



An
Bord
Pleanála

Inspector's Report PL09.249235

Development	Change of use of existing two storey building from retail units at ground floor and apartments at first floor to 2 no. two storey townhouse dwellings.
Location	School Street, Kilcock, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	17/515
Applicant(s)	CMPD Ltd.
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions.
Type of Appeal	First Party vs. condition
Appellant(s)	CMPD Ltd.
Observer(s)	None.
Date of Site Inspection	N/A
Inspector	Ciara Kellett

1.0 Site Location and Description

- 1.1. The appeal site is located in Kilcock, Co. Kildare. It is located on School Street which is in the heart of the village, to the north of the Grand Canal and just south of the village square.
- 1.2. The site currently comprises 2 no. unoccupied retail units at ground floor level and a residential apartment unit at first floor. It is located on the western side of School Street and access is directly onto the street. The application drawings indicate the applicant owns the site to the rear which provides vehicular access to Bridge Street. This site is currently in use as a surface car park.
- 1.3. Appendix A includes maps of the site.

2.0 Proposed Development

- 2.1. The proposal consists of the change of use of the existing two storey building from 2 no. ground floor retail units and 1 no. first floor residential apartment, to 2 no. two-storey townhouse dwellings. The dwellings will be 116.5sq.m with a garden area of 31.7sq.m, and 104sq.m with a garden area of 37.6sq.m respectively.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to 12 conditions. Condition no.12 which is being appealed by the applicant is for a Development Contribution of €20,000. The reason given for the condition states that it is considered reasonable and in the interests of traffic safety that a contribution is made for the provision of car parking facilities.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report is the basis for the Planning Authority decision. It includes:

- Considers development is acceptable in principle in the town centre, and refers specifically to policy SK29 which seeks to encourage residential uses in the town centre, and policy SKO3 which seeks to prioritise the development of derelict/brownfield and vacant units.
- Refers to Table 17.6 of the Kildare County Development Plan which indicates standards for a three-bedroom units. Notes units do not comply with standards for open space and parking. References other concerns with overlooking and minimum sizes for bedrooms.
- Requests Further Information regarding compliance with Development Plan standards including car parking.
- Revised floor plans were submitted showing reconfigured internal spaces. With respect to parking, the applicant considers that given the town centre location and the availability of the public car park to the rear and elsewhere in the town, there is sufficient car parking and thus internal parking should not be necessary.
- Upon receipt of the revised proposal, Planner considers it acceptable and recommends permission is granted.

The decision was in accordance with the Planner's recommendation.

3.2.2. Other Technical Reports

- **Area Engineer:** No objection.
- **Transportation:** No objection subject to conditions including a condition for levies due to shortfall in parking.
- **Environment:** No objection subject to conditions.
- **EHO:** No objection.
- **Water Services:** No objection subject to conditions.
- **CFO:** No report on file.
- **Conservation Officer:** Refer to report.

3.3. Prescribed Bodies

- **Irish Water:** File Referred, no submission on file.

3.4. Third party submissions

None received.

4.0 Planning History

There are no recent planning applications associated with the site.

5.0 Policy Context

5.1. Kilcock Local Area Plan 2015 – 2021

The site is subject to the policies and objectives of the Kilcock Local Area Plan.

Chapter 12 refers to Quality Homes, and Chapter 14 to Implementation.

The site is zoned 'A – Town Centre'. Residential development is permitted in principle in this zoning.

5.2. Kildare County Development Plan 2017 – 2023

Chapter 17 refers to Development Management Standards. Table 17.9 refers to Car Parking requirements. It states that 2 car parking spaces are required for houses, and for apartments 1.5 spaces per unit + 1 visitor space per 4 apartments are required.

Section 17.7.6 of the Plan states:

Car parking standards are set out in Table 17.9 below to guide proposed development. Other than 'Residential', parking standards are maximum standards, having regard to the need to balance demand for parking against the need to promote more sustainable forms of transport, to limit traffic congestion and to protect the quality of the public realm from the physical impact of parking.

5.3. **Kildare County Council Development Contribution Scheme 2015 - 2022**

Section 6 refers to Classes of Public Infrastructure and Facilities. Subsection 6 states:

Car Parking Facilities

The sum levied is a contribution towards the cost of:-

(a) Shortfall in the provision of car-parking facilities

(b) the acquisition of land in respect of (a)

(c) any matters ancillary to (a) and (b) above

Section 8 refers to 'Level of General Contributions for Kildare County Council effective from adoption of this Scheme'. With respect to shortfall in parking, it states that the charge is €5,000 for all towns and settlements.

Section 12 refers to 'Exemptions and Reduced Contributions'. It states for changes of use subsection (g):

Change of Use

This scheme provides for waivers in the case of Change of Use planning permissions. Kildare County Council will grant a 100% reduction in contribution charges where the development does not lead to the need for new or upgraded infrastructure/services or significant intensification of demand placed on existing infrastructure.

5.4. **Natural Heritage Designations**

The site is located c. 6km from the Rye Water Valley/Carton SAC.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

One first party appeal has been submitted against Condition no.12, the Development Contribution for the shortfall in car parking spaces. In summary, it states:

- Consider Development Contribution is disproportionate, inappropriate and unfair and makes the redevelopment financially difficult if not impossible.
- State that this is not a new build with new parking requirements – the property is currently a mix of commercial and residential use. It is proposed to continue to be solely residential.
- The property is located c.150m from the train station and 50m from the bus stop.
- If residents do need a car it is likely to be away from Kilcock during the busy trading hours.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority responded to the appeal. They consider that the total car parking requirement is 4 spaces, which is 2 spaces per townhouse, in accordance with Chapter 17 of the Kildare County Development Plan.
- 6.2.2. As the applicant is not in a position to provide these spaces Roads Department recommended a levy of €5,000 x 4 spaces = €20,000 in the interest of maintenance of on-street car parking spaces, traffic safety at this location and proper planning. Payment of this levy will contribute towards the provision of car parking facilities in Kilcock.
- 6.2.3. The Authority note the comments of the applicant relating to parking on streets nearby. From the Authority's analysis and site inspections all of these parking spaces are heavily used by motorists throughout the day, and there is a requirement for additional car parking spaces to be provided in Kilcock, in particular near the town centre.
- 6.2.4. The Roads Department are therefore satisfied that the condition should be retained.

6.3. Further Responses

- 6.3.1. The applicant was provided an opportunity to respond to the Planning Authority submission. In summary, the submission states:

- Applicant states that they fail to understand why this levy should apply to a building that currently has an apartment with four bedrooms which is to be replaced with a building providing a total of four bedrooms.
- There will be no additional requirement for parking. Consider parking requirement will reduce due to the fact that there will no longer be a commercial use at ground floor.

7.0 Assessment

- 7.1. The first party has appealed Condition no.12 only. Condition no.12 requires the developer to pay a Development Contribution of €20,000 to the Planning Authority for the shortfall in car parking spaces. The first party has appealed the condition under Section 48(10)(b) of the Planning and Development Act 2000, as amended. Section 48(10)(c) of the Planning and Development Act 2000, states that where an appeal is brought in accordance with Section 48(10)(b) and no other appeal of the decision is brought by any other person, the authority may make the grant of permission as soon as may be, after the expiration of the period for making an appeal. The appeal is therefore confined to the consideration of whether or not the terms of the Kildare County Council Development Contribution Scheme 2015 – 2022 were properly applied in this instance.
- 7.2. This appeal relates to the Development Contribution applied due to the shortfall in car parking spaces. The 2 no. townhouses proposed replace two existing commercial units at ground floor (currently vacant) and an apartment at first floor. No other Development Contributions have been applied in relation to the development of the townhouses themselves.
- 7.3. The Development Plan is very clear in terms of the requirement for car parking spaces. It states that for a house, 2 spaces are required. There is no breakdown based on bedrooms etc. For apartments it is 1.5 space per apartment and 1 visitor space for 4 apartments.
- 7.4. The Roads Department accepted that the proposal did not provide parking and did not recommend a refusal on that basis, subject to a condition to impose a levy for the shortfall in spaces.

- 7.5. There is no exemption provided for with respect to parking specifically in the Development Contribution Scheme. On this basis, it could be considered that the scheme has been properly applied and the condition should be retained.
- 7.6. However, I draw the Board's attention to Section 12 of the Development Contribution Scheme which provides for exemptions for changes of use. It notes that a 100% reduction in contribution charges applies where the development does not lead to the need for new or upgraded infrastructure/services or significant intensification of demand placed on existing infrastructure. Existing infrastructure and services have not been defined and it could be argued that car parking is not included. I note that no other levy has been applied to this development other than the levy for the shortfall in car parking spaces.
- 7.7. Notwithstanding the lack of clarity with respect to what is meant by infrastructure and services, I consider that there will not be a need for new or upgraded infrastructure or an intensification of demand placed on parking. The previous 4 bedrooomed apartment and retail units are being replaced with two townhouse dwellings providing 4 bedrooms in total.
- 7.8. I do not consider that there will be an intensification of demand for services and in accordance with Section 12 of the Development Contribution Scheme which provides for exemptions for change of use, I consider that the condition should be omitted.
- 7.9. In conclusion, I am satisfied that the Development Contribution Scheme has not been properly applied and I am satisfied that the condition should be removed.

7.10. **Appropriate Assessment**

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

I recommend that the Board directs the Council under Section 48 of the Planning and Development Act 2000, as amended, to remove Condition no.12.

9.0 Reasons and Considerations

Having regard to the Kildare County Council Development Contribution Scheme 2015 – 2022, and the information on file, it is considered that the proposal is for a change of use which will not lead to a need for new or upgraded infrastructure or an intensification of demand placed on infrastructure or services. It is considered therefore that the terms of the Scheme have not been properly applied in this instance.

Ciara Kellett
Inspectorate

11th December 2017