



---

**Planning and Development Acts 2000 to 2018**

**Planning Authority: Kildare County Council**

**Planning Register Reference Number: 17/429**

**APPEAL** by Thoval Properties Limited care of MDG-AT of Belgrade Building, Unit W4-D1, Ladytown Business Park, Naas, County Kildare against the decision made on the 2<sup>nd</sup> day of May, 2018 by Kildare County Council to refuse permission to the said Thoval Properties Limited.

**Proposed Development** Mixed use development with 12 units as follows:  
(A) Two-storey mixed use building consisting of one number corner shop unit and five number apartment units at ground floor level and one number medical suite unit - three consultants and five number apartments at first floor level. (B) Courtyard area, connection to mains sewer, car parking, landscaping, boundary walls, services and all associated site development work. (C) Demolition of single storey derelict building facing onto Kilcullen Road. The revised plans include for a change in red line site, car parking arrangements and modifications to elevations to include lowering of height of building on Kilcullen Road and Curragh Road and modified window treatments, all at Athgarvan Village, Newbridge, County Kildare, as amended by the revised public notice received by the planning authority on the 5th day of April, 2018.

**Decision**

**REFUSE permission for the above proposed development in accordance with the reasons and considerations set out below.**

## **Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

## **Reasons and Considerations**

1. It is considered that the proposed development, by reason its limited mix of uses, including an increase from four apartments to 10 apartments and a decrease from four shops 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, as 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, 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, as 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.

---

**Philip Jones**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**

**Dated this            day of            2019.**