



An
Coimisiún
Pleanála

Inspector's Report

ACP-322832-25

Development	(LRD): Amendments to permission ABP-318365-23, comprising reconstruction of boundary wall and omission of pedestrian/cycle links. Associated site development works.
Location	Blackparks, Athy, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	2560337
Applicant(s)	Cairn Homes Properties Limited.
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First-Party
Appellant(s)	Cairn Homes Properties Limited
Observer(s)	Tonlegree Lawns Residents Association
Date of Site Inspection	11 th July 2025.

Inspector

Catherine Hanly

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1.0 Site Location and Description

- 1.1. The site is located in the Blackparks area of Athy on land located to the north of the Athy Distributor Road. The overall landholding is bound by the Tonlegee Lawns residential estate to the north, the Branswood residential estate to the west and Fortbarrington Road to the east. The overall landholding is currently under construction for a large scale residential development permitted under **ABP-318365-23**, called Stradowe Meadows.
- 1.2. The two sites which are subject to the proposed development are located at the northern end of the residential development site and are bound by the existing residential development of two storey semi-detached housing at Tonlegee Lawns to the north.
- 1.3. The eastern site is bound by the cul de sac at Tonlegee Lawns which is located between the properties at nos. 24 and 25 Tonlegee Lawns to the north and nos. 37 and 38 which are under construction on the Large Scale Residential Development (LRD) permitted under **ABP-318365-23** to the south.
- 1.4. The western site of the proposed development is bound by the cul de sac at Tonlegee Lawns which is located between the properties at nos. 31 and 37 Tonlegee Lawns to the north and nos. 61 and 62 which are under construction under the LRD permitted under **ABP-318365-23** to the south.
- 1.5. The proposed site measures 0.015 ha.

2.0 Proposed Development

- 2.1. The proposed development comprises the following:
 - Minor amendments to the permitted Large Scale Residential Development KCC Reg. Ref. 23/656 and **ABP-318365-23** (currently under construction) for reconstruction of the northern boundary wall between the subject site and Tonlegee Lawns, resulting in the omission of the pedestrian/ cycle links as required by condition 3 of **ABP-318365-23** grant of permission.
 - All associated works and landscaping treatments.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Refuse Permission was issued on the 27/05/2025 for 2no. reasons, as follows:

*“1. The omission of the permitted filtered pedestrian and cycle permeability links from the development site to Tonlegee Lawns would contravene Condition 3 of planning permission granted under ref **ABP-318365-23** which condition has been applied to encourage and facilitate the use of sustainable modes of transport, would set an undesirable precedent for similar developments of this scale and nature in the County and would therefore be contrary to the proper planning and sustainable development of the area.*

2. Having regard to:

- The National Planning Framework National Policy Objective (NPO) 27 which seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.*
- The guiding principles for the integration of Land Use and Transport as set out in the Regional and Economic and Spatial Strategy 2019-2031 including the retrospective implementation of walking and cycling facilities should be undertaken in existing neighbourhoods.*
- The provisions for sustainable and efficient movement as set out in the Ministerial Guidelines for Sustainable Residential Development and Compact Settlements (2024) including the improvement of connections between communities.*
- Objectives TMO 20 and TMO21 of the Kildare County Development Plan 2023-2029 which seek to ensure that new development areas are fully permeable for walking and cycling and to improve permeability between existing and proposed developments including adjacent developments.*

- *Objective MTO 1.6 of the Athy Local Area Plan 2021-2027 which seeks to ensure that all development within Athy allows for connectivity (pedestrian, cyclist and vehicular) to adjacent lands,*

To permit the development as proposed would be contrary to the provisions of national, regional and local planning policies for sustainable and efficient movement within and between areas, would be contrary to the provisions of Objective TM O20 and TM O21 of the Kildare County Development Plan 2023-2029 and Objective MTO 1.6 of the Athy Local Area Plan 2021-2027, would set an undesirable precedent for similar development of this scale and nature within the county and would therefore be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

3.2.1. Planning Report

- The principle of making an application for an amendment to an existing permission is acceptable.
- The development has a good range of connections to Athy, however there are opportunities for all new development to provide for accessibility to new routes including Tonlegee Lawns.
- Choice of access should also be afforded to the pedestrian and cyclist residents of Tonlegee Lawns to avoid having to exit the estate to the north when wishing to access the southern end of Fortbarrington Road and the Athy Distributor Road. There is an existing sports ground, Bridge United FC that would be more easily accessible through the new housing development than the current procedure.
- The permitted access points are for pedestrian and cyclist access only. No vehicular access is proposed.
- The proposal cuts off the proposed permeable and legible network of streets and spaces and fails to optimise the potential for sustainable modes of transport. The loss of the connections would not be compatible with DMURS.
- The omission of the permitted pedestrian and cycle access points would militate against movement between new and existing communities as set out

in national, regional and local planning policies from the National Planning Framework to the Athy Local Area Plan. The development is also contrary to NPO 27, the principles of integration of land use set out in RSES, the Sustainable Residential Development and Compact Settlements Guidelines and the movement objectives in the Kildare County Development Plan 2023 – 2029 and the Athy Local Area Plan 2021 – 2027.

3.2.2. Other Technical Reports

- Area Engineer: Recommends 1 no. condition.
- Environment: No objection.
- Parks Section, Transport, Mobility and Open Spaces: Recommends requesting further information in relation to retaining the eastern permeability link and landscaping details.
- Transportation, Mobility and Open Space Roads Planning Report: Recommends refusal on the grounds of obstruction to active travel by the closure of permeability routes.

3.3. Prescribed Bodies

3.3.1. No reports were received from Prescribed Bodies.

3.4. Third Party Observations

3.4.1. One observation was received by the Planning Authority. The issues raised in the observation are as follows:

- Tonlegee Lawns Residents Association are in support of the planning application.
- The proposed permeability links are unnecessary and do not create any greater access than that which will be provided by the proposed linkages along the Fortbarrington Road and Athy Distributor Road.
- Residents of the proposed development should be encouraged to use the links onto the Fortbarrington Road and Athy Distributor Road.

- The existing footpaths within Tonlegee Lawns are insufficient in width to accommodate pedestrian and cycle traffic. The creation of the linkages will result in a traffic hazard and will destroy the sense of peace in Tonlegee Lawns.
- Cyclists may choose to cycle on the footpaths which will lead to health and safety issues.
- The provision of cycle connections through Tonlegee Lawns may result in cyclists exiting onto Kilkenny Road, which is a dangerous junction.
- Additional permeability links will impact on the safety of children.
- The concerns of Tonlegee Lawns residents have not been taken into account in the past in the planning process.
- Linkages to the proposed development will exacerbate issues with anti-social behaviour.
- Residents in Tonlegee Lawns may be unable to reverse their cars out of their driveways.
- Permeability between Tonlegee Lawns and the proposed development will lead to a decrease in property values.

4.0 Planning History

4.1. **ABP-318365-23** and **P.A Ref 23/656**. Large scale residential development consisting of the construction of 132 no. residential units and a two storey creche. 9th February 2024 **Grant**. (*Parent Permission*).

4.2. Condition no. 3 (a) in Kildare County Council's Notification of Decision required the following:

"Prior to the commencement of development, a revised Site Layout Plan at a scale of 1:500 shall be submitted for the written agreement of the Planning Authority indicating the following:

(a) The omission of all vehicular permeability links to Tonlegee Lawns. Pedestrian and cycle permeability only will be permitted at this location".

4.2.1. Kildare County Council's decision was subsequently appealed by third parties. The appellants raised concern that condition no. 3 (a) in Kildare County Council's Notification of Decision was a prior to commencement condition which they felt denied interested parties an opportunity to assess the impact of the revised layout. In response to the Third-Party appeals, the First-Party submitted details to An Bord Pleanála of the layout and design of the filtered pedestrian and cycle access routes to Tonlegee Lawns. As such, these drawings were conditioned in condition no. 3 (a) of the Board's decision.

4.2.2. Condition no. 3 of **ABP-318365-23** states the following:

- a) *"Filtered pedestrian and cycle permeability shall be provided at the locations illustrated on the drawings submitted on appeal or as otherwise agreed in writing with the planning authority.*
- b) *The filtered pedestrian and cycle access at Branswood South West shall be omitted.*
- c) *The detailed design of these links shall be agreed in writing with the planning authority prior to the commencement of development on site and delivered in line with the agreed phasing plan.*

Reason: In the interest of encouraging and facilitating the use of sustainable modes of transport."

4.3. With regards to planning compliance, I have reviewed the compliance submissions made to the planning authority. The applicant submitted a compliance submission to the planning authority in relation to condition no. 3 to remove the pedestrian connections between the development site and Tonlegee Lawns. The planning authority stated on the 18th March 2025 that the proposal does not comply with DMURS Standards or with condition no. 3 of **ABP Ref. 318365-23**.

5.0 Policy Context

5.1. Overview

- 5.1.1. The proposed development comprises amendments to an extant permission. The parent permission consists of a residential development comprising 132 no. residential units and a creche.
- 5.1.2. The proposed amendment application seeks to omit 2 no. pedestrian/ cycle links between the residential development and Tonlegee Lawns to the north and to reconstruct the northern boundary wall. The provision of the pedestrian/ cycle links are required by condition no. 3 in the extant permission.
- 5.1.3. Accordingly, having regard to the modifying nature of the proposal, the assessment of and conditions attached to the parent permission, the receiving environment, decision of the planning authority, and the appeal grounds, I consider the following policy and guidance to be of relevance to the determination of the appeal.

5.2. **Athy Local Area Plan 2021 – 2027 (Athy LAP)**

- 5.2.1. The site is zoned objective C: New Residential, with the objective *“to provide for new residential development”*.
- 5.2.2. The land to the north in Tonlegee Lawns is zoned objective B: Existing Residential/ Infill.
- 5.2.3. Map 1.1: Movement & Transport - Walking and Connectivity Measures identifies new connectivity links through the overall development site under option WN21 which links to the Athy Distributor Road and Fortbarrington Road Junction, Branswood and Tonlegee Lawns. The map contains a note which states *“this needs to be read in conjunction with table 7.1 of the Plan”*.
- 5.2.4. Table 7.1 states the following relevant information:

B: Walking/ Connecting Options – New Infrastructure			
Option	Description	Type	Timeframe
WN21	Tonlegee Lawns and Branswood – Athy Distributor Road/ Fortbarrington Road Junction.	New Residential Lands Link	Timeline dependent on when lands are developed.

	As part of new development.		
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Movement and Transport

- 5.2.5. MTO 1.6: *“Ensure that all development within Athy allows for connectivity (pedestrian, cyclist and vehicular) to adjacent lands in accordance with the National Transport Authority’s Permeability Best Practice Guide (2015), or any updated version of same.”*

5.3. **Kildare County Development Plan 2023 – 2029 (Kildare CDP)**

Housing

- 5.3.1. HO O6: *“Ensure a balance between the protection of existing residential amenities, the established character of the area and the need to provide for sustainable residential development is achieved in all new developments.”*

Core Strategy and Settlement Strategy

- 5.3.2. CS O13: *“Require that the design of future development complies with the 10-minute settlement principle through the creation of a safe, attractive, permeable, and universally accessible environment for all, including permeability to existing estates to require public consultation which maximises the potential for active modes of travel along with accessibility to both present and planned public transport options and to advocate for increased public transport options to meet this goal where none are in place.”*

Sustainable Mobility and Transport

- 5.3.3. TM O20: *“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.”*
- 5.3.4. TM O21: *“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.”

- 5.3.5. TMO101: *“Ensure that all developments allow for full connectivity (pedestrian, cycle and vehicular) to adjacent road networks and to adjacent lands, which may be developed in the future.”*
- 5.3.6. TM P2: *“Prioritise and promote the development of high-quality, suitable, safe and sustainable walking and cycling pathways and facilities, both inter-county, intra-county (in consultation with all relevant stakeholders including neighbouring local authorities) and within the towns and settlements of County Kildare within a safe road/street environment that will encourage a shift to active travel that is accessible for all, regardless of age, physical mobility, or social disadvantage, subject to all relevant and cumulative environmental assessments and planning conditions. New projects (including greenways, blueways and cycleways) should first be subject to the undertaking of feasibility assessment. Where feasibility is established, a Corridor and Route Selection Process will be undertaken where appropriate, for relevant new road infrastructure in two stages”, Stage 1 – Route Corridor Identification, Evaluation and Selection and Stage 2 – Route Identification, Evaluation and Selection.”*

Urban Design, Placemaking & Regeneration

- 5.3.7. 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.”*
- 5.3.8. UD O1: *“Require a high standard of urban design to be integrated into the design and layout all new development and ensure compliance with the principles of healthy placemaking by providing increased opportunities for physical activities, social interaction and active travel, through the development of compact, permeable neighbourhoods which feature high-quality pedestrian and cyclist connectivity, accessible to a range of local services and amenities.”*
- 5.4. **Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities (Compact Settlements Guidelines)**

- 5.4.1. Section 4.4 states that the following principle should be applied in the consideration of individual planning applications:
- 5.4.2. *“(a) New developments should, as appropriate, include a street network (including links through open spaces) that creates a permeable and legible urban environment, optimises movement for sustainable modes (walking, cycling and public transport) and is easy to navigate.”*
- 5.4.3. *“(b) New developments should connect to the wider urban street and transport networks and improve connections between communities, to public transport, local services and local amenities such as shops, parks and schools, where possible.”*
- 5.4.4. Policy and Objective 4.1 of the *Compact Settlement Guidelines* states that *“it is a policy and objective of these Guidelines that planning authorities implement the principles, approaches and standards set out in the Design Manual for Urban Roads and Streets, 2013 (including updates) in carrying out their functions under the Planning and Development Act 2000 (as amended) and as part of an integrated approach to quality urban design and placemaking.”*

5.5. Regional Spatial and Economic Strategy (RSES) 2019 – 2031

- 5.5.1. The RSES provides the basis for the integration of land use and transport planning. Guiding principles set out in the RSES include:
- *“Support the ‘10 minute’ settlement concept, whereby a range of community facilities and services are accessible in short walking and cycling timeframes from homes or accessible by high quality public transport to these services in larger settlements.”*
 - *“New development areas, including peripheral areas, should be permeable for walking and cycling and the retrospective implementation of walking and cycling facilities should be undertaken in existing neighbourhoods, in order to give a competitive advantage to these modes. Where possible, developments shall provide for filtered permeability.”*

5.6. National Planning Framework – First Revision (NPF)

- 5.6.1. National Policy Objective 37: *“Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and*

cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.”

5.7. **Climate Action Plan 2025**

- 5.7.1. Section 14.2.3 sets out the role of local authorities in transport decarbonisation. It states that local authorities have an integral and critical role in ensuring permeability for active modes.

5.8. **National Transport Authority Permeability Best Practice Guide 2015** (*Permeability Guide*)

- 5.8.1. Section 3.3 provides details on the design of links.

5.9. **Design Manual for Urban Roads and Streets (DMURS)**

- 5.9.1. Section 3.3 examines permeability and legibility and highlights the importance of developing sustainable communities. It outlines that the use of cul-de-sacs that provide no through access should be limited and that street networks should maximise the number of walkable/ cycleable routes between destinations.
- 5.9.2. Section 4.1.2 refers to self-regulating streets and outlines how an appropriate design response can balance the functional needs of different users, enhance the sense of place and manage speed in a manner that does not rely on extensive regulatory controls and physical intrusive measures for enforcement.

5.10. **Natural Heritage Designations**

- 5.10.1. The following distances are noted between the site and natural heritage designations:

Site	Distance from the Subject Site
River Barrow and River Nore Special Area of Conservation	0.685 km
Grand Canal Proposed Natural Heritage Area	0.6 km
Ballylynan Proposed Natural Heritage Area	4.8 km
Derryvullagh Island Proposed Natural Heritage Area	7.4 km

Stradbally Hill Proposed Natural Heritage Area	7.4 km
Ballyprior Grassland Special Area of Conservation	8.9 km
Clopook Wood Proposed Natural Heritage Area	9.2 km

5.11. EIA Screening

5.11.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 in Appendices of this report). Having regard to the characteristics and location of the proposed development, the types and characteristics of potential impacts and the conclusions reached under the parent permission ref. **ABP 318365-23**, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A First-Party appeal has been lodged in this instance. The grounds of appeal can be summarised as follows:

- Existing and Permitted Levels of Permeability
 - The development will retain all five of the other permitted pedestrian and cycle access routes to the south, east and west.
 - The amendment to the existing boundary treatment is following concerns raised by residents in Tonlegree Lawns regarding safety concerns and maintenance problems.
 - The 2 no. permitted accesses via Tonlegree Lawns will converge into one road, which provides a single access to the Kilkenny Road. Kilkenny Road can already be accessed via Fortbarrington Road and Branswood, both of which have permitted access routes from the site.

- The Athy Distributor Road provides a better cyclist and pedestrian environment.
- The intention of condition no. 3 to enable active travel is fulfilled by all other accesses and the provision of these additional access routes will not further enhance active travel for the site.
- Health and Safety
 - Filtered permeability for pedestrian and cycle links into Tonlegee Lawns does not provide any greater access to amenities, services or transport for residents of the proposed development due to the permitted access to Fortbarrington Road, Athy Distributor Road and Branswood.
 - The route through Tonlegee Lawns is not in line with the National Transport Authority Permeability Best Practice Guide 2015.
 - The nature of the junction between the Kilkenny Road and the Tonlegee Lawns exit is considered dangerous. There is no cycleway along the Kilkenny Road to the town centre. All active travel should be directed to the Athy Distributor Road and Fortbarrington Road where there are purpose built cycle ways.
 - The provision of permeability links for pedestrian and cyclists will result in an increase in traffic volumes of pedestrian and cyclists which will impact on the safety of children playing in the estate.
 - Cars parked within the Tonlegee Estate often oversail the footpath. The inclusion of more vulnerable road user traffic will result in increased potential conflicts.
- Anti-Social Behaviour
 - There is ongoing anti-social behaviour with groups of youths entering Tonlegee Lawns and climbing the boundary hedge and fencing to enter the application site. Further permeability will increase the potential for ongoing anti-social behaviour.
- Design

- The application seeks to rebuild the wall to the eastern side following the partial demolition of the existing boundary wall to enable the replacement of an existing foul sewer pipe.
- The wall on the western access will be retained, repaired and reconstructed as a concrete wall.
- The boundary will be constructed using high-quality materials and will be visually appealing.
- The design includes high quality planting.
- If the Coimisiún consider that the omission of both links is inappropriate, it is requested that at least one link is removed into Tonlegee Lawns.
- Policy
 - NPO 27 in the *NPF* outlines that alternative routes to cars should be on generously sized footpaths and safe cycle lanes. There are no proposed upgrades to the route through Tonlegee Lawns. Residents should be encouraged to use the Athy Distributor Road.
 - The *RSES* promotes safe active travel. Further accesses are not required to the north and they will not benefit future occupants.
 - In response to the *Compact Settlements Guidelines*, providing a link into Tonlegee Lawns is not of benefit to future pedestrians or cyclists and will result in health and safety issues. The links into Tonlegee Lawns do not serve any desire lines which are not already serviced.
 - In response to objective TMO20 and TMO21 in the *Kildare CDP*, the development continues to support active travel and permeability from Fortbarrington Road to the east, Branswood to the west and Athy Distributor Road to the south.
 - With regards to MTO 1.6 of the Athy LAP, the site is connected to the surrounding area.
 - The development accords with Objective HO O6 which requires development to 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.

6.2. Planning Authority Response

6.2.1. The Planning Authority's response to the First-Party's grounds of appeal can be summarised as follows:

- The contents of Kildare County Council's Roads Report still stand.
- The amendment to condition 3 of permission ref no. **23-656/ ABP-318365-23** would increase vehicular traffic trips in Athy. The resultant increased delay time to navigate longer routes will discourage pedestrian, cycle, bus and rail movements and lead to increased car dependency.
- The planning authority confirms its decision and asks An Coimisiún Pleanála to refer to the Planner's Report, reports of the various technical departments and prescribed bodies reports.

6.3. Observations

6.3.1. An observation was received from Pawel Rozmus on behalf of Tonlegee Lawns Residents Association. The key points raised in the observation are as follows:

- Tonlegee Lawns Residents Association are in support of the First-Party appeal.
- The permeability links are unnecessary as they do not provide any greater access to residents of the proposed development to amenities other than what will be provided by the links proposed along Fortbarrington Road and Athy Distributor Road.
- Residents should be encouraged to use the links onto Fortbarrington Road and Athy Distributor Road.
- The existing footpaths within Tonlegee Lawns are unsuitable to accommodate pedestrian and cycle traffic and the links will result in health and safety issues and impact the amenities of the residents of Tonlegee Lawns.

- The junction with Tonlegee Lawns and Kilkenny Road is dangerous. There are no cycle lanes on the Kilkenny Road.
- A decision to enforce filtered permeability on the residents of Tonlegee Lawns would conflict with objective HO O6 of the *Kildare CDP*.
- The connection of Tonlegee Lawns with the proposed development will exacerbate current issues with anti-social behaviour.
- Permeability between the proposed development and Tonlegee Lawns will result in the loss of privacy and sense of enclosure and would lead to a decrease in property values for the dwellings in Tonlegee Lawns.

7.0 **Assessment**

7.1. The proposed amendments relate to access routes only. The principle of a residential development at the site already exists through the extant permission and therefore will not be considered in this assessment. This assessment is therefore confined to the proposed amendments of the access routes only.

7.2. Having examined the application details and all other documentation on file, including the submission received in relation to the appeal, including the reports of the planning authority, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Planning History & Contravention of Condition no. 3
- Permeability
- Health and Safety
- Anti-Social Behaviour
- Loss of Amenity
- Design
- Other Matters

7.3. Each of these issues are addressed in turn below.

7.4. **Planning History & Contravention of Condition no. 3**

- 7.4.1. The proposed development seeks amendments to the parent permission, which I have outlined in section 2.0 of this report above. Accordingly, the planning history at the site is of fundamental relevance in this appeal case. As noted in section 4.0 of this report, condition no. 3 (a) was imposed by Kildare County Council under **P.A Ref. 23/656** to omit vehicular permeability links which were originally proposed to Tonlegee Lawns. Following an appeal by third parties, the First-Party submitted drawings to An Bord Pleanála identifying the layout and design of the filtered pedestrian and cycle access routes to Tonlegee Lawns, as required by condition no. 3 (a) of **P.A. Ref. 23/656**. The drawings identified that the level of connectivity between the development site and Tonlegee Lawns had been downgraded and that no vehicular access was proposed to Tonlegee Lawns. These drawings which proposed pedestrian and cycle permeability were then conditioned in condition no. 3 (a) of the Board's decision under **ABP 318365-23**. The subject application therefore seeks to completely omit the pedestrian and cycle connectivity between the development and Tonlegee Lawns and would remove all direct connectivity between the 2 no. residential developments.

Proposed Amendments: Conditions

- 7.4.2. The proposed development seeks amendments to an extant permission which has commenced construction on site. In the event of a grant of permission, I recommend that the proposal be tied to the parent permission and thereby subject to its conditions and appropriate period.

Contravention of Condition no. 3

- 7.4.3. The application seeks to omit 2 no. permeability links which are required by condition no. 3 of **ABP 318365-23**. I note that the first reason of refusal by Kildare County Council states that the development would contravene condition no. 3 of **ABP 318365-23**.
- 7.4.4. The applicant is entitled to appeal condition no. 3 and question its appropriateness. I will therefore assess the reasonableness of condition no. 3 under the following subsequent sections relating to permeability, health and safety, anti-social behaviour, loss of amenity, design and the devaluation of property.

7.5. Permeability

- 7.5.1. I note the grounds of appeal from the First-Party which outlines that the 2 no. linkages will not further enhance active travel for the site and that the development will retain all other permitted pedestrian and cycle access routes to the south, east and west. The appellant states that if the Coimisiún consider that the omission of both links into Tonlegee Lawns is inappropriate, it is requested that at least one link is removed into Tonlegee Lawns.
- 7.5.2. I have examined the permitted drawings, and I note that the overall site is served by connections to Fortbarrington Road to the east, connections to the Athy Distributor Road to the south and connections to the Branswood estate to the west.
- 7.5.3. I understand the concerns raised by the First-Party that Kilkenny Road to the north can already be reached by the permitted access routes from Fortbarrington Road to the east and Branswood to the west, and that the 2 no. access routes through Tonlegee to the north are not required. Whilst I agree that Kilkenny Road can be reached by these access routes, I note however that it would involve more circuitous routes.
- 7.5.4. I consider that time savings would be achieved by the 2 no. filtered permeability links to Tonlegee Lawns, albeit to a limited range of services and amenities. There is a combined Top service station and Centra, a community hall and a funeral home along the southern side of Kilkenny Road to the north of the subject site.
- 7.5.5. I also draw the Coimisiún's attention to the location of the Ardrew Key Development Area which is located to the south of the site on the other side of the Athy Distributor Road. The *Athy LAP* identifies this land as the location for a future sports training hub.

Western Permeability Link

- 7.5.6. With regards to the western permeability link, the walking distance from no. 57 on the development site to the Centra is approximately 800 m without any of the Tonlegee Lawns permeability linkages, 498 m if only the eastern permeability link is permitted and 280 m with the western permeability linkage to Tonlegee Lawns. It is therefore evident that significant reductions in distances would occur to some

services/ amenities for future residents through the western permitted access point to Tonlegee Lawns.

Eastern Permeability Link

- 7.5.7. This is also relevant if a resident is living in Tonlegee Lawns and wants to access the Athy Distributor Road to the south of the development site. The walking distance from no. 24 Tonlegee Lawns to a future sports training hub on the Andrew Key Development Area, via the crossing at the Athy Distributor Road is approximately 1 km without any of the 2 no. permitted permeability linkages through Tonlegee Lawns, is approximately 831 m if only the western linkage is provided and is approximately 497 m if the eastern linkage is provided. This further emphasises the importance of providing the eastern permeability link to Tonlegee Lawns, in order to provide permeability to the Athy Distributor Road through the subject site, which will also encourage sustainable modes of transport.

Conclusion on the Provision of Both Permeability Linkages

- 7.5.8. I therefore agree with the planning authority that a choice of access should be afforded to the pedestrian and cyclist residents of Tonlegee Lawns, to avoid having to exit the estate to the north when wishing to access the southern end of Fortbarrington Road and the Athy Distributor Road.
- 7.5.9. In my opinion, the removal of one or both pedestrian and cycle access routes to Tonlegee Lawns would not encourage the use of sustainable modes of transport or facilitate permeability between the subject residential development site and existing development and commercial facilities to the north.
- 7.5.10. I therefore concur with the Planning Authority's first reason of refusal which stated that the omission of the permeability links would contravene condition no. 3, which was included to encourage and facilitate the use of sustainable modes of transport. I also consider that the omission of one or both permeability links would set an undesirable precedent.

Planning Policy

- 7.5.11. The second reason for refusal by the Planning Authority stated that having regard to national, regional and local planning policy, the development would be contrary to policies for sustainable and efficient movement within and between areas.

- 7.5.12. The *NPF* was approved by the Government on the 8th April 2025. The *NPF* contains National Policy Objective 37 which seeks to “*Ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments, and integrating physical activity facilities for all ages.*” I note that National Policy Objective 37 is the same as National Policy Objective 27, which is referenced in the Planning Authority’s refusal.
- 7.5.13. The *Compact Settlements Guidelines* also highlights the importance of creating a permeable environment which optimises movement for sustainable modes.
- 7.5.14. The Climate Action Plan 2025 identifies the critical role of local authorities in transport decarbonisation by ensuring permeability for active modes.
- 7.5.15. The First-Party outlines that there are no upgrades proposed to the existing footpaths in Tonlegee Lawns and that future residents should be encouraged to use the Athy Distributor Road to the south of the site.
- 7.5.16. Noting the wording of National Policy Objective 37 in the *NPF*, I consider that the existing dedicated footpaths in Tonlegee Lawns are safe and offer a convenient alternative to the car. The provision of pedestrian and cycle linkages from the development site into Tonlegee Lawns, addresses desire lines and prioritises walking and cycling accessibility in accordance with National Policy Objective 37 in the *NPF*, the *Compact Settlements Guidelines* and the Climate Action Plan 2025. I therefore agree with the planning authority’s second reason of refusal, that the removal of the access routes to Tonlegee Lawns would be contrary to national policy.
- 7.5.17. The second reason for refusal by the planning authority also had regard to the guiding principles for the integration of Land Use and Transport as set out in the *RSES*. In response to this reason for refusal, the First-Party states that the 2no. access routes to Tonlegee Lawns are not required and that they will not benefit future occupants. I have examined the guiding principles for the integration of land use and transport in the *RSES*, and I consider that the 2 no. access routes to Tonlegee Lawns, support the 10 minute settlement concept and the retrospective implementation of walking and cycling facilities in existing neighbourhoods in order to

give a competitive advantage to these modes. I therefore agree with the planning authority that the proposed development would be contrary to regional policy.

7.5.18. The second reason for refusal by the planning authority also outlined that the development would be contrary to objectives TM O20 and TM O21 in the *Kildare CDP* and Objective MTO 1.6 in the *Athy LAP*. I note the grounds of appeal from the First-Party which states that the development continues to support active travel and permeability to the surrounding area. I agree with the First-Party that the overall site does continue to support active travel and permeability. However, I consider that the omission of one or both access routes to Tonlegee Lawns does not accord with objectives TM O20 and TM O21 in the *Kildare LAP* and Objective MTO 1.6 in the *Athy LAP*. The omission of one or both access routes will not give a competitive advantage to active travel modes for local trip making and it will reduce permeability between existing and proposed developments. I therefore concur with the planning authority that the proposed development would be contrary to objectives TM O20 and TM O21 in the *Kildare CDP* and Objective MTO 1.6 in the *Athy LAP*.

7.5.19. Furthermore, I note Map Ref. 1.1 (Movement and Transport – Walking and Connectivity Measures) in the *Kildare LAP* which identifies “*New Connectivity Links*”. The map identifies new connectivity links under option WN21 on the overall development site. WN21 identifies a connection from the southeast corner of the overall development site at the junction of Fortbarrington Road and the Distributor Road, through the site, to both Tonlegee Lawns and Branswood. Table 7.1 (Walking and Connectivity Measures) of the *Athy LAP* provides a description, a type, and a timeframe for the new connectivity links. In the case of WN21, it is described as ‘*Tonlegee Lawns and Branswood – Athy Distributor Road / Fortbarrington Road Junction. As part of new development*’. The ‘type’ is new residential lands link, and the timeframe is dependent on when lands are developed.

7.5.20. As such, walking and connectivity measures between the overall development site and Tonlegee Lawns are specifically outlined in the *Athy LAP*.

Conclusion

7.5.21. To conclude, permeability can result in social benefits where neighbours who are in some cases only metres apart can interact, fostering a community atmosphere, rather than being physically divided by estate walls. I consider that the proposed

development would cut off permeable streets between existing and new communities and fails to optimise the potential for sustainable modes of transport. I consider that the proposed development is contrary to national, regional and local planning policy for sustainable transport and permeability. I therefore recommend that the appeal is refused.

7.6. Health and Safety

- 7.6.1. The appellant states that the approved accesses to Tonlegee Lawns are detrimental to the community in Tonlegee Lawns with regards to health and safety. As such, the appellant states that the route is not in line with the National Transport Authority Permeability Best Practice Guide 2015 (*Permeability Guide*). I have reviewed the *Permeability Guide*, which under section 2.2.1 highlights the importance of passive supervision of routes and on-street frontage which add to a feeling of security. Considering the location of the access routes which are overlooked by existing and permitted housing, I consider that the routes will be passively overlooked. The *Permeability Guide* also encourages the transformation of existing neighbourhoods into permeable ones, which gives a competitive advantage to sustainable modes of transport. Section 3.3 of the *Permeability Guide* outlines elements which should be considered in the design of links. Having regard to the footpaths, street lighting and passive supervision, I am satisfied that the permitted access routes are in accordance with the *Permeability Guide* and that the permitted links will transform Tonlegee Lawns into a permeable neighbourhood.
- 7.6.2. I have also reviewed *DMURS* which highlights the importance of creating environments with a sense of enclosure, street trees, passive surveillance, lighting and the provision of materials and finishes to define levels of segregation and integration within a street, in order to create safe environments for cyclists and pedestrians. Having regard to the existing environment in Tonlegee Lawns and the proposed layout and design on the development site, I am satisfied that the provision of the 2 no. permeability linkages to Tonlegee Lawns are in accordance with *DMURS* and will create safe environments for cyclists and pedestrians. *DMURS* also outlines how the minimum width of a footpath is 1.8 m. It states that in densely populated areas and along busier streets, additional width must be provided. The submitted drawings identify that the footpath widths in Tonlegee Lawns varies between 2.9 to 3.2 m in width. I note that Tonlegee Lawns is a residential estate with a low levels of

traffic. I therefore consider that dedicated cycle lanes are not required in Tonlegee Lawns from a health and safety perspective and that the existing widths of the footpaths are suitably sized to cater for enhanced levels of permeability between the residential estates.

- 7.6.3. The grounds of appeal also state that there are safety issues with the junction between Tonlegee Lawns and the Kilkenny Road. As such, active travel should be directed to purpose built cycle lanes on the Athy Distributor Road and Fortbarrington Road.
- 7.6.4. I have examined the area surrounding the overall development site and I note that there are no dedicated cycle lanes on Kilkenny Avenue. I also note that there is a combined cycle and pedestrian walkway along the Athy Distributor Road. However, as discussed above, Tonlegee Lawns experiences low levels of traffic. At the time of my site inspection which occurred at lunch time, during a week day, I observed no queuing of traffic at the Tonlegee Lawns exit to Kilkenny Avenue and I did not observe any issues entering or existing the Tonlegee Lawns estate with regards to traffic volume or visibility. I therefore do not consider that this is a reason not to encourage permeability between the overall development site and Tonlegee Lawns to the north. As noted above, permeability and the encouragement of sustainable modes of transport between future development and existing development is supported in national, regional and local planning policy.
- 7.6.5. The First-Party also states that the provision of permeability links between the overall site and Tonlegee Lawns will impact on the safety of children playing. I accept that the provision of the permeability links into Tonlegee Lawns will increase the number of pedestrians and cyclists along the 2 no. roads. However, I do not consider that it is a reason to remove the permeability links. The 2 no. access links are for pedestrian and cycle traffic and will not facilitate vehicular traffic. The additional pedestrian and cycle traffic would have a negligible impact on the ability of children to play on the roads or open spaces.
- 7.6.6. The grounds of appeal raise concern regarding the parking of cars within the Tonlegee Lawns Estate on the footpath. The appellant states that the inclusion of more vulnerable road user traffic will result in increased potential conflicts. As noted above, the provision of the permeability links will increase the quantity of pedestrian

and cycle activity in Tonlegee Lawns. Relying on poor parking practice which obstructs and endangers pedestrians to justify removing permeability links is not reason enough to reconsider the links. As such, I do not consider the manner in which a number of cars often oversail the footpath to be a reason for omitting the permeability links. Furthermore, as noted above, the footpath width in Tonlegee Lawns varies between 2.9 to 3.2 m in width. I therefore consider that the existing footpaths in Tonlegee Lawns to appropriately sized to cater for additional pedestrian and cycle traffic from the development site.

7.7. Anti-Social Behaviour

- 7.7.1. The grounds of appeal raise concern regarding anti-social behaviour. The appellant states that youths enter Tonlegee Lawns and climb the boundary hedge and fencing to enter the application site. The appellant is concerned that further permeability will increase the potential for ongoing anti-social behaviour.
- 7.7.2. I consider that the development of the subject site for residential accommodation will reduce the opportunities for anti-social behaviour, as the development site will contain housing which will passively overlook the pedestrian and cycle connections and there will be a higher level of footfall between the 2 no. residential estates. Furthermore, the provision of the 2 no. access points will negate the need for people to climb the boundary, as access points will be provided. The 2 no. access points would not create or increase anti-social behaviour, and I do not consider this to be an appropriate reason to remove the permitted permeability to Tonlegee Lawns.

7.8. Loss of Amenity

- 7.8.1. The appellant states that the omission of the 2 no. access points to Tonlegee Lawns accords with Objective HO O6 in the *Kildare CDP* which requires development to 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.
- 7.8.2. Whilst the 2 no. access points to Tonlegee Lawns is likely to result in increased movement between the 2 no. communities, I consider that it will have a limited impact on the character of the streetscape or residential amenities of the residents in Tonlegee Lawns.

7.9. Design

- 7.9.1. The appellant proposes to rebuild the wall on the eastern access point following its partial demolition to enable the replacement of an existing foul sewer pipe. The drawing of the boundary identifies that the wall is proposed to match the existing height of the wall and to be a concrete block wall with brick piers on the Tonlegee Lawns side and with a brick cladding finish on the appellants southern side only. An evergreen hedge is proposed on both sides of the wall.
- 7.9.2. At the western access point the appellant proposes to retain, repair and reconstruct the wall as a concrete wall. The drawing identifies that the wall is proposed to be 2 m in height, rendered on the appellant's southern side and the finish on the Tonlegee Lawns side is proposed to consist of a concrete block wall with brick piers. With regards to planting, both sides of the wall are proposed to contain a mix of thorn dominant species and tree planting.
- 7.9.3. In terms of materials and planting, I am satisfied that the proposed development will be in keeping with the surrounding area and will not impact the visual amenities and character of the streetscape.

7.10. Other Matters

- 7.10.1. I note the concerns raised in the observation in respect of the devaluation of neighbouring property. 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.

8.0 AA Screening

- 8.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.2. The subject site is located 0.68 km to the west of the River Barrow and River Nore Special Area of Conservation.
- 8.3. The proposed development comprises amendments to the permitted Large Scale Residential Development **ABP-318365-23** (currently under construction) for the reconstruction of the northern boundary wall between the subject site and Tonlegee

Lawns, resulting in the omission of the pedestrian/ cycle links as required by condition no. 3 of **ABP-318365-23**.

- 8.4. No nature conservation concerns were raised in the planning appeal.
- 8.5. Under the parent permission, **ABP 318365-23**, an Appropriate Assessment Screening Report was submitted. AA screening was also carried out by the planning authority and An Bord Pleanála. Both the Screening Report submitted by the applicant, the AA Screening conducted by the Planning Authority and An Bord Pleanála concluded that the proposed development would not require stage 2 AA, as it would not either alone or in combination have a significant impact on any European site.
- 8.6. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.
- 8.7. The reason for this conclusion is as follows:
- The nature of the proposed works.
 - The location of the site and its distance at c. 0.68 km from the nearest European site and the lack of connections.
 - Taking into account the screening determination by the planning authority which determined that AA is not required because the project will not result in significant affects, having regard to the scale of the proposal, the minor works proposed within the permitted site and given that the development will not impact the integrity of Natura 2000 sites.
 - Taking into account the Appropriate Assessment Screening Report and the AA screening which was also carried out by the planning authority and An Bord Pleanála under the parent permission, ref. **ABP 318365-23**, which concluded that the proposed development would not require stage 2 AA as it would not either alone or in combination have a significant impact on any European site.
- 8.8. I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

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

9.0 **Water Framework Directive Assessment**

9.1. The subject site is located 0.337 km to the east of the River Barrow.

9.2. The proposed development comprises amendments to the permitted Large Scale Residential Development **ABP-318365-23** (currently under construction) for reconstruction of the northern boundary wall between the subject site and Tonlegee Lawns, resulting in the omission of the pedestrian/ cycle links as required by condition 3 of **ABP-318365-23** grant of permission.

9.3. No water deterioration concerns were raised in the planning appeal.

9.4. I have assessed the proposed development and I have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

9.5. The reason for this conclusion is as follows:

- Small scale and nature of the development.
- A distance of 0.337 km from the River Barrow and no hydrological connections.

Conclusion

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

10.0 Recommendation

10.1. I recommend that planning permission should be refused for the reasons and considerations as set out below.

11.0 Reasons and Considerations

1. Having regard to:

- The National Planning Framework National Policy Objective (NPO) 37 which seeks to ensure the integration of safe and convenient alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility to both existing and proposed developments and integrating physical activity facilities for all ages.
- The Climate Action Plan 2025 which identifies the importance of transport decarbonisation by ensuring permeability for active modes.
- The guiding principles for the integration of Land Use and Transport as set out in the Regional and Economic and Spatial Strategy 2019 - 2031 including the retrospective implementation of walking and cycling facilities which should be undertaken in existing neighbourhoods.
- The provisions for sustainable and efficient movement as set out in the Ministerial Guidelines for Sustainable Residential Development and Compact Settlements (2024) including the improvement of connections between communities.
- Objectives TMO 20 and TMO21 of the Kildare County Development Plan 2023 - 2029 which seek to ensure that new development areas are fully permeable for walking and cycling and to improve permeability between existing and proposed developments including adjacent developments.
- Objective MTO 1.6 of the Athy Local Area Plan 2021 - 2027 which seeks to ensure that all development within Athy allows for connectivity (pedestrian, cyclist and vehicular) to adjacent lands.
- Map 1.1: Movement & Transport – Walking and Connectivity Measures in the Athy Local Area Plan 2021 – 2027 which identifies a new

connectivity link between the development site and Tonlegee Lawns under option WN21.

To permit the development as proposed would be contrary to the provisions of national, regional and local planning policies for sustainable and efficient movement within and between areas, as it would be contrary to the provisions of The National Planning Framework National Policy Objective 37, the Climate Action Plan 2025, the guiding principles for the integration of Land Use and Transport as set out in the Regional and Economic and Spatial Strategy 2019 – 2031, Objectives TM O20 and TM O21 of the Kildare County Development Plan 2023-2029 and Objective MTO 1.6 and Map 1.1 of the Athy Local Area Plan 2021-2027.

2. The omission of the permitted filtered pedestrian and cycle permeability links from the development site to Tonlegee Lawns would contravene Condition no. 3 of planning permission granted under ref. ABP-318365-23. Condition no. 3 has been applied to encourage and facilitate the use of sustainable modes of transport. The proposed development would therefore set an undesirable precedent and would be contrary to the proper planning and sustainable development of the area. It is also considered that the permitted linkages would not seriously injure the residential amenities of the area and would be acceptable in terms of traffic safety and pedestrian and cycle convenience.

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.

Catherine Hanly
Planning Inspector

27th August 2025

12.0 Appendix 1 - Form 1 - EIA Pre-Screening

Case Reference	ACP-322832-25
Proposed Development Summary	Minor amendments to the permitted Large Scale Residential Development KCC Reg. Ref. 23/656 and ABP-318365-23 (currently under construction) for reconstruction of the northern boundary wall between the subject site and Tonlegee Lawns, resulting in the omission of the pedestrian/ cycle links as required by condition 3 of ABP-318365-23 grant of permission.
Development Address	Blackparks, Athy, Co. Kildare
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<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. Discuss with ADP.	
<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 checked="" 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 type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.	

<p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	
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4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ **Date:** _____