry heath, petrifying springs, Oak woodlands, alluvial forests, Desmoulin's Whorl Snail, Freshwater Pearl Mussel, Nore Pearl Mussel, White-clawed Crayfish, Seal Lamprey, Brook Lamprey, Thwais Shad Salmon, Otter, Killarney Fern. River Barrow and River Nore SAC | National Parks & Wildlife Service	380m (overland and c. 600m via indirect hydrological connection)	An indirect connection exists from the site to the SAC via the Moneen Stream which is approximately 35m from the southern site boundary and which flows to the River Barrow, at a hydrological distance of c. 0.6km away.	Y

Step 3. Describe the likely effects of the project (if any, alone or in combination) on European Sites

(a) There would be no direct impacts on the SAC during the construction of operational stages of the development. Indirect impacts would be limited to noise and/or disturbance during the construction phase and emissions to air and water during the construction and/or operational phase.

(b) The distance between the subject site and the SAC would prevent any significant impacts from noise and disturbance and from emissions to air such as dust or hydrocarbons. Indirect impacts would be limited to uncontrolled pollutants in surface water runoff entering the existing drainage system and flowing into the SAC during the construction stage of the development.

AA Screening matrix

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	**Effects**
Site 1: River Barrow and River Nore SAC (Site Code 002162),	Direct: None	The ecological field study found no evidence of otter activity within the site and there is no potential for ex-situ

QI list: Estuaries Mudflats and sandflats not covered by seawater at low tide Reefs Salicornia and other annuals colonising mud and sand Atlantic salt meadows (Glauco-Puccinellietalia maritimae) Mediterranean salt meadows (Juncetalia maritimi) Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation European dry heaths Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels Petrifying springs with tufa formation (Cratoneurion) Old sessile oak woods with Ilex and Blechnum in the British Isles Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae) Vertigo moulinsiana (Desmoulin's Whorl Snail) Margaritifera margaritifera (Freshwater Pearl Mussel) Austropotamobius pallipes (White-clawed Crayfish) Petromyzon marinus (Sea Lamprey) Lampetra planeri (Brook Lamprey) Lampetra fluviatilis (River Lamprey) Alosa fallax fallax (Twaite Shad)	**Indirect – Construction:** Localised temporary impacts on surface water/water quality due to construction related emissions including increased sedimentation and construction related pollution. **Indirect - Operational:** Surface water will be attenuated by integrated SUDs system and hydrocarbon filtration system.	effects arising from the development. The distance between the site and the SAC will negate any effects arising from noise, disturbance, dust or emissions to air. There is a low risk of surface water runoff from construction reaching sensitive receptors or wetland habitats but could potentially enter the Moneen stream. The intervening habitat comprises an existing hedgerow, scrub area, part of an agricultural field and amenity grassland. This habitat provides a buffer of 100m between the construction site and the stream, which will be retained. There is a further 600m of hydrological distance from the Moneen stream to its outfall. No significant changes in ecological functions due to any minor construction related emissions are predicted for the estuarine environment.

Salmo salar (Salmon) Lutra lutra (Otter) Trichomanes speciosum (Killarney Fern)		
	Likelihood of significant effects from proposed development (alone): - No	
	If No, is there likelihood of significant effects occurring in combination with other plans or projects? - No	
	Possibility of significant effects (alone) in view of the conservation objectives of the site – No I note that specific conservation objectives for Sea Lamprey, Brook Lamprey, River Lamprey, Twaite Shad, Atlantic Salmon, Atlantic Salt Meadows, Otter, Mediterranean Salt Meadows, Nore Freshwater Pearl Mussel, Old Sessile Oak woods and Alluvial Forests, relate to the 'restoration' of the qualifying interest. The proposed development would not compromise the objective of restoration or make restoration more difficult by virtue of the scale of the project, its location and separation distance from the SAC and the location of the relevant qualifying interests.	

Step 4 Conclusion

I conclude that the proposed development (alone) would not result in likely significant effects on The River Barrow and River Nore SAC (Site Code 002162). The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). No further assessment is required for the project. No mitigation measures are required to come to these conclusions.

Screening Determination

Finding of no likely significant effects

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 the River Barrow and River Nore SAC (Site Code 002162) in view of the conservation objectives of this sites and is therefore excluded from further consideration. Appropriate Assessment is not required.

This determination is based on:

- Scientific information provided in the Screening report.
- Distance from and weak indirect connections to the European sites.
- No potential for ex-situ impacts.
- Possible impacts identified would not be significant in terms of site-specific conservation objectives for the River Barrow and River Nore SAC (Site Code 002162) and would not undermine the maintenance of favorable conservation condition or delay or undermine the

achievement of restoring favorable conservation status for those qualifying interest features of unfavorable conservation status.

No mitigation measures aimed at avoiding or reducing impacts on European sites were required to be considered in reaching this conclusion.