



An
Bord
Pleanála

Inspector's Report ABP-301975-18

Development	Demolition of 3 existing out buildings and erection of 11 dwellings
Location	Lower Kilmacow , Kilmacow , Co. Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	17658
Applicant(s)	Pinacle Cross Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission subject to Conditions
Type of Appeal	Third Party
Appellant(s)	Lower Kilmacow Residents Association
Observer(s)	None
Date of Site Inspection	24 th August, 2018
Inspector	Stephen Kay

1.0 Site Location and Description

- 1.1. The site is located in the village of Kilmacow which is in the south of County Kilkenny and c. 6.5km to the north west of Waterford City.
- 1.2. Kilmacow village is unusual in that it comprises two distinct areas, Kilmacow Upper and Lower which are separated by c.1km. The proposed development is located in Kilmacow Lower which is the smaller of the two areas and which is currently characterised by a small number of houses, public house and graveyard. The River Blackwater runs approximately 100 metres to the east of the site.
- 1.3. The site is bounded to the north by a public house premises and the existing access to the site is the Pill Road to the east of the site. The site also has significant frontage onto the local road that runs to the north and west of the site and this section of road frontage is located on a bend in the road and within the 50km/hr speed limit zone for the village. To the south, the site is bounded by residential properties on large sites and by an undeveloped site.
- 1.4. The existing access to the site is via a gated entrance on the eastern boundary to the south of the public house. Adjacent to this access, to the north, are located a number of stone shed structures that are in poor condition. Beyond these, part of the boundary in this location comprises the gable of part of the pub complex of buildings.
- 1.5. The site is bounded by mature hedgerows and trees over significant areas and there are also a number of mature trees within the interior of the site.
- 1.6. The stated area of the appeal site is 0.48 ha.

2.0 Proposed Development

- 2.1. The proposed development comprises the demolition of 3 no. existing unused outbuildings that are located on the site and the construction of a residential development comprising 11 no. dwellings comprising 3 no two storey three bedroom end of terrace dwellings, 4 no. two storey two bedroom mid terrace dwellings, 2 no. two storey semi detached dwellings, 1 two storey end of terrace dwelling and 1 no. two storey detached three bedroom dwelling.

- 2.2. The development also proposes the construction of a two storey apartment block with 4 no. two bedroom units located at ground floor level and 4 no. one bedroom units located at upper level.
- 2.3. The layout proposed comprises the apartments being located on the north eastern side of the site with the terraced dwellings located on the southern part of the site. The semi detached dwellings are proposed on the western frontage adjacent to the existing dwelling with a detached two storey dwelling facing the local road to the east of the site and to the south of the public house.
- 2.4. A vehicular and pedestrian access to the site is proposed from the eastern end of the site in the vicinity of an existing access and the development is proposed to be connected to the public water and drainage network.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Grant Permission subject to 26 no. conditions. The most notable of these conditions are considered to be as follows:

- Condition No.3 clarifies that the grant of permission relates to 8 no. houses and 8 no. apartments only (16 no. units total) as detailed in the response to further information.
- Condition No. 5 requires some revisions to the balcony to unit 15/16 to avoid overlooking of the adjoining properties.
- Condition No.8 requires that a landscape architect be retained to submit a detailed landscape plan for the site and details of the proposed play area to be submitted.
- Condition No.10 relates to roads and requires inter alia that a driver feedback speed sign be installed on the L3401 on the approach to the village from the south, that the entirety of the hedge be removed from the sight triangle at the entrance

- Condition No.23 requires that an archaeologist be retained to monitor works and to report as appropriate.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial report of the planning officer notes the significant number of submissions received in relation to the proposed development and the content of the internal reports and requests for further information relating to roads, environment and conservation. The reports states that the principle of the development is acceptable and that residential is compatible with the 'General Development' zoning objective. It is stated that a residential layout more in keeping with the village form is required and consistent with the Sustainable Residential Development Guidelines. Parking is lacking and the proposed access and demolition of old building on the Pill road is not acceptable. Public open space is considered fragmented and sub standard. A second report subsequent to the request for further information states that the proposed development is acceptable and a grant of permission consistent with the Notification of Decision which issued is recommended.

3.2.2. Other Technical Reports

Environment Section – Initial report recommends further information on issues including bin storage, refuse access, capacity of receiving storm water pipe and capacity of foul drainage system to cater for future connections of existing dwellings served by septic tank. Second report subsequent to further information states that no objection subject to conditions.

Road Design – Initial report highlights the intensification of use of the Pil Road (L7447) that would arise as a result of the proposal and the issues with the junctions to the north and south of the proposed access. For the application to be considered further the possibility of access from the L3401 should be explored where the 50km/hr speed limit is in operation and a 45 metre visibility splay and sight stopping distance is required. Report dated subsequent to the submission of further information and revised access proposals states that no objection to the proposed development on the basis that the access is within the 50km/hr zone and having

regard to DMURS. One of the conditions recommended is the installation of a driver feedback sign on the approach to the site from the south on the L3401.

Housing Section – letter stating that the council are in discussions with the proposed developer with a view to purchasing all 19 units on completion. That there are a total of 68 persons on the social housing list in Kilmacow with the demand breaking down as 28% one bedroom requirement, 37% two bedroom, 31% three bedroom and 4% four bedroom. That there is a difficulty purchasing one and two bedroom units in this area as there is limited such stock. There is no council land bank in Kilmacow where development could be undertaken, that the unit mix proposed is in line with the housing (social) demand in the area, that the 1 bedroom units would be occupied by a single person with the two bedroom unit by a single adult with child and this should be taken into account in traffic and parking demand calculations. That the Housing Section consider that the design and layout are acceptable.

Parks – Concern expressed that the tree survey and recommendations do not adequately address the situation and particularly the large mature sycamore tree that is located in the centre of the site. Consideration should be given to a redesign that would enable the retention of this tree.

Conservation Officer – Initial report recommends further information on basis that the site lies within the village character area and includes early masonry structures. An architectural heritage Impact assessment is required. A cross section showing heights of development given its location on a slightly elevated site. Concerns regarding the proposed parking area to the western road frontage in visual terms. Consideration of an alternative site entrance that omits the proposed demolition of the 19th century gate house structure. Second report subsequent to the submission of further information states that the submitted Architectural Heritage Impact Assessment is mostly acceptable but that the outhouses and gate are of cultural significance. Stated that the proposed cleaning and maintenance of the former Glebe House boundary stone wall at the southern end of the site is acceptable. Stated that archaeological monitoring should be undertaken, that the revised layout which alters the car parking layout and presentation of the development to the west is acceptable and that detailed proposals / methodology for the weatherproofing of the outbuildings and gateway to be retained. Conditions are recommended.

3.3. Prescribed Bodies

Irish Water – No objection (class 1).

3.4. Third Party Observations

The following is a summary of the main issues raised in the third party observations submitted to the Planning Authority:

- That the road infrastructure in the vicinity of the site is dangerous.
- That the proposed site access is sub standard and dangerous,.
- That the site is poorly connected to the upper village and other surrounding areas.
- That there is an inadequate turning circle and internal circulation areas.
- That the design is not in keeping with the location and character of the village.
- That the scale of development proposed is excessive relative to existing and would adversely impact on character.
- Excessive density of development.
- Poor residential layout and quality of open space.
- That the proposed demolition of the gate lodge and stone walls should not be permitted.
- Potential impact on bat roosts and owls.
- Negative impact on residential amenity of existing surrounding properties.
- Overlooking of rear of Spinners Bar.
- That the development is not adequately set back from site boundaries.

4.0 Planning History

There is no record of any planning history relating to the appeal site.

5.0 Policy Context

5.1. Development Plan

The relevant development plan is the *Kilkenny County Development Plan, 2014-2020*. Under this plan the site is zoned 'General Development' in the County Development Plan. The stated objective for this zoning as per section 12.12.3 of the Plan is:

'to provide for the development and improvement of appropriate uses in areas where existing commercial uses have established and allow for the development of the settlement as a focus for local services, sustaining and strengthen its role as a population centre.

The purpose of this zone is mainly to reflect the existing uses that have established in this zone and to allow for their improvement and expansion as necessary to improve retailing, residential, commercial, office, cultural, and other uses appropriate to the further development of the settlement'.

Dwellings are a permissible use on lands zoned General Development (Kilmacow and New Ross).

In addition, section 12.12.3 of the Plan states that in order to promote mixed use developments in such areas the following apply:

- Residential use to be limited to a maximum of 80 percent of the site during the lifetime of the plan.
- Where two separate planning uses are proposed, no one singular use will prevail in terms of >80 percent of the site area.

Section 8.3.8 of the Plan relates to townscapes and the development management standards under this heading include the following:

To protect, conserve and where necessary restore and manage sustainably the quality, character and distinctiveness of the townscapes of the county, whether or not the townscape has been designated an ACA or forms the setting for protected structures; and to give consideration to its visual amenity and its relationship to its setting.

5.2. Natural Heritage Designations

The appeal site is not located within any European site. The closest such site is the Lower River Suir SAC (site code 002137) which is located c.3km to the south of the appeal site at the closest point.

6.0 The Appeal

6.1. Grounds of Appeal

The following is a summary of the main issues raised in the third party grounds of appeal:

- That the sight line at the proposed access is inadequate and that a 90 metre sight line should be required.
- That the reduced sight line of 45 metres is not available at the entrance point as set out in the attached engineers report with the appeal. The sight line to the south would be blocked by landscaped open space areas and also by cars.
- That there is an objective in the Kilmacow LAP to realign a section of the local road to the west of the site. Should this upgrade be undertaken then the access proposed in this application would require the creation of another junction onto the realigned road.

- That there are a number of issues with regard to the submitted road safety audit including that the layout audited is the site plan drawing and not the sightlines drawing, it recognises that the visibility splays onto the L3401 are not adequate and that the access would require a redesign. This has not occurred.
- That contrary to the statement of the applicant in the RFI, the audit does not make any reference to or demonstrate compliance with the Design Manual for Urban Roads and Streets.
- Noted that the Road Safety Audit team did not undertake a speed survey and it is contended that many vehicles travel at over 50 Km/hr on this part of the road.
- That the road infrastructure in the vicinity of the site is narrow and of village scale. The proposed entrance is in close proximity to the T junction to Lower Street and this area is already restricted in visibility and characterised by parking.
- Based on 6-8 traffic movements per house per day in a rural area, the proposed development has the potential to generate an additional 128 movements in and around the lower village per day.
- That there would be traffic safety issues during the construction period and operational servicing of the development.
- House No.1 and the public open space are located excessively close to the public road and are unsafe.
- That the development of the site for solely residential use is not in keeping with the land use zoning objective 'General Development' which provides that 80% of the site area would be available for residential use.
- That the 100% residential use is despite the fact there is no supermarket, shop or school in the vicinity of the site.
- That the proposed development of 16 no. units is excessive in scale for a smaller town / village and the scale of expansion proposed (50% over the existing) is contrary to development plan standards (3.3.5.3 of County Plan).

- The high density nature and scale of the development is also contrary to the provisions of the LAP, notably section 3.4.4.
- That the applicant circumvented the planning authority request to reduce the scale / density of the development by omitting a portion of the site. The density remains the same and the intended future use of the lands omitted remains unclear.
- That Lower Kilmacow is one of the oldest villages in the country and the protection of the village character area (VCA) is set out in the LAP.
- The development is out of scale and character and does not meet the criteria set out in the county plan with regard to the protection of the distinctive rural setting of towns and villages.
- That there are vacant properties in the village and compliance with national and local policy would promote the reuse of these buildings.
- That the design is contrary to the development plan (12.4.1) and the provisions of the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities (pg.49 regarding respecting existing pattern and grain of development).
- That the minimum set back of 11 metres from boundaries requested by the planning authority is not met in four separate locations.
- That contrary to the design statement the scale of the proposed buildings will tower over the existing development in the lower village.
- Contrary to having a mix of unit sizes / types, the scale of units are excessively small and the units unsuited to families.
- That the balconies on the upstairs apartments don't meet the privacy requirement at 4.10 of the design statement as they overlook the rear of Spinners Bar and are overlooked by the undeveloped part of the site.
- The open space areas shown do not meet development plan standards.
- That a total of 36 parking spaces are required rather than the 30 provided. Parked cars will dominate the layout.

- There are no services to provide for the development. The closest shop is 400 metres away and no footpath connects it to the development. There is no footpath link to the school or sports complex in the upper village. There is no public bus service and additional cars is contrary to the strategic aim of the county plan to reduce the reliance on the private car.
- That the development is excessively close to the River Blackwater and the development could impact on that river and ecology in the area including Kingfisher and otter.
- That there are existing houses in the lower village that should be connected to the sewerage system.
- That the information on file indicates that Kilkenny County Council is in discussion with the applicant to purchase all of the units. The council therefore has an interest in the decision in this case.

6.2. Applicant Response

The following is a summary of the main issues raised in the first party response to the grounds of appeal:

- That the site is zoned General Development as per 12.12 of the development plan and dwellings are a permissible use on such lands.
- That 12.12.3 of the plan as it relates to Kilmacow and general development lands states that the objective is ‘to provide for the development and improvement of appropriate uses in areas where existing commercial uses have established and allow for the development of the settlement as a focus for local services sustaining and strengthening its role as a population centre. Dwellings are a permissible use in this zone.
- That it is envisaged retaining the existing gates and outbuildings at the north east corner of the site with a view to providing new retail units and shop facilities in this location at some stage in the future.
- That the density of development proposed at approximately 39 units per ha. is in keeping with national guidance of 35 per ha. minimum.

- Figures provided by Eimear Cody of the councils housing section indicates that 68 households have been approved for social housing in Kilmacow. Kilmacow has a population of 764 persons.
- That the development is appropriate to the character, heritage and amenity of the settlement.
- That the design and layout was the subject of significant consultation with the Planning Officer prior to the submission of the revised further information layout. This reduced the number of units from 19 no. to 16 no. and also resulted in the relocation of the access from the Pill Road to the L3401.
- That the section of the site held over comprising approximately 16% is proposed to be used future retail, shop and commercial development.
- That Cluain Ecology have been retained to undertake an assessment of the outbuildings and in principle there is no reason why this part of the site could not be developed in the future.
- That there are two protected structures located in the village with a further five sites on the NIAH. The closest such structure to the site is a letterbox set into the wall opposite the graveyard to the north of the site. The proposed development would not be visible from either of the existing protected structures.
- That on foot of the FI response the wall, former house and outbuilding at the eastern end of the site are now excluded from the proposal.
- It is proposed that the stone of the old field walls will be reused to new boundary wall to the western side of the site.
- A series of section drawings to demonstrate the development in the context of the existing village have been prepared and submitted.
- That the presence of the new development will be most visible from the north west and the boundary on the north and western sides will change.
- The appeal response sets out how the proposed development would be compatible with the provisions of the Sustainable Residential Development In Urban Areas Guidelines. The following points are specifically noted:

- That the site is well connected to services and transport a local bus service operated by local link connecting to Waterford.
 - The development will provide for families as well as single persons.
 - That the public open space within the development will facilitate both passive and active recreation.
 - That the public open space comprises 18% of the overall site area and would be protected from the public road by low stone walling and hedging.
 - That the units will all be designed to a high level of energy efficiency.
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- That the local shop is within 400 metres and the local GAA ground is within 900 metres of the site. Upper Kilmacow is within walking distance of the site and provides a range of facilities.
 - That the applicant has recently completed works outside of the northern site boundary to connect the site with the Pill Road. Cycle connectivity has also been improved.
 - That the Housing Dept have also stated that the majority (65%) of the social housing need is for one and two bedroom units which it is difficult to source and which often require significant upgrading. Also noted that Kilkenny County Council have no land bank in Kilmacow and that this development provides a significant opportunity to provide housing.

6.3. Planning Authority Response

No response to the grounds of appeal.

6.4. Further Responses

The first party response to the appeal was circulated by the Board to the first party and the Planning authority for comments. The following is a summary of the main points raised in these submissions:

Planning Authority

- That the Planning Authority have no further comments to make on the grounds of appeal.

Lower Kilmacow Residents Association

- That the first party omits the part of section 12.12.3 of the plan that specifies that mixed use developments in General Development zones should have a maximum of 80 percent residential.
- Restated that the sight lines are clearly not as required by the planning permission. The required sight lines cannot be provided within the property in the ownership of the first party.
- Still consider that development premature pending potential future upgrade of the local road in this location. There is a health and safety issue that is of primary concern to the appellants.
- That the proposals for the balance of the site are not acceptable as the Pill Road is unable to cater for additional traffic volumes. This part of the site would be without a frontage and would not be accessible for retail or commercial use.
- That the proposed density of development is c.39 units per ha. which is clearly contrary to the provisions of the LAP which specifies a maximum density of 29 per ha or 12 per acre. The density of development did not change with the further information response / revised layout.
- That it is understood that there are 34 persons on the housing list for Kilmacow and that this rises to 68 if second and third choices are included.
- That the population of the whole of Kilmacow (upper and lower) is 647 according to the 2016 census. The bulk of these are in the upper village and the proposed development would result in a 50% increase in the population of the lower village. It would be contrary to LAP policies to protect the character of the village.
- That a block wall would be required to separate the development from the Pill Road site and no pedestrian connection as proposed should be permitted.

- That existing houses would be devalued.
- That the upper and lower villages are no longer connected by footpath and the road is narrow and dangerous for pedestrians. There are no plans to address this in the near future.
- That the local bus link referred to is not a regular service but one that has to be booked and has limited operating times / service.
- The minimum open space provision and configuration of these spaces is noted. There is inadequate set back from site boundaries. Properties adjoining the site will experience a significant loss of privacy.
- That the floor areas of the apartments do not meet the minimums set out in Table 12.1 of the Kilkenny County Development Plan.
- There is an inadequate variety in the house types. There are no single storey houses and the access to units and open space areas would be dominated by car parking.
- Sustainability is purely addressed by the first party in terms of energy efficiency and not connections with the local area.
- That the layout makes no effort to integrate with the existing built environment. Only 15% of the public open space is located to the front of the units where it would be overlooked. There is no communal open space for the apartments.
- Parking is dominant, is not behind the building line as required in the plan and are not screened and excessively visible from the public road L-3401.
- That the proposal would be a sub standard suburban type of development that would be out of keeping with the village.
- That there remain concerns regarding the planning authority's vested interest in this development and it is noted that the first party is responding on this issue on behalf of the planning authority. The planning authority should be aware of its responsibility to have a code of conduct.
- It is noted that the correspondence on file from the housing section indicate that discussions regarding the purchase of the units took place between

September 19 and November 24 and raised significant questions regarding the decision, why these discussions were prior to the decision on the application and whether the outcome of the application was influenced by these discussions. Noted that s.34 of the Act restricts the considerations of the planning authority in making a decision

7.0 **Assessment**

7.1. The following are considered to be the main issues in the assessment of the subject appeal:

- Principle of development and land use zoning
- Design, scale and compatibility with existing village,
- Traffic and access,
- Appropriate assessment
- Other issues.

7.2. **Principle of Development and Land Use Zoning**

7.2.1. The site is zoned General Development under the provisions of the *Kilkenny County Development Plan, 2014-2020*. The site was also zoned general development under the provisions of the *Kilmacow Local Area Plan, 2009-2015*, however, with the adoption of the 2014 Kilkenny County Development Plan, this LAP has now been superseded with regard to zoning and priority of development.

7.2.2. Section 3.3.5 of the County Plan notes that a total 21 LAPs were prepared for settlements in the county prior to the adoption of the plan and Kilmacow is one of these 21 settlements. The Kilmacow LAP was still existing at the time of the adoption of the 2014 County Plan and in the case of such plans, section 3.3.5.2 states that where a smaller town or village has an extant local area plan with zoning objectives then this core strategy sets out a phasing map for the land within the LAP. These maps supersede the original zoning map within the relevant LAP. Figure 3.15 shows the zoning map now in effect for Kilmacow.

- 7.2.3. From Table 3.3 of the County Development Plan it can be seen that the smaller towns and villages in the county for which LAPs were or previously had been in place at the time of adoption of the county plan have a combined total of 13.6 ha. of undeveloped residentially zoned lands available. Of this, 7.8 ha is located within Kilmacow (Upper and Lower). It is not completely clear to me whether this 7.8 ha. comprises only Phase 1 residential lands as indicated on Figure 3.15 or comprises these lands plus general development lands. In either event, it is clear that there is a significant amount of undeveloped residentially zoned lands available in Kilmacow Upper and Lower.
- 7.2.4. Section 12.12 of the Plan relates to land use zoning objectives and 12.12.3 to the General Development zoned lands within the settlements of Kilmacow and New Ross. The stated objective is *'to provide for the development and improvement of appropriate uses in areas where existing commercial uses have established and allow for the development of the settlement as a focus for local services, sustaining and strengthening its role as a population centre'*. Dwellings are listed as a Permissible Use on lands zoned General Development in Kilmacow.
- 7.2.5. *Under the heading of Mixed Use Developments in 'General Development' Zones in Kilmacow, paragraph 12.12.3 of the County development Plan states that 'in order to promote mixed use developments within the areas zoned for general development, the following mechanisms will be applied in appropriate locations:*
- (a) Residential use will be limited to 80% of the site area during the lifetime of the plan.*
 - (b) Where two separate planning uses are proposed, no one singular use will prevail in terms of >80 percent of the site area.*
- 7.2.6. In the case of the proposed development, the residential use is a permissible use on lands zoned General Development and is therefore considered to be acceptable in principle. With regard to the extent of the site proposed for development and the proposed mono use, as part of the response to further information, the first party proposed that a section of the site located at the north east end of the site would be omitted from the development. The extent of this area is not clearly quantified in the response to further information, however the first party response to the appeal states that it comprises approximately 16 percent of the total site area. It is also stated in

the first party appeal response that the intended use of the balance of the site is for a retail / commercial development to be the subject of a separate application for permission in the future.

7.2.7. It is noted that in the Kilmacow LAP which has now been superseded by the County Plan, the stated General development Objective makes reference to the development and improvement of appropriate village centre uses *'in order to sustain and strengthen the role of Kilmacow as a local service centre, whilst respecting its existing character'*. This wording is not repeated in paragraph 12.12.3 of the County Development Plan. Paragraph 12.12 of the County Plan does however state that the purpose of the General Development zoning objective is *'to provide for the development and improvement of appropriate uses in areas where existing commercial uses have established and allow for the development of the settlement as a focus for local services, sustaining and strengthening its role as a population centre'*.

7.2.8. A number of issues relating to compatibility with land use zoning arise from the first party response to the further information request and response to the grounds of appeal. Firstly, while a portion of the site is proposed to be omitted, the extent of these lands is such that more than the 80 percent maximum specified in 12.12.3 of the Plan would remain in mono use, in this case residential. Secondly, while the first party states that the balance of the site is intended to be developed in the future as a retail / commercial development, this is not included as part of the current application. My interpretation of 12.12.3 of the development plan is that the maximum residential element on lands zoned general development is 80 percent. The proposed development while in excess of 80 percent would appear to be at c.84 percent of this area of general development lands.

7.2.9. The wording of 12.12.3 of the plan is in my opinion such that it is not necessary that proposals for the balance of the lands would be included in the current application. The fact remains however that the amount of non residential development proposed would be greater than the 80 percent maximum specified in the Plan. The wording of Paragraph 12.12 of the Plan where it seeks that development would *'...allow for the development of the settlement as a focus for local services, sustaining and strengthening its role as a population centre'* is such that I do not consider it appropriate that the 80 percent maximum residential element would be exceeded in

this case, indeed there is a case that it should be significantly less than the 80 percent given the absence of any existing retail or community facilities in the Lower village.

- 7.2.10. The third party appellants have raised concerns regarding the intended future use of the lands omitted from the revised layout, however it has been clarified as part of the appeal response that the intention is that these additional lands would be the subject of a separate future application for retail / commercial use. As stated above, this approach is in my opinion acceptable in principle. I would however have concerns with regard to the ability of the access from the Pill Road to cater successfully for commercial / retail uses on the site given the very restricted width of the road, the restricted parking or set down available and the poor alignment of the junction to the north.
- 7.2.11. On balance, therefore it is my opinion that while the proposed residential use is consistent with the core strategy set out in the county development plan and with permissible uses on lands zoned General Development, the extent of residential development proposed is excessive relative to the overall General Development land bank such that it would be contrary to the provisions of 12.12.3 of the Plan. I also consider that the proposed approach of separating the site into two with a future application for commercial / retail use to be made, while acceptable in principle, is such that it has not demonstrated how it could be satisfactorily integrated into the overall development. It is also my opinion that the impact of the future development of the balance of the site for retail / commercial use would likely give rise to significant traffic and pedestrian safety issues.

7.3. Design, Scale and Compatibility with Existing Village,

- 7.3.1. The appellants have raised a number of concerns with regard to the compatibility of the proposed development with the existing character and scale of the Lower Kilmacow settlement. Firstly, with regard to the statements in the appeal regarding the proposed purchase of the development by the Council, I note the issues raised by the appellants and agree that it is unusual that the Housing Department would make it known that they were in discussions with the applicant over a potential purchase prior to a decision being issued.

7.3.2. In terms of scale of development, the revised layout proposes a total of 16 no. units. The appellants state that this equates to an increase of approximately 50 percent in the existing population of Lower Kilmacow based on existing population figures. I am not able to verify this statement and the only population figure I can source is for the Kilmacow Lower small area in the 2016 census which was 227 persons in 84 houses. This area however includes rural hinterland outside of the village. The degree to which the proposed development would increase the population of Lower Kilmacow would however appear to be significant, and it should be noted again that Kilmacow Lower is essentially a separate settlement from Kilmacow Upper being separated by c.1km. In addition, the impact of the significant population increase would be compounded if the entirety of the proposed development was sold to the council for social housing and the appropriateness of the development being entirely social housing is in my opinion questionable given the size of the settlement and its separation from the main services in Kilmacow Upper.

7.3.3. With regard to accessibility, the appeal site is located in excess of 400 metres from the closest shop which is between it and Kilmacow Upper. The site is c.1km from the nearest community building and the two national schools in Kilmacow are both located in and to the north of Kilmacow North, c. 1.3 and 1.8km to the north of the appeal site. The connection between upper and lower Kilmacow is poor for pedestrians with no footpath and a narrow road of poor alignment. The history of this section of road is briefly explained in the third party submission where it is stated that the original footpath was removed c.40 years ago to provide more road width. Overall therefore, while the appeal site is located in an identified settlement, it is a location that, in my opinion, is not well served in terms of retail, recreational or educational uses. Connections by public transport to other settlements or employment places are not good and I note and agree with the submission of the third party that there is no scheduled public transport service serving Kilmacow Lower. The main access is by car with the M9 located only 2km to the east and Waterford City being c.8km to the south east.

7.3.4. With regard to the proposed housing mix and the principle of apartments on the site, I note the fact that the report of the Housing Department gives a detailed breakdown of the profile of persons on the social housing list and how these tally with the proposed unit breakdown in the development. Specifically, it is noted how the

proposed demand breaks down as 28% one bedroom requirement, 37% two bedroom, 31% three bedroom and 4% four bedroom. The proposed incorporation of 4 no. one bedroom and 4 no. two bedroom apartment units would clearly help to address this demand profile however it is not apparent that there would be a wider demand for units of that size in Kilmacow. The design of the proposed apartments is commented upon in more detail below however I would question the appropriateness of apartment units in a settlement such as Kilmacow due to the size and location of the settlement and also the distinctive character of Lower Kilmacow. The proposed development is essentially a suburban type layout which would be superimposed on the existing tight layout of buildings fronting onto the street which does not in my opinion fit well into its surroundings.

- 7.3.5. With regard to the revised layout submitted, I would share a number of the concerns expressed by the third party appellants, in particular regarding how the development addresses the existing village, the open space and the relationship between the proposed units and surrounding properties.
- 7.3.6. The revised layout proposes a significant amount of public open space to be located on the western and north western side of the site. The layout of this space is however such that the area at the northern end of the site to the north west of the proposed apartments is not overlooked or subject of passive surveillance. There is also an area c.5.5 metres wide to the rear (north east) of the apartments the use of which is not clear. The balance of the open space area comprises the area under the retained sycamore tree and a small area to the south of the access road into the development. Overall therefore while the quantum of open space provided is relatively large, I do not consider that the usability and quality of the space is high.
- 7.3.7. The size of units in terms of compliance with the development plan standard is cited by the appellants as an issue however the standards referenced have been superseded by the ministerial guidance and the Design Standards for New Apartments. Drawing PP05/A submitted as part of the further information response sets out in tabular form the proposed one and two bedroom apartments relative to the standards prescribed in the guidelines. In both cases the unit sizes are in excess of the standards specified in the guidance document.

- 7.3.8. The private amenity space to serve the dwellings is tight in a number of cases, particularly units 2 and 7, and I note and agree with the comments of the appellants where it is stated that there is inadequate separation distance between proposed dwellings and the site boundary. This is particularly the case at units 7 and 8 where the separation to the south east boundary is only c.8 metres.
- 7.3.9. Concerns has been expressed in the third party submissions regarding the potential for the proposed apartments to overlook the public house premises located to the north however the separation between the balconies of the first floor units and the boundary to the rear of the pub premises is c.13 metres at the closest point which, with appropriate screening, should be acceptable. Of greater concern in my opinion is the proximity of the apartment block to the southern site boundary and the curtilage of the detached dwelling located to the south of the site. The proposed development would, in my opinion have an adverse impact on the residential amenity of this property by virtue of overbearing visual impact and potential overlooking.
- 7.3.10. Overall, the form and layout of the proposed development is not in my opinion appropriate to a central location within a historic settlement such as Kilmacow. As highlighted above, the layout of open space areas is considered to be poor and development, while of a relatively low density, is located such that it is excessively close to site boundaries. Notwithstanding the comments of the Housing section regarding the mix on the social housing list, I am not convinced that the provision of apartments in this location is appropriate. The site is not located within an ACA identified in the County Development Plan however I note that the 2009-2015 LAP identified village character areas centred on the upper and lower village centres. Within such areas it was policy to ensure the protection of the special character of the areas particularly with regard to issues such as scale, proportions, building lines. EH17 stated that new development adjoining the VCA should provide a positive frontage to the road which extends and enhances the existing VCA streetscape. The appeal site is immediately to the south of the identified VCA for Kilmacow Lower and while this policy is not carried over into the County Development Plan it in my opinion indicates the appropriate form of development and considerations that should apply to the assessment of proposals on the appeal site. In my opinion the proposed

layout is excessively suburban in character and such that it would not make a positive contribution to the character of the lower village.

7.4. Traffic and Access,

- 7.4.1. The appellants have raised a number of concerns with regard to the traffic safety of the proposed layout and the internal circulation and parking within the proposed development. The initial layout proposed that access to the site would be via the existing road frontage onto Pill Road at the far eastern end of the site. To facilitate the access at this point it was proposed that a shed and disused dwelling in this part of the site would be demolished. Access onto the Pill Road results in traffic being discharged onto a very narrow section of road which, as set out in submissions on file can be characterised by significant parking and congestion. In addition, visibility at the junction of the Pill road with the local road to the north is restricted. For these reasons the access to the proposed development was relocated to the western side of the site when the revised layout was submitted as part of the further information request. For the reasons set out above relating to restricted visibility both at the access to Pill Road and particularly at the junction to the north plus congestion on Pill Road at certain times, it is considered that the access as originally proposed is not safe or appropriate. It is therefore proposed to proceed with an assessment of the traffic related aspects of the revised layout submitted to the Planning Authority by way of further information dated 8 May, 2018.
- 7.4.2. The revised access arrangement proposes an access onto the L-3401 located to the west of the site. The appellants contend that this access point is sub standard in terms of visibility, that a 90 metre sight line should be required at the access and that the layout of the proposed development (as revised by way of further information) is such that sight lines will be obstructed by site boundary walls and planting and vehicles within the development. The proximity of the entrance to the existing junction to the south is noted as is the general speed of traffic passing the proposed entrance point. A significant number of issues relating to the Road Safety Audit are also raised.

- 7.4.3. With regard to the sightlines and traffic speed at the entrance, the site boundary and the proposed entrance point are located within the 50 km/hr speed limit zone. The location of the speed limit zone on the L-3401 to the south of the site is such that it is located beyond (to the south of) the junction at the south west corner of the site and in a position whereby the 45 metre sightline from the entrance would be wholly located within the 50km/hr zone. The report attached to the third party appeal contends that the entrance to the proposed development is only located c.55 metres inside the 50km/hr zone and that this distance is the recommended distance in DMURS for the 50km/hr zone. From an inspection of the site, and as verified by the Kilkenny County Council speed limit by law maps for Kilmacow, the distance from the proposed site entrance to the 50km/hr speed limit point on the L-3401 is in excess of 100 metres and therefore very significantly above the 45 metres specified in DMURS.
- 7.4.4. With regard to the detail of the available sight lines, the further information response states that the 45 metre sight line at the revised location of access onto the L-3401 is indicated on Drg. L0415 -02 and 03. This drawing indicates the 45 metres forward visibility splay extending across the open space area to the front of the site and the site roadside boundary. I would also note that as indicated on the submitted drawing L0415-003 Rev B, the sight line to the south of the entrance for vehicles exiting is not drawn and that when drawn to the near edge of the road such a visibility line would not be possible with the roadside boundary to the side of Unit No.1 obstructing visibility. In any event, the view to the left hand side when exiting the proposed development is such that it would cross areas of landscaped open space as well as parking, shared surfaces and the boundary planting. While I accept that compromises in terms of visibility are required to provide for the development of infill sites such as the appeal site and also have regard to the fact that the alternative access from the east is not viable due to traffic safety reasons, and having regard to the provisions of DMURS I am of the opinion that the restrictions on sight visibility to the south of the entrance is such that the proposed entrance would constitute a traffic hazard.
- 7.4.5. I note the points raised by the third party appellants with regard to the actual speed of traffic on the section of the L3401 fronting the site and the absence of a traffic speed survey as part of the application documentation. Notwithstanding the

separation of the proposed entrance point from the 50km/hr point, my observations of traffic speeds at the time of inspection were varied with some vehicles from the south appearing to be travelling at greater than 50km/hr despite the tight radius of the bend on approach to the village. Notwithstanding the Roads Department recommendation for the installation of warning signs including a driver feedback sign on the L3401 on the approach from the south I consider that the location of the proposed access point is potentially problematic.

- 7.4.6. I note the reference in the third party submissions to the objective in the Kilmacow LAP to realign a section of the local road to the west of the site and the case put forward that should this upgrade be undertaken then the access proposed in this application would require the creation of another junction onto the realigned road. This road upgrade is not specifically referenced in the Kilkenny County Development Plan that only details national / regional schemes and pending the preparation of a new LAP it is not clear if there are still proposals for road realignment works in this location. It is however something that requires consideration and would appear likely to have potentially significant implications for the scheme layout in the future and for the open space area. Given the issues discussed above regarding sight lines and visibility at the entrance it would appear that some road realignment works may be required prior to a safe access to the site being provided.

7.5. **Appropriate Assessment**

- 7.5.1. The appeal site is not located within any European site. The closest such site is the Lower River Suir SAC (site code 002137) which is located c.3km to the south of the appeal site at the closest point. The development is proposed to be connected to the public water supply and drainage system and, as set out in 7.7 below, the site is not considered to be at risk of flooding. Having regard to these factors, to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

7.6. EIA

- 7.6.1. Having regard to the limited site size and number of units proposed, the separation of the site from European and other designated sites, the proposed connection of the development to public water and foul drainage connections and to the likely emissions from the site during and post construction, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can therefore be excluded at preliminary examination and a screening determination is not required.

7.7. Other Issues.

- 7.7.1. The development is proposed to be connected to the public **water and drainage** system in Kilmacow Lower. The existing Kilmacow wastewater treatment system and network was completed in 2011 and provides secondary treatment. As part of the response to further information submitted by the first party to the planning authority, they included correspondence from Irish Water stating that subject to a valid pre connection agreement the proposed connection to the Irish Water network can be facilitated.
- 7.7.2. With regard to **surface water drainage and flooding**, the site is located outside of any area identified in the OPW Draft Flood Mapping. The catchments.ie website containing water framework directive flood risk data does not identify Kilmacow as being at risk of river flooding from the River Blackwater. There are no recorded flood events on the site or in the immediate vicinity and the planning application form does not identify any flood history relating to the site. On the basis of the available information it is not considered that there is any substantive flood risk on the site.
- 7.7.3. With regard to **Part V** compliance, there is a report on file from the Housing section of the council which sets out how there is a social housing demand in Kilmacow and, on the basis of the initial layout proposed, requests that two of the housing units would be made available to the council in compliance with Part V. I note that there is reference on the appeal file (in the first party appeal response) to the fact that the council would have an interest in the acquisition of the entirety of the proposed development for social housing. This is not something which is certain and while it may not be desirable for a concentration of social housing to be provided in the small

scale settlement of Lower Kilmacow, it is open to the developer and the local authority to come to an arrangement for the purchase of additional units to those required under Part V.

- 7.7.4. With regard to **ecology**, I note the fact that there are a number of vacant structures which are located on the appeal site and which could be potential bat roosting habitat. Under the revised layout submitted as part of the further information response these structures are proposed to be retained. I do not therefore consider that there would be any adverse impacts arising for bats. With regard to Kingfisher and otter cited by the appellants and the potential for there to be disturbance arising that would adversely impact on these species, I consider that the location of the site relative to the river and the separation distance is such that no significant disturbance is likely. In any event it is not clear that there are otter holts or other sites located on the section of river in close proximity to the appeal site.
- 7.7.5. With regard to **archaeology**, I note the recommendation of the Conservation Officer that any grant of permission would be subject to archaeological investigations. In the event of a grant of permission it is recommended that a condition to this effect would be attached.

8.0 Recommendation

- 8.1. Having regard to the above, it is recommended that permission be refused based on the following reasons and considerations:

9.0 Reasons and Considerations

1. Having regard to the location of the proposed access at a point on the road network where there is a sharp bend in the road to the south of the entrance which restricts visibility, to the extent of the application site which intrudes into the visibility triangle to the south of the proposed entrance and to the proposed layout of the site and the development to be undertaken within this area it is considered that inadequate sightlines and forward visibility would be available to the south of the proposed entrance and that the requirements set out in section 4.4.4 of DMURS cannot be met. The proposed development would therefore endanger public safety by reason of a traffic hazard.

2. Having regard to the suburban character of the proposed layout and the incorporation of apartment units it is considered that the design and mix of units would be contrary to the established character of Kilmacow Lower and would have an overall negative impact on the character and setting of the village. The proposed development would therefore be contrary to development management standard set out at 8.3.8 of the Kilkenny County Development Plan, 2014-2020 which seeks to protect, conserve and where necessary restore the quality, character and distinctiveness of the townscapes of the county, and would be contrary to the proper planning and sustainable development of the area.
3. Having regard to the layout of the proposed development in particular the configuration of public open space areas and the proximity of development to site boundaries and existing surrounding development, to the quantum of residential development proposed on lands zoned for General Development and to the issues arising for the future access to the balance of the site from the Pil Road it is considered that the proposed development would result in a sub standard form of residential development that would have a negative impact on surrounding properties by virtue of overlooking and overbearing visual impact and poor level of residential amenity for occupants and would result in an excessive quantum of residential development with inadequate consideration for the future development of the balance of the site for other land uses. The proposed development would therefore seriously injure the amenities and depreciate the value of properties in the vicinity and result in a poor quality of residential amenity for future occupants of the development, would be contrary to the provisions of paragraph 12.12.3 of the Kilkenny County Development Plan relating to residential development in General Development zones and would generally be contrary to the proper planning and sustainable development of the area.

Stephen Kay
Planning Inspector

4th October 2018

