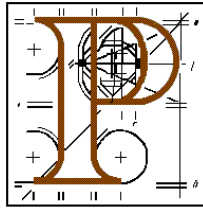


**An Bord Pleanála**



**Inspector's Report**

**Development:** Permission for two storey (90 bedroom) nursing home with associated car parking, connections to public utilities and all ancillary site works at Bothairin na gCorp, Kildare Town, Co. Kildare.

**Planning Application**

Planning Authority: Kildare County Council

Planning Authority Reg. Ref.: 15/910

Applicants: LKD Developments Ltd

Type of Application: Permission

Planning Authority Decision: Refuse Permission

**Planning Appeal**

Appellant: LKD Properties Ltd

Type of Appeal: First Party V Refusal

Observers: None

Date of Site Inspection: 6<sup>th</sup> April 2016

**Inspector:** **Joanna Kelly**

**Appendices:**

Appendix 1 Site Location Map

Appendix 2 Photographs and Site key Plan

## **1.0 INTRODUCTION**

This appeal pertains to a First party appeal against the notification of a refusal of permission from Kildare County Council for a nursing home in Kildare Town.

## **2.0 SITE DESCRIPTION**

**2.1** The appeal site, with a stated site area of c. 1.0 hectares, is located opposite the Kildare Carmelite Catholic Church in Kildare Town along South Green Road/Rathdangan Road. The site is currently used for grazing horses and is a prominent site, bounded by Bothairin na gCurp to the north, Friary Road, South Green Road to the west with a section of the site backing onto Priest's Lane to the east.

**2.2** There is a dormer dwelling located to the north of the site which fronts onto the site. The Parochial Hall, a three-bay two storey protected structure, is located to the south-east of the site with an access from Friary Road. There are existing trees that screen this structure from the site.

**2.3** There are predominantly low density residential uses in the immediate area with a GAA pitch and clubhouse to the north of the site. There is an existing wall/part timber post fence that demarcates the boundary with the public footpath. The appeal site is within walking distance of the town centre and there are views of the steeple of St. Brigid's Catholic Church from the site.

## **3.0 DESCRIPTION OF PROPOSED DEVELOPMENT**

The proposal involves the construction of a 90 bed nursing home.

Revised plans have been submitted with the appeal documentation in response to the reasons for refusal. The main amendments include revised height from 11.3m to 9.4m. Balconies/sit out areas have been provided to a small number of bedrooms. It is noted that a visitor room has been provided at ground and first floor level.

## **4.0 TECHNICAL REPORTS**

### **4.1 Planning report**

The planning report sets out a site description and includes two photographs of the site which indicate that the site is overgrown. This issue is addressed

within the main assessment of my report. The planning report notes one submission which stated that they have no objection with the principle of development but notes that the development includes the provision of a junction on a section of Hill Road to provide vehicular access to the development. It is hoped that the proposal take cognisance of the roads upgrade scheme. The principle of development was acceptable. The planner noted that there appears to be no communal open space for the inhabitants of the nursing home. There is also a lack of detail in relation to pedestrian connections and movements within the site. Serious concerns were raised over the design, layout and visual impact of the development which would be considered out of character with the pattern of development in the area and would be obtrusive and overly dominant at this sensitive location. The planner sets out that it is noted from internal reports that there is inadequate information submitted in relation to access, water services and environmental issues. The planner recommended a refusal for 4 no. reasons.

#### 4.2 Water Services

Further information required in respect of how it is proposed to drain a 1 in 100 year storm event on site; comment on ground conditions during the infiltration tests; surface water drainage layout for the development; longitudinal sections of all foul and surface water sewers; details of soakaways.

#### 4.3 Senior Executive Engineer – Transportation Department

Further information required in respect of sightlines; design details for entrance; TIA; reason for overprovision of parking; need to demonstrate proposal will not compromise the delivery of the objectives of the development plan i.e. Objective 18 (v) 'traffic cell'.

#### 4.4 Conservation Officer

A visual impact report of proposed development in the adjacent context of the built heritage and protected structures is required.

#### 4.5 Environment Section

Further information required in respect of details of proposed grease separator; details of oil interceptor.

#### 4.6 Heritage Officer

Report recommends that applicant is to employ a qualified archaeologist to monitor all ground works associated with the development.

#### 4.7 EHO - Food Control Section

No objection

#### 4.8 Irish Water

Further information required demonstrating that the local foul sewer network has the capacity to service a development of this scale; acknowledge that the development will be dependent on the construction and commissioning of the proposed upgrade of the existing sewerage network.

#### 4.9 Chief Fire Officer

No objection subject to Fire Cert being obtained and water supply to be available from hydrants.

#### 4.10 Department of Arts, Heritage and the Gaeltacht

The site is located in the zone of archaeological potential and it is possible that ground disturbance associated with the proposed development will impact on archaeological features or deposits. The department are satisfied with the mitigation measures recommended in this report which is recommended to be included as a condition of planning permission.

### 5.0 **PLANNING AUTHORITYS DECISION**

The Planning Authority refused permission for the following reasons and considerations:

1. The proposed development exhibits a **substandard form of architectural design** and it is considered that the height, scale, massing, use of materials and lack of landscaping of the development, in close proximity to protected structures (namely B22-56; Kildare Carmelite Catholic Church, B22-41, B22-28 and B22-29), would **negatively alter the distinctive character of the area**, negatively impact on the visual amenities of the area and **unduly compromise the character and setting of these protected structures** and would be contrary to the policies PS1 and PS8 of the Kildare County Development Plan 2011-2017, which seek to preserve the character of protected structures and encourage a high standard of design for new buildings affecting protected structures. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. It is considered that the scale, design and layout of the proposed development **represents an over-development of the site** and given the

vulnerable nature of the future occupants of the proposed development, the lack of communal open space and internal layout of long internal corridors with little natural light, would **seriously injure the residential amenity of future occupants** of the proposed nursing home and fails to provide for a proper standard of development. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. **Insufficient information has been submitted regarding design details** of the entrance and access road, **traffic impacts** of the proposed development in the area and also in relation to compliance with Objective Rio18 (v) of the Kildare Local Area Plan 2012-2018 which seeks to upgrade road, junction and footpaths in the area. In the absence of this information to properly assess the impact of traffic and pedestrian safety, **the proposed development could create a traffic and pedestrian risk** and would not be in accordance with the proper planning and sustainable development of the area.
4. Insufficient information has been submitted regarding the servicing of the proposed development in relation to water services and surface water drainage systems to enable the Planning Authority to make an informed decision. In the absence of this information in order to properly assess the impact on the local environment, **to permit the development could be prejudicial to public health** and would not be in accordance with the proper planning and sustainable development of the area.

## 6.0 APPEAL GROUNDS

The First Party appeal grounds are summarised as follows:

- It is partially accepted that there were some shortcomings in relation to the design and a landscape plan was not furnished with the original application. A revised design based on the same footprint and a landscape master-plan is submitted with the appeal.
- The changes include a reduction in the overall height from 11.2m to 9.5m with a reduction in the scale of the building with the use of façade projections. The revised façade design provides for an increased set-back.
- The proposal will not have a negative impact on protected structures. An appendix is provided setting out the approximate distance of the site from each along with images. The nursing home is separated by a public road from the site of the Carmelite Church. The church itself will be circa 50m

from the proposed home. The other listed buildings are of more local and regional importance but are significantly offset from the site.

- It is believed that the revised proposal is a quality design and will serve to augment the setting, replacing an unkempt greenfield site with an aesthetically attractive care home.
- With regard to reason no. 2 for refusal, the area previously identified for future expansion has been omitted so as to be used for additional external open space. Bedrooms are provided with sheltered open spaces in the form of 'sit-outs'. A landscape area of 0.5 ha of quality communal open space has been provided for residents. The public spaces like dining areas are provided with glazing from floor to ceiling to allow natural light penetrate. The toilet block at the entrance at ground floor and first floor area redesigned. Corridors are also generously proportioned width wise in comparison to many care home facilities. The revised proposal will offer a high level of amenity to future occupants.
- With regard to the reason for refusal pertaining to roads, it is set out that scaled information on the proposed CPO land-take or definitive plans as to the revised road layout were not available. The applicant was advised from the engineering consultant that DMURS, Design Manual for Urban Roads and Streets, post-dates the original Southgreen CPO from 2010 and so necessitated a revision that would involve less land take as the thrust of the manual looks toward narrower carriageways/traffic calming. The revised design is officially a draft but was used to inform the revised layout. The final decision of the CPO itself is with ABP.
- With regard to insufficient information about servicing the proposed development in relation to water services and surface water drainage, it is submitted that a CCTV survey of the wastewater network serving the site was found to be largely in good condition. The contract for the wastewater network upgrade for Kildare Town was signed and works due to commence in January 2016. The applicant acknowledges that the proposed home would not become operational prior to the completion of these municipal works.
- With regard to surface water, the area identified for a future extension has been removed and reduced the parking to the required 45 no. spaces. This change has resulted in a scaled down internal road network and so the external hard standing area of the site has been substantially reduced. The roof of the structure will be the only impermeable surface and this will be routed to a single soak-away to be constructed in the garden area.

- In summary, it is set out that in order to accommodate a modern day nursing home with the now industry standard minimum of 90 bedrooms, necessitates the development of a substantial structure that by its nature is similar in form to hotel or hospital buildings. The shape of the site is challenging and also a consideration had to be made for the planned Southgreen road improvement.
- It is considered that the revisions made and presented have greatly enhanced the proposition whilst maintaining the original footprint. It is acknowledged that the Carmelite church is a protected structure of national significance and do not consider the proposal some 50 metres away and outside of its curtilage will unduly impact on the protected structure or its setting.

## 7.0 RESPONSES

No responses are noted on the file

## 8.0 PLANNING HISTORY

**PL.09.224965** Permission refused to Abbeycourt Homes for 82 dwelling units, gym and all ancillary site works on the appeal site. The reason for refusal was as follows:

*Notwithstanding the Town Centre zoning of the site under the current Kildare Local Area Plan the proposed apartment development would be located within a visually sensitive area, characterised by low density residential, ecclesiastical and educational development and including three protected structures which have been designated as being of either 'national' or 'regional' significance. The Board considered by reason of*

- (a) The excessive continuity of buildings along the roadside frontages,*
- (b) The inadequate spatial permeability of the layout and the inappropriate architectural design of the structures, and*
- (c) The visually prominent vehicular entrance to the underground car park,*

*Would negatively alter the distinctive spatial character of the area and unduly compromise the character and setting of these protected structures. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

**PL.09.213539** Permission refused to Kiteside Ltd. for a mixed use development including a supermarket, 6 no. retail units, 13 apartments, 5 offices and ancillary works. Reasons for refusal include overdevelopment of the site; poor quality design; negative impact on character of the area and the setting of protected structures; and premature by reference to deficiency in sewerage facilities.

**PL.09.208107** Permission refused on appeal to Kiteside Ltd for a mixed/commercial and office development.

## **9.0 PLANNING POLICY**

### **9.1 National Quality Standards for Residential Care Settings for Older People in Ireland, February 2009**

Standard 25 deals with the physical environment in residential facilities with Section C specifically dealing with newly built designated centres, new extensions and first time registration. Bedrooms should have a minimum of 12.5sq.m. usable floor space excluding en-suite facilities. Requirements regarding toilet facilities are also set out.

Communal space requirements are set out in section 25.45 which specifically excludes residents' private accommodation, corridors, and entrance halls of corridor width, and amounts to at least 4m<sup>2</sup> for each resident. It includes rooms in which a variety of social, cultural and religious activities can take place; dining rooms to cater for all residents; sitting rooms, at least one which provides for quiet space; separate rooms where residents can meet visitors in private with a minimum floor space of 9.3m<sup>2</sup> et al.

### **9.2 Kildare County Development Plan 2011-2017**

Section 11.5.3 deals with Older People and sets out that The 'National Quality Standards for Residential Care Settings for Older People in Ireland' set standards for the provision of care facilities for older people. These standards provide a baseline for those with the responsibility for providing nursing homes facilities and include specific standards for the design and layout of the internal and external environment of care facilities. This plan will provide for a missed urban/rural setting for nursing homes in the county.

Objectives OP3 and 4 relate specifically to nursing homes and are enclosed as an Appendix for ease of reference.

### **9.3 Kildare Town Local Area Plan 2012-2018**

The site has a land use zoning objective 'E1' 'to provide for the needs of the elderly' and specifically provides for the development of individual housing units and/or a nursing home facility to meet the needs of the elderly.



The site is identified as being located within the 'traffic cell objective'.

The Plan sets out that the protection and enhancement of Kildare town's significant and unique built heritage is one of the core objectives of the plan.

## **10.0 ASSESSMENT**

Having examined the file, relevant history files, considered local and national policies, inspected the site and immediate environs, assessed the proposal and all of the submissions on file, I consider the key issues to be:

- Design and Layout
- Impact on character of the area/protected structures
- Traffic and Transportation
- Water Services and Infrastructure
- Appropriate Assessment
- Other Issues

## 10.1 Design and Layout

- 10.1.1 The applicant has submitted revised plans on foot of the notification of the refusal of permission by the local authority. It is these revised plans that I will refer to henceforth as they are considered to be more appropriate plans for consideration in the context of the reasons for refusal. The Planning Authority cited a substandard architectural design for a reason for refusal by reason of height, scale, massing and use of materials and lack of landscaping in close proximity to protected structures.
- 10.1.2 The amended layout in terms of footprint has been increased with a consequential increase in floor space by c. 448sq.m. The form and footprint is largely the same. The overall height has been reduced from 11.2m to 9.4m and it is considered that the proposed new height is such that could be sustained on the site without unduly detracting from the general area. That said, I have concerns about the continuity in the building form which adds to the mass and bulk of the proposed structure which would be situated between protected structures on a highly visible site that also commands views of St. Brigid's church steeple in the town centre. A number of balconies have been introduced and now punctuate the external façade at various locations. I am unconvinced by the architectural merit of these balconies. The fenestration detailing has been altered such that windows are now of vertical emphasis. External finishes remain unchanged with a proposed render and brick façade and a slate roof. These materials are evident in other nearby residential developments.
- 10.1.3 In terms of accommodation the proposed rooms are considered to meet the minimum standards set out in the National Quality Standards for Residential Care Settings for Older People in Ireland. Communal open space has been provided in the form of day space, hairdressing area, visitors' room, coffee dock, oratory etc. My primary comment in relation to layout would be that nursing stations are located distant from some of the rooms; however I do not consider this a planning issue *per se* and is rather an operational issue for the facility management. The layout of the rooms is such that each room conforms to the minimum standards in terms of size, has a window to provide natural light and ventilation. A number of rooms are immediately adjacent to day rooms and in the interests of protecting the tranquil environment for residents a more suitable separation of such rooms should have been provided such as laundry/sluice rooms etc. However, this issue is not considered critical in the determination of the acceptability or otherwise of the proposal.

## **10.2 Impact on character of the area/protected structures**

10.2.1 The Kildare Carmelite Catholic Church is located opposite the site and is a protected structure of national importance (B22-56 NIAH Ref. 11817079). This Church of gothic style is a landmark structure at this location with the Kildare Carmelite Priory located adjacent which is of regional importance (NIAH Ref. 11817075). The appeal site also bounds the curtilage of the Parochial House, a protected structure of regional importance. (NIAH Ref. 11817078). A small portion of the appeal site is located within the zone of archaeological potential as identified in the Kildare Local Area Plan. As set out in the Kildare Local Area Plan, Kildare town is rich in architectural and archaeological heritage. The topography and street alignment contribute to the existence of important and significant views and vistas into and out of the town which contribute to the overall character of the town. Policy PS 8 of the County Development Plan seeks to 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.

10.2.2 Of particular note in the assessment of the application/appeal before the Board is the previous refusal pertaining to the appeal site. The more recent of these applications is PL.09.224965 which pertained to a proposed housing development on the appeal site. The reason for refusal cited that the proposed development would be located within a visually sensitive area, characterised by low density residential, ecclesiastical and educational development and including three protected structures which have been designated as being of either 'national' or 'regional' significance. The latter is a statement of fact and is a key consideration in the assessment of the appeal now before the Board.

10.2.3 The proposal involves the construction of a significant structure on a prominent site that lies between the three aforementioned protected structures. The development of this site should have regard to the character and setting of these structures and seek to retain the "distinctive spatial character of the area" which the Board previous cited in the reason for refusal. The proposed facility would be of a scale which far exceeds any current structure in the immediate area in terms of mass. The repetition in the architectural form contributes to the overall scale of the proposal with little regard to the existing established pattern of development and in particular the streetscape of Kildare Town. The streets to the north-east of the appeal site are narrow characterised by small plots. The existing Parochial House provides a transition from the more compact urban grain to the low rise suburban residential developments to the south and west of the site.

10.2.4 The documentation submitted with the original application to the Planning Authority does not contain an appraisal of the proposal in light of the existing topography and street alignment in the immediate vicinity of the appeal site and how the proposal would contribute and enhance the character of the area. There is a specific policy BH 5 “to require an appropriate ‘Visual Impact Assessment’ for proposed development that may have the potential to impact adversely on significant built heritage and landscape features within and adjoining the plan area”. It is acknowledged that the site is located outside the architectural conservation area; however the appeal site is located between three significant protected structures where the topographical levels vary considerably and as such the visual connections and linkages between the sites are important so as to retain the distinctive character of the area at this location and to knit the proposal into its context.

10.2.5 The existing site is open and is in stark contrast to the urban grain exhibited to the north-east of the appeal site with smaller/tighter urban plots. The appeal site is a key infill site which should be developed such as to contribute to the enhancement of the urban environment and unique built heritage in Kildare town. The principle of a nursing home is acceptable by virtue of its zoning. Traditionally such facilities are of large mass, bulk and scale which would be at odds with the character of the surrounding area in which the site is located. However, it is considered that an appropriate and innovative design solution for a nursing home can be advanced whilst respecting the existing distinctive character of the area and retaining views of these protected structures within and through the site. An architectural design brief should be submitted which clearly sets out and appraises any proposed development on this site in the context of the existing character of the immediate area and the need to ensure the continued visual dominance of the protected structures at this location.

### **10.3 Traffic and Transportation**

10.3.1 The reason for refusal pertaining to traffic included a number of key components which I will examine individually. It is noted that there is an objective to improve the road infrastructure in the vicinity of the appeal site. RIO 18 refers to the realignment, widening and/or improvement along specific routes as identified on Map 8.2. The reason for refusal specifically cited sub-section (v) The northern link street as recommended in the traffic Management Plan along Shraud, Bothairin nag Corp and Pigeon Lane. I also note two other sub-sections (ii) and (iii) which provide for the improvement of L7015 South Green Road from the Inner Relief Road to the junction with Bothairin nag Corp and (iii) L7016 Old Road from the Inner Relief Road to the junction with Bothairin nag Corp.

- 10.3.2 In the appeal response, the applicant has indicated that further to discussion with Kildare County Council he has been in contact with the consulting engineer regarding the Southgreen CPO. It is set out that any future improvements to the roads in question will be required to comply with the 'Design Manual for Urban Roads and Streets' which post-dates the CPO documentation. I note the contents of the Transportation Department's report which indicates that a Traffic Management Plan and separately a Part 8 for the Southgreen Area have been completed for Kildare Town and specific works have been identified for road and footpath network adjacent to the proposed development site. I have been unable to acquire a copy of this Part 8, however do not consider the requirement of such critical to the assessment of this appeal. The layout of the proposed facility is such that is set-back from the existing roadside kerb. The applicant has superimposed the CPO boundary and it is considered that the proposal is not such that would compromise the delivery of the objective of the development plan.
- 10.3.4 With regard to the lack of details regarding the design details of the entrance and access road, the applicant has indicated a proposed entrance from Bothairin na gCorp located to the north-east of the site. No further details have been submitted with the appeal. No concerns were raised regarding the location of the entrance and as such I consider that the final design details of the entrance, is such that can be conditioned.
- 10.3.5 The transportation department has indicated that a traffic impact assessment (TIA) should have been submitted. The appeal site land use objective specifically provides for a nursing home. The facility would cater for 90 occupants in addition to staff. I do not consider that the traffic movements arising from such a facility is such that would warrant a TIA.
- 10.3.6 In summary, I do not consider that the reason for refusal cited in respect of traffic is such that can be justified in the context of the nature and scale of the development proposed. Whilst I consider that the onus is on the applicant to demonstrate that the proposal would not compromise the re-alignment/improvement works to the road network adjoining and in the immediate vicinity of the site, it is considered that the lack of this information in itself does not justify a reason for refusal.

#### **10.4 Water Services and Infrastructure**

- 10.4.1 The last reason for refusal cites insufficient information regarding the servicing of the proposed development in relation to water services and surface water drainage systems to enable the planning authority to make an informed decision. The appeal site is serviced by a public water mains and public sewer with soakpit the proposed surface water disposal method. The applicant

indicates that any outstanding information can be addressed by way of further information or conditioned. The applicant indicates that a CCTV survey of the wastewater network serving the site was found to be in good condition. The applicant is proposing a Stormbloc Infiltration System which would measure 18.4m x 17.6m x 0.35m deep to cater for the excess from roof run-off. Whilst there may be a lack of detailed information regarding the layout of services within the site and how such connect to the existing public network, I do not consider such fundamental to the assessment of the acceptability or otherwise of the proposal.

## 10.5 Appropriate Assessment

The requirements for AA, stems directly from Articles 6 (3) and 6 (4) of the Habitats Directive 92/43/EEC. The following are Natura 2000 sites located within a 15 kilometres radius of the appeal site:

<b>Natura 2000 Site</b>	<b>Distance from appeal site</b>
Pollardstown Fen SAC (Site No. 000396)	4.5km north east of appeal site
Mouds Bog (SAC) (Site No. 002331)	7.8km north east of the appeal site
River Barrow and Nore SAC ( Site No. 002162)	10.3km south-west of the appeal site

Having regard to the nature and scale of the proposed development sought on serviced zoned lands, together with the source-pathway-receptor model, I would not consider that an NIS or Appropriate Assessment is necessary in this case in light of the conservation objectives for these sites.

## 10.6 Other Issues

I note that the applicant has raised concerns about the use of photographs from Google in the planning report. It is set out that the photographs contain trees which do not exist on the site. Pursuant to my inspection, I would concur that there are trees/hedges that are shown in the photographs that do not currently exist. I do not consider the existence or otherwise of these trees is fundamental to the consideration of the proposal.

## **11.0 CONCLUSION**

In conclusion, I consider that the proposed scale, mass and architectural response of the proposed development is unsatisfactory having specific regard to the location of the site within a visually sensitive area and proximity to three protected structures. The reason for refusal cited under PL.09.224965, albeit for a different development, is such that remains relevant to the site, and the proposal in this instance has failed to address concerns previously raised by the Board.

## **12.0 RECOMMENDATION**

It is recommended that permission for the proposed development be refused for the following reasons and considerations:

### **REASONS AND CONSIDERATIONS**

Notwithstanding the land-use zoning objective of the site under the current Kildare Local Area Plan - E1- 'to provide for the needs of the elderly', which specifically provides for the development of a nursing home, the proposed development would be located in a visually sensitive area, characterized by low-density residential, ecclesiastical and educational development, including three protected structures which have been designated as either 'national' or 'regional' importance. The Board considers that the proposed development, by reason of inappropriate architectural design in this visually sensitive area and the excessive continuity of the building on the site would negatively alter the distinctive spatial character of the area and would unduly compromise the character and setting of these protected structures. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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**Joanna Kelly**

**Inspectorate**

**26<sup>th</sup> April 2016**