



An  
Coimisiún  
Pleanála

## Inspector's Report ABP-322583-25

### Development

For development comprising a new vehicular access to support 58 no. residential units previously granted under KCC Reg. Ref: 23/202. The proposed development will consist of the formation of a new vehicular access to service the residential development from the Sallins Road (R407) through the existing 'demesne curtilage' wall, including the respective partial demolition of this structure; Oldtown House and its curtilage wall is a Protected Structure (RPS no. NS19-072). The proposal includes all associated hard and soft landscaping, boundary treatments, footpaths, and all other above and below ground ancillary works to provide the proposed access.

### Location

Sallins Road, Oldtown Demesne,  
Naas

### Planning Authority

Kildare County Council

<b>Planning Authority Reg. Ref.</b>	2560219
<b>Applicant(s)</b>	Andrews Construction Limited
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse

<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Andrews Construction Limited
<b>Observer(s)</b>	Diarmuid Parker

<b>Date of Site Inspection</b>	26/08/2025
<b>Inspector</b>	Gillian Kane

## Contents

1.0 Site Location and Description .....	5
2.0 Proposed Development .....	5
3.0 Planning Authority Decision .....	5
3.1. Decision .....	5
3.2. Planning Authority Reports .....	7
3.3. Prescribed Bodies .....	7
3.4. Third Party Observations .....	8
4.0 Relevant Planning History .....	8
5.0 Policy Context .....	10
5.1. Kildare County Council Development Plan 2023-2029 .....	10
5.2. Naas Local Area Plan 2021-2027 .....	11
5.3. Natural Heritage Designations .....	11
5.4. EIA Screening .....	11
6.0 The Appeal .....	12
6.1. Grounds of Appeal .....	12
6.2. Planning Authority Response .....	18
6.3. Observation .....	19
7.0 Assessment .....	20
7.2. Principle of Development .....	21
7.3. Loss of Historic Fabric .....	22
7.4. Green Infrastructure .....	24
8.0 Water Framework Directive .....	25
9.0 AA Screening .....	26

10.0	Recommendation .....	26
11.0	Reasons and Considerations.....	27
3	Appendix 1 - Form 1 .....	28
4	Appendix 2 Form 2 - EIA Preliminary Examination .....	30

## 1.0 Site Location and Description

- 1.1.1. The subject site is located on the western side of the Sallins Road (R407), as it travels south into the town of Naas. The appeal site is part of a larger site for which permission was granted for a residential development on the Oldtown Demesne (KCC reg. ref. 23/202). The appeal site is a 14m section of the Demesne wall and a row of mature trees which acts as the boundary wall of the Oldtown House, a protected structure.
- 1.1.2. To the north of the site is the under construction 'The Orchard' residential estate. East of the site are a row of detached one-off houses. Approx. 80m south of the site is a junction with Monread Avenue and a large fuel filling station.

## 2.0 Proposed Development

- 2.1.1. On the 5<sup>th</sup> March 2025, permission was sought for a development described as the formation of a new vehicular access to service the residential development from the Sallins Road (R407) through the existing 'demesne curtilage' wall, including the respective partial demolition of this structure, to support 58 no. residential units previously granted under KCC Reg. Ref: 23/202.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. On the 09/04/2025 the Planning Authority issued a notification of their intention to REFUSE permission for the following three reasons:
  - 1. The proposed development would materially contravene Conditions 3 and 4(a) of Reg. Ref. 23/202, which sought the omission of an entrance on the eastern boundary. The proposed development, if permitted would set an undesirable precedent for similar developments and lead to a further erosion of the curtilage of a protected structure (RPS no. NS19-072). Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.
  - 2. The site has been identified in Chapter 7 *Natural Environment and Climate Change* of the Naas Local Area Plan 2021-2027. Chapter 7 seeks for the protection of identified key green infrastructure, the enhancement and protection

of trees, and the development of habitat patches/ 'stepping stones', furthermore, the site is identified on Maps 7.1 and 7.2, where key noticeable features and connecting green infrastructure routes are located on the site. Having regard to the extent of the proposed development, which seeks the removal of approximately 14 trees if granted would be contrary to the provisions, policies and objectives NE 1.1, NE 2.2, NE 4.1 and NE 4.3 of the Naas Local Area Plan 2021-2027 and would therefore be contrary to the proper planning and sustainable development of the area.

3. The proposed development, requiring the removal of an extensive stand/row of mature trees and vegetation that, taken alongside the removal of a section of protected stone wall (both of which contribute significantly to the character of the area and the approach road into the historic settlement of Naas) would be contrary to:
  - (a) Section 12.9 of the Kildare County Development Plan 2023-2029 which recognises the contribution that trees or groups of trees can have within an urban setting, contributing significantly to the local landscape or townscape.
  - (b) Policy BI P6 of the Kildare County Development Plan 2023-2029, which recognises the important contribution trees and hedgerows make to the county biodiversity resource climate mitigation, resilience and adaptation.
  - (c) Objective BI O26 which seeks to prevent, in the first instance, the removal of hedgerows to facilitate development.

And where it has not been clearly or satisfactorily demonstrated why an important piece of the County's Green Infrastructure should be removed and where an Ecological Impact Assessment has not been carried out nor any assessment of proposed mitigation on specific habitats on this site has been made, the proposed development would be contrary to Kildare County Development Plan 2023-2029 policies and objectives, would be contrary to National Policy on climate mitigation, resilience and adaptation, where to permit the removal of mature trees and of the existing hedgerows on site in the absence of detailed assessment, justification and mitigation of same in the context of green infrastructure, natural heritage,

biodiversity/ecology, would be contrary to the provisions of the Kildare County Development Plan 2023-2029.

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

- 3.2.1. **Water Services:** No objection subject to conditions.
- 3.2.2. **Transport, Mobility and Open Spaces Department:** No objection subject to 17 no. conditions.
- 3.2.3. **Environment Department:** No objection subject to conditions of parent permission 23/202
- 3.2.4. **Heritage Officer:** Refusal recommended. Serious concerns about scale, entrance in demesne wall. Contrary to Objective AH021, AH022 and AH052. Refers to history of demesne, that some demolitions were previously permitted but new access would further dilute legibility. Crucial to prevent further destruction.
- 3.2.5. **Parks and Landscape Officer:** Refusal recommended as development contravenes Condition no. 4a of 23/202, would lead to further mature tree loss and would create further openings in historic wall.
- 3.2.6. **Planning Report:** Notes that parent application 23/202 omitted the access in the eastern boundary under condition no. 3(a) with the sole access through the northern neighbouring development site The Orchard. Notes that access is available via the pedestrian / cycle access under construction in the adjoining estate. Planning Authority has serious concerns about proposed development - removal of 20.047m of historic boundary, 14 no. mature trees which contribute to character and setting. Loss of boundary wall would dilute the legibility of the demesne boundary and character of protected structure. Development is contrary to Objective AH021. Northern access point remains Planning Authority preferred option, notes that applicant has agreement in principle. States that AHIA does not justify demolition. Notes report of Conservation Officer, Heritage Unit and Parks section. Recommends refusal.

### 3.3. **Prescribed Bodies**

- 3.3.1. **DAU of the DHLG&H:** Notes that it is possible that previously unrecorded archaeological features/deposits may be disturbed during the course of groundworks required for the development and recommends 5 no. conditions.

### 3.4. Third Party Observations

- 3.4.1. A number of submissions to the Planning Authority raised concerns about the availability of an existing access, impact on heritage and protected structure, traffic safety, planning history, road closures, environmental impacts on habitats / EIAR/ NIS and Bats, compliance with development plan policy and zoning objectives.

## 4.0 Relevant Planning History

- 4.1.1. Planning Authority Reg. Ref. **23/202**: Permission granted for 58no. residential units on a site of circa 1.26Ha., the formation of a new vehicular access and a new pedestrian/cycle access from the Sallins Road (R407) through the existing "demesne curtilage" wall including the respective partial demolition(s) of this structure; Oldtown House and its curtilage wall is a Protected Structure (RPS no. NS19-072), the extension of a pedestrian/cycle access from the site to the north. Conditions of note include:

- 2: Commencement of development the applicant shall liaise with and agree the Northern access with the landowner / applicant /Developer of The Orchard. Development approved under Plan ref 21/1740 Springwood Limited. The agreement shall be submitted for the written approval of the Planning Authority. Access for the proposed development shall be achieved solely via the access point to the north immediately adjoining The Orchard development as submitted in the Site Layout Plan drawing no. 2209PD01 received by the Planning Authority on the 25/07/2023.

**Reason** in the interest of the proper planning and sustainable development of the area.

- 3 Having regard to Condition 2, prior to the commencement of development, a revised site layout plan shall be submitted, for the written agreement of the Planning Authority, outlining the following:
- (a) omission of the vehicular entrance to the site along the eastern boundary in order to utilise the existing access to the existing "The Orchard" development to the north.
- (b) Pedestrian / cycle track and access to the south eastern corner of the site as per the site layout plan received by the Planning Authority on 03/03/2023.



Reason: in the interest of the protection of architecture heritage, prevention of proliferation of access points on to the R407 and the permeability through the site.

- 4: Prior to the commencement of development, a revised landscaping plan shall be submitted for the written agreement of the planning authority. The revised landscaping plan shall include the following.
- (a) retention of the mature trees along the eastern boundary of the site where the vehicular entrances to be emitted be.
  - (b) Details of play area to be situated within an area of open space, including all details for the design. Choice of equipment, safety surfacing along with the specifications and proof that all equipment conforms to European standards. EN1176-1-11 and EN1177 Playground equipment and surfacing.
  - (c) Details of the species, type and size of tree included. Additional tree planting along the Sallins Rd boundary as indicated on the landscape plan received by the Planning Authority 03/03/2023. The precise details of locations which utilise such systems as 'root barriers', which allows the proposed trees to grow to their potential and avoid future conflict between routes, roads, footpath surfaces and underground utility services.
  - (d) Details of the bound surface type and edge details of the proposed footpaths and cycle tracks in open areas of the development, tarmacadam resin bound gravel or concrete surface shall be provided on all pathways and cycleways in open a space areas. Pathways shall provide for universal access. Pathways of 2.5m wide or greater shall be suitable for occasional vehicular use, inter alia maintenance. Emergency timber edging is not permitted. Tarmacadam pathway edges shall be bound by concrete curbing. Resin bound gravel pathway edges shall be bound by a metal edge or concrete curbing. Details shall include written specifications, plan and section drawings.

**Reason:** To enhance the amenity value of the open space with the development, ensure the retention of trees and hedgerows and cater for quality play provision in residential developments.

## 5.0 Policy Context

### 5.1. Kildare County Council Development Plan 2023-2029

5.1.1. Policies and objectives of note include:

5.1.2. **AH O21** Protect the curtilage of protected structures or proposed protected structures and to refuse planning permission for inappropriate development that would adversely impact on the setting, curtilage, or attendant grounds of a protected structure, cause loss of or damage to the special character of the protected structure and/or any structures of architectural heritage value within its curtilage. Any proposed development within the curtilage and/or attendant grounds must demonstrate that it is part of an overall strategy for the future conservation of the entire built heritage complex and contributes positively to that aim.

5.1.3. **AH O22** Refuse planning permission for the demolition of any protected structure unless the Council is satisfied that exceptional circumstances exist. The demolition of a protected structure with the retention of its façade will likewise not generally be permitted.

5.1.4. **AH O52** Designate and protect historic landscape areas including demesnes and ensure that new development enhances the special character and visual setting of these historic landscapes and to prevent development that would have a negative impact on the character of the lands within these historic landscape areas.

5.1.5. Chapter 12 – Biodiversity and Green Infrastructure

5.1.6. Section 12.9 Trees, Woodlands and Hedgerows

5.1.7. **BI P6** Recognise the important contribution trees and hedgerows make to the county biodiversity resource climate mitigation, resilience and adaptation.

5.1.8. **BI O26** Prevent, in the first instance, the removal of hedgerows to facilitate development. Where their removal is unavoidable, same must be clearly and satisfactorily demonstrated to the Planning Authority. In any event, removal shall be kept to an absolute minimum and there shall be a requirement for mitigation planting comprising a hedge of similar length and species composition to the original, established as close as is practicable to the original and where possible linking to existing adjacent hedges. Ideally, native plants of a local provenance and origin should be used for any such planting. Removal of hedgerows and trees prior to

submitting a planning application will be viewed negatively by the planning authority and may result in an outright refusal.

## 5.2. **Naas Local Area Plan 2021-2027**

5.2.1. The lands are zoned C19 New Residential, where it is an objective “To provide for new residential development”.

5.2.2. Policies of note and relevance to the proposed development include:

- **Policy MT 1 – Walking and Cycling** It is the policy of the Council to promote enhanced universal permeability for pedestrians and cyclists within Naas in order to improve access to the town centre, local schools, residential areas, recreational facilities, public transport services and other amenities.

Objectives It is an objective of the Council to:

**MTO 1.1** Support and promote the use of sustainable active transport modes in Naas and seek to implement a connected network of walking and cycling infrastructure in the town as detailed in Table 5.2 and 5.3 and illustrated on Map 5.1 and 5.2. in conjunction with the National Transport Authority, other statutory agencies, and the relevant stakeholders. The final design details shall be subject to ecological assessment, where applicable, and undergo appropriate public consultation.

**MTO 1.2** Ensure all footpaths in Naas are accessible to all members of the community, including people with disabilities, the elderly and people with young children.

**MTO 1.16** Explore the feasibility of providing a walking and cycling link through site C (19) zoned ‘New Residential’ adjacent to the Sallins Road as part of any new development on this site, subject to detailed impact assessments on built and natural heritage and road safety.

## 5.3. **Natural Heritage Designations**

5.3.1. The site is located approximately 8.4km east of the Mouds Bog SAC (002331).

## 5.4. **EIA Screening**

5.4.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this

report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

## **6.0 The Appeal**

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

- 6.1.1. An agent for the applicant has submitted a first party appeal against the decision of the Planning Authority to refuse permission.
- The Coimisiún is requested to consider the supporting documentation submitted with the parent application (KCC 23/202). The appeal is accompanied by Arboricultural Impact Assessment and associated Tree Survey & Tree Protection Methodology.
  - The appeal notes that KCC refused permission for three reasons. The appeal refers to section 7.15 of the development management Guidelines and states that it is their understanding that the three reasons represent all substantial refusal reasons and that it can be understood that the proposed development is acceptable other than those reasons.
  - The appeal refers to section 1.3 of the Guidelines and states that Local Authorities are encouraged to apply a performance driven approach rather than prescriptive standards to development management. The appellant states that this is backed by NPO13 of the National Planning Framework. The proposed development – an additional road access to a permitted development, responds to good urban design and DMURS. KCC planning report did not refer to these performance criteria.
  - Reason no.1 refers to a material contravention of condition no.s 3(a) and 4(a) only and not the development plan. It is logical that conditions will be contravened and the intention of the application is to supersede these restrictive conditions.
  - The associated tests under section 37(2)(b)(i-iv) are not applicable as contravention is normally aligned with a land use zoning objective.

6.1.2. The appeal notes that a pre-planning meeting was sought but that the Conservation Architects and Parks department did not participate.

- Agreement in principle has been achieved with the neighbouring development to achieve the desired connectivity and permeability between the proposed and under construction development. However, the applicant is beholden to that developer.
- Appellant challenges the refusal to achieve the proposed access which meets the independent RSA requirements and KCC Roads Design Specifications.
- The principle of residential development has been well established.
- The Planning Authority have not restricted their consideration to the subject application and are seeking to revisit the parent application.
- The consideration of green infrastructure is not based on the full arboricultural impact assessment and landscape masterplan submitted with the parent application.
- The beneficial aspects of the development in delivering compact growth, sustainable residential development and a connected community have not been acknowledged by the Planning Authority.
- The demesne curtilage wall has been previously undermined. The parent application respected the demesne setting. Previous decisions promoted permeability over historic fabric. A Grade 1 Conservation Architect supports the insignificant loss of curtilage wall and a balanced consideration of logical and orderly development is required.
- The omission of the access renders the residential zoning unsustainable. The access is acceptable to the transport section of KCC and is designed in accordance with an independent RSA.
- The appellant is not averse to increasing connectivity and permeability between the two developments but objects to a singular access. The proposed development would benefit economic use of limited resources, reduce fossil fuel use, reduce vehicle movements distances and journey times.

- It is submitted that the Planning Authority seeks to undermine the benefits of an enhanced and integrated street pattern, through a disproportionate consideration of the significance of the demesne wall.
- The demesne wall is already punctuated and Oldtown House, the Gate Lodge and the main entrance are unaffected. Previous decisions suggest that the value of the wall never outweighed the delivery of sustainable neighbourhoods.

6.1.3. The grounds of the appeal can be summarised as follows:

**Reason no. 1.**

- The purpose behind condition no 2, 3(a) and 4(a) is supported and endorsed. The proposed application seeks to contravene these conditions to amend the parent permission.
- The applicant and their Conservation Architects acknowledge that there is a loss of historic fabric but this is measured and proportionate, has planning benefits and in keeping with the proper planning and sustainable development of the area.
- There is no undesirable precedent as the precedent has been exhausted and no further access can be facilitated in the demesne wall.
- The Coimisiún is requested to consider the Conservation Architect documents submitted with the parent application (23/202) at application stage, at Further information stage and supplementary submission and with the current application.
- The architectural advice overwhelmingly concluded that KCC had overstated the impact of the development having a significant loss of historic fabric, noting that now the refusal reason has been downgraded to an undesirable precedent.
- The loss of historic fabric can be accepted when balanced with clear plan objectives to provide housing.
- The submission of the DAU of the Minister for Heritage is solely concerned with archaeology.
- There was no comment by the Heritage Council or An Taisce.
- Residential development on the parent site is established. The KCC Heritage Officer presents concerns about the scale of the development in general terms. It

is stated that the subject application has been separated from the original application.

- There are unexceptional circumstances in this instance to allow the undesirable precedent, namely the proper, orderly and sustainable planning that promotes connectivity and permeability of residential neighbourhoods.
- Previously permitted developments allowed greater appreciation of the principal structures associated with Oldtown House, entrance gate and gate lodge.
- The Planning Authority have failed to acknowledge the careful cycle route selection that minimises tree loss. The historic landscape referred to in Objective AH 052 will be preserved accordingly.
- The Heritage Officer report fails to consider the AHIA submitted by the applicant at Further information stage in the parent application (23/202). It is submitted that the Design Team Conservation Architects should be more objectively considered by the Board / Coimisiún.
- It is submitted that the previous omission of an access is based on a disproportionate significance on the removal of curtilage wall, as part of the protected structure but where conservation significance is disputed.
- The Coimisiún is requested to consider the Ministerial Guidelines (SRDCS 2024) and DMURS (2019) which stress the importance of integrated street networks between neighbourhoods.
- The KCC planners report fails to note the enforcement notice UD8429 associated with The Orchard estate regarding the felling of trees. It is submitted that the actions of this developer have prejudiced consideration of the current application.
- Noting the reference of the KCC planner to the Board decision under ABP-308132-20, the appellant states that the Board accepted the impact on the protected structure, on merit.
- Noting the reference of the KCC planning report to the KCC decision 19/330, the appellant submits that as it is acknowledged that the roundabout is heavily trafficked, the proposed development offers a beneficial effect.

- The proposed development would benefit the subject and adjoining scheme to the north.
- The proposed development is a 14.31 linear metre removal of wall, not the 20.04m proposed in the parent application. This misrepresentation is concerning and not supported by the appellants Grade 1 Conservation Architects, the Arboricultural Impact Assessment and Tree Survey.
- It is submitted that the planning process needs to remain agile to competing demands, rather than concentrate on other developer's failures to uphold historic fabric or green infrastructure.
- The appellant does not object to an access to the north but it makes the applicant beholden on the developer to the north. Appellant notes section 34(13) of the Planning and Development Act 2000, as amended.
- Notes that the Appellant's Grade 1 Conservation Architect conclusion that the loss of historic wall is minuscule.
- The previous Arborist Report can be relied on as establishing the principle of development., including the planting of 71 no. additional trees.

## **Reason no. 2**

- The parent permission was granted as being in compliance with the Kildare County Development Plan 2023 -2029 and the Naas LAP 2021-2027. The Coimisiún is referred to the documents and drawings submitted with the appeal, Arboricultural Impact Assessment, AA Screening, Landscape Masterplan and Planting Schedule.
- The consideration of tree and green infrastructure is restricted to the tree and green infrastructure loss for the currently proposed access junction – 3 no. trees to be lost and no supporting hedgerow.
- The parent permission provides new green infrastructure in accordance with Map 7.1 and paragraph 7.4.
- The parent permission did not consider green infrastructure to be a concern. The much smaller development now proposed is inconsistent with this previous decision. The introduction of these new elements is surprising.



- It is submitted that the adjoining development to the north was not scrutinised to this level. The enforcement notice on that site is noted.
- The reference to 14 no. trees, where only 3 no. trees will be lost, is possibly a reference to those trees lost under KCC reg. ref. 21/1740.
- The tree removal on the adjoining site, as noted in the planning report, is outside the control of the applicant.
- The landscaping plan submitted with the parent application allows for a net green infrastructure gain and potentially a net biodiversity gain. The inconsistent consideration of tree protection and green infrastructure across neighbouring permissions should not prejudice the subject application.
- The parent application provided for the removal of three trees (no.s 135,136 and 137). Further trees would be removed for poor condition, impact on open space decay, and ash dieback. The permitted development provides for the planting of 71 no. new trees.
- The landscape plan provided for focal point feature trees, clustered planting, narrow fastigate trees for vertical effect, trees for linear effect along the streetscape, smaller trees closer to buildings, trees along building frontages and trees in matching pairs. This plan provided for the entrance as proposed in the current application.

### **Reason no. 3**

- Reason for refusal no. 3 related to the countryside status of trees and hedgerows, green infrastructure, biodiversity net gain and climate mitigation and should only be considered against the parent permission.
- The current application has previously been considered against green infrastructure, tree loss, removal and protection, new tree planting hedgerow retention and new planting.
- Reference to an extensive tree stand is factually incorrect, noting the general satisfaction of the Parks Department at the parent permission stage.
- It is submitted that the applicant is being overly penalised in comparison to neighbouring developers, a disproportionate application of policy.

- Reference to hedgerow removal is incorrect as the site currently comprises limited undergrowth associated with tree stands and ivy clad trees. The hedgerow along the southwestern boundary is to be retained.
- If the Coimisiún consider it necessary to reconsider the evidence base presented at the parent permission, they are requested to consider the green infrastructure net gain.
- The Arborists report counters the concerns of the Planning Authority, which are stated to be unfounded.
- Responding to the KCC Parks department report, the reference to no tree survey is misguided. Reference to the substantial tree loss along the road is prejudicial.
- The verified views at the point of application can validly serve as a respectful evidence base.
- The pedestrian entrance is not part of the subject application. The route of the shared pedestrian and cycle access has been carefully considered to ensure minimal impact on tree groupings.
- The proposed development is detached from the principal elements of the main house, the gate lodge and entry gates. The proposed development is acceptable when balanced with the clear plan objectives to provide housing.
- The architectural heritage of Oldtown House will be much more appreciated by the proposed development as opposed to the status quo scenario.
- The proposed development is supported by the Compact Settlement Guidelines, Chapter 4 which provides for a permeable and legible urban environment and the principles of DMURS which provides for integrates street networks and permeability and legibility.
- In conclusion the Coimisiún is requested to grant permission to amend the conditions of the parent permission KCC reg. ref 23/202.

## **6.2. Planning Authority Response**

- 6.2.1. The Planning Authority notes the content of the appeal and has no further comment or observation to make. The Coimisiún is referred to the Planning Authority planning reports and reports of technical departments.

### 6.3. Observation

6.3.1. Diarmuid Parker, of Sallins Road comments on the First Party Appeal as follows:

- The appeal contains inconsistencies and inaccuracies.
- The justification for the new vehicular access, as referenced in the AHIA is no longer relevant as the appeal notes that an agreement has been reached with the neighbouring landowner for connectivity and access, in the spirit of condition no. 2
- The appellant's approach is disproportionate, in its appeal, transport statement and mobility management plan with the use of permeability as a rationale for vehicular access.
- The appellant's approach is contrary to the Kildare County Councils Reimagining Permeability in Kildare – Reconnecting our Communities: Permeability Guidelines April 2024.
- The appellant's approach is contrary to the 10-minute neighbourhood approach.
- The Greater Dublin Transport Strategy emphasises filtered permeability, prioritising walking and cycling.
- The Kildare development plan has clear objectives for permeability: CS013, TM020, TM021, TM 042. Proposed development is contrary to these policies.
- The proposed development contravenes the conditions of the permitted development 23/202.
- The appellant's increased permeability is a new vehicular access.
- The Coimisiún is requested to decide if the proposed development is consistent with the development plan, the permeability Guidelines, the Naas LAP and the Naas Sallins Transport Plan.
- The KCC decision is consistent with development plan policy and zoning.
- Neither of the appellants points regarding Key Indicators of Quality Design and Placemaking make the case for a vehicular access onto the busy and congested R407.
- The proposed development is not consistent with the National Sustainable Mobility Policy for reduced private car travel and the Road Safety Strategy.

- The existing access to the north of the site has capacity to accommodate the development.
- KCC refused the development as it contravened Objective AH021 of the development plan. This is consistent with their decision under PP ref. 5422.
- The Conservation Officer had grave concerns about the proposed entrance.
- KCC rejected the proposal under 23/202 and condition no.s 2 and 3 of the subject application.
- The proposed loss of historical fabric is contrary to the preservation of protected structures that define the character of Naas.
- The applicants transport statement and mobility management plan is out of date due to the closure of Canal Bank / Mill Lane / Abbey Street in August 2024.
- The proposed access is on to a busy urban arterial route, with traffic driving faster than the speed limit, no warning of merging traffic, a blind bend and congestion at peak times.
- It is submitted that having failed to get neighbouring land agreement, the new access was proposed.
- Permeability is walking and cycling, not a vehicular access.
- The proposed development is a material contravention of the Naas LAP.

## **7.0 Assessment**

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Loss of Historic Fabric
- Green Infrastructure

## **7.2. Principle of Development**

- 7.2.1. Permission is being sought to amend three conditions of planning permission KCC reg. ref. 23/202. That application, referred to as the parent application through the appeal documentation, sought to create a vehicular access on to the R407 (Sallins Road) along the eastern boundary of the site. The applicant was requested during further information to omit the Sallins Road entrance and provide access only through the northern boundary into The Orchard estate. The applicant declined the request and ultimately permission was granted for a residential development of 58 no. units, with a single vehicular access through the adjoining residential estate to the north of The Orchard. This was achieved through conditions nos 2,3 and 4 of the final grant which omitted the entrance on to the Sallins Road. In the current application, the appellant states that they withdrew an appeal of those conditions due to time constraints with An Bord Pleanála at the time and the possibility that the entire development would be addressed de novo.
- 7.2.2. The appellant refutes the use of the wording 'materially contravenes' in the reasons for refusal, stating that the nature of the amending application is that the conditions will be contravened. The appellant also refutes the use of the term for non-zoning contraventions, such as that currently proposed.
- 7.2.3. The appellant states that the proposed development is acceptable when balanced with the clear plan objectives to provide housing on residentially zoned lands. The appellant submits that the proposed development complies with national policy for residential development and states that the Planning Authority were overly restrictive in their assessment of the proposed development. The appellant states that NPO13 of the National Planning Framework encourages flexibility in favour of performance based design standards.
- 7.2.4. Permission has been granted on the subject site for housing under the parent permission KCC reg. ref. 23/202. A refusal of permission on the subject application will not affect that valid planning permission. The housing goals of the development plan, in accordance with national planning policy will still be achieved, notwithstanding any decision of the Coimisiún under this current appeal.
- 7.2.5. The appellant submits that the Planning Authority did not consider the beneficial aspect of the development in delivering compact growth and sustainable residential

development. Given that the application has a permitted vehicular connection to an existing residential development, I fail to see how adding a second vehicular access could aid compact growth or sustainable residential development, nor do I see any compelling evidence in the appeal to support such a statement. I consider the proposed access is much more likely to create a rat run to the R407 with the consequent negative impacts on the residential amenity of the permitted residential development. I draw the Coimisiúns attention to drawing no. 2209PD01 submitted with the parent application 23/202 which shows a straight wide road running on an east-west axis through the site with vehicular access at both the northern and eastern boundaries. Should permission be granted in the subject application, the permitted cul-de-sac lay-out would become a direct access from the adjoining residential development The Orchard to the Sallins Road (R407). Dwellings in the southern section of The Orchard would likely use the route through the subject site to access Naas town rather than travel north to the existing vehicular access serving that estate. The attraction of additional traffic through the development permitted under 23/202 would undoubtedly lead to negative impacts on that small scale residential development where the majority of dwellings face the internal road. What was permitted as a cul-de-sac would become a through road.

- 7.2.6. I fail to see how the omission of a second vehicular access renders the residential zoning unsustainable, as alleged by the appellant. That the access is acceptable to the transport section of KCC and / or that it is designed in accordance with an independent RSA, does not overcome the planning issues raised.
- 7.2.7. I note the reference of the KCC planning officer to a loss of 10.04m of boundary wall and 14 no. mature trees. This is incorrect, as noted by the appellant, only 14m and 3 no. trees are to be removed.

### **7.3. Loss of Historic Fabric**

- 7.3.1. The appellant submits that the Planning Authority has erred in applying overly significant weight to the architectural / historic value of the demesne wall. The appellant states that their architectural experts consider the loss to be minimal, that the demesne wall has already been compromised in a number of locations and that the key features worthy of protection – namely the House, the gate lodge and the gate are unaffected by the proposed development. The appellant states that policy

AH022 allows for the demolition in exceptional circumstances and presents the subject application as an exceptional case. The Appellant states that the exceptional circumstances are the proper, orderly and sustainable planning and development that promotes connectivity and permeability of residential neighbourhoods.

- 7.3.2. As outlined above, a refusal of permission for the proposed entrance would not compromise the residential development of the parent site. The site is permitted to be linked to the adjoining residential estate – an example of good connectivity and permeability between residential areas. The creation of a vehicular entrance on to a busy, heavily trafficked route into the town of Naas would offer no permeability or connectivity to a residential area, but would in fact compromise the residential amenity of the permitted development – allowing greater vehicular traffic generation through a residential area.
- 7.3.3. I fail to see how the demolition of the curtilage wall of the Demesne would offer greater appreciation of the principal structures of Oldtown House.
- 7.3.4. I concur with the reasoning of the KCC Heritage Officer that it is important to prevent further destruction and compromise of the Demesne wall. The existence of multiple ‘punctures’ in the wall is not a reason to permit further punctures in the wall, it is a reason to protect the boundary wall from further erosion. The Appellants Conservation Architect states that none of the other breaches of the wall have attempted to reduce the impact as much as the Design Team. I argue that the most significant reduction in impact, is no breach at all.
- 7.3.5. The Appellant submits that the rationale of the Planning Authority has been to undermine the residential layout benefit of an enhanced and integrated street pattern and sustainable community building in favour of a disproportionate consideration of the importance of the Demesne wall. As noted above, I am satisfied that the proposed development does not present an enhanced or integrated street pattern, and would, in fact, adversely affect the creation of a sustainable residential area. Further, I concur with the assessment of the Planning Authority that the demolition of the demesne wall would be a retrograde development and therefore I do not accept the Appellants position that the Planning Authority disproportionately considered the value of the importance of the boundary wall.

- 7.3.6. I note the AHIA submitted with the parent permission and re-submitted to the Coimisiún as part of this appeal. The AHIA acknowledges from the outset that it was the preference of KCC that the demesne wall not be utilised as a vehicular entrance, only a pedestrian access. The assessment states that “to achieve access to the much needed residential developments in this area, it is necessary to remove or alter historic walls.” It is clear however, from the agreement the applicant reached with the adjoining landowner to the north, that it is not necessary to remove or alter the historic wall in order to provide access. The AHIA acknowledges (section 5.0) that even though the wall has been altered and is in need of repair, is of some historic significance being a survivor of the original Oldtown Demesne.
- 7.3.7. I find no evidence to support the appellants submission that the Planning Authority sought to revisit the parent application 23/202 in their assessment of the current application. The report of the Heritage Officer in referring to the ‘scale of the development’ did not, in my reading of the report, refer to the previously permitted residential development on the wider site. The report clearly refers to the wall and its association with the Oldtown Demesne, which is a protected structure. There is no attempt to revisit the parent application.
- 7.3.8. Given that a perfectly acceptable vehicular access exists to the north of the site, justification for removing a historic boundary wall needs to be comprehensive and robust. I do not consider such a case has been made in the subject application. I concur with the assessment of the Planning Authority that the proposed development would lead to the further erosion of the curtilage of the protected structure Oldtown House (RPS no. NS19-072).

#### **7.4. Green Infrastructure**

- 7.4.1. I note the landscape plans submitted to the Planning Authority with the parent application and re-submitted to the Coimisiún for consideration in this appeal. The appellant submits that the landscaping plan submitted with the parent application presents a net green infrastructure gain and potentially a net biodiversity gain. A refusal of permission by the Planning Authority or the Coimisiún would not prejudice that permitted landscape plan, given that the applicant is bound to comply by condition no. 4 of KCC reg. ref. 23/202 to provide it.



- 7.4.2. The appellant states that reference in the KCC parks department report to the substantial tree loss on the adjoining site is prejudicial to the subject application. The Coimisiún will note that the Parks department rejected the applicants verified views as being inaccurate as they date from 2022 and do not reflect an accurate picture of the proposed entrance. I concur with the analysis and consider the applicants visual verified views to be inaccurate. That finding is not prejudicial, it is simply a statement that the views are out of date. The views submitted by the applicant to the Planning Authority give an inaccurate view of a heavily tree lined road, where the reality is the tree line is much reduced and the removal of more trees would have a much more significant effect than the views suggest.
- 7.4.3. I find no evidence that the Planning Authority have penalised the applicant for the apparent unauthorised removal of trees from the adjoining residential development to the north, other than noting that substantial tree loss has already occurred.
- 7.4.4. I note the Naas LAP 2021-2027 which refers to the significant level of green infrastructure in Naas, specifically mentioning the Oldtown Demesne. The Oldtown Demesne is listed as a key green infrastructure corridor (section 7.3.1 and Map 7.2 of the LAP refers). The plan states the purpose of the corridors is to highlight the need for developers to be aware of the sensitivity of the areas and to consider the retention of natural features and their linkages to wider areas. Section 7.3.1.2 of the LAP states that the woodland habitat in the Oldtown Demesne contains the largest continuous woodland within the Naas area, offering refuge and habitats for local wildlife.
- 7.4.5. It is considered that the proposed development is contrary to policy BIP1 of the development plan which seeks to avoid potential adverse impacts on important ecological features where possible and policies NE1.1, NE2.2 of the Naas LAP which seeks to protect the Oldtown Demesne as an identified key green infrastructure corridor.

## **8.0 Water Framework Directive**

- 8.1.1. No water deterioration concerns were raised in the planning application or appeal. I have assessed the proposed development, on a greenfield site and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface and ground water

waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

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

## **9.0 AA Screening**

- 9.1.1. Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the physical separation distances to designated European Sites, and the absence of an ecological and/ or a hydrological connection, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

## **10.0 Recommendation**

- 10.1.1. The appellant is requesting that conditions of KCC reg. ref. 23/202 which required a single vehicular access to the proposed development to be through the adjoining residential estate to the north and the omission of a second access on to the Sallins Road. I am satisfied that that the provision of an access on to Sallins Road has been comprehensively address in the previous and the subject application and I find no reason to overturn the decision of the Planning Authority on either application. The permitted residential development can be adequately and safely serviced by a vehicular access through the residential estate to the north and the integrity of the Demesne wall can be preserved. I recommend permission be refused for the following reasons:

## 11.0 Reasons and Considerations

- 1 The proposed development which seeks to remove a section of historic boundary wall associated with the Oldtown Demesne and the protected structure Oldtown House (RPS no. NS19-072) is contrary to Policy AH021 of the Kildare County Development Plan 2023-2029 which seeks to protect the curtilage of protected structures or proposed protected structures and to refuse planning permission for inappropriate development that would adversely impact on the setting, curtilage, or attendant grounds of a protected structure, cause loss of or damage to the special character of the protected structure and/or any structures of architectural heritage value within its curtilage. The proposed development is not in accordance with the proper planning and sustainable development of the area.
- 2 The proposed development is contrary to policy BIP1 of the Kildare County development plan 2023-2029 which seeks to avoid potential adverse impacts on important ecological features where possible and policies NE1.1, NE2.2 of the Naas LAP 2021- 2027 which seeks to protect the Oldtown Demesne as an identified key green infrastructure corridor. The proposed development is considered to be contrary to the proper planning and sustainable development of the area.

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



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Gillian Kane  
Senior Planning Inspector

01 September 2025

### 3 Appendix 1 - Form 1

#### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	ABP-322583-25		
<b>Proposed Development Summary</b>	For development comprising a new vehicular access to support 58 no. residential units previously granted under KCC Reg. Ref: 23/202. The proposed development will consist of the formation of a new vehicular access to service the residential development from the Sallins Road (R407) through the existing 'demesne curtilage' wall, including the respective partial demolition of this structure; Oldtown House and its curtilage wall is a Protected Structure (RPS no. NS19-072).		
<b>Development Address</b>	Sallins Road, Oldtown Demesne, Naas		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	Tick if relevant and proceed to Q2.
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>			
<b>Yes</b>	x	Class 10(dd) of Part 2 relating to private roads which would exceed 2000 metres in length. Development driveway amounts to less than 14m	Proceed to Q3.
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>			
<b>No</b>	x		Proceed to Q4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>			
<b>Yes</b>	Tick/or leave blank	State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)
<b>5. Has Schedule 7A information been submitted?</b>			

No	x	Screening determination remains as above (Q1 to Q4)
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Inspector: \_\_\_\_\_

Date: 01 September 2025

## 4 Appendix 2 Form 2 - EIA Preliminary Examination

<b>Case Reference</b>	<b>ABP-322583-25</b>
Proposed Development Summary	For development comprising a new vehicular access to support 58 no. residential units previously granted under KCC Reg. Ref: 23/202. The proposed development will consist of the formation of a new vehicular access to service the residential development from the Sallins Road (R407) through the existing 'demesne curtilage' wall, including the respective partial demolition of this structure; Oldtown House and its curtilage wall is a Protected Structure (RPS no. NS19-072).
Development Address	Sallins Road, Oldtown Demesne, Naas
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
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).	Small, local development comprising removal of 14m of demesne wall to permit access to a previously permitted residential development.
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,	Fully serviced site close to centre of well established urban area. No environmental sensitivities.

cultural or archaeological significance).	
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).	No impacts likely
<b>Conclusion</b>	
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b> <i>[Delete if not relevant]</i>
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: 

Date: 01 September 2025