



An  
Bord  
Pleanála

## Inspector's Report ABP-302399-18

<b>Development</b>	Construction of an additional floor to a previously approved three-storey apartment block- Block B
<b>Location</b>	Glen Easton, Leixlip, County Kildare
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	18/663
<b>Applicant(s)</b>	Killross Properties Limited.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refusal.
<b>Type of Appeal</b>	First Party V. Decision
<b>Appellant(s)</b>	Killross Properties Ltd.
<b>Observer(s)</b>	1. Carl Crehan. 2. Conrad Burke.
<b>Date of Site Inspection</b>	11 <sup>th</sup> January 2019.
<b>Inspector</b>	Susan McHugh

## 1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Easton c. 2km on the western outskirts of Leixlip town centre and c. 700m north of Junction 6 on the M4 Motorway.
- 1.2. It has a stated area of 0.2375 hectares and forms the northernmost part a larger development site c.8.13hectares. The overall site fronts on to Green Lane to the south. This residential scheme is currently under construction, with several houses already occupied.
- 1.3. The appeal site is bounded to the north by the Dublin-Sligo Rail line and Royal Canal, to the east by the residential development at Glen Easton Woods, to the south by a construction site and to the west by the R449 Regional Road. The R449 is a dual carriageway providing a link to the M4 motorway and rises above the appeal site. There is an existing high voltage powerline (110kV) located to the west of the site.
- 1.4. The Dublin to Sligo railway in the vicinity of the site accommodates intercity and suburban rail services. Leixlip (Louisa Bridge) Train Station is c. 1km walk from the appeal site and Intel Campus is c. 350m to the north of the site.
- 1.5. Glen Easton is an established residential estate characterised by detached and semi-detached two storey houses arranged around a cul de sac layout with vehicular access to the estate taken from Green Lane. Green Lane includes cycle lanes and footpaths and is served by the 66x bus route.
- 1.6. The eastern boundaries of the appeal site comprises, a strong mature hedgerow and two-metre-high concrete panel fence to the gable of house no. 9, the cul de sac and the rear garden walls of house no. 12 and 13 Glen Easton Woods. The remaining boundaries are not defined.

## 2.0 Proposed Development

- 2.1. Permission is sought for the construction of an additional floor to a previously approved 3 storey apartment block. Block B was previously granted planning permission under P.A. Reg. Ref. 16/282 ABP PL09.247909 and is referred to as The Mews, Westfield, Green Lane.

- 2.2. The additional gross floor space is 498.2 sqm. and replicates the design and layout of the permitted floors, and comprises 5 no. 2 bed apartments.
- 2.3. The increase in height from 3 storey (10.55m) to 4 storeys (13.7m) results in an increase of 3.15m.
- 2.4. Permission is also sought for amendments to the site layout to provide for the required additional car parking spaces along with all other ancillary site development works.
- 2.5. The application was accompanied by;
  - A Shadow Study

### 3.0 Planning Authority Decision

#### 3.1. Decision

The Planning Authority decided to **refuse** permission for the following reason;

*'The proposed development, by virtue of the proposed increase in height and proximity to existing established residential areas to the east, would contravene the design criteria for Key Development Area 2 Easton as contained in the Leixlip Local Area Plan 2017-2023 which stipulated two storey development along the eastern perimeter and would result in a visually overbearing development which would overshadow and overlook neighbouring dwellings to the east. The proposed development would be contrary to the zoning objective for that area which seeks 'to protect and enhance the amenity of established residential communities', would set an undesirable precedent and would therefore be contrary to the proper planning and sustainable development of the area.'*

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Reports (dated 24/07/2018 and 27/07/2018)

Basis for the planning authority decision. The first planning report by the Assistant Planner recommends further information on the following:

- *Overlooking* - Recommends further information to clarify if the increase in height would undermine the screening effect of existing vegetation.
- *Overshadowing* – Existing dwellings to the east would receive over 3.5 hours of unobstructed sunlight between 12pm and 4pm and meet the recommended BRE Guide criteria.
- *Overbearing/Visual Dominance* – Notes the design brief (KDA2) for the site and reference to recommended two storey height along the eastern perimeter which the subject proposal effectively seeks to double this. Recommends that the applicant submit 3D photomontages of the permitted and proposed development.
- *Building Height/Design* – Design of the fourth storey is not distinguishable from the lower levels in terms of architectural treatment and finishes, and recommends that the fourth storey be stepped back from the outer walls of the overall building and the use of alternative finishes/materials or the use of contemporary roof treatment.
- *Apartment Guidelines* – Each of the units proposed complies with the minimum floor area requirements SPPR 3, and dual aspect ratios of SPPR 4.
- *Car Parking* – Provision accords with Development Plan standards set out in table 17.9.
- *Communal Open Space & Bicycle Parking*– Recommends further information in relation to the provision of additional open space, bicycle parking and bin storage space.

The Area Planners recommendation to request further information was not accepted by the Senior Planner who outlined the main reasons for recommending a refusal of permission, summarised as follows:

- Leixlip Local Area Plan 2017-2023 - Application site identified as a Key Development Area 2: Easton (off Green Lane)
- The potential impact of the 3 storey apartment block on the houses at Glen Easton Woods and Gardens was discussed in detail by the Inspector under the parent application and appeal ABP 09.247909.
- Current proposal as illustrated in the shadow diagrams submitted by the applicant would result in overshadowing of existing homes. This would materially contravene

the zoning objective pertaining to the area which is to protect and enhance the amenity of established residential communities.

- The proposal would also contravene the design criteria for KDA 2 as contained in the Leixlip Local Area Plan 2017-2023.

### 3.2.2. **Other Technical Reports**

**Area Engineer:** Recommends no objection.

**Water Services:** Recommends no objection subject to conditions.

**Environment:** Recommends no objection subject to conditions.

**Roads and Transport Section:** Recommends further information in relation to a shortfall in car parking.

**EHO:** Recommends further information in relation to waste and refuse storage.

**Housing Part V:** Recommends additional Part V obligations apply.

**CFO:** Recommends no objection subject to requirements.

**Building Control:** Recommends no objection.

### 3.3. **Prescribed Bodies**

**Irish Water:** Recommends no objection subject to requirements.

### 3.4. **Further Referrals**

Having regard to the proposed development being located in proximity to the Rye Water/Carton Valley, special area of conservation, the Board referred the proposed development to Inland Fisheries Ireland (IFI), An Taisce, The Heritage Council and the Development Applications Unit, Department of Culture, Heritage and the Gaeltacht. The application was also referred to Kildare County Childcare Committee. No reports were received at the time of writing.

### 3.5. Third Party Observations

3.5.1. A number of observations were submitted from the following parties;

#### *Community Groups*

Louisa Valley Residents Association, C/o Niall McIntyre, 6 The Avenue, Louisa Valley

Glen Easton Residents Association, C/o Ed Vaughan, 26 Glen Easton Woods

Leixlip Planning Alliance, C/o Denis Mc Carthy, 159 Ryevale Lawns

#### *Elected Representatives*

Catherine Murphy TD, Dail Eireann, Leinster House, Dublin 2

Bernard Durkan TD, Dail Eireann, Leinster House, Dublin 2

James Lawless TD, Wolfe Tone Street, Naas

Cllr. Íde Cussen, 10 Priory Green, St. Rathaél's, Celbridge

Cllr. Tim Durkan, Timard, Maynooth

Cllr. Anthony Larkin, 1 Rinawade Green, Rinawade

#### *Residents*

Carl Crehan & Ciara Crehan, 3 Glen Easton Woods, Leixlip

Ed and Carol Vaughan, 26 Glen Easton Woods, Leixlip

John and Edel Kelly, 16 Glen Easton Gardens, Leixlip

Bernie and Bobby Harpur, 8 Glen Easton Woods, Leixlip

Conrad Burke, 7 Glen Easton Woods, Leixlip

Ronan Ardiffe and Audrey Bryan, 10 Knockaulin, Leixlip

Jean O'Hara, 14 Glen Easton Woods, Leixlip

Kevin and Julie Hickey, 9 Glen Easton Woods, Leixlip

Issues raised in objections can be summarised as follows;

- Excessive building height, and residential density contrary to Leixlip LAP
- Negative impact on residential amenities of established residential areas
- Overlooking, and overshadowing
- Location of bin storage would give rise to nuisance
- Premature pending adoption of LAP, and set a poor precedent
- Piecemeal development
- Contrast with established pattern of development

## 4.0 Planning History

### *Parent Permission*

**P.A. Reg.Ref.16/282 ABP PL09.247909** Permission **granted** 26/05/2017 for construction of 198 units, comprising 168 houses, 30 apartments in two blocks and childcare facility. This permission is being implemented. File attached. Conditions of note include the following;

Condition No. 6 (a) relates to landscaping and specifically to the retention of existing hedgerow and additional screen planting to the entire eastern boundary of the site to adequately screen the proposed development from the existing dwellings to the east.

Condition No. 13 (a) requires the provision for two cycleway and pedestrian links from the development to the R449. Condition No. 13 (b) requires the provision of a pedestrian and cycle link from the development to the adjoining housing estate road/footpath in Glen Easton Woods.

### *Recent Amendment Permissions to Apartment Block A*

**P.A. Reg. Ref. 18/662** Permission **granted** 04/12/2018 for the construction of an additional floor to the approved 4 storey apartment block - Block A, previously granted planning permission under Reg. Ref. 16/282 and 17/1374, comprising an additional 5 no. 2 bed apartments along with amendments to the site layout to

provide for the required additional car parking spaces along with all other ancillary site development works. Revised by significant further information consisting of a reduction in the number of apartments from 5 to 4 along with revisions to the design and car parking spaces. This permission has not been implemented to date. (Floor plan and section drawing attached).

**P.A. Reg. Ref. 17/1374** Permission **granted** 18/05/2018 for construction of an additional floor to the approved 3 storey apartment block - Block A, comprising an additional 5 no. 2 bed apartments along with amendments to the site layout to provide for the required additional car parking spaces along with all other ancillary site development works. This permission has not been implemented to date.

#### *Recent Amendment Permissions to House Types.*

A number of applications for amendments to the parent permission including **P.A. Reg. Ref. 18/661**, **P.A. Reg. Ref. 18/664**, and **P.A. Reg. Ref. 18/665** were granted 23/11/2018. A separate application under **P.A. Reg. Ref. 17/1375** was also granted 09/05/2018.

These permissions provide for changes in house types and overall increase in the number of houses of 2 units.

**ABP Reference RL3113:** Temporary 110kV electricity transmission line at Easton, Leixlip, County Kildare is development and is exempted development April 2014.

## **5.0 Policy Context**

### **5.1. Development Plan**

#### **5.1.1. Kildare County Development Plan 2017-2023**

Leixlip is designated as a '**Large Growth Town II**' within the Metropolitan area of Dublin.

In the Regional Planning Guidelines, it is an objective to allocate growth within the Metropolitan towns of Leixlip, Maynooth, Celbridge, and Kilcock. This is to be



achieved by allocating a minimum of 35% of the total growth rate allocation for the county. This target will increase their share of the total population in the county from 25% in 2011 to 27% in 2023.

**Chapter 3** sets out the Settlement Strategy and allocates housing growth of 3,315 new housing units in Leixlip for the plan period to 2023.

**Chapter 4** sets out Housing Policy in relation to Outer Suburban/'Greenfield' Sites which notes that *'The development of these sites may require the provision of new infrastructure... and that It is therefore necessary to achieve net residential densities that make efficient use of these lands in the context of their location and provide a variety of housing types in order to justify the development of these sites.'*

**Chapter 16** sets out Urban Design Guidelines.

**Chapter 17** sets out Development Management Standards, which include car parking standards. The requirement for apartments is 1.5 spaces per unit plus 1 visitor space per 4 apartments.

**Section 17.2.4** refers to Overlooking and states

In general, a minimum distance of 22 metres between opposing above-ground floor level windows is required for habitable rooms. In cases of innovative design where overlooking into habitable rooms does not occur, this figure may be reduced. A separation distance of 35 metres will normally be required in the case of overlooking living room windows and balconies at upper floors.

Adequate separation distances will be required for buildings overlooking school playgrounds or other sensitive uses. These will be determined at planning application stage. Innovative design solutions to avoid undue overlooking will be encouraged.

**Sections 17.2.1** Building Heights, **Section 17.2.5** Overshadowing and **Section 17.4** Residential Development are also of relevance.

## 5.2. **Leixlip Local Area Plan 2017-2023**

The Elected Members of Kildare County Council adopted the Leixlip Local Area Plan 2017-2023 with material alterations on Monday 20<sup>th</sup> November 2017.

On 6<sup>th</sup> March 2018 the Minister of State at the Department of Housing, Planning and Local Government issued a Direction to the planning authority to prepare a revised

Draft Leixlip Local Area Plan under s.20 of the Planning & Development Act 2000 (as amended), to ensure that sufficient and suitable lands are zoned for residential use to meet the statutory housing requirement of the order of 3,300 new dwellings for Leixlip as required by the Core Strategy of the Kildare County Development Plan 2017-23.

The planning authority are currently engaged in pre-draft public consultation.

Under the previously adopted Leixlip Local Area Plan 2017-2023 the appeal site is within an area zoned '**C – New Residential**', with the objective '*To provide for New Residential Development*'. It is also identified within Key Development Area 2: Easton (off Green Lane) See map attached.

**Section 12.1.2** sets out a design brief to guide development in Key Development Area (KDA) 2 and specifically refers to the residential amenity of existing dwellings to the east that buildings should be 2 storeys in height along the perimeter. (see attached).

### 5.3. **Relevant Planning Policy**

- Project Ireland 2040 – National Planning Framework
- The Regional Planning Guidelines for the Greater Dublin Area 2010-2022.
- Sustainable Residential Development in Urban Areas 2008 (including the associated (Urban Design Manual).
- Design Manual for Urban Roads and Streets 2013.
- Sustainable Urban Housing: Design Standards for New Apartment Guidelines for Planning Authorities 2018.
- Urban Development and Building Heights Guidelines for Planning Authorities December 2018.
- Site layout Planning for Sunlight and Daylight.

## 5.4. Natural Heritage Designations

5.4.1. The following European site is within a 15km radius of the appeal site:

Site Name	Designation	Site Code	Distance
Rye Water Valley/Carton	SAC	001398	800m NE
Rye Water Valley/Carton	pNHA	000128	800m NE
Royal Canal	pNHA	002103	15m N

## 5.5. Environmental Impact Assessment

5.5.1. Having regard to the nature the proposed development, which consists of a residential development of 5 no. units, the nature of the receiving environment, and proximity to the nearest sensitive location, 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.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The First Party appeal was submitted by Declan Brassil and Associates Planning Consultants on behalf of the applicant against the decision to refuse permission by the planning authority. The grounds of appeal can be summarised as follows;

- *Identical to Block A* - Permission to increase height of permitted Block A from 3 to 4 storey under 17/1374 resulted in an increase in height from 10.55m to 13.7m an increase of 3.15m identical to the subject appeal proposal. Although Block A does not adjoin any existing residential development it proposes a similar interface with proposed/approved semi-detached dwellings to the north east.

- *Concurrent application* - for permission to increase height of permitted Block A from 4 to 5 storey under 18/662 decision pending.
- *Assessment* - The planning authority's assessment of the subject application had regard to the previous inspector's report in relation to overlooking, overshadowing, visual impact, design and appearance.
- *Residential Amenity* - Realistically only no. 12 Glen Easton Woods could potentially be affected from a residential amenity perspective.
- *Visual Impact* - A Visual Impact Assessment was carried out and includes photomontages which demonstrate a comparison between the permitted and proposed development as viewed from nearby dwellings to the east at Glen Easton Woods. The east west alignment of the Block and the screening effect of existing trees along the cul de sac is noted.
- *Overshadowing* - A Shadow Study was carried out which concludes that the proposed development would not give rise to any significant adverse overshadowing impacts on the rear gardens of the adjoining properties to the east. The inclusion of overshadowing impacts within the planning authority's reason for refusal is grossly unsubstantiated.
- *Overlooking* – The north facing balcony could include screening along its eastern cheek, and revisions to the east facing window comprise a high-level window proposed to address overlooking of the rear gardens of No's 12 and 13 Glen Easton Woods. Notes discrepancy between floor plans and elevation drawings in terms of windows on east elevation of apartment No. 17.
- Views from the east facing balcony are directed towards the front gardens of No's 9 and 8 Glen Easton Woods. It is also suggested that potential overlooking from the east facing balcony of the southernmost unit could be mitigated similar to the north facing balcony with the inclusion of screening along its southern cheek. The four south facing windows could also be modified to comprise high level windows only.
- *Design* - The proposal respects and responds sensitively to the intent of the design guidance offered in the Draft Leixlip LAP in respect of KDA2.

- *Precedent* – A previous permission issued under P.A. Reg. Ref. 17/1374 for an additional floor to an originally permitted 3 storey Block A provides a precedent.

## 6.2. Planning Authority Response

The planning authority response to the first party appeal is summarised as follows:

- There are material differences between the consideration of proposed Block A and Block B.
- Block B is adjacent to an existing well established residential area Glen Easton which is zoned '*to protect and enhance the amenity of established residential communities.*'
- Block A is not in close proximity to an existing well established residential area and forms part of a new residential area zoned '*to provide for new residential communities.*'
- The Design Brief for Key Development Area 2 contained in the Leixlip Local Area Plan 2017-2023 clearly indicates that 2 storey development is appropriate along the eastern perimeter of the zoned lands where Block B is located, and it states that 3-4 storeys may be appropriate at the roundabout junction of the R449 and Green Lane along the perimeter with the R449 where Block A is located.
- The decision to refuse permission is reasonable given the provisions of the Leixlip Local Area Plan 2017-2023 in this regard.

## 6.3. Observations

Two observations were lodged from the following parties;

1. Carl and Ciara Crehan, 3 Glen Easton Woods
2. Conrad Burke, 7 Glen Easton Woods

The issues raised can be summarised as follows;

- Contravenes both the Draft Leixlip LAP and recently adopted Kildare County Development Plan.
- Overshadowing, overlooking from east facing balconies and loss of privacy.
- Context of Block A which received permission for an additional floor is not comparable to Block B.
- Devaluation of property.
- The issue of zoning has not been addressed by the applicant.
- A visual assessment was carried out for Block A and should have been carried out for Block B. The apartment block would be the dominant aspect as one drives onto the cul de sac and would dominate the western skyline and would be overbearing.
- Insufficient car parking.

#### 6.4. Further Responses

The applicant responded to the planning authority's response and is summarised as follows;

- Residential amenity considerations such as overlooking (loss of privacy), visual impact and loss of light due to overshadowing apply equally to established residential development and internally within the proposed development scheme. The County Development Plan makes no distinction between existing and proposed residential amenity.
- Permission under P.A. Reg. Ref. 17/1374 is an appropriate precedent.
- The Leixlip LAP 2017-2023 is only a draft LAP that requires amendment on foot of a Ministerial Direction, and that an amended LAP is only likely to go on display towards the end of Q1 of 2019.
- Notes the generous separation distance that can be retained to Block B, which will exceed that associated with a typical suburban housing configuration of two storey houses backing onto one another.

- The permitted three storey height of Block B is comparable to the height of the permitted two storey houses along the eastern boundary further to the south. The additional floor would result in an increase in the perceived height of the block by only one floor to correspond with a three storey height rather than a doubling of the permitted height as perceived by the planning authority planner.
- Design guidance in the Draft Leixlip LAP (to be revised) for KDA 2 is not to be slavishly followed, and a low rise prescriptive building height is seriously at odds with the guidance contained in the Draft Urban Development and Building Heights Guidelines for Planning Authorities (August 2018).
- Refers to the Draft Urban Development and Building Heights Guidelines which emphasise the need for urban consolidation, intensification and densification of both brownfield and greenfield sites.
- Following adoption of the Draft Guidelines, all Development Plans and the Draft revised LAP will need to be reviewed to ensure consistency with this latest planning guidance, which clearly seeks to establish greater flexibility in terms of permissible built forms on suburban edge sites and to avoid the use of prescriptive height restrictions.

## 7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Appropriate Assessment also needs to be considered. The issues are addressed under the following headings;

- Principle and Consistency with Statutory Plans
- Height and Visual Impact
- Impact on Residential Amenity
- Car Parking
- Pedestrian/Cyclist Linkages
- Open Space
- Appropriate Assessment

- 7.1. I refer the Board to the previous planning history on the overall landholding under P.A. Reg.Ref.16/282 ABP PL09.247909 whereby permission was granted in 2017 for a residential scheme including two blocks of three storey apartments, Block A and Block B. Block B relates to the subject appeal site.
- 7.2. The appellants have submitted that the current proposal is very similar to a subsequent amendment application to Block A under P.A. Reg. Ref. 17/1374 whereby permission was granted in 2018 for an additional floor to the 3 storey Block. They also note a concurrent application P.A. Reg. Ref. 18/662 for an additional floor to the permitted 4 storey block, Block A. This application was granted permission by the planning authority in December 2018. The main differences between the previous applications in respect of Block A, and the current application relate to the proximity of Block B to existing residential development. My assessment will focus on the current proposal on its own merits.
- 7.3. **Principle and Consistency with Statutory Plans**
- 7.3.1. The Kildare County Development Plan 2017-2023 is the current statutory development plan for the area. The appeal site which is located on the western edge of Leixlip designated as a Large Growth Town II in the Regional Planning Guidelines for the Greater Dublin Area. The Settlement Strategy allocates housing growth of 3,315 new housing units in Leixlip for the plan period to 2023.
- 7.3.2. The previously adopted Leixlip Local Area Plan 2017-2023 (currently under review following a Ministerial Directive) identifies the site as being zoned 'C – New Residential', with the objective '*To provide for New Residential Development*'. Dwellings are permitted in principle within this zoning objective. It is proposed to provide an additional floor comprising 5 no. apartments to an already permitted 3 storey apartment block which forms part of a larger permitted residential scheme. The principle of apartments therefore is already established and the additional units are considered acceptable at this location.
- 7.3.3. I am satisfied that the proposal is broadly in line with the County Development Plan and is not premature pending the current review of the Leixlip Local Area Plan.



#### 7.4. Height and Visual Impact

- 7.4.1. Reason for refusal no. 1 refers to the increase in height of apartment Block B and proximity to existing established residential areas to the east which would result in a visually overbearing development. I note concerns raised in a number of observations in relation to the proposed height increase. The increase from 3 storeys (10.55m) to 4 storeys (13.7m) results in an increase in height of 3.15m.
- 7.4.2. The original parent permission includes another 3 storey apartment Block A, which under two subsequent applications detailed in Section 4 above obtained permission for an additional floor as a 4 storey block and additional floor as a 5 storey block. Block A is located some distance from the subject appeal site and does not adjoin existing residential properties. It is also worth noting that the later permission for a 5 storey block under P.A. Reg. Ref. 18/662 was modified to provide for a reduced number of apartments from 5 to 4 with a revised design incorporating a set back of the fourth floor.
- 7.4.3. Under the previously adopted Leixlip Local Area Plan 2017-2023 the site is identified as being located within Key Development Area 2: Easton (off Green Lane) which includes a design brief to guide development. It specifically refers to the residential amenity of existing dwellings to the east and that buildings should be 2 storeys in height along the perimeter.
- 7.4.4. I would agree that the most sensitive receptor regarding height in the current application are the existing two storey houses to the east. However, I do not accept that the design criteria for KDA 2 (as set out in the in the Leixlip LAP which is currently under review) which restricts development to two storeys along the eastern boundary of the site should limit the scale of residential development on this site.
- 7.4.5. I am also cognisant of the recent Urban Development and Building Heights Guidelines for Planning Authorities. In relation to local area plans the guidelines encourage a more proactive and more flexible approach in securing compact urban growth through a combination of both facilitating increased densities and heights, while also mindful of the quality of development and balancing the amenity and environmental considerations. In relation to building height in suburban /edge locations of towns, such as the appeal site, Paragraph 3.4 states that '*newer housing developments outside city and town centres and inner suburbs, i.e. the suburban*

*edges of towns and cities, typically now include town-houses (2-3 storey), duplexes (3-4 storeys and apartments (4 storeys upwards).’ It also notes that ‘such developments also address the need for more 1 and 2 bedroom units in line with wider demographic and household formation trends.’*

- 7.4.6. Paragraph 3.7 states that for *‘suburban edges of towns and cities for both infill and greenfield development and should not be subject to specific height restrictions.’*
- 7.4.7. In order to get the most efficient use from serviced residential land, especially sites adjoining public transport corridors, higher buildings are an intrinsic component. This suburban area is characterised by low density two-storey housing. In order to achieve a balance of housing mix and achieve more efficient use of the finite land resource remaining, higher buildings are an essential element of new developments, particularly as outlined above, those served by high quality public transport. Replicating the existing pattern of development in the area would not be a sustainable use of land and the proposal seeks to provide a balance in the achievement of a sustainable development providing a mix of unit types set within an established residential context adjoining more traditional suburban development.
- 7.4.8. The applicant submitted a number of photomontages to illustrate the visual impact arising from the increase in height from that already permitted as part of the grounds of appeal. I would draw the attention of the Board to Appendix C View B which provides a view of the proposed development from the cul de sac at Glen Easton Woods. I have reviewed the visual impact assessment and note in particular the alignment of the block relative to adjoining residential properties, and existing planting along the cul de sac with the appeal site and that to the rear particularly of house no’s 12 and 13 Glen Easton Woods.
- 7.4.9. I am satisfied that the proposed additional floor will be partially screened from the neighbouring estate by existing and proposed planting and is acceptable having regard to the Urban Development and Building Heights Guidelines.
- 7.4.10. I have considered the merit in modifying the design of the proposal and in particular to the setting back of the proposed additional floor and consequent reduction in number of units from 5 to 4, as was permitted in Block A under P.A. Reg. Ref. 18/662. I also consider that this approach may help to reduce the overall bulk, scale and massing and be more in keeping with the design of the permitted development

in Block A. It would also have the benefit of reducing the requirement for car parking and communal open space which are discussed in more detail below. However, on balance I consider this arrangement may result in larger balcony areas which have the further potential for overlooking of adjoining residential properties. I am also of the opinion that such amendments which require a redesign and consequent reduction in the number of units would constitute a material change to the proposed development. Therefore, I have based my assessment on the proposed development without this modification accordingly.

- 7.4.11. I address residential amenity separately below, but am satisfied that the additional floor as proposed would not impact on the residential amenity of existing property by reason of overlooking or overshadowing. Furthermore, it would not be perceived as overbearing given the separation distances.
- 7.4.12. There is also concern expressed that the four storey apartment block is not in keeping with the area. As I note above, the predominant local characteristic is low density two-storey housing. The 4 storey apartment block facilitates a more efficient use of the site area. The existence of two-storey units in the area does not create a blanket ban on more innovative unit design in fact I would suggest that the prevalence of a single type of unit type within the wider area requires the development going forward should provide a mix of unit types such as that proposed.

## **7.5. Impact on Residential Amenity**

- 7.5.1. Reason for refusal no. 1 refers to the impact on residential amenity in terms of *'overshadowing and overlooking of neighbouring dwellings to the east'*.
- 7.5.2. The appeal site shares its eastern boundary with the existing cul de sac and two storey semi-detached houses within the Glen Easton Woods estate. This residential estate is zoned B' – Existing Residential and Infill' with the objective *'to protect and enhance the amenity of established residential communities and promote sustainable intensification'*. The proposed development was considered by the planning authority to contravene this zoning objective.
- 7.5.3. The permitted 3 storey apartment block faces onto the cul de sac at Glen Easton Woods. House no's 12 and 13 are located to the north of the cul de sac and back

onto the boundary with the subject site. While House no. 9 is located to the south of the cul de sac, with the side and front garden adjoining the subject site.

- 7.5.4. The permitted 3 storey apartment block is set 35.2 meters from the rear elevations of house no's 12 and 13 Glen Easton Woods and 17.7 metres from their rear boundaries. I would also note that both of these properties include extensions to the rear. The boundary between the appeal site and rear gardens comprises a mature hedgerow with mature Ash trees and a 1.8metre high concrete panel fence. The existing boundary treatment already casts shadow onto the gardens at present.
- 7.5.5. I would refer the Board to the shadow analysis submitted and to Figure 4.4 and Figure 5.5 which detail the comparative shadow cast on 20<sup>th</sup> March and September 23<sup>rd</sup> between the permitted and as proposed block along the eastern boundary.
- 7.5.6. Given the existing boundary treatment, separation distances involved and orientation of the site I consider that the shadow impact of the additional floor to the apartment block will only be marginally greater than that already permitted. In addition, the adjoining rear gardens to the east will receive continuous and unaffected sunlight penetration from at least 9am to 3pm in the afternoons, and as such will comfortably meet the relevant 2-hour BRE standard in this regard. I also note that the initial planning report of the planning authority also acknowledges that the relevant standard would be exceeded.
- 7.5.7. The design of the permitted 3 storey block and the additional third floor provides for three of the five apartments per floor on the east side of the block. These units each contain balconies. The proposed additional floor replicates the permitted floor plans and includes one north facing balcony serving apartment No. 17 and two other east facing balconies serving apartment No's 18 and 19.
- 7.5.8. The applicants acknowledge in the grounds of appeal that there may be a perception of overlooking from the north facing balcony looking eastwards towards the rear of No's 12 and 13 Glen Easton Woods. They have therefore, proposed that an appropriate condition requiring a screen along the eastern cheek of the north facing balcony to direct views northwards the details of which could be agreed by way of compliance. I note that the separation distances from the common rear boundary with No. 12 Glen Easton Woods and the rear garden depth of No. 12 which

measures approximately 15.5m and the total separation distance to the rear elevation of No. 12 at first floor level of approximately 35.2m.

- 7.5.9. The County Development Plan recommends that a separation distance of 35 metres will normally apply to balconies and windows at upper floors, and therefore the proposed development is in accordance with the development plan standard.
- 7.5.10. I am satisfied therefore, that subject to screening as proposed that the proposed balcony will not give rise to undue overlooking of adjoining residential properties.
- 7.5.11. The applicant also highlights that there is a discrepancy between the floor plans and elevation drawings, in that windows shown on the east facing elevation to apartment No. 17 are not indicated on the floor plans. These windows serve a bedroom, en-suite and bathroom. The applicant proposes therefore, that the windows to the en-suite and bathroom be obscure glazing only and that a high level slotted window be provided to avoid views eastwards. I am satisfied that this can be dealt with by way of condition, and addresses the potential of overlooking from these windows.
- 7.5.12. In terms of overlooking from the east facing balcony of the middle unit apartment no. 18, I note that this balcony is recessed and faces onto the cul de sac. The applicant also notes that the southern wall of the northern unit no. 17 forms a solid high-level cheek to this balcony which provides screening and views at an oblique angle towards No's 12 and 13 Glen Easton Woods. It is also acknowledged that there is mature planting along the rear boundaries of these properties which would screen direct views into their gardens. I am satisfied therefore that the design of this balcony and set back from adjoining rear gardens will not give rise to significant overlooking.
- 7.5.13. In relation to the third balcony serving the southern unit no. 19, this has been aligned with the western flank and front garden of No. 9 Glen Easton Woods, and I am satisfied that this does not pose any significant issue in terms of overlooking. I also note that there are no windows located on the side west facing gable of this house. The applicant however, does recognise that there may be potential overlooking of permitted houses within the overall scheme, and proposes similar to apartment No. 17 that screening be provided on the southern cheek of the balcony in order to prevent direct southerly views from this balcony. The applicant also proposes a further modification to the four south facing windows which could comprise high level

windows only. I consider this reasonable and am satisfied that these modifications can be dealt with by way of an appropriate condition.

7.5.14. I note the location of the existing 110kv line to the west of the appeal site, which is a constraint and means the relocation of the block further west as a mitigation measure is not an option. I also note the mature planting along the boundaries and condition 6 (a) of the parent permission under ABP PL09.247909 which required the retention of existing planting.

7.5.15. In conclusion, subject to the modifications as outlined above I am satisfied that the impact in terms of overlooking of adjoining residential properties can be addressed and will not be of such a significance to warrant a refusal.

## **7.6. Car Parking**

7.6.1. It is stated by the Transport Planning Section of the planning authority that there is a shortfall in parking from that which is required in the County Development Plan. I would note that 7 car spaces are proposed, and that 8.5 spaces are required (1.5 spaces per unit plus 1 visitor space per 4 apartments). Notwithstanding the requirements of the County Development Plan, the proposal provides an average of c. 1.4 spaces per unit which is satisfactory given the proximity of the site to Leixlip town centre and adjoining public transport routes. I do not consider the shortfall to be significant.

7.6.2. The permitted layout included 28 no. car parking spaces to serve the block. The additional 7 no. spaces are therefore located within previously proposed areas of landscaping and open space, which is discussed below.

7.7. I also note the absence of bicycle parking, but this can be provided within the site. I recommend that a condition be attached to any grant of permission requiring proposals to be submitted accordingly.

## **7.8. Pedestrian/Cyclist Linkages**

7.8.1. I note that Condition No. 13 (b) of the parent permission requires the provision of a pedestrian and cycle link from the development to the adjoining housing estate road/footpath in Glen Easton Woods. I note the layout plans submitted do not

indicate the location of this link. I recommend that a revised site layout plan be submitted clearly indicating the provision of this pedestrian link and the location of any relocated car parking spaces.

## 7.9. Open Space

- 7.9.1. The applicant has submitted an overall site layout for the as permitted scheme which outlines areas of public open space. This includes an area of 360sqm in respect of the proposed apartment block with an area of 882sqm adjoining the block to the north and west which serves the overall development.
- 7.9.2. As noted by the area planner additional open space had not been provided to serve the proposed 5 no. apartments. It is also clear that the additional car parking spaces have further encroached on areas previously identified as open space and for planting.
- 7.9.3. I am cognisant however of the sites constraints in relation to the overhead powerlines and the generous area of open space located to the north. I also note the generous areas of private open space serving each apartment unit. I am therefore, satisfied in this instance that there is sufficient open space to serve the proposed development.
- 7.9.4. I do however, consider that a revised landscaping plan should be submitted and agreed which clearly identifies the areas of public open space and proposed landscaping to compensate for the reduction in open space and which will enhance the visual amenity for future residents.
- 7.9.5. The proposed bin store is located along the eastern boundary with the rear garden of house No. 12 Glen Easton Woods and removed from the apartment block across the access road. I consider that the applicant should be required to provide a more suitable location for the bin store which allows for more convenient access for future occupants of the apartments.
- 7.9.6. I am satisfied therefore, that the provision of communal open space is broadly acceptable from an amenity perspective.

### **7.10. Appropriate Assessment**

The closest Natura 2000 site to the proposed development is the Rye Water Valley/Cartron SAC (Site code 001398), which is located to the north and east. The planning authority carried out a screening assessment and concluded that a stage 2 Appropriate Assessment was not required.

Having regard to the nature and scale of the 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**

8.1. I recommend that planning permission should be granted, subject to conditions as set out below.

## **9.0 Reasons and Considerations**

Having regard to the location of the site within the boundary of the Leixlip Local Area Plan 2010, and on a site zoned for new residential development in the draft Leixlip Local Area Plan, 2017- 2023, to the nature, scale and design of the proposed development, the availability in the area of a wide range of social infrastructure, to the pattern of existing and permitted development in the area, and to the provisions of the Kildare County Development Plan 2017-2023, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area, would not be prejudicial to public health, and would be acceptable in terms of pedestrian and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.



## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 23<sup>rd</sup> day of August, 2018, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The proposed development shall be amended as follows: -
  - (a) screening to east face of north facing balcony to apartment No.17.
  - (b) windows to the en-suite and bathroom on east facing elevation of apartment No.17 shall be obscure glazing only.
  - (c) window to bedroom on east facing elevation of apartment No. 17 shall be a high-level window with obscure glazing.
  - (d) screening to southern face of east facing balcony of apartment No. 19.
  - (e) windows to the southern elevation of apartment No. 19 shall be high-level windows with obscure glazing.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of protecting the residential amenities of neighbouring properties.

3. Details of the materials, colours and textures of all external finishes, including samples, shall be submitted to, and agreed in writing with, the

planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

4. Noise mitigation measures, including glazing specifications and ventilation systems, to mitigate against noise arising from the adjoining R449 road, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such measures shall ensure that the standards set out in BS8233:2014 are adhered to in relation to such residential units. The agreed measures shall be implemented prior to the making available for occupation of all such residential units.

**Reason:** In the interest of the residential amenities of the future occupants of the subject development.

5. The proposed development shall be amended as follows: -
  - (a) Bicycle parking shall be provided.
  - (b) The bin storage area shall be relocated to an area closer to the apartment block.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of the residential amenities of the future occupants of the subject development.

6. A landscaping scheme shall be submitted to, and agreed in writing with, the planning authority and shall be carried out within the first planting season following substantial completion of external construction works, or, in the event of phasing of the development, before substantial completion of external works within the relevant phase.

In addition to the proposals in the submitted scheme, the following shall be carried out:

- (a) Measures to ensure the retention of the existing hedgerow where

appropriate and additional screen planting to the entire eastern boundary of the site to adequately screen the proposed development from the existing dwellings to the east,

- (b) Screen planting along the public open space to the south of apartment Block B, and
- (c) Modifications and additional planting to take account of the modifications to the development set out in condition number 5 of this order.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interests of residential and visual amenity.

- 7. Water supply and drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

- 8. Provision shall be made for a pedestrian and cycle link from the development to the adjoining housing estate road/footpath in Glen Easton Woods, which shall be so designed as not to permit vehicular access through the link. Prior to commencement of development, details of this pedestrian and cycle link, including footpath and cycle path design, kerbing, tactile paving, landscaping, lighting and entrance wall and railing details, shall be submitted to, and agreed in writing with, the planning authority. Gates shall not be provided at this location. The link shall be carried out and completed, and made available for use, prior to the making

available for occupation of any of the units in apartment Block B.

**Reason:** In the interests of sustainable transportation, pedestrian permeability and residential amenity.

9. All service cables associated with the proposed development such as electrical, telecommunications and communal television shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables bounding or crossing the site, including powerlines up to and including 38kV, shall be relocated underground as part of the site development works, at the developer's expense.

**Reason:** In the interests of visual and residential amenity.

10. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

11. (a) The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures, construction traffic arrangements (which shall take account of peak traffic flows, including those associated with local schools), construction compounds (which shall not be at the locations of proposed open space areas) and off-site disposal of

construction/demolition waste.

- (b) Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 09.00 to 14.00 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In the interests of public safety and residential amenity.

12. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

13. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities and within each apartment shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

**Reason:** To provide for the appropriate management of waste and, in

particular recyclable materials, in the interest of protecting the environment.

14. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

15. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the

Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Susan McHugh  
Planning Inspectorate

18<sup>th</sup> January 2019