



An
Bord
Pleanála

Inspector's Report

ABP-321594-25

Development

Refurbishment, conversion and subdivision of 'Athy Lodge', refurbishment and change of use of doctors surgery and outbuildings to residential use, construction of 7 no. houses and 4 no. housing accommodation units which may accommodate elderly /assisted living residents together with all associated site works. Athy Lodge is a protected structure (NIAH Ref. No. 11505150, RPS Ref. No. AY110).

Location

Athy Lodge, Church Road, Athy, Co. Kildare

Planning Authority

Kildare County Council

Planning Authority Reg. Ref.

2360501

Applicant(s)

Baidera Properties Ltd

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Connor & Jacinta O'Carroll

Observer(s)

None.

Date of Site Inspection

21st March 2025

Inspector

Matthew O'Connor

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1.0 Site Location and Description

- 1.1. The appeal site is 0.560ha and generally rectangular in shape and located in the town of Athy, Co. Kildare at the junction of Church Road and Mount Offaly/Carlow Road (R417). The site is within the Athy Architectural Conservation Area and occupied by 'Athy Lodge' – a Protected Structure comprising the main house and outbuildings and a former doctor's surgery. These buildings are not in use and appear to be vacant for some time.
- 1.2. The site is bounded by masonry walls and the internal area of the lands contain former lawn/grassed areas and a number of mature trees. The northern and western boundaries front onto the public road network; the eastern site boundary is flanked by a residential access lane and the southern site boundary forms the rear property boundaries with a number of detached houses.

2.0 Proposed Development

- 2.1. The proposed development consists of a total of 20 no. residential units comprising the following at 'Athy Lodge' – a Protected Structure:
- Refurbishment and conversion by sub-division of 'Athy Lodge' into 4 no. apartments;
 - Refurbishment and material change of use of existing medical doctors surgery and outbuildings into 5 no self-contained residential units (comprising 2 no. 2-bed townhouses, 2 no. 1-bed townhouses, 1 no. studio apartment);
 - The construction of 7 no. new mews style 2-bed houses;
 - Repair and upgrade of the existing vehicular entrance and exit access points to Church Road;
 - Construction of 4 no. 2-bed single storey housing accommodation units which may accommodate elderly/ assisted living residents accessible from R417 via new separate vehicular entrance; and,
 - All associated site development works and landscaping.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Grant permission for the development, subject to 46 no. conditions. The majority of conditions are generally standard in nature, however, I make reference to conditions of note:

- Condition 1: Development carried out in accordance with plans and particulars.
- Condition 2: Development comprises 20 no. residential units.
- Condition 13: Specifications for setting back/reinstatement of boundary wall.
- Condition 14: Widening of footway at R417 and Church Road.
- Condition 26: Completion of Road Safety Audit Stage 3.
- Condition 43: Requirements and mitigation measures of the Bat Survey.
- Condition 46: Payment of financial contributions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The first Planner's Report had regard to the submitted documentation, locational context of the site, planning history in vicinity, policy framework of the Development Plan and inter departmental/referral reports.
- The Planning Authority noted the proposal is acceptable in principle under the zoning objective of the Athy Local Area Plan 2021-2027 in terms of residential development and the upgrade/refurbishment of the existing structures on the site.
- The loss of historical fabric would be offset by the return to use of the buildings and supporting grounds. It is not considered that there would be impacts on public views within the ACA.
- The third-party concerns on amenity are noted but it was considered that there is sufficient separation distances and that trees lost would be replanted on southern boundary.
- It was noted that parking meets standards but there is an abundance of tarmacdam. Comments from Transportation seeking Further Information noted.
- The proposed services/connections are noted and comments returned from internal sections requiring further information acknowledged.

- Additional details required in respect of Part V.
- Comments returned from the Heritage Officer with respect to provision of a Bat Survey noted.
- No issues raised with respect to Appropriate Assessment (AA) or flooding.

Further Information was sought in relation to 13 no. items which are summarised as follows:

1. Structural report of boundary walls and remedial works to be undertaken.
2. Details of entrance(s) interaction with the existing public footway.
3. Provide amendments incorporating paving; drainage/SuDS designs should incorporate a 1 in 100 year storm event with a 30% climate change factor; and analysis of receiving network.
4. Demonstrate surface water drainage and surface water exceedance flows do not increase the risk of flooding.
5. Development of a cycle route at site along with associated site/boundary modifications.
6. Details of secure cycle parking.
7. Modify entrances/footpath on Church Road and submit revised swept-path analysis.
8. Demonstrate boundaries are set back to ensure inter-visibility for all road users.
9. Detailed drawing of internal car parking and line marking.
10. Details of EV charging and bin stores.
11. Part V particulars to be provided.
12. Submission of a bat survey and details of lighting.
13. Amended drawings demonstrating alternative finishing materials.

The second Planner's Report provides an analysis of the applicant's Further Information response and forms the basis for the grant of permission with conditions. The Planning Authority were satisfied that the applicant addressed the outstanding issues and that such matters could be addressed by way of condition. the further information requests.

3.2.2. Other Technical Reports

- MD Engineer – Further information requested.

- Water Services: Further information requested. Following response to request for further information, no objection, subject to conditions.
- Transportation: Further information requested. Following response to request for further information, no objection, subject to conditions.
- Environment: No objection subject to best practice conditions.
- Conservation Officer: No report received.
- Heritage Officer: Further information requested.
- Strategic Projects and Public Realm: Recommend refusal.
- Chief Fire Officer: No objection, subject to condition(s)
- Building Control: No objection, subject to condition(s)
- Housing: Further Information requested.

3.3. Prescribed Bodies

- Uisce Éireann - No objection, subject to condition(s)
- Dept. Arts, Heritage and Gaeltacht: No response received.
- Heritage Council: No response received.
- Environmental Health Officer: No objection, subject to condition(s)
- An Taisce: No response received.
- Inland Fisheries Ireland: No response received.

3.4. Third Party Observations

3.4.1. Three third party observations were received by the Planning Authority. The main issues raised can be summarised as follows:

- Impacts on residential amenities from overlooking and loss of privacy.
- Depreciation of property value.
- Concerns regarding the destabilisation of tree.
- Opposed to the opening overlooking driveway.

- Impacts on the amenities of the area and the Athy Architectural Conservation Area (ACA).
- Loss of view.
- Road safety/traffic hazard concerns from entrance arrangement.
- Loss of a wall that forms part of curtilage of protected structure is unacceptable.
- Planning permission previously refused on neighbouring properties due to protected structure impacts.
- Materials and design are not appropriate.
- Lack of consideration in respect of the curtilages of adjoining protected structures.
- Concerns regarding lack of boundary treatment details.
- Development is contrary to proper planning and sustainable development of area.

4.0 Planning History

4.1. The following planning history is associated with the subject site:

99300035 Permission GRANTED for alterations and extension to existing surgery and offices.

5.0 Policy Context

5.1. Development Plan

5.1.1. The Kildare County Development Plan 2023-2029 is the relevant Development Plan.

5.1.2. Chapter 2 relates to 'Core Strategy & Settlement Strategy'. Athy is designated as a Self-Sustaining Growth Town.

5.1.3. Chapter 3 relates to 'Housing' and the following policies and objectives are considered to be applicable to the subject development:

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

Objective HO O5 Encourage increased densities that contribute to the enhancement of a town or village by reinforcing street patterns or assisting in redevelopment of backlands and centrally located brownfield sites.

Objective 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.

Policy HO P6 Promote and support residential consolidation and sustainable intensification and regeneration through the consideration of applications for infill development, backland development, re-use/adaptation of existing housing stock and the use of upper floors, subject to the provision of good quality accommodation.

Objective HO O8 Support new housing provision over the Plan period to deliver compact and sustainable growth in the towns and villages in the County, and supporting urban renewal, infill and brownfield site development and regeneration, to strengthen the roles and viability of the towns and villages, including the requirement that at least 30% of all new homes in settlements be delivered within the existing built- up footprint.

Objective HO P9 Promote the provision of social and affordable housing in accordance with the Council's Housing Strategy, Housing Need Demand Assessment and Government policy as outlined in the DHPLG Social Housing Strategy 2020.

5.1.4. Chapter 11 relates to 'Built and Cultural Heritage'. Section 11.14 refers to Architectural Heritage and notes that the urban and rural areas of County Kildare contain a wealth of architectural and archaeological heritage. Section 11.5 relates to 'Protected Structures' and the following policy and objectives are of note.

Policy AH P6 Protect, conserve and manage the archaeological and architectural heritage of the county and to encourage sensitive sustainable development in order to ensure its survival, protection and maintenance for future generations.

Objective AH O20 Conserve and protect buildings, structures and sites contained on the Record of Protected Structures of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.

- Objective AH O21 Protect the curtilage of protected structures or proposed protected structures and to refuse planning permission for inappropriate development that would adversely impact on the setting, curtilage, or attendant grounds of a protected structure, cause loss of or damage to the special character of the protected structure and/or any structures of architectural heritage value within its curtilage. Any proposed development within the curtilage and/or attendant grounds must demonstrate that it is part of an overall strategy for the future conservation of the entire built heritage complex and contributes positively to that aim.
- Objective AH O23 Require an Architectural Heritage Assessment Report, as described in Appendix B of the Architectural Heritage Protection, Guidelines for Planning Authorities (2011), to accompany all applications with potential for visual or physical impacts on a Protected Structure, its curtilage, demesne and setting. This report should be prepared by a person with conservation expertise that is appropriate to the significance of the historic building or site and the complexity of the proposed works.
- Objective AH O30 Ensure that, in the event of planning permission being granted for development within the curtilage and attendant grounds of a protected structure, a sustainable use and appropriate maintenance plan is in place for the structure and any associated buildings or structures of heritage interest. The proposed works to the protected structure should occur in the first phase of the development to prevent endangerment, abandonment and dereliction of the structure.
- Objective AH O32 Ensure that new development will not adversely impact on the setting of a protected structure or obscure established views of its principal elevations.
- Objective AH O34 Encourage high quality design in relation to planning applications that are made for the construction of extensions or new buildings affecting protected structures or older buildings of architectural

merit not included in the RPS. The Council will have regard for the visual impacts on the setting and character of protected structures and/or buildings of architectural merit not included on the RPS, when considering applications on neighbouring sites.

Objective AHO35 Favourably consider the change of use of any structure included on the Record of Protected Structures, where such a change of use does not adversely impact on its intrinsic character or special interest and where such a use may otherwise not conform to the zoning matrix associated with any Local Area Plan.

Objective AH O36 Actively encourage uses that are compatible with the character of protected structures. In certain cases, the Planning Authority may relax site restrictions / development standards in order to secure the preservation and restoration of a protected structure or building of architectural merit that is not included on the RPS

Objective AH O39 Promote the maintenance and appropriate re-use of buildings of architectural, cultural, historic and aesthetic merit which make a positive contribution to the character, appearance and quality of the streetscape or landscape and the sustainable development of the county. Any works associated with the re-use of such buildings should be carried out in accordance with best conservation practice.

Objective AH O43 Ensure that national guidelines and the principles of conservation best practice are followed in assessing the significance of a Protected Structure and in considering the impact of proposed development on the character and special interest of the structure, its curtilage, demesne and setting.

5.1.5. Section 11.17 relates to 'Built Vernacular Heritage' with the following policy and objectives relevant in the context of the subject development:

Policy AH P9 Promote the protection, retention, appreciation and appropriate revitalisation of the built vernacular heritage of the county

Objective AH O62 Protect (through the use of ACAs, the RPS and in the normal course of development management) vernacular buildings where they contribute to the character of areas and/or where they are rare examples of a structure type.

Objective AH O63 Ensure that new buildings adjacent to vernacular structures and extensions to vernacular buildings are of an appropriate design and do not detract from the character of these structures

5.1.6. Section 11.18 relates to 'Architectural Conservation Areas' and the following and objectives are relevant:

Objective AHO65 Ensure that any development, modifications, alterations, or extensions within an ACA are sited and designed appropriately and are not detrimental to the character of the structure or to its setting or the general character of the ACA and are in keeping with any Architectural Conservation Area Statement of Character Guidance Documents prepared for the relevant ACA.

Objective AHO66 Ensure that all planning applications for new developments within or immediately contiguous to an ACA include an Architectural Heritage Impact Assessment and Design Rationale addressing design considerations such as urban structure and grain, density and mix, scale, height, materials, landscape, views and landmarks and historic development.

5.1.7. Chapter 15 relates to 'Development Management Standards' and sets out the criteria to ensure development occurs in an orderly and efficient manner. I consider the following to be applicable:

- Section 15.2 – 'General Development Standards'
- Section 15.3 – 'Design Statements'.
- Section 15.4- 'Residential Development'.
- Section 15.6 – 'Open Space'.
- Section 15.7 – 'Transport'.
- Section 15.8 – 'Surface Water'.
- Section 15.17 – 'Built and Natural Heritage'.

5.2. Athy Local Area Plan (LAP) 2021-2027

- 5.2.1. The Athy Local Area Plan 2021-2027 is relevant in respect of the subject development. The site is zoned 'B' – 'Existing Residential and Infill' with an objective *'To protect and enhance the amenity of established residential communities and promote sustainable intensification'*.
- 5.2.2. Chapter 4 relates to 'Homes and Communities' with Section 4.3: 'Residential Development: Capacity and Delivery' and Section 4.4: 'Residential Density, Mix and Design' relevant to the subject proposal.
- 5.2.3. Chapter 7 relates to 'Movement and Transport'. Table 7.2: Cycling Measures indicates a Cycle track/lane at 'R417 – From junction with Athy Distributor Road to N78' in the medium term (CL22) with Section 4.3: 'Residential Development: Capacity and Delivery' and Section 4.4: 'Residential Density, Mix and Design' relevant to the subject proposal.
- 5.2.4. Section 8.2 relates to 'Built Heritage and Archaeology'. 'Athy Lodge' is a Protected Structure and is described as a Building (Ref. AY110). The following policy and objectives are relevant to the subject development insofar as it relates to being a Protected Structure:

Policy BH1 *It is the policy of the Council to preserve and enhance the buildings identified on the Record of Protected Structures and to carefully consider any proposals for development that would affect the special value of such structures, including their historic curtilage, both directly and indirectly.*

Objective BH1.1 *Ensure the protection and preservation of all protected structures (or parts of structures), including the curtilage and amendment grounds of structures contained in the Record of Protected Structures.*

Objective BH1.3 *Support the sensitive conservation of protected structures, their curtilage and attendant grounds, and to operate flexibility with regard to the use of these buildings to facilitate their ongoing use, subject to good conservation principles.*

Objective BH1.6 Protect and conserve important heritage items such as, gates, street furniture, post boxes and other significant historic features of interest.

5.2.5. Section 8.3 relates to the 'Athy Architectural Conservation Area (ACA)' and the following policy and objectives are relevant to the subject development:

Policy BH2 It is the policy of the Council to protect the character of the Architectural Conservation Area (ACA) and to carefully consider any proposals for development that would affect the special value of the ACA, while providing guidance through the publication of a Statement of Character to support property owners located within the ACA. Objectives It shall be an objective of the Council to:

Objective BH2.1 Ensure that new development, including infill development, extensions and renovation works within or adjacent to Athy ACA preserve or enhance the special character and visual setting of the ACA and its setting including vistas, streetscapes, building line, fenestration patterns and architectural features.

Objective BH2.2 Require all development proposals including new development, modifications, alterations or extensions to existing buildings within the Athy ACA boundary, in the surrounding area and adjoining the boundary of the ACA have due regard to the Athy ACA Statement of Character (2020), DoEHG's 'Architectural Heritage Protection Guidelines for Planning Authorities (2004)' and their 'Advice Series'.

Objective BH2.4 Ensure that any development (contemporary or traditional) within or adjoining the ACA is of high quality design and finish and is sympathetic to the character of the area. All applications within and adjoining the ACA will be assessed in the context of the following criteria and the impact of any development on the immediate surroundings of the site, the broader townscape or its landscape setting;

- The height, scale and orientation of the proposed development;*

- *The bulk, massing and density of the proposed development and its layout in relation to any building line and the surrounding plan form;*
- *The quality and type of materials to be used in the construction of the development; any boundary treatment and landscaping;*
- *The design and detail of the proposed development;*
- *The retention of the traditional plot boundaries of the town;*
- *The retention and maintenance of historic street furniture, surfaces and boundary treatments.*

Objective BH2.5 Review all applications for demolition, modifications or extensions to existing buildings with regard to their relative importance to the appreciation of the character of the ACA as identified in the Statement of Character.

Objective BH2.7 Require that proposals for infill development within the ACA, and proposals contiguous to the ACA should include an analysis of how the new development complements the setting, character and appearance of the ACA, making reference to the findings of the Statement of Character for the town. BH2.8 Encourage appropriate new infill development which is considered essential to the vibrancy and sustainability of the town, designed in accordance with the advice given in the Statement of Character for the town.

Objective BH2.8 Encourage appropriate new infill development which is considered essential to the vibrancy and sustainability of the town, designed in accordance with the advice given in the Statement of Character for the town.

5.3. National and Regional Plans

5.3.1. The following regional and national planning documents are relevant:

- *Project Ireland 2040 - National Planning Framework (NPF), 2018-2040*
- *Eastern & Midland Regional Assembly: Regional Spatial & Economic Strategy (RSES) 2019 to 2031.*

5.4. National Guidance

5.4.1. The following national planning guidance are relevant:

- *Final Draft Revised National Planning Framework (2025)*
- *Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024).*
- *Housing for All – A New Housing Plan for Ireland to 2030 (2021)*
- *Design Manual for Urban Roads and Streets (DMURS) (2019).*
- *Architectural Heritage Protection: Guidelines for Planning Authorities (2011)*
- *Development Management: Guidelines for Planning Authorities (2007)*

5.5. Natural Heritage Designations

5.5.1. The appeal site is not located within any designated Natura 2000 sites. The nearest designated site is the River Barrow and River Nore Special Area of Conservation (Site Code: 002162) which is located approximately 0.137km to the west of the appeal site. The Grand Canal pNHA is located approximately 0.30km to the west.

5.6. EIA Screening

5.6.1. Having regard to the nature and scale of the subject development, which is for the total provision of 20 no. residential units on zoned lands within the zoned area of a town, there is no real likelihood of significant effects on the environment arising from the subject development. The need for Environment Impact Assessment can, therefore, be excluded. See Form 1 and Form 2 attached to this report.

6.0 The Appeal

6.1. Grounds of Appeal

The Third Party appeal has been received in relation to the Planning Authority's decision to grant permission. The grounds of appeal are submitted from the neighbouring property to the immediate southeast of the appeal site. The grounds of appeal can be summarised as follows:

Context

- The design of the new buildings is not appropriate to their setting and that the design, location and orientation of the buildings, in particular Blocks D and E is detrimental to the appellants' property.
- Construction materials neither compliments or contrasts sufficiently with the existing structures and is out of character with its setting.
- The appellants currently enjoy uninterrupted views of Athy Lodge and St. Michael's Church of Ireland church. The proposed development will destroy this view.
- Blocks D and E should be re-designed as single storey structures to maintain the established views and the established setting of Athy Lodge and adjoining Protected Structures.
- Surrounding properties are Protected Structures and the proposed development will detract from their setting. Consideration must be given to all Protected Structures within close proximity of the site and to maintaining established views and settings both to and from these properties.

Precedent

- The appellants previously applied for permission on their property which was refused due to impacts on the Protected Structure/character of the area. The proposed development would change the character and setting of the appellants' property which is a Protected Structure and would adversely impact on the ACA and the visual amenity from their property.

Lack of Consultation

- The applicant did not consult with the appellants and this lack of consideration is of concern given that the appellants will be adversely impacted from the development.

Common Boundary Treatment

- Boundary treatment proposals are unclear.

- The common boundary which forms the curtilage of the Protected Structures is a dry stone wall which is not adequate in terms of privacy and security between the sites.
- Appellants seek that the wall between the site and their property be raised and strengthened to a minimum height of 1.80 metres above ground level.

Overlooking and Loss of Privacy

- The appellants' property has always enjoyed a great sense of privacy and is one of the main features of the property.
- The proposed development will completely destroy the sense of privacy which is unacceptable.
- There is particular concern with respect to Block D and Block E to the rear boundary of the appellants' property.
- There are 2 no. first floor level windows on the south elevation of Block D [a bedroom window and landing] which overlook the appellants property at only 2.6 metres from the boundary which is unacceptable as it creates a sense of overlooking, crowding and loss of privacy.
- The sense of overlooking will also be from ground floor windows on Block D as the boundary is a low level stone wall.
- There will be overlooking from the hallway and kitchen at a distance of 2.60 metres from the boundary and more significantly a distance of 1.2 metres from the hallway.
- Block E is adjacent to the rear of the appellants' property has a separation distance of only 2.60 metres and 9.60 metres from the common boundary.
- 2 no. first floor level windows on the south elevation of Block E [a bedroom window and landing] overlook the appellants' property. In addition, 4 no. bedroom windows at first floor level on east elevation will overlook the appellants' property due to the angle of the block.
- The low-level stone wall along the southern boundary will not prevent overlooking.
- The entrances to the southernmost dwellings in Block D and Block E are on the southern elevation. The pedestrian traffic to/from the dwellings will impinge on

appellant's privacy and detract from the enjoyment of the appellants' garden and home.

- Blocks D and E would remove appellants' privacy and amenity of their garden as enjoyed.
- The Planning Authority did not request any alterations of changes to these particular units.

Traffic Safety

- Traffic levels previously generated were considerably less than what will be generated from the proposal.
- The increased traffic will create a significant traffic hazard onto Church Road that will be detrimental to local residents.
- The proposal will create an entrance onto Carlow Road which is a regional road and sited 30 metres from appellants' property
- There is a preponderance of entrances/exits along this road along with proximity of busy a junction at Carlow Road/Church Road. This will create an increased traffic hazard to the appellants', their family and other road users and therefore should not be permitted.
- The development will result in increased pedestrians and cyclists however there are no dedicated cycle lanes on the Carlow Road or the Church Road and the footpaths are inadequate.
- The development is premature pending provision of upgrade works to pedestrian and cycling facilities indicated in the Athy Town LAP 2021-2027.

Loss of Amenity and Noise Disruption

- The appellants' property currently enjoys a quiet, tranquil and peaceful setting.
- The subject development will result in significant noise disruption on their property due to its close proximity.

Devaluation of Property Value

- The attractiveness of the appellants' property within the setting of Athy will be lost from the proposed development and the property will be devalued which is unacceptable.

6.2. Applicant Response

- No response received.

6.3. Planning Authority Response

- A response from the Planning Authority has been received on file and states that *'the Planning Authority confirms its decision and asks that you please refer to the Planners' Report, internal department reports and prescribed bodies reports in relation to the assessment of this planning application'.*

6.4. Observations

- None.

7.0 Assessment

Having examined the application details and other associated documentation on file, the third party appeal, having conducted an inspection of the site, and having reviewed relevant local policies and guidance; I consider the main issues in this third party appeal can be addressed under the following headings:

- Principle of Development.
- Design & Layout
- Impact on Residential Amenity and Boundary Treatments.
- Traffic and Transportation.
- Other Matters
- Appropriate Assessment (Screening).

7.1. Principle of Development

- 7.1.1. The site is zoned 'Objective B' in the Athy Local Area Plan 2021-2027 which seeks to *'protect and enhance the amenity of established residential communities and promote sustainable intensification'*. 'Dwelling' is a permissible in the land use zone. I consider

that the proposed works to the existing vacant building on a large plot at the edge of the urban core of Athy would be acceptable in principle – subject to compliance with the parameters set out in both the Local Area Plan and the County Development Plan

7.2. Design & Layout

7.2.1. The appeal site is located within the Athy Architectural Conservation Area and ‘Athy Lodge’ is a Protected Structure (Ref. AY110) with the description ‘Building’. This building is also listed on the National Inventory of Architectural Heritage (NIAH) (Reg. No. 11505150) with a regional rating interest. The NIAH description states it as a *‘detached four-bay two-storey house with crow stepped parapet, c. 1874. Extended to east side with projecting porch, dwelling and surgery to north and conservatory to south’*. Additionally, I note that the other existing buildings on the subject site are listed on the on the National Inventory of Architectural Heritage (Reg. Nos. 11505151 and 11505152) with the respective descriptions given as *‘detached two-storey courtyard outbuilding, c. 1810, with single-storey building adjoining to east’* and *‘end-of-row five-bay two-storey stone outbuilding, c. 1810, originally detached. Rubble stone boundary wall to site’*.

7.2.2. I consider that the setting of the subject site and its buildings, as they exist, would be irrevocably changed as a result of the proposed development. Notwithstanding, I note that the subject property is currently idle and that the buildings have fallen into a state of disrepair which itself causes significant concerns in terms of the character and setting of the area. To this end, I am cognisant of the extensive support for redevelopment and infilling of sites both within the curtilage of Protected Structures and Architectural Conservation Areas. I note in respect of the Kildare County Development Plan 2023-2029 that Policy AH P6 seeks to encourage sensitive sustainable development of architectural heritage in County Kildare to ensure its survival and protection. In addition, Objectives AH O35 and AH O36 seek to favourably consider the change of use of Protected Structures where such a change of use does not adversely impact on its intrinsic character or special interest and relax site restrictions/development standards in order to secure the preservation and restoration of a protected structure. Furthermore, in respect of Architectural Conservation Areas, Objective AHO65 seeks to ensure that development within an ACA are sited and designed appropriately and are not detrimental to the character of the structure or to its setting or the general character of the ACA.

- 7.2.3. With respect to the Athy Local Area Plan 2021-2027, I note that there is similar planning policy which supports development within the curtilage of Protected Structures and Architectural Conservation Areas. Policy BH1 seeks to preserve and enhance the Protected Structures and Objective BH1.3 seeks to support the sensitive conservation of protected structures and curtilage/ attendant grounds with flexibility on the use of buildings to facilitate their ongoing use. In terms of the Athy Architectural Conservation Area, Policy BH2 seeks to protect the character of the Architectural Conservation Area (ACA) and to carefully consider any proposals for development that would affect the special value of the ACA. Objective BH2.1 aims to ensure that new development, including infill development, within or adjacent to the ACA preserves or enhances the special character and visual setting of the ACA. Moreover, Objective BH2.4 seeks to ensure that any development within the ACA is of high-quality design and finish and is sympathetic to the character of the area and sets out the criterion for development in terms of scale, height and materials among other items. In addition, Objective BH2.8 seeks to encourage appropriate new infill development which is considered essential to the vibrancy and sustainability of Athy.
- 7.2.4. Having regard to the above policy framework at local and county level, I am satisfied that development of the nature proposed is broadly encouraged. That said, in my view, the key consideration for assessing such development is how much it would affect the special character of the Protected Structure, its curtilage and the surrounding setting within the Architectural Conservation Area.
- 7.2.5. The proposed works to the main building and the associated structures will result in some losses to original fabric, particularly the interior of Athy Lodge. However, I consider that the proposed works will have regard to good conservation practices as outlined in guidance to ensure that appropriate features are preserved and re-integrated where possible. Additionally, I note that the exterior of the buildings will remain largely unchanged with only some minor introductions of new opes/doors to necessitate the sub-division/conversion of these buildings into apartment use. Notwithstanding these interventions, I note that there are no demolition works proposed and I am satisfied that the principal features of the buildings will be retained as they currently exist. Overall, it is my view that the existing buildings will be sensitively refurbished and brought back into active use for residential purposes thus

ensuring their ultimate preservation into the future and protecting them from more permanent loss should they remain unused.

7.2.6. In terms of the proposed infill element of the scheme, I consider that the 3 no. detached 'blocks' would be acceptable as 'Athy Lodge' and the associated outbuildings would remain the prominent buildings and be at the heart of the scheme and the historic curtilage of the site would remain intact. The new aspects of the development are located to the rear extent of the site and so I do not consider that these elements would impact on the character/interest of the existing building or detract from the visual amenity of the streetscapes along Church Road or Carlow Road and from surrounding properties. Furthermore, it is my opinion that careful consideration has been given to design and finishes of the proposed units which complement and respect the historical buildings on the site in terms of their subservient height and profile. I consider that the proposed houses are well-proportioned with a balance of contemporary form and appropriate Victorian-era characteristics. I also note that the finishes to the proposed dwellings were revised on foot of a Request for Further Information to include a softening of materials with the omission of red brick and the introduction of a plaster finish throughout. I am also satisfied that there would be an adequate mix of house types of an appropriate density for the settlement of Athy. I also note that the proposed residential units would achieve a good standard of living accommodation to future occupants with each unit being compliant in terms of acceptable floor areas, storage and private amenity space with the required standards.

7.2.7. In terms of views, I note that the proposed development does not impact on any Views and Prospects to be preserved within the Architectural Conservation Area. There is a westward view along Church Road towards St. Michael's Church of Ireland however, I do not consider that the proposed development will impinge on this vista. In respect of the views from the appellants' property, I note that this outlook will inevitably change as a result of the development of the subject lands. However, as noted, the proposed buildings on the site are sub-servient to the height of 'Athy Lodge' and I note that there are no provisions in policy regarding preservation of views/outlook from the rear of a residence. On balance, I consider that the development of compact buildings on the appeal site will not detrimentally affect the character of the site or its setting within the Athy Architectural Conservation Area and I further note that the proposed development seeks to retain as many of the tall trees as possible on the site. There is also

compensatory/replacement planting indicated on the submitted particulars and I consider that should the subject development be granted that precise landscaping and boundary treatments can be detailed by way of condition.

7.2.8. In conclusion, I welcome the re-use of this building and associated outbuildings for residential use and I am satisfied that the proposal does not impact on the building's status as a Protected Structure or its context within the Athy Architectural Conservation Area. I am of the view that the infilling of the subject site for residential purposes would also be consistent with local through to national planning policy provisions and guidance for infill-type development on residentially zoned lands which are serviced and accessible within the built-up area of Athy. I am also satisfied with the contemporary design approach and selected materials for the proposed development, and I consider that the lands can absorb a development of the nature and scale proposed, without detrimental impacts to the residential amenities of the area.

7.2.9. As a further point, I note that the appellants' grounds of appeal in relation to precedent for refusal in respect of a previous applications on their property which were refused on the basis of impacts on protected structures/character of the area (Reg. Refs. 10/300024, 07/300047 and 00/300029). From my review of the stated applications, I have confirmed that they date from between 2000 and 2010 respectively which is prior to the operative Development Plan. In considering the subject development, I am cognisant that all applications must be considered on their own individual merits and against the provisions of the operative Development Plan.

7.3. Impact on Residential Amenity and Boundary Treatment

7.3.1. The appellants are concerned about the proposal impacting on their residential amenity in terms of overlooking, loss of privacy and loss of aspect, particularly with regard to Block D and Block E which are located proximate to the rear (northern) boundary of the appellants' property. According to the appeal, 2 no. windows at first floor level on the south-facing elevation of Block D serving a bedroom window and landing area will be 2.6 metres from the boundary and will create a sense of overlooking, crowding and loss of privacy. The appellants also contend that there will be a sense of overlooking from ground floor windows on Block D on account of the low level height of the stone boundary wall. The appellants further consider that the 2

no. first floor level windows on the south elevation of Block E serving a bedroom window and landing, will overlook their property as the building has a separation distance of 2.60 metres and is 9.60 metres from the common boundary of their property. It is further claimed that the layout of the block will result in overlooking of their property.

- 7.3.2. Having regard to the grounds of appeal, I accept that there would be a change in context for residential properties to the south of the proposed development given the siting of Block D and Block E proximate to the southern site boundary. However, I am of the view that in established, built-up, residential areas that it is to be expected that there would be contextual change arising from new development of adjacent residential properties. To this end, I consider that the change of site context is not one that can be deemed to give rise to significant undue impacts on residential amenity.
- 7.3.3. In considering concerns of overlooking from Block E and Block D, I note that there are no directly opposing windows on account of the siting of the appellants' dwelling. The south-facing elevation of Block D is located approximately 27 metres from the rear (north-west) facing elevation of the appellants' dwelling. Therefore, the proposal exceeds the Development Management Standards of the Development Plan and significantly exceeds the 16-metre separation distance as set out under SPPR 1 of the Compact Settlement Guidelines in respect of opposing windows serving habitable rooms at the rear and side of houses. In respect of Block E, this building is sited in excess of 40 metres from the rear of the appellants' dwelling and its proposed orientation would not result in direct overlooking from first floor windows. Further to this matter, I note that local and national planning provisions do not include for any specified minimum separation distance at ground level and I consider that there would be no overlooking from the access/ground floor of Block D and Block E of the neighbouring properties to the site on account of the existing boundary wall.
- 7.3.4. On this matter of the rear boundary treatment, I note the appellants concerns with the proposed treatments of the southern site boundary which they state to be unclear. The grounds of appeal claim that the stone wall forming the common boundary between the appeal site and their property is not adequate in terms of privacy and security and request that the southern boundary wall be raised to a minimum height of 1.8 metres. I do not consider that the raising of this wall would be appropriate as it forms the curtilage of the Protected Structure but also, this wall formed the boundary of the

former Athy Goal and therefore should not be altered. Furthermore, I am of the view that the wall of a sufficient height to inhibit overlooking of the neighbouring rear private amenity space.

- 7.3.5. Overall, in relation to the concerns of impacts on residential amenity on the appellants' property, I am satisfied that the design and layout of the proposed development would not give rise in any undue diminishment to residential amenities of properties in its setting, particularly in terms of overlooking or loss of privacy. I am of the view that any such impacts arising are not exceptional for their context so as to warrant alterations to the proposed design or indeed a refusal of permission. The subject development is also considered to be within accepted design standards set out in relevant local through to national planning provisions as well as guidance.

7.4. Traffic and Transportation

- 7.4.1. In terms of traffic generation, I consider that the proposed development is a modest scheme and therefore would not generate significant or exceptional traffic volumes when considered in the context of the immediate surrounding suburban area, the settlement of Athy or the supporting road network. The development will connect to the local road network via Church Road and Carlow Road (R417) respectively which also separates vehicle movement internally on the site. To this end, I am satisfied that the development would be capable of connecting to the existing road network on account of its modest scale and would not result in any adverse capacity issues in this area of Athy nor would it give rise to any undue diminishment of adjoining amenities of properties in its vicinity.
- 7.4.3. It is proposed to access the site via the existing twin access from Church Road along with the provision of a new vehicular entrance from the Carlow Road (R417). The access from Church Road will work with an access gate and an exit gate. Sufficient sightlines will be achieved in both directions with some minor set backs to the existing stone wall at the access point to improve visibility and avoid traffic hazard. Having reviewed the proposed new access arrangement along the Carlow Road (R417), I am of the view that this entrance is satisfactory in terms of sightlines to avoid traffic hazard. I consider that the opening would not substantially disrupt the site curtilage or the settling of the stone wall which interfaces with the road.

7.4.4. I also note that the scheme was modified on foot of a Request for Further Information to address matters raised by the Roads Section regarding footpaths and revisions to Carlow Road with the carriageway aligned to a width of 6 metres, the introduction of speed ramps and a raised junction table at Carlow Road/Church Road which is beyond the development site boundary. I consider that these revisions in conjunction with the Planning Authority will improve the safety of the road network and associated junctions.

7.4.5. With respect to pedestrian connectivity and permeability, the subject site is within an acceptable walking distance from the urban centre of Athy (280 metres from the primary throughfare) and I consider that this development would benefit from improved pedestrian infrastructure that encourages increased connectivity and permeability. The modifications at Further Information stage sought to address matters raised by the Roads Section regarding footpaths and cycling provision. The revised scheme included the provision of a 2 metre wide footpath either side of the entrances on Church Road and increased footpath provision at Carlow Road. I note that the proposed development had cognisance of the site curtilage to ensure the preservation of the stone boundary wall as it currently exists as opposed to its removal and re-instatement to provide a cycle lane. In my view, this is to be welcomed and I note that this was also deemed to be an acceptable solution to the Planning Authority. In addition, I also note the proposed use of the existing pedestrian gate onto Carlow Road (R417) which will re-introduce a feature of architectural heritage and also encourages pedestrian access to the site while reducing pedestrian conflict with vehicles at the main access at Church Road.

7.4.6. In light of the above, I consider that the proposed development would be acceptable and would not result in a traffic hazard to road users or pedestrians. In addition, I have no objection to the transport related proposals on the adjoining road network.

7.5. Other Matters

7.5.1. I note the concerns raised in the grounds of appeal in respect to the depreciation of value of the appellant's property as a result of the proposed development. However, having regard to the assessment and conclusion set out above, I am satisfied that that the proposed development would not seriously injure the amenities of the area.

7.5.2. In addition, the appellants also raise concerns in relation to significant noise disruption on their property as a result of the proposed development. I acknowledge that noise would be a nuisance at construction stage but that same is to be expected in relation to properties in the vicinity of a development site. To this end, I am satisfied that there it is normal practice for standard conditions to be imposed that mitigate against any undue nuisances that are likely to arise from noise. Having regard to the Chief Executive Order to grant permission, I note that noise control measures have been included and I am satisfied that this matter can be appropriately dealt with by way of condition should the Board be minded to grant permission. Furthermore, given the location of the site in a built up, urban area, I do not consider that operational stage of this residential scheme would result in any undue or exceptional noise impacts on the neighbouring residential properties.

8.0 Appropriate Assessment (Screening)

8.1. Please refer to Appendix 3 of this report which contains a Screening for Appropriate Assessment Determination where I have concluded the following:

8.2. In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that:

8.3. The proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is not required. This conclusion is based on:

- The nature and extent of the proposed development.
- Standard construction and operational surface water/foul pollution controls that would be employed regardless of proximity to a European site and effectiveness of same.
- Distance from European Sites;
- The limited zone of influence of potential impacts;
- Standard construction and operational surface water/foul water pollution controls that would be employed regardless of proximity to a European site and the effectiveness of same;

- Qualifying interests, special conservation interests, and conservation objectives of the European sites;
- The limited potential for pathways to any European sites; and,
- The nature and extent of predicted impacts, which would not affect the conservation objectives of any European Sites.

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

9.0 Recommendation

- 9.1. I recommend permission be GRANTED, subject to conditions, for the reasons and considerations below.

10.0 Reasons and Considerations

Having regard to the provisions of the Athy Local Area Plan 2021-2027 and the zoning of the site for 'Existing Residential and Infill' development and the Kildare County Development Plan 2023-2029, it is considered that, subject to compliance with the conditions set out below, the proposed development and would be an acceptable use for the existing buildings and the proposed design would not detract from the existing Protected Structure or the Athy Architectural Conservation Area. The proposal would constitute an acceptable quantum and quality of residential development at this location, would not adversely impact on the amenities of surrounding properties or detract from the character, heritage value or visual amenity of the area, and would be acceptable in terms of traffic safety to pedestrians and road users. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application on 18th December 2023 and as amended by Further Information received on 11th November 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. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. (a) For the avoidance of doubt, a total number of 20 residential units are hereby permitted in this development.

(b) Each permitted unit shall be used as a single dwelling unit and shall not be subdivided in any manner or used as two or more separate habitable units.

Reason: In the interest of clarity and to prevent unauthorised development.

3. Prior to the commencement of development, the applicant/developer shall submit for the written agreement of the planning authority confirmation that:
 - (a) the development to the structures and boundary wall will be overseen and monitored by a suitably qualified architect with conservation expertise and accreditation;
 - (b) competent site supervision, project management and crafts personnel will be engaged, suitably qualified and experienced in conservation works; and,
 - (c) A summary report of all the works shall be carried out by the qualified architect and submitted to the Planning Authority prior to first occupation of any of the units.

Reason: In the interest of the protection of architectural heritage.

4. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. The mitigation measures of the Bat Survey report prepared in August 2024 and submitted on the 11th November 2024 shall be implemented.

Reason: In the interest of the protection of bats.

6. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
 - (a) Location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
 - (b) Location of areas for construction site offices and staff facilities;
 - (c) Details of site security fencing and hoardings;
 - (d) Details of on-site car parking facilities for site workers during the course of construction;
 - (e) Details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
 - (f) Measures to obviate queuing of construction traffic on the adjoining road network;
 - (g) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (h) Alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;

(j) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

(k) Containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;

(l) Off-site disposal of construction/demolition waste and details of how it is proposed to manage excavated soil;

(m) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

(n) A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority;

Reason: In the interest of amenities, public health and safety and environmental protection.

7. 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.

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

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

Reason: In order to safeguard the amenities of property in the vicinity.

9. The following noise limits shall apply to construction activities: 70 dB(A) (LAeq 1 hour) between the hours of 08:00 and 18:00 Monday to Friday inclusive (excluding bank holidays) and between 08:00 and 14:00 on Saturdays when measured at any noise sensitive location in the vicinity of the site. Sound levels shall not exceed 45 dB(A) (LAeq 1 hour) at any other time following completion of the site development works.

Reason: In the interest of public health and the use of best practice guidelines in order to avoid pollution.

10. Proposals for a development name and numbering scheme and associated signage its location shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development. Thereafter, all such names and numbering shall be provided in accordance with the agreed scheme.

Reason: In the interest of urban legibility.

11. Drainage arrangements including the attenuation and disposal of surface water, shall comply with all of the requirements of the Planning Authority for such works and services.

Reason: In the interest of public health and surface water management.

12. Prior to the commencement of development the developer shall enter into a Connection Agreement(s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network and include any specific requirements if appropriate.

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

- 13.** Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development. The scheme shall have regard to the Bat Survey and its recommended measures and shall include lighting along pedestrian routes through open spaces and shall take account of existing trees to be retained. Such lighting shall be provided prior to the making available for occupation of any residential unit.

Reason: In the interests of amenity, public safety, and nature conservation.

- 14.** All service cables associated with the proposed development (such as electrical, telecommunications and communal television) located outside buildings or not attached to buildings shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. Details of the ducting shall be submitted to and agreed in writing by the planning authority prior to the commencement of development.

Reason: In the interests of visual amenity.

- 15.** All communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements of the Kildare County Development Plan 2023-2029 shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transport.

- 16.** The internal roads serving the proposed development, including turning bays, junctions, car parking and bicycle parking areas, footpaths, kerbs and finishes/materials shall comply with the detailed standards of the Planning Authority for such road works, and shall comply, in all respects, with the standards

set out in Design Manual for Urban Roads and Streets (DMURS). Details of same shall be submitted to, and agreed in writing with, the Planning Authority prior to commencement of development.

Reason: In the interest of amenity and of traffic and pedestrian safety.

17. Details of all upgrade works to the public road network and public footpaths shall be submitted and agreed in writing with the Planning Authority and relevant Roads Authority prior to the commencement of development.

Reason: In the interest of proper road infrastructure provision.

18. Upon completion of the development and prior to the taking in charge of the road infrastructure, the developer shall undertake a Road Safety Audit (Stage 3), 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 and agreed in writing with the Planning Authority.

Reason: In the interest of pedestrian and traffic safety

19. A comprehensive landscaping and boundary scheme shall be submitted to and agreed in writing with the Planning Authority, prior to commencement of development. This scheme shall include the following:
 - (a) Details of all landscaping (hard and soft) along with proposed locations of trees and/or other landscape planting in the development, including details of proposed species and settings.
 - (b) Details of boundary treatments at the perimeter of the site.
 - (c) Details of a Root Management System to be used where trees are planted, or existing trees are located adjacent to roads and/or footpaths/ shared surfaces.

The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme. All landscaping works shall be completed, within the first planting season following commencement of development, in accordance with landscape drawings submitted to the Planning Authority. Any trees and hedging which die, are removed or become seriously damaged or diseased, within a period of 2 years from the completion of the development, shall be replaced within the

next planting season with others of similar size and species, unless otherwise agreed in writing with the Planning Authority.

Reason: In the interest of visual amenity.

20. (a) The Developer shall retain the services of a qualified Arborist for the duration of construction activity and all methods detailed in the Arboricultural Method Statement shall be strictly adhered to.

(b) All recommendations pertaining to tree retention, tree protection and tree works as detailed in the Arboricultural Method Statement and Tree Protection Plan in the submitted tree report shall be implemented to ensure the protection of trees and hedgerows on the site.

(c) All tree felling, surgery and remedial works shall be completed prior to the completion of construction works on site.

(d) All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998: 2010 Tree Work – Recommendations.

(e) The clearance of any vegetation including trees and scrub shall be carried out outside the birdbreeding season (1 March – 31 August inclusive) or as stipulated under the Wildlife Acts 1976 and 2000

(f) The Arborist shall carry out a post-construction tree survey and assessment of the condition of the retained trees and hedgerows. A Completion Certificate shall be signed off by the Arborist when all permitted development works are completed and in line with the recommendations of the tree reports and plans. The certificate shall be submitted to the Planning Authority for written agreement upon completion of construction works on site.

Reason: To ensure satisfactory landscape treatment and in the interests of biodiversity, amenity and tree protection.

21. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials within each house plot and/or for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of

development. Thereafter, the agreed waste facilities shall be maintained and waste shall be managed in accordance with the agreed plan.

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

22. (a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each unit), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all relevant residential units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.

(c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

- 23.** All areas not intended to be taken in charge by the local authority, shall be maintained by a legally-constituted management company. Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

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

Reason: In the interest of sustainable waste management.

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

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

26. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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

Matthew O Connor
Planning Inspector

14th April 2025

Appendix 1 - Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-321594-25		
Proposed Development Summary	Refurbishment, conversion and subdivision of 'Athy Lodge', refurbishment and change of use of doctors surgery and outbuildings to residential use, construction of 7 no. houses and 4 no. housing accommodation units which may accommodate elderly /assisted living residents together with all associated site works.		
Development Address	Athy Lodge, Church Road, Athy, Co. Kildare		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	Class 10(b)(i)(iv) - Infrastructure Projects	Proceed to Q3.
No			No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	Class 10 (b)(i) Construction of more than 500 dwelling units - The proposed development is subthreshold as it relates to the construction of 20 no. dwellings.	Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			
No		Pre-screening determination conclusion remains as above (Q1 to Q4)	
Yes	X	Screening Determination required	

Inspector: _____

Date: _____

Appendix 2 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-321594-25
Proposed Development Summary	Refurbishment, conversion and subdivision of 'Athy Lodge', refurbishment and change of use of doctors surgery and outbuildings to residential use, construction of 7 no. houses and 4 no. housing accommodation units which may accommodate elderly /assisted living residents together with all associated site works.
Development Address	Athy Lodge, Church Road, Athy, Co. Kildare
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. This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The proposal comprises the development of 20 no. residential units in a town. The size of the development would not be described as exceptional in the context of the existing environment. The proposal will not produce significant waste, emissions or pollutants. By virtue of its development type, it does not pose a risk of major accident and/or disaster, or is vulnerable to climate change.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas,	The proposed development is situated in an urban settlement on lands zoned for residential uses. The subject site is located at a distance from the following European Site(s):

landscapes, sites of historic, cultural or archaeological significance).		The River Barrow and River Nore SAC (Site Code: 002162), which is 0.137km to the west of the appeal site No, there are no natural heritage designations in the immediate vicinity of the site – potential impacts on the SAC is addressed under Appropriate Assessment (Screening).
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).		Having regard to the nature of works and modest scale of the proposed development (i.e. 20 no. dwellings on zoned lands), there is no potential for significant effects on the environmental factors listed in section 171A of the Act.
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes

Inspector:

Date:

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)

Appendix 3

AA Screening Determination (Appendix to Main Report)

Screening for Appropriate Assessment Screening Determination

Step 1: Description of the project

I have considered the proposed development comprising the refurbishment/ conversion of 'Athy Lodge' into 4 no. apartments; refurbishment and change of use of doctors surgery and outbuildings into 5 no self-contained residential units; the construction of 7 no. new mews style 2-bed houses and, 4 no. 2-bed single storey housing accommodation units with all associated site works in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The subject site is within an established residential area of the town of Athy. The bedrock aquifer type is indicated as a 'Regionally Important Aquifer – Karstified (diffuse) and has a 'Moderate' Groundwater Vulnerability. The site is located within the Barrow catchment. There are no available watercourses indicated on EPA mapping on/adjoining the subject lands with the nearest water features identified as being approximately 135 metres to the west (River Barrow main channel).

The River Barrow and River Nore SAC (Site Code: 002162), at its closest point, is located approximately 0.135km to the west of the appeal site. The next closest Natura 2000 site is the Ballyprior Grassland SAC (Site Code: 002256 which is approximately 9.83km to the west of the appeal site).

I note that An Bord Pleanála is the competent authority having responsibilities under the Habitats Directive and is therefore required to screen developments under Article 6(3) so as to make a decision under this provision.

Step 2: Potential impact mechanisms from the project

The site is not within or adjoining any Natura 2000 sites and I do not consider that there is potential for any direct impacts, such as habitat loss, on any European site.

Having regard to the proposed works, I consider that the following elements would potentially generate indirect sources of impact/effects on European Sites:

- Surface water pollution (silt/hydrocarbon/construction related) from construction works resulting in changes to environmental conditions such as water quality.
- Foul water from the development leading to increased loading on wastewater treatment network.
- Ground water pollution - effects on groundwater dependent habitats.

- Emissions release to land or air.
- Disturbance related to increased dust, noise, lighting, and human activity

Having regard to the above, where an ecological pathway exists, such indirect impacts could negatively alter the quality of the existing environment, negatively affecting qualifying interest species and habitats that are dependent on high water quality, that require maintenance of natural vegetation composition and for mobile species - unimpeded access.

The closest European site, as referred, is the River Barrow and River Nore SAC (Site Code: 002162) and is approximately 0.135km to the west of the appeal site. While there are no surface water features on the site, it is nevertheless in close proximity to the River Barrow with moderate groundwater vulnerable. The potential deterioration of water quality in designated areas arising from pollution from surface water run-off or groundwater during site preparation and construction should be considered. In addition, operational impacts should be considered in relation to quantity/quality of discharge to the ground. I consider that there is an indirect pathway to the River Barrow via the proposed connection to the public sewer and Athy Wastewater Treatment Plant which discharges to the River Barrow. The construction stage will involve sewer connections and potential pollutants should be considered.

In applying the 'source-pathway-receptor' model regarding potential indirect effects, I consider accept that the Ballyprior Grassland SAC can be screened out for further assessment based on a combination of factors such as a lack of hydrological pathway or connect, its distance beyond the nearest other European Site and their associated qualifying interests/features. I do not consider that this site to be within the Zone of Influence.

Step 3: European Sites at risk

Table 1: European Sites at risk from impacts of the proposed project

Effect mechanism	Impact pathway/Zone of influence	European Site(s)	Qualifying interest features at risk
Surface/ground water discharges	The construction and operational stages have potential for impacts on water quality via surface water run-off and groundwater ingress which may eventually flow to the River Barrow and River Nore SAC	River Barrow and River Nore SAC	• Desmoulin's whorl snail • Freshwater pearl mussel • White-clawed crayfish • Sea lamprey • Brook lamprey • River lamprey • Twait shad • Salmon • Estuaries • Mudflats and sandflats - not covered by seawater at low tide • Salicornia and other annuals colonizing mud and sand

Foul water pollution/discharge	Indirect pathway via the Athy WWTP and potential wastewater run-off associated with sewer connections. This may impact on water quality.	• Atlantic salt meadows • Otter • Mediterranean salt meadows • Killarney fern • Nore freshwater pearl mussel • Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation • European dry heaths • Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels • *Petrifying springs with tufa formation • Old sessile oak woods with Ilex and Blechnum in the British Isles • *Alluvial forests with Alnus glutinosa and Fraxinus excelsior
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As noted previously and having regard to the above table, the Natura 2000 site considered to be at risk from the proposed development is the River Barrow and River Nore SAC. The following is a brief overview of the site:

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

Having regard to the relevant 'Site Synopsis' on the NPWS website, this site comprises freshwater stretches of the Barrow and Nore River catchments as far upstream as the Slieve Bloom Mountains, and it also includes the tidal elements and estuary as far downstream as Creadun Head in Waterford. The larger of the many tributaries include the Lerr, Fushoge, Mountain, Aughavaud, Owenass, Boherbaun and Stradbally Rivers of the Barrow, and the Delour, Dinin, Erkina, Owveg, Munster, Arrigle and King's Rivers on the Nore. The site is very important for the presence of a number of E.U. Habitats Directive Annex II animal species. The site supports many important animal species which are listed in the Irish Red Data Book and the site is also of ornithological importance for a number of E.U. Birds Directive Annex I species. Land use at the site consists mainly of agricultural activities – mostly intensive in nature and principally grazing and silage production. There are recreational activities such as angling, boating, golfing and walking. There are active and disused sand and gravel pits throughout the site along with several industrial developments, which discharge into the site. The main threats to the site and current damaging activities include high inputs of nutrients into the river system from agricultural run-off and several sewage plants, over-grazing within the woodland areas, and invasion by non-native species. The water quality of the site remains vulnerable. Overall, the site is of considerable conservation significance for the occurrence of good examples of habitats and of populations of plant and animal species that are listed on Annexes I and II of the E.U. Habitats Directive.

Step 4: Likely significant effects on the European site(s) 'alone'

Table 2: Could the project undermine the conservation objectives 'alone'		
European Site and qualifying feature	Conservation objective (summary)	Could the conservation objectives be undermined (Y/N)?

		Effect A (Surface water pollution)	Effect B (Foul water pollution)
River Barrow and River Nore SAC			
Desmoulin's whorl snail (<i>Vertigo moulinsiana</i>) [1016]	To maintain the favourable conservation condition of Desmoulin's whorl snail in this SAC	No. Please see explanation below	No. Please see explanation below
Freshwater pearl mussel (<i>Margaritifera margaritifera</i>) [1029]	Under Review.	No. Please see explanation below	No. Please see explanation below
White-clawed crayfish (<i>Austropotamobius pallipes</i>) [1092]	To maintain the favourable conservation condition of White-clawed crayfish in in this SAC	No. Please see explanation below	No. Please see explanation below
Sea lamprey (<i>Petromyzon marinus</i>) [1095]	To restore the favourable conservation condition of Sea lamprey in this SAC	No. Please see explanation below	No. Please see explanation below
Brook lamprey (<i>Lampetra planeri</i>) [1096]	To restore the favourable conservation condition of Brook lamprey in this SAC	No. Please see explanation below	No. Please see explanation below
River lamprey (<i>Lampetra fluviatilis</i>) [1099]	To restore the favourable conservation condition of River lamprey in this SAC	No. Please see explanation below	No. Please see explanation below
Twaite shad (<i>Alosa fallax</i>) [1103]	To restore the favourable conservation condition of Twaite shad in this SAC	No. Please see explanation below	No. Please see explanation below
Salmon (<i>Salmo salar</i>) [1106] only in fresh water	To restore the favourable conservation condition of Salmon in the River Barrow and River Nore SAC	No. Please see explanation below	No. Please see explanation below
Estuaries [1130]	To maintain the favourable conservation condition of Estuaries in this SAC	No. Please see explanation below	No. Please see explanation below
Mudflats and sandflats - not covered by seawater at low tide [1140]	To maintain the favourable conservation condition of the Mudflats and sandflats not covered by seawater at low tide in this SAC	No. Please see explanation below	No. Please see explanation below
Salicornia and other annuals colonizing mud and sand [1310]	To maintain the favourable conservation condition of Salicornia and other annuals colonizing mud and sand in this SAC	No. Please see explanation below	No. Please see explanation below
Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) [1330]	To restore the favourable conservation condition of Atlantic salt meadows in this SAC	No. Please see explanation below	No. Please see explanation below
Otter (<i>Lutra lutra</i>) [1355]	To restore the favourable conservation condition of Otter in this SAC	No. Please see explanation below	No. Please see explanation below
Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]	To restore the favourable conservation condition of Mediterranean salt meadows in this SAC	No. Please see explanation below	No. Please see explanation below

Killarney fern (<i>Trichomanes speciosum</i>) [1421]	To maintain the favourable conservation condition of Killarney Fern in this SAC	No. Please see explanation below	No. Please see explanation below
Nore freshwater pearl mussel (<i>Margaritifera durrovensis</i>) [1990]	To restore the favourable conservation condition of the Nore freshwater pearl mussel in this SAC	No. Please see explanation below	No. Please see explanation below
Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation [3260]	To maintain the favourable conservation condition of Water courses of plain to montane levels with the Ranunculion fluitantis and Callitricho-Batrachion vegetation in this SAC	No. Please see explanation below	No. Please see explanation below
European dry heaths [4030]	To maintain the favourable conservation condition of European dry heaths in this SAC	No. Please see explanation below	No. Please see explanation below
Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]	To maintain the favourable conservation condition of Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels in this SAC	No. Please see explanation below	No. Please see explanation below
* Petrifying springs with tufa formation (<i>Cratoneurion</i>) [7220]	To maintain the favourable conservation condition of Petrifying springs with tufa formation (<i>Cratoneurion</i>) i in this SAC	No. Please see explanation below	No. Please see explanation below
Old sessile oak woods with Ilex and Blechnum in the British Isles [91A0]	To restore the favourable conservation condition of Old oak woodland with Ilex and Blechnum in this SAC	No. Please see explanation below	No. Please see explanation below
* Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>) [91E0]	To restore the favourable conservation condition of Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i> , <i>Alnion incanae</i> , <i>Salicion albae</i>) in this SAC	No. Please see explanation below	No. Please see explanation below

Surface/Ground Water

In terms of potential surface and ground water impacts, I note that the proposed development would require excavations and general groundworks associated with the construction of foundations, roads, and services. The excavation of soil and the pouring of concrete for foundations and other hard surfaces has potential to deteriorate water quality. In addition, possible impacts would also include water pollution with silt, oil, cement, hydraulic fluid etc. That said, there is an absence of watercourses on site which reduces the overall probability that run-off will mobilise towards the River Barrow. Furthermore, excavations could potentially expose groundwater resources which could be polluted with chemicals and other hydrocarbons.

I note that standard best practice construction measures would be employed at construction stage to prevent pollutants on the site entering any surface water drains or the groundwater body which may eventually outflow towards the main channel of the River Barrow which is part of the European Site. I consider that any impacts on water quality within the River Barrow and River Nore SAC, resulting from contaminated surface water run-off is unlikely as it is my consideration that any potential pollutants which may outflow from the proposed development to the River Barrow would be subject to various dilution and dispersion on account of the built-up location of the site and the extent of existing development between the proposed development and the European Site. Therefore, it is my view that any pollutants would be reduced to negligible concentrations before they could affect the qualifying interests of any European sites.

At operational stage, I consider that ongoing regular monitoring and maintenance of drainage and the SuDS measures will be incorporated into the overall management strategy to effectively deal with run-off during operation and to ensure that pollution to groundwater does not arise and that there are no impacts on water quality. On this matter, I am satisfied that standard condition(s) will require the surface water system to be designed to the satisfaction of the Planning Authority and this drainage system will be designed so as to prevent contaminated storm/surface water entering the drains and by association any watercourses. The attachment of drainage condition(s), in my view, is a standard pollution control measure and would be included on any development of this nature, notwithstanding any proximity to, or any hydrological connections to, a designated Natura 2000 site. I note that this is not a mitigation measure that is designed specifically to avoid impacts on any designated Natura 2000 site(s).

Foulwater

In respect of foulwater or wastewater, there are potential impacts arising from construction and operational stage associated with surface water quality and ground water as a result of pollution associated with the foul sewer work and as a result of the foul sewer discharge to the River Barrow.

At construction stage, I consider that best practice construction measures will be employed to ensure that appropriate foul connections are made so that there would be no spillage from the existing sewers.

I note the potential for operational impacts on water quality as a result of the foul sewer discharge from the Athy Wastewater Treatment Plant to the River Barrow. I have reviewed the Annual Environmental Report (2022) for this plant which outlines that it is compliant with its Emission Limit Values (ELV) as set out in the Wastewater Discharge Licence. In addition, the annual mean hydraulic loading is less than the peak Treatment Plant Capacity. The annual maximum hydraulic loading is greater than the peak Treatment Plant Capacity. The design of the plant allows for peak values and so the peak loads have not impacted on compliance with ELV. Overall, plant discharge was compliant with the ELV as set in the wastewater discharge licence and the discharge does not have an observable negative impact on Water Framework Directive status.

In addition, I have reviewed Uisce Eireann's Wastewater Treatment Capacity Register (Dec 2024) which indicates that there is available capacity at the plant. There is an indicated plant capacity of 15000 PE, and so I do not consider that an additional 20 dwellings would have a significant impact in this regard.

I further note that the Planning Authority carried out an Appropriate Assessment Screening and an EIAR Pre-Screening as part of their assessment but have not indicated any adverse effects to the integrity of any European Sites.

Likely significant effects on the European site(s) 'in-combination with other plans and projects'

The development is on serviced lands in an urban area and in my view does not constitute a significant urban development in the context of Athy. Having regard to the appeal file, I am satisfied that there is no available evidence in respect of any plans or projects that are proposed/permitted which could impact with the proposed development. As such, it is my opinion that no in-combination issues arise.

I conclude that the proposed development would have no likely significant effect in combination with other plans and projects on the qualifying features of any European site(s). No further assessment is required for the project.

Overall Conclusion - Screening Determination

In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information, I conclude that:

The proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (stage 2) [under Section 177V of the Planning and Development Act 2000] is not required.

This conclusion is based on:

- The nature and extent of the proposed development.
- Standard construction and operational surface water/foul pollution controls that would be employed regardless of proximity to a European site and effectiveness of same.
- Distance from European Sites;
- The limited zone of influence of potential impacts;
- Standard construction and operational surface water/foul water pollution controls that would be employed regardless of proximity to a European site and the effectiveness of same;

- Qualifying interests, special conservation interests, and conservation objectives of the European sites;
- The limited potential for pathways to any European sites; and,
- The nature and extent of predicted impacts, which would not affect the conservation objectives of any European Sites.

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.