

An
Coimisiún
Pleanála

Inspector's Report

ABP-322772-25

Development	Large-scale Residential Development (LRD): 152 houses and 28 duplex/apartments, creche, healthcare units and offices. Ancillary and associated development works.
Location	New Abbey Road, Nicholastown, Kilcullen, Co. Kildare.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	2461327.
Applicant(s)	Oakway Homes.
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	First & Third Party
Appellant(s)	Oakway Homes. Jim Buckley & Others.
Observer(s)	Cllr. Tracey O'Dwyer.

Date of Site Inspection

10th July 2025.

Inspector

Kathy Tuck.

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1.0 Site Location and Description

- 1.1. The subject site has a stated area of c.6.93ha and is located at New Abbey Road, Nicholastown, Kilcullen, Co. Kildare. The site is situated c.200m to the east of the centre of Kilcullen Town. The majority of the site is currently greenfield in nature and comprises some derelict agricultural buildings which are situated on the northern section of the site where it addresses New Abbey Road (R413). Access to the subject site is currently provided from the northern section of the site from the R413 and from an existing agricultural entrance which is located along the eastern boundary further south on the R413.
- 1.2. There is no footpath or public lighting along the frontage of the site however there is public lighting on the opposite side of the road. The western boundary of the site is formed by mature trees and hedging and is shared with a number of mature residential developments which include Millstream Crescent, Sunbury Close, St. Brigid's Avenue, Conroy Park and Nicholastown. A portion of the western boundary of the site includes for a play area which is also associated with the residential area of Conroy Park.
- 1.3. The Sacred Heart and Saint Brigid Catholic Church which is a Protected Structure (RPS No. B28-28) and the Parish Centre and adjoins the north- western corner of the site. The southern boundary of the subject site is shared with undeveloped lands which are also in agricultural use.
- 1.4. There is a community park on the opposite side of New Abbey Road. A single storey dwelling with associated outbuilding is located to the north-east of the site. The dwelling is heavily screened from the site by mature trees. The levels across the site rise slightly from east to west before falling gradually towards the R448.

2.0 Proposed Development

- 2.1. The proposed development comprises of the following:
 - The demolition of the existing agricultural buildings to the north-west of the site (513.5sq.m).

- The Construction of 180 no. dwellings - 152 no. houses, 20 no. duplexes and 8 no. apartments. The unit mix is provided as:
 - 85 no. 3 bed houses.
 - 67 no. 4 bed houses.
 - 10 no. 2 bed duplex units.
 - 8 no. 2 bed apartments.
 - 10 no. 1 bed apartments.
- Commercial floor space comprises a creche which has a stated area of 261sq.m, 2 no. medical/healthcare units (265sq.m), and Office floor space (921sq.m). The commercial floorspace will be located in Blocks A & B which are 3 storeys high and will have commercial uses at ground floor and apartments over (Type G). Block C will be a 4-storey office block.
- A wastewater pumping station.
- 369 no. car parking spaces (including EV charging spaces and disabled parking spaces.)
- 106 no. cycle parking spaces (including covered spaces).
- Public and communal open spaces, hard and soft landscaping, play area, SuDs features, boundary treatments, waste management areas/bin stores, internal roads, footpaths, cycle lanes and services provision.

2.2. Proposed vehicular and pedestrian access will be via 2 no. access points off New Abbey Road, one to the north and one to the east. A pedestrian and cyclist access is proposed to Sunbury Close. The proposed development also involves works on lands owned by Kildare County Council (New Abbey Road, R413) relating to traffic calming (0.33 ha) and new footpath.

2.3. Further information, submitted on the 12th April 2025, amended the height of Block 4 so that it becomes a 3 storey building. In addition, in light of Variation 1 of the Kildare County Development Plan 2023-2029 the proposed layout was also amended to include for 2 new access / exit points as potential connection points for the proposed future Kilcullen Link Relief Road.

- 2.4. The amendments do not impact the overall unit number but do alter the unit mix – the six 4-bedroom houses (Type B) have been removed and replaced with six 3-bedroom houses and the location of the proposed pumping station was also amended. The site area has also been amended from c.6.6ha to c.6.93ha in area.
- 2.5. The application was accompanied by a number of key documents including an EIA Screening Report, A Natura Impact Assessment Screening Report, a Site Specific Flood Risk Assessment Report, an Invasive Species Management Plan, and an Architectural Design Statement.

3.0 Planning Authority Pre-Application Opinion

- 3.1. The Planning Authority and the Applicant convened a meeting under Section 32C of the Planning and Development Act, 2000 (as amended), for the proposed Large-scale Residential Development in respect of a development on 7th August 2024.
- 3.2. Further to that meeting, the Planning Authority issued an opinion, dated 3rd September 2024, under Section 32D of the Act stating that the documents that had been submitted constituted a reasonable basis on which to make an application for permission for the proposed LRD.
- 3.3. The detailed assessment contained within the Opinion highlights areas for the applicant to consider or address when making a future planning application. These can be summarised as follows:
1. Principle of Development.
 2. Open Space and Biodiversity.
 3. Traffic & Transportation Issues.
 4. Environment.
 5. Housing.
 6. Water Safety.
 7. Fire Safety.

4.0 Planning Authority Decision

4.1. Summary of Decision

4.1.1. Kildare County Council issued a Notification of Decision to Grant Permission on 20th May 2025 subject to 51 no. conditions, none of which significantly altered the proposed development. The following conditions are of note and also subject to the 1st Party Appeal:

4.1.2. Condition no. 3: a) Commercial Block C shall be no higher than 3 storeys in height in accordance with revised Option A floorplans and elevation drawings received by the Planning Authority on 12/04/2025. (b) The uses of Blocks A, B and C shall be as specified in the details provided only and no further change of use shall take place without a prior grant of permission. (c) Details of all signage for Blocks, A, B and C shall be submitted to the Planning Authority for its written agreement prior to the commencement of development.

4.1.3. Condition no. 4: Prior to the commencement of development, the Applicant shall submit revised proposals for Cluster 6 (Phase 2) which provides for a childcare facility. This may involve the reduction of housing units in this cluster. Revised proposals, including floorplans and elevations of the childcare facility shall be submitted for the written agreement of the Planning Authority. Reason: To ensure that a childcare facility is provided in earlier phases of the development.

Condition no. 11: (a) The Developer shall retain the services of a qualified Arborist as an Arboricultural Consultant, for the entire period of construction activity. The Applicant shall inform the Planning Authority of that appointment in writing prior to commencement of development.

(b) The Applicant shall submit a report from the Landscape Architect/Arborist containing photographic evidence of fixed (non-movable) tree protection fencing in place and confirmation from the Landscape Architect that all existing trees and hedgerows identified to be retained are retained and protected prior to development commencement.

(c) Prior to the commencement of any permitted development or any related construction activity or tree felling on the site, the Applicant shall lodge a Tree and

Hedgerow Bond to the value of €50,000 with the Planning Authority. This is to ensure the protection of trees on and immediately adjacent to the site and to make good any damage caused during the construction period.

(d) The bond lodgement shall be coupled with an Arboricultural Agreement, with the Developer, empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree/hedgerow or trees/hedgerows on or immediately adjoining the site, or the appropriate and reasonable replacement of such trees/hedgerows which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development or to a point where a taken in charge process may have been undertaken. Any replacement planting shall use large semi-mature tree size(s) and species or similar as may be stipulated by the Planning Authority. A system recognised by the Arboricultural industry for the valuation of trees which have been lost such as CAVAT or Helliwell may be used on trees where deemed necessary by the Planning Authority.

(e) The Arboricultural Assessment report and certificate is to be signed off by a qualified Arborist after the period of the completion of construction or to a period of up to 3 years as deemed necessary by the Planning Authority. Any remedial tree surgery, tree felling works recommended in that report shall be undertaken by a qualified Tree Surgeon at a cost to the Developer/Landowner, under the supervision of the project Arborist. The bond will only be refunded upon receipt by Kildare County Council Planning Department and the Parks Section of a satisfactory post-construction Arboricultural assessment, carried out by a qualified Arborist and provided that the hedges/trees proposed for retention on the original site plans and protection drawings are alive, in good condition physically and structurally with a useful life expectancy. Reason: To ensure the retention, protection and sustainability of trees/hedgerows during and after construction of the permitted development.

- 4.1.4. Condition no. 15: (a) Prior to commencement of any development within Phase 1 of the development, the Applicant shall submit details demonstrating connection to the C(4) lands to the south and the R448 for the agreement of the Planning Authority. The delivery of this road connection shall be completed prior to the first occupation of any units within phase 1.

(b) Prior to commencement of development of Phases 2, 3 and 4 of the development, as shown on phasing drawing 2105-RDK-PL-199 received by Planning Authority on 12/04/2025; the Developer shall make a special development levy contribution of €1.5 million towards the Design and Cost of the Road Objective. The special contribution is in accordance with the Development Contribution Scheme adopted by Kildare County Council on 19th December 2022 and in accordance with Section 48(2)(c) of the Planning and Development Act 2000 as amended. This represents 50% of the estimated Design Costs for the Road Objective, connecting regional roads to the east of the town centre as set out in the recently adopted Kilcullen Settlement Plan which is a Variation of the Kildare County Development Plan 2023-2029. The financial contribution is towards the stages required to include the following: Scope and Pre-Appraisal; Concept and Feasibility; Options Selection; Design and Environmental Evaluation; Statutory Process; Enabling and Procurement. Reason: To prevent obstruction of the main crossroads in Kilcullen town centre and to provide access to the proposed development

- 4.1.5. Condition no. 16: The Applicant shall construct the 2-metre-wide footpath and associated public lighting for the 655 metres on the New Abbey Road as shown on drawing 22014-C-DR-111 Rev PL2, received by the Planning Authority on 11/12/2024. Reason: In the interests of road safety.
- 4.1.6. Condition no. 17: Prior to commencement of development, the Developer shall submit details of the proposed connecting and widening footpath improvement works on the R413; between the two new vehicular junctions for the development, for the written agreement of the Planning Authority. The Developer shall be liable for all costs associated with this work. Reason: The intensification of traffic, due to the development, will require footpath improvement works on the R413 to assist vulnerable road users.
- 4.1.7. Condition no. 18: (a) Prior to commencement of development, the Developer shall submit detailed drawings for the Permeability Links for the written agreement of the Planning Authority. The Developer shall ensure that the proposed access design includes a minimum 3-metre-wide combined footpath/ cycle path design, kerbing, tactile paving, landscaping and public lighting details. The design shall include measures to enhance the safety of pedestrians and cyclists and to discourage anti-

social behaviour. The Developer shall be liable for all costs incurred by the provision of the permeability links and footpath improvement works on existing roads.

(b) The Developer shall ensure the completion of the permeability link prior to occupancy of the new residential units. Reason: To ensure passive surveillance and promote Active Travel.

4.1.8. Condition no. 19: Prior to the commencement of development, the Developer shall submit to Kildare County Council a detailed design for any upgrading of the existing signalised junction (R448/R413) including adjacent Vulnerable Road Users (VRU) crossing facilities in line with current standards, for the written agreement of the Planning Authority. The Applicant shall liaise with the Traffic Management Section of Kildare County Council in regard to this. The junction works including all equipment and infrastructure shall be in accordance with Kildare County Council's required specifications including:

(a) Details of traffic signals.

(b) The controller to have ELV and LED signals.

(c) The installation of CCTV camera and pole at the junction to assist monitoring of traffic flows.

(d) The installation of MOVA technology.

(e) The upgrade of existing public lighting.

(f) The upgrade of the road layout and markings including the provision of dished kerbs and tactile paving.

All installations shall be connected to Kildare County Council's Traffic Management Centre located at the Council's headquarters at Áras Chill Dara, Devoy Park, Naas, County Kildare. The cost of the design, supervision and delivery of all works described in the foregoing should be borne solely by the Applicant. These works shall be completed prior to the residential units of the proposed development being occupied and to the satisfaction of the Kildare County Council Traffic Management Section. The approved Kildare County Council Signalised Contractor is currently Traffic Solutions Ltd. Reason: In the interest of traffic safety.

4.1.9. Condition no. 21: Prior to commencement of development, the Developer shall prepare a design for two new Toucan Crossing along the R448, to link with the

proposed new cycle track for the upgrade to the Cross and Passion School which was granted permission 22-993. The Developer shall obtain the written approval of the Local Authority and arrange for the installation of the two Toucan Crossing points. Reason: In the interest of road safety.

4.1.10. Condition no. 23: The Developer shall facilitate in the delivery of the permeability links for walking and cycling. The Developer shall liaise and cooperate with the Local Authority and Third Parties in the creation of safe routes for cycling and walking. Reason: To Promote Active Travel.

4.1.11. Condition no. 25: The Developer shall provide Electric Vehicle (EV) Charge Points as follows:

(a) Where car parking is being provided within the curtilage of individual housing units, dual electrical charge points to be provided to allow for the night-time charging of Electric Vehicles (EVs), linked to the individual domestic electricity meter.

(b) Where private car parking associated with units is being supplied on street, dedicated charging points for use by residents are to be provided adjacent to parking spaces. The charging points should operate on metered basis, with access to the charging point being available to residents through a swipe card or PIN number registration facility and the charging points shall be maintained in the future by the service operator as engaged by the Developer or as otherwise approved by the Planning Authority. The Developer shall ensure that all residents have the facility to avail of overnight renewable electricity in charging their EV.

The EV Chargers are to be compatible with the Sustainable Energy Authority of Ireland's Triple E Register. The design details of the charging points shall be submitted for the written approval of the Planning Authority prior to the commencement of the development and the charging points shall be in operation prior to the occupation of units. Reason: To support the use of renewable energy and improve urban air quality.

4.1.12. Condition no. 28: The Developer shall prepare a revised Stage 2 Road Safety Audit / Assessment (RSA) by an independent approved and certified Auditor. The RSA is to assess:

(a) The roads objective, junction connections, internal areas of the proposed residential development.

(b) The interface with the existing public road / footpath network/ permeability links. The Developer shall make the necessary changes to the design proposals following the Stage 2 RSA. Reason: In the interest of road safety.

4.1.13. Condition no. 29: Prior to the occupancy of the development, the Developer shall submit a Road Safety Assessment Stage 3 on the completed works by an independent approved and certified Auditor. The RSA Stages 2 and 3 are to assess: (a) The internal areas of the proposed development.

(b) The interface with the existing public road / footpath network/ new upgraded junction.

(c) Walking and Cycle access points onto adjoining residential estates through filtered permeability links. Reason: In the interest of pedestrian, cyclist and vehicular safety, proper planning and sustainable development.

4.1.14. Condition no. 34: No surface water runoff from the site shall discharge onto the public road network at the signalised junction. Reason: In the interest of traffic safety.

4.1.15. Condition no. 50: No development shall be commenced until security has been given for the provision of and satisfactory completion of open space and of services, and in accordance with the conditions herein contained and including maintenance until taken in charge by Kildare County Council of roads, footpaths, public lighting and similar type public facilities. This security is required by Kildare County Council for application at its absolute discretion if the foregoing open space and services are not duly provided as aforesaid and to Kildare County Council's satisfaction. Where the proposed development is carried out on staged or phased basis the security required shall be proportionate to each part of the development which is carried out in the foregoing manner. The security shall be given by: (a) lodgement with Kildare County Council of an approved Insurance Company Bond in the amount of €360,000.00 or (b) lodgement with Kildare County Council of a sum of €360,000.00, provided always and if the development has not commenced within one calendar year from the date of the grant of this permission or is carried out on a phased or staged basis, Kildare County Council may at its absolute discretion require an increase in the amount of the foregoing Bond or lodgement corresponding with the increase or estimated increase in the cost of the provision and completion of the services above described, and in the manner provided for, and which may have occurred since the aforesaid date. Any

approved Insurance Company Bond shall be index linked. Reason: To ensure the satisfactory completion of public open spaces and services, and to ensure that a ready sanction may be available to Kildare County Council towards the provision of same, and to prevent dis-amenity in the development.

- 4.1.16. Condition no. 51: The Applicant/Developer to pay to Kildare County Council the sum of €1,407,471.00 being the appropriate contribution to be applied to this development in accordance with the Development Contribution Scheme adopted by Kildare County Council on 19th December 2022 in accordance with Section 48 of the Planning and Development Act 2000 as amended. Payments of contributions are strictly in accordance with Section 34 of the Development Contribution Scheme adopted by Kildare County Council on 19th December 2022. Note: Please note water and wastewater development contribution charges now form part of the water connection agreement, if applicable, with Uisce Éireann. Reason: It is considered reasonable that the Developer should make a contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority.

4.2. Planning Authority Reports

4.2.1. Planning Reports

The initial report of the Planning Officer, which is dated the 13th February 2025, recommended that 18 no. items of further information be sought. These items are summarised below:

1. Draft Kilcullen Settlement Plan – compliance with the provision of such with regard to the roads objective for these lands.
2. Height/Design.
3. Boundaries.
4. Transportation – address issues relating to capacity on surrounding road network.
5. Transportation - review of the junction (New Abbey Road R413/ Main Street R448) and its operation and submit a detailed design for junction improvement works.
6. Transportation - permeability link.
7. Transportation – Pedestrian and cycle connection.

8. Transportation - footpath extension.
9. Transportation - access road and internal road layout.
10. Electric Vehicle (EV) Charging.
11. Bus Shelter provision.
12. Swept path analysis.
13. Submit to a draft Construction Management Plan.
14. Play Provision/Landscape Design.
15. Part V.
16. Wastewater Pumping Station.
17. Uisce Eireann.
18. Address 3rd party Submissions.

The applicant submitted a response to the above on the 12th April 2025 which was deemed to be Significant further information.

The planners report dated 19th May 2025 considered that all items of further information had been adequately addressed and recommended that permission be granted subject to 50 no. conditions.

4.2.2. Other Technical Reports

Building Control: dated 12th December 2024 recommends that permission be granted subject to conditions relating to taking in charge.

Strategic Projects and Public Realm: dated 23rd January 2025 requests that further information be sought relating to the boundary treatment proposed.

Fire Officer: dated 24th January 2025 requests that a Fire Safety Certificate in accordance with the requirements of the Building Control Act be obtained.

Parks Sections: dated 31st January 2025 notes no objection subject to condition.

Dated the 12th May 2025 notes no objection subject to condition.

Roads Department: dated 10th February 2025 requests that further information relating to road capacity issues, noise impact assessment, a review of the junction (New Abbey Road R413/ Main Street R448) and its operation and submit a detailed design for junction

improvement works, permeability links, pedestrian and cycle connection, footpath extension, access road and internal road layout, and Electric Vehicle (EV) Charging.

Report dated the 11th February 2025 is an amended report which is the same as previous but includes a request for the applicant to engage with third parties and provide a design for a minimum of a 2-metre-wide concrete footpath between the two vehicular entrances onto the R413.

Report dated 15th May 2025 notes that the further information submitted to be acceptable and recommends permission be granted subject to condition.

4.3. Prescribed Bodies

4.3.1. *Uisce Eireann*

Report dated 21st January 2025 notes that a Confirmation of Feasibility (COF) letter was issued for the site, dated 8th September 2022. In general, any given COF is usually valid for a period of up to c.12 months. Given the passage of time since the COF was issued (over 26 months), the applicant is required to submit a new Pre-Connection Enquiry for assessment.

4.4. Third Party Observations

118 no. observations were made on the application. The content of the observations can be summarised as follows:

- Concerns relating to traffic and pedestrian safety.
- Requesting a footpath be provided.
- permeable connection link
- Proposed development will exacerbate current traffic congestion in the town.
- Concern regarding opening up of established residential areas.
- Will lead to non-residential parking in the adjoining estates which are already at capacity for parking.
- noise and sensory overload.
- a loss of privacy
- Cluster 3H 1 is too close to Sunbury Close and should be revised from 3-storey.
- Cluster 02 Blocks, A B and C are too close to Sunbury Close and should be changed from 4 storey in height to more appropriate.

- Existing boundary to adjoining residential estates should be maintained.
- Stress on elderly residents.
- Concern regarding the utility re-location.
- Concern regarding removal of existing hedgerows and trees, hedgerows should not be removed to create new walls.
- Concern regarding the loss of views towards the Wicklow Mountains.
- Concern over impact to Valley Park from environmental damage from noise and dust pollution.
- removal of missionary wall which predates church would drastically alter the heritage feel of the area.
- old stone gate piers and traditional wrought iron gate should be left in place
- use of red brick as an external finish, request more sustainable stone and rendered finish in line with Kilcullen.
- existing “playground” at Conroy Park will be lost or impacted upon by the proposed development.
- anti-social behaviour.
- Lack of amenities in the town to serve proposal.
- sewage system in the town does not have capacity.
- ecosystem disruption and habitat loss.
- Visual impact.
- No community infrastructure.
- Energy Inefficiency.
- Non-compliance with the Kilcullen Design Statement.
- may lead to the construction of up to 700 dwellings in this area of Kilcullen.

The report of the Planning Authority refers to a submission received from the agent of this planning application, Planning Consultant. The submission refers to the letter received from Uisce Éireann and states that the Confirmation of Feasibility letter from Uisce Éireann, dated 8th September 2022, was current on the date of the commencement of the LRD process.

Following the receipt of Significant Further Information, a further 57 no. third party submissions were received. The main issues raised throughout the submissions are summarised as follows;

- Traffic Congestion.
- Lack of services.
- Sewerage capacity.
- Age friendly housing.
- Pedestrian Areas.
- Impact on existing dwellings in terms of increased footfall.
- pedestrian and cycle/buggy traffic through the existing residential estates is unacceptable.
- CDP prohibits the removal of mature hedgerows and trees. The current proposal suggests the removal of even more hedgerows than originally proposed in the application.
- Removal of any of the boundary between the existing estates and the proposed development and is totally unacceptable.
- alternative walkway/cycle path beside the church should be provided for.

A further submission was received from the Planning Consultant for the applicant, in which the following issues are raised:

- 55 of the 57 submissions make reference to concerns by residents in relation to the active travel routes through adjoining developments - LRD Opinion requested that the Applicant design Permeability Links with the adjoining developments to the west of the site. Active Travel Routes were designed within the proposed development to allow for the required Permeability Links.
- 49 of the 57 submissions make reference to the loss of the playground at Conroy Park – not correct will be provided.
- willing to update the Permeability Links design if the Council wish to condition this suggestion.

5.0 Planning History

5.1. Subject Site

There is no planning history pertaining to the subject site.

5.2. Within the Vicinity

Lands opposing the site to the north (northern bank of the River Liffey):

PA REF 08/1687 Permission GRANTED for the construction of a 110-units residential development in five separate three storey blocks.

PA REF 18/1475 Extension of Duration GRANTED for PA Ref 08/1687.

ABP-307059-20 Permission GRANTED for a Strategic Housing Development - 125 no. residential units and associated childcare facility.

ABP-312661-22 Permission GRANTED for a Strategic Housing Development - 125 no. residential units (107 no. houses, 18 no. apartments), creche and associated site works.

6.0 Policy Context

6.1. National Planning Framework, First Revision 2025

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

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

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

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

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

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

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

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

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

6.2. National Guidance

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 guidelines are as follows:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024
- Design Manual for Quality Housing, Department of Housing, Local Government and Heritage, 2023
- Sustainable Urban Housing: Design Standards for New Apartments, 2023

6.3. Housing for All – A new housing Plan for Ireland

This is the government's housing plan to 2030. It is a multi-annual, multi-billion-euro plan which aims to improve Ireland's housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes:

- To purchase or rent at an affordable price,
- Built to a high standard in the right place,
- Offering a high quality of life.

6.4. Design Manual for Urban Roads and Streets.

6.5. Climate Action Plan

The purpose of the Climate Action Plan is to lay out a roadmap of actions which will ultimately lead to meeting Ireland's national climate objective of pursuing and achieving, by no later than the end of the year 2050, the transition to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy. It aligns with the legally binding economy-wide carbon budgets and sectoral emissions ceilings that were agreed by Government in July 2022.

Climate Action Plan 2025 builds upon last year's Plan 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 Climate Action Plan 2024.

6.6. National Biodiversity Action Plan (NBAP) 2023-2030

Ireland's 4th NBAP sets the biodiversity agenda for the period 2023 – 2030. The NBAP has a list of Objectives which promotes biodiversity as follows:

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.

6.7. Eastern and Midland Regional Assembly- Regional Spatial and Economic Strategy (RSES) 2019-2031.

This RSES provides a high-level development framework for the Northern and Western Region that supports the implementation of the National Planning Framework (NPF). The vision of the RSES is to play a leading role in the transformation of the region into a vibrant, connected, natural, inclusive and smart place to work and live.

Kilcullen, having regard to its population is identified as being a town. The RSES states that Towns will be defined by development plans and identifies the socio-economic functions of a town and providing local services and employment functions. The RSES further state that the policy response for Towns should be Consolidation coupled with targeted rural housing and investment policies where required to improve local employment, services and sustainable transport options and to become more self-sustaining.

6.8. Kildare County Development Plan 2023-2029

6.8.1. The strategic vision of the Kildare County Development Plan 2023-2029 seeks To build on the strengths of the county in order to improve the quality of life of all residents, through the creation of high-quality job opportunities, by the provision of high-quality residential development supported by adequate community infrastructure, through the provision of a high-quality sustainable transport network, by healthy placemaking and transformational regeneration, by supporting the transition to a low carbon climate resilient environment, by embracing inclusiveness and by enhancing our natural and built environment for future generations.

6.8.2. Volume 1 of the County Plan includes for Chapter 2 - Core Strategy & Statement Strategy, Chapter 3 - Housing, Chapter 5 - Sustainable Mobility and Transport, Chapter 6 - Infrastructure & Environmental Services, Chapter 11 - Built & Cultural Heritage Chapter 12 – Biodiversity and Green Infrastructure, Chapter 13 – Landscape, Recreation and Amenity, Chapter 14 – Urban Design, Placemaking an Regeneration, Chapter 15 –Development Management Standards and are all considered relevant.

6.8.3. Chapter 2 - Core Strategy

Kilcullen is designated within Table 2.7 of the Core Strategy as being a Town which is a defined as a “Local service and employment functions in close proximity to higher order urban areas”. Table 2.8 – Core Strategy Table identifies that Kilcullen sha a dwelling target for the Plan Period of 229 dwellings and a target residential development of 35-40 units per hectare.

Relevant objectives are as follows:

Objective CS 01 Ensure that the future growth and spatial development of County Kildare is in accordance with the population and housing allocations contained in the Core Strategy which aligns with the regional growth strategy as set out in the National Planning Framework and Regional Spatial and Economic Strategy for the Eastern and Midland Region and further specified in the ‘Housing Supply Target Methodology for Development Planning’.

Objective CS 02 Ensure that the future growth and spatial development of County Kildare provides for a county that is resilient to climate change, enables the decarbonisation of the county’s economy and reduces the county’s carbon footprint in

support of national targets for climate mitigation and adaption objectives as well as targets for greenhouse gas emissions reductions.

Objective CS O4 Ensure that sufficient zoned and adequately serviced lands are available to meet the planned population and housing growth of settlements throughout the county in line with the Core Strategy and the Settlement Hierarchy.

Objective CS O5 Promote compact growth and the renewal of towns and villages through the development of underutilised town centres and brownfield sites, and where appropriate, pursue through active land management measures a co-ordinated planned approach to developing appropriately zoned lands at key locations, including regeneration areas, vacant sites and under-utilised areas in cooperation with state agencies, while also maintaining a 'live' baseline dataset to monitor the delivery of population growth on existing zoned and serviced lands to achieve the sustainable compact growth targets of 30% of all new housing within the existing urban footprint of settlements.

Objective CS O7 Promote and facilitate the development of sustainable and socially integrated communities through, a plan-led approach that is informed by settlement capacity audits and social infrastructure audits by providing for land use zoning designations capable of accommodating employment, environmental education, community, leisure, education campuses, childcare, recreational and cultural facilities having regard to the quality of the receiving environment, and any landscape character, archaeological and architectural heritage sensitivities.

6.8.4. Chapter 3– Housing

Policy H0 P1 - Have regard to the DHLGH Guidelines.

Policy H0 P2 – Accord with the provision of relevant national and regional policies.

Policy HO P3- Housing Need Demand Assessment (HNDA).

Objective HO 01 - Implementation of the Kildare County Housing Strategy.

Policy HO P4 – Ensure enough sufficient zoned lands.

Objective HO 02 - Ensure that sufficient land is zoned at appropriate locations in compliance with the Core Strategy and Settlement Strategy of the Development Plan, in order to meet the likely future housing demands identified in the Housing Strategy and HNDA.

Table 3.1 - Appropriate density levels as per the Sustainable Residential Development in Urban Areas - Guidelines for Planning Authorities, DEHLG (2009).

Policy HO P5 - Promote residential densities appropriate to its location and surrounding context.

Objective HO 04 - Ensure appropriate densities are achieved in accordance with the Core Strategy in accordance with the principles set out in Guidelines for Planning Authorities on Sustainable Urban Development (Cities, Towns and Villages), DEHLG, 2009, Urban Design Manual: A Best Practice Guide, DEHLG, 2009; Urban Development and Building Height Guidelines for Planning Authorities (2018); and with reference to Circular Letter NRUP 02/2021 (April 2021).

Objective HO 06 - 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.

Policy Objective HO P7 - Encourage the establishment of sustainable residential communities by ensuring a wide variety of housing typologies and tenures is provided throughout the county.

Objective HO 015 ; Objective HO 016; Objective HO 017; Objective HO 018; Objective HO 019 – All relating to appropriate sustainable development of residential areas.

Section 3.12 - Social, Affordable Purchase and Cost Rental Housing.

6.8.5. Chapter 5 - Sustainable Mobility and Transport

Policy TM P1 - Promote sustainable development through facilitating movement to, from, through and within the County that is accessible to all and prioritises walking, cycling and public transport.

Objective TM 03 – Universal Design

Objective TM 05 - SUDs

Objective TM 07 - Introduce measures to reduce traffic congestion in town centres such as pedestrianisation, pedestrian priority and/or improved pedestrian/cycling facilities, in particular increasing the number of safe crossings.

Objective TM 014 – Support Bus Connects Projects.

Objective TM 017 – Support and facilitate the provision of electric vehicles including Battery Electric Vehicles (BEV) and Plugin Hybrid Electric Vehicles (PHEV) including electric cars, bikes and scooters as a more sustainable low carbon option to the conventional private motor vehicle. The support of e-scooters will be subject to the enactment of legislation to regulate and legalise e-scooters.

Objective TM 020 - Ensure new development areas are fully permeable for walking and cycling at a minimum, public transport (where appropriate) and provide for filtered permeability for private vehicle access in accordance with the NTA Permeability Best Practice Guide in order to give a competitive advantage to active travel modes for local trip making.

Objective 021- Ensure site layout proposals detail present and possible future connections to pedestrian/cycle links and improve permeability between existing and proposed developments including adjacent developments thereby facilitating the ‘10-minute settlement’ concept.

6.8.6. Chapter 6 – Infrastructure and Environmental Services

Objective IN 03 - Promote water conservation.

Objective IN 04 - Ensure that adequate water services will be available to service development prior to the granting of planning permission and to require developers to provide evidence of consultation with Irish Water regarding capacity in the network prior to applying for planning permission.

Objective IN 013 -Ensure that adequate wastewater services will be available to service development prior to the granting of planning permission and to require developers to provide evidence of consultation with Irish Water regarding capacity in the network prior to applying for planning permission.

Objective IN 015- Ensure all new developments connect to public wastewater infrastructure where available.

Objective IN 022- Require the implementation of Sustainable Urban Drainage Systems (SuDS) and other nature-based surface water drainage as an integral part of all new development proposals.

6.8.7. Chapter 11 - Built & Cultural Heritage

Objective AH05 - Require the preservation of the context, amenity, visual integrity and connection of the setting of archaeological monuments. As a general principle, views to and from archaeological monuments shall not be obscured by inappropriate development. Where appropriate, archaeological visual impact assessments will be required to demonstrate the continued preservation of an archaeological monument's siting and context.

6.8.8. Chapter 12 – Biodiversity and Green Infrastructure

Objective BI 01 - Require, as part of the Development Management Process, the preparation of Ecological Impact Assessments that adequately assess the biodiversity resource within proposed development sites, to avoid habitat loss and fragmentation and to integrate this biodiversity resource into the design and layout of new development and to increase biodiversity within the proposed development. Such assessments shall be carried out in line with the CIEEM (2018) Guidelines for Ecological Impact Assessment in the UK and Ireland: Terrestrial, Freshwater, Coastal and Marine.

Objective BI 10 -Ensure an Appropriate Assessment Screening, in accordance with Article 6(3) and Article 6(4) of the Habitats Directive, Section 177A of the Planning and Development Act (2001-2022) or any superseding legislation and with DEHLG guidance (2009), is carried out in respect of any plan or project not directly connected with or necessary to the management of a Natura 2000 site to determine the likelihood of the plan or project having a significant effect on a Natura 2000 site, either individually or in combination with other plans or projects and to ensure that projects which may give rise to significant cumulative, direct, indirect or secondary impacts on Natura 2000 sites will not be permitted (either individually or in combination with other plans or projects) unless for reasons of overriding public interest.

Objective BI 015 -Ensure that any new development proposal does not have a significant adverse impact on rare and threatened species, including those protected under the Wildlife Acts 1976 and 2012, the Birds Directive 1979 the Habitats Directive 1992 and the Flora Protection Order species and any species listed under the national red lists or that could be listed on a national red list.

Objective BI 026 -Prevent, in the first instance, the removal of hedgerows to facilitate development. Where their removal is unavoidable, same must be clearly and satisfactorily demonstrated to the Planning Authority.

Objective BI O30 - Ensure a Tree Management Plan is provided to ensure that trees are adequately protected during development and incorporated into the design of new developments.

6.8.9. Chapter 13 – Landscape, Recreation and Amenity

Kilcullen is identified within the Landscape Character Assessment within the Eastern Transition which is characterised as being of medium sensitivity (Class 2). These areas are defined as Areas with the capacity to accommodate a range of uses without significant adverse effects on the appearance or character of the landscape having regards to localized sensitivity factors.

Objective LR 01 - Ensure that consideration of landscape sensitivity is an important factor in determining development uses. In areas of high landscape sensitivity, the design, type and the choice of location of the proposed development in the landscape will be critical considerations.

6.8.10. Chapter 14 – Urban Design, Placemaking and Regeneration

Objective UD P1 Apply the principles of people-centred urban design and healthy placemaking as an effective growth management tool to ensure the realisation of more sustainable, inclusive, and well-designed settlements resilient to the effects of climate change and adapted to meet the changing needs of growing populations including aging and disabled persons.

Objective UD 01 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.

Objective UD P2 Develop towns and villages of all types and scale as environmental assets and ensure that their regeneration and renewal forms a critical component of

efforts to achieve compact growth development and increased climate resilience within settlements across the county.

6.8.11. Chapter 15 –Development Management Standards

The development management standards for residential development are set out in Chapter 15 of the development plan. Regard has been had to all relevant standards contained therein in the assessment of this appeal case.

6.9. **Variation (No. 1) of Kildare County Development Plan 2023-2029 - Kilcullen Settlement Plan**

- 6.9.1. Variation no. 1 of the Kildare County Development Plan was adopted by the member of Kildare County Council on the 31st March 2025 and came into effect immediately. The variation provides for an updated Core Strategy Table for Kilcullen which recognises that the population of the town in 2022 was 3,815 and that 229 housing units will be required within the Plan Period. It further recognises a density of 35-40 units per hectare for the town area. Figure 2.1 of the variation includes the subject site within the Development Boundary of Kilcullen.
- 6.9.2. The Variation takes a tiered approach to land use zoning which is grounded in the knowledge that appropriate services are available to enable development within the Plan period. Under the Development Plan Guidelines (2022) lands that cannot be serviced during the lifetime of the Plan cannot be zoned for development. Table 2-7 'Residential Development Capacity Audit', identifies the subject site and reference it as C(2). The table also recognises that the site has a net density of 35-40 units and makes reference to the subject LRD application.
- 6.9.3. The subject site is zoned under 2 no. zoning objectives – the northern section of the site where it addresses New Abbey Road is zoned under objective A – Town Centre which seeks 'To provide for the development and improvement of appropriate town centre uses including residential, commercial, office and civic use'. The southern section of the site is zoned under objective C(2) – New Residential which seeks 'To provide for new residential development.'

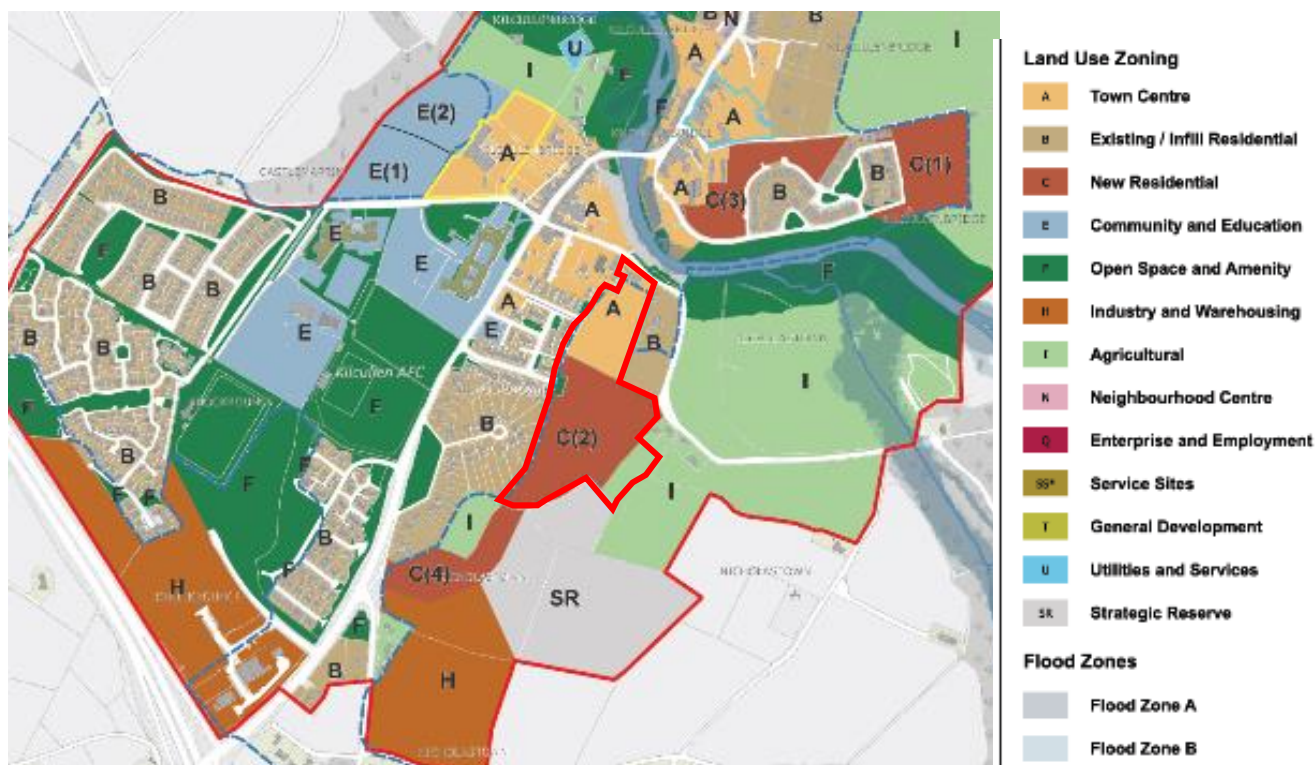


Figure 1: Extract of zoning map from the Kilcullen Settlement Plan with appeal site outlined in red.

6.9.4. There is a street/road objective identified on the Mobility Objectives map (V2A-3) of the variation which runs along the eastern and southern boundary of the site. In addition, there is an objective to provide for street/road upgrades the front (northern) boundary of the site.

6.9.5. Relevant Objectives of the Variation:

ST KL30 Require the submission of a design statement for any scheme for 20 units or more or where deemed necessary by the planning authority.

ST KL31 Support the development of age-friendly housing in Kilcullen.

ST KL39 Ensure that all new developments in Kilcullen utilise and connect to existing water infrastructure.

ST KL41 Preserve free from development the wayleaves of all public sewers.

ST KL42 Minimise surface water infiltration into the foul sewerage system.

ST KL43 Investigate the feasibility of constructing a second wastewater rising main from Kilcullen to Newbridge.

ST KL44 Continue to work with Uisce Eireann and support the provision of new or upgrading infrastructure when deemed necessary.

ST KL45 Implement the policies and objectives of the recently adopted 'Sustainable Urban Drainage Systems Guidance Document' for Co. Kildare.

ST KL47 Only consider underground retention solutions when all other options have been exhausted and this has been demonstrated. Underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution.

KL48 Require surface water drainage plans to have regard to the policies and objectives of the Habitat and Green Infrastructure Mapping (see Green Infrastructure Map).

ST KL65 Develop proposals that promote walking and cycling modes in Kilcullen by ensuring consistency with the relevant measures contained in the Greater Dublin Area Transport Strategy 2022-2042 (or as amended) during the period of this plan.

ST KL70 Ensure site layout proposals for new developments detail present and possible future connections to pedestrian/cycle links and improve permeability between existing and proposed developments including adjacent developments thereby facilitating the '10 – minute settlement' concept.

ST KL71 Implement the policies and objectives of the recently adopted 'Permeability Guidelines – Reconnecting our Communities' document for Co. Kildare.

ST KL73 Ensure that the design and layout of new developments enables, facilities and encourages the use of sustainable travel modes.

ST KL74 Prepare Traffic Management Plans for new developments and seek to identify filtered permeability measures including, home zones and low-traffic neighbourhoods, which would reduce greenhouse gas emissions and promote a more sustainable, connected way of life.

ST KL77 Implement footpath and traffic calming measures to housing estates within the town, where practicable.

ST KL78 Retain and improve existing pedestrian links and connectivity between the different areas of the town.

ST KL79 Provide appropriate public lighting and facilities for people with disabilities throughout the footpath network.

ST KL81 Examine the route needed for a relief road to the east of the town from the R448 Naas Road to the R448 Athy Road, as shown indicatively on the Mobility Map.

- i. Examine route options for such a road and to investigate the feasibility of providing same having regard to environmental, archaeological and conservation considerations, and the feasibility of constructing a crossing of the river Liffey.
- ii. Preserve the preferred route option free from development.
- iii. Seek the construction of this road, including a new crossing of the river Liffey and a new junction with the L6074 Logstown Road.
- iv. It is a requirement that site C(2) New Abbey Road and Site C(4) Nicholastown New Residential lands are connected by a new street corridor that integrates these two developments. The new street corridor may form part of a wider relief road in the future, should this project be supported by a business case. The street corridor will reflect the indicative relief road route identified as far as practical (See Map V2A-3) and connect R448 to R413. The new street will be delivered by developments along the corridor.

6.10. Natural Heritage Designations

6.10.1. The site is not located within or adjacent to any designated sites. The closest European Sites are as follows:

- Pollardstown Fen SAC (Site Code SAC000396) 7.7km to the north-west;
- Mouds Beg SAC (Site Code 002331) 9.1km to the North-west.

6.10.2. The Curragh (Kildare) pNHA (Site Code: 000627) is located c.2.55km to the west of the subject site. The Poulaphouca Reservoir pNHA (Site Code: 000731) is located c.10km to the east of the subject site.

7.0 The Appeal

7.1. Grounds of Appeal

The Commission received a 1st Party appeal against a number of conditions attached to the decision of the Planning Authority and 1 no. 3rd Party Appeal against the decision of the Planning Authority. The grounds of each appeal is set out below:

7.1.1. 3rd Party Appeal

The grounds of this appeal are as follows:

1. Pedestrian /Cycle Access to Sunbury Close

- No basis for design and nature of connection.
- Narrow connection and corresponding space offers no passive surveillance.
- Will result in anti-social behaviour.
- Significant deficiencies in terms of design network
- Call into question the connectivity claims and practicality of using part of the site for connectivity.
- Pedestrian/cycle path along the western boundary is short only 170m - a link immediately north of St Brigid's Avenue would offer greatest opportunity for encouraging permeability.
- Good urban design in terms of encouraging active travel – not solely based on desire lines but also visibility.
- Ability of potential user to see an entrance would increase its usage therefore improving permeability to mains street and services – not afforded by proposed link to Sunbury Close.
- Would only serve a few number of houses – only link to school not wider Kilcullen town centre.
- Residents in the north of the development will be attracted to the church connection.

- Residents to the south – benefit more from a link to St Brigid's Avenue and Conroy Park.
- Central link has a significant degree of visibility and legibility.
- Kilcullen settlement plan identifies further zoned lands for industrial uses to the south – adds further credence for need for any link to be located further south.
- Serious of steps peppered throughout the cycle/pedestrian paths – welcome improved recreational facilities but question the appropriateness of form/layout and details of the proposal relating to link to Sunbury Close.
- Sunbury Close is too narrow to facilitate any additional traffic – bin lorries have to reverse its length as no room to turn. Not suitable for pedestrian/cycle thoroughfare.
- Condition 18 – wording is unclear of exact location of cycle/pedestrian link.
- Residents are concerned it will negatively impact their amenities and where they currently park their cars – movement out of driveways will be restricted of views of oncoming cycle/pedestrians which will give rise to collisions.
- Request this link is removed.
- Will result in additional cars parking in Sunbury Close – provides access to proposed development where capacity is less in other potential links.
- Will result in loss of residential amenity/result in loss of privacy/noise disturbance and create a traffic hazard.

2. Poor Design/Quality of Development.

- Fails to meet County Development Plan urban design policies –
 - Not high qualitative standards.
 - Fails to create a sense of place.
 - Fails to meet the 'Urban Design Manual -A Best Practice Guide (2008).
- Development is contrary to the correct approach to residential development on a site such as this as set out under the 'Guidelines for Planning Authorities on Sustainable Development in Urban Areas (2009)'.

- States that the design approach should protect the amenities of directly adjoining neighbourhoods and the general character of the area and its amenities i.e. views, architectural character, civic design.
- Section 4.3.4 states that Infill developments and urban redevelopment projects should respect the character of the existing neighbourhood.
- Any reasonable assessment of the proposed development must conclude the following:
 - Application has failed to evolve naturally from the site and its environs.
 - Fails to address the character and identity of the area.
 - Inappropriate responses are made to boundary conditions that results in negative impacts on adjoining residential amenities and privacy.
- Request the Commission conclude that the proposal fails to ensure a balance between the reasonable protection of existing residential amenities and the established character of the area with the need to provide for sustainable residential amenities.
- Form and nature of development creates a completely artificial character that is completely at odds with the established character of the area.
- Request permission be refused.

3. Inadequate and Poor Quality Public Open Space

- Proposal states to provide for c.0.96ha of Public Open Space – a significant quantum of this is within agricultural zoned lands to the south-east and to the rear of south-east houses adjacent and to the north of the Pumping Station.
- Poorly considered location of the public open space.
- Characteristics of several areas of public open space more akin to communal open space.
- Significantly less than 15% indicated as being required under the Development Plan. Request to dismiss these and the overall connectivity as not being relevant in the assessment of the current application.
- Public open space will not result in quality public space that will be useable by all the new population and is below the requirements set by the Development Plan.

4. Inadequate and Inaccurate Assessments within the LRD material.

- Failure to screen for EIAR – cumulative impact of the proposed development was not adequately assessed.

5. Proposed Phasing contrary to Proper Planning and Sustainable Development.

- 4-part phasing plan submitted with LRD – moving from phase 1 south to phase 4 at the north.
- Link to Sunbury Close is proposed in phase 4 – further reason why link is ill-considered.
- No justification provided for approach to phasing - contrary to proper planning and sustainable development. Phasing drawings do not provide for details of the proposed quantum of public open space within each phase of development.
- Places 3rd party and planning authority at disadvantage in terms of the assessment of the development, its phasing and whether the specific quantum of amenity space required to comply with the delivery of each phase and the overall development has been provided for.

6. Impact on Property Value

- The proposal will have a negative impact on the value of properties adjoining the boundaries of the subject site given the profound loss of privacy/residential amenity and traffic impacts as a consequence of the proposed development.

7.1.2. First Party Appeal

A First Party Appeal was received from the applicant on the 18th June 2025 and is questioning 16 no. conditions applied by the Planning Authority to the decision issued. All conditions subject to the 1st Party Appeal are set out in detail under section 4.1 of my report, above.

The grounds of the appeal are as follows:

1. Condition no.3 – Reduction in height of Block C to 3 Storeys

- Conflicts with national planning policy – building height guidelines 2018 which seeks to promote increased heights in urban areas. Front of the site zoned Town Centre.
- No justification for the reduction is provided by the Planning Authority – appears to simply be an opinion as opposed to guidelines.
- Block C is well setback from the New Abbey Road – views will be largely obscured by the 3 storey dwellings along New Abby Road.
- Updated Photomontages submitted at RFI stage show minimal difference between the visual impact of 3 and 4 storey versions.

2. Condition no.4 – amendments to cluster 6 (Phase 2) to provide childcare.

- Condition no. 3 required the use of block A, B and C to be as specified in plans submitted and no further change without a prior grant of permission.
- Part of Block A is to be utilised as a creche to cater for 48 no. children – as per the childcare guidelines – conflict with condition 4 which requires a revised proposal for Cluster 6 for a childcare facility.
- Not clear if applicant is to provide for 2 no. creche facilities in the overall scheme or why this would be required given creche proposed meets requirements.
- No justification provided in the Planners report – difficult to know the rationale behind this.
- Only rational available is the reason attached to condition ‘To ensure that a childcare facility is provided in earlier phase of development’ – this still does not make it clear if this is an addition to the proposed creche facility.
- Updated phasing plan submitted as part of the RFI – shows phasing working from south to north. Phase 2 is located to the south of the scheme.
- Updated phasing was in response to Planning Authority’s desire to move traffic away from R488/R413 at north of development and onto the street/road objective (relief road) to the south – road objective pertains to other lands outside the control of the applicant.
- Not clear if a new childcare facility is required or if the childcare in phase 2 is to replace the one proposed.

- If the provision of a new childcare facility requires the loss of housing, then it is in conflict with condition 2(a).
 - Phasing – the reply to the RFI on the 11th April 2025 states “*proposed phasing of the project has been reconsidered to take account of the 2 new access/exit points at the south and south-east of the proposed development, with the phasing allowing for the works to commence from the south moving northwards towards the town over the duration of the development. The previous phasing in the absence of the relief road showed the works commencing adjacent to the town working southwards.*”
 - Request that the original phasing proposal submitted – set out in Appendix B of this appeal – where lands would be developed from the north to south and providing the creche in the 1st phase of development is conditioned.
3. Condition no.11 (C) – bond for 3 years duration from substantially complete i.e. 8 years.
- Duration seems excessive and unjustified.
 - Condition overlaps/conflicts with condition no. 48 which requires a bond until development is taken in charge.
 - If all conditions required for taking in charge by the Local Authority are agreed in advance with the Local Authority and undertaken by the applicant, then it is submitted that this bond is not required.
4. Condition no. 15 – Street/Relief Road Objective
- Subsection (a) of this condition requires details to be submitted demonstrating connection to the C(4) lands to the south and the R448 for written agreement. It further states delivery of this road connection shall be completed prior to 1st occupation of any units in phase 1.
 - Connection was demonstrated on plans submitted to the Planning Authority on the 12th April 2025 in response to the RFI – Cluster 9, 10 and 11 were re-designed to allow for 2 no. indicative connection points for the proposed Relief Road Route.

- It is not possible to connect the subject site to the R488 as applicant does not have the legal interest in the lands to the south to achieve this – the non-ownership of these lands was relayed to the Planning Authority on numerous occasions.
- Condition cannot be legally imposed.
- It is the responsibility of the owner of the adjoining C(4) lands to the south of the subject site to provide the road connections to the R448 and to the proposed road infrastructure subject to this appeal.
- Request condition be removed in its entirety – request the Commission include for a new condition that the proposed roads be constructed up to the site boundary with the adjoining C4 lands as to facilitate future connectivity by others in accordance with the design changes made during RFI Stage.
- Subsection (b) –requires the applicant, prior to the commencement of development of phase 2, 3, and 4 of the development to pay a special contribution of €1.5 million towards the design and cost of the road objective.
- Planning Authority states that this levy represents 50% of the estimated design costs for the road objective – connecting regional road to the east of the town centre as set out in the adopted Kilcullen Settlement Plan.
- This condition does not stipulate what specific road objective is being referred to and no break-down provided as to how this design cost was arrived at.
- No rationale as to why the applicant should have to pay 50% of the road costs when other lands zoned new residential and other lands which have the potential to be zoned in the future once the route of the relief road is finalised will benefit from such.
- The relief road objective to the south and east of the site runs along the entire eastern side of the Town including crossing the River Liffey for approximately 2.994km – does not pass through the site but does pass through the adjoining C4 lands and Strategic Reserve Lands (zoned in March 2025) -Submitted to the Commission therefore that the design costs should be attributed to the developers of these lands and the developers along the relief road and not the developer of the subject application lands.

- Note that the permission pertaining to the C1 lands to the west of the road objective were not subject to a similar condition – road objective was present in the 2014-2020 LAP for Kilcullen and the question therefore arises as to why it should be applied in this instance.
- Objective ST KL81 of Volume 2A – Kilcullen Settlement Plan 2023-2029 – wording considered to be confusing as it seeks to connect the C2 and C4 lands by a new street corridor and in turn this corridor is to form part of the wider relief road.
- Submitted that it is impossible to provide a new street corridor through the C2 lands which form part of the wider relief road as the relief road objective does not run through the C2 lands.
- C2 lands area located to the north of the relief road by a minimum of 66m – refer to appendix C of this appeal.
- Request condition be omitted.

5. Condition no. 16 – footpath and associated lighting

- Local Authority requested applicant to engage with 3rd Party adjoining landowners to provide a potential route on lands outside of the ownership of the appeal site for a footpath which the Council could investigate delivering.
- Adjoining landowner to the east happy to engage as wanted land re-zoned – this did not happen.
- Drawing 22014-C-DR-111 REV PL2 ‘Indicative route for footway extension on existing New Abbey Road’ – was submitted to the Planning Authority as part of the original application submission – shows a potential pedestrian route on lands outside the ownership of the applicant.
- The drawing showed ¾ of the route to the cemetery as only 1 no. landowner engaged in the process.
- The proposed relief road would run through this pedestrian route – therefore a significant portion of the path would have to be removed.
- The relief road will provide for a more direct link to the cemetery – c.360m in lieu of c.655m.

- There is no need for this infrastructure which does not benefit the scheme and is unreasonable to impose a condition to require such.
- Part of the 665m mention in the condition includes part of McGarrys Lane – no reference made in the condition to McGarrys Lane and as such wording of condition is ambiguous.
- Approx. cost to construct the footpath would be c. €327,500 based on the Median Cost set out by the NTA in Dec 2024.
- Request that the commission consider that if these works are required that the cost should be credited against Condition no. 51.

6. Condition no.17 – Widening footpaths on the R413

- Insufficient road widths along route to undertake without impacting roadside boundary and hedgerow.
- Available cross section and horizontal curvature of the R413 does not allow for the provision of appropriate cycling facilities between the proposed entrance/exits of the proposed development.
- The geometry of the road also does not allow for pedestrian facilities on the eastern side of the R413.
- To facilitate these works would require access to third party lands which is outside the control of the applicant.
- The proposal provides for a footpath along the R413 to serve the existing dwellings located to the south of the east access – creates a continuous pedestrian route between these houses and the Town Centre eliminating the need for pedestrians to cross the R413 at an undesirable location.
- Zebra crossing will be provided on the R413 immediately west of the northern access – connecting the development to the northern footpath and amenity walkway.
- Intention is to divert the pedestrian traffic through the proposed development rather than along R413 – won't increase traffic significantly on R413 as most traffic will turn west to the town centre. This will also maintain rural character of the road.

- Approx. cost to construct the footpath would be c. €141,000 based on the Median Cost set out by the NTA in Dec 2024.
- Request that the commission consider that if these works are required that the cost should be credited against Condition no. 51.

7. Condition no.18 – Permeability Links/Active Travel Links.

- Wording considered to be ambiguous – requires clarity over what links the condition is referring to and whether they are inside or outside the red line boundary.
- Applicant is being requested to pay for permeability links, but it is unclear if the works relate to outside the red line boundary.
- Sub-section (b) requires the permeability links to be completed prior to the occupancy of permitted units – raises significant concern for applicant if they are reliant on 3rd parties such as Kildare County Council. This is considered to be unreasonable.
- If condition is referring to the connection to Sunbury Close – applicant provided design details to the Planning Authority as requested in the understanding that the council would construct the infrastructure on land in their ownership with applicant providing a reasonable financial contribution for same.
- Some recent upgrade works were undertaken by the Council on adjoining lands at St Brigid's Ave and Conroy Park.
- Large number of objectors to the connection at Sunbury Close – may not be possible to obtain 3rd party agreement to this connection.
- May not be possible to deliver the facilities as set out in condition given the available widths in the adjoining estates.
- Alternative route via the church was proposed by the applicant on foot of all objections made – willing to design the active travel route within the red line of the site to facilitate the alternative. This was not engaged with by the Planning Authority.
- Approx. cost to would be c. €132,500.00 based on the Median Cost set out by the NTA in Dec 2024.

- Request that the commission consider that if these works are required that the cost should be credited against Condition no. 51.

8. Condition no.19 – Signalised junction at R448/R413

- Requires the applicant to design and pay for upgrade works to the existing signalised junction of the R448 and R413 – it is contended that this is not in the ownership of the applicant and in the control of the local authority.
- Condition is unclear as to who will undertake the works.
- Not a Section 49 Special Contribution – question the legality of the condition.
- Upgrade of this junction was not included as a condition for the permission granted for the Cross and Passion School (PA Ref 22/993) which increases student numbers by 255 students – Road Safety Audit stage 1 for school upgrades recommended that this junction was upgraded.
- Why should applicant be subject to the costs for the upgrades of a central junction where other will benefit from the upgrade also.
- Applicant proposed a contribution towards a proportional contribution towards the cost of carrying out these upgrade works.
- Approx. cost to upgrade would be c. €280,000.00 based on the Median Cost set out by the NTA in Dec 2024.
- Request that the commission consider that if these works are required that the cost should be credited against Condition no. 51.

9. Condition no.21 – New Toucan Crossing X2.

- It is argued that the 2 toucan crossings are part of the overall Active Travel design for the Cross and Passion School – subject to condition no. 11 and no. 12 of the PA Ref 22/993.
- Planning Authority now requiring the applicant to prepare a design and arrange for the new installation of these 2 no. toucan crossings in lieu of the contractors for the school – considered to be unreasonable.
- One of the toucan crossings on the R448 (at the newsagents) is already in situ – reference to installation is ambiguous.

- Applicant is open to a proportional contribution towards the cost of the delivery of the infrastructure if it will benefit the proposed development directly – this is not the case.
- Applicant has proposed a pedestrian crossing on the R413 at the northern entrance to the site some 173m from the R448/R413 junction.
- Approx. cost to provide the 2 no. crossings would be c. €140,000.00 based on the Median Cost set out by the NTA in Dec 2024.
- Request that the commission consider that if these works are required that the cost should be credited against Condition no. 51.

10. Condition no.23 - permeability/Active Travel links.

- Not clear exactly what this condition relates to – if it relates to permeability links within the red line boundary then applicant has no issue.
- The reference to liaising with the Planning Authority and 3rd Parties is vague and ambiguous.

11. Condition no.25 – EV Charge points.

- The last sentence of the condition which requires the design of the charging points and for all charging points to be in operation prior to the occupation of units is considered to be ambiguous.
- The condition assumes that each unit will have an electric car/hybrid – applicant happy to provide adequate ducting for EV Charging but final connection will depend on the make and model of any EV belonging to the owner.
- Seek to replace condition with the following:

'In-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the house and non-curtilage car parking spaces serving the residential units shall be provided with functional electric vehicle charging points 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 for the written agreement of the Planning Authority prior to the commencement of development.'

REASON: To provide for and/or future proof the development to facilitate the use of electric vehicles.'

12. Condition no.28 – Stage 2 Road Safety Audit.

- Requiring the applicant to prepare a Stage 2 RSA for road objective is ambiguous – objective to provide road is on lands outside of the applicant ownership and runs the entire length of the town.
- Reference to junction connections – unclear what junctions this refers to. Junctions from the subject site to the new road or potential junctions along the entire proposed road.
- All references to road objective should be omitted and reference to the junction connections should be those associated with the proposed development.
- Wording should be clarified and ensure Road Safety Audit stage 2 relates solely to the proposed development.

13. Condition no.29 – Stage 3 RSA.

- Wording considered to be ambiguous – unclear what public road the condition is being referenced or what junction upgrade is being referenced.
- Unclear what walking and cycle access is being referenced.
- Requested that wording of this condition is clarified and ensure Road Safety Audit stage 2 relates solely to the proposed development.

14. Condition no.34 – Surface Water Runoff.

- Wording considered to be ambiguous.
- Unclear what signalised junction the condition is referring to or why this is required rather than a standard Surface Water condition.

15. Condition no.50 – Bond condition for taking in charge.

- Considered that in light of other conditions imposing restrictions on the applicant some of which are dependent on works being undertaken on 3rd Party lands that this condition could also be used as a penalty clause against the applicant in the circumstance where agreement is not reached within 1 calendar year.

- Reference to increased bond if development has not commenced within 1 year should be omitted as this timeline is outside the applicants control based on the conditions attached to this permission.

16. Condition no.51- Financial Contribution.

- Consider that financial contribution has been calculated incorrectly.
- Planning Authority has failed to apply Section 10.3 of the Kildare Development Contribution Scheme which specifically allows for an exemption of 33% of lands zoned town centre.
- It is submitted that the permitted buildings within the northern part of the subject site which is zoned under the Town Centre Zoning Objective should have benefited from a 33% exemption.
- Schedule enclosed in appendix D of the appeal outlines the total floor area which is located within the TC Zoned lands which provides a revised Levy calculation of €1,247,242.60 - a reduction of €160,228.40.

Credit against infrastructure work:

Local authority has conditioned the developer to undertake a notably high amount of infrastructure works which are outside the red line boundary of the site and in the ownership of others – as well as contributing to the design costs of the relief road for the town but have not provided for any credit against S.48 levies for undertaking these works/design costs.

Table provided sets out the estimated costs of these external infrastructure works and it is submitted that if the Commission agrees that the developer should foot the cost of some or all these works/costs then credit should be provided against the s.48 Levy.

Condition Ref.	Description	Bond/ Lodgement	Special Development Levy Contribution	Infrastructure	Development Contribution Scheme
11	Arborist	€ 50,000.00			
15(a)	Link Road to R448			To be calculated	
15(b)	Ring Road Design Costs - 50%		€ 1,500,000.00		
16	Footpath - McGarry's Lane			€ 327,500.00	
17	Footpath between accesses R413			€ 141,000.00	
18	Active Travel Routes			€ 132,500.00	
19	R448/R413 Traffic Lights			€ 280,000.00	
21	R448 Toucan Crossings			€ 140,000.00	
50	Public Open Spaces	€ 360,000.00			
51	Contribution to public infrastructure				€ 1,407,471.00
	*Calculation Error				-€ 160,228.40
	TOTALS	€ 410,000.00	€ 1,500,000.00	€ 1,021,000.00	€ 1,247,242.60
				TOTAL	€ 4,178,242.60

Figure 2: Extract from 1st Party Appeal setting out estimated costs of works required by some of the conditions.

7.2. Applicant Response

The Commission received a response from the applicant with regard to the 3rd party appeal lodged which can be summarised as follows:

1. General Comments

- Details setting out the proximity of the 3rd Party appellants properties to the northern section of the subject site.
- Lands within Sunbury Close proximate to the boundary of the subject site were recently re-zoned for open space and amenity – permission was recently refused by Kildare County Council under PA Ref 25/79 for an infill dwelling on this portion of land as it contravened the zoning objective.

2. Tree Survey

- Appellants state the tree survey submitted fails to identify trees along shared boundary with Sunbury Close.
- Landscape Architect letter accompanies appeal response and details the landscape rationale for the scheme which states:
 - Proposed pedestrian and cycle connection within the red line boundary and allows for the retention of the existing trees and hedges.
 - Proposed to retain and augment existing hedgerows and biodiversity within the site.
 - Retaining the existing trees in the current form is a critical component of the development in terms of ecological and sustainable future.
 - Proposed design took account of the space required for the retention of the existing trees and hedges.
 - Plans submitted demonstrated how it is proposed to retain trees along the boundary while still facilitating pedestrian/cycle connection.

3. Sunbury Close Ownership

- 3Rd Party Appellants state Sunbury Close is a private road – No evidence was provided within the appeal to support that the Sunbury Close is a private road.
- Applicant was advised by Kildare County Council that Sunbury Close was taken in charge – confirmed in the LRD opinion issued by the Planning Authority on 3rd September 2024.
- Email from building control of Kildare County Council dated the 25th June 2025 confirms Sunbury Close was taken in charge on the 19th December 2011.
- The inclusion of this pedestrian/cycle connection was a request from the Planning Authority at opinion stage of the LRD process – clear indication that Sunbury Close was taken in charge.
- Also requested at opinion stage to consider routes to the post primary school in the town via the residential areas to the west for vulnerable road users.
- Highlighted to the Planning Authority that the applicant will explore the provision of such active travel connection but cannot control the residents who may not support such connections.
- Red line never extended to include Sunbury Close.

4. Phasing

- Refer the Commission to the 1st Party Appeal lodged which proposes an alternative phasing arrangement.
- This proposal has been modified to reflect modest revision to the layout at further information stage specifically the 2 no. new road connections to the proposed relief road.

5. Photomontages

- Appellants state that proposed pedestrian/cycle connection not included in photomontages.
- This is correct as it did not form part of the original application submitted.

- Pedestrian/cycle connection design is indicative until Kildare County Council obtain the consent of the residents of Sunbury Close – red line boundary does not extend into Sunbury Close.

6. Passive Surveillance

- Proposed dwelling to the east of the link with Sunbury Close face directly toward the link and therefore will provide for passive surveillance.
- Applicant happy to take a condition to re-arrange the layout of cluster 3 to improve surveillance.

7. Alternative Routes

- Sunbury Close link was specified by Planning Authority.
- Connection to Conroy Park is more complicated due to the location of the playground.

8. Concealed Position

- Disagree with this comment – entrance to the link is directly from the pedestrian/cycle route along the west side of the site and is not concealed.

9. Kilcullen Town Centre/Industrial Zoned Lands

- As part of the realignment to provide 2 no. access onto the proposed relief road – updated design has allowed also for the extension of active travel routes to both exits.
- Applicant was requested to provide the design for this link at Councils request – this has been designed to the council's specifications.

10. Condition 18

- Agree that the wording is ambiguous and this is subject to the 1st party appeal.

11. Car Parking in Sunbury Close

- 2 options for motorists to access the site – do not consider residents will use Sunbury close to access the development.

12. Residential Amenity

- Pedestrian/cycle link will be to the public side of houses so no loss of privacy will occur.
- Short term cycle and pedestrian movements not associated with material noise impact.
- No genuine traffic hazard argument has been substantiated.
- Pedestrian/cycle link will tie in with the upgrade of footpaths and cycleways associated with the upgrading of the Cross and Passion School.

13. Poor quality design

- There is a buffer between the proposed development and houses in Sunbury close in the form of the F zoned lands (open space/amenity) – proposed development not directly a neighbour.
- Consider allegations in terms of poor urban design are unreasonable – design is a result of a detailed LRD process that has been approved by the Planning Authority.

14. Inadequate and poor quality public open space

- Comments made are inaccurate.
- Refer to landscape rationale which shows that the minimum of 15% of public open space required will be exceeded.
- The area of open space on agricultural zoned lands did not form part of the overall calculation and is therefore an addition.
- Provision for minor alterations at further information stage did not change other than the addition of a small triangular area located at the southern proposed entrance.

15. Inadequate and inaccurate assessment within the LRD Material

- EIA screening was undertaken and was provided within an appendix of the Planning Statement that supported the LRD application.

7.3. Planning Authority Response

The Commission received a response from the Planning Authority on the 11th July 2025 which confirms its decision and refers the Commission to the Planners' Report, internal department reports and prescribed bodies reports in relation to the assessment of this planning application.

With regard to Condition no. 51 which requests a Section 48 development contribution, it is stated having reviewed the ground of the 1st Party Appeal the Planning Authority confirms that the applicant is correct. It is further stated that in accordance with Sec.10.3 of Kildare County Council's Development Contribution Scheme, which supports town and village development, a 33% reduction in development contributions applies to land zoned as "Town Centre". A portion of the proposed development is zoned town centre, therefore the development contributions should be reduced accordingly.

7.4. Observations

The Commission received 1 no. observation from Councillor Tracy O'Dwyer, the contents of which are as follows:

- Provide support for Kildare County Council decision to grant permission for the proposed development.
- Applicant argues it is not possible to provide a connection to the R488 as it would involve lands not in their ownership – lands were recently re-zoned for residential development and currently for sale.
- Concur with applicant that lands on the opposing side of the road did not get the same condition – due to this Kilcullen has become a choke hold in terms of traffic.
- The department of defence also utilise the New Abbey Road to access the Glen of Imaal and both Cemeteries are also located along the New Abbey Road – this is already a heavily trafficated road.

- It is considered essential that additional traffic which will be generated by the proposal be offered an alternative route – this will be achieved through the introduction of the Relief Road.
- Considered that there is no comparison to be made between an entrance to a housing estate and an existing heavily trafficated road.
- Only viable option for permeability to be successful is for a pedestrian access via the New Abbey Road and vehicular access via the Nicholastown side of Kilcullen.
- Housing is required in Kilcullen and do not want to see this application delayed any further – crucial given the restrictions of the only junction layout at the core of the town of Kilcullen that vehicles are re-directed.
- Delivery of the Relief Road is an objective of the Kilcullen Settlement Plan – this needs to be the core focus when determining the application.
- High number of objections were submitted to the Local Authority all related to the need for the relief road.

8.0 **Assessment**

8.1. **Introduction**

8.1.1. Having examined the application details and all other documentation on file, including appeal submissions, the reports of the local authority, having inspected the site, and having regard to the relevant local policies and guidance, I consider that the substantive issues in this appeal are as follows:

- Principle of Development
- Permeability
- Design and Layout
- Public Open Space
- Conditions
- Other Matters

- 8.1.2. In respect of the proposed development, I have carried out a screening determination for Appropriate Assessment (AA) and a screening determination for Environmental Impact Assessment (EIA) which are presented in sections 9.0, 10.0 and appendix 1, appendix 2 and appendix 3 below.
- 8.1.3. I note that Variation no. 1 of the Kildare County Development Plan which provided for the Kilcullen Settlement Plan was adopted by the members on the 31st March 2025 and came into effect immediately. This variation was adopted during the assessment period of the Planning Authority. The applicant within their response to the further information request addressed this variation and demonstrated how the proposed development complied with such.

8.2. Principle of Development

- 8.2.1. The appeal site is subject to 2 no. land use zoning objectives. The northern section of the site, where it addresses the R413, is zoned under objective Town Centre which seeks to provide for the development and improvement of appropriate town centre uses including residential, commercial, office and civic use. The remainder of the site is zoned under objective C(2) – New residential which seeks to provide for new residential development.
- 8.2.2. The development is proposing to provide for 180 no. residential units, a creche, 2 no. medical/health care units and office floor space with a stated area of c.921sq.m. The commercial component of the development is situated within the northern section of the site.
- 8.2.3. In accordance with table 32.4 of the Kildare County Development Plan, residential development is permitted in principle under the C(2)- New Residential and TC- Town Centre land use zoning objectives. Creche, office and healthcare are all permitted in principle under the TC-Town Centre land use zoning.
- 8.2.4. Overall, On the basis of the above, I consider the proposal is acceptable in principle on the basis of national policy contained within the NPF -First Revision, 2025, the RSES and Variation 1 of the Kildare County Development Plan.

8.3. Traffic Impact

- 8.3.1. The Variation no. 1 of the Kildare County Development Plan, being the Kilcullen Settlement Plan 2023-2029, identified the provision of the Kilcullen Relief Road on the Mobility Objective drawing number V2A-3. Objective ST KL81 of the Settlement Plan relates to the delivery of this relief road and sets out the need to examine route options, preserve the selected route to be free from development and require the appeal site (C(2) New Abbey Road land) are connected by a new street corridor together with the C(4) Nicholastown new residential lands that integrates these two developments. It further states that the new street corridor may form part of a wider relief road in the future, should this project be supported by a business case. The street corridor will reflect the indicative relief road route identified as far as practical (See figure 3 below) and connect R448 to R413.
- 8.3.2. However, I would draw the Commissions attention at this point to the fact that the adopted Settlement Plan does not provide for a phasing arrangement for the delivery of this relief road and does not link the development of the appeal site to the provision of this relief road.

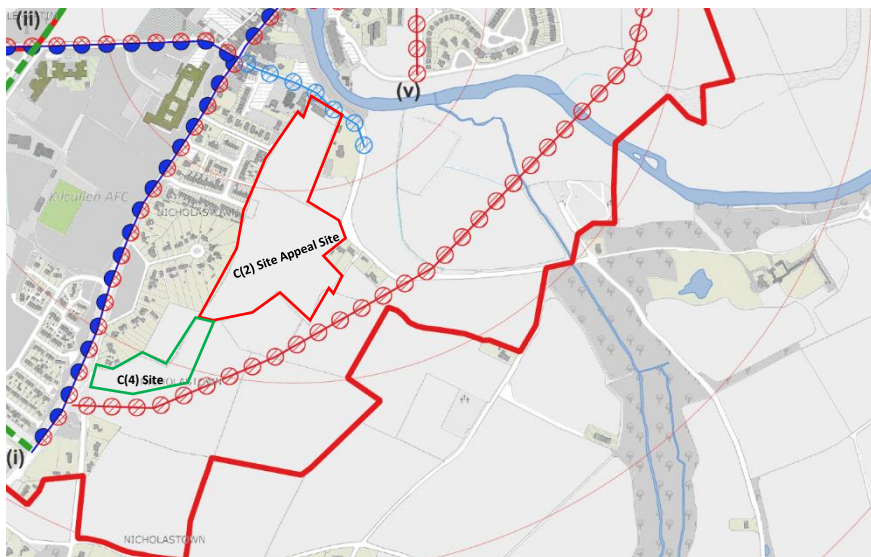


Figure 3 – Extract of Mobility Objective drawing number V2A-3.

- 8.3.3. The provision of this relief road has been raised by an observer to this appeal and is also subject to condition no. 15 of the grant of permission which is subject to the 1st Party Appeal and discussed further below within my report. The observer to the appeal considers that the delivery of the relief road should be the core focus when determining

this application and that it is crucial that this road is delivered in order to reduce the current pressures being placed on the junction in the center of Kilcullen Town. It is further contended by the observer that the proposed development will only exacerbate the current traffic issues at the junction of the R413 and R448. Objective ST KL85 seeks capacity improvements at the R448 and R413 junction.

- 8.3.4. The application was accompanied by a Traffic and Transport Assessment which provided for details of trip generation of the proposed development at both construction and operational stages of development. An analysis is set out under section 5.2 of the existing traffic flows at the junction of the R413 and R448 (Kilcullen Town Centre) while section 11 of the assessment considered the impact the proposed development would have upon the junction of the R413 and R448 (Kilcullen Town Centre).
- 8.3.5. The assessment for the operational period found that for the AM Peak, junction delays will increase from 157.69 seconds in the no-development scenario to 182.3 seconds in the with-development scenario, an increase of 15.6% while the PM Peak findings indicated that junction delays will increase from 394.7 seconds in the No-Development Scenario to 414.26 seconds in the With-Development Scenario, an increase of 5.0%. Analysis suggests the proposed development will have a moderate to significant impact on operation of the junction in the AM Peak hours. The TTA relies on the identified mitigating characteristics of the development in terms of active travel connections and delivery of the LAP objectives for junction upgrades.
- 8.3.6. The first report of the Transportation Section of the Planning Authority stated, *‘from the Traffic and Transport Assessment, it is clear that the results of the modelling of the predicted capacity constraints on the R413 & R448 junction show that the crossroads reaches saturation point’*. This statement is included within the Further Information request and further states *‘The Applicant is requested to prepare a design for the horizontal and vertical alignment of the road objective and provide typical cross sections.’* However, the Planning Authority did not provide for a robust assessment of the Traffic and Transport Assessment submitted to allow them to arrive at that conclusion.
- 8.3.7. At this point, I consider it important to set out to the Commission that, notwithstanding the objectives and policies that are included within the Kildare County Development

Plan 2023-2029 and the subsequent Settlement Plan for Kilcullen which seek to deliver the Kilcullen Relief Road Objective, there are a number of serious key constraints and issues that are outside of the control of the applicant to deliver this road objective.

- 8.3.8. In the first instance, having regard to figure 3 above, it is evident that the indicative route of the relief road is on lands which are outside of the control of the applicant and as such would require consent from the relevant landowners in order for them to construct. Secondly, there is currently no route identified for the final location of the relief road or design for same, which includes a crossing of the River Liffey. Finally, the provision of this relief road has not been detailed within the adopted Development Contribution Scheme for Kildare County Council and it further appears that the provision of this road objective is not listed within the Capital Programme for Kildare County Council, 2025-2027.
- 8.3.9. I consider that the findings of the Traffic Assessment submitted indicate that the proposed development will have a moderate to significant impact on the operation of the junction of the R413/R448 in the AM peak. The assessment identifies mitigating factors which will offset the impact on this junction and include for active travel modes being promoted as part of the overall layout. It also recognises that it is an objective of the (previous) LAP to implement capacity improvements at this junction in addition to the provision of the relief road. These are two issues which were subject to conditions attached to the grant of permission. Condition no. 19 requires the developer to undertake upgrade works to the Junction of the R448/R413 and condition no.15 required the payment of a Section 48(2)(c) Special Contribution in relation to the delivery of the relief road. I have discussed these two issues further under Section 8.7 of my report below.
- 8.3.10. Having regard to the constraints set out above, there are a number of issues which need to be overcome by the Local Authority in order for this relief road objective to be provided and the upgrade works to be undertaken to the junction of the R448/R413. I will discuss this further under Sections 8.7.23 to 8.7.34 of my report below.

8.4. Permeability

- 8.4.1. The main concern raised within the 3rd party appeal relates to the proposed pedestrian/cycle connection from the proposed development to the adjoining

established residential area of Sunbury Close located to the west. It is contended that there is no basis for the provision of this connection and that it will negatively impact upon the current level of amenities enjoyed by the residents of this area. The appellant has requested that the proposed connection from the proposed development to Sunbury Close be omitted.

- 8.4.2. The appellant further contends that a connection to St Brigid's Avenue, located to the south of Sunbury Close, would offer greatest opportunity for encouraging permeability and that the connection to Sunbury Close would only benefit a number of the proposed dwellings and not the wider development. It is further contended that Sunbury Close is too narrow to facilitate any additional traffic and this is evident in that bin lorries have to reverse its length as no room to turn therefor making it not suitable for pedestrian/cycle thoroughfare.
- 8.4.3. I note that there are a number of objectives set out within Kilcullen Settlement Plan which seek to promote the inclusion of high-quality active travel links within the Kilcullen area in an effort to promote more sustainable modes of travel. I note specifically Objective ST KL73 of the Kilcullen Settlement Plan seeks to ensure that the design and layout of new developments enable, facilitates and encourages the use of sustainable travel modes.
- 8.4.4. The proposed layout is seeking to provide for a number of active travel connections from the western boundary of the subject site to adjoining residential areas which in turn will provide for alternative pedestrian/cycle connection to the centre of Kilcullen. The connection proposed which is causing most concern to the 3rd party appellant will connect into to an area of open space located within the Sunbury Close estate. From undertaking a site visit I note that currently the area of open space within Sunbury Close is located in a manner with limited passive surveillance only being provided from a side ope of no. 6 Sunbury Close.
- 8.4.5. I do not accept the concerns raised by the Appellants in this instance with regard to the proposed pedestrian cycle connection. Having regard to the inclusion of the pedestrian and cycle route which runs along the western boundary of the site and provides a connection into each of the cluster of dwellings, I do not accept that the connection to Sunbury Close will be limited. I further consider that this connection will enhance passive surveillance of the area of open space in Sunburry Close from the

dwellings proposed within this development. I note that dwellings located in cluster no. 3 will also provide enhanced passive surveillance on the area of open space located in Sunbury Close in addition to surveillance of the active travel connection. The closest dwelling to this active travel link (unit CL03-24) comprises of a 1 bed apartment at ground floor with a duplex above. Access to this unit is provided from the side elevation which address directly opposing the active travel link. This in turn will promote active street frontage.

- 8.4.6. Overall, I consider that the inclusion of this active travel connection is supported by a number of policies within the Kilcullen Settlement Plan, most notably Objective ST KL73, and furthermore by Section 5.4.1 of the Kildare County Development Plan 2023-2029 and most notably Policy TM P2 and Objective TM 021 which seek to promote the provision of possible future connections to pedestrian/cycle links and improve permeability between existing and proposed developments.
- 8.4.7. The 3rd Party Appellant also raised a further concern over Condition no. 18 as it was considered that the wording of the condition is unclear, and it does not clarify where the exact location of the proposed connection will be. Furthermore, reference is also made to failure of the tree surveys submitted to identify a number of mature trees along the shared boundary with Sunbury Close.
- 8.4.8. Condition no. 18 of the grant of permission requires that the applicant submit detailed drawings, for the written agreement of the Planning Authority, for the Permeability Links proposed. The exact wording of this condition is set out above, in section 4.1.7 of my report. The condition also includes for details of the widths required and that the link shall be in-situ prior to the occupation of any new residential unit.
- 8.4.9. While I note that the condition does not provide details of the exact location of this active travel connection, I consider that this has been indicated on drawing no. 2105-RDK-PL-190 Proposed Site Layout Plan submitted to the Planning Authority on the 12th April 2025 in response to the request for further information. I therefore consider that all concerns raised with regard to the location and design of the proposed connection will be overcome by way of the inclusion of a similar condition to condition no. 18 of the grant of permission. This condition is also discussed further in section 8.6.38-8.6.43 of my report below.

- 8.4.10. With regard to the concerns raised over the Tree Survey, I note from undertaking a review of the tree survey submitted and in comparison, to what I witnessed on site during my site visit, I would consider the survey to be accurate. The appellant has not provided any evidence as to what the survey submitted has failed to include and I therefore do not accept this contention.
- 8.4.11. The 3rd Party appellants have also stated that Sunbury Close is a private road and that the applicant has not received the legal consent of the residents/owners to provide for the proposed pedestrian and cycle connection. The applicant in the response to the 3rd party appeal has stated that Sunbury Close has been taken in charge by the Local Authority and have submitted an email from the Building Control Section of the Local Authority to demonstrate this.
- 8.4.12. I note that the 3rd Party Appellants have not provided any evidence to demonstrate that Sunbury Close is in private Ownership. From undertaking a review of Kildare County Councils taken in charge list, available at [Estates Taken in Charge as at 10.06.2025.pdf](#) on the 13th August 2025, I note that Sunbury Close has been taken in charge and as such it is not a private road. Therefore, the applicant is not required to obtain the consent of the residents to provide for this connection up to the boundary of the site.
- 8.4.13. The final concern raised with regard to this connection relates to pedestrian/cycle and traffic movements. It is contended that car movements from the existing driveways on Sunbury Close will have restricted views of pedestrian/cyclists and will therefore give rise to increased collisions which results in a traffic hazard.
- 8.4.14. I note that there is an existing footpath located within Sunbury Close where pedestrian movements already occur. While this inclusion of a pedestrian/cycle connection may increase the number of pedestrians utilising this footpath and attract cycle movements, having regard to the existing pedestrian infrastructure, the low traffic counts and speeds, and the low-level nature of the boundary treatments of the dwellings located along Sunbury Close I do not consider that there will be a conflict between pedestrian/cycle movements and traffic movements that would warrant a traffic hazard.
- 8.4.15. The applicant in their response to the 3rd party appeal makes reference to an alternative active travel connection proposed which would link the subject site to the

lands of the Church of the Scared Heart and St Brigid which is located on the north-western boundary of the site. In the first instance I note that the church lands are not within the red line boundary of the subject site and as such the applicant would need to obtain consent to provide this connection. Secondly, providing a link at this point of the site would not benefit the development in terms of connectivity to the village area. An active travel connection to the church would provide a 3rd connection to the New Abbey Road. I consider that the connection to Sunbury Close will provide a more direct link to Mian Street and the Cross and Passion College.

- 8.4.16. Overall, in conclusion I consider that the inclusion of the active travel connections from the subject site to the existing residential neighbourhoods to the west of the site are in accordance with policies and objectives set out within the Kilcullen Settlement Plan and the Kildare County Development Plan 2023-2029, will not negatively impact upon the residential amenities currently enjoyed along Sunbury Close, will provide for increased passive surveillance, and will not give rise to a traffic hazard. I therefore do not recommend that the Commission remove these connections by way of condition.

8.5. Design and Layout

- 8.5.1. The 3rd Party Appellant considers that the overall layout of the proposed development has failed to meet the principles of good urban design as prescribed within the Kildare County Development Plan 2023-2029 as it fails to create a sense of place, does not provide for high qualitative standards and fails to comply with the requirements of the 'Urban Design Manual -A Bes Practice Guide (2008).
- 8.5.2. It is further contended that the layout proposed is contrary to the correct approach to residential development as established by the Guidelines for Planning Authorities on Sustainable Development in Urban Areas (2009) as the layout has failed to protect the amenities of the directly adjoining neighbourhoods and the general character of the area and its amenities. It is considered by the 3rd party appellant that any assessment of the proposed development must conclude that the layout has failed to evolve naturally from the site and its environs and is an inappropriate response to the boundary conditions that results in negative impacts on adjoining residential amenities and privacy.

- 8.5.3. The western section of the site shares its boundary with the established residential areas of Sunbury Close, St Brigids Avenue and Conroy Park. The dwellings located within the north-western section of the site, namely cluster 3,4 and 5, are segregated from the western boundary of the site by the linear park which provides for the cycle and pedestrian routes through the development. As such, I do not consider that the proposed dwelling would give rise to a negative impact upon the residents of these established areas in terms of overbearance, overlooking or overshadowing having regard to the separation distance being provided.
- 8.5.4. The northern section of the site, which is zoned under Objective TC-Town Centre, shares its boundary with the Church of the Sacred Heart and St. Brigid which is a Protected Structure (RPS B28-28). The proposed layout has provided for 5 no. type f dwellings which directly address the New Abbey Road and share the boundary with the adjoining church grounds. Type F dwellings are 3 storey semi-detached dwellings which are finished with a ridge level of c.10.126m. The finishes for these units includes for the use of brick at ground floor level with a render on the remainder of the elevation. The units are also designed to appear as a two-storey dormer unit.
- 8.5.5. Drawing no. 2105-RDK-PL-320, submitted to the Planning Authority on the 11th December 2024, provides for a contiguous elevation along the New Abbey Road which demonstrates the relationship between the proposed dwellings and the Church of the Sacred Heart and St. Brigid. While the side elevation of unit no. CL01-01 (the closest to the western boundary) is set in close proximity to the western boundary of the site, the parochial centre (which was the former primary school building) is set off from the shared boundary. I consider that this separation distance reduces the overall impact the proposed has upon the Protected Structure and therefore the development will not negatively impact upon the curtilage of the Church of the Sacred Heart and St. Brigid or upon the former school, which is identified on the NIAH.
- 8.5.6. I note that the 3rd party appellant has stated that the proposal fails to comply with the Kildare County Development Plan 2023-2029 in term of the design and layout and a number of other national guidance documentation. However, I further note that no other evidence in terms of an assessment or references to relevant development plan policies have been included to support these statements.

- 8.5.7. The application has been accompanied by a design statement which was prepared by the project architect and demonstrates how the proposed development has been considered in terms of the 12 no. criteria of the Urban Design Manual and Objective UD01 of the Kildare County Development Plan 2023-2029 which seeks to 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.
- 8.5.8. Having reviewed the Architect Design Statement, I accept the conclusion of the architects' statement and consider that the proposal fully complies with the 12 no. criteria of the Urban Design Manual and consider that the development mix of unit types, the proposed active travel connection links, the inclusion of the commercial and social floorspace, in terms of the creche, and the overall layout in terms of the clustering of units will provide for a sustainable community and high level of residential amenity.
- 8.5.9. While I note that the Planning Officer raised some concern over the design of the proposal at further information stage this related primarily to the height of the proposed commercial units. This issue was adequately addressed by the applicant.
- 8.5.10. I would further draw the Commissions attention to Appendix 7.1 and 7.2 of the Architects Design Statement which sets out a Compliance Table and a Housing Quality assessment which both demonstrate that the proposed scheme complies with all the relevant objectives and standards of the Kildare County Development Plan 2023-2029 and that each unit complies with the relevant sequential standards of the relevant Section 28 Guidelines including Quality Housing for Sustainable Communities, 2007 and Sustainable Urban Housing: Design Standards for New Apartments, 2023. Having reviewed both of these assessments I accept the findings and not that the development is in full compliance with all relevant standards.
- 8.5.11. I therefore, do not accept the assumptions made by the appellants and consider that the proposal represents a high-quality residential scheme which will afford all future residents a high quality of amenity and is in keeping with the established character of the area and not be visually dominant. I consider that the proposed development would be in keeping with principles of good urban design as prescribed within chapter 14 Urban Desing, Placemaking and Regeneration of the Kildare County Development Plan 2023-2029 with a specific reference to Objective UD01.

8.6. Public Open Space

- 8.6.1. The 3rd Party Appellant has raised concern over the quality, quantity and location of the proposed open space being provided. It is argued that a significant amount of the open space being provided is located within agricultural zoned lands to the south-east of the dwellings being proposed and that the quantum being provided is less than the 15% required by the Kildare County Development Plan. It is further contended that the majority of the public open space is more akin to communal open space in terms of its locations and layouts.
- 8.6.2. The applicant has indicated that it is proposed to provide for 0.96ha of open space to serve the proposed development all of which is located within the residential zoned lands. The provision of c0.96ha of open space would equate to 16.2% of the site area. This was considered to be acceptable to the Planning Authority and would accord with the requirements of Section 15.6.6 of the Kildare County Development Plan 2023-2029. Furthermore, the Parks department of the Local Authority did not raise any concern over the proposed open space. I therefore consider the quantum of open space being provided to be acceptable.
- 8.6.3. The open space has been configured in a manner where two principal areas have been provided in the southern section of the site within cluster 7 and cluster 11 and are surrounded by dwellings which will provide for passive surveillance. There are also a number of smaller areas located in the northern section of the site and a linear parkway which provides for pedestrian and cycle infrastructure running along the eastern section of the site. All areas of public open space are fully accessible from the road and pedestrian footpath network within the site and are not enclosed. I therefore do not accept the concerns raised with regard to the open space appearing to be communal open space and consider the layout to be acceptable.
- 8.6.4. The applicant in response has stated that the calculation of the open space provision did not include any land zoned for agricultural purposes and that this area has been provided as an addition to the overall provision.
- 8.6.5. I would draw the Commissions attention to Section 15.6.6 of the Kildare County Development Plan 2023-2029 which sets out the requirements of the provision of open space to serve residential developments. This section of the County Plan does not

prohibit the use of non-residential zoned lands for use as open space to serve residential developments.

- 8.6.6. Overall, I consider that the open space proposed would comply with the requirements of Section 15.6.6 of the Kildare County Development Plan 2023-2029 in terms of the quantum being provided and its location within the development, is not akin to communal open space in terms of its locations and layouts and would provide for a high quality public space that will be useable by not only the new population generated by the proposed development but also the existing surrounding residents.

8.7. **1st party Appeal against Conditions**

- 8.7.1. The applicant has lodged a 1st party appeal against 16 of the 51 no. conditions attached to the grant of permission issued by the Planning Authority. I note that the exact wording of each of the conditions appealed have been set out in section 4.1, summary of decision, of my report above and I do not feel it necessary to re-iterate them again under this section.
- 8.7.2. I have set out and undertaken an assessment of each of the conditions subject to this 1st party appeal below:

Condition no. 3 – reduction in the height of commercial block.

- 8.7.3. During the assessment process the Planning Authority raised concern over the height of the proposed commercial block (Block C) which is located in the northern section of the site where the site is zoned under objective A – Town Centre. This gable fronted block was originally proposed at 4 storeys in height. The Planning Officer considered within their assessment that while it is accepted that the town centre portion of the site could accommodate more dense typologies, there are concerns that the proposed 4-storey commercial block and some of the 3 storey blocks in close proximity to existing single and two-storey houses may negatively impact the visual and residential amenities of the area.
- 8.7.4. On foot of the concerns raised the applicant was requested to reconsider the need and viability for the 4 storey commercial building and was requested to revise the height and scale to a more suitable scale. It was stated that the building should not exceed 3 storeys. In response the applicant submitted 2 new options for the height of the commercial building for the Planning Authorities consideration – option (a) saw the

block reduced by 1 storey and option (b) provided for the reduction of the block by a half storey. The Planning Authority concluded that option (a) would be the most preferable and as such condition no. 3 was included within the grant of permission.

- 8.7.5. The 1st party appeal considered that the imposition of this condition would conflict with national policy with a specific reference being made to The Building Height Guidelines for Planning Authorities, 2018. It is contended that the Planning Authority failed to provide any justification for the reduction in height and as such it appears to be an opinion as opposed to in accordance with policy. It is further argued that Block c is set back from the New Abbey Road and will be largely obscured by 3 storey dwellings. Updated Photomontages submitted at RFI stage are considered to support this.
- 8.7.6. In the first instance I note, notwithstanding the town centre land use zoning pertaining to the subject site, that the northern section of the site which block c is located is adjoining the New Abbey Road and to the rear of an existing bungalow dwelling. The established character within this area of Kilcullen is considered to be more rural and sylvanian in nature having regard to the significant mature planting which aligns both the northern and southern side of the New Abbey Road. I further note that within the town centre of Kilcullen the predominant building height is two storeys in nature.
- 8.7.7. From a review of the plans submitted, block c is located on a corner junction which is readily visible on entrance to the proposed development. Dwellings proposed to the front and side of the proposed block c are 3 storey in nature. I consider that the concerns raised by the Planning Authority which are set out clearly to be related to the visual impact the proposal will have upon the established character of the area are warranted in this instance and compounded by the photomontages submitted. I consider that the design and juxtaposition of block c on a corner site and its orientation in a manner which addresses the entrance to the site from the New Abbey Road is at odds with the established character and indeed that of the new character being introduced with this planning application.
- 8.7.8. Section 3 of the building height guidelines sets out a number of criteria which the developer must demonstrate compliance with, in order for a scheme to provide for building heights which deviate from the established pattern of the surrounding area. These criteria relate to the proximity of site to public transport with high capacity, successfully integrate into and enhance the character and public realm of the area and

make a positive contribution to place-making. Having regard to such criteria and the design of the proposed block, I consider that the Commission should retain condition 3, in the instance that permission is granted.

Condition no. 4 – Amendments to cluster 4.

- 8.7.9. The phasing arrangement submitted by the applicant at Further Information Stage and permitted by the Planning Authority for the proposed development would see the provision of a childcare facility being provided as part of the final phase of development on Town Zoned Lands. Condition no. 4 of the grant of permission requires that the applicant revise the layout of cluster 6, which is to be delivered within phase 2 of the development, by omitting a number of houses to provide for a childcare facility. The condition also requires that all relevant plans be submitted for this facility to be agreed in writing with the Planning Authority.
- 8.7.10. The 1st Party Appellant notes that part of block A is to be utilised as a crèche which will cater for 48 no. children which would accord with the requirements of the childcare guidelines for Planning Authorities. It is stated that condition 3(b) of the grant of permission requires that uses of Blocks A, B and C shall be as specified in the details provided only and no further change of use shall take place without a prior grant of permission. The appellant considers that it is unclear if the Planning Authority want them to provide for 2 no. crèche facilities within the scheme and if so, why would this be required given that the creche proposed meets the current standards to serve the development.
- 8.7.11. It is further stated by the appellant that there is no justification for the inclusion of this condition within the planner's report issued and the only justification may be the reason attached to the condition which states '*To ensure that a childcare facility is provided in earlier phase of development*'. However, the appellant considers that if a new childcare facility is required then the provision of such will conflict with condition 2(a).
- 8.7.12. Having reviewed the proposed layout and the phasing arrangement as set out on drawing no. 2105-RDK-PL-199 which was submitted to the Planning Authority on the 11th April 2025 as part of the further information response, I note that the proposed crèche would be provided within Phase 4, the final phase of development. I agree with the assumptions of the 1st party appellant in this instance and consider that the wording of this condition and what it is requiring to be unclear. I do however consider that its

inclusion was to overcome the concerns of the Planning Authority with regard to the delivery of the creche being in the last phase of development.

8.7.13. The appellant has included within their first party appeal an amended phasing arrangement which would see the commercial element of the development, including the creche facility, being delivered within the 1st phase of development. I consider overall that the amended phasing arrangement submitted to the Commission to be a more appropriate approach to the delivery of the development of these lands which will also overcome the concerns raised by the Planning Authority with regard to the delivery of the creche. In addition, having regard to other conditions which were attached to this grant of permission with regard to Transportation requirements, I note that the delivery of the connection to the relief road to the east of the site will be delivered in Phase 1 while the connection to the south of the site will be delivered in phase 2. I consider this to also be of benefit to the Planning Authority.

8.7.14. Therefore, I recommend that condition no. 4 of the grant of permission be omitted and a replacement condition be included requiring the phasing arrangement as set out on drawing no. 2105-RKD-PL198 submitted to An Commission Pleanála on the 16th June 2025 be undertaken. In addition, I consider a further condition should be included to ensure that the crèche facility be completed and ready for occupation prior to the occupation of any dwelling within phase 2 of the development.

Condition no. 11(C) – (E)– Bond relating to Tree and Hedgerow.

8.7.15. This condition requires the developer to lodge a bond of €50,000 for a period of up to 3 years as deemed necessary by the Planning Authority for the protection of trees on and immediately adjacent to the site and to make good any damage caused during the construction period. The condition notes that the bond will be released once the Planning Authority and Parks Section are satisfied with the Arboricultural Assessment report, also required by the condition, is submitted.

8.7.16. The 1st Party Appellant considers that the duration of this condition is excessive and unjustified. It is further contended that this condition also overlaps with condition no. 48 which relates to the taking-in-charge of the development in terms of core services such as surface water, drainage, street lighting and unallocated parking. The appellant has provided a suggestive wording for a condition which would merge condition no.

11 and no. 48 which they are requesting the Commission to include and replace these 2 conditions.

- 8.7.17. In essence the wording of the suggestive condition incorporates the provision of a bond, the amount of which is to be agreed with the Planning Authority, which will secure the satisfactory completion and maintenance of the development until it is taken in charge by the Local Authority in terms of the roads, footpaths, watermain, drains, public open spaces 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.
- 8.7.18. In the first instance I do not accept the appellants contention that condition no. 11 conflicts with condition no. 48 of the grant of permission. The intention of condition no. 11 relates to tree/hedgerow protection and condition no. 48 relates to taking in charge issues relating to infrastructural works. Furthermore, condition no. 48 does not include for a bond. The protection of existing trees/hedgerows, I consider, is a separate issue to that of taking in charge. While the suggestive condition put forward by the appellant may be more succinct than that of condition no. 48, I note that the wording fails to reference the protection of existing trees/hedgerows.
- 8.7.19. Furthermore, with regard to the concerns raised over the duration of the bond, having regard to the nature of the condition relating to the protection of trees/hedgerows and the period of the lifetime of this permission being 5 years, I do not accept that a period of 3 years to be onerous on the appellant.
- 8.7.20. Overall, I do not consider that the suggestive wording put forward by the appellant would allow the Local Authority to ensure the protection of the existing boundary treatments on site and do not accept that the wording of condition no. 11 is conflicting or overlapping with that of condition no. 48.
- 8.7.21. I therefore recommend that the contents of condition no. 11 be retained in order to ensure the protection of trees/hedgerows located on and immediately adjacent to the site. However, I note that condition no.11 and condition no. 50 all relate to the requirement of the developer to pay a bond in respect of the development. In the interest of clarity, I consider that condition no. 11 (c) and (d) should be amalgamated with that of condition no. 50 and the wording be amended to reflect the wording of the

Commissions model bond condition which I consider to be more succinct, in the event that the Commission recommend that permission be granted.

Condition no. 15 –Relief Road Objective

- 8.7.22. A significant objective of the adopted Kilcullen Settlement Plan is the delivery of a relief road which is indicated on plan to be delivered to the east of the Town and the subject development site. The amended layout submitted to the Planning Authority in response to the further information request provided for 2 no. connections from the proposed development towards the relief road which would facilitate connections via 3rd party lands once the relief road becomes operational. Condition no.15 of the grant of permission requires the developer to provide for (a) details of the design of the 2 no. connections from the subject site to the C4 zoned lands and R448 to the south of the subject site and (b) a Section 48(2)(c) Special Contribution of €1,500,000 towards the design and cost of the road objective. The condition states that this special contribution represents 50% of the estimated design costs for the road objective.
- 8.7.23. The 1st Party Appellant in their appeal documentation note that connections were demonstrated on plans submitted to the Planning Authority on the 12th April 2025 in response to the RFI. Cluster 9, 10 and 11 of the proposed development were re-designed to allow for 2 no. indicative connection points for the proposed relief road route. It is contended that the appellant does not have legal interest in the land to the south to achieve the provision of a connection to the R488 and that this was relayed to the Planning Authority on numerous occasions. Therefore the 1st party appellant considers that part of the requirement of Condition 15(a) cannot be legally imposed.
- 8.7.24. The appellant has requested that condition no. 15 be removed in its entirety and the Commission include for a new condition requiring the proposed 2 no. road connections be constructed up to the site boundary to facilitate future connectivity by others in accordance with the design changes made during RFI Stage.
- 8.7.25. The R448 runs to the west of the subject site and is the main spinal route through the town of Kilcullen. The appeal site does not share any direct boundaries with this road. Any connection from the appeal site to the R448 directly would have to transverse lands which are outside the red line boundary of the subject development and lands which the applicant does not have legal interest in. Therefore, I accept the argument put forward by the 1st Party appellant and consider that the wording of the condition

15(a) should be amended to omit any reference to the requirement to provide a connection to the R448.

- 8.7.26. I note on foot of the amendment I have suggested to condition no. 4, as set out in sections 8.7.13 – 8.7.14 of my report above, the phasing arrangement of the development would be altered. In the event that the Commission accept the new phasing arrangement I note that the proposed road connection to the east would be delivered in phase 1 and the second, located to the south, would be delivered in phase 2. I therefore consider that the wording of condition 15(a) should be amended to include for a pre commencement condition that the design of the 2 no. connections to the adjoining lands to the east and south, indicated on drawing no. 2105-RDK-PL-190 'Proposed Site Layout Plan – RFI Sub' submitted to the Planning Authority on the 12th April 2025, be agreed prior to the occupation of any dwellings.
- 8.7.27. With regard to subsection (b) of condition 15, the appellant considers that the condition does not stipulate what specific road objective is being referred to and that no breakdown has been provided as to how this design cost was arrived at. It is contended that no rationale has been provided as to why the applicant should have to pay 50% of the road costs when other lands zoned new residential and other lands which have the potential to be zoned, in the future once the route of the relief road is finalised, will also benefit from the provision of this road. Furthermore, the appellant states that other development on the C1 lands to the west of the road objective were not subject to a similar condition and that the provision of this relief road was an objective within the 2014-2020 Local Area Plan for Kilcullen.
- 8.7.28. The second report of the Transportation Section of the Planning Authority dated the 15th May 2025 includes for a drawing showing the rough location of the future road and the 2 no. connections proposed from the subject site. The report states that the financial contribution is towards the stages required by Transport Infrastructure Ireland (TII) to include the following: scope and pre-appraisal; concept and feasibility; options selection; design and environmental evaluation; statutory process; enabling and procurement. However, no breakdown of the contribution requested is provided either within the Planners Report or the Transportation Report of what each stage required will cost and how the assumption of 50% of the road was arrived at.

- 8.7.29. From assessment of the Kilcullen Settlement Plan, I note that the objective for the relief road runs on the north south axis to the east of the town centre. The objective runs to the south-east and south of the site but does not abut the site directly. Furthermore, there is no phasing arrangement set out within adopted Settlement Plan tying the delivery of this road objective to the development of the subject lands.
- 8.7.30. While the proposed development will benefit from this road once it has been provided, having reviewed the documentation submitted by the planning authority I am not satisfied that the appealed condition can be properly described as 'special contribution' conditions formulated in accordance with the relevant provisions of Section 48(2)(c) of the Planning and Development Act 2000 (as amended).
- 8.7.31. Sub-section 48(2)(c) of the Act states that *'a Planning Authority may, in addition to the terms of a scheme, require the payment of a special contribution in respect of a particular development where specific exceptional costs not covered by a scheme are incurred by any local authority in respect of public infrastructure and facilities which benefit the proposed development.'*
- 8.7.32. I consider that the contribution set out within the subject condition, relates to an objective of the Settlement Plan which is not covered within the adopted development contribution scheme and has not been subject to a detailed design, identified route or timeline for delivery. Furthermore the condition does not relate to *specific exceptional costs* insofar as none of works set out appear to be sufficiently specific to be compatible with the terms of Section 48 (12)(a) of the 2000 Act (as amended) nor so exceptional as to be incapable of incorporation within the terms of a development contribution scheme formulated in accordance with this section of the Act, and that the costs specified within sub section (B) of the condition, although not referred to in the adopted development contribution scheme, are nevertheless appropriate for apportionment under such a scheme and, indeed appear to be applied by the planning authority as if the roads charges did fall to be so considered.
- 8.7.33. There is no evidence on file of the formal adoption by the planning authority of any other than the 'general' Contribution Scheme made under Section 48 of the Act although such further schemes are specifically provided for (under sub-section (2)(a)) in respect of different parts of its functional area.

8.7.34. Having regard to the considerations set out above I am satisfied that the planning authority may have acted ‘ultra-vires’ its powers under the Planning and Development Act 2000, as amended, in attaching Condition no. 15. Accordingly, I would recommend that this condition be omitted.

Condition no. 16 – footpath and associated lighting

8.7.35. This condition requires the applicant to provide for a 2m wide footpath and associated public lighting for a period of 655m along the New Abbey Road as indicated on drawing no. 22014-C-DR-111 Rev PL2, submitted to the Planning Authority on 11th December 2024.

8.7.36. The appellant notes in their appeal that the drawing originally submitted to the Planning Authority indicated an indicative route for a footpath along the New Abbey Road, however the indicative route is located on lands outside of the applicant’s ownership. It is contended that there is no need for this infrastructure as part of the pathway would eventually have to be removed to facilitate the new relief road. It is considered by the appellant that this condition is ambiguous, would not be of benefit to the development and it is requested that the Commission remove it.

8.7.37. This condition is requiring works to be undertaken on lands which are outside the red line boundary associated within this application and I note that the LRD application was not accompanied by any letter of consent from adjoining landowners. While I note that the drawing submitted to the Planning Authority on the 11th December 2024 set out a indicative route, the applicant does not have the legal interest to undertake these works.

8.7.38. As set out above, under section 8.4 of my report, the proposed development will now provide for 2 no. active travel connections which will comprise of both cycle and pedestrian connections to Main Street Kilcullen. This in turn will obviate the need for pedestrians to walk along the R413 to reach the centre of Kilcullen. Therefore, given that the applicant has limited legal interest along the R413 and the proposal to include for 2 no. new active travel connections to the centre of Kilcullen from the subject site, I do not consider that this condition is warranted, and I therefore recommend it be omitted.

Condition no.17 – Widening footpaths on the R413

- 8.7.39. This condition requires the applicant to provide details of the proposed connection and widening of the footpath improvement works on the R413 between the two new vehicle junctions to serve the proposed development which will be undertaken at the cost of the developer. In the interest of clarity, I note that the R413 is also referenced as the New Abbey Road.
- 8.7.40. The appellant considers that there are currently insufficient road widths along the route to undertake these works without impacting the existing roadside boundary and hedgerows and that the geometry of the road also does not allow for pedestrian facilities on the eastern side of the R413. Furthermore, it is contended that the applicant does not have the legal interest to undertake these works.
- 8.7.41. The appellant further notes that the proposed scheme will provide for a footpath along the R413 to serve the existing dwellings located to the south of the east of the proposed access which will in turn create a continuous pedestrian route between these houses and the Town Centre eliminating the need for pedestrians to cross the R413 at an undesirable location. Furthermore, it is noted that a zebra crossing will also be provided on the R413 immediately west of the northern access to the site connecting the development to the northern footway and amenity walkway.
- 8.7.42. I consider that this condition is a repetition of condition no. 16 and having regard to my comments above, under section 8.7.35-38, I do not consider that an additional condition requiring the same is required. Therefore, I recommend that condition no. 17 be omitted.

Condition no.18 – Permeability Links/Active Travel Link

- 8.7.43. This condition requires the applicant to submit details of the design of the permeability links to the Planning Authority. It requires these links to be a minimum of 3m in width and that the works shall be financially covered by the developer. Sub-section B of this condition requires that these links be provided prior to the occupancy of the new residential units. I note that the provision of the active travel link to Sunbury Close has been raised as a principal concern of the 3rd Party Appeal submitted to the Commission in relation to this development.
- 8.7.44. The 1st Party Appellant considers the wording to be ambiguous and requires some level of clarity over what links the wording is referring to and whether they are located outside the control of the developer. It is stated that it is unclear if the condition is

requiring the developer to pay for works which are located outside the red line boundary of the appeal site. The appellant raises concerns that the condition requires the works to be delivered prior to the occupation of the units when the works required may be dependent on the agreement of 3rd parties such as the Local Authority and that this is unreasonable.

8.7.45. The 1st Party Appellant notes that design details of the proposed cycle/pedestrian connection to Sunbury Close were provided to the Planning Authority, as requested, in the understanding that the Local Authority would construct the infrastructure on the land within their ownership with the applicant provide for a reasonable financial contribution for same. Further concern is raised by the 1st Party Appellant that they may not be able to obtain consent from 3rd party land owners given the large number of objections received which relate to this connection. The applicant proposed, at application stage, an alternative pedestrian/cycle connection to the north to the church grounds.

8.7.46. In the first instance, I note that I do not accept the concerns raised by the 3rd party appellant with respect to the provision of the active travel connection from the appeal site and this has been clearly demonstrated within section 8.3 of my report above. The provision of the proposed active travel connections are clearly supported by a number of objectives within both the Kilcullen Settlement Plan and the Kildare County Development Plan 2023-2029. Furthermore, I do not accept the concerns raised by the 1st party appellant with regard to obtaining consent from 3rd parties within Sunbury Close. As set out under 8.3.12 of my report above, Sunbury Close is within the control of the Local Authority and as such the only consent required would be from the Local Authority who are seeking the developer to provide this connection. As such, I do not consider there will be any delay occurred by the developer in terms of delivery.

8.7.47. I do not consider the wording of the condition to be ambiguous. The proposed site layout plan (drawing no. 2105-RDK-PL-190) submitted to the Planning Authority on the 12th April 2025 provides for 2 no active travel connections from the proposed development along the western boundary of the site connecting to Sunbury Close and also to St Brigid's Avenue. I therefore consider that condition no. 18 is requiring the developer to provide details of all Permeability Links for the written agreement of the Planning Authority to the specifications set out within the condition. Furthermore, I do not consider sub section (b) to be onerous on the developer given that the 2 no.

Permeability Links will now be located within phase 1 of the development, having regard to my comments under section 8.7.14 - 8.7.15 of my report above where I have recommended an amended phasing scheme, which was put forward by the developer, by condition. I further consider that in the event the Commission seek to retain this condition that the wording be slightly amended to seek that the works, as described in the specified drawing, are undertaken up to the red line boundary of the site.

- 8.7.48. The appellant has further requested that in the event the Commission consider these works necessary that the cost of the works be credited against condition no.51 of the grant of permission which prescribes the financial contribution for the proposed development. On review of the adopted Kildare Development Contribution Scheme 2023-2029, I note that works to provide for active travel links are not covered within the scheme. Therefore, these are additional infrastructure links which will benefit the development and should be provided by the developer. I do not recommend that the Commission credit these works against the development contribution levy subject to this development.

Condition no.19 – Signalised junction at R448/R413

- 8.7.49. This condition requires the developer to undertake upgrade works to the existing signalised junction of the R448 and R413 which is situated within the centre of Kilcullen Town approximately c.200m to the west of the subject site. The condition prescribes details of the specifications of the upgrade works that the Local Authority would require and requires the cost of the design supervision and delivery of all works described should be borne solely by the Applicant.
- 8.7.50. The 1st Party Appellant contends that these works are outside the red line boundary associated with the appeal site and as such they would not have the legal interest to undertake these works. It is further contended that the legality of this condition is questionable given that the works should have been subject to a Section 49 Special Contribution. The appellant further notes that upgrade works to this junction were not included as a condition for any other development within Kilcullen, most notably the permission granted for upgrade works to the Cross and Passion School.
- 8.7.51. The 1st Party Appellant considers that it is unclear as to why they should be subject to the costs for the upgrade works of a central junction which will in turn benefit other developments within the vicinity. The appellant further notes that they are happy to

pay a special contribution toward a proportion of the costs that would be accrued by the Local Authority to undertake these upgrade works. It is further requested that in the event the Commission decide to retain this condition, that the cost for these works be credited against condition no.51 of the grant of permission which prescribes the financial contribution for the proposed development.

8.7.52. The applicant was requested to address this issue under item 5 of the request for further information. In response to this the applicant conveyed to the Planning Authority that this area is not within the ownership of the Applicant. Delivery of a detailed design for the improvement works to this junction as suggested within the condition would require public consultation. The report from the Transportation Section dated the 15th of May 2025 which relates to the further information submission does not offer any assessment of the comments made by the applicant in response to item 5 but rather states that if a decision to grant permission is made, then a condition requiring this work be included.

8.7.53. I acknowledge that there is currently a constraint within the wider area with regards to traffic congestion and that this was demonstrated within the Traffic and Transport Assessment submitted by the applicant which I have discussed under Section 8.3 of my report above. Objective STKL85 of the Kilcullen Settlement Plan seeks to implement safety and / or capacity improvements as necessary at the junction of the R448 and R413. However, the undertaking of these works have not been levied as a special development contribution or included within the adopted Kildare Development Contribution Scheme. I consider that these works would be suitable for appointment under the general contribution scheme.

8.7.54. I accept that the junction subject to this condition is located outside the red line boundary of the subject site and located centrally in Kilcullen Town. While I note the development will generate additional levels of traffic which will utilise this junction, I consider this condition to be financially onerous on the applicant and accept the concerns raised by the appellant. Furthermore, as with condition no. 15 above, I do not accept that this condition would meet the requirements of Section 48(2)(C) of the Planning and Development Act 2000, as amended.

8.7.55. In the first instance I note that the contributions set out in condition no. 19 relates to upgrade works which are located outside of the control of the applicant. Secondly, the

works do not relate to specific exceptional costs insofar as none of works set out appear to be sufficiently specific to be compatible with the terms of Section 48 (12)(a) nor so exceptional as to be incapable of incorporation within the terms of the adopted development contribution scheme for Kildare as formulated in accordance with this section of the Act. The Planning Authority within their assessment have not provided a rationale or a costing breakdown for the works included within this condition. There is insufficient certainty in respect of the scope and extent of works required and the associated costs.

8.7.56. Having regard to the considerations set out above I am satisfied that the planning authority probably acted 'ultra-vires' its powers under the Planning and Development Act 2000 in attaching condition no. 19. I therefore recommend that condition no. 19 be omitted.

8.7.57. Were the Board minded to include a condition under S.48(2)(c) in this regard, I would recommend that the contribution be proportionate to the increased traffic volumes likely to be generated by the proposed development at this junction, as outlined in the submitted Traffic and Transport Assessment.

8.7.58.

Condition no.21 – New Toucan Crossing X2

8.7.59. This condition requires the developer to provide for two no. toucan crossing along the R488 which are seeking to link the proposed new cycle track for the upgrade to the Cross and Passion School which was granted permission under PA Ref. 22-993 and that the developer should obtain the written approval of the Local Authority and arrange for the installation of such.

8.7.60. The 1st Party Appellant argues that the 2 no. toucan crossings are part of the overall Active Travel design for the Cross and Passion School and are subject to condition no. 12 of the PA Ref 22/993. It is contended that the Planning Authority is now requiring the applicant to prepare a design and arrange for the new installation of these 2 no. toucan crossings in lieu of the contractors for the school and it is considered that this is unreasonable. Again, the appellant notes that they are open to a proportional contribution towards the cost of the delivery of the infrastructure if it will benefit the proposed development directly.

- 8.7.61. Having reviewed the grant of permission issued by Kildare County Council under PA Ref 22/993 which relates to the increase in the pupil numbers of the Cross and Passion School, I note that condition no. 12 requires the payment of a special contribution towards the cost of installation and commissioning of traffic control signs for 2 no. new Toucan Crossings along the R448.
- 8.7.62. I do not consider that the appellant should be required to provide for a detailed design or the installation of these 2 no. toucan crossings given that they have been included as part of the permission granted under PA Ref 22/993. I therefore recommend that this condition be omitted.

Condition no.23 - permeability/Active Travel links.

- 8.7.63. This condition requires the developer to facilitate the delivery of the permeability links for walking and cycling. The 1st Party Appellant considers that it is unclear as to what this condition is requiring and the requirement to liaise with the Planning Authority and 3rd Parties is vague and ambiguous.
- 8.7.64. Having regard to my comments set out under section 8.6.38 to 8.6.43 of my report and condition no. 18 of the grant of permission I consider that this condition is not required and essentially is a repetition of the requirements of condition 18. I therefore recommend that condition no. 23 be omitted.

Condition no.25 – EV Charge points

- 8.7.65. This condition relates to the delivery of EV charging points which requires the developer to provide for dual electrical charge points for in-curtilage parking, dedicated points to be provided adjacent to on-street parking spaces which are operated on a metered basis. The condition further requires the developer to submit the design details of the charging points to the Planning Authority for their written agreement.
- 8.7.66. The 1st party appellant has raised concerns about the last line of the condition which requires the design details of the charging points to be submitted for the written approval of the Planning Authority prior to the commencement of the development and the charging points shall be in operation prior to the occupation of units. The appellant considers this to be ambiguous and assumes that each unit will have an electric car/hybrid. The appellant states that they are happy to provide adequate ducting for EV Charging but final connection will depend on the make and model of any EV

belonging to the owner and they have provided for an alternative wording for the condition which is as follows:

In-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the house and non-curtilage car parking spaces serving the residential units shall be provided with functional electric vehicle charging points 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 for the written agreement of the Planning Authority prior to the commencement of development.

REASON: To provide for and/or future proof the development to facilitate the use of electric vehicles.'

8.7.67. Table 15.9 of the Kildare County Development Plan 2023-2029 set out the electric vehicle charging infrastructure requirements for the county. It states that for new buildings or buildings undergoing major renovations (containing one or more than one dwelling) that the requirements shall accord with Objective TM 0117 and TM O118 of the County Plan and for New buildings or buildings undergoing major renovations other than a dwelling the requirements are as prescribed under Objective TM0117 of the County Plan.

8.7.68. Objective TM 0117 of the Kildare County Development Plan 2023-2029 requires that developments for one or more dwellings shall install ducting infrastructure for each car parking space to enable the subsequent installation of recharging points for electric vehicles. TM 0117 also requires that developments, other than residential development, shall install at least one recharging point and ducting infrastructure for at least one in every 5 car parking spaces to enable the subsequent installation of recharging points for electric vehicles. Furthermore, objective TM 0118 of the Kildare County Development Plan 2023-2029 requires that *"the electrical wiring that developers install for all new residential units includes for a double socket Home Charge Point for Electric Vehicles in order to comply with the Sustainable Energy Authority of Ireland (SEAI) Triple E Register and to promote the use of night-time renewable electricity in transport. In this regard developers shall provide for within curtilage/driveway car parking unless otherwise agreed in writing with the Planning Authority."*

8.7.69. Having regard to the requirements of Objective TM0117 and TM 0118 of the Kildare County Development Plan 2023-2029 I consider that the wording of condition no. 25 and its requirements to be appropriate and therefore recommend that it be retained. In addition, the wording should ensure that the correct provision of charging points and ducting be applied to the commercial element of the development.

Condition no.28 – Stage 2 Road Safety Audit

8.7.70. Condition no. 28 requires the developer to submit a stage 2 Road Safety Audit relating to the road objective, junction connections, internal arrangements and the interface with the existing public road / footpath network/ permeability links. The appellant considers that requiring the applicant to prepare a RSA relating to the road objective is ambiguous as the objective pertains to lands which are outside of the ownership of the applicant.

8.7.71. Furthermore, the appellant considers the condition is unclear as to what junctions the condition is referring to whether it be the junction from the subject site to the new road or potential junctions along the entire proposed road. The Appellant has requested that all references to the relief road objective be omitted from the condition.

8.7.72. I accept the concern raised with regard to the language of the condition being unclear. The relief road, as stated on numerous occasions within my report, has not yet been designed or built so it would not be possible for the applicant to include it within the RSA.

8.7.73. However, I consider that in the interest of traffic and pedestrian safety that a Stage 2 Road Safety Audit should be undertaken prior to the commencement of development and relate to all internal roads and the 2 no. proposed junctions serving the site from the New Abbey Road. As such, condition no. 28 should be retained with the wording amended.

Condition no.29 – Stage 3 Road Safety Audit

8.7.74. This condition requires the submission of a stage 3 Road Safety Audit to be submitted to assess the internal areas of the proposed development, interface with the existing public road / footpath network/ new upgraded junction and Walking and Cycle access points onto adjoining residential estates through filtered permeability links.

8.7.75. The 1st Party Appellant contends that the wording of this condition is ambiguous and unclear as what public road or what junction upgrade is being referenced. The appellant has requested that wording of the condition relates solely to the works proposed as part of this development.

8.7.76. I consider, as set out under section 8.6.62 above, as per with the Stage 2 RSA condition the wording of this condition is also unclear. I consider that in the interest of traffic and pedestrian safety, again, that a Stage 3 Road Safety Audit should be and relate to all internal roads and the 2 no. proposed junctions serving the site from the New Abbey Road. In addition, the stage 3 should also include for an assessment of the 2 no. active travel connections along the western boundary of the site. As such, condition no. 29 should be retained with the wording amended.

Condition no. 34 – Surface Water Runoff.

8.7.77. This condition states that no surface water from the site shall discharge onto the public road network at the signalised junction. The 1st Party Appellant considers the wording of this condition to be ambiguous and it is unclear what junction the condition is referring to or why a standard surface water condition would not suffice.

8.7.78. I accept the concerns raised and consider it is unclear as to what junction the condition is referring to as the proposed development will provide for 2 no. new junctions with the New Abbey Road. I consider that the Commissions standard surface water condition would be more appropriate in this instance and should therefore replace condition no. 34.

Condition no.50 – Bond condition for taking in charge

8.7.79. This condition is requiring the developer to lodge a bond of €360,000 in respect of and satisfactory completion of open space and of services. Subsection (b) of the condition states *‘if the development has not commenced within one calendar year from the date of the grant of this permission or is carried out on a phased or staged basis, Kildare County Council may at its absolute discretion require an increase in the amount of the foregoing Bond or lodgement corresponding with the increase or estimated increase in the cost of the provision and completion of the services above described, and in the manner provided for, and which may have occurred since the aforesaid date.’*

8.7.80. The 1st Party Appellant considers that in view of all the other restrictions imposed on the Applicant within the conditions of this permission which may take some time to

arrange and comply with given that some require the consent of 3rd party land owners and the Local Authority, that this condition could also be used as a penalty clause against the applicant in the circumstance where agreement is not reached within 1 calendar year. It is requested that the reference to the increased bond if development not commenced within 1 calendar year should be omitted.

8.7.81. I note that this is one of 2 no. conditions requiring a bond be paid to the Planning Authority and I have set out under section 8.6.16 to section 8.6.22 of my assessment above that these 2-no. condition (condition no. 11 and condition no. 50) should all be amalgamated in the interest of clarity and the reference to extending the timeline be omitted and replaced with the Commissions model condition relating to the provision of a bond.

8.7.82. I consider that the intention of the Planning Authority to include for a time limit and increase in the amount stated within the condition allows for them to be covered in the instance that anything occurs with the developer that they may not be able to deliver the development to the taking in charge standard of the Local Authority. I consider that the inclusion of this subsection is a way for the Planning Authority to ensure the level of residential amenity being delivered for any future potential residents will be to a high standard.

8.7.83. While I agree with the intention of the Planning Authority to provide for some level of security, I do not consider that wording of the condition can be open-ended in terms of an increase in the amount initially stated. I consider that the wording should be amended to include for the bond payment to be index linked which in turn will still cover the Planning Authority in the event that the Developer may not be able to complete the works.

8.7.84. I therefore recommend that this condition be retained, amalgamated with condition no. 11. The wording of the bond condition should reflect that of the Commissions model bond condition which is to be index linked.

Condition no.51- Financial Contribution.

8.7.85. Condition no. 51 of the grant of permission requires the applicant to pay a financial contribution of €1,407,471.00 in line with Section 48 of the Planning and Development Act, 2000 (as amended) and the adopted Kildare Development Contribution Scheme 2023-2029. The 1st Party Appellant has contended that the Planning Authority has

incorrectly calculated the financial contribution. It is argued that the development located on the TC-Town Centre zoned lands should have benefited from a 33% reduction. The appellant has set out within appendix D of the appeal submitted the total floor area which is located within the TC Zoned lands should have provided a reduction of €160,228.40. Overall, it is contended that the financial contribution should have been €1,247,242.60.

8.7.86. A response from the Planning Authority received by the Commission on the 11th July 2025, accepts the comments put forward by the 1st Party Appellant and notes that a 33% reduction of the development contributions applying to the Town Centre zoned lands should have been applied in line with Section 10.3 of the adopted Kildare Development Contribution Scheme 2023-2029.

8.7.87. Section 10.3 of the adopted Kildare Development Contribution Scheme 2023-2029 states that a reduction of 33% of development contributions shall apply to land zoned as 'Town Centre' for all development types as designated in statutory local plans for each of the relevant towns, villages and settlements. As noted under section 8.2 of my report, the northern part of the subject site is zoned under objective Town Centre and the layout plan submitted indicates that it is proposed to locate the commercial element of the proposal and 62 no. residential units within this section of the site. As such, the 33% reduction should have been applied to this section of the development.

8.7.88. On review of the adopted development contribution scheme, I accept the comments of the Appellant and the comments from the Planning Authority. Therefore condition no. 51 should be amended, and the Development Contribution should be re-calculated by the Planning Authority, as set out within the 1st party appeal.

8.8. Infrastructure Works Offset

8.8.1. The appellant has requested that the Commission consider offsetting the infrastructural works which have been required by a large number of conditions attached to the grant of permission by the Planning Authority against the financial contribution occurred within condition no. 51. The appellant has set out a table detailing all conditions which would require the payment of either a bond, Section 43(2)(C) special contribution or just intrastromal works.

8.8.2. Having regard to my assessment as set out above under Section 8.7, I have recommended to the Commission that a large number of these conditions, most notably condition 15, 16, 17, 19, and 21 be omitted given that the Planning Authority may have acted 'ultra-vires' its powers under Section 48(2)(C) of the Planning and Development Act 2000, as amended. As such, all that remains within the table set out would be condition no. 11 and 50 which require the payment of a bond.

8.8.3. I note that there is no provision within the adopted Section 48 Development Contribution Scheme for Kildare County Council which would allow the Commission to offset the payment of a bond condition against a required financial contribution. Therefore, I do not recommend that any further offset be made.

8.9. **Other Matters**

8.9.1. Phasing

Concern has been raised within the 3rd Party Appeal received with regard to the phasing arrangement submitted with the proposed development. It was considered that no justification was provided for the approach proposed and does not provide any detail over the quantum of public open space which will be provided within each phase of development.

Furthermore, the 3rd Party Appellant considers that the phasing submitted to the Planning Authority would place the Planning Authority and 3rd parties at a disadvantage in terms of the assessment of whether the specific quantum of amenity space required to comply with the delivery of each phase and the overall development has been provided for.

I note that having regard to section 8.7.13-8.7.15 that the applicant has submitted an amended phasing arrangement as part of the 1st Party Appeal received by the Commission. I have set out my considerations to the phasing and consider the amended arrangements submitted to be more appropriate and I further consider that they would overcome the concerns raised by the 3rd Party Appellant.

With regard to the concerns relating to the quantum of open space I consider I have adequately assessed this issue under section 8.5 of my report above.

8.9.2. Devaluation of Property

I note the concerns raised in the grounds of the 3rd party appeal in respect of the devaluation of the appellant property on foot of this permission being granted. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity. Furthermore, no evidence has been provided by the appellant to support their assertion.

8.9.3. Wastewater Treatment Plant and Water Supply Capacity

Wastewater generated by the proposed development will be collected in a gravity sewer network and discharged to a proposed pumping station located towards the south boundary of the site, which is proposed as part of the development. The proposed development will be part of the Upper Liffey Valley Regional Sewerage Scheme agglomeration. Wastewater will be pumped from the pumping station to an existing Uisce Eireann gravity sewer at the junction of Main Street and new Abbey Road. The proposed development will generate 74,925 litres of wastewater per day and a BOD Loading of 11,100 grams/day. Uisce Eireann confirmed that a wastewater connection is feasible subject to upgrades within a submission made to the Planning Authority.

With regard to water supply, the proposed development will be served from an existing watermain in the public road. Uisce Eireann confirmed that a water connection is feasible subject to upgrades.

In the event that the Commission are minded to uphold the decision of the Planning Authority and grant permission, I recommend that a condition be included to ensure that the waste water and water supply infrastructure are provided in compliance with Uisce Eireann's requirements.

8.9.4. EIAR

The 3rd Party Appellant contends that the subject application was not adequately screened for EIAR and the cumulative impacts it may have upon the surrounding area.

Appendix C of Planning Statement submitted to the Planning Authority on the 11/12/2024 provided for a Schedule 7(a) sub-threshold screening determination of the proposed development which demonstrated that the development could be screened

out in terms of EIA. Furthermore, the Planning Authority also undertook a screening determination of the proposed development as part of the their assessment. I also have undertaken a review of the screening determination submitted and have set out my findings within Section 10, Appendix 1 and Appendix 2 of this report.

9.0 AA Screening

- 9.1. I have completed a screening for Appropriate Assessment (Stage 1). In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of objective information provided by the applicant, I conclude that the proposed development will not result in significant effects on the Pollardstown Fen SAC (Site Code SAC000396) or the Mouds Beg SAC (Site Code 002331) in view of the conservation objectives of a number of qualifying interest features of those sites.
- 9.2. It is therefore determined that Appropriate Assessment (stage 2) under Section 177V of the Planning and Development Act 2000] of the proposed development is not required.

10.0 EIA Screening

Class 10 of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for a development comprising the construction of more than 500 dwellings, or for 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. Refer to Appendix 1 and Appendix 2 (EIA Pre-Screening & Environmental Impact Assessment Screening Determination).

10.1.1. Having regard to: -

- a) 1The nature and scale of the project, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended.
- b) The location of the site on zoned lands (Zoning Objective C(3)– New Residential’ and TC -Town Centre), and other relevant policies and objectives in the Kildare County Development Plan 2023-2029, and the results of the

strategic environmental assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC).

- c) The greenfield nature of the site and its location in an established suburban neighbourhood of Kilcullen town, which is served by public services and infrastructure.
- d) The pattern of existing and permitted development in the area.
- e) The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations.
- f) The guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage, and Local Government (2003).
- g) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended.
- h) The available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the EIA Directive.
- i) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the outline Construction Environmental Management Plan, Ecological Impact Assessment, Arboricultural Report, Invasive Species Management Plan, Site Specific Flood Risk Assessment, Archaeological Impact Assessment, Lighting Design Report and Mobility Management Plan.

10.1.2. In so doing, it is concluded that by reason of the nature, scale and location of the project, the development would not be likely to have significant effects on the environment and that an Environmental Impact Assessment and the preparation of an Environmental Impact Assessment Report would not, therefore, be required.

11.0 Water Framework Directive

- 11.1. The purpose of the Water Framework Directive (WFD) is to protect and enhance all waters as well as water dependent wildlife and habitats, with the aim to achieve 'good' water quality status for all waters subject to the WFD and to mitigate against the risk of a decline in the water body quality and quantity status.
- 11.1. The water framework directive is considered within Section 4.3 of the Appropriate Assessment Screening Report submitted as part of the application documentation. The application is supported by a Site-Specific Flood Risk Assessment. I have assessed the proposed development having regard to the information provided in the AA Screening Report and publicly available information on www.catchments.ie when considering the objectives as set out in Article 4 of the Water Framework Directive to protect and, where necessary, restore surface and ground waterbodies in order to reach good status, meaning both good chemical and good ecological, and to prevent deterioration.
- 11.2. The site of the proposed development is located within the Liffey sub-catchment (Liffey_SC_040) which is part of the Liffey and Dublin Bay Catchment (ID_09). The Site lies within the Liffey_060 sub basin which is classified as having "Moderate" status and 'at risk'. The site is situated on the Kilcullen groundwater body (IE_EA_G_003) which is classified as having "good" status. The closest mapped surface water body, the River Liffey is located c. 40m to the north of the site. This river is a 6th order river which flows in a north-west direction. The Kilcullen Stream is situated approximately c.420m to the east of the subject site and flows in a south to north direction, entering the River Liffey at a point c.326m to the north-east of the subject site. The Kilcullen stream is a 3rd order stream and is classified as having "Moderate" status.
- 11.2.1. The applicant is proposing to provide for a wastewater treatment plant on the site to serve the development. Wastewater generated by the proposed development will be collected in a gravity sewer network and discharged to a proposed pumping station located towards the south boundary of the site. The proposed development will be part of the Upper Liffey Valley Regional Sewerage Scheme agglomeration and waste water will be treated by the Waste Water Treatment Plant. Wastewater will be pumped from the pumping station to an existing Uisce Eireann gravity sewer at the junction of Main Street and new Abbey Road. The proposed development will generate 74,925 litres of

wastewater per day and a BOD Loading of 11,100 grams/day. Uisce Eireann confirmed that a wastewater connection is feasible subject to upgrades

11.3. The applicant submitted a Site-Specific Flood Risk Assessment (SSFRA) as part of the application documentation. The assessment notes that there are no river courses or ditches on site. In addition, it notes that the site is also free of drainage channels. In addition, no evidence of fluvial flood risk was observed during Site walkovers.

11.4. I have assessed the proposal having regard to the objectives as set out in Article 4 of the Water Framework Directive to protect and, where necessary, restore surface and ground waterbodies in order to reach good status (meaning both good chemical and good ecological), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that there is no conceivable risk to any surface and/or ground waterbodies.

11.5. The reason for this conclusion is as follows:

- Section 4.3 of the Appropriate Assessment Screening Report submitted by the applicant, including baseline data collected in relation to the hydrogeology for the site.
- The Site-Specific Flood Risk Assessment (SSFRA).
- The nature and location of the development
- The design of the proposal and mitigation measures proposed

11.6. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any waterbody (rivers, lakes, groundwaters, transitional and coastal) either on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives.

12.0 Recommendation

12.1. Following from the above assessment, I recommend that permission is GRANTED for the development as proposed due to the following reasons and considerations, and subject to the conditions set out below.

13.0 Reasons and Considerations

Having regard to the following:

- a) the location of the site within the development boundary of Kilcullen, designated as a 'Town' in the Regional Spatial & Economic Strategy for the Eastern and Midland Region 2019-2031 and the Kildare County Development Plan 2023-2029;
- b) the policies and objectives of the Kildare County Development Plan 2023-2029, Variation No. 1 Kilcullen Settlement Plan, 2023-2029, and the Regional Spatial & Economic Strategy for the Eastern and Midland Region 2019-2031;
- c) Housing for All - a New Housing Plan for Ireland (2021),
- d) Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024),
- e) the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments (2023),
- f) the Design Manual for Urban Roads and Streets (DMURS) (2013)
- g) the Planning System and Flood Risk Management (including the associated Technical Appendices) (2009),
- h) the nature, scale and design of the proposed development,
- i) the existing pattern of development in the area,
- j) the availability of a wide range of physical, social and community, infrastructure and services in the area,
- k) the proposed infrastructure upgrade works that will improve the sites accessibility and connectivity,
- l) the submissions received,

It is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable density of development in this urban location, would not seriously injure the residential or visual amenities of the area or properties in the vicinity, would be acceptable in terms of layout, urban design, height and unit mix and would be acceptable in terms of traffic, pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area and consistent with the

14.0 Recommended Draft Order

Appeal by Oakway Homes (1st Party) against a number 16 no. conditions and Jim Buckley & Others (3rd party) against the decision made on the 20th day of May 2025 by Kildare County Council to grant permission to Oakway Homes.

Proposed Development:

The development will consist of a large-scale residential development at New Abbey Road, Nicholastown, Kilcullen, Co. Kildare. The particulars of the development are as follows:

- 180 no. residential units comprising 152 no. houses and 28 no. duplex/apartments.
- A 261 sqm creche providing 48 no. childcare spaces;
- 2 no. medical/healthcare units (265sq.m),
- 921sq.m of office floor space.
- A wastewater pumping station.
- 369 no. car parking spaces (including EV charging spaces and disabled parking spaces.)
- 106 no. cycle parking spaces (including covered spaces).
- Public and communal open spaces, hard and soft landscaping, play area, SuDs features, boundary treatments, waste management areas/bin stores, internal roads, footpaths, cycle lanes and services provision (including pumping station).
- 2 no. access points off New Abbey Road, one to the north and one to the east. 2 no. pedestrian and cyclist access connections along the western boundary of the site.
- Landscaping and boundary treatments.
- All associated site development works.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered:

In making its decision, the Commission had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

In coming to its decision, the Commission had regard to the following:

- The location of the site within the development boundary of Kilcullen, designated as a 'Town' in the in the Regional Spatial & Economic Strategy for the Eastern and Midland Region 2019-2031 and the Kildare County Development Plan 2023-2029
- the policies and objectives of the Kildare County Development Plan 2023-2029, Variation No. 1 Kilcullen Settlement Plan, 2023-2029, and the Regional Spatial & Economic Strategy for the Eastern and Midland Region 2019-2031
- Housing for All - a New Housing Plan for Ireland (2021)
- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)
- the Guidelines for Planning Authorities on Sustainable Urban Housing: Design Standards for New Apartments (2023)
- The Design Manual for Urban Roads and Streets (DMURS) (2013)
- The Planning System and Flood Risk Management (including the associated Technical Appendices) (2009)
- The nature, scale and design of the proposed development
- The existing pattern of development in the area
- The availability of a wide range of physical, social and community infrastructure and services in the area,
- The proposed infrastructure upgrade works that will improve the sites accessibility and connectively

- The submissions received,
- The report of the Planning Inspector

The Commission considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable density of development in this urban location, would not seriously injure the residential or visual amenities of the area or properties in the vicinity, would be acceptable in terms of layout, urban design, height and unit mix and would be acceptable in terms of traffic, pedestrian safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

15.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 11th December 2024 as amended by the further plans and particulars submitted on the 12th 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.
2. The development shall be carried out in accordance with the phasing scheme dated 16th June 2025 lodged with the 1st Party Appeal to An Coimisiun Pleanála, except as otherwise may be required to comply with the requirements of the conditions of this grant of permission.

REASON: To ensure the timely provision of services and infrastructure, for the benefit of the occupants of the proposed dwellings.

3. Commercial Block C shall be no higher than 3 storeys in height in accordance with revised Option A floorplans and elevation drawings received by the Planning Authority on 12/04/2025.

(b) The uses of Blocks A, B and C shall be as specified in the details provided only and no further change of use shall take place without a prior grant of permission.

(c) Details of all signage for Blocks, A, B and C shall be submitted to the Planning Authority for its written agreement prior to the commencement of development.

REASON: In the interest of the proper planning and sustainable development of the area

4. The proposed creche facility shall be completed prior to the first occupation of any dwelling unit within phase 2 of the development.

REASON: In the interest of clarity.

5. Prior to the commencement of development, the developer shall submit to and for the written agreement of the planning authority:

(a) Details of the materials, colours and textures of all the external finishes to the proposed dwellings / structures / buildings. The bin and bike stores shall be finished in brick.

(b) Details of all external hard and soft landscaping materials including street furniture (seats benches, signages etc) as well as all surface treatments (paving / resin/ concrete finishes).

REASON: In the interest of visual amenity and to ensure an appropriate high standard of development.

6. Prior to the commencement of development, the developer shall enter into Connection Agreements with Uisce Éireann (Irish Water) to provide for a service connection to the public water supply and wastewater collection network.

REASON: In the interest of public health and to ensure adequate water/wastewater facilities.

7. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

REASON: In the interests of visual and residential amenity.

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

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

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

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

10. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a detailed Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority. This plan shall provide details of intended construction practice.

A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for

inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.

REASON: In the interest of environmental protection [residential amenities, public health and safety and environmental protection

11. Prior to commencement of development, the developer 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.

12. (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.

13. 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 / cycle 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.

14. (a) All play areas shall be designed to provide a variety of natural play opportunities and provide for universal access. Any proposed structures or items with swings, nets, ropes, and movable parts must be revised. The path network shall link to play areas. Some seating shall be accessible and age-friendly with bound surfacing beneath. Seating shall be constructed of stone, metal or recycled composite timber.

(b) Play areas shall be natural spaces with landscaping and natural features e.g., logs, mounding, boulders, sensory planting which minimise the use of play equipment. They shall not contain play equipment with moveable parts. Safety surface areas shall be Safety Surface Grass Matting that conforms to European Standards. Proposed play items containing wood such as Robinia shall conform

to European Standards. The Developer shall submit and agree details for the design, choice of equipment, safety surfacing, along with specifications and proof that all equipment conforms to Current European Standards EN 1176-1-11 and EN 1177 playground equipment and surfacing for the written agreement of the Planning Authority. Post installation certification by the Royal Society for the Prevention of Accidents shall also be submitted for agreement.

REASON: To minimise future maintenance costs and still cater for quality play provision in residential developments

15. (a) Prior to commencement of development, the Developer shall submit detailed drawings for the Permeability Links, as set out on drawing no. 2015-RDK-PL-190 submitted to the Planning Authority on the 12th April 2025, up to the red line boundary of the site only, for the written agreement of the Planning Authority. The Developer shall ensure that the proposed access design includes a minimum 3-metre-wide combined footpath/ cycle path design, kerbing, tactile paving, landscaping and public lighting details. The design shall include measures to enhance the safety of pedestrians and cyclists and to discourage anti-social behaviour.

(b) The Developer shall ensure the completion of the permeability link prior to occupancy of the new residential units.

REASON: To ensure passive surveillance and promote Active Travel.

16. The internal roads shall be a minimum width of 5.5m, footpaths shall be a minimum width of 2m, shared surfaces shall be a minimum of 3m in width, parking bays shall be a minimum of 2.5 X 5.0m and circulation aisles shall be a minimum of 6m in width.

REASON: In the interest of pedestrian, cyclist and vehicular safety, proper planning and sustainable development

17. (a) The landscaping scheme shown on drawing number 10, as submitted to the planning authority on the 12th April 2025 shall be carried out within the first

planting season following substantial completion of external construction works. The Developer shall retain the services of the qualified Landscape Architect (or qualified Landscape Designer) as a Landscape Consultant throughout the life of the construction works. The Developer shall inform the planning authority of that appointment in writing prior to commencement of development. A Practical Completion Certificate shall be signed off by the Landscape Architect when all landscape works are fully completed to the satisfaction of the Planning Authority and in accordance with the permitted landscape proposals.

(b) 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.

18. The Developer shall provide Electric Vehicle (EV) Charge Points as follows:

(a) Where car parking is being provided within the curtilage of individual housing units, dual electrical charge points to be provided to allow for the night-time charging of Electric Vehicles (EVs), linked to the individual domestic electricity meter.

(b) Where private car parking associated with units is being supplied on street, dedicated charging points for use by residents are to be provided adjacent to parking spaces. The charging points should operate on metered basis, with access to the charging point being available to residents through a swipe card or PIN number registration facility and the charging points shall be maintained in the future by the service operator as engaged by the Developer or as otherwise approved by the Planning Authority. The Developer shall ensure that all residents have the facility to avail of overnight renewable electricity in charging their EV.

(c) Where the car parking is associated with the permitted commercial aspect of the development is being provided one recharging point and ducting

infrastructure for at every 5 car parking spaces associated with such shall be provided.

(d) The EV Chargers are to be compatible with the Sustainable Energy Authority of Ireland's Triple E Register. The design details of the charging points shall be submitted for the written approval of the Planning Authority prior to the commencement of the development and the charging points shall be in operation prior to the occupation of units.

REASON: To support the use of renewable energy and improve urban air quality.

19. The developer shall engage a suitably qualified (license eligible) archaeologist to carry out an Archaeological Impact Assessment (AIA) and/or Underwater Archaeological Impact Assessment (UAIA) in advance of any site preparation works and groundworks, including site investigation works/topsoil stripping/site clearance/dredging and/or construction works. The AIA and/or UAIA shall involve an examination of all development layout/design drawings, completion of documentary/cartographic/ photographic research and fieldwork, the latter to include, where applicable - geophysical survey, underwater/marine/intertidal survey, metal detection survey and archaeological testing (consent/licensed as required under the National Monuments Acts), building survey/ analysis, visual impact assessment [specify appropriate methods following consultation with NMS.

The archaeologist shall prepare a comprehensive report, including an archaeological impact statement and mitigation strategy, to be submitted for the written agreement of the planning authority in advance of any site preparation works, groundworks and/or construction works. Where archaeological remains are shown to be present, preservation in-situ, establishment of 'buffer zones', preservation by record (archaeological excavation) or archaeological monitoring may be required and mitigatory measures to ensure the preservation and/or recording of archaeological remains shall be included in the AIA and/or UAIA. Any further archaeological mitigation requirements specified by the Local Authority Archaeologist, following consultation with the National Monuments Service, shall be complied with by the developer. The planning authority and the

National Monuments Service shall be furnished with a final archaeological report describing the results of any subsequent archaeological investigative works and/or monitoring following the completion of all archaeological work on site and the completion of any necessary post-excavation work. All resulting and associated archaeological costs shall be borne by the developer.

REASON: To ensure the continued preservation either in situ or by record of places, caves, sites, features or other objects of archaeological interest.

20. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

REASON: To prevent flooding and in the interests of sustainable drainage.

21. 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

22. All Sustainable Drainage Systems (SuDS) features within areas proposed for taking in charge shall be designed and constructed in accordance with Kildare County Council's Sustainable Drainage Systems (SuDS) Taking in Charge Standard Details.

REASON: To ensure that all areas proposed for Taking in Charge are to the required standard

23. No spoil, dirt, debris or other materials shall be deposited on the public road network, its footpaths and verges by machinery or vehicles travelling to or from the development site during the construction phase. The Developer shall arrange for vehicles leaving the site to be kept clean, and for road sweeping by mechanical sweeper to take place as required.

REASON: In the interest of traffic safety.

24. (a) All foul sewage and soiled water shall discharge to the public foul sewer system as per the submitted layout and operational plans.

(b) Only clean, uncontaminated surface water shall discharge to the surface water system.

(c) All surface water from the carpark areas shall pass through adequately sized and sited petrol/oil interceptor(s) before being discharged to the surface water system.

(d) No surface water runoff from the site shall discharge onto the public road network.

The development shall not impair existing land or road drainage.

REASON: In the interest of public health, to avoid pollution, and to ensure proper development

25. (a) Prior to the commencement of development, the Developer shall prepare a revised 2 Road Safety Audit / Assessment (RSA) by an independent approved and certified auditor for all internal roads and footpaths and the 2 no. new junctions connecting the with the New Abbey Road. The Developer shall make the necessary changes to the design proposals following the stage 2 RSA.

(b) Prior to occupancy of the development, the Developer shall submit a Road Safety Assessment Stage 3 on the completed works by an independent approved and certified auditor. The RSA Shall assess:

- a) The internal areas of the proposed development.
- b) Walking and Cycle access points onto adjoining residential estates through filtered permeability links.

REASON: In the interest of pedestrian, cyclist and vehicular safety, proper planning and sustainable development.

26. 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.

27. 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.

28. A plan containing details for the management of waste (and, in particular, recyclable materials) (Operational Waste Management Plan) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials [within each house plot and/or for each apartment unit] shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and waste shall be managed in accordance with the agreed plan.

REASON: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

29. 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 of (a) €50,0000 to ensure the protection of trees and hedgerows on site and (b)€360,000 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. Any approved insurance company bond shall be index linked.

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

30. Prior to commencement of any development within Phase 1 of the development, the Applicant shall submit details demonstrating details of the two no. road connections to the lands to the south and south east as indicated on the drawing no. 2105-RDK-PL-190 submitted to the Planning Authority on the 12th April 2024 up to and inclusive of the red line boundary of the site.

REASON: I the interest of the proper planning and sustainable development of the area.

31. The developer shall pay to the planning authority a financial contribution of €1,247,242.60 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 Coimisiún 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.

Kathy Tuck
Planning Inspector

27th August 2025

Appendix 1

EIA Pre-Screening

Case Reference	ABP-322772-25
Proposed Development Summary	Large-scale Residential Development (LRD): 152 houses and 28 duplex/apartments, creche, healthcare units and offices. Ancillary and associated development works.
Development Address	New Abbey Road, Nicholastown, Kilcullen, 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)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> 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)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested.	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	

<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.	Class 10 of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for a development comprising the construction of more than 500 dwellings, or for 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.

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input checked="" type="checkbox"/>	The applicant included for a Schedule 7A screening determination which was included in appendix 2 of the Planning Statement which accompanied the LRD application.
No <input type="checkbox"/>	

Inspector: _____

Date: _____

Appendix 2

A. CASE DETAILS		
An Bord Pleanála Case Reference	ABP-322772-25	
Development Summary	Large-scale Residential Development (LRD): 152 houses and 28 duplex/apartments, creche, healthcare units and offices. Ancillary and associated development works.	
	Yes / No / N/A	Comment (if relevant)
1. Was a Screening Determination carried out by the PA?	Yes	The Planning Authority undertook a screening determination which forms appendix 2 of the Planners Report. The assessment concluded that Having regard to the criteria in Schedule 7, the information provided in accordance with Schedule 7A of the Planning and Development Regulations 2001, as amended, the proposed development would not be likely to have significant effects on the environment and that the preparation and submission of an environmental impact report is not therefore required
2. Has Schedule 7A information been submitted?	Yes	The screening formed appendix 2 of the Planning Statement submitted to the Planning Authority on the 11 th December 2024.
3. Has an AA screening report or NIS been submitted?	Yes	The applicant submitted an AA Screening report which I have considered within appendix 3 of this report. The screening report submitted concluded that having regard to the proximity of the nearest SAC and given the location, nature and extent of the proposed development it is not considered there would be potential to negatively affect the ecological integrity or conservation objectives of European Sites.

4. Is a IED/ IPC or Waste Licence (or review of licence) required from the EPA? If YES has the EPA commented on the need for an EIAR?	No	N/A	
5. Have any other relevant assessments of the effects on the environment which have a significant bearing on the project been carried out pursuant to other relevant Directives – for example SEA	No	SEA an AA were undertaken as part of the Kildare County Development Plan 2023-2029. The application has been accompanied by a Site Specific Flood Risk Assessment, Appropriate Assessment Screening Report, An Invasive Specific Management Report.	
B. EXAMINATION	Yes/ No/ Uncertain	Briefly describe the nature and extent and Mitigation Measures (where relevant) (having regard to the probability, magnitude (including population size affected), complexity, duration, frequency, intensity, and reversibility of impact) Mitigation measures –Where relevant specify features or measures proposed by the applicant to avoid or prevent a significant effect.	Is this likely to result in significant effects on the environment? Yes/ No/ Uncertain
This screening examination should be read with, and in light of, the rest of the Inspector's Report attached herewith			
1. Characteristics of proposed development (including demolition, construction, operation, or decommissioning)			
1.1 Is the project significantly different in character or scale to the existing surrounding or environment?	No	The appeal sit is located within the town boundary of Kilcullen where the prevailing context is a mix of residential dwellings and mixed-use development which range in scale from single storey and two storey dwellings. The subject site shares its entire western boundary with established residential area which have a similar density to what is being proposed as part of the	No

		subject application. The site is currently greenfield in nature with some derelict farm buildings located on the northern section. The proposed development would allow for an extension of the Town Centre of Kilcullen.	
1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?	Yes	<p>The construction and operation phase will see a physical change from agricultural to residential use. There are currently a number of derelict agricultural buildings on site which will require demolition.</p> <p>Proposed excavation works will cause a change in site topography/ ground levels, which will be managed through implementation of the outline Construction Environmental Management Plan (CEMP) final agreed version to be required by condition).</p> <p>The use of the land will change from greenfield / partial agriculture to residential use, a more efficient use of serviced land.</p> <p>There are no watercourses located on or adjacent to the site. The nearest watercourse is the River Liffey which is located c.90m to the north and segregated from the subject site by the New Abbey Road and the Valley Walkway Amenity area.</p>	No
1.3 Will construction or operation of the project use natural resources such as land, soil, water, materials/minerals or energy, especially resources which are non-renewable or in short supply?	Yes	<p>The project uses standard construction methods, materials and equipment, and the process will be managed through the implementation of the outline/ final CEMP. There is no significant use of natural resources anticipated.</p> <p>The project uses land, which is a finite resource, however it is used more efficiently and sustainably than at present (green field / partial agriculture). Otherwise, the operational phase of the project will not use natural resources in short supply.</p>	No

		<p>The project connects to the public water, wastewater, and surface water drainage services systems which have sufficient capacity to cater for demands arising from the project.</p> <p>All dwellings will have a BER rating of A/A3.</p> <p>Accordingly, I do not consider the use of natural resources in the project likely to result in a significant effect on the environment of the area.</p>	
<p>1.4 Will the project involve the use, storage, transport, handling or production of substance which would be harmful to human health or the environment?</p>	<p>YES</p>	<p>Construction phase activities will require the use of potentially harmful materials, such as fuels and create waste for disposal. The use of such substances will be typical of construction sites.</p> <p>Noise and dust emissions during the construction phase are likely. These works will be managed through implementation of the outline/ final CEMP, which can be required by condition.</p> <p>The operational phase of the project does not involve the use, storage, or production of any harmful substance. Conventional waste produced from residential and small-scale commercial activity (childcare facility) will be managed through the implementation of an Operational Waste Management Plan (OWMP) which can be required by condition.</p> <p>Accordingly, I do not consider this aspect of the project likely to result in significant effects on the environment in terms of human health or biodiversity.</p>	
<p>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>YES</p>	<p>Conventional waste will be produced from construction activity and will be managed through the implementation of the outline/ final CEMP</p> <p>The operational phase of the project (i.e., the occupation of the residential units and childcare facility) will not produce or release any pollutant or hazardous material. Conventional operational waste will be managed</p>	

		<p>through the implementation of an Operational Waste Management Plan.</p> <p>Accordingly, I do not consider the production of waste or generation of pollutants in the project likely to result in a significant effect on the environment of the area.</p>	
<p>1.6 Will the project lead to risks of contamination of land or water from releases of pollutants onto the ground or into surface waters, groundwater, coastal waters or the sea?</p>	<p>Yes</p>	<p>The project involves site preparation (vegetation, top and subsoils removal), excavations (foundations for site services, building), reprofiling and construction (roads, footpaths, building), and landscaping works (open spaces). These construction phase activities are associated with contamination risks to land and/ or water sources.</p> <p>I direct the Board to the response to Q:2.1 below in respect of the risk of contamination of protected water bodies/ ecological designations.</p> <p>I direct the Board to the response to Q:2.5 below in respect of the risk of contamination of water resources including surface waters, groundwaters, coastal waters, and of flood risk.</p> <p>Accordingly, as risks of contamination to ground or water bodies are not predicted and/ or can be mitigated against, I do not consider this aspect of the project likely to result in a significant effect on the environment.</p>	<p>No</p>
<p>1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?</p>	<p>Yes</p>	<p>Noise, vibration, and light impacts are likely during the site development works. These works are short term in duration, and impacts arising will be temporary, localised, and be managed through implementation of the outline/ final CEMP.</p> <p>The operational phase of the project will also likely result in noise and light impacts associated with the increased intensity of the residential and commercial use (e.g., traffic generation, use of communal and private open spaces).</p>	<p>No</p>

		<p>However, these are anticipated to be typical of such mid-scaled, mid-density residential schemes, as proposed. Lighting impacts will be mitigated by the provision of a public lighting plan designed to comply with industry guidance and provided to the satisfaction of the planning authority.</p> <p>I direct the Board to the response to Q:2.8 below in respect of the project's effect on sensitive land uses.</p> <p>Accordingly, I do not consider this aspect of the project likely to result in significant effects on the environment in terms of air quality (noise, vibration, light pollution).</p>	
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	Yes	<p>The potential for water contamination and air pollution (noise and dust emissions) during the construction phase is likely.</p> <p>Construction works will be managed through implementation of the outline/ final CEMP. Site development works are short term in duration, and impacts arising will be temporary, localised, addressed by the mitigation measures.</p> <p>The operational phase of the project will not likely cause risks to human health through water contamination or air pollution due to the nature and design of the scheme, connection to public water systems, incorporation of SuDS features in the surface water management system, and scale of residential and commercial activities, and use arising.</p> <p>Accordingly, in terms of risks to human health, I do not consider this aspect of the project likely to result in a significant effect on the environment.</p>	No
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No	There is no risk of major accidents given nature of the project and location of the site. Not at risk of flooding.	No
1.10 Will the project affect the social environment (population, employment)	Yes	The project increases localised temporary employment activity at the site during development works (i.e. site enabling and construction phases). The site development works are short term in duration and impacts arising will be temporary,	No

		<p>localised, addressed by the mitigation measures in the outline/final CEMP.</p> <p>The operational phase of the project (i.e. the occupation of the residential units) will result in a potential increase of up to c. 420 persons (based on average household size of c. 2.34 for Kilcullen at Census 2022). A slight impact in scale of effect. The childcare facility will cater for c. 48 children and associated staff members.</p> <p>The receiving area is an established urban neighbourhood location, which is in proximity to services, public transport, amenities, and has the capacity to accommodate the likely impacts associated with the anticipated population increase.</p> <p>Accordingly, I do not consider this aspect of the project likely to result in a significant effect on the social environment of the area.</p>	
<p>1.11 Is the project part of a wider large scale change that could result in cumulative effects on the environment?</p>	<p>Yes</p>	<p>The site is zoned under objective C(2) – New Residential and TC- Town Centre within the Kilcullen Settlement Plan.</p> <p>The site is located at the eastern boundary of the Town Centre and shares its western boundary with a number of established areas. The layout has provided for a number of active travel connection links from the proposal to these residential areas. The design and layout of the scheme has had regard to relief road objective as contained within the Kilcullen Settlement Plan and provides for 2 no. potential connections to such. This project has not yet progressed to design or planning application stage.</p> <p>The further information submitted by the applicant on the 12th April 2025 which acknowledged the adoption of Variation no. 1 of the Kildare County Development Plan 2023-2029 which relates to the Kilcullen Settlement Plan.</p>	<p>No</p>

		<p>I direct the Board to the response to Q: 3.1 below in respect of considerations of cumulative effects of the project.</p> <p>I do not anticipate cumulative significant negative effects on the area arising from the project.</p>	
2. Location of proposed development			
<p>2.1 Is the proposed development located on, in, adjoining or have the potential to impact on any of the following:</p> <ul style="list-style-type: none"> - European site (SAC/ SPA/ pSAC/ pSPA) - NHA/ pNHA - Designated Nature Reserve - Designated refuge for flora or fauna - Place, site or feature of ecological interest, the preservation/conservation/ protection of which is an objective of a development plan/ LAP/ draft plan or variation of a plan 	No	<p>The project is not located in, on, or adjoining any European Site, any designated or proposed NHA, or any other listed area of ecological interest or protection.</p> <p>A submitted AA Screening Report concluded that having regard to the proximity of the nearest SAC and given the location, nature and extent of the proposed development it is not considered there would be potential to negatively affect the ecological integrity or conservation objectives of European Sites.</p> <p>Accordingly, I consider it reasonable to conclude that on the basis of the information submitted that the proposed development, individually or in combination with other plans or projects would not be likely to adversely affect the integrity of any European Site. See Section 9.0 and Appendix 3 of this report.</p> <p>Water Framework Directive is discussed under Section 11 and Appendix 4 of the Inspector's Report.</p>	No
<p>2.2 Could any protected, important or sensitive species of flora or fauna which use areas on or around the site, for example: for breeding, nesting, foraging, resting, over-wintering, or migration, be affected by the project?</p>	Yes	<p>The site comprises greenfield lands. The EclA confirms the site as not being under any wildlife or conservation designation.</p> <p>No protected habitats, plant species of conservation importance, or any terrestrial mammals or evidence of mammals of conservation importance were noted on site.</p>	No

		<p>Bird species were recorded (13 species), 12 of which are green listed and 3 amber listed.</p> <p>The high-risk species identified is Japanese Knotweed, located outside the site but close to the boundary. If Japanese knotweed is found to have encroached into the site, a number of management and control options are provided for the treatment of this Invasive Species. This will be determined by an ecologist on site.</p> <p>Accordingly, I do not consider the project likely to result in a significant effect on the environment in terms of biodiversity (protected habitats, flora, fauna).</p> <p>The bat habitat appraisal found that the majority of trees within the site were assigned a Negligible to Low roosting potential. No bats were observed emerging or re-entering any trees during the survey. No significant tree loss is proposed as part of the development.</p> <p>No species listed under the Annexes of the European Habitats Directive were recorded during ecological walkover surveys and no evidence of other species such as Badger (<i>Meles meles</i>), Irish hare (<i>Lepus timidus hibernicus</i>), Pygmy Shrew (<i>Sorex minutus</i>), and Irish Stoat (<i>Mustela erminea Hibernica</i>) that are protected under the Irish Wildlife Act 1976- 2022, were recorded during the site visit.</p> <p>The EcIA considers the potential impacts of the proposal at construction and operation phases on biodiversity (on-site and within the zone of influence), birds, bats, and mammals. The designed-in mitigation and targeted mitigation devised to address the potential impacts are described.</p> <p>Key among which include project design to retain hedgerows and proposed tree planting scheme (noting additional vegetation and wetlands to be retained by way of revised plans submitted under further information), and at construction stage, the implementation of the CEMP (noise, vibration, dust,</p>	
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		<p>surface water and groundwater protection measures), pre-construction surveys and inspections, time-restricted development works, provision of nest boxes and bat boxes, and installation of a bat sensitive lighting scheme.</p> <p>The EcIA concludes that with the implementation of mitigation measures, there will be no significant impacts on biodiversity.</p> <p>An Invasive Species Management Plan was submitted, identifying medium and high-risk invasive species on and bordering the site and prescribes measures that will be employed to prevent the further spread of same. No Third Schedule Invasive Species or Protected Flora were found on the subject site.</p>	
<p>2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?</p>	Yes	<p>There are no landscape designations or protected scenic views at the subject site.</p> <p>A submitted Archaeological Impact Assessment (AIA) notes that the site does not contain any Recorded Monuments listed within the Record of Monuments and Places (RMP) or Sites and Monuments Record (SMR). The nearest such monument is Ritual site – holy well KD028-025----, located on the north side of New Abbey Road, c. 30m to the northeast. The site also contains no Protected Structures as listed within the Kildare County Development Plan 2023–2029, nor any structures listed within the National Inventory of Architectural Heritage for County Kildare. The nearest such structure is the Catholic Church of the Sacred Hearth and St Brigid (RPS Id. B28-28; NIAH Reg. No. 11819031), with the associated former school, now in use as a Parish Centre (NIAH Reg. No. 11819032), located on the plot adjacent and to the northwest of the site.</p>	No

		Accordingly, having regard to the documentation submitted with the application, and subject to conditions in respect of further archaeological monitoring, I do not consider the project likely to result in a significant effect on the environment in terms of architectural, archaeological and cultural heritage.	
2.4 Are there any areas on/around the location which contain important, high quality or scarce resources which could be affected by the project, for example: forestry, agriculture, water/coastal, fisheries, minerals?	No	There are no such resources on or close to the site.	No
2.5 Are there any water resources including surface waters, for example: rivers, lakes/ponds, coastal or groundwaters which could be affected by the project, particularly in terms of their volume and flood risk?	Yes	<p>The closest mapped surface water body, the River Liffey is located c. 40m to the north of the site.</p> <p>I direct the Board to the response to Q:1.2 above in respect of the construction and operation phase impacts of the project on the water resources at the site/ in the vicinity (i.e., surface water/ groundwater impacts).</p> <p>There are no direct or indirect hydrological connections between the site and the European Natura Designated sites.</p> <p>I direct the Board to the response to Q:2.1 above in respect of the impact of the project on the watercourses, the European sites, and the Irish sea.</p> <p>Mitigation measures are identified in the outline CEMP during the construction phase of the project to safeguard the quality of the surface water runoff, prevent pollution events to groundwater, and mitigate against excessive siltation.</p> <p>The proposed development provides for an onsite waste water treatment plant. Wastewater generated by the proposed development will be collected in a gravity sewer network and discharged to a proposed pumping station located towards the</p>	No

		<p>south boundary of the site. The proposed development will be part of the Upper Liffey Valley Regional Sewerage Scheme agglomeration and waste water will be treated by the Waste Water Treatment Plant. Wastewater will be pumped from the pumping station to an existing Uisce Eireann gravity sewer at the junction of Main Street and new Abbey Road. The proposed development will generate 74,925 litres of wastewater per day and a BOD Loading of 11,100 grams/day.</p> <p>The operational phase impacts are addressed primarily through design, with a comprehensive surface water management system including SuDS features, on-site attenuation, and discharge to the public surface water network.</p> <p>The project's SSFRA states that there is no record of flooding previously occurring on the proposed development site and that the proposed development site is not located in a floodplain. The SSFRA concludes that the proposed works will not result in a loss of floodplain and the proposed works are unlikely to increase the current flood risk in this catchment.</p> <p>Accordingly, I do not consider the project likely to result in a significant effect on the environment in terms of water resources and flood risk.</p>	
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	There is no evidence identified of these risks.	No
2.7 Are there any key transport routes(eg National primary Roads) on or around the location which are susceptible to congestion or which cause environmental problems, which could be affected by the project?	No	<p>Vehicular access to the project will be via two new entrances from New Abbey Road (R413) with a 50kmph speed limit. This is part of the local road network of the town with ease of connection to the M9 to the west.</p> <p>Car and bicycle parking facilities are to be provided within the grounds of the proposed residential development, comprising 369 parking spaces for vehicles and 106 parking spaces / storage for bicycles.</p>	No

		<p>During the site development works, the project will result in an increase in traffic activity (HGVs, workers) as construction equipment, materials, and waste are delivered to/ removed from the site. Site development works are short term in duration and impacts arising will be temporary, localised, and managed under the outline/ final CEMP and Construction Management Plan (required by condition).</p> <p>Accordingly, I do not consider the project likely to result in a significant effect on any key transport routes or on the environment in terms of transportation.</p>	
<p>2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?</p>	<p>No</p>	<p>There are private residential dwellings located in close proximity to the site, comprising dwellings fronting the New Abbey Road to the east of the site and dwellings along the western boundary of the site which form part of a number of established residential areas.</p> <p>Site development works will be implemented in accordance with the outline/ final CEMP which includes mitigation measures to protect the amenity of adjacent properties and residents.</p> <p>Once operational, the design, siting, and scale of the proposed buildings and the separation distances to the closest dwellings are such that negative impacts arising from overlooking, overshadowing, overbearance are not reasonably anticipated.</p> <p>The operational phase of the project will cause an increase in activity at the site (traffic generation, use of communal and private open spaces) which are considered to be typical of such mid-scaled, mid-density residential schemes as proposed, sited in established urban neighborhood locations such as the receiving area and are well within acceptable parameters for same.</p> <p>The project will be under the control of an established management company and/ or elements taken in charge by</p>	<p>No</p>

		the local authority, and no negative impacts on residential amenity are anticipated.	
3. Any other factors that should be considered which could lead to environmental impacts			
3.1 Cumulative Effects: Could this project together with existing and/or approved development result in cumulative effects during the construction/ operation phase?	No	Existing and/ or approved planning permissions in the wider Kilcullen area have been noted in the application documentation and associated assessments.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	There are no transboundary effects are arising.	No
3.3 Are there any other relevant considerations?	No	No	No
C. CONCLUSION			
No real likelihood of significant effects on the environment.	X	EIAR Not Required	
D. MAIN REASONS AND CONSIDERATIONS			
EIAR <u>not</u> Required			
Having regard to: -			
j) 1The nature and scale of the project, which is below the thresholds in respect of Class 10(b)(i) and Class 10(b)(iv) of the Planning and Development Regulations 2001, as amended.			
k) The location of the site on zoned lands (Zoning Objective C(3)– New Residential' and TC -Town Centre), and other relevant policies and objectives in the Kildare County Development Plan 2023-2029, and the results of the strategic environmental assessment of this plan undertaken in accordance with the SEA Directive (2001/42/EC).			

- l) The greenfield nature of the site and its location in an established suburban neighbourhood of Kilcullen town, which is served by public services and infrastructure.
- m) The pattern of existing and permitted development in the area.
- n) The location of the site outside of any sensitive location specified in article 109(4)(a) the Planning and Development Regulations 2001, as amended and the absence of any potential impacts on such locations.
- o) The guidance set out in the 'Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development', issued by the Department of the Environment, Heritage, and Local Government (2003).
- p) The criteria set out in Schedule 7 of the Planning and Development Regulations 2001, as amended.
- q) The available results, where relevant, of preliminary verifications or assessments of the effects on the environment carried out pursuant to European Union legislation other than the EIA Directive.
- r) The features and measures proposed by the applicant envisaged to avoid or prevent what might otherwise be significant effects on the environment, including those identified in the outline Construction Environmental Management Plan, Ecological Impact Assessment, Arboricultural Report, Invasive Species Management Plan, Site Specific Flood Risk Assessment, Archaeological Impact Assessment, Lighting Design Report and Mobility Management Plan.

In so doing, the Board concluded that by reason of the nature, scale and location of the project, the development would not be likely to have significant effects on the environment and that an Environmental Impact Assessment and the preparation of an Environmental Impact Assessment Report would not, therefore, be required.

Inspector _____

Date _____

Approved (DP/ADP) _____

Date _____

Appendix 3

Appropriate Assessment Screening

Screening for Appropriate Assessment Test for likely significant effects	
Step 1: Description of the project and local site characteristics Case File: ABP-322772-25	
Brief description of project	Large-scale residential development: Construction of 180 residential units.
Brief description of development site characteristics and potential impact mechanisms	<p>A detailed description of the proposed development is provided in Section 2.0 of the Inspectors report and detailed specifications of the proposal are provided in the AA screening report and other planning documents provided by the applicant.</p> <p>The site has a stated of 6.93ha and is located at New Abbey Road, Nicholastown, Kilcullen, Co. Kildare. The site is situated c.200m to the west of the centre of Kilcullen Town Centre.</p> <p>The subject site is not located within or is not adjoining any Natura 2000 Sites. The subject site is located 7.7km to the north-west of the Pollardstown Fen SAC (Site Code SAC000396). The site is also location c.9.1km to the north west of the Mouds Beg SAC (Site Code 002331) 9.1km to the North-west.</p>
Screening report	Y
Natura Impact Statement	N
Relevant submissions	None
Step 2. Identification of relevant European sites using the Source-pathway-receptor model	

European Site (code)	Qualifying interests ¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections ²	Consider further in screening ³ Y/N
Pollardstown Fen SAC (Site Code SAC000396)	<p>Calcareous fens with <i>Cladium mariscus</i> and species of the <i>Caricion davallianae</i> [7210]</p> <p>Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]</p> <p>Alkaline fens [7230]</p> <p><i>Vertigo geyeri</i> (Geyer's Whorl Snail) [1013]</p> <p><i>Vertigo angustior</i> (Narrow-mouthed Whorl Snail) [1014]</p> <p><i>Vertigo moulinsiana</i> (Desmoulin's Whorl Snail) [1016]</p>	C.7.7km	None	N
Mouds Beg SAC (Site Code 002331)	<p>Active raised bogs [7110]</p> <p>Degraded raised bogs still capable of natural regeneration [7120]</p> <p>Depressions on peat substrates of the <i>Rhynchosporion</i> [7150]</p>	C.9.1km	None	N

Step 3 Conclude if the proposed development could result in likely significant effects on a European site

I conclude that the proposed development (alone) would not result in likely significant effects on the Pollardstown Fen SAC (Site Code SAC000396) or the Mouds Beg SAC (Site Code 002331). The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). I note that other Natura 2000 sites are too remote from the subject site for the appeal site to have a possible connection or pathway. No further assessment is required for the project.

No mitigation measures are required to come to these conclusions.

Appendix 4

Water Framework Directive

WFD IMPACT ASSESSMENT STAGE 1: SCREENING			
Step 1: Nature of the Project, the Site and Locality			
An Bord Pleanála ref. no.	ABP-322772-25	Townland, address	New Abbey Road, Nicholastown, Kilcullen, Co. Kildare.
Description of project		Large-scale Residential Development (LRD): 152 houses and 28 duplex/apartments, creche, healthcare units and offices. Ancillary and associated development works.	
Brief site description, relevant to WFD Screening,		<p>The Site lies off the New Abbey Road, immediately east of Kilcullen. The site shares its western boundary with existing residential estates, its northern boundary and eastern boundary with the new abbey road and its southern boundary with more agricultural lands.</p> <p>The Site is currently used for agricultural purposes and is greenfield in nature with a number of derelict agricultural buildings located on the northern section.</p>	

	<p>Typically, the site slopes downwards from west to east. West of the Site the ground level rises slightly before falling gradually towards the R448. The ground level rises from the south boundary. To the north and west, the ground level falls significantly towards the banks of the Liffey which flows in an east – west direction through Kilcullen.</p> <p>The soils composition of the site was found to comprise of topsoil between 200-300mm in thickness layered upon cohesive deposits, described typically as brown or grey sandy gravelly CLAY with occasional cobbles and rare boulders. the depth below ground level to the granular deposits increased across the Site from west to east and correspondingly, subsoil permeability decreased across the Site from west to east.</p> <p>A ground investigation report submitted with the application found a depth of 6m to the ground water level on site. There are no water features on site. The Site Specific Flood Risk Assessment submitted found that the proposed development is not at risk of flooding and will not increase flood risk elsewhere.</p>
<p>Proposed surface water details</p>	<p>A SuDS report has been submitted by the applicant as part of the application documentation which details the proposed surface water drainage system and SUDS regime for the proposed development.</p>

	<p>During the operational phase of the proposed development, surface water run-off comprised of clean rainwater from roofs and hard surfaces will be directed to the proposed surface water drainage system. The surface water drainage system will include swales, attenuation basins, an inspection chamber, petrol/oil interceptor before connection to the mains sewer network. Surface water will be attenuated onsite.</p> <p>The report from the Water Services Section of the Planning Authority noted no objection to the SUDs proposal subject to the general condition.</p>
Proposed water supply source & available capacity	Water supply for the development will be taken from an existing watermain in the public road. Uisce Eireann confirmed that a water connection is feasible subject to upgrades.
Proposed wastewater treatment system & available capacity, other issues	<p>A new wastewater pumping station is proposed on Agricultural zoned lands ('I') to the south-east of the site. Wastewater generated by the proposed development will be collected in a gravity sewer network and discharged to a proposed pumping station located towards the south boundary of the site. The proposed development will be part of the Upper Liffey Valley Regional Sewerage Scheme agglomeration and waste water will be treated by the Waste Water Treatment Plant. Wastewater will be pumped from the pumping station to an existing Uisce Eireann gravity sewer at the junction of Main Street and new Abbey Road. The proposed development will generate 74,925 litres of wastewater per day and a BOD Loading of 11,100 grams/day.</p> <p>Uisce Eireann confirmed that a wastewater connection is feasible subject to upgrades.</p>
Others?	None
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	Approx 40m to the north	River Liffey 060	Moderate	Not at Risk	Agriculture, Urban run-off	Yes – surface run-off
River Waterbody	Approx 420m to the east	Kilcullen Stream (09_1279)	Moderate	Not at Risk	Agriculture, Urban run-off	Yes – surface run-off
Groundwater Waterbody	Underlying site	Kilcullen Groundwater (IE_EA_G_003)	Good	Not at Risk	No pressures	Yes - Via the overlying soil & watercourse)
Step 3: 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	Water body 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.	Site clearance & Construction	River Liffey 060	indirect pathway from surface water	Water Pollution Surface water run-off	Use of Standard Construction Practice and CEMP. Also SUDS and site landscaping	No	Screen out at this stage.
2.	Site clearance & Construction	Kilcullen Stream (09_1279)	indirect pathway from surface water	Water Pollution Surface water run-off	Use of Standard Construction Practice and CEMP. Also SUDS and site landscaping	No	Screen out at this stage.
3.	Site clearance & Construction	Kilcullen Groundwater (IE_EA_G_003)	indirect pathway from surface water	Water Pollution Surface water run-off	Use of Standard Construction Practice and CEMP.	No	Screen out at this stage.

					Also SuDS and site landscaping		
OPERATIONAL PHASE							
1.	Surface Water Run-off	River Liffey (_060)	indirect pathway from surface water	Water Pollution	Several SuDS features incorporated into development	No	Screen out at this stage.
2.	Surface Water Run-off	Kilcullen Stream (09_1279)	indirect pathway from surface water	Water Pollution	Several SuDS features incorporated into development	No	Screen out at this stage.
3.	Surface Water Run-off	Kilcullen Groundwater (IE_EA_G_003)	indirect pathway from surface water	Water Pollution	Several SuDS features incorporated into development	No	Screen out at this stage.
DECOMMISSIONING PHASE							
5.	N/A	N/A	N/A	N/A	N/A	N/A	N/A