



An  
Bord  
Pleanála

**Board Direction**  
**BD-002026-18**  
**ABP-301734-18**

The submissions on this file and the Inspector's report were considered at a Board meeting held on December 20<sup>th</sup> 2018.

The Board decided to refuse permission for the following reasons and considerations.

### **Reasons and Considerations**

1. It is considered that the proposed development, by reason its limited mix of uses, including an increase from 4 apartments to 10 apartments and a decrease from 4 shop to one shop, as compared to the development as originally proposed, and a lack of any community/civic use, would be contrary to objective 42 of the Kildare County Development Plan 2017 – 2023, which seeks “the redevelopment of the identified town centre development site, for town centre use including a community/civic focus”. Furthermore, it is considered that the layout and design of the proposed apartments, including in particular the inappropriate location of apartment numbers 1 and 6, which are single aspect and north facing that do not overlook a significant amenity, and the lack of adequate and well-designed private amenity space, would seriously injure the residential amenities of future occupants and would fail to comply with the quality requirements set out in the “Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities”, issued by the Department of Housing, Planning and Local

Government in March 2018. The proposed development would accordingly represent an unacceptable design response to the subject site, would contravene the provisions of the County Development Plan, and would be contrary to these Ministerial Guidelines, and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the town centre zoning of the subject site in the Kildare County Development Plan 2017 – 2023 and the objectives of this Plan, including in particular objectives AT5, AT42 and AT43, and the policies pertaining to the subject site, including design objectives in Figure 1.2.1 of the Athgarvan Small Town Plan, which designate this site for town centre use including a community/civic focus, and as a location for a landmark building, it is considered that the proposed development, by reason of its layout, design and mix of uses, would fail to provide a development of sufficient quality to act as a landmark building or provide a civic focus to the town of Athgarvan. The proposed development would, therefore, contravene materially the development objectives set out in the Development Plan for the area and would be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, the Board noted that the Inspector's Assessment was based on the revised proposal, as submitted with the first party appeal, and not on the proposed development that was the subject of the planning authority's decision. The Board considered that the revised proposal represented a significant and material departure from the development that was the subject of the planning authority's decision, and was of the view that it was inappropriate to consider such revised proposal at appeal stage, particularly in the light of the fact that interested parties, who had not appealed the planning authority's decision, would not be on notice of these material changes. In any event, the Board did not consider that the revisions, as submitted at appeal stage, were sufficient to justify a grant of permission in this instance, even if the revised scheme were to be the subject of further public notices. In relation to the

planning authority's decision, the Board generally concurred with its first reason for refusal, and parts of its third reason for refusal, but did not agree with its second reason. The Board also had regard to the third party submissions and observations, in formulating its second reason for refusal outlined above, and did not agree with the Inspector's analysis in relation to the overall design of the development, nor that the unacceptable design of the proposed building could be mitigated by means of changes to the materials through the use of conditions.

**Board Member**

**Date:** 21<sup>st</sup> December 2018

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Philip Jones