



An
Coimisiún
Pleanála

Inspector's Report ABP-322712-25

Development	42 houses and associated site development works.
Location	Curragh Road, Athgarvan, Newbridge, Co. Kildare W12 DC99
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	2460776
Applicant(s)	Voussoir Developments Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Voussoir Developments Limited
Observer(s)	Ken Keane and Others Cllr. Tracey O'Dwyer Marie Flynn Athgarvan GAA Rita Cosgrove

Date of Site Inspection

9th September 2025

Inspector

Elaine Power

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1.0 Site Location and Description

- 1.1. The appeal site is located within the village of Athgarvan on the southern side of the Curragh Road. The site is located c. 3.5km south of Newbridge and c. 4km north of Kilcullen, Co. Kildare. The surrounding area is suburban in nature.
- 1.2. The site is a greenfield site currently in agricultural use (pastoral lands). The site has a stated area of 1.69 ha. It is irregular in shape, generally comprising of three elements. The main development site is located to the rear of the site. It is a square shaped area to the south of existing dwellings fronting onto Curragh Road and to the west of rear gardens of dwelling within Whitethorn residential estate. The layout includes a c. 180m long linear area which runs to the west (side) of an existing commercial unit and dwelling fronting onto Curragh Road. The site along includes a linear strip, c. 400m in length which runs along the southern side of the Curragh Road. This portion of the site is located within third party ownership and is also included within the site boundary of a concurrent appeal (ABP.322713-25) for a new retirement village comprising 84 no. residential units and associated uses to the west of the appeal site. To the south the site is bound by agricultural lands.
- 1.3. The site is gently sloping away, with a level difference of c. 3m between the sites lowest point at Curragh Road and the sites highest point at its southern boundary. The site boundaries generally comprise mature native hedgerows with some mature native hedgerow traversing the site.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of 42 no. residential units, 8 no. 2-beds, 22 no. 3-beds and 12 no. 4-beds ranging in height from 2 – 3 storeys. Vehicular access is proposed from Curragh Road kiosks. The scheme includes public open space (2,376 sqm), communal open space (737 sqm), 81 no. car parking spaces, including 1 no. accessible space, 12 no. bicycle parking spaces, 2 no. ESB substation and all site development and infrastructural works to facilitate the development.

- 2.2. The proposed development also includes the diversion of 38kv ESB overhead lines underground and the erection of 1 no. new mast.
- 2.3. Following the receipt of significant further information the number of residential units was reduced to 40 and the site area was increased to include an amenity space.
- 2.4. Key Development Statistics are outlined below:

	Proposed Development	Revised Development
Site Area	1.69 ha (Gross) 1.53 ha (Net)	3.36 ha (Gross) 1.53 (Net)
No. of Units	42 no.	40 no.
Unit Mix	8 no. 2-beds (18%), 22 no. 3-beds (53%) and 12 no. 4-beds (29%)	8 no. 2-beds (20%), 20 no. 3-beds (50%) and 12 no. 4-beds (30%)
Density	27.5 uph	26.1 uph
Plot Ratio	0.31	0.30
Site Coverage	17.8%	17%
Height	2-3 storeys	2-3 storeys
Public Open Space	2,376sqm	2,233 sqm (15%)
Communal Open Space	737sqm	637sqm
Car Parking	81 no.	77 no.
Bicycle Parking	12 no.	12 no.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused for the following reasons:

1. The extent of land zoned F for Open Space and Amenity purposes under the Athgarvan Village Plan that is devoted to the proposed access road to facilitate the proposed residential development would materially contravene the land use

zoning objective and Table 3.4 of Section 3 Village and Rural Settlements, of Volume 2, Part 2 of the Kildare County Development Plan 2023-2029. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. Objective UD O1 of the Kildare County Development Plan 2023-2029 seeks to require a high standard of urban design to be integrated into the design and layout of all new developments. Additionally, Section 15.6.6 of the Kildare County Development Plan 2023-2029 requires public open spaces to be innovative in their design, linked and to be overlooked by as many dwellings as possible. Having regard to the disjointed layout of the open space areas, the lack of high level of passive surveillance onto open space area B and communal gardens A and B, and the poor functionality of open space area A, it is considered the layout of the proposed development does not accord with objective UD O1 and Section 15.6.6 of the Kildare County Development Plan 2023-2029. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
3. The proposed development is premature pending the installation of a footpath along the Curragh Road, in the absence of same and a clear mechanism to prioritise the delivery of a footpath along the Curragh Road, the proposed development would endanger public safety by reason of a traffic hazard due to the lack of vulnerable road user infrastructure on the Curragh Road

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial planners report dated 26th September 2024 raised a number of concerns regarding the proposed development and recommended that 28 no. items of further information be requested. These are summarised below.

1. a. Clarification on the intended use of lands labelled future amenity and open space within the applicant's blue line boundary.
- b. A revised site layout plan with all lands which they intend to give to Kildare County Council within the red line boundary.

- c. A topographical survey of this site and details outlining whether it would be suitable in area and topography for a multisport pitch.
 - d. Outline the mechanism by which these lands will be given to Kildare County Council
 - e. Outline how these lands are to be accessed
2. Address how the scheme would impact on 2 no. parcels of land to the north of the site that are zoned new residential.

Explore alternative locations for the ESB mast.

Address the lack of surveillance of the areas of public open space.

Timber cladding should be removed from all dwellings.

3. Submit a revised proposal to address concerns of overbearing and overlooking impacts of the existing property to the east of the site.
4. a. submit a revised boundary treatment plan with a low bow top railing no higher than 1.2m in height with a native hedgerow planting along the sites eastern boundary.
- b. the applicant is advised to retain and supplement hedgerow 8 and to retain and supplement the existing hedgerow between the application site and Whitethorn estate
5. Clarify that the development will not be a gated development
6. Concerns regarding the significant loss of mature native hedgerow along the Curragh Road. The proposed footpath/cycle path is required to be relocated to the inside of the hedgerow, using a no dig technique for the construction on the footpath/hedgerow. The Applicants are requested to submit revised proposals.
7. The applicants are strongly advised to revise the surface water design for both of the catchments to remove the proposed underground ACO Stormbrixx System and replace same with a nature based above ground solutions such as detention basins.
8. The sustainable drainage systems design shall cater for the 1 in 100 year storm event and with an allowance of +30% in order to cater for “climate change” and an additional 10% for Urban creep. The applicant is required to ensure that

surface water from the development does not discharge to a point where neighbouring developments would be at risk of flooding. Revised details are required accordingly.

9. Submit a revised open space layout in line with the reconfiguring of the SUDS scheme. Open spaces B and C and communal gardens A and B need specific reconsideration to create functional, accessible and usable open spaces which is future proofed for the development.

The large open space (C) needs consideration taking into account the second proposed ESB substation and the proposed ESB mast in close proximity to the play space. Bikes racks should be considered for the area also. Seating should be in line with section 3.2.2 in usable functional areas. Planting around the play equipment should be of a height which does not obstruct the passive surveillance of the area

10. Seating shall be constructed of stone, metal or recycled composite timber. Details of these should be provided and clearly identified on the landscape plan.
11. Timber edging around the pathways is deemed unsatisfactory. Revised proposals should be submitted.
12. Any boundaries around the site should run tight to each and not create any areas of no mans land or trapped hedging.

Chestnut pale fencing and wooden fencing noted on the landscape plans are deemed unsatisfactory by this department. Any proposed fencing/railings/gates shall be steel, galvanised and powder coated if coloured.

13. Any proposed street trees should be provided with adequate planting space free from any interaction with services both above and below ground.

(a) The foul waste line appears to exit properties and passes under proposed planting. This is unacceptable, revised details are required to ensure the planting area is kept free from any infrastructure.

(b) It appears that there is no street tree planting in front of house 1-14, revised detail are required to ensure there is adequate street tree planting throughout the proposed development.

14. Further details are required with regard to play spaces.
15. Provide proposals for connectivity / permeability to adjoining sites.
16. Demonstrate that the carriageway and footpath will be adequately lit.
17. Provide design details for safe pedestrian and cycle route on both sides of the Curragh Road (L2032).

In order to avoid traffic hazard, outline proposals to connect or improve either discontinuous or narrow footway and provide cycle tracks.

Where the above works are in front of third-party lands, the Applicant is requested to confirm a willingness to make a financial contribution to the local authority to construct the concrete footpaths.

18. Design inclusion of a Bus Stop for the site frontage along the Curragh Road L2032, route for the 892 service.
19. Incorporate the following revisions to the main road design proposals and resubmit relevant drawings showing:
 - (a) a minimum of 2m wide footpath and a 2m wide cycle-track on both sides of the carriageway of both the Curragh Road (L2032), at the junction and along the frontage.
 - (b) A minimum 6m vehicular carriageway width on the Curragh Road (L2032).
 - (c) Indicative locations for bus stops, on either side of the Curragh Road (L2032).
20. All carriageway widths should be 6m for main access roads and 5.5m for side roads, with 2m wide footpath and a 1m wide grass verge on either side of the carriageway.
21. Submit a revised Road Safety Audit Stage 1 and 2.
22. Submit a letter of consent from the Director of Services for Roads, Transportation and Public Safety to conduct necessary combined footpath/ cycleway and junction improvement works.
23. Demonstrate that the permeable paving would be interlocking / keyed paving and would have adequate slip / skid resistance.

24. (a) Ideally parking should be within the curtilage of individual housing units or private spaces tied to the units are provided, electrical charge points to be provided to allow for the charging of Electric Vehicles (EVs), linked to the individual domestic smart electricity meter without any trip hazards.
- (b) Where parking associated with units is being supplied on street, dedicated charging points for use by residents are to be provided adjacent to parking spaces.
25. Clarify the internal traffic calming and remove reference to a composite cobble lock or brick pavers. Requested to consider the KCC standard detail for a Flat Top Traffic Calming Ramp using bound asphalt concrete.
26. Clarify the locations for the use of Sustainable Drainage Systems (SuDS) features such as Swales, Tree Pits, Detention Basins and Permeable Paving to treat and attenuate surface water runoff from all hard surfaces such as car parks and roofs. Consider replacing the underground tank with an alternative solution that provides for ecology, amenity and landscape
27. Submit details for the root management system to be used where trees are planted adjacent to roads and/or footpaths.
28. Submit an A1 size Lux Contour drawing clearly showing the uniformity coefficients and a ducting and wiring drawing clearly shown the locations of the micro-pillars for the attention of the Public Lighting Engineer in order to assess the public lighting design.

Following the receipt of further information the planners report considered that there were a number of outstanding issues. These are summarised below.

Amenity Lands

The proposed 500-year lease to the open space and amenity zoned lands is not acceptable to the planning authority. This is considered a fundamental issue that cannot be addressed by way of a condition.

Overbearing Impact

It is considered that the overbearing impact on the adjacent dwelling to the east has not been addressed.

The revised proposal has resulted in the 6 no. units backing onto the rear garden of the dwelling to the east with a rear garden depth of 4 of these dwelling of 8.5m and 2 of these dwelling with a rear garden depth of 7.5m. The unit Types C2, C3, C4 which adjoin the boundary have been altered with no habitable windows on the rear elevations at first floor level. The applicants have addressed the issue of overlooking, however, it is considered there is still a level of overbearing impact on the adjacent properties residential amenity that has not been addressed.

Hedgerows:

The Arboricultural impact and tree protection plan does not indicate the hedgerow between the application site and the residential estate of Whitethorn, therefore, the intention of this hedgerow is still unknown.

Drainage:

Concerns regarding the provision of a dry swale on the amenity space. Section 15.6.6 of the Development Plan states *SuDS are not generally acceptable as a form of public open space provision, except where they contribute in a significant and positive way to the design and quality of open space. Where the Council considers that this is the case, in general a maximum of 10% of the open space provision shall be taken up by SuDS.*

Open Space:

The overall open space quantum on site is 2,233sqm, comprising of open space areas, A and B. Area B will provide minimum amenity value to the intended occupants given its location and ESB substation. The removal of this space from the public open space calculations reduces the open space area to just open space area A, it is 1896sqm which is c.12.4% of the net site development area which is 1.53ha.

It is considered proposed layout in terms of the open space arrangement does not conform with objective UD01 and Section 15.6.6 of the Development Plan. A comprehensive redesign of the site is recommended to deliver a more coherent and functional layout that maximises the retention and integration of existing natural features.

Transportation:

Refer to the Report of the Transportation Section which recommends that permission be refused.

Conclusion:

It is considered that Open Space and Amenity zoned lands should be more centrally located with a safe access and egress. These lands should be vested to KCC and should be of a scale that can facilitate active and passive recreation for all members of the public community of Athgarvan is required.

There is a concern regarding the access/egress route for the development, as a significant portion of this is located on lands that are zoned for Open Space and Amenity. An access/egress road to facilitate a private residential development is not appropriate and is contrary to this zoning objective.

It is considered the haphazard layout of the open spaces has resulted in the fragmented approach to public open space areas resulting in a poor-quality layout, therefore not adhering to objective UD O1 and Section 15.6.6 of the Kildare County Development Plan 2023-2029.

The proposed development is considered to be premature pending the installation of the footpath / cycle path along the Curragh Road which was proposed within the concurrent application 24/60775. The development would endanger public safety by reason of a traffic hazard due to the lack of vulnerable road user infrastructure on the Curragh Road and a clear mechanism to prioritise the delivery footpaths and cycle tracks.

It is recommended that permission be refused for the 3 no. reasons outlined above.

3.2.2. Other Technical Reports

Transport / Roads Planning Section: Report dated 25th September 2024 recommended that further information be sought with regard to (1) there is roads/ cycleway/ footpath objective along the Curragh Road L2032, (2) proposals for future permeability to adjacent sites, (3) consider setting back the frontage and placing the cycle track and footpath behind the hedgerow along the site frontage, (4) demonstrate that the carriageway and footpath will be adequately lit, (5) provide design details for safe pedestrian and cycle route on both sides of the Curragh Road (L2032), (6) provide a Bus Stop for the site frontage along the Curragh Road L2032, (7) ensure minimum

2m wide footpaths, 6 m wide carriageway and bus stop locations on the Curragh Road, (8) ensure 2 m wide footpaths, 6 m wide carriageway on the main road and 5.5m wide carriageways for side roads within the development, (9) submit a revised Road Safety Assessment/ Audit (RSA) Stage 1 and 2, (10) request a letter of consent from the Director of Services for Roads, Transportation and Public Safety to conduct necessary combined footpath/ cycleway and junction improvement works, (11) provide detail of the permeable paving, (12) provision of EV charging points, (13) clarify the internal traffic calming proposals and remove reference to a composite cobble lock or brick paver, (14) clarify the locations for the use of Sustainable Drainage Systems (SuDS) features, (15) submit details for the root management system to be used where trees are planted adjacent to roads and/or footpath and (16) provide a A1 size Lux Contour drawing clearly showing the uniformity coefficients and a ducting and wiring drawing clearly shown the locations of the micro-pillars. These items were included in the request for further information.

Report dated 7th May 2025 considered that it permission cannot be granted without the Road Improvement works on the Curragh Road, approved under 24-60775, being completed prior to commencement of this development and is therefore premature. It is recommended that permission be refused on the ground of traffic hazard. The development would endanger public safety due to the lack of vulnerable road user infrastructure on the Curragh Road and a clear mechanism to prioritise the delivery footpaths and cycle tracks.

Parks Section: The report dated 28th August 2024 recommended that further information be sought with regard to reconfiguration of open space to create functional, accessible and usable open spaces; provision bike parking and seating; details of planting adjacent to play area; address concerns of potential anti-social behaviour; details of materials for pathways and cycleways; details of boundary treatments; details of street trees; and details of the play space and play equipment.

Report dated 7th May 2025 recommended that permission be refused for the following reasons (1) Inadequate Provision and Poor Quality of Public Open Space, (2) Substandard Site Layout and Poor Integration with Natural Features, (3) Conflict with Zoning Objective and the proposed 500-year lease arrangement for amenity lands to the south is not considered an appropriate mechanism for long-term land ownership or public management. Lands intended for public use must be vested in the Local

Authority and developed to an appropriate standard (e.g., playing pitches, access, lighting, and parking) before vesting.

Environment Section: Reports dated 4th September 2024 and 16th April 2025 raised no objection subject to standard conditions.

Community Section: Report (undated) refers to both the proposed development and the adjacent retirement village development. The provision of community space in Athgarvan is welcomed.

Water Services: Report dated 19th August 2024 recommended that further information be sought regarding (1) proposals for nature based above ground solutions in lieu of an underground system and (2) proposals for SuDS features to cater for the 1 in 100 year storm. These items were included in the request for further information.

Report dated 25th April 2025 raised no objection subject to conditions.

Environmental Health Office: Report dated 23rd September 2024 raised no objection subject to conditions.

Fire Service: Reports dated 17th September 2024 and 29th April 2025 raised no objection subject to standard conditions.

Housing Section: Report dated 25th April 2025 raised no objection to the proposed development subject to conditions.

3.3. Prescribed Bodies

Uisce Eireann: No Objection subject to standard conditions.

3.4. Third Party Observations

27 no. observations were received. The issues raised are generally similar to those outlined in the third-party submissions below. Additional concerns included the capacity of the wastewater network to accommodate the scheme and disturbance from additional noise and light.

4.0 Planning History

Subject site

None

Surrounding sites

ABP 322713-25, Reg. Ref. 24/60775: Permission was refused in May 2025 for the construction of a retirement village comprising 92 no. residential units and a community building on a site immediately west of the appeal site. The reasons for refused related to (1) non-compliance with the sites zoning objectives, (2) poor quality public open space and (3) poor quality of the design and layout. This decision is currently on appeal.

ABP.300835-18, Reg. Ref. 17/393: Permission was granted in 2019 for the construction of a mixed use development 5 no. ground floor commercial units including a bookmakers, doctors surgery, chemist, restaurant and office unit and 3 no. apartments above, 6 no. houses and 6 no. age friendly houses at the cross roads in Athgarvan village centre, c. 400m east of the appeal site. These units are partly constructed.

Reg. Ref. 19/745: Permission was granted in 2020 for a mixed use development comprising a shop unit, community use unit and 2no. apartments at ground floor level and 1no. Medical Unit, 1no. Office unit and 4no. apartment units at first floor level. This development is under construction.

Part 8 Housing Scheme P82018-010: The provision of 20 no. residential units was approved in 2018 on a site located c. 600m west of the appeal site, which is to the west of the existing Mountain View housing estate.

Reg. Ref. 19/117: Permission was granted in 2020 for the construction of 95 no. residential units that would be accessed via the road permitted under the Part 8 scheme. This site is located immediately south and west of the appeal site. This development is currently under construction.

Reg. Ref. 19/118: Permission was granted in 2020 for the construction of 18 no. residential units. This development would also be accessed via the road permitted under the Part 8 scheme. The access road is immediately south west of the appeal site while the residential units are c. 80m south west of the appeal site. This development is currently under construction.

5.0 Policy Context

5.1. Athgarvan Village Renewal Masterplan, 2024

The masterplan is a non-statutory document published in January 2024 which set out conceptual plan for a settlement. While this document is non-statutory it is noted that Policy AD A3 of the Development Plan it to prepare and implement on a phased basis Village Renewal Masterplans for a number of settlements including Athgarvan. This is also supported by Policy UD O6 to prepare and implement Town / Village Renewal Masterplans for settlements of all sizes across the county.

The plan states that Athgarvan has a population of 1,193 people (Census 2022).

No large public park is provided in Athgarvan, however, it is located adjacent to the Curragh Plains. Residents of Athgarvan have access links to a wide range of recreational and amenity assets, both within and outside the village boundary such as rugby, GAA, golf, walking, fishing etc. Natural heritage assets within the village include the River Liffey, which meanders along its route to the east of the village and the Curragh Plains which abuts the western boundary.

Residential, open space and amenity and agricultural uses are identified on the subject site. Potential for improved walking routes / links are also identified.

Principles of Development include:

- Consolidating development within the village centre area followed by the sequential development of land in a logical progression from the village centre.
- Supporting employment opportunities while also supporting social inclusion and community development within the village.
- Facilitating development in Athgarvan in line with the ability of local services to cater for growth.
- Protecting and preserving the quality of the landscape in Athgarvan and The Curragh including open space, natural, architectural, archaeological, and cultural heritage.
- Facilitating the development of amenities in the village.

The key recommendations for Curragh Road a include

- Tighten turning radii.
- Introduce traffic calming.
- Widen existing footpaths.
- Provide continuous footpath on south side of Curragh Road to unlock zoned lands.
- Consider the provision of Cycle infrastructure along Curragh Road to link town centre with education/sports area.

5.2. Kildare County Development Plan 2023 - 2029

Volume 2 Small Towns, Environs, Villages and Rural Settlements of the Development Plan identifies Athgarvan as a village. Map V2-3.2a sets out the land use zoning objectives for Athgarvan. The appeal site is subject to 4 no. zoning objectives, In this regard C - New Residential, F Open Space and Amenity and Existing / Infill Residential and Community and Education.

Map V2-3.2b sets out the Objectives for the village. There is a Roads / Cycleway / Footpath Objective along the Curragh Road at the site's northern boundary.

Table 3.3 of the plan notes that 7.5 ha of land in Athgarvan is zoned for New Residential. Section 3.8 of Volume 2 notes that the population of Athgarvan increased by 15.7% between 2011 (1,016 persons) and 2016 (1,176 persons).

The plan notes that Athgarvan has an adequate water supply to meet the current demands and the future planned growth over the life of this Plan.

It is envisioned that designated villages will continue to develop as local centres for services with growth levels to cater for sustainable growth at an appropriate scale. The Development Plan identifies 17 no. designated villages, which includes Athgarvan. There is a population target of 1,006 persons and 366 no. residential units for the designated villages over the lifetime of the plan.

The following objectives are considered relevant:

- **ST A2** Ensure new development complements and enhances the village scape and uses quality building materials

- **ST A5** Support the objectives and priority projects of the forthcoming Athgarvan Village Renewal Plan
- **ST A10** Provide for the development of a children's playground, subject to the availability of appropriate sites and funding
- **ST A15** Provide new footpaths / cycleways at the following locations (See Map V2 – 3.2b)
- (ii) Along the full length of the Curragh Road (L2032), to Scoil Bhride National School

Chapter 2 Core Strategy and Settlement Strategy, Chapter Housing, Chapter 6 Infrastructure and Environmental Services, Chapter 11 Built and Cultural Heritage, Chapter 14 Urban Design, Placemaking and Regeneration and Chapter 15 Development Management Standards of the development plan are all considered relevant. The following policies and objectives of the development plan are also considered relevant:

- **HO P5:** Promote residential densities appropriate to its location and surrounding context.
- **HO O6:** Ensure a balance between the protection of existing residential amenities, the established character of the area and the need to provide for sustainable residential development is achieved in all new developments.
- **HO P6:** Promote and support residential consolidation and sustainable intensification and regeneration through the consideration of applications for infill development, backland development, re- use/adaptation of existing housing stock and the use of upper floors, subject to the provision of good quality accommodation.
- **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.

5.3. ***National Planning Framework First Revision (2025)***

The National Planning Framework is a high-level strategic plan for shaping the future growth and development of the county to 2040. It is a framework to guide public and private investment, to create and promote opportunities for our people, and to protect and enhance our environment - from our villages to our cities, and everything around and in between.

It states that the major policy emphasis on renewing and developing existing settlements established under the NPF 2018 will be continued, rather than allowing the continual expansion and sprawl of cities and towns out into the countryside, at the expense of town centres and smaller villages. It includes revised figures of 50,000 units per annum in the years to 2040. The NPF was revised to allow planning for an additional 50,000 people in Ireland between 2022 and 2040.

5.4. *Climate Action Plan, 2025*

The Climate Action Plan was published in June 2019 by the Department of Communications, Climate Action and Environment. The Climate Action Plan 2025 (CAP25) is the fourth annual update to Ireland's Climate Action Plan 2019. This plan is prepared under the Climate Action and Low Carbon Development (Amendment) Act 2021. CAP25 builds upon [Climate Action Plan 24](#) (CAP24) by refining and updating the measures and actions required to deliver the carbon budgets and sectoral emissions ceilings and it should be read in conjunction with CAP24.

5.5. *Climate Action and Low Carbon Development (Amendment) Act 2021*

This Act amends the Climate Action and Low Carbon Development Act 2015. It sets out the national objective of transitioning to a low carbon, climate resilient and environmentally sustainable economy in the period up to 2050. The Act commits us, in law, to a move to a climate resilient and climate neutral economy by 2050. An Bord Pleanála is a relevant body for the purposes of the Climate Act. As a result, the obligation of the Commission is to make all decisions in a manner that is consistent with the Climate Act.

5.6. *Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019 - 2031*

The RSES is underpinned by key principles that reflect the three pillars of sustainability: Social, Environmental and Economic, and expressed in a manner which

best reflects the challenges and opportunities of the Region. It is a key principle of the strategy to promote people's quality of life through the creation of healthy and attractive places to live, work, visit and study in.

The followings RPOs are of particular relevance:

RPO 5.4: Future development of strategic residential development areas within the Dublin Metropolitan Area shall provide for higher densities and qualitative standards set out in the 'Sustainable Residential Development in Urban Areas'. 'Sustainable Urban Housing; Design Standards for New Apartment' Guidelines, and Draft 'Urban Development and Building Heights Guidelines for Planning Authorities'.

5.7. ***National Biodiversity Action Plan (NBAP) 2023-2030***

The 4th NBAP strives for a “whole of government, whole of society” approach to the governance and conservation of biodiversity. The aim is to ensure that every citizen, community, business, local authority, semi-state and state agency has an awareness of biodiversity and its importance, and of the implications of its loss, while also understanding how they can act to address the biodiversity emergency as part of a renewed national effort to “act for nature”.

This NBAP builds upon the achievements of the previous Plan. It will continue to implement actions within the framework of five strategic objectives, while addressing new and emerging issues:

- Objective 1 - Adopt a Whole of Government, Whole of Society Approach to Biodiversity.
- Objective 2 - Meet Urgent Conservation and Restoration Needs.
- Objective 3 - Secure Nature's Contribution to People.
- Objective 4 - Enhance the Evidence Base for Action on Biodiversity.
- Objective 5 - Strengthen Ireland's Contribution to International Biodiversity Initiatives.

5.8. ***Section 28 Ministerial Guidelines***

Having considered the nature of the proposal, the receiving environment, the documentation on file, including the submissions from the planning authority, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are as follows.

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2023) (the 'Apartment Guidelines').
- Design Standards for Apartments Guidelines for Planning Authorities were published on the 8th July 2025. Circular NSP 04/2025 states that the Design Standards for Apartments, Guidelines for Planning Authorities (2025) are applicable to any application for planning permission and to any subsequent appeal or direct application to An Coimisiún Pleanála submitted after the issuing of the Guidelines, i.e. from 9th July 2025.
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the 'Building Height Guidelines').

5.9. **Other**

- Design Manual for Urban Roads and Streets (DMURS December 2013) (as updated) (Including Interim Advice note Covid-19 May 2020).

5.10. **Natural Heritage Designations**

There are no designated sites within the vicinity of the appeal site.

5.11. **EIA Screening**

The proposed development, as a standalone development and in combination with the adjacent retirement village development, has been subject to preliminary examination for environmental impact assessment. Please refer to Appendix 1 and 2 of this report. Having regard to the characteristics and location of the proposed development, and the adjacent retirement village, 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

The first party appeal includes an appeal report, additional drawings, a Traffic and Transportation note and a Landscape note. The main grounds of the appeal relate to the 3 no. reasons for refusal. The appeal submission is summarised below.

Site Context

- The site is located in the village of Athgarvan, south of Newbridge, with a variety of services and amenities. It is 1.2km from the M7 corridor and 4.9km from the Dublin-Cork railway, which is a 16-minute cycle.
- The nearest bus stops are less than 100m from the site on the Curragh Road. This stop is served by the 129 which provides connectivity to Kilcullen and Newbridge.

Principle of Development

- The proposed uses align with the zoning objective for the site with uses either 'permitted in principle' or 'open for consideration'. Pre-planning meetings were held with the planning authority, and the proposed uses were accepted in principle.
- The site is identified as an Opportunity Site in the Athgarvan Village Plan. The plan notes that the site is a derelict / underutilised site which has potential for re-use or development.
- There is an objective in the Athgarvan Village Plan to provide a road / cycle way and footpath along the L2032 Curragh Road.
- The proposed development includes a playground which is in accordance with Objective ST A10 of the Athgarvan Village Plan to provide a playground.
- The proposed scheme incorporated public open space with pitches and basketball courts which is in accordance with the local opportunities identified in the village plan.
- The proposed development is in accordance with the provisions of the development plan.

First Reason for Refusal: Zoning

- The land zoned C New Residential comprises 2 no. parcels. The main parcel of land is located to the rear of the site, at a distance from the main road and access. Alternative access to this site would require third party lands.
- The planning authority's reason for refusal means that the rear and more sizable portion of lands zoned for residential uses are landlocked.
- The nature of the zoning is unusual and particularly within the context of the lands within the applicant's control.
- The extent of the ownership and boundary lines means that there is a requirement to traverse a small portion of the lands zoned F Open Space and Amenity to gain access to the lands zoned C New Residential.
- The residential element would be within lands zoned C Residential.
- The access road would have a dual function as it would be a critical piece of infrastructure that would be delivered by the applicant to access the Open Space and Amenity lands where there is potential for the delivery of sports pitches as part of the wider indicative masterplan.
- It is considered that playing pitches, which are permissible under the Open Space and Amenity land use objective would require an access road. The delivery of the access road to service future playing pitches should be welcomed.
- There is no material contravention of the sites zoning objective. Notwithstanding this the Commission can grant permission for a development that involves a material contravention under specific conditions and in limited circumstances as set out in Section 37(2)(b) of the Planning and Development Act 2000. In this regard it is considered that the proposed scheme is of strategic and national importance, that the Development Plan is not consistent with the revised NPF which requires an additional 50,000 homes per annum. The scheme is consistent with the Compact Settlement Guidelines which support compact, well designed communities which are accessible and inclusive. The site is one of only two sites identified in the Village Plan as an Opportunity Site.

- Legal judgements indicate that the limitations of Section 37 do not apply where the Commission do not consider the development to result in a material contravention.

Second Reason for Refusal: Open Space

- The proposed development provides attractive, usable and interconnected areas of open space. Future residents would benefit from community and sport uses that can be developed within the site, which has been offered to the planning authority by the applicant.
- The arrangement and distribution of the land use zonings restricts the opportunities for a more conventional site layout for the residential element. The elongated nature of the residential zoning allows for the laying out of a single row of houses with two small pockets of open space at either end. The residential units at the end of the row are both dual aspect and overlook the open space and address the street.
- The layout of the rectangular area responds to the sites boundaries by providing housing backing onto the existing dwellings to the east.
- A large and well-proportioned open space (Open Space A) is located at the southern boundary of the rectangular portion of the site. This allows for the retention of a mature hedgerow and incorporates the overhead power line mast.
- The main area of open space incorporates a nature play space, kickabout spaces, seating and a walking loop / path.
- A linear green space at the western boundary of this portion of the site allows for the retention of a hedgerow. This space is overlooked by adjacent dwellings which are dual fronted.
- The northern boundary allows for the potential future access to lands zoned for residential uses. This boundary also accommodates nature based SuDS features.
- Disagree with the planning authority's assessment that dry swales and other nature based solutions provide no amenity value to the open space. This contradicts national guidance on Nature Based Solutions. These features are

soft landscaping features and integrate and provide points of interest within the green spaces. Overtime they will promote greater diversity of wild plants.

- Passive surveillance is provided to communal open space gardens by dual fronted units.
- Public Open Space (Open Space A and Open Space B) are compliant with Development Plan standard to provide 15% of the site area as public open space.
- The Compact Settlement Guidelines Policy Objective 5.1 encourages a contribution in lieu where the population would be better served by the provision of a new park. If it is considered appropriate to omit Open Space B from the Public Open Space calculation the applicant is amenable to a financial contribution in lieu.
- The planning authority had no regard to the public open space and amenity proposed on the wider masterplan lands.
- The proposed development provides a hierarchy of open spaces including a significant area of open space at the western portion of the site.

Third Reason for Refusal – Premature pending footpath upgrade

- It is proposed as part of the retirement village planning application on the adjacent site to construct a 4m wide signalised toucan pedestrian and cycle crossing, c. 23m west of the proposed access. These works are outside of the red line boundary of the current appeal. The applicant is amenable to a condition requiring the construction of the toucan crossing. Therefore, pedestrian and cycle connectivity would be available on the northern side of the Curragh Road.
- A quality order including a road safety audit, walking audit, cycle audit and an accessibility audit were all undertaken and the issues raised were addressed.
- The scheme includes a footpath along the site boundary. It is also proposed to provide a footpath along the boundary of the adjacent retirement village scheme to the west. This would tie into existing infrastructure. It is considered inappropriate to expect the applicant to deliver anything beyond this.

- The scheme is fully compliant with DMURS.

6.2. Planning Authority Response

- 6.2.1. In response to the first party appeal the planning authority notes the content of the appeal and refers to the contents of the planners reports and the various technical reports in relation to the assessment of the planning application.

6.3. Observations

Five observations were received from (1) Ken Keane and Others, (2) Cllr. Tracey O'Dwyer, (3) Marie Flynn, (4) Athgarvan GAA and (5) Rita Cosgrove. The concerns raised are similar and are summarised below.

Zoning

- There is potential to provide vehicular access to the site via the linear strip zoned New Residential. The applicant has chosen to provide housing on this portion of the site.
- The use of lands zoned for Open Space and Amenity to provide access is a material contravention of the sites zoning objective.
- The proposed development would restrict access to two parcels of land zoned New Residential.

Design and Layout

- The density and height of the proposed development is not in keeping with the character of Athgarvan.
- The proposed development is not in keeping with the pattern of development.
- The proposed development would result in overlooking of existing dwellings and would have an overbearing impact.
- The 3-storey houses would overshadow the existing dwellings in Whitethorn Estate.
- The public open spaces are poorly overlooked.
- Open space should be provided at the boundaries with existing properties.

- The community sports facility should be provided at the front of the site.
- Concerns regarding the loss of hedgerow to facilitate the development.

Transportation

- Concerns that adequate footpath infrastructure is not provided.
- The surrounding road network is not suitable for large volumes of traffic that would be generated by the proposed development and the proposed retirement village on the adjacent site.
- The site entrance is located on a curve which could result in a traffic hazard.
- The Curragh Road is a main access road to the motorway. The proposed toucan crossing would negatively impact on traffic flows.
- The site is not accessible, with a limited bus service.

Infrastructure

- There is no social infrastructure to support a development of this scale, including no school places, doctor, dentist, pharmacy, playground, community hall etc.

Public Participation

- The applicant made no effort to engage with the local community.

6.4. **Further Responses**

None

7.0 **Assessment**

7.1. Having examined the appeal details and all other documentation on file, including all of the submissions received in relation to the appeal, the report of the local authority and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development

- Design Approach
- Residential Amenity
- Open Space
- Pedestrian Connectivity
- Transportation
- Social Infrastructure
- Other Issues
- Material Contravention

7.2. In the interest of clarity this assessment relates to the revised design and layout as submitted by way of further information comprising 40 no. residential units on a site with a stated area of 3.36 ha.

7.3. ***Principle of Development***

Zoning

- 7.3.1. Volume 2 Part 2 Villages and Settlements of the Development Plan sets out the zoning objectives for Athgarvan. The appeal site is subject to 4 no. zoning objectives, in this regard 'New Residential' with the associated land use objective *'to provide for new residential development'*, 'Open Space and Amenity' with the associated land use objective *'to protect and provide for open space, amenity and recreation provision'*, 'Existing / Infill Residential' with the associated land use objective *'to protect and improve existing residential amenity, to provide for appropriate infill residential development and to provide for new and improved ancillary services'* and 'Community and Education' with the associated land use zoning objective *'to provide for community and educational facilities'*.
- 7.3.2. The appeal site, as submitted by way of further information, is irregular in shape. The majority of the residential units (28 no.) are located to the rear (south) of site. This square shaped portion of the site is generally zoned New Residential. Residential uses are permissible on lands zoned New Residential and no concerns are raised by the planning authority or the third parties regarding the principle of housing on lands zoned for New Residential.

- 7.3.3. To the west of the lands zoned New Residential is a rectangular area of land zoned Open Space and Amenity. This area was included within the site red line boundary in response to the request to further information. It is intended that this portion of the site would be given to the local authority for future development of amenity and recreational uses. An indicative layout of the lands was provided by the applicant. However, it is not proposed to develop these lands for amenity and recreational purposes as part of the proposed development.
- 7.3.4. The site includes a linear area c. 180m in length by 35m in width, which runs to the west (side) of an existing commercial unit and dwelling fronting onto the Curragh Road. This linear area provides access to the rear (south) of the site from the Curragh Road. The northern portion of this area is zoned Existing Residential / Infill. The southern portion of this area is zoned Open Space and Amenity. The central portion of this linear area is divided into 2 no. zoning objectives. The eastern portion is zoned New Residential, while the western portion is zoned Open Space and Amenity. On the eastern portion, which is zoned for New Residential, it is proposed to provide 12 no. houses. As noted above residential uses are permissible on lands zoned New Residential.
- 7.3.5. It is proposed to provide the access road to the scheme on the western side of the central area, which is zoned Open Space and Amenity. The access road also traverses lands at the northern portion of the site zoned Existing Residential / Infill and lands at the southern portion of the site also zoned Open Space and Amenity. The planning authority's first reason for refusal considered that the extent of land zoned for Open Space and Amenity that is devoted to the proposed access road to facilitate the proposed residential development would materially contravene the land use zoning objective and Table 3.4 of Section 3 Village and Rural Settlements, of Volume 2, Part 2 of the Kildare County Development Plan 2023-2029. The third parties have also raised concerns regarding the location of the access road on lands zoned for Open Space and Amenity and the material contravention of the zoning objective. Table 3.4 of Volume 2 sets out the uses that are permitted in principle, open for consideration and not permitted for each zoning objective. Residential uses, which the road would primarily serve are not permitted on lands zoned for Open Space and Amenity.

- 7.3.6. The New Residential zoning extends beyond the site boundary and includes to 2 no. additional parcels of land to the north and east of the appeal site, which currently form the rear gardens of 2 no. existing dwellings. These parcels of land are outside of the control of the applicant and, therefore, cannot be utilised for access to the rear (south) of the appeal site.
- 7.3.7. Given the site boundaries and the zoning objectives, it is not possible to access the lands zoned 'New Residential' without traversing lands zoned Open Space and Amenity. In particular, it is noted that the lands zoned Existing Residential / Infill at the sites northern boundary with the Curragh Road are separated from lands zoned New Residential by a marginal area of land zoned Open Space and Amenity. In addition, the 2 no. areas within the site boundary zoned for New Residential are separated by a portion of land zoned for Open Space and Amenity. Therefore, it is considered reasonable that a portion of land zoned Open Space and Amenity would be required for access to the site.
- 7.3.8. It is also proposed to provide a significant section of the access road along the sites western boundary on lands zoned for Open Space and Amenity. As noted by the third parties there is an alternative layout. In this regard the access road could potentially be relocated to the sites eastern boundary, with the existing commercial unit and dwelling, on lands zoned for New Residential. This would require the proposed row of 12 no. houses to be omitted from this portion of the site and for the access road to be relocated. Notwithstanding this revised layout a portion of the access road would still be required to traverse lands zoned Open Space and Amenity to provide access to the rear (south) of the site.

It is acknowledged that this alternative layout would relocate a significant portion of the access road to lands zoned New Residential and away from the lands zoned for Open Space and Amenity. However, it is my opinion this alternative layout would not contribute positively to the public realm or visual amenity of the area and would not be in accordance with the provisions of Objective UD O1 of the Development Plan which requires a high standard of urban design to be integrated into the design and layout all new development and Section 15.6.6 of the Development Plan requires public open spaces to be overlooked by as many dwellings as possible. As this portion of the site is c. 35m in width by c. 180m in length and would be generally bound the Curragh

Road to the north, by public open space to the south and west with a high level boundary wall to the east. There would be no active frontage or passive supervision of public areas, in particular the proposed public open space proposed as part of the adjacent retirement village and could potentially result in anti-social behaviour. In my view this layout would also negatively impact on the residential amenity of the existing dwelling to the east, which would be directly bound by a public road and public open space, with no passive overlooking.

7.3.9. It is my opinion that the proposed layout is appropriate in this context. However, it may be considered a material contravention of the zoning objective and it is noted that the planning authority refused planning permission on this basis. However, this access road would also provide access to the land zoned for Open Space and Amenity to be given to the planning authority to provide public open space with recreational and amenity uses. Without this access road there is no alternative access to the lands to be provided to the local authority for recreational purposes. Therefore, it is my opinion that the access road would, be in accordance with the Open Space and Amenity land use objective *to protect and provide for open space, amenity and recreation provision* as the provision of amenity and recreational uses would require access. However, should the Commission consider the access road to be a material contravention of the sites zoning objection, this is addressed below in Section 7.11.

7.3.10. In addition, to the above, the site boundary as submitted by way of further information includes a linear strip, c. 400m in length which runs through the adjacent site, which is subject to a concurrent appeal for a retirement village (ABP 322713-25). This area is partially zoned Community and Education and partially zoned Existing / Infill Residential and generally relates to the proposed east-west access road proposed under the adjacent scheme. It would appear from the information submitted that it is not proposed to develop the access road as part of the proposed development. Notwithstanding this, the provision of an access road is considered in accordance with zoning objectives of this section of the site.

Athgarvan Village Renewal Masterplan

7.3.11. The Athgarvan Village Renewal Masterplan identifies the subject site and the adjacent concurrent appeal site (ABP-322713-25) as Opportunity Site 8, to provide community

and recreational uses. While this document is non-statutory it is noted that Policy AD A3 of the Development Plan is to prepare and implement on a phased basis Village Renewal Masterplans for a number of settlements including Athgarvan. This is also supported by Policy UD O6 to prepare and implement Town / Village Renewal Masterplans for settlements of all sizes across the county. Having regard to Development Plan policy it is my view that there is requirement to implement the provisions of the masterplan. To address this requirement, in response to the request for further information the applicant submitted a revised the red line boundary, to include a c. 1.67ha of land zoned Open Space and Amenity that would be made available to Kildare County Council for the provision of recreation and amenity uses. An indicative layout include a playing pitch and basketball court with car parking and an access road. I am satisfied that the provision of this land is accordance with the provisions of the masterplan to support the provision of community and recreational uses at Opportunity Site 8 and would have significant benefits for the future residents and the wider community.

- 7.3.12. The planning authority and the third parties raised concerns regarding the proposed 500-year lease arrangement for amenity lands to the south of the appeal site, as this is not considered an appropriate mechanism for long-term land ownership or public management. Lands intended for public use must be vested in the Local Authority. From the information submitted it would appear that the applicant has engaged with the planning authority with regard to transferring lands zoned Open Space and Amenity to the planning authority to provide for recreational uses. The response to the further information request states that an agreement to lease can be secured post planning. While this is noted, the transfer of lands is a legal process which is separate to planning matter and does not form a part of my planning assessment.
- 7.3.13. The planning authority also note that lands to be vested to the local authority should be developed to an appropriate standard including playing pitches, access, lighting, and parking, before vesting. Having regard to the relatively limited size of the proposed development, and the proposed retirement village on the adjacent site, it is my view that it is unreasonable to expect the applicant to fund extensive recreational facilities and that it is more appropriate that the applicant pay a financial contribution towards public infrastructure and facilities that benefit the area in accordance with Section 48

of the Planning and Development Act, 2000 (as amended) and as set out in the Kildare Development Contribution Scheme 2023 – 2029.

- 7.3.14. Subject to transferring the land to the planning authority for the future development of recreational uses within the village and the payment of a Section 48 financial contribution, I am satisfied that the proposed scheme would be in accordance with the provisions of the masterplan to provide sports or recreational facilities on Opportunity Site 8 and would therefore be in accordance with Policy AD A3 and Policy UD O6 of the Development Plan to prepare and implement on a phased basis Village Renewal Masterplans.
- 7.3.15. It is also noted that the public open space within the residential scheme would include a natural play space, which is a publicly available recreational use.

7.4. ***Design Approach***

Density

- 7.4.1. Concerns are raised by the third parties that the density is not in keeping with the character of Athgarvan. The proposed scheme has a net density of c. 26 dph. This is based on the provision of 40 no. residential units on a net site area of 1.53 ha. Table 3.1 of the Development Plan sets out a range of density standards. With regard to Smaller Towns and Villages a range of 20-35 units is recommended for edge of centre sites. The proposed density is within these recommended parameters.
- 7.4.2. The Compact Settlement Guidelines do not provide recommended density ranges for Rural Towns and Villages. Section 3.7 of the Guidelines notes that it is a policy and objective of the Guidelines that development in rural towns and villages be tailored to the scale, form and character of the settlement and the capacity of services and infrastructure. I am satisfied that the proposed density results in a scheme that it in accordance with the prevailing pattern of development in Athgarvan. It is also noted that confirmation of feasibility for connections to the water main and foul water network were provided by Uisce Eireann and that the appeal site is relatively well served by public transport, which provides connectivity to a wide range of services and amenities within Newbridge town centre, which is located c. 3.5km north of the appeal site.

7.4.3. Policy HO P5 of the Development Plan aims to promote residential densities appropriate to its location and surrounding context. The Blackrath Residential Scheme is located c. 400m west of the appeal site. This residential scheme was approved under Reg. Ref. 19/117 and 19/118 and has a combined residential density of 21 dph based on the provision of 113 no. houses on a site area of 5.4. The Part 8 Housing Scheme (P82018-010) located at Mountain View c. 600m west of the appeal site has a density of c. 27 dph based on the provision of 18 no. houses on a net developable area of 0.73 ha, this excludes the public space provision of 0.45 ha provided within the site. Therefore, I am satisfied that the proposed density is in keeping with the density of the recently approved and constructed residential developments within Athgarvan and is therefore, in accordance with the provisions of Policy HO P5 of the Development Plan.

Design and Layout

7.4.4. The proposed scheme comprises the construction of 40 no. residential units with a single vehicular access point from the Curragh Road on a greenfield site within the village of Athgarvan. The proposed layout responds to the irregular layout of the site and includes a row of 12 no. houses and the access road along the linear portion at the northern portion of the site. These 12 no. dwellings would also provide passive overlooking of a significant area of public open space (20,706sqm) proposed as part of the concurrent appeal (ABP.322713-25) for a retirement village. This linear layout is considered acceptable given the sites irregular shape and the sites zoning objectives.

7.4.5. The request for further information request that a revised boundary treatment comprising a low bow top railing no higher than 1.2m in height with a native hedgerow planting be provided along the sites eastern boundary. It is my opinion that this would be an appropriate boundary treatment. However, in response to the request for further information the applicant proposed to provide a 1.6m high bow top railing. The boundary treatment plan submitted by way of further information (Drawing No. 23KE03(B)-DR-0401) does not appear to relate to either of these boundary treatments. However, Figure 6 of the Response to Further Information report illustrates a 1.5m high bow top tailing. Notwithstanding the minor discrepancies, I am satisfied that appropriate high quality boundary treatments that would allow for passive

overlooking of the proposed area of public open space could be addressed by way of condition.

- 7.4.6. The southern portion of the site would accommodate 28 no. houses, with 12 no. houses laid out back to back with the existing dwellings in Whitethorn Residential Estate to the east and 16 no. houses laid out in a grid pattern forming back to back dwellings. An area of 1,896sqm of public open space (Open Space A) is provided at the south western portion of the site. This would be directly overlooked by the proposed dwellings at the southern portion of the site. The scheme also includes smaller pockets of open space including a 337sqm of public open space (Open Space B) at the sites northern band western boundary with an existing commercial unit and a residential dwelling that front onto the Curragh Road and a 244sqm and a 393sqm area of communal open space referred to as Communal Garden A and Communal Garden B along the access road. The concerns raised by the planning authority regarding the layout of the areas of public open space are noted and are addressed below in Section 7.6.
- 7.4.7. The layout provides for a potential future vehicular access to lands zoned New Residential to the north and east of the site. I have no objection in principle to the proposed layout and consider it appropriate in a suburban context.
- 7.4.8. The third parties raised concerns regarding the loss of hedgerows within the site. It is noted that to facilitate the proposed development, it is proposed to remove hedgerow no. 8 and no. 9. Hedgerow no. 4, no. 6 and no. 7 would be retained. The retention of mature hedgerows, where possible, is welcomed and having regard to the New Residential zoning objective and the provision of additional planting within the site as part of the landscaping the proposed loss of mature hedgerow I am satisfied that the loss of mature hedgerows is acceptable.
- 7.4.9. The red line boundary, as submitted by way of further information, includes a linear strip through the adjacent site, which is a concurrent appeal for a retirement village. The red line appears to generally relate to the location of the proposed east – west access road through the adjacent site. It is noted that the original site plan included a linear strip along the northern boundary of the adjacent site. Letters of consent to the inclusion of these parcels of land are provided from the adjoining land owner, however,

it would appear that while they form part of the site there are no proposals to carry out any works on these portions of the site.

- 7.4.10. Concerns are raised by the third parties that the proposed height is not in keeping with the character of the Athgarvan. The general height in Athgarvan is single and 2-storey, with the prevailing height along the Curragh Road being 2-storeys. The proposed houses are generally 2-storeys in height, with the exception of House Type D which is 2 and a half storeys and includes a front dormer window. From information publicly available on the planning authority's website it is noted that a similar house type (House Type B and D) was approved under Reg. Ref. 19/117 on a site located c. 400m west of the appeal site. I am satisfied that the proposed height is in keeping with the prevailing height of the village and would not result in any negative visual impacts on the village.
- 7.4.11. The external materials includes a variety of render, brick and cladding. I have no objection to the proposed materials and consider that they would result in a high quality scheme. However, to ensure a high-quality finish it is recommended that a condition be attached to any grant of permission that the final details the external materials be agreed with the planning authority.
- 7.4.12. The housing quality assessment submitted by way of further information on indicate that all residential units reach and exceed the minimum requirements set out in the Quality Housing for Sustainable Communities Guidelines, 2007
- 7.4.13. The 40 no. residential units comprises 8 no. 2-beds (20%), 20 no. 3-beds (50%) and 12 no. 4-beds (30%). There are 6 no. unit typologies ranging in size from an 86sqm 2-bed house to a 148.5sqm 4-bed house. The house types 6 no. dual fronted units (House Type C2) which provides passive overlooking of public spaces and improves the visual amenity of the scheme by reducing the requirement for long, high gable walls at corner units. I have no objection to the proposed unit mix and house types and consider them appropriate for a suburban development.
- 7.4.14. Overall, I have objection in principle to the proposed design approach and consider that it is well considered having regard to the site's zoning objectives, the shape of the site and surrounding suburban context. The redevelopment of this underutilised village site is welcomed and represents a high-quality, contemporary scheme, that

would support the consolidation of the urban environment. Therefore, I have no objection to the proposed design approach and consider it represents a reasonable response to its context.

7.5. Residential Amenity

- 7.5.1. Concerns are raised by the third parties that the proposed development would have an overbearing impact and result in overlooking of adjacent properties. The appeal site irregular in shape. The northern, linear portion of the site is bound to the north by the rear garden of an existing dwelling and to the east by the rear garden of an existing dwelling. Both of these dwellings front on to the Curragh Road. The southern, square shaped portion of the site is bound to the north by the rear gardens of 2 no. existing dwellings that front onto the Curragh Road and to the east by the rear gardens of existing dwellings in Whitethorn residential estate.
- 7.5.2. Section 15.2.2 of the Development Plan states that traditionally a minimum distance of 22m is required between directly opposing first floor windows. However, in cases of innovative design, where overlooking into habitable rooms does not occur, this figure may be reduced. SPPR 1- Separation Distances of the Sustainable and Compact Settlement Guidelines requires a minimum separation distance of 16m is provided between opposing windows serving habitable rooms above ground floor level. It further states that a separation distance below 16m may be considered acceptable in certain circumstances.
- 7.5.3. The proposed layout provides for 12 no. semi-detached houses (House Type D) at the sites eastern boundary with the rear gardens of existing dwellings in the Whitethorn residential estate. There is a minimum separation distance of c. 21m between the first floor rear windows of the existing and proposed dwellings. While the proposed dwellings include a dormer window at second floor level on the front elevation there are no windows at second floor level. Given the separation distances I am satisfied that the proposed layout would not result in any undue overlooking of the existing dwellings in Whitethorn residential estate to the east.
- 7.5.4. The layout also provides for 12 no. semi-detached houses (House Type C1, C2, C3 and C4) at the sites eastern boundary along the linear section of the site. This portion of the site is bound by the rear garden of an existing dwelling that fronts onto the

Curragh Road. The rear elevation of the proposed dwellings are located between c. 6m and 8m from the sites boundary.

- 7.5.5. To address the potential for overlooking House Types C2, C3 and C4 are designed with no windows to habitable rooms provided on the first floor rear elevation. While this prevents overlooking of the adjacent site it results in first floor bedroom windows being provided on the side elevation of House Types C2, C3 and C4. I have concerns that this layout results in undue overlooking between proposed House no. 02 and 03 and proposed House no. 04 and 05. There is a c. 6m separation distance between these dwellings and from the floor plans submitted it would appear that the windows are directly opposing. House Type C3 includes bedroom windows on the first floor rear elevation which would result in undue overlooking of the rear garden of the existing dwelling to the east. This rear garden is also zoned New Residential, and I have concerns that the proposed house design could impede the development potential of this adjacent site.
- 7.5.6. Overall, I have serious concerns that the design and layout of the proposed 12 no. houses (House Type C1, C3 and C4) at the sites eastern boundary along the linear section of the site (House no. 01 – 012) would result in undue overlooking within the site and of the adjacent site and has the potential to impede the development potential of the adjacent site. It is noted that this concern was raised as part of the further information request, and the applicant was provided an opportunity to address concerns raised regarding overlooking. While it is my opinion that a house type could be provided along this section of the site that would not result in undue overlooking, it is my opinion that the alteration required would be significant and, therefore, it would not be appropriate to address it by way of condition. Therefore, if permission is being contemplated it is recommended that the 12 no. houses (no. 01 -012) be omitted from the proposed development and that the applicant should submit a further planning application for a more appropriately designed house type along this section of the site.
- 7.5.7. While the proposed houses would be visible from the rear gardens of the surrounding existing dwellings. Having regard to the separation distances and the relatively limited height of the proposed scheme and the existing dwellings I am satisfied that no issues of overbearing impact arise.

7.5.8. The proposed layout also provides for 16 no. back to back dwellings within the scheme, in this regard House no. 013 – 020 would back onto House no. 021-028. There is a separation distance of c. 16m between the first floor rear bedroom windows. As the separation distance is in accordance with SPPR 1- Separation Distances of the Sustainable and Compact Settlement Guidelines I have no objection to the proposed layout.

7.5.9. A daylight, sunlight and overshadowing assessment was not submitted with the application. Section 5.3.7 of the Sustainable and Compact Settlements Guidelines notes that the provision of acceptable levels of daylight in new residential developments is an important planning consideration. However, planning authorities do not need to undertake a detailed technical assessment in relation to daylight performance in all cases and that in the case of low-rise housing with good separation distances, it should be clear from the assessment of architectural drawings that undue impact would not arise. Given the characteristics of the proposed development, I am satisfied that it would not result in overshadowing of any existing or proposed residential dwellings, and a technical assessment of daylight, sunlight and overshadowing performance is not necessary in this instance.

7.6. ***Open Space***

7.6.1. Section 15.6.6 of the development plan sets out public open space requirements for new residential developments. It states that for greenfield sites, 15% of the total site area should be provided as public open space. The site layout as submitted by way of further information provides for a 1,896sqm area of public open space (Open Space A) at the south western portion of the site and a 337sqm of public open space (Open Space B) at the sites northern band western boundary with an existing commercial unit and a residential dwelling that front onto the Curragh Road. Both of these areas of public open space are located on lands zoned for New Residential. The layout also incorporates a 244sqm and a 393sqm area of communal open space referred to as Communal Garen A1 and Communal Garden A2. These areas are located on opposite sides of the access road on lands zoned Open Space and Amenity. The layout provides for a total of 2,870sqm of open space which equates to c. 17% of the total gross site area. Therefore, the quantum of public open space is in excess of the development plan requirement.

- 7.6.2. The areas of communal open space are not included in the calculation of open space by the applicant. I agree that Communal Garden A1 and A2 are incidental to the layout and would not result in quality usable open space. In addition, to facilitate the access road to the lands to be given to the local authority, to provide recreation and amenity lands, Communal Garden A2 would be required to be omitted. As noted below, it is my recommendation this potential future access road be constructed to the site boundary to allow for future access. Therefore, I agree that these areas labelled as communal open space should not be included in the quantum of public open space.
- 7.6.3. Open Space A (1,896sqm) and Open Space B (337sqm) have a combined area of c. 2,233sqm of open space which equates to c. 13% of the total site area. This is below the Development Plan standard of 15%. However, it is in accordance with Policy and Objective 5.1 of the Compact Settlement Guidelines which requires that 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. Therefore, I have no objection to the quantum of public open space provided within the scheme.
- 7.6.4. The planning authority reason for refusal raised concerns regarding the disjointed layout of the areas of open space and that the lack of high level of passive surveillance onto open space area B and communal gardens A and B, does not accord with Objective UD O1 of the Development Plan which requires a high standard of urban design and Section 15.6.6 which requires public open spaces to be innovative in their design, linked and to be overlooked by as many dwellings as possible.
- 7.6.5. While these concerns are noted given the irregular shape of the site and the land use zoning objectives the provision of Communal Gardens A1 and A2 is considered an appropriate design response, in this instance. It is also intended that these space form part of the public open space quantum. It is also noted that house no. 012 is dual fronted and would provide direct overlooking of Communal Garden A1. There is a separation distance of c. 70m between House no. 029 and 030, and Communal Garden A2. However, these dwellings would directly overlook Communal Garden A2 and, therefore, provide some passive overlooking. Notwithstanding this, it my recommendation that Communal Garden A2 be omitted and the future access road to the Open Space and Amenity Lands to be developed by the local authority be provided as part of this development.

- 7.6.6. Open Space B is bound to the north and west by an existing commercial unit and a detached dwelling. To the south it would be bound by proposed dwelling no. 01 and to the west by the internal access road. Dwelling no. 01 has been designed as a dual fronted unit to provide passive overlooking of this amenity space. An ESB substation is proposed within the area of public open space at its western boundary with the access road. I agree with the concerns of the planning authority about the usability of this space, in particular due to its limited size, its isolation from the majority of the residential units and the location of the ESB substation. In my opinion, this area would have been better utilised for a residential dwelling, which would provide an appropriate boundary with the existing commercial unit and dwelling. However, this would be subject to a separate planning application. Having regard to my recommendation above omit House no. 01 - 012 it is recommended that Open Space B also be omitted from the proposed scheme.
- 7.6.7. Open Space A is located at the southern portion of the site and incorporates a play area and footpath. This area has been designed to incorporate an ESB mast and an ESB substation. This space would be directly overlooked by 10 no. dwellings. While a centrally located area of open space may be considered desirable given the relatively limited size of this portion of the site, the sites zoning objectives, the retention of hedgerows and the provision of a potential vehicular access to the lands zoned New Residential to the north of the site this is considered an appropriate design response. I am satisfied that this area of public open space would provide a high-quality amenity for future residents.
- 7.6.8. In addition, as noted above, in response to the request for further information the applicant submitted a revised the red line boundary, to include a c. 1.67ha of land zoned Open Space and Amenity that would be made available to Kildare County Council for the provision of recreation and amenity uses. An indicative layout include a playing pitch and basketball court with car parking and an access road. I am satisfied that the provision of this land is accordance with the provisions of the masterplan to support the provision of community and recreational uses at Opportunity Site 8 and would have significant benefits for the future residents and the wider community.

7.7. *Pedestrian Connectivity*

- 7.7.1. The planning authority's third reason for refusal considered that the proposed development is premature pending the installation of a footpath along the Curragh Road and that in the absence of a footpath, the proposed development would endanger public safety by reason of a traffic hazard due to the lack of vulnerable road user infrastructure on the Curragh Road. Concerns are also raised by the third parties regarding adequate footpath infrastructure.
- 7.7.2. The proposed development is located c. 450m west of the village centre of Athgarvan and c. 1km east of the national school, GAA grounds and Pitch and Putt facilities within the village. There is an existing continuous footpath on the northern side of the Curragh Road, which provides connectivity throughout the village. There are disjointed sections of footpath and grass verges on the southern side of the Curragh Road. Due to third party ownership, it is not possible to provide a continuous footpath on the southern side of the Curragh Road between the appeal site and the village. Therefore, the proposed development would be reliant on the existing public infrastructure on the northern side of the Curragh Road.
- 7.7.3. The original application drawings indicated that the red line boundary of the application site included a linear strip along the southern side of the Curragh Road, which generally forms the northern boundary of the adjacent concurrent appeal for a retirement community. This linear strip would allow for the provision of a footpath and cycle track along the Curragh Road. A letter of consent was submitted by ARC Villages Limited, the applicant on the adjacent site, to the inclusion of this portion of the site in the subject site.
- 7.7.4. The drawings submitted by way of further information indicate that the red line boundary of the site had changed. The linear strip along the northern portion of the site was no longer included within red line boundary and a new linear strip, within the adjacent site, generally within the location of the east-west access road within the adjacent site was included. Again, a letter of consent from ARC Villages Limited was submitted with the documentation.
- 7.7.5. The information provided on the application forms, for both this appeal and the concurrent appeal, indicates that there is overlap between the directors of the companies of both landholdings and that some of the illustrations within the documents

submitted indicate a blue line boundary around both sites. However, as the blue line boundary on the site plans for the subject site does not extend to the adjacent site it is my view that each application is to be considered as a separate landholding.

- 7.7.6. To address the reason for refusal, the applicant notes that it is proposed to provide a 4m wide signalised toucan pedestrian and cycle crossing, c. 23m west of the proposed access on the Curragh Road, as part of the concurrent appeal on the adjacent site. This crossing would provide access to the existing footpath on the northern side of the Curragh Road. The applicant states that they are amenable to a condition requiring the construction of this toucan crossing as part of the proposed development.
- 7.7.7. The provision of the toucan crossing is noted, and it would appear reasonable to provide a single crossing point for both developments. However, the layout of the appeal site, as submitted by way of further information, does not include a footpath between the site entrance and the location of the toucan crossing. However, as the original layout provided for a pedestrian and cycle link from the sites vehicular entrance to the proposed toucan crossing and a letter of consent from the land owner was provided, I am satisfied that a footpath could be provided between the sites boundary and the proposed location of the toucan crossing. Therefore, if permission is being contemplated it is recommended that a condition be attached that the toucan crossing as proposed under ABP-322713-25 be provided as part of this application and that the associated pedestrian and cycle infrastructure be provided between the vehicular entrance to the site and the location of the toucan crossing. This would ensure pedestrian connectivity between the appeal site and the amenities and services within the village. It is noted that this is a similar arrangement to pedestrian connectivity at the Blackrath Vale Residential estate (approved under Reg. Ref. 19/117 and Reg. Ref. 19/118), also located on the southern side of the Curragh Road, c. 400m west of the appeal site.
- 7.7.8. The proposed layout also provides for potential future vehicular connectivity to the lands zoned New Residential to the north of the appeal site, which currently form the rear gardens of 2 no. existing dwellings that front onto the Curragh Road. The potential for future access to these sites is welcomed. Potential vehicular access is also provided to the east – west access road and to the allotments proposed as part of the proposed retirement village on the adjacent site to the west. The access to the

allotments is indicated as gated. Therefore, to ensure full permeability to the proposed area of public open space proposed as part of the adjacent retirement village it is recommended that an additional pedestrian access be provided at the south western portion of the appeal sites boundary with the proposed area of public space. I am satisfied that this could be addressed by way of condition.

- 7.7.9. The appeal site includes a c. 1.67ha of land zoned Open Space and Amenity that would be made available to Kildare County Council for the provision of recreation and amenity uses. An indicative layout submitted with the response to the request for further information include a playing pitch and basketball court with car parking and an access road. However, the internal access road within the site does not extend to the boundary with this land to be provided to the local authority. If permission is being contemplated it is recommended that a condition be attached that this access road be provided to the boundary of the lands to be provided to the local authority, as this would ensure that the proposed residential scheme does not impede access to the potential recreational and amenity lands.

7.8. *Transportation*

- 7.8.1. Concerns are also raised by the third parties that there is insufficient capacity within the surrounding road network to accommodate the proposed development in combination with the approved and proposed adjacent developments.
- 7.8.2. A Traffic and Transport Assessment submitted with the application. It assessed the combined impact of the proposed development (42 no. residential units) and the adjacent retirement village scheme (92 no, residential units) on the surrounding road network. The modelling indicates that the existing signalised junction in Athgarvan Village R416 / L2032 would continue to operate within its design capacity for all scenarios modelled. The modelling also indicates that the junctions, of both proposed residential development and adjacent proposed retirement village, with the Curragh Road would also operate within their design capacity for all scenarios modelled. Having regard to the information submitted I am satisfied that there is capacity within the surrounding road network to accommodate the proposed development.
- 7.8.3. The concerns of the third parties regarding the impact of a toucan crossing point on traffic flows in the village are noted, however, having regard to the 50km per hour

speed limit in the village and to the traffic count data provided with the application, I am satisfied that any impact on traffic flows would not be significant in nature. Therefore, I have no concerns in this regard.

7.9. Social Infrastructure

- 7.9.1. Concerns are raised by the third parties that there is no social infrastructure to support a development of this scale. The appeal site is located within the urban area of Athgarvan which provides a range of services and amenities and is located c. 3.5km south of Newbridge and c. 4km north of Kilcullen which provides a wider range of services and amenities.
- 7.9.2. As noted above in Section 4 Planning History, permission was granted in 2019 under ABP.300835-18, Reg. Ref. 17/393 for the construction of a mixed use development which included a doctors surgery, chemist and restaurant. Permission was also granted in 2020 under Reg. Ref. 19/745 for a mixed use development including a medical suite and a community use unit. Both of these sites are at the crossroads in Athgarvan village centre, c. 400m east of the appeal site. These units are partly constructed and when completed would provide a great range of services and amenities within the village.
- 7.9.3. It is also noted that the adjacent retirement village includes a new recreational building, that would be made available to the wider community.
- 7.9.4. The Athgarvan Village Renewal Masterplan notes that residents of Athgarvan have access links to a wide range of recreational and amenity assets, both within and outside the village boundary such as rugby, GAA, golf, walking, fishing etc. Natural heritage assets within the village include the River Liffey, which meanders along its route to the east of the village and the Curragh Plains which abuts the western boundary.
- 7.9.5. A Social Infrastructure Audit was not submitted with this application. However, a Social Infrastructure Audit was submitted by way of further information in support of the proposed retirement village development on the adjacent site. This document is publicly available on the planning authority's website. It educational facilities, community facilities, parks, sports clubs, religious institutions, nursing homes and health care facilities within a 5km radius of the adjoining site (ABP 322713-25). From the information available I am satisfied that there is capacity within the surrounding

social infrastructure to accommodate the additional population generated by the proposed scheme.

7.10. ***Other Issues***

Public Participation

7.10.1. The third parties raised concerns that there was a lack of engagement with local residents. While meaningful consultation may be to the benefit of both parties it is noted that there is no statutory requirement to undertake such engagement.

7.11. ***Material Contravention***

7.11.1. The access road to serve the proposed development could be considered to materially contravene the Open Space and Amenity Zoning objective as set out in Map V2-3.2a of Volume 2 Small Towns, Environs, Villages and Rural Settlements of the Kildare County Development Plan 2023 – 2029.

7.11.2. The first party appeal does not consider the proposed layout to be a material contravention. However, the issue of a potential material contravention is addressed in Section 7.2 of the first party appeal. The applicant considers that any potential material contravention could be justified by Section 37(2)(b) of the Planning and Development Act, 2000 (as amended).

7.11.3. Section 37(2)(b) of the Planning and Development Act, 2000 (as amended) states that where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Commission may only grant permission in accordance with *paragraph (a)* where it considers that: -

- (i) the proposed development is of strategic or national importance,
- (ii) there are conflicting objectives in the development plan, or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- (iii) permission for the proposed development should be granted having regard to the regional spatial and economic strategy for the area, guidelines under *section 28*, policy directives under *section 29*, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

- (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

Having regard to the characteristics of the proposed development, Section 37 (2) (b) (i), (ii) and (iii) are considered relevant in this instance.

Section 37 (2)(b)(i)

- 7.11.4. The proposed development would result in the provision of 40 no. residential units on lands zoned for New Residential. At national level, the National Planning Framework (NPF) is a high-level strategic plan for shaping the future growth and development of the county to 2040. It is a framework to guide public and private investment, to create and promote opportunities for our people, and to protect and enhance our environment - from our villages to our cities, and everything around and in between. It states that the major policy emphasis on renewing and developing existing settlements established under the NPF 2018 will be continued, rather than allowing the continual expansion and sprawl of cities and towns out into the countryside, at the expense of town centres and smaller villages. It includes revised figures of 50,000 units per annum in the years to 2040. The NPF was revised to allow planning for an additional 50,000 people in Ireland between 2022 and 2040.
- 7.11.5. At Regional level, the RSES promotes compact sustainable housing delivery and integrated transport and land use.
- 7.11.6. At Local level, the core strategy of the Development Plan aims to deliver 366 no. residential units and 1,006 persons in the 17 no. designated villages, which includes Athgarvan, during the lifetime of the plan. The site is located within the urban area of Athgarvan.
- 7.11.7. Having regard to the foregoing, I consider that the importance of residential development on the subject location is reflected at national, regional, and local policy level. Together with the current national housing shortage, and to national policy to substantially increase national housing output as set out in 'Housing For All' and the first revision of the NPF, it is my opinion that the proposed development would be of strategic and national importance and that a material contravention would comply with the terms of section 37(2)(b)(i) of the Act of 2000.

Section 37 (2) (b) (ii)

- 7.11.8. Lands zoned 'New Residential' can not be accessed without traversing lands zoned Open Space and Amenity. The New Residential land use zoning objective aims to provide new residential development and associated ancillary services. Within the appeal site, the Open Space and Amenity Land use zoning objective impedes access to these lands which in my opinion conflicts with the New Residential Zoning objective and it is unclear how the lands to the rear would be accessed without utilising lands zoned for Open Space and Amenity.
- 7.11.9. Objective HO P6 aims to *promote and support residential consolidation and sustainable intensification and regeneration through the consideration of applications for infill development, backland development, re- use/adaptation of existing housing stock and the use of upper floors, subject to the provision of good quality accommodation*. In my opinion the appeal site is a backland site and that the provision of lands zoned for Open Space and Amenity impedes access to lands zoned for New Residential. Therefore, the Open Space and Amenity land use conflicts with objective HO P6 to promote and support residential consolidation and sustainable intensification of backland development.
- 7.11.10. Objective UD O1 of the Development Plan which requires a high standard of urban design to be integrated into the design and layout all new development and Section 15.6.6 of the Development Plan requires public open spaces to be overlooked by as many dwellings as possible. If a residential element was to be omitted from the northern portion of the site there would be no active frontage or passive supervision of public areas, in particular the proposed public open space proposed as part of the adjacent retirement village and the access road, which could potentially result in anti-social behaviour. Therefore, it is my opinion that the provision of residential dwellings along the access road would result in a visually interesting scheme with passive overlooking of areas of public open space and the access road, which I consider to be an appropriate layout that would result in a high quality public realm and in accordance with the provisions of Objective UD O1 and Section 15.6.6 of the Development Plan.
- 7.11.11. Therefore, it is my view that there are conflicting zoning objectives within the appeal site in relation to developing lands zoned New Residential and that there are conflicting objectives within the Open Space and Amenity land use zoning and Objective HO P6 to promote and support residential consolidation, Objective UD O1 to require a high

quality design and Section 15.6.6 which requires public open space to be overlooked. Therefore, it is my opinion that the proposed material contravention of the Open Space and Amenity land use zoning objective is justified by Section 37 (2)(ii) of the Act of 2000.

Section 37 (2) (b) (iii)

7.11.12. The proposed development comprises a high-quality and coherent urban scheme with wider benefits such as the delivery of Open Space and Amenity lands to be developed by Kildare County Council, and the development of an underutilised urban site for residential uses. I am satisfied that the proposed development is in accordance with the objectives of the National Planning Framework First Revision, Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) and the Compact Settlement Guidelines to deliver compact growth and the consolidation of in urban environment. Therefore, it is my opinion that the proposed material contravention of the Open Space and Amenity land use zoning objective is justified by Section 37 (2)(iii) of the Act of 2000.

Section 37 (2) (b) (iv)

7.11.13. No permissions have been granted for access roads on lands zoned for Open Space and Amenity in the village of Athgarvan since the making of the development plan.

Conclusion

7.11.14. I consider that a grant of permission, that may be considered to material contravene the Kildare County Development Plan 2023-2029, would be justified in this instance under sub sections (i), (iii) and (iv) of Section 37 (2) (b) of the Planning and Development Act, 2000 (as amended).

8.0 AA Screening

8.1.1. I have considered the proposed development in light of the requirements of Section 177U of the Planning and Development Act 2000 (as amended).

- 8.1.2. A description of the project is summarised in Section 2 of my report. In summary, the proposed development comprises the construction of a 40 no. residential units and all associated works to facilitate the development.
- 8.1.3. The site is a greenfield site, within the village of Athgarvan. It has a stated gross area of c. 3.36 ha. There are no watercourses within or immediately adjacent to the site. The proposed surface water drainage includes SuDS measures which allow for infiltration to subsoils. The scheme incorporates a new surface water network to ensure that there is a drainage route available for any excess surface water that cannot infiltrate to the subsoil at each individual SuDS measure. This network would connect to the public network on the Curragh Road. Foul water from the site would enter the public network and be treated at Osberstown Valley WWTP.
- 8.1.4. Section 4.2 of the applicants AA Screening Report notes that Pollardstown Fen SAC (000396) is located c. 3.8km from the site and Mouds Bog SAC (002331) is located approximately 6.1km. The nearest hydrologically linked European sites are associated with Dublin Bay at the outfall of the River Liffey, 58.1km downstream.
- 8.1.5. No concerns are raised by the planning authority or the third parties regarding the impact of the development on any designated site.
- 8.1.6. Having considered the nature, scale, the location of the proposed development and the lack of a direct hydrological link or pathway to any of these designated sites I am satisfied that it can be eliminated from further assessment as it could not have any effect on a European site.
- 8.1.7. This conclusion is based on:
- The location within the village of Athgarvan.
 - The distance from nearest European site.
 - The lack of a direct hydrological connection.
 - The nature and scale of the works.
- 8.1.8. I conclude on the basis of objective information, that the proposed development would not have a likely significant impact on any European Site either alone or in combination with other plans or projects.

- 8.1.9. Likely significant effects are excluded and, therefore, Appropriate Assessment, under Section 177V of the Planning and Development Act 2000 (as amended) is not required.

9.0 Recommendation

It is recommended that permission be granted subject to conditions

10.0 Reasons and Considerations

Having regard to the subject site's zoning objectives, in particular the, New Residential, the sites backland nature within the settlement boundary of Athgarvan Village, to the existing pattern of development and to the nature and scale of the proposed development and to the provisions of Section 37 2(b) of the Planning and Development Act 2000 as amended, it is considered that subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

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 11th day of April 2025, 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. The proposed development shall be amended as follows:

- a. the 12 no. houses (no. 01 -012) shall be permanently omitted from the proposed development and replaced with open space. Any proposal for residential use on this portion of the site shall be the subject of a new planning application to the local authority.

Revised drawings showing compliance 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 residential amenity and to secure the integrity of the proposed development

3. Prior to commencement of development the applicant shall submit proposals for the written agreement of the planning authority to provide a toucan crossing on the Curragh Road, with appropriate pedestrian connectivity from the site to the toucan crossing. All works shall be at the applicant's expense.

Reason: In the interest of pedestrian safety and sustainable travel.

4. Prior to commencement of development the applicant shall submitted revised drawings indicating a potential future pedestrian link at the southwestern portion of the site's boundary with the proposed public open space to be provided on the adjacent site as part of the proposed retirement village.

Reason: In the interest of residential amenity and connectivity.

5. Prior to commencement of development the applicant shall submit and agree in writing all boundary treatments with the planning authority.

Reason: In the interest of residential and visual amenity and to secure the integrity of the proposed development

6. Prior to commencement of development the applicant shall submit for the written agreement of the planning authority details of materials, colour and texture of all the external finishes to the proposed residential units. External finishes of the dwellings shall include high quality elements of brick, cladding or other suitable external materials

Reason: In the interest of visual amenity and to ensure an appropriately high standard of development.

7. The landscaping scheme shall be carried out within the first planting season following substantial completion of external construction works.

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 or until the development is taken in charge by the local authority, whichever is the sooner, 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.

8. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -
 - a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
 - b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
 - c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

- d) In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site

9. Proposals for an estate/street name, house 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. 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 interest of urban legibility.

10. 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. 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.

11. All service cables associated with the proposed development, such as electrical, telecommunications and communal television, shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. Details of the ducting shall be submitted to and agreed in writing by the planning authority prior to the commencement of development.

Reason: In the interests of visual and residential amenity

12. 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.

13. Prior to the commencement of development, the developer shall enter into a Connection Agreements with Uisce Éireann 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.

14. 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

15. All roads, footpaths and cycleways shall be constructed up to the boundaries to provide access to adjoining lands, including the potential future access to the Open Space and Amenity Lands in the southwestern portion of the site, with no obstruction including the erection of any structure which would otherwise constitute exempted development under the Planning and Development Regulations 2001, as amended

Reason: In the interest of permeability and proper planning and sustainable development.

16. 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.

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

Reason: To safeguard the amenity of property in the vicinity.

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

Reason: In the interest of proper planning and sustainable development

19. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

20. (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, pursuant to Section 47 of the Planning and Development Act 2000, that restricts all 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.

21. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in

accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

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

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

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

23. 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.

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 Power

Senior Planning Inspector

18th September 2025

Form 1 - EIA Pre-Screening

Case Reference	ABP-322712-25
Proposed Development Summary	The construction of 40no. houses and all associated works to facilitate the development.
Development Address	Curragh Road, Athgarvan, Newbridge, 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) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	10 (b)(i): Construction of more than 500 dwelling units 10 (b)(iv): Urban Development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere. 15: Any project listed in this Part which does not exceed a quantity, area or other limit specified in this Part in respect of the relevant class of development, but which would be likely to have significant effects on the environment, having regard to the criteria set out in Schedule 7.

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 ☒	

Inspector: _____ Date: _____

Appendix 2 - EIA Preliminary Examination

Case Reference	ABP-322712-25
Proposed Development Summary	The construction of 40 no. houses and all associated works to facilitate the development.
Development Address	Curragh Road, Athgarvan, Newbridge, Co. Kildare
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The proposed development comprises the construction of 40 no. houses on a 3.36 ha site, which is zoned for New Residential and Open Space and Amenity. The proposed development would use the public water and drainage services of Uisce Eireann and Kildare County Council. The nature and scale of the proposed development is not regarded as being significantly at odds with the surrounding pattern of development. There is a concurrent appeal (ABP-322713-25 for the demolition of 2 no. vacant residential units and associated agricultural structures and the construction of a retirement village comprising 86 no. residential units and a recreation building. The nature and scale of this proposed development is similar to the proposed development and is, therefore, also consistent with the established pattern of development. In combination the proposed development and the adjacent retirement village development would result in the provision of 126 no. residential units on a total site area of c. 9.16 ha site. It is noted that the combined total site area approaches the threshold of 10ha. However, as c. 1.87 within the appeal site and 2.5ha within the adjacent site would be provide public open space, the net developable area of the combined sites is c. 4.8ha which is significantly below the threshold. Given the nature and scale of the proposed residential development I am satisfied that it would not give rise to significant use of natural recourses, production of waste, pollution, nuisance, or a risk of accidents.

	The site is not at risk of flooding. There are no Seveso / COMAH sites in the vicinity of this location.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The appeal site is located on a greenfield site within the settlement boundary of Athgarvan. The site is currently in agricultural uses (pastoral land). It does not host any species of conservation interest. This site is not located on, in or adjacent to any ecologically sensitive site and does not have the potential to impact any such sites. There are no protected landscapes, sites of historic, cultural or archaeological significance within or immediately adjacent to the site. Having regard to the location of the site and the nature and scale of the development there is no potential to significantly affect environmental sensitives in the area, including protected structures.
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 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.
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	

There is a real likelihood of significant effects on the environment.	
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Inspector: _____ **Date:** _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)

Appendix 3: WFD IMPACT ASSESSMENT STAGE 1: SCREENING

Step 1: Nature of the Project, the Site and Locality

An Bord Pleanála ref. no.	322713-25	Townland, address	Curragh Road, Athgarvan, Newbridge, Co. Kildare
Description of project		The construction of 40no. houses and all associated works to facilitate the development.	
Brief site description, relevant to WFD Screening,		Site is located in in the village of Athgarvan and is currently in agricultural use (pasture land).	
Proposed surface water details		The proposed development would incorporate SUDS measures, including permeable paved driveways, tree pits, swales, petrol interceptors and infiltration storage (soakaway) systems to help manage and control stormwater run-off. In addition, the scheme provides for a new surface water network to ensure that there is a drainage route available for any excess surface water that cannot be infiltrated to the subsoil at each individual SuDS measure. The new surface water network would be collected by gravity and connect to the existing public network on the Curragh Road.	
Proposed water supply source & available capacity		It is proposed to connect to the public network. Uisce Eireann have issued a confirmation of feasibility for the proposed connection.	

Proposed wastewater treatment system & available capacity, other issues			It is proposed to connect to the public network. Uisce Eireann have issued a confirmation of feasibility for the proposed connection.			
Others?						
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body.	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
River Waterbody	750m east	Liffey_070 (IE_EA_09L010850)	High	Not at risk	No pressures	No direct pathway
Groundwater Waterbody	Underlying site	Curragh Gravels East (IE_EA_G_017)	Good	Not at risk	No pressures	No direct pathway

Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.							
CONSTRUCTION PHASE							
No.	Component	Waterbody receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.
1.	Surface	Liffey_070 (IE_EA_09L0 10850)	Surface water and foul drainage will be directed through the drainage networks.	Siltation, pH (Concrete), hydrocarbon spillages	Standard construction practices	No	Screened out
2.	Ground	Curragh Gravels East (IE_EA_G_01 7)	Pathway exists but poor drainage characteristics	spillages	Standard construction practice	No	Screened out
OPERATIONAL PHASE							

3.	Surface	Liffey_070 (IE_EA_09LO 10850)	Surface water and foul drainage will be directed through the drainage networks.	Hydrocarbon spillage	SUDs features	No	Screened out
4.	Ground	Curragh Gravels East (IE_EA_G_01 7)	Pathway exists but poor drainage characteristics	Spillages	SUDs features	No	Screened out
DECOMMISSIONING PHASE							
5.	NA						