



Development

Permission for the construction of a residential development comprising of 74 no. units in total, consisting of 16 no. three storey duplex units (8 no. two bed units and 8 no. three bed units), 16 no. four storey duplex units (8 no. three bed units and 8 no. three bed units), 29 no. three bed two storey houses and 13 no. four bed units in a mix of two and three storey houses; 2. Individual vehicular, pedestrian and cyclist access from a number of points from existing estate road at Riverside Crescent to the east of the application site. 3. Provision of public open spaces totalling 2,347 sq.m. 4. The inclusion of a total of 115 no. car parking spaces to serve the development, in addition to 126 no. bicycle spaces, and bin store areas located at various points around the development. 5. Infrastructure works to serve the proposed development to include the internal road and footpath network, ESB substations/switchrooms, lighting, site drainage works, hard and soft

landscaping, boundary treatment, and all ancillary site services and development works above and below ground

Location

A 1.92-hectare site at and on lands to the west of the development known as 'Riverside Crescent', Kilcullen, Co. Kildare

Planning Authority

Kildare County Council

Planning Authority Reg. Ref.

2561097

Applicant(s)

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First party V. Refusal

Appellant(s)

Rivermanor Developments Ltd

Observer(s)

Howard Berney

Date of Site Inspection

13/2/26

Inspector

Ronan Murphy

1.0 Site Location and Description

- 1.1 The appeal site is located c. 87m to the east of Kilcullen Town Centre in an area which is predominantly residential in character with a mixture of two storey detached and semi-detached dwellings and duplex apartments.
- 1.2 The appeal site has a stated area of 1.92ha and at present the site is an infill greenfield site which is enclosed by a rubble wall to the north and open boundaries to the east, west and south.
- 1.3 The topography of the site is notable, with an approximate level difference of 10M from West to East with the lowest point at +102 to the Southwest corner adjoining the main link road into the town centre.
- 1.4 The appeal site is primarily bounded to the north by an existing laneway which provides access to the town centre and residential development to the east, south-east and west of the site.

1.0 Proposed Development

- 1.1. The proposal seeks planning permission for a residential development with 74 no. units in total, consisting of 16 no. three storey duplex units (8 no. two bed units and 8 no. three bed units), 16 no. four storey duplex units (8 no. three bed units and 8 no. three bed units), 29 no. three bed two storey houses and 13 no. four bed units in a mix of two and three storey houses.
- 1.2. The houses are laid out in a mixture of two and three storey dwellings ranging in height from 8.2m to 10.2m with pitched roofs with brick and smooth render finishes.
- 1.3. The proposed duplex apartment buildings are laid out in three and four storey blocks with heights ranging from 10.1m to 13.2m with flat roofs and would be finished in select brick.

- 1.4. The proposed development would be serviced with 115 car parking spaces including two in curtilage car parking spaces per dwelling (83 spaces) and 1 space per duplex unit (32 spaces). In addition to this a total of 126 bicycle spaces are proposed comprising of 88 long stay space and 38 short stay spaces.
- 1.5. Bins for the dwellings would be stored to the rear of the dwellings for detached and semi-detached units, with a dedicated area to the front of the dwellings for terrace units. A shared communal waste storage area is proposed for the duplex units located at ground floor, in proximity to the blocks.
- 2.7 Public open space would be provided by three separate areas totalling c. 2,531m², while communal open space for the Duplex apartments would be provided by way of two areas totalling 800m².The following key parameters are noted:

Site area	1.92ha
Residential Units	74
Building Height	8.2m -10.2m (Houses) 10.1m-13.2m (Duplex Apartments)
Density	38.5 units per hectare
Public open space	2,531m ² (13%)
Access	Vehicular and pedestrian via connections into the existing Riverside development
Car and cycle parking	115 car parking spaces 126 bicycle parking spaces

Table 1 Development Parameters

2.8 The proposal would have the following unit mix:

Unit Type	No of units	%
2 bed Duplex Apartments	8	10.8%
3-bed houses	29	39.1%
4-bed houses	13	17.5%
3-bed Duplex Apartments	16	21.6%
4-bed Duplex Apartments	8	10.8%
Total	74	100%

Table 2 Unit mix

2.0 Planning Authority Decision

2.1. Decision

3.1.1 By order dated 17/11/25 the Planning Authority Decided to refuse planning permission for 3 No. reasons as set out below:

1. Having regard to Planning Objective IN O24 of the Kildare County Development Plan, 2023 – 2029 and Objective ST KL47 of the Kilcullen Settlement Plan which seek to discourage, in the first instance, the installation of underground attenuation tanks and to only consider underground retention solutions when all other options have been exhausted and, in the second instance, the installation of same under public open space, the proposed development, which proposes to install an underground attenuation tank and to locate same under the area of public open space with no

attempt to rationalise the attenuation tank over suitable Sustainable Drainage Systems, would materially contravene Objectives contained in the Kildare County Development Plan 2023 – 2029, namely BI O77, BI O78, TM O119, IN O22, IN O30, BI O47 and Objective ST KL47 of the Kilcullen Settlement Plan and would set an undesirable precedent for similar developments of this scale and nature and would therefore be contrary to the proper planning and sustainable development of the area.

2. Notwithstanding the “C (3) - New Residential” zoning of the site which aims “To provide for new residential development”, it is considered, having regard to the following:

- The absence of a hierarchy of streets and clear permeability through the site for pedestrians and cyclists,*
- Absence of quality and useable/functional open space, free from heavy engineering solutions such as underground attenuation tanks,*
- Absence of nature-based solutions and biodiversity,*

that the development, if permitted, would materially contravene Objective UD O1 of the Kildare County Development Plan 2023-2029, which requires a high standard of urban design to be integrated into the design and layout of all new development and would be contrary to the principles and key indicators for urban design and quality placemaking as set out in Section 28 Ministerial Guidelines - Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities, would result in development with a poor disposition of public open space, and consequent poor level of residential amenity, set an undesirable precedent for similar developments of this scale and nature and would therefore be contrary to the proper planning and sustainable development of the area.

3. The site has been cleared of all-natural vegetation and green infrastructure including the majority of all boundary vegetation. The proposed development is not accompanied by any detailed rationale for the removal of trees and hedgerows on site. The proposed development fails to provide for any meaningful compensation for the loss of vegetation on site and appears to have been designed without any consideration of the natural character and context within which the site is set, located in proximity to the River Liffey. Objective BI O26 of the Kildare County Development Plan 2023-2029 seeks to prevent, in the first instance, the removal of hedgerows to

facilitate development and, in the second instance, views the removal of trees and hedgerows prior to submitting a planning application negatively. The removal of extensive vegetation from the site, would therefore materially contravene development objectives ST KL48, ST KL51, ST KL59, ST KL60, and ST KL61 of the Kilcullen Settlement Plan and the Objectives, namely BI O5, BIO7, BI O18, BI O22, BI O26, BI O27, and BI O64 of the Kildare County Development Plan 2023 - 2029, would set an undesirable precedent for similar developments of this scale and nature and would therefore be contrary to the proper planning and sustainable development of the area.

2.2. Planning Authority Reports

2.2.1. Planning Reports

3.2.1.1 There is one planning report on file, dated 14/11/25. The report states that while the principle of residential development at this location is acceptable under the *Kilcullen Settlement Plan*, the proposed scheme fails to meet critical requirements for sustainable and environmentally responsible development. However, concerns were outlined with respect to absence of a Sustainable Drainage Systems (SuDS) and the reliance on underground attenuation tanks constitute a serious breach of multiple objectives of the *Kildare County Development Plan 2023 – 2029*. In addition to this, concerns were raised with respect to the extensive clearance of habitats prior to any ecological assessment and the submission of the subject application, which it was considered constituted a breach of biodiversity policies. Concerns were also raised with respect to layout integration, permeability, and fragmented public open space, render the proposal contrary to the proper planning and sustainable development of the area. The area planner recommended refusal on the basis of the above.

2.2.2. Other Technical Reports

Environment: Report dated 21/10/25 requesting further information.

Environment Health Officer: Report dated 21/10/25 outlining no objection, subject to conditions.

Parks Department: Report dated 23/10/25 recommending that permission be refused.

Water Services: Report dated 28/10/25 outlining no objection, subject to conditions.

Area Engineer: Report dated 4/11/25 outlining no objection, subject to conditions.

Chief Fire Officer: Report dated 4/11/25 requesting further information.

Housing Department: Report dated 5/11/25 requesting further information.

Heritage Officer: E-mail dated 7/11/25 outlining no objection, subject to conditions.

Ecologist: Report dated 10/11/25 recommending that permission be refused or deferred pending the completion of a full suite of ecological surveys and a revised EclA that accurately reflects the site's ecological value.

Transport: Report dated 11/11/25 requesting Further Information.

2.3. Prescribed Bodies

Uisce Eireann: Response dated 7/11/25 outlining no objection, subject to conditions.

3.0 Planning History

Appeal Site

Reg. Ref. 99/1635: Application for 148-unit housing scheme comprising 1 four-unit apartment block, 2 six-unit apartment blocks, 20 two-bedroom townhouses, 6 three-bedroom houses, 80 four-bedroom houses and 26 five-bedroom houses with vehicular access etc. Permission granted, subject to conditions.

It is noted that the appeal site was included the subject site as part of the Phase 4 part of the permitted development. Phase 4 was not enacted.

Reg. Ref 00/2221: Application for revisions to 55 No. two storey dwelling houses in the previously permitted overall development of 148 No. dwelling houses (plan reg. ref. No. 99/1635), including their reduction to 145 No. in the number of dwelling houses, minor revision to 5 etc. Permission granted, subject to conditions.

Reg. Ref 07/2431: Application for the construction of 174-unit residential development comprising as follows: 2no. two storey 4 bed detached houses, 57no. apartments and 63no. duplex apartments in eleven separate two and three storey blocks, 22no. 3 bed townhouses etc. This application excluded the appeal site. Permission refused for reasons including that proposal was premature pending the construction and

commissioning of proposed foul sewer network from the site boundary to Osberstown Wastewater Treatment Plant.

Lands to the east

Reg. Ref 08/1679: Application for the construction of a 110-unit residential development, comprising as follows: 2 no. two storey 4 bed detached houses; 30 no. apartments and 26 no. duplex apartments - in five separate three storey blocks; 22 no. 3 bed townhouses etc. Permission granted, subject to conditions.

Reg. Ref 13/1019: Application for extension of Duration of Planning Ref. No. - 08/1679. Extension of duration granted.

Reg. Ref 18/1475: Application for extension of Duration of Planning Ref. No. - 08/1679. Extension of duration granted.

Reg. Ref 19/1000: Application for A revision to a section of the previously approved residential scheme (Planning Reference 13/1019) to comprise the construction of 90 No. residential units consisting of 16 No. 1 bed maisonettes, 24 No. 2 bed duplex units, 42 No. 3 bed houses and 8 No. 4 bed houses. Permission granted, subject to conditions.

Site further to the east

Reg. Ref. 22312861. SHD application for 125 no. residential units, associated childcare facility (c. 296 sqm); and a network of public open spaces, including a landscaped linear park running alongside the River Liffey. The proposed development includes the amendment of 26 no. residential units permitted under Kildare County Council Register Reference 19/1000; An Bord Pleanála Reference PL09.307059. Permission granted, subject to conditions.

4.0 Policy Context

4.1. Development Plan

Kildare County Development Plan 2022-2029

HO 04: Which seeks to ensure appropriate densities are achieved in accordance with the Core Strategy.

HO O6: Which seeks 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.

HO O8: Which seeks to support new housing provision over the Plan period to deliver compact and sustainable growth in the towns and villages in the County, and supporting urban renewal, infill, and brownfield site development.

HO O15: a) Require that new residential developments provide for a wide variety of housing types, sizes, and tenures.

b) Specify target housing mixes, as appropriate, for certain sites and settlements as part of the Local Area Plan process.

c) Require the submission of a 'Statement of Housing Mix' with all applications for 10 or more residential units.

d) Require that all new residential developments in excess of 5 residential units provide for a minimum of 20% universally designed units in accordance with the requirements of 'Building for Everyone: A Universal Design Approach' published by the National Disability Centre for Excellence in Universal Design. Further detail in respect of unit mix is set out in Chapter 15: Development Management Standards".

HO O18: Support high-quality design in new housing and to promote housing that is attractive, safe, and adaptable to the needs of existing and future households.

HO O50: Require that new dwellings incorporate principles of sustainability and green principles in terms of design, services, and amenities with careful consideration in the choice of materials, roof types (i.e. green roofs).

TM O5: Encourage the use of materials and engineering solutions that optimise natural surface water drainage as part of Sustainable Urban Drainage Systems (SUDS).

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.

TM O21: Ensure site layout proposals detail present and possible future connections to pedestrian/cycle links and improve permeability between existing and proposed developments.

TM O101: Ensure that all developments allow for full connectivity (pedestrian, cycle and vehicular) to adjacent road networks.

IN O22: 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”.

IN O23: Require new developments to reduce the generation of storm water runoff and ensure all storm water generated is disposed of on-site OR attenuated and treated prior to discharge to an approved water system.

IN O24: Only consider underground retention solutions when all other options have been exhausted. Underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution.

IN O26: Ensure as far as practical that the design of SuDS enhances the quality of open spaces. SuDS do not form part of the public open space provision, except where it contributes in a significant and positive way to the design and quality of open space. In instances where the Council determines that SuDS make a significant and positive contribution to open space, a maximum of 10% of open space provision shall be taken up by SuDS. The Council will consider the provision of SuDS on existing open space, where appropriate. The ‘Sustainable Urban Drainage Systems Guidance Document’ prepared as an action of this plan shall supersede this standard.”

IN O33: Manage flood risk in the county in accordance with the sequential approach and requirements of the Planning System and Flood Risk Management Guidelines for Planning Authorities, DECLG and OPW (2009) and circular PL02/2014 (August 2014).

IN O64: Ensure that future developments are designed and constructed to minimise noise disturbance.

BI O1: 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.

BI O18: Require all applications for new developments to identify, protect, and sensitively enhance the most important ecological features and habitats, and incorporate these into the overall open space network.

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”.

LR O82: Require the provision of good quality, well located and functional open space in new residential developments.

LR O84: Ensure that all development proposals include comprehensive landscaping schemes.

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”

UD O4: To require all proposals for multi-unit residential developments to demonstrate how the principles of ‘Crime Prevention Through Environmental Design’ have been considered.

Development Management Standards:

Section 15.2.1 Site Coverage and Plot Ratio

Section 15.4 Residential Development

Section 15.4.4 Housing Mix

Section 15.4.5 Design, Layout and Boundary Treatments

Section 15.4.6 House Design

Section 15.6.3 Amenity Green Spaces

Section 15.6.6 Public Open Space for Residential Development

Section 15.6.7 Private Open Spaces

Section 15.7.2 Cycle Parking

Section 15.8 Surface Water

5.2 Section 28 Ministerial Guidelines

National Planning Framework - Project Ireland 2040-updated in April 2025 sets out the focus on pursuing a compact growth policy at national, regional, and local level. From an urban perspective the aim is to deliver a greater proportion of residential development within existing built-up areas; to facilitate infill development and enable greater densities to be achieved, whilst achieving high quality and design standards.

Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities (January 2024). These Guidelines set national planning policy and guidance in relation to the planning and development of urban and rural settlements, with a focus on sustainable residential development and the creation of compact settlements.

Sustainable Urban Housing: Design Standards for New Apartments, (2025) These guidelines were originally issued in 2018 and were updated in 2023 and 2025.

Quality Housing for Sustainable Communities (2007) These guidelines identify principles and criteria that are important in the design of housing and to highlight specific design features, requirements and standards that have been found, from experience, to be particularly relevant.

5.3 Other relevant guidance

Nature-based Solutions to the Management of Rainwater and Surface Water Runoff in Urban Areas Water Sensitive Urban Design Best Practice Interim Guidance Document

5.3.1 This document shows how to move towards a more systematic and sustainable approach to urban planning and design that seeks to mimic the natural water balance of rural areas through “water sensitive urban design”.

Greater Dublin Strategic Drainage Study Volume 2 March 2005

5.3.2 This document is concerned with identification of similar approaches for the Local Authorities to adopt as to how drainage infrastructure for new development is managed.

Greater Dublin Regional Code of Practice for Drainage Works Volume 6 April 2006

5.3.3 While the Greater Dublin Strategic Drainage Study Volume 2 policies remain the overriding documents, this Regional Code of Practice for Drainage Works sets out the requirements of the Local Authorities in a more concise format for day-to-day use.

5.4 Natural Heritage Designations

5.4.1 The subject site is not located within or adjacent to a European Site. The nearest designated sites are

- Pollardstown Fen SAC (Site Code: 000396) 7 km N/W
- Moulds Bog SAC (Site Code: 002231) 9KM N/W
- Slaney River Valley SAC (Site Code: 000781) 12 KM S/W
- River Barrow and River Nore SAC (Site Code: 002162) 14 KM S/E
- Red Bog, Kildare SAC (Site Code: 000397) 15KM N/E
- Poulaphouca Reservoir SPA (Site Code: 004063) 10KM E

5.4.2 In addition to this, the Curragh (Kildare) (Site Code: 000392) pNHA is located c. 2.8km to the west of the site.

5.4.3 A screening exercise for Appropriate Assessment will be undertaken in Section 8 and Appendix 2 below.

5.5 EIA Screening

5.5.1 See completed Form 2 attached by way of appendix to this report. Having regard to the nature, size, and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required. A screening exercise for will be undertaken in Appendix 3 below.

5.6 Water Framework Directive

5.6.1 The purpose of the EU Water Framework Directive is an initiative aimed at improving water quality throughout the European Union. The Directive was adopted in 2000 and requires governments to take a new approach to managing all their waters; rivers, canals, lakes, reservoirs, groundwater, protected areas (including wetlands and other water dependent ecosystems), estuaries (transitional) and coastal waters.

6.6.2 An Coimisiún Pleanála and other statutory authorities cannot grant development consent where a proposed development would give rise to a deterioration in water quality.

6.6.3 The appeal site is located c. 60m to the north of the River Liffey_060 River Waterbody IE_EA_09L010700. This waterbody is classified as at-risk ecological status in proximity to this appeal site. This is illustrated on the EPA mapping (<https://gis.epa.ie/EPAMaps/agriculture>).

6.6.4 I have assessed the application for the construction of a residential development for which permission is sought and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & 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.

6 The Appeal

6.1 Grounds of Appeal

6.1.1 A first party appeal has been received from Foundation on behalf of the applicant. The appeal includes a number of Appendices:

- Appendix 1: Copy of Notification of Decision to Refuse Permission
- Appendix 2: Kildare County Council Record of Section 247 Consultation
- Appendix 3: Alternative Layout by OMP Architects

- Appendix 4: Gannon and Associates Report
- Appendix 5: Updated Arboricultural Report and Drawings

6.1.2 The appeal can be summarised as follows:

Reason No.1 for refusal

- The planner's report does not substantiate why or how the proposed development contravenes policies of the development plans, let alone how they would materially contravene these policies. The planner's report is inaccurate in terms of reference to internal reports by Parks, Roads, and Water Services.
- The proposed development clearly includes SuDS measures and the documentation submitted with the planning application shows that the site topography has ruled out the inclusion of other SuDS measures and drives the need for an attenuation tank.
- Without an attenuation tank the open space and permeability and legibility of the scheme become compromised and less than optimal given the site configuration and topography. There is a clear rationale for the use of an underground tank and with particular reference to objective IN 024 of the County Plan the use of an underground tank has only been considered after all other reasonable options have been exhausted.
- There are conflicting policies and objectives in the County Development Plan. The planning authority has failed to acknowledge objective IN 026 acknowledges that SuDS can form part of public open space.
- The design team has further reviewed options to increase natural SuDS and reduce the extent of underground tanks. This includes natural attenuation provided through 2 no. above ground storage basins located to the northwest and northeast of the site, within the proposed open space areas. The basins will have volumes of 150m³ and 75m³ respectively and will also include a below ground (800mm deep) drainage layer which will provide a further storage volume of 24m³ and 12m³ respectively. The northern areas do not permit infiltration. By introducing these basins and drainage layers, the initially proposed modular attenuation tank can be omitted.

- The incorporation of this natural attenuation into the open space areas severely compromises their accessibility and functionality, and because of this, the preferred option is the use of underground tanks for the provision of an optimum solution. The disadvantages of the fully natural attenuation option as opposed to the use of the underground tanks are as follows:
 - Attenuation basins of up to 2.7m deep in the open space areas to achieve a 500mm water storage depth. While these areas are considered to be usable as open space when the basins are not holding water, they result in the requirement for high retaining walls and safety railings, this has a negative visual appearance compared to open space which utilises underground tanks.
 - Due to the gradient of the deeper attenuation basins, stepped access is required, Part M access is not possible, giving rise to accessibility issues.
 - The useable open space is reduced from 1,406m² (7,2%) of the site area in the fully natural attenuation solution.
- Given the above, it is clear that the use of a fully natural attenuation solution gives rise to other negative impacts.
- It could be argued that open space provision could be increased to facilitate additional natural attenuation. This would be to ignore other key requirements, particularly development density, which the planning authority has found to be appropriate.
- Should the Coimisiún be minded to grant permission but consider the use of an underground tank as included with the planning application to not be acceptable then the enclosed site layout plan with minor amendments to allow a fully natural attenuation system can be conditioned.

Reason No. 2 for refusal

- The planning authority has failed to explain why the proposed development represents a material contravention of Objective UD 01. Objective UD 01 is a generic objective with no site-specific measures or requirements. It is not clear how much weight has been assigned to the zoning objective of the land. It would appear that other identified issues have been given greater weight.

- The proposed development is not considered substandard in any way in terms of hierarchy of streets, permeability through the site for pedestrians and cyclists, public open space, or approach to attenuation.
- The planner's report does not refer to any cognisance was given to the detailed assessment of the site opportunity, constraints and development rationale which was set out in substantial detail in the Architectural Design Statement submitted with the planning application.
- The development principles are rooted in creating a compact, well-integrated community that balances residential growth with sustainability and placemaking. The layout addressed and complied with Objective UD 01.
- The planning authority appears to have misunderstood a number of aspects of the proposed development, including its layout in character areas, addressing site topography and the presence of existing road and footpath infrastructure.
- The planning authority has not offered a single reference to any aspect of Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities in support of the reason for refusal, despite the guidelines being referenced in the reason for refusal. The application should be granted having regard to Section 34(b)(iii) of the Planning and Development Act 2000 (as amended).
- No correct to say there are no hierarchy of streets. The street layout has been arranged, given the topography of the existence of existing road network and footpath infrastructure, in three-character areas, each of which has its own street network. This is necessary given the topography of the area and all three-character areas are linked in pedestrian and cyclist terms.
- It is not accurate for the planners report to suggest that the site layout plan is predominantly vehicle orientated. The proposal uses the existing road to Riverside Crescent and given the topography utilises accesses from Riverside Crescent at a number of points. The design team extensively engaged with the Roads Department. With minor amendments in the alternative scheme as set out in Appendix 3 a 4m width can be provided for the vast majority of the

greenway. Road widths are also adjusted based on the Kildare County Council planners report. This could be conditioned by the Coimisiún.

- The design of the greenway could not be extended to the main street as suggested by the planning authority as the majority of the land required is not within the ownership of the applicant. It would therefore be a poor design with the part of the development turning its back on the application site itself and require the removal of an old stone boundary wall which is a valuable heritage feature and the loss of all hedgerow along the lane, the removal of which the planning authority has already cited as a reason for refusal.
- The laneway to the north of the land is not within control of the applicant and therefore it is not possible for the dwellings to face onto this road. It is also an agricultural laneway with no surfacing and ends in a cul-de-sac.
- The open space and street network delivers a safe and convenient route to the significant existing linear park along the River Liffey corridor. This is immediately adjacent to the site.
- The planning authority has not acknowledged the linked network of open spaces including in the proposed development, provided both to provide public open space areas in each of the three-character areas and also to provide linked open spaces in the 'stepping stone' approach.
- The planning authority has included reference to an 'absence of nature-based solutions and biodiversity' in the reason for refusal without recognising the significant planting strategy or the linked network of open spaces provided.
- The proposed landscape strategy introduces new habitat types that the enhance the diversity and structure of vegetation within the site. The proposed development includes the planting of 120 trees and 155 linear metres of hedgerow.
- Using habitat type diversity as a proxy indicator, the scheme achieves a net ecological gain, introducing four new habitat types that were previously absent and delivering a 21% distribution of higher-value habitats relative to the 2025 baseline.

- The study by Gannon and Associates as attached at Appendix 4 shows that from 2013 to 2022, aerial imagery demonstrates that the site did not contain historic, established or ecologically meaningful vegetation.
- The land transitions from an open and largely featureless area to one with only small, irregular, and weak patches of early growth.
- The 2013 view shows no hedgerows, no woodland structure, and no identifiable ecological features and by 2022 the vegetation remains sparse, discontinuous and recently formed. This indicates that the site did not support mature habitats prior to development and that no longstanding vegetative elements were present.
- Between 2022 and 2024 the imagery shows a modest increase in surface texture, but the vegetation continues to represent regeneration rather than any form of established natural cover.
- The proposed landscape strategy introduces new habitat types that enhance the diversity and structure of vegetation within the site. The proposed development includes the planting of 120 no. trees and 155 linear metres of hedgerow.
- Using habitat type diversity as a proxy indicator, the scheme achieves a net ecological gain, introducing four new habitat types that were previously absent and delivering a 21% distribution of higher value habitats relative to the 2025 baseline.

6.2 Planning Authority Response

6.2.1 A response from the Planning Authority dated 21/1/26 has been received. The response states that the Planning Authority noes the contents of the appeal and confirms its decision.

6.3 Observations

6.3.1 An observation has been received from Howard Berney. The observation can be summarised as follows:

- The observation relates to the proposed boundary treatment between the development site and Bentley's Lane which adjoining the site on the North side.
- The laneway originating from the main street, is the primary access / egress route to a working farm in the observer's ownership.
- Previous developers did not construct a boundary treatment between residential development and the lane.
- The Riverside has been subject to many rigorous planning processes over a 25-year period. A constant outcome of each procedure that an effective boundary treatment is a requirement along the shared boundary, which includes Bentley Lane.
- A requirement now exists to include as a condition of this development the provision of an effective boundary for the remainder of Bentley Lane, adjoining the site. The lane leads to an isolated farmyard where encroachment and vandalism have been an issue since the commencement of the Riverside development.
- There has been recurring problems with regard to vehicular movement along this lane, most particularly from vehicles parking adjacent to Saddler's Way. On occasion, agricultural contractors have been unable to access the farm due to improper and frequent parking practices, caused by the lack of parking in the general area.
- Both the Planning Authority and An Bord Pleanála have constantly recognised the requirement for an appropriate and effective boundary treatment between the Riverside development site and Bentley's Lane, and it would be highly unusual to depart from this position. Additionally, it is the case that Bentley's Lane is neither a suitable access / egress route for future residents of this development, nor should it be used for entrance / exit purposes during the construction phase.

6.4 Further Responses

6.4.1 There are no further responses on file.

7 Assessment

7.1 Having examined the appeal details and all other documentation on file, including submissions and responses, the report of the local authority and inspected the site. I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development
- Drainage Design (Reason No. 1 for refusal)
- Layout / Permeability / Hierarchy of Streets (Reason No. 2 for refusal)
- Biodiversity (Reason No. 3 for refusal)
- Flooding
- Other matters
- Appropriate Assessment Screening

7.2 Principle of Development

7.2.1 The appeal site is zoned s zoned “C (3) - New Residential” in the *Kilcullen Settlement Plan* with the objective “*To provide for new residential development.*” Residential development is permitted within the C3 zone. The proposed development is therefore considered to be acceptable having regard to the C3 zoning of the land.

Density / Layout / Design

Density

7.2.2 The density of the proposed development would be 38.54 units per hectare. I am satisfied that the proposed density complies with Table 3.6 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024 which sets out density guidelines for Density Ranges Small to Medium Sized Towns (Small / Medium Town Edge).

Core Strategy

7.2.3 It is noted that Kilcullen is allocated 229 housing units, with a 25% additional provision uplift to 286 units in the existing Core Strategy of the *Kildare County Development Plan 2023-2029*. There are a number of residential developments in proximity to the appeal site 80-unit development currently at appeal (Reg. Ref. 2461327 / ABP-

322772), and another 70-unit application (Reg. Ref. 2560804) recently submitted, only 36 units remain within this allocation. The proposed development comprises of 74 units. However, I refer the Coimisiún to the National Planning Framework Implementation: Housing Growth Requirements-Guidelines for Planning Authorities July 2025. Under these Guidelines, Planning Authorities must review or vary their current Development Plans to align with the new National Planning Framework derived housing growth requirements and crucially in the context of the development currently being considered compare the existing Core Strategy (including settlement strategy / zoned land/capacity analyses) against the new targets and assess whether allocations are sufficient.

7.2.4 Appendix 1 of this document sets out an annual housing growth requirement of 2,755 units for Kildare County Council per year up to 2034. Given that Kilcullen has an overall allocation of 2.5% housing in the county, this would lead to an annual housing supply figure of 68 units per year or 544 units up to 2034 which is the timeframe set out in the National Planning Framework Implementation: Housing Growth Requirements-Guidelines for Planning Authorities July 2025. I am therefore satisfied that the proposed development would not be inconsistent with the government direction regarding housing supply set out in the Housing Growth Requirements-Guidelines for Planning Authorities July 2025 and the National Planning Framework Implementation: Housing Growth Requirements-Guidelines for Planning Authorities July 2025.

Layout

7.2.5 The proposed development comprises of 74 dwelling units comprising of 42 No. dwellings set out in a mixture of detached, semi-detached, and terraced configurations. The proposal also includes 32 duplex apartments set out in 16 blocks.

7.2.6 In broad terms, I am satisfied that the layout of the proposed development is acceptable, and it successfully integrates with the surrounding streetscape which is residential in character to the east and town centre development to the west.

Design

7.2.7 The proposed houses would have maximum heights of c. 10.2m and would be finished with a mixture of brick and smooth render. The overall design of the dwellings would be typical of a residential development at the periphery of a town such as Kilcullen and

I am satisfied that; the design of the dwellings would not visually detract from the residential amenity of the surrounding area.

7.2.8 The proposed duplex apartment block would have a maximum height of c. 13.8m and would be finished in brick. I am satisfied that the design and location of the duplex apartment buildings are acceptable.

Quality of the proposed units

Houses (Unit Mix-houses)

7.2.9 The mix of house units is set out in Table 2 above and I am satisfied that the mix of houses is acceptable, given the appeal sites location to the east of Kilcullen town centre.

Floor areas -houses

7.2.10 In assessing the proposed development including the Housing Quality Assessment submitted with the initial application, I note that all the dwellings exceed the minimum overall floor area requirements as set out in Quality Housing for Sustainable Communities: Design Guidelines 2023. This is considered to be acceptable.

Private open space-houses

7.2.11 Private open space to serve each of the dwellings is proposed by way of back gardens. The relevant private open space areas for the dwellings range between c.71m² to 266m² and therefore I am satisfied that the back gardens would comply with the minimum area standards set out in SPPR2 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024. This is considered to be acceptable.

Unit mix-Apartments

7.2.10 I note that the Apartment Guidelines have been updated and that the updated Guidelines are applicable to any application for planning permission and to any subsequent appeal or direct application to An Coimisiún Pleanála submitted after the issuing of the Guidelines, i.e., from 9th July 2025. The updated guidelines are applicable in this case.

7.2.11 The proposed mix comprises of 8 x 2 bed apartments, 16 x 3 bed apartments, and 8 x 4 bed apartments. This mix is considered to be acceptable and generally complies with the Apartment Guidelines.

Floor areas-Apartments

7.2.12 All of the proposed apartments exceed the minimum floor areas set out in the Apartment Guidelines by 10%. I am satisfied that the floor areas for the dwellings and apartments are acceptable. In addition to this, I note that all the apartments are dual aspect, and this would comply with the Apartment Guidelines in this respect.

Private Open Space-Apartments

7.2.13 I note that private open space ranges from 15.5m² to 19.5m² and I am satisfied that these areas would comply with the minimum standards set out in the Apartment Guidelines.

Communal Open Space-Apartments

7.2.14 Having regard to Appendix 1 of the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, 2025, the proposed development is required to provide a total of 256m² of communal open space for the Duplex apartments. An area of 303m² communal open space is proposed along the southern boundary of the land. The area and location of the communal open space (which would be overlooked by the rear elevations of Duplex units 17-32) is considered to be acceptable.

7.2.15 In addition to this, an area of c. 450m² of communal open space located along the western boundary of the land which wraps around the northern side of the duplex units. The area, and location of this area of communal open space (which would be overlooked by the rear elevations of Duplex units 1-16) is considered to be acceptable.

7.2.16 I am satisfied that the overall area of communal open space (753m²) is acceptable and complies with the Apartment Guidelines.

Daylight to Apartments

7.2.17 The application material a Daylight and Sunlight Assessment Report prepared by Model Works. This includes a study of spatial daylight analysis and a sunlight exposure to each apartment study.

7.2.18 With regard to spatial daylight, the apartment building achieves 100% of relevant habitable rooms (Bedrooms & Living/ Kitchen/ Dining Rooms) in all Duplex apartments and as such will meet the BRE Guidelines Spatial Daylight Autonomy (SDA). In addition to this, 100% of the Duplex apartments will meet the BRE Guidelines minimum Sunlight Exposure recommendations.

7.2.19 Having regard to the information provided in this report, I am satisfied that the apartments are acceptable.

Overall Scheme Landscaping – Public Open Space

7.2.20 The plans submitted with the application show a total area of 2,698m² of public open space is proposed within three separate areas to the southeast, north and northeast of the site. This would equate to 14.05% of the overall site area and as such would comply Policy and Objective 5.1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024.

Car /bicycle parking

7.2.21 I refer the Coimisiún to the Schedule of Accommodation submitted with the application which demonstrates that a total of 115 car parking spaces is proposed. In addition to this, Drawing No. 24057-OMP-01-00-DR-A-1000 '*Proposed Site Layout Plan*' shows that there are two car parking spaces for each of the 42 houses which are provided in curtilage.

7.2.22 In addition to this one car parking space per apartment is provided for the Duplex apartments in two areas to the front of the duplex blocks. This provision includes 44 EV spaces throughout the development.

7.2.23 I am satisfied that the car parking provision is acceptable. The car parking for the houses complies with Table 3.8 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024 and the parking for the apartments complies with Section 4.24 of the Sustainable Urban Housing: Design Standards for New Apartments 2025.

7.2.24 A total of 136 bicycle spaces is provided including 88 spaces for residential element of the proposal and 38 visitor spaces. I am satisfied that the bicycle parking provision is acceptable.

Social Infrastructure

7.2.25 A Social Infrastructure Assessment prepared by is included in the application material.

This assessment concludes that there is a range of services and facilities available to cater for existing and future residents in Kilcullen. However, it is noted that there are supply constraints in the village area, particularly in the provision of childcare services and post primary schools. However, it is noted that there are plans to extend the existing post primary school and for additional childcare services. The applicant states that the proposed development will make a significant contribution to provision of new public open space to benefit the area and in addition development contributions levied as part of the development would contribute to the provisions of such facilities in Kilcullen.

7.2.26 While I note the identified shortfall in post primary and childcare facilities, I am satisfied that given plans to extend the existing post primary school and for additional childcare services, the applicant has demonstrated that Kilcullen area has adequate range of facilities to accommodate population growth in the area.

Residential Amenity of surrounding properties

Overlooking

7.2.27 I refer the Coimisiún to Drawing No. 24057-OMP-01-00-DR-A-1000 '*Proposed Site Layout Plan*'. Having considered this plan, including the setbacks of the proposed dwellings / duplex units. I do not have any concerns that the proposed development would lead to any undue overlooking either externally or within the proposed development. I have come to this conclusion having noted that the separation distances are generally greater than 16m as set out in SPPR1 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024.

7.2.28 There is an exception to this, the setback between Unit No. 11 and the rear elevation of the dwelling opposite (within the Riverside Gardens development) would be c. 9.6m. This set back is not considered to be acceptable, and this unit has the potential to cause undue overlooking of the dwelling within Riverside Gardens. If the Coimisiún is of a mind to grant planning permission, then I would recommend that this unit be omitted by way of condition.

Overshadowing

7.2.30 The Daylight and Sunlight Assessment Report demonstrates that the proposed development would not have an effect on the daylight on neighbouring windows. I refer the Coimisiún to Appendix G of the report which demonstrates that 2 of the 8 windows surveyed within the Saddlers Way did not pass the Daylight Access to windows test. However, these windows failed the test marginally.

7.2.31 All of the surveyed passed the Sunlight Access to Existing Buildings Test as asset out in Appendix H and in addition to this, all public amenity open spaces will meet the BRE Guidelines for Sun on the Ground criteria, with all public open space areas achieving far greater than 50% of the area of open space receiving sunlight for at least 2 hours on 21st March as set out in Appendix I.

7.2.32 The report includes a shadow analysis provided. The results of the Shadow Analysis demonstrates that the new development will meet BRE Criteria and will not have an adverse effect on adjacent private gardens/ amenity areas.

7.2.33 Overall, having regard to the foregoing, I am satisfied that the proposed development would not have an undue impact on the residential amenity of surrounding properties by way of overlooking, overshadowing or overbearing development. In coming to this conclusion, I have had regard to layout of the proposed development, the separation distances from established residential to the east and west and the Daylight and Sunlight Assessment Report submitted as part of the application material.

Traffic / Transportation

Traffic volumes

7.2.34 The application material includes a Traffic and Transport Assessment prepared by AECOM. The report notes that the proposed development the proposed development has the potential to generate 22 two-way trips during the AM peak and 21 two-way trips during the PM peak. The report concludes that the impact on the surrounding road network as a result of the proposed residential development will not cause any serious deterioration to the network's performance and that the proposals represent a sustainable and practical approach to sustainable residential development at Kilcullen. There are no material traffic or roads safety related reasons that should prevent the granting of planning permission for the proposed residential development.

Access

7.2.35 Access to the proposed development is provided by way of two vehicular access points. The first access utilises the existing Square/ Riverside Drive / Riverside Crescent priority junction which is located to the south of the appeal site. This access would primarily service dwellings No's 19-42 and Duplex No's 1-32.

7.2.36 The second access utilises the existing Riverside Drive / Riverside Green priority junction located to the south-east of the site. This access would primarily serve dwelling No's 1-18 of the proposed development.

7.2.37 Traffic and Transport Assessment prepared by AECOM states that both accesses achieve sightlines of 23m from a setback of 2.4m which accords with DMURS. This is shown in figure 2.4 of the report. In addition to this, the report refers Drawing No. 60751103-ACM-XX-00-DR-CE-10-0101. However, I have been unable to find this drawing on file.

7.2.38 I have considered the proposed sightlines having regard to the TII document DN-GEO-03060 and I am satisfied that the sightlines comply with the visibility distances set out in Table 5.5 and therefore the proposed access is acceptable.

7.3 Material Contravention

7.3.1 I draw the attention of the Coimisiún to the fact that in all three reasons for refusal of this development, the Planning Authority has stated that the proposal would contravene materially development objectives contained in *the Kildare County Development Plan 2023-2029* and the *Kilcullen Settlement Plan*. A material contravention occurs where a proposed development conflicts in a significant way with the policies or zonings set out in the Development Plan or other plans. Having read the area planners report, I note that there is little by way of justification for the conclusion that the proposed development would materially contravene the majority of the identified Objectives.

7.3.2 In my view, where a planning authority seeks to refuse permission for a development based on material contravention, this should be subject to a detailed justification by the planning authority.

7.3.3 For the benefit of the Coimisiún I have compiled a table which includes each of the objectives which the planning authority considers have been materially contravened. This table also include my opinion on whether or not the proposed development

constitutes a material contravention of either the *Kildare County Development Plan 2023-2029* or the *Kilcullen Settlement Plan*.

Objective		Material Contravention	Explanation
BI O5	Move towards no net loss of biodiversity through strategies, plan, mitigation measures, appropriate offsetting, and/or investment in Blue Green infrastructure	No	<p>The Ecological Assessment submitted with the application states that only low-quality vegetation (c-Value) is proposed to be removed. The Landscape Proposal which was submitted with the initial application and the first party appeal shows that 120 trees are proposed to be planted as well as 155 linear metres of hedgerow.</p> <p>This matter could have been dealt with by way of Further Information or by way of condition requiring the applicant to demonstrate no net loss of biodiversity.</p>
BI O7	Pursue insofar as possible and practical, a policy of biodiversity net gain through strategies, plans, developments, mitigation measures, appropriate offsetting and/or investment in	No	Please response see BI O5 ABOVE

	Blue-Green infrastructure		
BI O18	Require all applications for new developments to identify, protect and sensitively enhance the most important ecological features and habitats, and incorporate these into the overall open space network.	No	<p>The application material included an Ecological Assessment which finds that the site is of low ecological value and that it is not a site high suitability or importance to any Annex I or Annex II species or red list birds.</p> <p>This matter could have been dealt with by way of Further Information or by way of condition requiring the applicant to demonstrate the incorporation of ecological features and habitats into the proposed development.</p>
BI O22	Identify and protect areas of high nature conservation value (including but not limited to SAC/SPA/pNHA) and support the landscape features which act as ecological corridors/networks and stepping-stones, such as river corridors, hedgerows, and road verges so as to	No	<p>Activities associated with the proposed development either alone or in-combination with other projects will not have any direct or indirect significant effects on any European site in light of their conservation objectives and best scientific knowledge and that no reasonable</p>

	minimise the loss of habitats		scientific doubt exists in relation to this conclusion.
BI O26	Prevent, in the first instance, the removal of hedgerows to facilitate development. Where their removal is unavoidable, same must be clearly and satisfactorily demonstrated to the Planning Authority...Removal of hedgerows and trees prior to submitting a planning application will be viewed negatively by the planning authority and may result in an outright refusal.	No	The applicant states that site clearance was undertaken before they became the owners. I note that the site has been cleared previously on several occasions. Concerns could have been dealt with by way of Further Information or by way of condition
BI O27	Require the retention and appropriate management of hedgerows and to require infill or suitably sized transplanted planting where possible.	No	I note the low value of the existing vegetation and the proposed planting as part of this application. This matter could have been dealt with by way of Further Information or by way of condition
BI O47	Ensure the protection, improvement or restoration of riverine floodplains and to promote strategic measures to accommodate flooding	No	The appeal site is within Flood Zone C

	at appropriate locations including nature-based solutions		
BI O64	Ensure the protection, enhancement and maintenance of Green Infrastructure in Kildare.	No	The proposed development includes a number of communal and public open space areas within the development.
BI O77	Integrate nature-based solutions and climate change considerations into the design, planning, and implementation of infrastructure provision/ works.	No	The proposed development includes SuDS are part of the proposed development.
BI O78	Actively promote and encourage nature-based approaches and green infrastructure solutions as viable mitigation and adaptation measures to surface water management.	No	The proposed development includes SuDS. Concerns could have been dealt with by way of Further Information or by way of condition.
TM O119	Ensure car parking particularly parking associated with retail areas is designed in such a manner as to reduce visual impact and promote carbon sequestration, green infrastructure, and nature-based surface water drainage solutions	No	Relates to car parking are not relevant to the proposed development.

IN O22	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.	No	The proposed development includes SuDS. This matter could have been dealt with by way of Further Information or by way of condition.
IN O30	Require all plans and projects to comply with the Best Practice Interim Guidance Document 'Nature-based solutions to the management of rainwater and surface water runoff in Urban Areas (2021)' published by the Department of Housing, Local Government and Heritage, or any subsequent updates to same	No	The proposed development includes SuDS. This matter could have been dealt with by way of Further Information or by way of condition
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,	No	The layout of the proposed development includes roads, footpaths and shared footpath / cycle routes and is connected to surrounding development and permeable. The proposed development also includes areas of

	social interaction and active travel, through the development of compact, permeable neighbourhoods		public and communal open space.
Kilcullen Settlement Plan			
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.	No	The proposed underground tank is located below an area of public open space. This matter could have been dealt with by way of Further Information or by way of condition seeking to alter the design of the proposed development to remove the underground tank.
ST KL48	Require surface water drainage plans to have regard to the policies and objectives of the Habitat and Green Infrastructure Mapping	No	The proposed development would comply with the stepping stone approach by providing a network of open spaces rather than a single large area of public open space.
ST KL51	Ensure all development proposals along the River Liffey Corridor comply with Chapter 12: Biodiversity and Green Infrastructure	No	The appeal site is classified as Flood Zone C. Table 12.4 of the Kildare County Development Plan 2023-2029 'Recommended riparian buffer zones

	(notably BI O41 and Table 12.4)		and note there is an area of communal open space on the southern boundary of the site
ST KL59	Require all new developments to contribute to the protection and enhancement of existing green infrastructure assets, as identified on Map (Green Infrastructure)	No	The proposed development provides both communal and private open space which provide biodiversity and amenity for future residents.
ST KL60	Seek the provision of linkages between larger areas of green infrastructure (particularly areas of public open space) where appropriate.	No	The proposed development includes a number of communal and public open space areas within the development which are linked by way of footpaths. In addition, the proposed development includes a cycleway / footpath which links the site to the surrounding area.
ST KL61	Ensure key green infrastructure, identified on Map (Green Infrastructure), and the linkages they provide to larger areas of green infrastructure and the wider countryside, are retained where appropriate and integrated into the	No	The open space within the development is linked to each other and that the proposed development is linked by way of road, footpath, and shared cycleway / footpath to the surrounding area.

	design of new developments.		
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Table 3 Material Contravention response

7.3.2 While the planning authority may be of the opinion that the proposal would not comply with the objectives outlined in reasons No's 1,2 and 3 for refusal, in my opinion it does not necessarily follow that a material contravention of the development plan would occur if planning permission were granted. Therefore, I consider that the Planning Authority has erred that no material contravention of the development plan or the settlement plan arises. In coming to the conclusions above, I have had regard to the provisions of the Kildare County Development 2023-2029, the *Kilcullen Settlement Plan*, the plans submitted with the application and as part of the first party appeal.

7.4 Drainage Design (Reason No.1 for refusal)

7.4.1 The first reason for refusal states (inter alia) that IN O24 of the *Kildare County Development Plan, 2023 – 2029* and Objective ST KL47 of the *Kilcullen Settlement Plan* discourage, the installation of underground attenuation tanks and to only consider underground retention solutions when all other options have been exhausted and, in the installation of underground attenuation tanks under public open space with no attempt to rationalise the attenuation tank over suitable Sustainable Drainage Systems.

7.1.1 The first party states that the proposed development clearly includes SuDS measures and the documentation submitted with the planning application shows that the site topography has ruled out the inclusion of other SuDS measures and drives the need for an attenuation tank. It is further stated that without an attenuation tank the open space and permeability and legibility of the scheme become compromised and less than optimal given the site configuration and topography and that there is a clear rationale for the use of an underground tank and with particular reference to objective IN 024 of the County Plan the use of an underground tank has only been considered after all other reasonable options have been exhausted.

7.4.3 Objective IN O24 states that underground attenuation will only be considered when all other options have been exhausted and that storage systems will not be accepted under public open space, as part of a SuDS solution. Objective ST KL47 of the

Kilcullen Settlement Plan has the same wording as IN O24 of the *Kildare County Development Plan 2023-2029*.

- 7.4.4 The initial application proposed an attenuation tank under the public open space area to the north-east of the site. The Infrastructure Report submitted with the application prepared by AECOM states that due to the harsh topography of the northern part of the site, it is unachievable to attenuate surface water run off for this catchment via overground storage. The proposed attenuation tank would have a storage volume of 270.19m³. It further stated natural based SuDS systems that could have potentially been proposed on site, such as integrated constructed wetlands, detention ponds, and basins have been reviewed for inclusion in the proposed development but have been found to be incompatible with the topography of the site and the nature of the proposed development.
- 7.4.5 I note that the report of the Water Services Department of Kildare County Council notes that the design for the surface water management system is not compatible with objective IN 024 but recommends that Further Information be requested to allow the applicant to revise the surface water design to remove the proposed underground Cellular Attenuation System and replace same with a nature based above ground solution such as detention basins.
- 7.4.6 I have considered Objectives IN O24 of the *Kildare County Development Plan, 2023 – 2029* and Objective ST KL47 of the *Kilcullen Settlement Plan* which discourages the installation of underground attenuation tanks and to only consider underground retention solutions when all other options have been exhausted.
- 7.4.7 In broad terms, I am satisfied that the topography and shape of the appeal site are reasonable constraints to the provision of natural attenuation in the northern portion of the site and that all other options have been exhausted having considered the Infrastructure Report prepared by AECOM submitted with the initial application. The site falls from the north of the site towards the south of the site and in this respect attenuating stormwater is challenging on this site.
- 7.4.8 Notwithstanding this, I have serious concerns that the storm water management system is not compatible with objective IN 024 of the *Kildare County Development Plan 2023-2029* and Objective ST KL47 of the *Kilcullen Settlement Plan* due to the

location of the underground attenuation tank below the private open space to the north of the site.

7.4.9 I note that the appeal submission includes an 'other option' to remove the underground attenuation and provide attenuation basins in all three public open space areas. While I note that this option would remove the underground tank from the public open space area to the north of the site, it would mean that all three open space areas within the development would provide an attenuation function, including level changes and deeper depressions than in the initial design. It would require engineered or constructed elements such as retaining walls and safety railings. In my opinion, this would not be an ideal outcome for future residents of the scheme and would reduce the overall area of useable public open space within the development for use by future residents of the scheme. Therefore, I would not recommend that the Coimisiún consider the amended option submitted with the appeal submission.

7.4.10 In addition to the above, I note that Objective IN 026 of the *Kildare County Development Plan 2023-2029* seeks to ensure that the SuDS do not form part of the public open space provision, except where it contributes in a significant way to the design and quality of open space and that where this would be acceptable, a maximum of 10% of open space provision shall be taken up for SuDS.

7.4.11 In this regard I refer the Coimisiún to Section 4 of the Landscape proposal submitted with the first party appeal which provides figures relating to the area of natural SuDS in comparison to the total proposed Public Open Space area. In the initially proposed application, the proposed SuDS would take up 23% of the overall open space provision. In the amended option presented in the first party appeal the proposed SuDS takes up 42% of the open space area. Therefore, neither of the options would comply with Objective IN 026 of the *Kildare County Development Plan 2023-2029*. I make the Coimisiún aware that this is a **new issue**, and the Coimisiún may wish to seek the views of the parties in this regard via Section 137 of the Planning and Development Act 2000 (as amended).

7.4.12 In overall terms, I note that national, regional and local policy with respect to the provision of housing on infill sites such the appeal site. In addition to this, I note the site constraints presented by the topography and the shape of the site and that the

layout and design of the proposed development is generally acceptable and would not impact on the residential amenity of surrounding properties.

7.4.13 However, on balance, the proposed stormwater storm water management system is not compatible with objective IN 024 of the *Kildare County Development Plan 2023-2029* and Objective ST KL47 of the *Kilcullen Settlement Plan* due to the location of the underground attenuation tank below the private open space to the north of the site and permission should be refused on this basis. The proposal also fails to comply with Objective IN O26 of the *Kildare County Development Plan 2023-2029*.

7.4.14 I make the Coimisiún aware that I am of the opinion that all the SuDS issues could be dealt with by a redesign of the proposed development whereby a larger area of public open space could be provided without being encumbered by any SuDS within the appeal site. This may involve the removal of a number of dwellings and their replacement with public open space. It maybe that the north-western portion of the site (in proximity to Units No's 29-32) would be an appropriate area of a larger area of public open space. This would allow the development to open up to the laneway to the north. In my view, this would allow the proposed development to comply with Objectives IN O24 and IN 026 of the Kildare County Development Plan and Objective ST KL47 of the *Kilcullen Settlement Plan*.

7.4.15 However, this would require a fundamental redesign of the proposed development and would require renotification and therefore, in my view, this matter could not be dealt with by way of condition and therefore I recommend that the application be refused.

7.5 Layout / Permeability / Hierarchy of Streets

7.5.1 The second reason for refusal states (inter alia) that in the absence of a hierarchy of streets and clear permeability through the site, absence of quality and useable/functional open space, free from heavy engineering solutions such as underground attenuation tanks and the absence of nature-based solutions and biodiversity that the proposed development would materially contravene Objective UD O1 of the *Kildare County Development Plan 2023-2029*, which requires a high standard of urban design to be integrated into the design and layout of all new development.

7.5.2 The first party appeal response states that the planning authority has failed to explain why the proposed development represents a material contravention of Objective UD

01. It further states that Objective UD 01 is a generic objective with no site-specific measures or requirements and that the proposed development is not considered substandard in any way in terms of hierarchy of streets, permeability through the site for pedestrians and cyclists, public open space or approach to attenuation.

Layout of the proposed development

7.5.3 In the first instance as highlighted in Reason No.2 for refusal, the appeal site is within the C3 'New Residential Zone' which has the objective '*to provide for new residential development*' where the principle of residential development is clearly supported.

7.5.4 The layout of the proposed development is centred around three separate character areas known as area 1,2 and 3 as shown on in the Architectural Design Statement submitted with the initial application. The application details that this approach has been taken having regard to the topography of the site. I have considered the overall layout of the proposed development in light of Objective UD 01 of the *Kildare County Development Plan 2023-2029* and the Sustainable and Compact Settlements Guidelines for Planning Authorities 2024 and I am satisfied that the proposed development demonstrates a generally sound urban design approach, with a clear street hierarchy, reasonable levels of permeability and a layout which promotes permeability and linkages with surrounding areas.

Hierarchy of streets/ Permeability

7.5.5 I note the concerns of the planning authority with respect the hierarchy of streets and clear permeability through the site. I have considered Drawing No. 24057-OMP-01-00-DR-A-1000 '*Proposed Site Layout Plan*' and the contents of the first party appeal and in broad terms I am satisfied that the proposed development provides a reasonable hierarch of streets and is sufficiently permeable.

7.5.6 In terms of vehicular access to the proposed development, it is noted that there are three vehicular access points to correspond with the character areas as outlined above. I am satisfied that this approach is acceptable and would lead to a reasonable flow of traffic within the development site. In addition to this, I note that the Transportation Department of Kildare County Council did not object to this element of the proposed development.

- 7.5.7 With regard to the concerns of the Planning Authority relating to the width of the internal roadways, I refer the Coimisiún to Drawing No. 24057-OMP-01-00-DR-A-1000 '*Proposed Site Layout Plan*' submitted with the first party appeal. This drawing shows that the internal road widths are reduced to c.5.5m. This would comply with Figure 4.55 of the Design Manual for Urban Roads and Streets (DMURS) and as such is acceptable.
- 7.5.7 With regard to pedestrian and cyclist movement, I refer the Coimisiún to Figure 14 of the first party appeal and Section 3 of the Landscape Proposal submitted as part of the first party appeal. Together these show that the pedestrian network within the site which is made up of a main link (pedestrian and cycle) and secondary links for pedestrians in both east-west and north-south directions.
- 7.5.8 I note that Map V2A-3 of the *Kilcullen Settlement Plan* shows a Street Road Objective traversing the site in a north-south direction along the eastern side of the north-south road within the site. I am satisfied that the main link (pedestrian and cycle with Objective ST KL82 of the *Kilcullen Settlement Plan*.
- 7.5.9 In addition to the above, I note that Objective ST KL82 of the *Kilcullen Settlement Plan* includes the laneway to the north of the appeal site. The area planners report states that the design of the main link within the site should be extended so that same can link up with Main Street. In addition to this, the planning authority has outlined concerns that the houses along the northern boundary do not front onto the laneway and therefore do not offer passive surveillance.
- 7.5.10 In the first instance I note that the northern laneway is not within the site boundary and not within the ownership of the applicant. While it is stated that the laneway is Taken in Charge of the Local Authority, I note that there detailed plans for this link as outlined in ST KL82of the *Kilcullen Settlement Plan* have been advanced. In the absence of a detailed plan for the laneway to the north, it would not be feasible to require houses to front onto what is an unpaved access to a third-party land.
- 7.5.11 Notwithstanding this, I note that the Roads Department requested Further Information for the applicant to prepare a design for the greenway permeability link along the L60741 to connect with the main street to include street lighting, surfacing, drainage, footway demarcation, and carriageway road markings on the L60741.

7.5.11 This matter could be dealt with by way of condition requiring the applicant to provide a design for this link, should the Coimisiún be of a mind to grant planning permission. Such an outcome would be a significant planning gain for the wider area including the Town Centre of Kilcullen.

Open space

7.5.12 I note the concerns of the planning authority with respect to the absence of quality and useable/functional open space and the absence of nature-based solutions and biodiversity.

7.5.13 With regard to the proposed public open space, I refer the Coimisiún to my assessment earlier in this report in which the physical area of open space is acceptable, however, the location of an underground attenuation tank below the public open space in area 2 (to the north of the site) would be a not comply with Objectives IN 024 and IN 026 of the Kildare County Development Plan 2023-2029 and ST K49 of the *Kilcullen Settlement Plan*.

Absence of nature-based solutions and biodiversity

7.5.14 I refer the Coimisiún to Section 4 of the Infrastructure Report submitted with the application which outlines that the SuDS proposal for the site. These measures include:

- Infiltration blanket.
- Permeable paving.
- Filter drain.
- Petrol inceptor.

7.5.15 I am satisfied that the proposed development includes SuDS as required by both the *Kildare County Development Plan 2023-2029* and the *Kilcullen Settlement Plan* and that this reason for refusal is not warranted in this case.

7.5.16 Having considered the layout of the proposed development, the provision of footpaths and the footpath / cycle links within the proposed development, I am satisfied that the proposed development provides sufficient permeability and hierarch of streets. In overall terms I am satisfied that the proposed development would not materially

contravene Objective UD O1 of the Kildare County Development Plan 2023-2029 and that Reason No.2 for refusal is not warranted in this case.

7.6 Biodiversity

7.6.1 The third reason for refusal states that the site has been cleared of all-natural vegetation and green infrastructure including the majority of all boundary vegetation and that the application was not accompanied by any detailed rationale for the removal of trees and hedgerows on site. The proposed development fails to provide for any meaningful compensation for the loss of vegetation on site and appears to have been designed without any consideration of the natural character and context within which the site is set, located in proximity to the River Liffey.

7.6.2 I note the concerns of the planning authority with respect to Biodiversity. In this regard the report of the Ecologist of Kildare County Council highlights concerns that significant site modification occurred within the months preceding the ecological assessment (including extensive removal of trees and scrub vegetation). It is also stated that the Ecological Appraisal submitted with the application is inadequate and relies solely on a desk-based review and a single walkover survey. The Ecologist recommends that the application be refused or at the very least deferred pending the completion of a full suite of ecological surveys and a revised EcIA that accurately reflects the site's ecological value and addresses the contraventions outlined.

7.6.3 I refer the Coimisiún to the first party appeal which states that the applicant did not carry out any site clearance and that the site clearance was carried out before the site was purchased.

7.6.4 In addition to this, I refer the Coimisiún to the Section 1 of the Landscape Proposal submitted as part of the first party appeal which demonstrates that the site did not contain historic, established or ecologically meaningful vegetation from 2013 to 2022, a number of historic aerial photographs are included to demonstrate this. It is additionally stated that between 2022 and 2024 that there was a modest increase in surface texture, but this represents regeneration rather than any form of established natural cover.

7.6.5 I make the Coimisiún aware that I have considered historic aerial imagery on Google Earth and noted that the site had been completely cleared in 2003 and the site was in the same state in 2011. There would appear to be some evidence of regrowth in 2013

and 2014. This regrowth would appear to have been in place in 2024 but was not in place in 2025. This would match the information provided in Section 1 of the Landscape Proposal submitted as part of the first party appeal.

7.6.6 In addition to this, I refer the Coimisiún to the Ecology Appraisal submitted with the application which outlines that the site is of low ecological value and that it is not a site high suitability or importance to any Annex I or Annex II species or red list birds. In addition to this, the Ecology Appraisal found that there was no evidence of badgers or badger sets recorded on site, there was no evidence of potential bat roosts were found on site and no evidence of otter activity on site.

7.6.7 The 'Tree Survey, Arboricultural Impact Assessment and Arboricultural Method Statement' and Ecological Impact Assessment submitted with the application shows that the site is of low ecological value and that it is not a site high suitability or importance to any Annex I or Annex II species or red list birds. It is also stated that only low-quality vegetation (c-Value) is proposed to be removed.

7.6.5 The Landscape Proposal which was submitted with the initial application and the first party appeal which shows that 120 trees are proposed to be planted as well as 155 linear metres of hedgerow.

7.6.6 I note the concerns of the planning authority with respect to biodiversity; however, the site has been cleared on at least three occasions (c.2003, c.2011 and c.2024) and that the bulk of established natural cover has been removed for a substantial period. In any case, it is my view that the planning authority could have requested further information from the applicant, if they were of the view that the information provided was inadequate.

7.6.7 Taking a balanced view, relating to the aspiration to protect biodiversity against the residential zoning of the land, I am satisfied that that the proposed development strikes a reasonable compromise and that the proposed development would result in a net biodiversity gain. In light of this, I am satisfied that the proposed development is acceptable in this regard and that the proposed development would not materially contravene Objectives ST KL48, ST KL51, ST KL59, ST KL60, and ST KL61 of the *Kilcullen Settlement Plan* and the Objectives, namely BI O5, BIO7, BI O18, BI O22, BI O26, BI O27, and BI O64 of the *Kildare County Development Plan 2023 – 2029* and therefore this reason for refusal is not warranted in this case.

7.7 Flooding

- 7.7.1 The application material includes a Flood Risk Assessment prepared by AECOM which concludes that the appeal site is classified as being located within Flood Zone C and that in accordance with The Planning System and Flood Risk management Guidelines 2009 (Guidelines), no Justification Test for the development is required.
- 7.7.2 I make the Board aware I have consulted the flood mapping system (www.floodinfo.ie) and I note that the subject land is within Flood Zone 'C'. In addition to this, I visited the site during a period of heavy rain throughout the country for a substantial period of time and noted, that while there were some areas where there was standing water, the site was not flooded.
- 7.7.3 Having considered all the foregoing, I consider the proposed development would not result increase the risk of flood either within the site itself or the surrounding area. The proposal is acceptable from a flood risk perspective.

7.8. Other Matters

- 7.8.1 A third party observer has outlined concerns with respect to boundary treatments of the proposed development with a laneway to the north of the site. The third-party requests that a condition should which includes an effective boundary along the lane.
- 7.8.2 I refer the Coimisiún to the Drawing Titled '*Boundary Treatment*' prepared by Gannon and Associates submitted with the initial application which shows that the proposed development proposes a 2m high concrete posts and timber panel fence along the northern boundary of the land.
- 7.8.3 Having been on site I note that there is an existing rubble type boundary wall along the northern boundary of the land. In my view the existing boundary wall should be retained and incorporated into the design of the development boundary whereby timber panel fencing could be erected on top of the existing rubble wall. This matter could be dealt with by way of condition, should the board be of a mind to grant planning permission.

9. AA Screening

- 9.1 The initial application included an AA Screening Report I have considered this and the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The application is for the construction of a

residential development comprising of 74 units on lands in close proximity to Kilcullen Town Centre.

- 9.2 The appeal site is not located on or within any designated Natura 2000 site(s) or Natural Heritage Area(s). The nearest designated site is the Pollardstown Fen SAC (Site Code: 000396) which is located c. 7km to the northwest of the site and the Moulds Bog SAC (Site Code: 002231) is located c.9km to the northwest of the site. In addition to this, Poulaphouca Reservoir SPA (Site Code: 004063) is located c. 10km to the east of the site.
- 9.3 In addition to this, the Curragh (Kildare) (Site Code: 000392) pNHA is located c. 2.8km to the west of the site.
- 9.4 There is no hydrological link between the subject site and the European sites.
- 9.5 Having considered the nature, scale, and location of the proposed development, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.

10. Recommendation

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

11. Reasons and Considerations

1. Having regard to the grounds of appeal, the residential zoning objective, the established pattern of development in the area, the policy framework provided by the *Kildare County Development Plan 2023-2029* and the Kilcullen Settlement Plan and on the basis of the information submitted with the application and appeal, the Coimisiún was not satisfied that the proposed development would be in compliance with Objective IN O24 of *the Kildare County Development Plan 2023-2029* and Objective ST KL47 of the *Kilcullen Settlement Plan* which states that underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the grounds of appeal, the residential zoning objective, the established pattern of development in the area, the policy framework provided by the Kildare County Development Plan 2023-2029 and the Kilcullen Settlement Plan and on the basis of the information submitted with the application and appeal, the Coimisiún was not satisfied that the proposed development would be in compliance with Objective IN O26 of *the Kildare County Development Plan 2023-2029* which states that the SuDS do not form part of the public open space provision, except where it contributes in a significant way to the design and quality of open space and that where this would be acceptable, a maximum of 10% of open space provision shall be taken up for SuDS. The area of open space proposed to be taken up by SuDS in the proposed development would be 23% of the overall open space provision and would therefore not comply with Objective IN O26. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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

Ronan Murphy

Ronan Murphy

18 February
2026

Form 1 - EIA Pre-Screening

Case Reference	PL-500450-KE-25
Proposed Development Summary	Construction of a residential development comprising of 74 units.
Development Address	A 1.92-hectare site at and on lands to the west of the development known as 'Riverside Crescent,' 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. Discuss with ADP.	
<input 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	

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>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.</p> <p>The proposal comprises of 74 units on a site of c.1.92ha</p>

<p>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)?</p>	
<p>Yes <input type="checkbox"/></p>	<p>Screening Determination required (Complete Form 3)</p>
<p>No <input checked="" type="checkbox"/></p>	<p>Pre-screening determination conclusion remains as above (Q1 to Q3)</p>

Inspector: _____ Date: _____

Appendix 2 – AA Screening Determination

Screening the need for Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive)

I have considered the proposal for the construction of 74 residential units, and all associated site works in light of the requirements S177U of the Planning and Development Act 2000 as amended. The application material includes an Appropriate Assessment-Natura Impact Assessment Screening report prepared by Malone O' Regan Environmental.

Screening summary

The Appropriate Assessment Screening report identifies 6 Natura 2000 designated sites within 15km of the application site.

The proposed development is identified as being within the Zone of Influence of

Pollardstown Fen SAC (Site Code: 000396)

Moulds Bog SAC (Site Code: 002231)

Slaney River Valley SAC (Site Code: 000781)

River Barrow and River Nore SAC (Site Code: 002162)

Red Bog, Kildare SAC (Site Code: 000397)

Poulaphouca Reservoir SPA (Site Code: 004063)

Pollardstown Fen SAC (Site Code: 000396)

Pollardstown Fen SAC is located c. 7km to the northwest of the appeal site. A site-specific objective has been developed for the Pollardstown Fen SAC which can be summarised as to restore the favourable conservation condition of Calcareous fens with *Cladium mariscus* and species of the *Caricion davallianae**, Petrifying springs with tufa formation (Cratoneurion), Alkaline fens, Geyer's Whorl Snail (*Vertigo geyeri*), Narrow-mouthed Whorl Snail (*Vertigo angustior*), Desmoulin's Whorl Snail (*Vertigo moulinsiana*) in Pollardstown Fen SAC.

ite was screened out as having regard to the short duration of the construction works, the separation distance, and the lack of impact pathways that the proposed development either alone or in-combination with other projects or land uses will not have any direct or in-direct significant effects on any European sites in light of their

conservation status and best scientific knowledge and no reasonable scientific doubt exists.

Moulds Bog SAC (Site Code: 002231)

Moulds Bog is located c. 9km to the northwest of the appeal site. A site-specific objective has been developed for the Moulds Bog SAC which can be summarised as to *restore the favourable conservation condition of Active raised bogs in Mould Bog SAC.*

It is noted that *The long-term aim for Degraded raised bogs still capable of natural regeneration is that its peat-forming capability is re-established; therefore, the conservation objective for this habitat is inherently linked to that of Active raised bogs (7110) and a separate conservation objective has not been set in Moulds Bog SAC and that Depressions on peat substrates of the Rhynchosporion is an integral part of good quality Active raised bogs (7110) and thus a separate conservation objective has not been set for the habitat in Moulds Bog SAC.*

This site was screened out as having regard to the short duration of the construction works, the separation distance, and the lack of impact pathways that the proposed development either alone or in-combination with other projects or land uses will not have any direct or in-direct significant effects on any European sites in light of their conservation status and best scientific knowledge and no reasonable scientific doubt exists.

Slaney River Valley SAC (Site Code: 000781)

The Slaney River Valley SAC is located c. 12km to the southwest of the site. A site-specific objective has been developed for the Slaney River Valley SAC which can be summarised as 'To restore the favourable conservation condition of Sea lamprey, Brook lamprey, River lamprey, Twaite shad, Salmon, old sessile oakwoods with Ilex and Blechnum, old sessile oakwoods with Ilex and Blechnum, Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion), Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion), and to maintain the favourable conservation condition of Estuaries, Mudflats and sandflats not covered by seawater

at low tide, Otter, Harbour Seal, of Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation, Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation, Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation.

This site was screened out as having regard to the short duration of the construction works, the separation distance, and the lack of impact pathways that the proposed development either alone or in-combination with other projects or land uses will not have any direct or in-direct significant effects on any European sites in light of their conservation status and best scientific knowledge and no reasonable scientific doubt exists.

River Barrow and River Nore SAC (Site Code: 002162)

The River Barrow and River Nore SAC is located c. 14km to the south-east of the appeal site. A site-specific objective has been developed for the River Barrow and River Nore SAC which can be summarised as to maintain the favourable conservation condition of Estuaries, *the Mudflats and sandflats not covered by seawater at low tide, Reefs, Salicornia and other annuals colonizing mud and sand, Atlantic salt meadows, Mediterranean salt meadows, Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation European dry heaths, Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels, of Petrifying springs with tufa formation (Cratoneurion), Old oak woodland with Ilex and Blechnum, Alluvial forests with Alnus glutinosa and Fraxinus excelsior (Alno-Padion, Alnion incanae, Salicion albae), Desmoulin's whorl snail, freshwater pearl mussel (Margaritifera margaritifera), White-clawed crayfish, Sea lamprey, Brook lamprey, River lamprey, Twaité shad, Salmon, Otter, Killarney Fern* in the River Barrow and River Nore SAC.

This site was screened out as having regard to the short duration of the construction works, the separation distance, and the lack of impact pathways that the proposed development either alone or in-combination with other projects or land uses will not have any direct or in-direct significant effects on any European sites in light of their

conservation status and best scientific knowledge and no reasonable scientific doubt exists.

Red Bog, Kildare SAC (Site Code: 000397)

The Red Bog Kildare SAC is located c. 15km to the north-east of the appeal site. A site-specific conservation objective has been developed for the *Red Bog, Kildare SAC (Site Code: 000397)* which can be summarised as *to maintain the favourable conservation condition of Transition mires and quaking bogs* in Red Bog, Kildare SAC.

This site was screened out as having regard to the short duration of the construction works, the separation distance, and the lack of impact pathways that the proposed development either alone or in-combination with other projects or land uses will not have any direct or in-direct significant effects on any European sites in light of their conservation status and best scientific knowledge and no reasonable scientific doubt exists.

Poulaphouca Reservoir SPA (Site Code: 004063)

The Poulaphouca Reservoir SPA is located c. 10km to the east of the appeal site. A site-specific conservation objective has been developed for the *Poulaphouca Reservoir SPA* which can be summarised as *to restore the Favourable conservation condition of Greylag Goose and the Lesser Black-backed Gull in Poulaphouca Reservoir SPA*

This site was screened out as having regard to the short duration of the construction works, the separation distance, and the lack of impact pathways that the proposed development either alone or in-combination with other projects or land uses will not have any direct or in-direct significant effects on any European sites in light of their conservation status and best scientific knowledge and no reasonable scientific doubt exists.

In Combination Effects

The Appropriate Assessment Screening Report also considered planning applications in proximity to the appeal site including Reg. Ref. 2560804, Reg. Ref.2461327, Reg. Ref.22312861, Reg. Ref.211267, Reg. Ref.181475, 18260

The Appropriate Assessment Screening Report concludes that due to the small scale and short timeframes of both the proposed development and the developments listed above that it is considered unlikely to have any cumulative impacts on any European sites in the context of the existing infrastructure and associated activities taking place on the site. This is supported by:

- Location of the site within an existing residential / urban area.
- The small scale and localised nature of the proposed development.
- The absence of any impact pathway between the site and any European sites;
and
- The distances and intervening lands separating the site from European sites.

I make the Coimisiún aware that I have reviewed the Appropriate Assessment Screening Report, the Department of Housing, Local Government and Heritage's National Planning Application database and the Kildare County Council planning register, and I am satisfied that all appropriate planning applications have been considered and that there is no in-combination effects associated with the proposed and surrounding developments, having regard to drainage provision and mitigation measures outlined within that application.

The Appropriate Assessment Screening Report concludes that upon the examination, analysis and evaluation of the relevant information including, in particular, the nature of the proposed development and the likelihood of significant effects on any Natura 2000 sites, in addition to considering possible in-combination effects, and applying the precautionary principles, it is concluded by the authors of this report that, on the

basis of objective information; the possibility may be excluded that the proposed development will have a significant effect on any European sites.

Appropriate Assessment Conclusion

The proposed development has been considered in light of the assessment requirements of Sections 177U and 177V of the Planning and Development Act 2000 (as amended).

Following an Appropriate Assessment Screening exercise, it has been determined that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of the European site No's: 000396, 002231, 000781, 002162, 000397 and 004063 or any other European site, in view of the sites' Conservation Objectives.

This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable doubt as to the absence of adverse effects.

Form 3 - EIA Screening Determination Form

A. CASE DETAILS

An Bord Pleanála Case Reference	ABP-322670-25	
Development Summary	Construction of 74 residential units and all associated site works.	
	Yes / No / N/A	Comment (if relevant)
1. Was a Screening Determination carried out by the PA?	Yes	EIA not required.
2. Has Schedule 7A information been submitted?	Yes	
3. Has an AA screening report or NIS been submitted?	Yes	An Appropriate Assessment screening report was submitted with the application material. An Appropriate Assessment was screened out, I would concur with this conclusion, refer to Appendix 2 of my report.
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?	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		SEA and AA were undertaken in respect of the <i>Kildare County Development Plan 2023-2029</i>

pursuant to other relevant Directives – for example SEA			
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 site has an area of c.1.96ha is currently a greenfield site which is bounded by residential development and is x. 800m from Kilcullen Town Centre The site is has a steep gradient and is currently vacant and is bound by established residential development to the east and west.	No

<p>1.2 Will construction, operation, decommissioning or demolition works cause physical changes to the locality (topography, land use, waterbodies)?</p>	<p>No</p>	<p>The appeal site has a steep gradient and is a greenfield site and the proposed residential development would result in minimal change in the locality, with standard measures to address potential impacts on surface water and groundwaters in the locality. Uses proposed are consistent with land uses in the area.</p>	<p>No</p>
<p>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?</p>	<p>No</p>	<p>Construction materials will be typical for residential development of this nature and scale. The loss of natural resources because of the development are not regarded as significant in nature.</p>	<p>No</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>No</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other such substances. Use of such materials would be typical for construction sites. Any impacts would be local and temporary in nature and the implementation of standard construction practice measures as</p>	<p>No</p>

		<p>set out in a Construction Environmental Management Plan (CEMP) or a Construction and Demolition Waste Management Plan (CDWMP) which may be required by conditions would satisfactorily mitigate potential impacts. No operational impacts in this regard are anticipated.</p>	
<p>1.5 Will the project produce solid waste, release pollutants or any hazardous / toxic / noxious substances?</p>	<p>No</p>	<p>Construction activities will require the use of potentially harmful materials, such as fuels and other similar substances and give rise to waste for disposal. The use of these materials would be typical for construction sites. Noise and dust emissions during construction are likely. Such construction impacts would be local and temporary in nature, and with the implementation of the standard measures outlined in the CEMP and the CDWMP as maybe required by conditions, the project would satisfactorily mitigate the potential impacts. Operational waste would be managed through a waste management plan</p>	<p>No</p>

		to obviate potential environmental impacts. Foul water will discharge to the public network. Other operational impacts in this regard are not anticipated to be significant.	
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?	No	Operation of the standard measures listed in a CEMP and the CDWMP will satisfactorily mitigate emissions from spillages during construction and operation.	No
1.7 Will the project cause noise and vibration or release of light, heat, energy or electromagnetic radiation?	No	There is potential for construction activity to give rise to noise and vibration emissions. Such emissions will be localised and short term in nature, and their impacts would be suitably mitigated by the operation of standard measures listed in any CEMP required by conditions. No operational impacts in this regard are anticipated.	No
1.8 Will there be any risks to human health, for example due to water contamination or air pollution?	No	Construction activity is likely to give rise to dust emissions and surface water runoff. Such construction impacts would be temporary and localised in nature and the application of	No

		standard measures within the CEMP would satisfactorily address potential risks on human health. No significant operational impacts are anticipated.	
1.9 Will there be any risk of major accidents that could affect human health or the environment?	No	No significant risk is predicted having regard to the nature and scale of the development. The site is not at risk from flooding Any risk arising from construction will be localised and temporary in nature. There are no Seveso/COMAH sites in the vicinity.	No
1.10 Will the project affect the social environment (population, employment)	No	Development of this site would result in an increase in residential occupation in this area as envisaged in the Kildare County Development Plan 2023-2029. This is considered to be a positive social impact.	
1.11 Is the project part of a wider large-scale change that could result in cumulative effects on the environment?	No	The appeal site is located within an area of Kilcullen which has undergone significant residential development in recent years. The proposal comprises of a residential development on residentially zoned land and	No

		as such is compatible with surrounding uses and is not a change from that permitted in the surrounding area.	
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	There are no European designated sites within the immediate vicinity of the site There are 6 (SPA'S, SAC'S and pNHA'S) within 15km of the site. There are no Source-Pathway-Receptor links with any of the sites.	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>	No	The application material included an Ecology Appraisal which outlines that the site is of low ecological value and that it is not a site high suitability or importance to any Annex I or Annex II species or red list birds. In addition to this, the Ecology Appraisal found that there was no evidence	No

		of badgers or badger sets recorded on site, there was no evidence of potential bat roosts were found on site and no evidence of otter activity on site.	
2.3 Are there any other features of landscape, historic, archaeological, or cultural importance that could be affected?	No	No. There are no protected structures or archaeological features within the site.	No
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	No such features are in this urban location.	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?	No	The appeal site is within Flood Zone C, and the possibility of flooding is low.	No
2.6 Is the location susceptible to subsidence, landslides or erosion?	No	No	No
2.7 Are there any key transport routes (e.g. National primary Roads) on or around the location which are susceptible to congestion, or which	No	There are no key transport routes on or around the location at the present time.	No

cause environmental problems, which could be affected by the project?			
2.8 Are there existing sensitive land uses or community facilities (such as hospitals, schools etc) which could be affected by the project?	No	No.	No
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	The Appropriate Assessment Screening Report submitted with the application identifies 6 No. residential applications on the area and having considered these, I am satisfied that there are no in-combination effects associated with the development.	No
3.2 Transboundary Effects: Is the project likely to lead to transboundary effects?	No	No	No
3.3 Are there any other relevant considerations?	No	No	No
C. CONCLUSION			
No real likelihood of significant effects on the environment.	<input checked="" type="checkbox"/>	EIAR Not Required	
Real likelihood of significant effects on the environment.	<input type="checkbox"/>	EIAR Required	

