



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319646-24

|                                     |                                                                                                                                                                                              |
|-------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Development</b>                  | The development will consist of a mixed-use scheme comprising of 36 residential units along with retail / office use units as part of the overall development and all associated site works. |
| <b>Location</b>                     | Lands to the north of Caragh Village, Caragh, Co. Kildare                                                                                                                                    |
| <b>Planning Authority</b>           | Kildare County Council                                                                                                                                                                       |
| <b>Planning Authority Reg. Ref.</b> | 2360182                                                                                                                                                                                      |
| <b>Applicant</b>                    | O'Flynn Construction (Dublin) Limited                                                                                                                                                        |
| <b>Type of Application</b>          | Permission                                                                                                                                                                                   |
| <b>Planning Authority Decision</b>  | Grant Permission                                                                                                                                                                             |
| <b>Type of Appeal</b>               | Third Party                                                                                                                                                                                  |
| <b>Appellant</b>                    | Peter Robinson                                                                                                                                                                               |
| <b>Observers</b>                    | None                                                                                                                                                                                         |
| <b>Date of Site Inspection</b>      | 28 <sup>th</sup> November 2024                                                                                                                                                               |
| <b>Inspector</b>                    | Jim Egan                                                                                                                                                                                     |

# Contents

|                                                                                                       |           |
|-------------------------------------------------------------------------------------------------------|-----------|
| <b>1.0 Site Location and Description .....</b>                                                        | <b>4</b>  |
| <b>2.0 Proposed Development.....</b>                                                                  | <b>4</b>  |
| <b>3.0 Planning Authority Decision.....</b>                                                           | <b>5</b>  |
| 3.1. Decision .....                                                                                   | 5         |
| 3.2. Planning Authority Reports .....                                                                 | 5         |
| 3.3. Prescribed Bodies.....                                                                           | 7         |
| 3.4. Third Party Observations .....                                                                   | 8         |
| <b>4.0 Planning History .....</b>                                                                     | <b>8</b>  |
| 4.1. Appeal Site.....                                                                                 | 8         |
| <b>5.0 Policy Context.....</b>                                                                        | <b>9</b>  |
| 5.1. Kildare County Development Plan 2023 - 2029 .....                                                | 9         |
| 5.2. Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019. .... | 12        |
| 5.3. National Planning Framework .....                                                                | 12        |
| 5.4. Section 28 Ministerial Guidelines .....                                                          | 13        |
| 5.5. Natural Heritage Designations .....                                                              | 13        |
| 5.6. EIA Screening .....                                                                              | 13        |
| <b>6.0 The Appeal .....</b>                                                                           | <b>14</b> |
| 6.1. Grounds of Appeal .....                                                                          | 14        |
| 6.2. Applicant's Response .....                                                                       | 15        |
| 6.3. Planning Authority Response.....                                                                 | 17        |
| 6.4. Observations.....                                                                                | 17        |
| 6.5. Further Responses .....                                                                          | 17        |
| <b>7.0 Assessment.....</b>                                                                            | <b>17</b> |

|                                 |                                               |           |
|---------------------------------|-----------------------------------------------|-----------|
| 7.2.                            | Procedural Issues .....                       | 18        |
| 7.3.                            | Density .....                                 | 21        |
| 7.4.                            | Residential Amenity and Farm Operations ..... | 23        |
| 7.5.                            | Hedgerows and Ash Tree .....                  | 24        |
| 7.6.                            | Street Lighting .....                         | 26        |
| 7.7.                            | Surface Water Drainage .....                  | 26        |
| 7.8.                            | Built Heritage .....                          | 27        |
| 7.9.                            | Other Matters .....                           | 29        |
| <b>8.0</b>                      | <b>Appropriate Assessment .....</b>           | <b>29</b> |
| <b>9.0</b>                      | <b>Recommendation.....</b>                    | <b>29</b> |
| <b>10.0</b>                     | <b>Reasons and Considerations .....</b>       | <b>29</b> |
| <b>11.0</b>                     | <b>Conditions.....</b>                        | <b>30</b> |
| <b>Appendix 1 - Form 1.....</b> |                                               | <b>39</b> |
| <b>Appendix 1 - Form 2.....</b> |                                               | <b>40</b> |
| <b>Appendix 2.....</b>          |                                               | <b>42</b> |

## **1.0 Site Location and Description**

- 1.1. The appeal site, 'L' shaped with a stated area of c. 2.05ha, comprises greenfield land located on the northern edge of the village of Caragh, County Kildare. The site is bound to the north and east by agricultural lands, to the south by farm buildings and a paddock, and to the west by the R409 regional road, which becomes Main Street as it traverses the village to the south. The site interfaces with the junction between the R409 and the L2030 local road / Caragh View to the west. Land on the northwest corner of the junction comprises a church and its associated grounds, while land to the southwest comprises a medical centre and heritage centre, both under construction, with a newly built housing development, Caragh Heights, further to the south-west.
- 1.2. The site is generally flat with boundaries defined by mature trees on the northern and eastern boundaries and a mature hedgerow adjacent to the southern and internal west facing boundaries. Access to the site is by an existing farm entrance located immediately north of the site on the R409, serving the larger landholding. There are 12no. trees on the northern boundary and 6no. trees on the eastern boundary listed under a Tree Preservation Order (TP01/2021).

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the construction of 36no. residential units (25no. houses, 2no. duplexes and 9no. apartments) and 2no. ground floor level retail / office units. The proposed development also comprises internal roads, public open space, landscaping and boundary treatments, car and bicycle parking, a sewerage pumping station and upgrades to the road and public realm at the front of the site, including the provision of a signalised junction with signalised pedestrian crossing.
- 2.2. For the purposes of identification on the application drawings, the development is arranged in 9no. blocks. Blocks 1 and 3 are two-storey, double fronted buildings interfacing with the public road and new internal road, with each comprising retail / office on the ground floor and residential at first floor. Block 2 and Blocks 4 - 8 comprise conventional two-storey semi-detached and terraced dwellings, while Block 9 comprises apartments and duplexes.

- 2.3. Further information, submitted on the 13<sup>th</sup> March 2024, included internal and external modifications to dwellings, modifications to the front façade and internal floor area of the 2no. retail / office units, modifications to boundary treatments and clarification on a number of issues. The number of dwelling units remained at 36no.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission was granted subject to 36 no. conditions, including Conditions 10, 11 and 12 which relate to tree protection.

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

#### *3.2.1. Planning Reports*

The initial planners report dated 31<sup>st</sup> October 2023 requested that 17no. items of further information be sought. These items are summarised below:

1. Confirmation of legal and beneficial ownership of the application site.
2. Revisions and clarifications on Part V proposal.
3. Schedule of open space areas exclusive of infrastructural elements including attenuation tank and pumping station.
4. Revisions to Block 9 (duplexes and apartments)
5. Revisions to Block 3 (retail / office at ground floor), House 6 and House 20
6. Clarification on achieving minimum internal storage areas for the dwellings
7. Reconsider extent of hedgerow to be removed on northern boundary near the proposed entrance.
8. Revised proposal for southern boundary, noting that the proposed 2.0m high concrete post and panel fence and 2.0m fair-faced concrete block wall are not acceptable.
9. Revised boundary treatment to treatment plant / pumping station, noting that proposed palisade fencing is not acceptable.

10. Revisions to retail frontage landscape plan with respect to proposed seating.
11. Revisions to site plans to include details of tree protection fencing line.
12. Revisions to landscape proposals to ensure tree planting will not conflict with roads, footpaths and underground utility services and public lighting.
13. Details of signalised junction, EV charging and bicycle parking.
14. Revisions to surface water management proposals.
15. Revisions to account for surface water exceedance events.
16. Full construction details of SuDS elements.
17. Liaise with Kildare County Council to ensure that the design of the development will facilitate taking in charge.

The response to the request for further information was received on the 13<sup>th</sup> March 2024. The Planning Authority did not consider the further information to be significant therefore revised public notices were not requested from the applicant.

The planners report dated 5<sup>th</sup> April 2024 considered that that all items of further information had been adequately addressed and recommended that permission be granted subject to conditions.

### **3.2.2. *Other Technical Reports***

*Water Services:* Report dated 10<sup>th</sup> October 2023 recommended that further information be sought with regards to surface water management. These concerns were reflected in the request for further information. A report dated 25<sup>th</sup> March 2024 raised no objection to the proposed development, subject to standard conditions.

*Environment Section:* Report dated 13<sup>th</sup> October 2023 raised no objection to the proposed development, subject to standard conditions.

*Area Engineer:* Report dated 5<sup>th</sup> October 2023 raised no objection to the proposed development, subject to standard conditions.

*Roads, Transportation and Public Safety Department:* Report dated 6<sup>th</sup> October 2023 recommended that further information be sought with regards to signalised junction, EV charging and bicycle parking. These concerns were reflected in the request for

further information. A report dated 2<sup>nd</sup> April 2024 raised no objection to the proposed development, subject to standard conditions.

*Kildare Fire Services:* Report dated 5<sup>th</sup> October 2023 raised no objection to the proposed development subject to conditions.

*Parks Department:* Report dated 31<sup>st</sup> October 2023 recommended that further information be sought with regards to tree protection, landscaping and boundary treatments. These concerns were reflected in the request for further information. A report dated 5<sup>th</sup> April 2024 raised no objection to the proposed development, subject to standard conditions.

*Building and Development Control Section:* Report (undated) recommended that further information be sought with regards to compliance with Council's taking in charge policy and confirmation of site ownership. These concerns were reflected in the request for further information.

*Environmental Health Officer:* Report dated 10<sup>th</sup> October 2023 raised no objection to the proposed development subject to conditions.

*Housing Section:* Report dated 10<sup>th</sup> October 2023 recommended that further information be sought with regards to Part V provision. These concerns were reflected in the request for further information.

### **3.3. Prescribed Bodies**

#### *Uisce Eireann*

A submission dated 12<sup>th</sup> October 2023 raised no objection to the proposed development, subject to standard conditions.

#### *Department of Housing, Local Government and Heritage, Development Applications Unit (DAU).*

The submission dated the 6<sup>th</sup> October 2023 acknowledges the Archaeological Impact Assessment (AIA) report submitted with the application and recommended that archaeological monitoring be required by condition.

### **3.4. Third Party Observations**

#### **3.4.1. 3no. submissions received during the statutory consultation period, as follows:**

##### Peter Robinson

Peter Robinson is the appellant in this case and the owner of the property that adjoins the site to the south. While a number of issues were raised in the submission, the substantive issues are broadly the same as the grounds of appeal, noting particularly that the appeal refers to, and includes a copy of, the initial submission made to the Planning Authority. The Board is referred to Section 6 where the appeal is dealt with in more detail.

##### Cllr. Peggy O'Dwyer

- Requested that an existing telegraph pole on the junction be relocated underground as part of the proposed road works.

##### Micheál O'Ceallacháin / An Lucht Inbhuanaithe (Environmental NGO)

- Outlines potential inefficiencies with gas boilers and air source heat pumps as sources for heat.
- House design and materials should be focused on reducing carbon footprint. Terraced housing is more efficient than semi-detached. Higher density should be applied.
- Proposal is for 36 dwellings, with a total allocation of 366 dwellings to all villages within the county under the current Kildare County Development Plan. The development plan does not allocate dwelling numbers to individual villages as required by the Planning and Development Act.
- Issues with regards proximity of dwellings to an existing farmyard.

### **4.0 Planning History**

#### **4.1. Appeal Site**

- **P.A. Ref. 22956** – refers to a 2023 refusal of a proposal comprising 35no. dwellings and a retail unit. 3no. reasons for refusal can be summarised as follows:



- Impact of development on root protection area of trees listed under Tree Preservation Order.
- The proposal, by reason of side and rear garden boundary walls backing onto an area of public open space, would create an area which would not be adequately overlooked and would therefore encourage anti-social behaviour.
- Village centre zoning not sufficiently complied with through the inclusion of a single commercial unit.

#### **4.2. Surrounding Area**

None relevant.

### **5.0 Policy Context**

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

5.1.1. Caragh is designated a Village under the county settlement hierarchy. Volume 2, Part 2 (Villages & Rural Settlements) of the Development Plan sets out a development strategy for villages. The following general objectives are considered relevant:

- V GO 2 – Generally permit density levels in accordance with indicative levels outlined in Table 2.8 in Volume 1. Proposals shall also conform to the Development Management Standards contained in Volume 1, Chapter 15. Exceptions may be made to development management standards on infill / brownfield sites within village centres or settlement cores where schemes are of exceptional quality and design.
- V GO 4 – Generally control the scale of individual development proposals to 10-15% of the existing housing stock of any village or settlement over the lifetime of the Plan in accordance with the Sustainable Residential Development in Urban Areas Guidelines (2009). For example, for a village of 800 people, the typical pattern and grain of existing development suggests that any individual scheme for new housing should not be larger than 26 - 40 residential units and for villages/settlements with less than 300 persons new housing schemes should not be larger than 15 units.

- V GO 5 – Ensure an appropriate mix of dwelling units are provided in the village/settlement to cater for a range of household sizes.

5.1.2. Volume 2, Part 2 also includes a plan, including a zoning map, for each village. Under the Caragh Village Plan, the appeal site is subject to 3 no. zoning objectives. The vast majority is zoned *C: New Residential* with the associated land use objective ‘*to provide for new residential development*’, with the area of the site interfacing with the public road zoned *A: Village Centre* with the associated land use objective ‘*to provide for the development and improvement of appropriate village centre uses including residential, commercial, office and civic use*’.

The site includes a sliver of land zoned *I: Agriculture* with the associated land use objective ‘*to retain and protect agricultural uses*’. This part of the site extends c. 160m east of the proposed development to provide for a surface water drainage discharge point.

The red line also extends marginally beyond the zoned area on the northern and eastern field boundaries to cover the extent of trees listed within a Tree Preservation Order, and within the R409 to cover proposed road upgrades.

5.1.3. Section 3.11 of Volume 2 notes that Caragh has an adequate water supply and wastewater capacity to meet the current demands and the future planned growth over the life of this Plan. The following objectives for Caragh are considered to be relevant:

- V CA2 – Ensure new development complements and enhances the village scape and uses quality building materials.
- V CA4 – Protect trees identified as part of a Tree Preservation Order
- V CA7 – Upgrade the extent of the R409 within the development boundary of Caragh village. Improvements will include realignment, widening, improved pedestrian facilities, drainage, public lighting and traffic calming.

5.1.4. Chapter 2 (Core Strategy & Settlement Strategy), Chapter 3 (Housing), Chapter 6 (Infrastructure & Environmental Services), Chapter 11 (Built & Cultural Heritage), Chapter 14 (Urban Design, Placemaking & Regeneration) and Chapter 15 (Development Management Standards) of the development plan are all considered relevant. The following policies and objectives of the development plan are also considered relevant:

- HO P5: Promote residential densities appropriate to its location and surrounding context.
- HO O4: Ensure appropriate densities are achieved in accordance with the Core Strategy in Chapter 2 of this Plan, and in accordance with the principles set out in Guidelines for Planning Authorities on Sustainable Urban Development (Cities, Towns and Villages), DEHLG, 2009, Urban Design Manual: A Best Practice Guide, DEHLG, 2009; Urban Development and Building Height Guidelines for Planning Authorities (2018); and with reference to Circular Letter NRUP 02/2021 (April 2021).
- HO O6: Ensure a balance between the protection of existing residential amenities, the established character of the area and the need to provide for sustainable residential development is achieved in all new developments.
- HO P7 Encourage the establishment of sustainable residential communities by ensuring a wide variety of housing typologies and tenures is provided throughout the county.
- HO O16 Promote the provision of high-quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood. Apartment development must be designed in accordance with the provisions of Sections 15.2, 15.3 and 15.4 (Chapter 15), where relevant, to ensure a high standard of amenity for future residents.
- 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. Kildare County Council will support innovative construction methods to deliver sustainable and adaptable housing.
- BI P6 Recognise the important contribution trees and hedgerows make to the county biodiversity resource climate mitigation, resilience and adaptation.
- 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, with consideration for the following:

- The infiltration into the ground through the provision of porous pavement such as permeable paving, swales, and detention basins.
- The holding of water in storage areas through the construction of green roofs, rainwater harvesting, detention basins, ponds, and wetlands.
- The slow-down in the movement of water

## **5.2. Eastern and Midland Regional Assembly – Regional Spatial and Economic Strategy (RSES) 2019.**

The RSES is underpinned by key principles that reflect the three pillars of sustainability: Social, Environmental and Economic, and expressed in a manner which best reflects the challenges and opportunities of the Region. It is a key principle of the strategy to promote people's quality of life through the creation of healthy and attractive places to live, work, visit and study in.

The site is located within the 'Core Region' which includes the peri-urban 'hinterlands' in the commuter catchment around Dublin. The followings RPOs are of particular relevance:

- RPO 4.83: Support the consolidation of the town and village network to ensure that development proceeds sustainably and at an appropriate scale, level and pace in line with the core strategies of the county development plans.

## **5.3. National Planning Framework**

The National Planning Framework addresses the issue of 'making stronger urban places' and sets out a range of objectives which it considers would support the creation of high-quality urban places and increased residential densities in appropriate locations while improving quality of life and place. Relevant Policy Objectives include:

- National Policy Objective 4: Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.

- National Policy Objective 33: Prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

#### **5.4. Section 28 Ministerial Guidelines**

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024

#### **5.5. Natural Heritage Designations**

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

- Mouds Bog SAC (Site Code 002331), c. 4.6km southwest of the site,
- Pollardstown Fen SAC (Site Code: 000396), c. 9.3m southwest of the site,
- Ballynafagh Lake SAC (Site Code: 001387) c. 5.2km northwest of the site,
- Ballynafagh Bog SAC (Site Code: 000391) c. 6.3km northwest of the site.

5.5.2. The Mouds Bog pNHA (Site Code: 000395) is located c. 4.6km southwest of the site while the Grand Canal pNHA (Site Code 002104) is located c. 2.8km east of the site.

#### **5.6. EIA Screening**

5.6.1. Refer to Form 1 in Appendix 1 (EIA Pre-Screening). Class 12(c) 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.

5.6.2. Refer to Form 2 in Appendix 1 (EIA Preliminary Examination). 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.

## **6.0 The Appeal**

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

6.1.1. The third-party appeal received includes a cover letter prepared by Ciarán Sudway & Associates on behalf of the appellant, Mr. Peter Robinson. The cover letter, in the most part, refers to technical and procedural issues, but also refers to, and includes a copy of, the original submission made to the Planning Authority on behalf of the appellant.

The main points of the appeal can be summarised as follows:

- Matters set out in appellant's objection to the application as lodged have not been addressed by the Planning Authority.
- On procedural grounds, objects to the Planning Authority's decision not to accept a submission by the appellant on further information submitted by the applicant to the Planning Authority.
- Drawings submitted are incorrect in terms of the location of boundaries, trees and other features.
- Part of application site is within the submitter's ownership, comprising a section of the public road on which junction upgrade works are proposed. No consent was given to make the application.
- The applicant name is not clear.
- Requests the Board to make an order for the recovery of the appellant's costs incurred.

Other matters raised in the original submission to the Planning Authority:

- Part of site is zoned 'agricultural' and part is located outside the village plan, perhaps included to justify the density.
- Part of the submitter's land is zoned 'Agriculture'. Not acceptable to permit housing adjacent to a working farm.
- Proposal would remove light and all privacy from the submitter's dwelling and farmyard.

- Impact of concrete block wall on the root system of the hedge on the submitter's side of the shared boundary.
- Impact on heritage buildings within submitter's property.
- Impact on existing tree located within the submitter's property (identified as Tree T22 on the applicant's Tree Survey), and health and safety implications on farm buildings, livestock and personnel in the event of the tree falling as a result of damage caused by building works on the application site.
- Impact of surface water run-off on the quality of ground water which supplies a well on the submitter's property.
- Positioning of proposed light pole 19C on the southern boundary allows for significant overspill of nuisance light onto submitter's property, tree (T22) and flanking vegetation, contrary to the recommendations contained in the applicant's Ecological Impact Assessment.
- Considers that further analysis over and above visual methods only is required to establish condition of trees subject to Tree Preservation Order. Refers to the system of placing a monetary value on amenity trees.

## **6.2. Applicant's Response**

The Board received a response on the 30<sup>th</sup> May 2024 on behalf of the applicant to the third-party appeal. The relevant points of the response are summarised below.

- Appellant's concerns were summarised in the Planning Authority's Planner's Report and informed the Request for Further Information, including issues relating to site ownership, boundaries and hedgerows.
- Planning drawings are based on surveyed data. The appellant has not provided evidence to demonstrate inaccuracies.
- Reiterates earlier submissions with respect to proposed works to the public road and consent provided by the Local Authority to include same in the planning application.
- In respect of the proposed housing being adjacent to a working farm, the applicant submits that the appeal site is zoned for village centre and residential

development, as is part of the appellant's property; that the proposal is well set back from the farm boundary; and that the appellant's farm is not such a size that would generate significant adverse impacts on local residents.

- In terms of the impact on heritage buildings, none of the buildings associated with the Appellant's landholding are designated Protected Structures, nor are they on the National Inventory of Architectural Heritage. There are no monuments recorded in the Record of Monuments and Places (RMP) that are located within the subject site. Referring to an Archaeological Impact Assessment submitted with the application, the applicant submits that the development will not have an adverse impact on either the architectural heritage or archaeological heritage resources on or in the vicinity of the site.
- In terms of boundary treatment and impact on appellant's hedge, the applicant amended the boundary proposal at Further Information stage to remove a proposed block wall and to provide for a 2.0m high concrete post and concrete panel detail, negating the requirement for an excavated foundation to ensure minimal impact on the existing hedgerow.
- In terms of surface water run-off impacting ground water, refers to the Consulting Engineer's SuDS report and drainage design.
- In terms of light pole 19C on the southern boundary, the applicant submits that based on a preliminary lighting design submitted with the application, the subject light standard will not create a light nuisance on the adjoining property or impact the tree on the boundary (T22). Acknowledges Condition 19 on the Planning Authority's notification of decision to grant permission, requiring adjustment of lights if required.
- Standard methodology used in the Tree Survey Report to assess health and condition of trees. Not considered necessary to employ other tools of assessment. All TPO trees will be protected and incorporated within the development. Tree T22 on the appellant's property will be protected as per the recommendations of the project arborist in accordance with the tree protection fencing specified and boundary treatments proposed on this part of the site.



- By reason of the location of the site north of the appellant's property, existing hedgerows and distance to the appellant's dwelling and other buildings, there will be no adverse impact on the appellant's property in terms of overshadowing or access to sunlight and / or daylight. No overlooking issues as a result of dwellings backing onto an existing farm access road.
- Having regard to the context of Caragh including population, the proposed density is compliant with development plan policy on village development.

### **6.3. Planning Authority Response**

A response was received on the 28<sup>th</sup> May 2024 which states that the Planning Authority notes the content of the third party appeal and has no further comments or observations to make.

### **6.4. Observations**

None

### **6.5. Further Responses**

None

## **7.0 Assessment**

7.1.1. Having examined the appeal details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant policies and guidance, I consider that the main issues in this appeal are as follows:

- Procedural Issues
- Density
- Residential Amenity and Farm Operations
- Hedgerows and Ash Tree
- Street Lighting

- Surface Water Drainage
- Built Heritage
- Other Matters

The issue of appropriate assessment screening also needs to be addressed.

## **7.2. Procedural Issues**

7.2.1. The appellant raises the following technical and procedural issues:

### Applicant Name

7.2.2. The appellant has asked the Board to satisfy itself with the identity of the applicant, suggesting uncertainty in respect of the applicant and landowner. Having reviewed the application documentation, I find no ambiguity with regards to the stated applicant and landowner. The application form and public notices refer to O'Flynn Construction (Dublin) Limited as the applicant while the relevant section of the application form refers to the Crowe Family as the landowner, from whom a letter of consent to make a planning application has been included.

### Land Ownership / Boundaries

7.2.3. The appellant contends that his consent was required to make the planning application by reason that the red line extends over land in his ownership, referring to part of the public road / R409. The response by the applicant refers to Section 13 of the Roads Act 1993 submitting that maintenance of the public road is a function of Kildare County Council, being the relevant roads authority, and that obtaining a letter of consent from Kildare County Council to make the planning application was the correct procedure, and accordingly, consent from the appellant was not required.

7.2.4. The proposal includes a new vehicular entrance to the site from the R409, to be located directly opposite the junction with the L2030. The proposal also includes an upgrade to this junction in the form of a new signalised crossroads with signalised pedestrian crossings, being the traffic management solution recommended in a Transport Statement submitted with the application.

7.2.5. The majority of works associated with the junction upgrade are contained within the section of road fronting the application site, along with new road markings running north and south on the R409 and west on the L2030. The proposed new road markings include a new centre line on the R409 extending c. 20m from the junction south towards the village, with c. 9m of the centre line passing to the front of the appellant's property. The application red line boundary takes in all land associated with the junction upgrade including the new road markings. The appellant submits that his consent was required to make the application where it relates to the section of road works fronting his property for the reason that his ownership extends to the centre of the public road.

7.2.6. The applicant's response refers to Section 13 of the Road Act 1993 (as amended), specifically the following provisions:

*13.—(1) Subject to Part III<sup>1</sup>, the maintenance and construction of all national and regional roads in an administrative county shall be a function of the council or county borough corporation of that county.*

*(2) It shall be a function of the council of a county, the corporation of a county or other borough or the council of an urban district to maintain and construct all local roads—*

*(a) in the case of the council of a county — in its administrative county, excluding any borough or urban district,*

*(b) in the case of any other local authority — in its administrative area.*

*(3) The local authorities referred to in subsections (1) and (2) shall be road authorities for the purposes of the roads referred to in those subsections and shall, subject to Part III and in respect of those roads, perform all the functions assigned to road authorities by or under any enactment (including this Act) or instrument.*

The applicant also refers to Section 13(6)(a) which reads that a person or group of persons may, with the consent of a road authority, carry out maintenance works on a local road. While the R409 is not a 'local road'<sup>2</sup> as defined under the Roads Act 1993 (as amended), the reference to consent is relevant in my opinion. On the basis of the foregoing, I consider consent from the Local Authority, being the Roads Authority, was

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<sup>1</sup> Part III of the Roads Act 1993 (as amended) refers to the function of the National Roads Authority

<sup>2</sup> "local road" means a public road other than a national road or a regional road;

sufficient for the applicant to make the planning application. Furthermore, the planning application was validated by the Planning Authority, and on assessment of the further information received, accepted the applicant's position in respect of relevant consent.

#### Accuracy of Drawings

- 7.2.7. The appellant contends that the submitted drawings are inaccurate in respect of the portrayal of boundaries and an ash tree (identified as T22 on the applicant's Tree Survey), reiterating concerns contained in his initial submission to the Planning Authority that the application, including the Arboricultural Assessment, infers that the southern boundary of the appeal site comprises a hedge and ash tree, whereas the appellant contends that the said hedge and tree are fully contained within his property. The applicant's response refers to the suite of documents submitted including a topographical survey.
- 7.2.8. The application includes an 'Existing Topographical Survey', prepared by Donnachadh O'Brien & Associates Consulting Engineers, which shows a post and wire fence running along the southern edge of the appeal site and the tree canopy for the existing ash tree (T22) where it over sails the property boundary. The Existing Site Layout Plan and Proposed Site Layout Plan, prepared by CCH Architects, would appear to be based off the Topographical Survey, with both drawings showing the red line application boundary generally aligning with and, in parts, adjacent to, the post and wire fence. A Boundary Treatment Plan submitted with the application shows the existing hedge and ash tree (T22) located within the appellant's property and outside the red line boundary. On the basis of the foregoing, having reviewed the drawings and visited the site, it is my opinion that the submitted drawings have accurately depicted the site boundaries and adjoining features including the ash tree and hedge.

#### Submission on Further Information

- 7.2.9. The appellant raises concern that a submission he made on the further information received by the Planning Authority on the 13<sup>th</sup> March 2024 was not accepted by the Planning Authority.
- 7.2.10. Section 34(8)(b) of the Planning and Development Act 2000 (as amended) gives discretion to the Planning Authority to request an applicant to publish new public

notices where the Planning Authority considers further information to contain significant additional data.

- 7.2.11. The Planner's Report, dated 5<sup>th</sup> April 2024, refers to further information received on the 13<sup>th</sup> March 2024 in response to a request dated 31<sup>st</sup> October 2023, noting that the further information was not deemed to be significant. As such, there was no additional period of public consultation, and thus no further opportunity for the appellant to make a submission. Records show that a submission received by the Planning Authority from the appellant on the 3<sup>rd</sup> April 2024 was not accepted and returned on the basis that it was received outside the initial 5 week period. In my opinion, the Planning Authority followed due process in this regard.

#### Recovery of Costs

- 7.2.12. The appeal includes a request to the Board to make an order for the recovery of costs incurred by the appellant. Section 145(a) of the Planning and development Act 2000 (as amended) provides the Board with absolute discretion to direct the Planning Authority to compensate an appellant for the expense of making an appeal. In my opinion there is nothing in the application or appeal to suggest that such direction would be appropriate.

### **7.3. Density**

- 7.3.1. The appellant raises an issue in respect of how density is calculated in the context of the red line extending into 'Agriculture' zoned land and outside the development boundary for the village, and in the initial submission to the Planning Authority refers to the impact of an 'excessive density' on the privacy of his property. The applicant's response outlines the density calculation in the context of gross and net site area. The Planning Authority concluded that the proposed residential density is considered to be acceptable at this location.
- 7.3.2. The appeal site is subject to 3 no. zoning objectives. The vast majority is zoned C: *New Residential*, along with the area of land interfacing with the public road zoned A: *Village Centre*. Part of the site is also zoned I: *Agriculture*, this being the part of the site that extends c. 160m in the form of a narrow corridor east of the proposed development to provide for a surface water drainage discharge point. The red line also

extends marginally beyond the zoned area on the northern and eastern field boundaries to cover the extent of trees listed within a Tree Preservation Order, and within the R409 to cover proposed road upgrades.

- 7.3.3. The residential element of the scheme is located on lands zoned C: New Residential. The retail / commercial element is located on lands zoned A: Village Centre. The proposed alignment of an underground drain across land zoned I: Agriculture has no material impact on the zoning objective. There is no development proposed on unzoned land outside the development boundary for the village. I am satisfied that the proposed development is in accordance with the zoning objectives for the site.
- 7.3.4. The proposal comprises 36no. residential units with a density of c. 27 units per hectare based on a net developable area of 1.33 ha. This net developable area comprises land zoned 'New Residential' and 'Village Centre' and excludes the area zoned 'Agriculture', the areas outside the Village Plan boundary and the part of the site that extends over the public road.
- 7.3.5. General Objective V GO 4 of the current County Development Plan relates to villages and generally seeks to restrict any individual housing development in terms of number of dwellings to 10-15% of the existing housing stock of the village over the lifetime of the Plan. According to Census 2016, Caragh Village had a population of 962 and a housing stock of 263 no. dwellings. Census 2022 showed that the population had increased by 44 no. persons to 1,006 no., an increase which could, in the most part, attributed to the completion and occupation of Caragh Heights in the intercensal period, which comprises 16 no. two-storey detached dwellings. On this basis, it is assumed that the housing stock of the village has increased to c. 279 no. Applying the 10-15% control measure, any individual scheme in Caragh should comprise between 28 and 41 no. dwellings. As such, I consider that in terms of numbers, the proposal for 36 no. dwellings is consistent with Objective V GO 4 of the Development Plan.
- 7.3.6. Objective HO O4 seeks to ensure appropriate densities are achieved in accordance with the Core Strategy, while Objective HO O6 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. Table 3.7 of the

Sustainable Residential Development and Compact Settlements Guidelines 2024 sets out that the density of development at the edge of rural towns and villages at locations that can be integrated into the settlement should respond in a positive way to the established context. Having regard to the established pattern of development in the village and being cognisant of the 'Village Centre' zoning at the front of the site, I am satisfied that the proposed density of 27 dwellings per hectare is acceptable and in accordance with Objectives HO O4 and HO O6 of the Development Plan and Table 3.7 of the Sustainable Residential Development and Compact Settlements Guidelines.

#### **7.4. Residential Amenity and Farm Operations**

- 7.4.1. The appellant submits that the proposal would cause loss of privacy and light to his dwelling and farmyard and would adversely impact the ongoing viability of his farming enterprise. The Planning Authority concluded that having regard to the level of existing and proposed screening at the site and the distance to neighbouring properties, the proposed development will not significantly impact adjoining residential amenity in terms of overlooking or overshadowing.
- 7.4.2. The southern and internal west facing boundaries of the appeal site interface with a driveway, paddock and farm sheds on the appellant's property. The proposal comprises two-storey dwellings backing onto the southern and internal west facing shared boundary, with separation distances of between c. 9.5m and 11.8m to the boundary, thereby facilitating a minimum 16m separation between the upper floor windows and the opposing windows of potential future housing on the appellant's site, zoned New Residential, consistent with SPPR 1 of the Sustainable and Compact Settlements, Guidelines for Planning Authorities 2024. On the eastern half of the site, the southern side elevation of house No. 28 is within c. 5.8m of the property boundary and does not contain any windows on the southern elevation. Block 3 fronts the R409 and comprises retail / office use at ground floor and 2no. apartments at first floor. The building is within c. 1.94m of the southern boundary and c. 30m from the side elevation of a dwelling located further south. A first floor apartment includes an internalised balcony and bedroom window on the southern elevation. The land to the south of Block 3 is zoned 'Village Centre' which seeks uses including residential, commercial, office and civic use. As such, in my opinion, the provision of a balcony and bedroom window

within 2m of the property boundary is not prejudicial to the future development of the adjoining land. The drawings show that the balcony would include a balustrade with opaque glazing, a suitable measure to reduce perceived overlooking to the south.

7.4.3. Notwithstanding the above, the appeal site interfaces with a driveway, paddock and farmyard buildings, with the appellant's dwelling located c. 55m south of the appeal site. On this basis it is in my opinion that the proposed development would not cause a loss of residential amenity to the appellant's property by way of overlooking or overshadowing. Furthermore, by reason of layout including orientation of Block 8, the location of the proposed pumping station, existing and proposed boundary treatment, and proposed tree planting, I consider that any impact from the continued operation of the farmyard on the amenity of future occupants of the proposed development would be negligible.

7.4.4. Based on the foregoing, I consider that the proposal is consistent with Development Plan objectives HO P5, which promotes residential densities appropriate to its location and surrounding context and HO O6, which seeks to ensure a balance is achieved between the protection of existing residential amenities, the established character of the area and the need to provide for sustainable residential development.

## **7.5. Hedgerows and Ash Tree**

7.5.1. The appellant raises concerns about the impact of the proposal on an existing hedge and ash tree located within his property adjacent to the southern boundary of the site.

7.5.2. In response to a request for further information, the applicant replaced a proposed 2m high concrete block wall with a 2m high concrete panel and post fence along the southern and internal west facing boundary, to be set 1m off the boundary. The applicant's response states that this approach negates the requirement for an excavated foundation and will ensure minimal impact on the existing hedgerow. I consider the proposed boundary treatment to be acceptable. On assessment of the further information received, the Planning Authority raised no issue with the revised boundary treatment.

7.5.3. The applicant's Tree Survey identifies the ash tree (T22) at c. 15m high and reported its condition as being poor with symptoms of Ash dieback disease. The Site Layout



Plan shows that the nearest dwelling to the ash tree is house No. 28, located outside the Root Protection Area. A Tree Protection and Retention Plan drawing submitted to the Planning Authority as further information indicates that any site works within the root protection area of the ash tree will be subject to an Arboricultural Method Statement and Approval of Project Arborist, affording the same level of protection during construction as trees within the site boundary. I consider that the proposal has had due regard to the ash tree (T22) and provides the tree with suitable protection during site works.

- 7.5.4. The appellant also refers to the applicant's survey of the trees which are subject to a Tree Preservation Order and submits that further analysis besides visual methods is required to establish the condition of the trees.
- 7.5.5. The applicant's response refers to the standard methodology used in the Tree Survey Report to assess health and condition of trees.
- 7.5.6. The application includes a Tree Survey, Arboricultural Method Statement and Tree Protection Plan, with revisions made to the Tree Protection Plan at further information stage in response to recommendations of the Council's Parks Department. The Arboricultural Method Statement outlines that the tree protection measures will be overseen and directed on-site by a qualified arborist and that the retained trees will be assessed by a qualified arborist following the completion of the construction works. The Arboricultural Method Statement also outlines that the fencing will be inspected on a regular basis during the duration of the construction process and shall remain in place until heavy building and landscaping work has finished and its removal is authorised by a qualified arborist.
- 7.5.7. I consider the methodology used and response in the form of tree protection proposals and method statement is acceptable, consistent with the specific objective V CA4 for Caragh, which seeks to protect trees identified as part of a Tree Preservation Order, and also comprises a reasonable response to the management of the trees in the context of land that is zoned for residential development.

## **7.6. Street Lighting**

- 7.6.1. The appellant submits that the light column 19C on the southern boundary would result in significant overspill of nuisance light onto his property, also impacting the ash tree (T22) and flanking vegetation, contrary to the recommendations contained in the applicant's Ecological Impact Assessment.
- 7.6.2. The applicant's response refers to the preliminary lighting design submitted with the application, which finds that the subject light standard will not create a light nuisance on the adjoining property or impact the tree on the boundary (T22). The applicant also acknowledges Condition 19 on the Planning Authority's notification of decision to grant permission, requiring adjustment of lights if required.
- 7.6.3. The preliminary lighting report provides a map-based assessment of the horizontal illuminance associated with the proposed lighting. It indicates that the lighting, particularly lighting column 19C, will not cause light spillage onto the appellant's property or to the ash tree (T22). I consider that the lighting report provides a suitable preliminary analysis of light impact. If the Board is minded to grant permission, I recommend the inclusion of a condition requiring a final light report to be submitted for agreement to the Planning Authority, and that similar to the condition attached to the Planning Authority's decision, a requirement to adjust light standards once operation, if necessary.

## **7.7. Surface Water Drainage**

- 7.7.1. The appellant submits that the surface water run-off has potential to adversely impact ground water that supplies a well on his property.
- 7.7.2. The applicant's response outlines that surface water drainage proposals for the site when operational will be managed via a combination of SuDS measures (rain gardens, permeable paving, bioretention swales, tree pits) and the underground attenuation tank, with a petrol interceptor included upstream of the outfall to the watercourse to provide a final level of treatment prior to discharge from the site via new dipped infrastructure to the existing field drain in the east.
- 7.7.3. On review of further information submitted, the Council's Water Services Department raised no objections subject to conditions including the requirement that no site

surface water shall be discharged to the public roadway, surface water shall only be discharged to the on-site drainage system, and that only clean uncontaminated surface water from the development shall be discharged to the surface water system.

- 7.7.4. Objective IN O23 of the County Development Plan requires new development 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.
- 7.7.5. Further information received by the Planning Authority included an Engineer's Report and associated drawings providing further clarity on the surface water drainage proposal and read in conjunction with an Infrastructural Design Report submitted initially with the application. Surface water discharge from the proposed development is towards the existing field boundary drain c. 160m to the east of the site. The report states that the proposed runoff to the drain will be restricted to the greenfield runoff rates i.e. the post development flows will match the pre-development flows. As outlined in the Applicant's Response to the third-party appeal, the drainage proposal includes a suite of measures to attenuate surface water on the site prior to discharge, including through the use of permeable surfaces, rain gardens, detention basins and underground retention, and makes provision for exceedance events. The drainage system also includes a petrol interceptor prior to discharge to the existing drain east of the site.
- 7.7.6. Based on the foregoing, I consider that the proposed surface water drainage system acceptable and consistent with Objective IN O23 of the County Development Plan.

## **7.8. Built Heritage**

- 7.8.1. The appellant submits that the proposal would adversely impact the heritage value of his property. The applicant's response outlines that none of the buildings associated with the Appellant's landholding are designated Protected Structures, nor are they on the National Inventory of Architectural Heritage; and referring to an Archaeological Impact Assessment submitted with the application, submits that the development will not have an adverse impact on either the architectural heritage or archaeological heritage resources on or in the vicinity of the site.

- 7.8.2. The Caragh Village land use zoning map (Map Ref. V2-3.5) indicates that there are no buildings on or in the vicinity of the appeal site, including the appellant's property, which are included on Kildare County Council's record of Protected Structures. The map also indicates that there are no recorded monuments within the appeal site or within the appellant's property.
- 7.8.3. Notwithstanding the above, while the appellant's dwelling and associated cluster of outbuildings are not listed as Protected Structures they do have the characteristics of vernacular buildings. Policy AH P9 of the Kildare County Development Plan seeks to promote the protection, retention, appreciation and appropriate revitalisation of the built vernacular heritage of the county, whilst Objective AH O58 refers to *Reusing Farm Buildings, A Kildare Perspective (2007)* published by Kildare County Council as a reference document for assessing planning applications relating to vernacular buildings, thatched cottages, and traditional farm buildings. Having regard to distance between the appeal site and the appellant's dwelling, and the nature and scale of the proposed development, comprising two-storey buildings, I consider that the proposal would not have an adverse impact on the heritage value of the appellant's dwelling and associated outbuildings.
- 7.8.4. On the matter of built heritage, the Caragh Village land use zoning map does show that there are 3 no. recorded monuments within the vicinity of the site. Ref. KD018-010 relates to a 'Wayside Cross' located in the middle of the junction on the R409 immediately to the west of the site. The Archaeological Impact Assessment submitted with the application refers to records which indicate that there are no remaining remnants of this monument. The zone of notification for the recorded monument extends within the western side of the appeal site.
- 7.8.5. There are 2 no. recorded monuments located c. 70m to the south of the site; a church (KD018-011001-) and graveyard (KD018-011002-). The appeal site is not within the zone of notification for these monuments.
- 7.8.6. The Archaeological Impact Assessment recommends that archaeological monitoring be carried out by a qualified archaeologist of all groundworks carried out within the Zone of Notification associated with recorded monument KD018-010 (Wayside Cross). The submission from the Development Applications Unit of the Department of

Department of Housing, Local Government and Heritage agrees with this recommendation. This is considered reasonable, and it is my recommendation that an archaeological monitoring condition be attached to a grant of permission, if one is forthcoming.

## **7.9. Other Matters**

- 7.9.1. Having reviewed the further information drawings submitted, I note that the revisions to Block 9, specifically the internalisation of the stairs, as shown on CCH Architects drawing no. CARKL-CCH-00-ZZ-DR-A-110, is not included as a revision on BSM landscape sections drawing no. 306 Rev. 00, dated February 2024). I am of the view that this matter can be addressed by condition if the Board is of a mind to grant permission.

## **8.0 Appropriate Assessment**

Refer to Appendix 2. Having regard to nature, scale and location of the proposed development and proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site

## **9.0 Recommendation**

I recommend that permission be granted in accordance with the submitted plans and particulars, including revised plans and particulars received by the Planning Authority on the 13<sup>th</sup> March 2024, and based on the reasons and considerations below, and subject to the conditions set out below.

## **10.0 Reasons and Considerations**

Having regard to the zoning objectives of the subject site, its location within an existing urban area and to the nature and scale of the proposed development it is considered that subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the residential or

visual amenities of the area or of property in the vicinity, consistent with Objectives HO O4 and HO O6 of the Kildare County Development Plan 2023-2029. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 11.0 Conditions

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| 1. | <p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 6<sup>th</sup> September 2023 as amended by the further plans and particulars submitted on the 13<sup>th</sup> March 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>(i) Block 9 shall be constructed as per drawing no. CARKL-CCH-00-ZZ-DR-A-110, received by the Planning Authority on 13<sup>th</sup> March 2024.</p> <p><b>Reason:</b> In the interest of clarity</p> |
| 2. | <p>Recommendations, mitigation and monitoring measures outlined in the plans and particulars, including the Archaeological Impact Assessment, Ecological Impact Assessment and Arboricultural Assessment / Method Statement, shall be carried out in full, except where otherwise required by conditions attached to this permission.</p> <p><b>Reason:</b> In the interest of protecting the environment and in the interest of public health.</p>                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 3. | <p>Proposals for a naming / numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs and dwelling numbers, shall be provided in accordance with the agreed scheme. The proposed names shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No</p>                                                                                                                                                                                                                                                                                                                                                                                                                             |

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|    | <p>advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).</p> <p><b>Reason:</b> In the interest of urban legibility and to ensure the use of locally appropriate place names for new residential areas.</p>                                                                                                          |
| 4. | <p>Proposals for retail / office unit identification, numbering scheme, shopfront design and shopfront signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The signage shall be lit by external illumination only. Thereafter, all such names, numbering and signage shall be provided in accordance with the agreed scheme.</p> <p><b>Reason:</b> In the interest of urban legibility.</p> |
| 5. | <p>Litter in the vicinity of the retail / office premises shall be controlled in accordance with a scheme of litter control which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the provision of litter bins and refuse storage facilities.</p> <p><b>Reason:</b> In the interest of public health and visual amenity.</p>                                          |
| 6. | <p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings and retail /office buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity and to ensure an appropriate high standard of development.</p>                                                                                    |
| 7. | <p>All the communal parking areas serving Blocks 1, 3 and 9 shall be provided with functional electric vehicle (EV) charging points, and all other houses within the scheme shall be provided with an electric vehicles (EV) home charge point to the exterior of the houses. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in</p>                                                                          |

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|     | <p>writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of sustainable transportation.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 8.  | <p>The outdoor lighting scheme shall be carried out in accordance with the Signify preliminary outdoor lighting scheme that was received by the Planning Authority on the 6<sup>th</sup> September 2023 and with technical specifications of the Planning Authority.</p> <p>The Developer shall comply with all future site lighting requirements of the Planning Authority in relation to adjusting the lights by re-aiming, the addition of louvres &amp; shields and / or dimming.</p> <p>Such lighting shall be provided prior to the making available for occupation of the development.</p> <p><b>Reason:</b> In the interest of amenity and public safety.</p>                                                                                                                                                                            |
| 9.  | <p>The scheme shall be landscaped in accordance with the landscape plans submitted to the Planning Authority on the 6<sup>th</sup> day of September 2023, as amended by further information submitted to the Planning Authority on the 13<sup>th</sup> day of March 2024 unless otherwise agreed in writing with the planning authority. The landscape scheme shall be implemented fully in the first planting season following substantial completion of the external construction works. All planting shall be adequately protected from damage until established. Any trees, plants or shrubs which die or are removed within three years of planting shall be replaced in the first planting season thereafter. Unless otherwise agreed in writing with the planning authority.</p> <p><b>Reason:</b> In the interest of visual amenity.</p> |
| 10. | <p>The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |



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|     | <p>a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,</p> <p>b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and</p> <p>c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.</p> <p>In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.</p> <p><b>Reason:</b> In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.</p> |
| 11. | <p>Prior to the commencement of development, the developer shall submit for the written agreement of the Planning Authority, final design details for the junction upgrade (signalised crossroads and signalised pedestrian crossings) on the R409. The junction upgrade shall be operational prior to the occupation of the permitted development. All costs associated with these works shall be borne by the developer.</p> <p><b>Reason:</b> In the interest of pedestrian and traffic and safety.</p>                                                                                                                                                                                                                                                                                                                                                           |
| 12. | <p>All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |
| 13. | <p>The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the Local Authority in the event of the development being taken in charge. Detailed proposals for this shall be</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |

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|     | <p>submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.</p> <p><b>Reason:</b> To ensure the satisfactory completion and maintenance of this development.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 14. | <p>The development hereby permitted shall be carried out and completed at least to the construction standards as set out in the planning authority's Taking In Charge Standards. In the absence of specific local standards, the standards as set out in the 'Recommendations for Site Development Works for Housing Areas' issued by the Department of the Environment and Local Government in November 1998. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.</p> <p><b>Reason:</b> To ensure that the development is carried out and completed to an acceptable standard of construction.</p> |
| 15. | <p>Upon completion of the development and prior to the taking in charge of the road infrastructure, the developer shall complete a Stage 3 Road Safety Audit, to be carried out by an independent, approved and certified auditor. The recommendations contained in the Road Safety Audit and agreed actions shall be signed off by the audit team.</p> <p><b>Reason:</b> In the interest of pedestrian and traffic safety.</p>                                                                                                                                                                                                                                                                                  |
| 16. | <p>The construction of the development shall be managed in accordance with a Construction Environmental Management Plan (CEMP), which shall be submitted to, and agreed in writing with, the Planning Authority prior to the commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, traffic management measures, consultation measures with local residents, schools and businesses in relation to traffic disruption during construction works, noise management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p> |

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| 17. | <p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p> <p><b>Reason:</b> In order to safeguard the [residential] amenities of property in the vicinity.</p>                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 18. | <p>Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 19. | <p>Prior to the commencement of development, the developer shall enter into Connection Agreements with Uisce Éireann (Irish Water) to provide for service connections to the public water supply and wastewater collection networks.</p> <p><b>Reason:</b> In the interest of public health and to ensure adequate water and wastewater facilities.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 20. | <p>(a) Prior to the commencement of development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that</p> |

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|     | <p>it has not been possible to transact each specified house or duplex unit for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.</p> <p>(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.</p> <p><b>Reason:</b> To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.</p> |
| 21. | <p>Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority [in relation to the transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended], unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Bord Pleanála for determination.</p>                                     |

|     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|-----|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     | <p><b>Reason:</b> To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.</p>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 22. | <p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.</p> |
| 23. | <p>Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.</p>                                                                                                                                                                                                                                                                                                                                                                                                                        |

|  |                                                                                                                |
|--|----------------------------------------------------------------------------------------------------------------|
|  | <b>Reason:</b> To ensure the satisfactory completion and maintenance of the development until taken in charge. |
|--|----------------------------------------------------------------------------------------------------------------|

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

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Jim Egan  
Planning Inspector

19<sup>th</sup> December 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

|                                                                                                                                                                                                                |                                                                                                                                                                                              |                                                         |                                           |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------|-------------------------------------------|
| <b>An Bord Pleanála<br/>Case Reference</b>                                                                                                                                                                     | ABP-319646-24                                                                                                                                                                                |                                                         |                                           |
| <b>Proposed Development<br/>Summary</b>                                                                                                                                                                        | The development will consist of a mixed-use scheme comprising of 36 residential units along with retail / office use units as part of the overall development and all associated site works. |                                                         |                                           |
| <b>Development Address</b>                                                                                                                                                                                     | Lands to the north of Caragh Village, Caragh, Co. Kildare                                                                                                                                    |                                                         |                                           |
| <b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b><br>(that is involving construction works, demolition, or interventions in the natural surroundings) |                                                                                                                                                                                              | <b>Yes</b>                                              | √                                         |
|                                                                                                                                                                                                                |                                                                                                                                                                                              | <b>No</b>                                               |                                           |
| <b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>                                                            |                                                                                                                                                                                              |                                                         |                                           |
| <b>Yes</b>                                                                                                                                                                                                     |                                                                                                                                                                                              |                                                         |                                           |
| <b>No</b>                                                                                                                                                                                                      | √                                                                                                                                                                                            |                                                         |                                           |
| <b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>                                                                                                  |                                                                                                                                                                                              |                                                         |                                           |
| <b>Yes</b>                                                                                                                                                                                                     |                                                                                                                                                                                              |                                                         |                                           |
| <b>No</b>                                                                                                                                                                                                      | √                                                                                                                                                                                            |                                                         | Proceed to Q4                             |
| <b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>                                                                                   |                                                                                                                                                                                              |                                                         |                                           |
| <b>Yes</b>                                                                                                                                                                                                     | √                                                                                                                                                                                            | Class 10 - Construction of more than 500 dwelling units | Preliminary examination required (Form 2) |
| <b>5. Has Schedule 7A information been submitted?</b>                                                                                                                                                          |                                                                                                                                                                                              |                                                         |                                           |
| <b>No</b>                                                                                                                                                                                                      | √                                                                                                                                                                                            | Pre-screening determination remains as above (Q1 to Q4) |                                           |
| <b>Yes</b>                                                                                                                                                                                                     |                                                                                                                                                                                              |                                                         |                                           |

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

## Appendix 1 - Form 2

### EIA Preliminary Examination

|                                                                                                                                                                                                                                                                                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>An Bord Pleanála Case Reference Number</b>                                                                                                                                                                                                                                                                                                                                                                                       | ABP-319646-24                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| <b>Proposed Development Summary</b>                                                                                                                                                                                                                                                                                                                                                                                                 | The development will consist of a mixed-use scheme comprising of 36 residential units along with retail / office use units as part of the overall development and all associated site works.                                                                                                                                                                                                                                                                                                                                       |
| <b>Development Address</b>                                                                                                                                                                                                                                                                                                                                                                                                          | Lands to the north of Caragh Village, Caragh, Co. Kildare                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| <p><b>The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.</b></p> <p><b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p> |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| <b>Characteristics of proposed development</b><br>(In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).                                                                                                                                             | <p>The proposed development comprises the construction of 36 no. residential units and all associated infrastructure on a site with a stated area of c. 2.05 ha.</p> <p>The development comes forward as a standalone project, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p> |
| <b>Location of development</b><br>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of                                                                                                                                                                                       | <p>The site is not located within or immediately adjacent to any designated site. The proposed development would use the public water and wastewater</p>                                                                                                                                                                                                                                                                                                                                                                           |



|                                                                                                                                                                                                                                                                                |                                                                                                                                                                                                                                                                                                                             |                  |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------|
| natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).                                                                                            | services of Uisce Eireann, upon which its effects would be marginal.<br><br>It is considered that the proposed development would not be likely to have a significant effect individually, or in combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.         |                  |
| <b>Types and characteristics of potential impacts</b><br><br>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation). | Having regard to the nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act |                  |
| <b>Conclusion</b>                                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                             |                  |
| <b>Likelihood of Significant Effects</b>                                                                                                                                                                                                                                       | <b>Conclusion in respect of EIA</b>                                                                                                                                                                                                                                                                                         | <b>Yes or No</b> |
| There is no real likelihood of significant effects on the environment.                                                                                                                                                                                                         | EIA is not required.                                                                                                                                                                                                                                                                                                        | Yes              |
| There is significant and realistic doubt regarding the likelihood of significant effects on the environment.                                                                                                                                                                   | Schedule 7A Information required to enable a Screening Determination to be carried out.                                                                                                                                                                                                                                     |                  |
| There is a real likelihood of significant effects on the environment.                                                                                                                                                                                                          | EIAR required.                                                                                                                                                                                                                                                                                                              |                  |

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_

## **Appendix 2**

### **AA Screening**

I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended.

The site is not located within or immediately adjacent to any European Sites. The closest European Sites, part of the Natura 2000 Network, are the Mouds Bog SAC (Site Code 002331), c. 4.6km southwest, Pollardstown Fen SAC (Site Code: 000396), c. 9.3m southwest, Ballynafagh Lake SAC (Site Code: 001387) c. 5.2km northwest, and Ballynafagh Bog SAC (Site Code: 000391) c. 6.3km northwest.

The proposed development is located on the edge of an urban settlement and comprises the construction of 36no. dwellings, 2no. retail/office units, internal roads, pumping station, junction upgrade, and all associated site works. The development would be connected to public services including water and sewer. Surface water would be attenuated within the site prior to discharge at greenfield rates to a drain c. 160m east of the site.

An Appropriate Assessment Screening Report submitted by the Applicant. The screening report outlines that a potential Zone of Influence (ZoI) for the proposed development has been defined as any site to which there is a pathway from the proposed development site during either the construction or operational phase of the development. The report identifies 10no. SACs and 2no. SPAs within the ZoI. In addition, by reason of an indirect hydrological connection between the site and the River Liffey to the south via field drains and streams, the screening report also includes the 8no. European Sites associated with Dublin Bay.

The report concluded that the proposed development will not likely have a significant effect, individually or in combination with another plan or project, will not have a significant effect on any European sites. This conclusion was reached without considering or taking into account mitigation measures or measures intended to avoid or reduce any impact on European sites.

The report refers to SuDS measures, as well as the construction phase measures set out in the submitted Construction Management Plan, as being considered best practice in construction and, therefore reasonable scientific doubt concerning their

effectiveness can be ruled out. The report considers these to be standard features, inherent in such a project.

The Planning Authority concluded that there are no potential significant effects on European Sites and as such AA is not required.

### European Sites

I consider that there are 4no. European sites located within a potential zone of influence of the development, as follows:

- Mouds Bog SAC (Site Code 002331)
- Pollardstown Fen SAC (Site Code: 000396)
- Ballynafagh Lake SAC (Site Code: 001387)
- Ballynafagh Bog SAC (Site Code: 000391)

| European Site                            | Qualifying Interests                                                                                                                                                                                                                                                                                                                                                    | Distance | Connections |
|------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|-------------|
| Mouds Bog SAC (Site Code 002331)         | <p>Active raised bogs [7110]</p> <p>Degraded raised bogs still capable of natural regeneration [7120]</p> <p>Depressions on peat substrates of the Rhynchosporion [7150]</p> <p><a href="https://www.npws.ie/protected-sites/sac/002331">https://www.npws.ie/protected-sites/sac/002331</a></p>                                                                         | 4.6km    | No          |
| Pollardstown Fen SAC (Site Code: 000396) | <p>Calcareous fens with Cladium mariscus and species of the Caricion davallianae [7210]</p> <p>Petrifying springs with tufa formation (Cratoneurion) [7220]</p> <p>Alkaline fens [7230]</p> <p>Vertigo geyeri (Geyer's Whorl Snail) [1013]</p> <p>Vertigo angustior (Narrow-mouthed Whorl Snail) [1014]</p> <p>Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]</p> | 9.3km    | No          |

|                                             |                                                                                                                                                                                                                                                                                          |       |    |
|---------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-------|----|
|                                             | <a href="https://www.npws.ie/protected-sites/sac/000396">https://www.npws.ie/protected-sites/sac/000396</a>                                                                                                                                                                              |       |    |
| Ballynafagh Lake SAC<br>(Site Code: 001387) | Alkaline fens [7230]<br><br>Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]<br><br>Euphydryas aurinia (Marsh Fritillary) [1065]<br><br><a href="https://www.npws.ie/protected-sites/sac/001387">https://www.npws.ie/protected-sites/sac/001387</a>                                  | 5.2km | No |
| Ballynafagh Bog SAC (Site Code: 000391)     | Active raised bogs [7110]<br><br>Degraded raised bogs still capable of natural regeneration [7120]<br><br>Depressions on peat substrates of the Rhynchosporion [7150]<br><br><a href="https://www.npws.ie/protected-sites/sac/000391">https://www.npws.ie/protected-sites/sac/000391</a> | 6.3km | No |

### Likely impacts of the project

The proposal comprises the construction of a mixed use development including 36no. dwellings and 2no. retail / office units, together with all associated works..

In terms of likely impacts from the construction phase, I do not consider the proposal would cause any significant negative impact on the qualifying interest in any European Site. As outlined in the applicant's screening report, best practice in construction management will be implemented by way of a Construction Management Plan.

From an operational perspective, the development would be connected to all public utilities and all surface water run-off would be attenuated on-site prior to discharge at pre-development greenfield rate to an existing field drain c. 160m east of the site. On the basis of the above, I do not consider the proposal would cause any significant negative impact on the qualifying interests in any European Site.

In terms of cumulative impact, notable planning permissions within the vicinity of the appeal site relate to the mixed used development of land southwest of the site (P.A. Ref. 16/10 / ABP PL. 09. 246382 and alterations under P.A. Ref. 2460140). This

comprised 16no. detached dwellings, a medical centre and heritage centre. The dwellings are completed while works is continuing on the medical and heritage centres. These are village centre uses connected to all public utilities and services.

On the basis of the above, I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.