



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307653-20

#### Development

Amendments to a previously permitted development under KCC Ref. 16/282 (An Bord Pleanála Ref. PL09.247909) through the omission of 7 no. permitted houses and the replacement thereof with a part three, part four storey apartment block together with alterations to the previously permitted site layout.

#### Location

Westfield, Green Lane, Leixlip

#### Planning Authority

Kildare County Council

#### Planning Authority Reg. Ref.

20162

#### Applicant(s)

Killross Properties Limited

#### Type of Application

Permission

#### Planning Authority Decision

Refuse Permission

#### Type of Appeal

First Party

#### Appellant(s)

Killross Properties Limited

#### Observer(s)

Alistair and Davina Robson

Jennifer Gorman  
Mark Golding and Rana Lahique  
Anne Madden and David Malone  
Eoin and Maeve Gantly  
Westfield Residents Association  
Stuart Martin  
Gregor Ruigrok and Sinead Kelly  
Lorna Blake  
Chris Kelly  
Laughlin Murtagh and Selina  
Campbell  
Gerard Lawless and Aoife Roche  
Shane and Catherine Garry  
Philip Kavanagh and Emily Church  
Michelle and Alan Jordan  
Gerry and Denise Lawless  
Sarah Horan and Claire Mullan  
Shay and Elaine Roche  
Emmett McNeela and Muireann de  
Roiste  
Robyn Owens and Jonathan Quigley  
Lauren Walsh and Thomas McCann  
Brian and Lorraine McArdle  
Connor Barrins and Ciara Lee  
Darach Brennan and Caroline  
Canavan  
Rebecca O'Connor and Aidan Wade

**Date of Site Inspection**

12th January, 2021

**Inspector**

Stephen Kay

## 1.0 Site Location and Description

- 1.1. The appeal site is located in the outer suburbs of Leixlip, approximately 2.8 kilometres west of Leixlip village centre. The appeal site forms part of a larger site that comprises the Westfield residential development of two and three storey housing. The Westfield development is located on lands that are bounded by the R449 to the west, which is the road that links the M4 with the Intel Campus to the north. To the south, the Westfield development fronts onto Green Lane that runs east towards the town centre. To the east, the development adjoins the large Easton housing development of detached and semi-detached two storey houses with vehicular access taken from Green Lane. The northern end of the Westfield site is characterised by the Dublin to Sligo railway line and Louisa Bridge railway station is located approximately 1.5km from the appeal site and c. 1.7km km walk from the site.
- 1.2. The appeal site itself comprises the south eastern corner of the Westfield development which has not to date been the subject of development authorised under the parent permission for the site (Ref. PL09.247909) and covers an area of 0.44 ha. As per the layout permitted under this application, the south eastern corner of the Westfield site which comprises the appeal site was proposed to accommodate a total of 7 no. detached (2 no.), semi-detached (2 no.) and terraced units (3 no.). The appeal site therefore adjoins existing houses in the Westfield development to the north, existing houses in the Easton estate to the east, Green Lane to the south and to the west an area that is permitted as a creche. The current status of the overall Westfield development is that approximately 128 no. out of the permitted 213 no. residential units have been constructed. Notably work has not commenced on the northern end of the site, including the permitted four storey apartment building in this area, or on the apartment building permitted at the western side of the site (The Court).
- 1.3. The appeal site is relatively level and at the southern end of the site, close to the boundary with Green Lane is a 110Kv pylon that crosses the larger Westfield development running north west in the direction of the R449.

- 1.4. Access to the Westfield residential development is via Green Lane which is a single carriageway road, with a grass margin, cycle lanes and footpath. .On the far (south) side of Green Lane are further residential developments including the Beechpark housing estate which comprises a combination of semi-detached houses and a three storey apartment block and creche at the entrance to the site.
- 1.5. Lands to the west of the Westfield development, on the opposite side of the R449 are in agricultural use.

## 2.0 Proposed Development

- 2.1. The development proposed comprises amendments to a previously permitted development under KCC Ref. 16/282 (An Bord Pleanála Ref. PL09.247909) which was a permission for the construction of 200 no. dwelling units, comprising 170 houses, 30 no. apartments in two blocks and a childcare facility. As per condition No.2 attached to this permission, units / houses Nos. 118 and 139 were omitted from the proposed development with the result that the final permitted layout was for 198 no. residential units. (Note this has since been amended by changes to the apartment buildings which increases the overall permitted number of units to 213).
- 2.2. The proposed development comprises the omission of a total of 7 no. house units permitted under Ref. PL09.247909 and located at the south east corner of the permitted Westfield development. The units that are proposed to be omitted from the permitted layout comprise Nos. 100 to 106 inclusive and comprise 2 no. detached four bedroom two storey houses, 2 no. semi-detached four bedroom two storey houses and 3 no. terraced three bedroom two storey houses. These units are proposed to be replaced with a part three, part four storey apartment block. The residential mix in this apartment building is proposed to be as follows:
  - 10 no. one bedroom units,
  - 18 no. two bedroom units, and
  - 4 no. three bedroom units.

- 2.3. The proposed development also comprises changes to the permitted layout with the omission of the section of estate road running to the front of Nos. 102 to 106 (inclusive), the omission of the small area of public open space located at the far south east corner of the originally permitted Westfield development (c.242 sq. metres) and the incorporation of this area into the communal open space to serve the proposed apartment building.
- 2.4. The development also proposes alterations to the previously permitted parking area located to the west of the site. This permitted parking area comprised a total of 14 no. parking spaces with turning area and was proposed to serve the permitted creche located immediately to the west. In the revised layout proposed in the current application, a larger car parking area is proposed to the west of the apartment building. This enlarged parking area provides a total of 44 no. spaces in the main part of the car park and an additional 2 no. off street spaces located on the Avenue opposite the permitted creche. The proposed layout therefore proposes a total of 10 no. spaces to serve the permitted creche, plus 40 no. spaces in connection with the proposed apartment building comprising 32 no. spaces for residents (one space per unit) and an additional 8 no. visitor spaces.
- 2.5. The application as submitted to the Planning Authority was accompanied by a number of technical reports as follows:
- Planning Report,
  - Visual Impact Assessment,
  - Shadow analysis,
  - Engineering Report,
  - Appropriate Assessment Screening Report,
  - Landscape Plan,
  - Design Statement including Housing Quality Assessment.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority issued a Notification of Decision to Refuse Permission for 4 no. reasons that can be summarised as follows:

1. That the provision of car parking connected with the development is inadequate, is contrary to the requirements of the Kildare County Development Plan, 2017-2023 and would endanger public safety by reason of a traffic hazard and obstruction of road users due to the additional traffic and haphazard parking generated by the development.
2. That the proposed development would result in over development of this residential site within a permitted and constructed residential estate and would be contrary to the residential zoning objective B (existing residential) of the site.
3. That the separation distances to the residential properties to the north east are below the standard set out in 17.2.4 of the development plan and such that, notwithstanding the opaque glazing screens proposed, the development would seriously injure the residential amenities of existing and proposed properties.
4. That the applicant has not adequately demonstrated the availability of existing childcare facilities in the vicinity of the site to serve the proposed development. The proposed development is therefore considered to be contrary to sections 11.13 and 17.5 of the development plan and Guidelines Childcare Facilities, 2001 and such that the development would materially contravene Objective CPF01 requiring compliance with ministerial guidance and CPF02 which encourages the provision of childcare facilities at appropriate locations.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The initial report of the Planning Officer notes the location and nature of the proposed development, the internal reports received, and associated issues and the significant number of objections received. Report states that the principle of increased residential density is consistent with local and national policy and with the first part of the zoning objective. Unit mix is considered acceptable and the residential layout is stated to be consistent with Design Standards for New Apartments – Guidelines for Planning Authorities and with the relevant SPPRs including that relating to single aspect units (SPPR4). The separation distances between the apartment block and the houses to the east and particularly to the north east is identified as are issues of concern and issues around parking and congestion, pedestrian / cycle access proposals to Green Lane, and the non construction of the creche facility.

### 3.2.2. Other Technical Reports

District Engineer – No objection.

Transportation Department – Initial report recommends further information. Report subsequent to the submission of further information recommends refusal of permission due to under provision of car parking.

Fire Officer – No objection.

Environment Department – No objection.

EHO – Further information required.

Housing Department – Further information required.

Road Design – No objection.

Heritage Officer – No objection.



### 3.3. Prescribed Bodies

Health and Safety Authority – No objection.

### 3.4. Third Party Observations

A total of 52 no. observations were received by the Planning Authority. The main issues raised in these submissions can be summarised as follows:

- Overlooking and overshadowing of adjoining residential properties.
- Design and materials,
- Out of character with surrounding development. Inappropriate mix of housing types / sizes.
- Inadequate car parking, congestion and impact of the existing creche to the south on parking and congestion.
- The fact that the development is unfinished. No objection to the original housing layout. The fact that the development now proposed is completely different to the layout permitted when residents bought their houses.
- Inaccuracies in the submitted drawings and documents.
- Non compliance with local plan and county development plan.
- Concerns regarding flooding and whether the original flood risk will be impacted.
- Proximity of the existing pylon to houses.
- Lack of children's play area.

The full third party submissions are on file and are summarised in the report of the Kildare County Council Planning Officer on file.

## 4.0 Planning History

The following planning history is considered of relevance to the assessment of this appeal. A full list of the planning history relating to the wider Westfield development, including a significant number of applications relating to minor modifications to the originally permitted layout and house types, is contained in the report of the Kildare County Council Planning Officer on file.

### ***Parent Permission***

Kildare Co. Co. Ref. 16/282; An Bord Pleanála Ref. PL09.247909 – Notification of decision to grant permission issued by the Planning Authority and decision upheld on appeal for the construction of a residential development comprising a total of 213 no. residential units (increased from the originally proposed 195 no. during the course of the application) on lands that included the current appeal site, together with lands to the north and which currently comprises the Westfields residential development accessed off Green Lane. The permitted layout included a creche facility at the southern end of the site (immediately to the west of the current appeal site) and a single vehicular access from Green Lane at the southern end of the site.

### ***Notable Modifications to Parent Permission***

Kildare Co. Co. Ref. 20/820 – Current application for a two storey creche with 5no. childcare rooms providing a total capacity of 81no. childcare places within a total floor area of 352sq.m, an external play area, car parking, and all ancillary site works. The proposed development replaces the creche previously permitted on this site which was granted permission under PL 09.247909 (KCC reg. ref 16/282). Permission is also sought for amendment to condition no. 10 of PL 09.247909 (KCC reg. ref. 16/282) to allow the proposed revised creche be completed and ready for occupation prior to the completion of 155no. residential units. This application is currently the subject of an outstanding request for further information and, as at the date of writing this report, no decision has issued.

Kildare Co. Co. Ref. 18/663; An Bord Pleanála Ref. ABP-302399-18;

Notification of decision to refuse permission issued by the Planning Authority but granted on appeal by the Board for the construction of an additional floor to an approved three storey apartment block permitted under ABP Ref.

PL09.247909. The additional floor would provide for an additional 5 no. two bedroom apartments. This block is located at the northern end of the Westfields development and is identified as The Mews on the previously granted Site Plan drawing submitted with the application (Drg. No. 1917PD10A).

Kildare Co. Co. Ref. 17/1374 – Permission granted by the Planning Authority for the construction of an additional floor to an approved three storey apartment block permitted under ABP Ref. PL09.247909. The permitted additional floor would provide for an additional 5 no. two bedroom apartment units. This apartment building is located at the south western corner of the permitted Westfield development and is identified as The Court on the previously granted Site Plan drawing submitted with the application (Drg. No. 1917PD10A).

### ***Development to the South – Beech Park Wood***

Kildare Co. Co. Ref. 19/156 - Permission refused by the Planning Authority for alterations to the permitted creche / Montessori building located opposite the current appeal site on the opposite side of Green Lane and which is part of the Beech Park residential development. These alterations comprised the partial demolition of the single storey element to the western end of the building and the provision of a larger three storey extension in this area incorporating classrooms at ground and first floor level and 2 no. three bedroom apartment units at second floor level. Permission was refused for four reasons relating to 1) overdevelopment of the site and negative impact on residential amenity, 2) inadequate separation distance to the apartment development to the west, 3) substandard play / outdoor space for the childcare facility and 4) sub standard residential layout with regard to communal open space and aggregate floor area and storage space for the apartments.

## 5.0 Policy Context

### 5.1. Development Plan

The appeal site is located on lands that are zoned Objective B (Existing Residential / Infill) under the provisions of the Leixlip Local Area Plan, 2020-2023. The stated objective for this zoning is *‘to protect and improve the amenity of established residential communities and promote sustainable intensification’*.

Chapter 4 of the *Kildare County Development Plan, 2017-2023* relates to housing and includes the following policies and objectives of relevance to the proposed development:

**Objective HDO3** of the plan seeks to encourage appropriate design and densities for new residential development while recognising the need to protect existing residential communities and the established character of the area. Where appropriate, local area plans may incorporate additional guidance in the form of design briefs for important, sensitive or larger development sites.

The site is not located within an identified flood risk zone as identified in the development plan or on CFRAMS mapping.

Chapter 17 of the Plan relates to Development Management Standards and includes residential standards.

Paragraph 17.2.4 relates to overlooking and states that

*‘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.’*

Section 17.5 of the Plan relates to Childcare facilities and requires, inter alia that

- All childcare facilities shall be provided in accordance with the Childcare Facilities: Guidelines for Planning Authorities (DEHLG).
- One childcare facility is generally required to cater for 20 places in developments of 75 houses, including local authority and social housing schemes, in accordance with DEHLG Guidelines.
- In new housing estates, purpose built facilities are normally required; these are best located at or near the front of the estate.
- Developers shall generally be required to provide childcare facilities as part of Phase 1 of development.

Objectives CPF 1 and CPF 2 under the heading of Childcare and Pre School Facilities are referred to in the Notification of Decision issued and state as follows:

**Objective CPFO 1** Ensure the provision of childcare facilities in accordance with the Childcare Facilities: Guidelines for Planning Authorities (DEHLG) and the Child Care (Pre-School Services) Regulations 1996 and 1997, 'Ready, Steady, Play! A National Play Policy' (2004) and any other relevant statutory guidelines which may issue during the period of this Plan.

**Objective CPFO 2** Facilitate and encourage the provision of childcare facilities, including community crèche facilities, of an appropriate type and scale, at appropriate locations throughout the county.

## 5.2. Planning Guidance

### ***Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (December 2020)***

The following sections are specifically noted in the context of the subject appeal:

4.7 Notwithstanding the Planning Guidelines for Childcare Facilities (2001), in respect of which a review is to be progressed, and which recommend the provision of one child-care facility (equivalent to a minimum of 20 child places) for every 75 dwelling units, the threshold for provision of any such facilities in apartment schemes should be established having regard to the scale and unit mix of the proposed development and the existing geographical distribution of childcare facilities and the emerging demographic profile of the area. One-bedroom or studio type units should not generally be considered to contribute to a requirement for any childcare provision and subject to location, this may also apply in part or whole, to units with two or more bedrooms.

#### Peripheral and/or Less Accessible Urban Locations

4.22 As a benchmark guideline for apartments in relatively peripheral or less accessible urban locations, one car parking space per unit, together with an element of visitor parking, such as one space for every 3-4 apartments, should generally be required.

### ***Sustainable Residential Development in Urban Areas - 2009***

The following sections are specifically noted in the context of the subject appeal:

(b) Childcare

4.5 The Department's guidelines on childcare facilities (DoEHLG, 2001) emphasise the importance of local assessment of the need to provide such facilities at the development plan or local area plan stage, having regard to the provision of existing facilities in the area. When considering planning applications, in the case of larger housing schemes, the guidelines recommend the provision of one childcare facility (equivalent to a minimum of 20 child places) for every 75 dwelling units. However, the threshold for such provision should be established having regard to the existing geographical distribution of childcare facilities and the emerging demographic profile of areas, in consultation with city / county childcare committees. The location of childcare facilities should be easily accessible by parents, and the facility may be combined with other appropriate uses, such as places of employment.

Section 5 of the Guidelines relates to Cities and larger towns and 5.11 identifies that in the case of outer suburban or greenfield sites, then a density of 35-50 dwellings per hectare should be encouraged generally and that development at net densities of less than 30 dwellings per hectare should generally be discouraged.

Paragraph 5.3 regarding the **context of apartment buildings in established residential areas** (larger towns and cities) states that:

*Particular sensitivity is required in relation to the design and location of apartment blocks which are higher than existing adjacent residential development. As a general rule, where taller buildings are acceptable in principle, building heights should generally taper down towards the boundaries of a site within an established residential area. Planning authorities in cities and larger towns should also consider whether a buildings heights strategy, involving public consultation as part of a statutory plan process, would provide clearer guidance for potential developers on where, and in what circumstances, taller residential buildings would be appropriate within their areas.*

Regarding density and the ***implications of quantitative standards on the achievement of residential density***, Paragraph 7.10 of the Guidelines states that:

*Planning authorities should ensure that the cumulative effect of setting specific minimum quantitative standards for parking, private and communal open space, and separation distances between dwellings does not militate against the achievement of the minimum residential densities recommended in Chapters 5 and 6. Qualitative standards should be the real test, and innovative design solutions which achieve good performance standards should be considered on their merits.*

### **5.3. Natural Heritage Designations**

The site is not located within or close to any European sites. The closest such site to the appeal site is the Rye Water Valley Carton SAC which is located c.1.1km to the north of the appeal site at the closest point.

### **5.4. EIA Screening**

Having regard to the scale of the nature and scale of the proposed development, its location within an established residential development and connection to public water supply and drainage and the degree of separation to nearest sensitive environmental receptors, 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. First Party Grounds of Appeal

The following is a summary of the main issues raised in the first party grounds of appeal.

- It is noted that the first party appeal includes a redesign of the east facing elevation of the apartment building with the aim of reducing the potential for overlooking of adjoining residential properties to the east. The following is a summary of the main changes to the design proposed as part of these revisions:
  - The design of the east facing living room accommodation has been altered to project beyond the plane of the original eastern façade to form a projecting bay arrangement that integrates with the balcony. This allows for the provision of partially obscured glazing to the north east corner of the projecting bay arrangement and such that it would restrict views from the living room in a north easterly direction but would still allow light to the room. Views, including from the balcony of each unit are stated to be focussed to the south east over the communal open space area of the development.
  - Revised drawings as listed at section 1.2 of the first party appeal are submitted including Site Layout Plan, Floorplans (4), West Elevation, north east and south elevation and sketch of eastern elevation.
  - That the proposed revisions to the design of the apartment building will protect the residential amenities of both the existing residential development at Westfield and the adjoining residential development to the east at Glen Easton.
  - That the proposed development is consistent with national and regional planning policy which seeks to increase housing supply through urban consolidation.
  - That the proposed development is consistent with the requirements of the Sustainable Residential Development in Urban Areas – Guidelines

for Planning Authorities which stresses the fact that minimum standards for parking, open space and separation distances should not mitigate against the achievement of the minimum residential densities and that qualitative standards should be the real test in these areas.

- That in the case of the assessment by the Board of the proposed increase in height of the permitted apartment block at the northern end of the site (ABP Ref. ABP-302399-18), *'in addressing the potential residential amenity impacts, the Planners report had regard to the Inspector's report on the permitted 3 storey block under the parent permission...'*.
- That in paragraph 7.4 of the inspector's report in the above case (Ref. ABP-302399-18), there is a recognition of the provisions of the Urban Development and Building Heights Guidelines for Planning Authorities and also of the need for efficient use of urban land and the provision of a mix of unit sizes. The fact that the increased block would be partially screen by existing planting is noted as is the fact that the separation of this block to the closest houses to the east in Glen Easton Woods would be slightly in excess of the 35 metres minimum specified in the development plan and that subject to screening of the balcony as proposed the development would not give rise to excessive overlooking. It was also considered that the average car parking provision of 1.4 spaces per unit for this revised (enlarged) block is acceptable.
- That the car parking provision for the creche / Montessori part of the overall development is met with a total of 10 no. spaces provided and this is recognised in the report of the planning officer.
- The alleged deficiency in terms of parking provision relates to the parking provision for the residential part of the development, i.e. the apartment block. Parking is proposed at a rate of one space per unit plus one visitor space per four units, or 32 + 8 no. spaces giving a total of 40. Relative to the development plan standard, the development proposes 1.0 rather than the prescribed 1.5 no. spaces per unit. The number of visitor spaces at 8 no. meets the development plan requirement of one

visitor space per four apartment units. In total therefore, the development would be short 16 no. spaces relative to the development plan standard.

- Stated that the provision of parking is based on the indicative requirement as set out in Sustainable Urban Housing Design Standards for New Apartments. This document sets a guide for relatively peripheral locations of 1.0 no. spaces per residential unit with an additional provision of one visitor space per 3-4 no. residential units. The proposed development meets this requirement.
- That the proposed visitor parking spaces provided in the surface car park could be used as overflow parking for the creche facility during peak periods and there is therefore a potential for dual usage of these spaces. Demand for parking / drop offs and collections at the creche would generally be at earlier times than the likely peak demand for visitor parking generated by the apartment units. Noted that this potential was identified in the further information submission but not addressed in the report of the Planning Officer.
- That the council has had regard to perceived car parking issues associated with another creche facility in the area.
- That none of the proposed east facing bedroom windows within the apartment development would be closer than the prescribed 22 metres separation distance as set out at 17.2.4 of the plan.
- That the proposal is consistent with national planning guidance around urban consolidation and with the Strategic Vision for the Dublin Metropolitan Area Strategic Plan (MASP) which envisages urban consolidation in the metropolitan area that includes Leixlip.
- That the proposed development would result in an additional 25 no. residential units on the overall Westfield site and would result in an overall net density of c.35.6 units per ha. (29 units per ha. gross) and is therefore only just above the recommended minimum of 30 units per ha.

- That paragraph 7.10 of the Sustainable Residential Development for Urban Areas Guidelines specifically identifies that the effect of minimum standards in terms of separation distances, parking and open space does not mitigate against the achievement of the minimum densities. Submitted that the ridged application of the 35 metre separation distance between upper floor living rooms and balconies and adjoining dwellings is contrary to national guidance and that the Planning Authority has not afforded sufficient regard to these national guidelines.
- It is also submitted that the mitigation measures in the form of design / screening and the screening provided by vegetation along common boundaries has not adequately been taken into consideration.
- Clarified that the design of the glazing to living rooms will incorporate obscure glazing up to 1.7 metres from floor level with clear glass above. All balconies will also be fitted with an obscure glass screen on the eastern side that would be to a height of 1.7 metres.
- Stated that constraints in the form of the overhead power line mean that relocation of the block further from the houses to the east is not feasible.
- Noted that there are established precedents in the form of the additional floors permitted apartment Blocks A and B on the wider site where there were houses in close proximity. Specifically submitted that the relationship between the apartments and the existing houses to the east and north east is no different to the situation permitted previously by the Planning Authority and the Board in the case of Blocks A and B. In the case of the inspector's report on Ref. ABP-302399-18, the use of mitigation in the form of screens was accepted.
- Regarding childcare facilities, the Planning Report submitted with the application sets out how the level of demand for childcare in Leixlip is relatively low when account is taken of households that do not have children and empty nesters. Also considered that the limited number of family apartment units proposed (4 no. three bed units) replacing the 7 no. houses would likely result in a reduction in the demand for childcare provision.

- That it was clarified during the course of the assessment of the application that the intention of the first party is to make a planning application for some minor alterations to the permitted creche building and that this would include a delay in the requirement of Condition No.10 of the parent permission and the completion of the creche by September, 2020.
- That the concerns of the planning officer with regard to childcare provision appears to be related to the cumulative increase in demand across the overall site rather than the implications of this specific proposal. The Planning Authority appear to be using the application to retrospectively assess the childcare provision across the development.
- That it is reasonable for the first party to assume that up to the point of the current application, the Planning Authority considered that there was sufficient childcare provision for the overall development.
- That (applying the criteria in the apartment Guidelines and discounting the 1 and 2 bed units in the overall development), the proposed development will result in 169 no. family type units of 3 plus bedrooms. Applying the national standard of 20 no. spaces per 75 no residential units then there would be a requirement for 45 no. spaces for the 169 no. family units. The permitted creche has a capacity of 52 no spaces and can accommodate this demand.
- That the first party has an operator for the permitted creche facility and an application for some amendments to the layout and amendment to the condition (condition No.10 attached to ref. PL09.247909) so that development of the creche can be undertaken prior to the completion of the 155<sup>th</sup> dwelling on the larger site.
- That it is planned that the creche on the site could be capable of accommodating a wider catchment than just to proposed development.
- It is noted that reason for refusal No.4 relating to childcare provision makes reference to material contravention. Submitted that the Childcare Guidelines state that the standard threshold for the provision of childcare

facilities in a development depends on the circumstances of each site, including whether there are adequate childcare facilities in adjoining areas and the demographic profile of the area. This approach is reinforced in the apartment guidelines. In the case of the appeal site, as set out above, the family units in the proposed development would not give rise to a greater demand for childcare places than can be provided.

## 6.2. Planning Authority Response

The following is a summary of the main issues raised in the response of the Planning Authority to the ground of appeal:

- That the revisions to the floorplans submitted as part of the appeal are noted and the council acknowledges opportunities where innovative design can lead to increased densities as long as residential amenities are not impacted. The redesigned floorplans are evidence of the inadequacy of the proposed development s originally submitted. The council considers that the revised floorplans present adequate response to the issues of overlooking and separation distances.
- That the first party case regarding car parking standards being in accordance with the standards set out in the apartment guidelines is not accepted, nor is the contention that apartment demand for parking spaces will be absent during the day.
- That the submission / appeal regarding childcare demand and provision would appear to be at variance with the significant number of third party submissions received by the Planning Authority which indicate a lack of childcare provision. It is also noted that, to date, the first party has failed to provide the childcare facility in line with the requirement of Condition No.4 of Ref. 16/282 (ABP Ref. PL09.247909).
- The Board is requested to uphold the decision of the Planning Authority.

### 6.3. Observations

A total of 25 no. observations on the appeal have been received by the Board.

The following is a summary of the main issues raised in these submissions:

- That they would not have purchased their house (in 2019) if it was known that a four storey apartment building was proposed to be sited in such close proximity.
- That the site is not a greenfield suburban location as suggested in the appeal. It is an existing residential estate / development where some houses have been occupied for 2 years.
- That the proposal would result in over development of the site. The refusal of permission for the redevelopment of the creche at Beechpark estate to the south for this reason is noted.
- The separation distances are seriously sub standard and the relocation of the apartment block is not possible because of the pylon on the site reinforcing the fact that the proposal is over development. The separation distances measure between 22 and 27 metres and are therefore far below the recommended 35 metres minimum.
- That the development will result in a depreciation in value due to lack of privacy and impact on sunlight. Again, it is noted that the development to the creche building in Beechpark was refused permission on the basis that by reason of overlooking it would depreciate the value of property in the vicinity.
- That the proposed development will be excessively close and such that the privacy of the rear rooms and back garden will be negatively impacted.
- That the form of development proposed would be out of character with the existing and would be visually sub-standard.
- That the development will lead to noise from balconies, car parks and public areas.

- That the provision of parking does not comply with the requirements of the Kildare County Development Plan. The suggestion of dual usage of spaces is not realistic and existing on street spaces at the Gardens proposed to be used are currently permanently full with visitor parking.
- That the proposed creche would lead to a demand for 12 no. staff spaces that cannot be provided.
- That parking along the green area adjacent to the development will give rise to a safety issue. The deficiency in parking and demand for parking to serve the creche will lead to traffic congestion and hazard particularly close to the site entrance. There is a danger that emergency access will be restricted by parking generated by the proposed development.
- That the additional units and traffic will have a negative impact on traffic safety at the junction with Green Lane. It is noted that the traffic assessment was undertaken 4 years ago during summer when the schools were shut. The area in the vicinity of the entrance does not have a proper footpath connection that results in conflicts between pedestrians and vehicles and the junction between the Avenue and The Gardens is dangerous.
- That details of the proposed development were withheld from residents / purchasers until sales of the houses on adjoining sites were complete. Unlike at other locations in the Westfield development where houses were proposed close to apartment buildings there was no reduction in price in this location. Indeed, a premium was paid for larger south west facing rear gardens. In this regard, it is noted that the applicant was engaged in pre application discussions about the proposal when the sales of adjoining houses was closed and it is also noted that the shadow analysis contained in the appeal was undertaken in 2018 indicating that it was always intended that this change would be undertaken.
- That the screening proposed to the balconies and windows are not sufficient to prevent overlooking. The proposed measures can be



replaced over time and the level of amenity to these single aspect apartments would be poor.

- That the proposed layout will be less secure and open up potential for anti-social behaviour relate to the permitted layout.
- That the relaxations sought in the development around separation distances are significant and separation distances in some locations will be far below the 35 metres specified in the development plan.
- That conditions attached to Ref. PL09.247909 have not been complied with in the overall Westfield development. Condition No.10 which requires the completion of a creche in advance of Phase 3 or the first 100 residential units has not been complied with.
- That the existing apartment buildings within Westfield are not similar to the situation on the appeal site as contended by the first party. The use of frosted or opaque glass on three out of 4 panes of glass will not adequately address overlooking and will result in a reduced level of amenity for future residents of the apartments.
- That Green Lane is served by a single bus route which does not and will not have the capacity to serve this density of development.
- That the development does not accord with the Collinstown LAP with regard to density and building height.
- That the construction of the creche facility is being used as leverage to fast track the proposed development.
- That the information provided by Little Harvard Creche with the original Westfield Application (that there is not a need for a creche) is contradicted by the same company now applying for a 81 space development in Westfield. Submitted that there is a conflict of interest between Kilross and Little Harvard.
- That Little Harvard do not take children under 2 years of age in the creche. Stated by one observer that they had a 10 month wait in 2020 to get their child (less than 2 years old) into a local creche.

- That 'The Gardens' is not a looped road as stated in the appeal, it is a cul de sac.
- That the drawings / references in the first party appeal show the house numbers incorrectly
- That the proposed development is excessively close to the existing pylon and represents a health and safety risk. The minimum separation distance to a pylon is 35 metres and the proposed development is only 26 metres.
- That Condition No.1 attached to Ref. PL09.247909 required that the development would be carried out in accordance with the permission granted.
- That the effective density of development (when account is taken of the restrictions arising from the pylon and the relocation of car parking) is approximately 80 units per ha. which is excessive for a small site that is located within an existing residential area.
- That the revised designs proposed in the appeal do not address the fundamental deficiencies regarding proximity to houses and would result in a sub standard level of residential amenity for occupants of the apartments. The single aspect units would be left with no direct view out other than via high level windows. The mitigation measures proposed are extreme and shows that it is accepted that the proposed development will have a significant negative impact on residential amenity of surrounding properties.
- The references in the appeal to the Sustainable Residential Development Guidelines are noted however the appeal site is not a city location and is not an intermediate urban location as defined by 2.4 of the guidelines. The site is 1.8km from the rail station and is not served by a high frequency bus service. Rather the site is a peripheral and less accessible urban location as per the guidelines where the density of development would be less than 45 unit per ha. net.

- That contrary to the statements in the first party appeal, the precedent of Ref ABP-302399-18 is not comparable as that development was gable end on to the adjoining housing and the windows in that elevation were not the primary source of light to the apartment units. The distances between the balconies and the houses in Easton Wood were consistent with the 35 metre separation.
- Regarding car parking, it is noted that the Sustainable Urban Housing – Design Standards for New Housing are guidelines only and not policy. They do not supersede the development plan which sets a higher requirement for car parking.
- That the provision of the parking in the proposed layout involves the loss of part of the shared open space serving the overall Westfield development. Car parking is identified as a not permitted use on open space lands.
- That the assessment of creche space need as provided in the first party appeal is noted however it is submitted that it is likely that purchasers of new 2 and three bed units will more likely be young people buying their first home rather than empty nesters.
- That an assessment of the census figures indicates that the potential purchasers of units in the development are such that c.58 percent will have the need for a creche either now or in the future. The assessment presented shows that the existing permitted layout would generate a demand of 5.25 spaces whereas the proposed development would generate a demand of 15 no. spaces. The overall demand in Westfield would rise from c. 90 places to c.100 places.
- Contrary to the assertion of the first party appeal, the Sustainable Urban Housing : Design Standards for New Apartments Guidelines does not state that all one and two bed units will not generally contribute to a requirement for childcare provision. Rather section 4.7 states that one bedroom and studio type units should not be considered but that this may also apply to larger units.

- That the separation distances to the pylon on site would be significantly less than the 20 metres wither side of the centre line or 23 metres from a pylon as recommended at 17.11.2 of the development plan.
- That the approach taken in the application with the alteration to the permitted layout is contrary to a number of the key principles as set out in the 2015 Planning Policy Statement from the DECLG. These include principles relating to public confidence in the planning system.
- That the shadow projection diagrams submitted with the application show that the development will destroy the amenity of the adjoining houses due to loss of sun light to the amenity spaces and particularly to the houses to the east in Glen Easton Avenue. As a minimum the top floor of the development should be omitted.

## 7.0 Assessment

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

- Principle of Development and Residential Density
- Impact on Residential Amenity and Overlooking
- Design and Layout
- Traffic, Parking and Access
- Childcare Provision
- Other Issues

### 7.2. Principle of Development and Residential Density

7.2.1. The appeal site is located on lands that are **zoned Objective B** (Existing Residential / Infill) under the provisions of the *Leixlip Local Area Plan, 2020-2023*. The stated objective for this zoning is *'to protect and improve the amenity of established residential communities and promote sustainable*

*intensification*'. The principle of the proposed residential use is consistent with this land use zoning objective.

- 7.2.2. A significant number of the observers to the appeal make reference to the fact that the proposed development was not flagged at the time that they purchased their houses and that, had they known the change that was proposed from the permitted two storey housing under Ref. PL09.247909 to the current proposed four storey apartment development, they would not have proceeded with the purchase of their homes. The concerns of the third party observers on this issue are noted and, while it is not possible to verify what was or was not said to prospective purchasers of the houses adjoining the appeal site, the fact that the site adjoins third party houses which have been sold is in my opinion a relevant consideration in the assessment of this proposal. Specifically, it is my opinion that the circumstances of this case where there are existing third party properties immediately adjoining the site is different to a situation where revisions to the overall layout were proposed prior to the adjoining properties being sold.
- 7.2.3. With regard to the principle of ***densification, urban consolidation*** and compliance with national planning policy, the first party appeal makes the case that the proposed development is consistent with the basic principles set out in national policy and guidance. Given the nature of the proposed development comprising a four storey apartment development that would be of a significantly higher density relative to the existing permitted development on the site I would agree with the first party that, in principle, the proposal would be consistent with the principles of densification and urban consolidation. In stating this however, and as detailed further in the sections below, I have concerns with regard to the appropriateness of the proposed approach given the limited scale of the appeal site, the presence and proximity of existing residential development immediately adjoining the site and the fact that the proposed higher density development is not very well integrated into the overall residential layout of the Westfield development.
- 7.2.4. With regard to ***density***, the first party appeal in my opinion correctly identifies the appeal site as an outer suburban site where the provisions of the Sustainable Residential Development in Urban Areas: Guidelines for Planning

Authorities (2009) identify that development should generally be undertaken at a density of 35-50 units per ha. and that development should not be permitted at a density of less than 30 no. units per ha. The approach taken by the first party appeal is that the proposed development would result in an additional 25 no. residential units on the overall Westfield site and would result in an overall net density of c.35.6 units per ha. (29 units per ha. gross) and is therefore only just above the recommended minimum of 30 units per ha. This is correct if the overall Westfield development is considered and the proposed development would have the effect of increasing the density of development as permitted on the overall Westfield from c.26 no. units per ha. to 29 no. units per ha. gross (based on an overall site size of 8.13 ha. and an increase in units from 213 permitted under Ref. PL09.247909 to 238). The first party is therefore correct to state that the proposed development would bring the overall Westfield development up to approximately the minimum density level for outer suburban locations as envisaged in the Sustainable Residential development in Urban Areas Guidelines.

- 7.2.5. In my opinion however this approach to density is a simplification and, given the limited scale of the site (0.44 ha.) and the fact that the site is located within an existing residential development of two and three storey houses, that the density proposed on the appeal site (c.73 units per ha.) has to be seen in the context of what is a relatively small infill site within an existing residential development. The proposed development is not clearly one which has been incorporated into the overall layout of the Westfield development, rather it has the appearance of comprising a rather haphazard approach to densification and infill development with a small area of permitted two storey residential development proposed to be replaced with significantly higher density development with minimal alterations to the overall development layout. The density proposed in itself is above the 35-50 units per ha. indicative level set out as an indicative density level in the Sustainable Residential Development Guidelines for Planning Authorities and is, in my opinion high for a small scale infill site such as the appeal site. In keeping with the approach promoted in planning guidance, assessment of the acceptability or otherwise of the proposed development / density will be on the basis of a qualitative assessment

and this is undertaken in sections 7.3 and 7.4 of this assessment below. On an initial evaluation however, the density of development proposed would appear to be significant relative to the site size and established context.

7.2.6. I note the fact that the first party appeal contends that the proposed development is consistent with the requirements of the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities which stresses the fact that minimum standards for parking, open space and separation distances should not mitigate against the achievement of the minimum residential densities and that qualitative standards should be the real test in these areas. As referenced above, this is the appropriate approach and is undertaken in sections 7.3 and 7.4 of this assessment below.

7.2.7. With regard to ***precedent***, I also note the references of the first party to the extant permissions granted within the wider Westfield development for additional floors on the apartment buildings permitted under Ref. PL09.247909. Specifically, the first party makes a number of references to the application for the proposed increase in height of the permitted apartment block at the northern end of the site (ABP Ref. ABP-302399-18) and the assessment of this case by the Board inspector including a recognition of the provisions of the Urban Development and Building Heights Guidelines for Planning Authorities, the need for efficient use of urban land and the provision of a mix of unit sizes. The appeal also notes the fact that the report of the inspector in this case notes that the increased block would be partially screened by existing planting and that the separation of this block to the closest houses to the east in Glen Easton Woods would be slightly in excess of 35 metres and that subject to screening of the balcony as proposed the development would not give rise to excessive overlooking. The points raised by the first party on this case are noted, however from my review of Ref. ABP-302399-18, I would agree with the third party observers that the similarities with the current appeal case are limited. Specifically, the separation distances to adjoining houses to the east in the Glen Easton development are in excess of the 35 metres separation specified in 17.2.4 of the development plan and what was proposed in that case was an extension in the height of a previously permitted apartment building rather than a new apartment building in the place of permitted two storey housing. The

relationship of the apartment building to the permitted residential units to the south is that the gable of the apartment building faces these units which were not constructed and sold at the time of assessment unlike the situation in the current appeal. For these reasons I do not consider that the development permitted under Ref. ABP-302399-18 is a strong precedent for the form of development which is the subject of the this appeal.

### **7.3. Impact on Residential Amenity and Overlooking**

- 7.3.1. The development as originally submitted to and assessed by the Planning Authority comprised a four storey apartment development that would be sited approximately north – south on the site. As identified in the report of the Planning Officer, the development would have potential impacts in terms of overlooking on houses Nos. 1-4 of the Glen Easton development to the east of the site (Nos. 1-4 Glen Easton Avenue) and also what are identified on the submitted plans as Nos. 40-42 The Park within the Westfield development. (It is noted that the observations on file state that the house numbering shown on the submitted plans is incorrect, however for clarity, it is proposed to refer to the numbering on the submitted plans). The report of the Planning Officer identified that the main impact arising would be on the houses in The Park, as these are closer to the proposed apartment block, more directly face the proposed development and have no screening along the boundary with the appeal site. From an inspection of the site and examination of the proposed layout I would agree with this assessment.
- 7.3.2. The layout as assessed by the Planning Authority proposes the apartment block being within c. 22 metres of No.41 The Park, with the balconies of the units at the north east corner of the block being within c.20.5 metres of the same house. Separation distances to No.42 would be c.21 metres at the closest point and that to No.40 c.25 metres. To the east, separation distances to Nos.1-3 Glen Easton Avenue would range between c.25 and 30 metres although there would, in my opinion, be some mitigation of overlooking and visual intrusion impacts due to the relative angles of these houses and the proposed development and existing tree planting along the boundary between



Nos. 1-3 and the appeal site. Separation distances between the proposed four storey apartment building and the two storey houses to the east and north east are therefore in my opinion such that, notwithstanding the proposed use of opaque glazing to the balconies on the east facing elevation of the apartment building, significant negative impacts on the occupants of these properties in terms of overlooking, overbearing visual impact and loss of amenity would arise. For these reasons I consider that reason for refusal No. 3 as included in the Notification of Decision to Refuse Permission issued by the Planning Authority should be upheld.

7.3.3. I note that as part of the appeal, the first party has submitted revised plans for the layout of the apartment units and for the east facing elevation to the block. These changes are outlined in the appeal submission and are summarised at section 6.1 of this report above under the heading of first party appeal. In summary, the main changes proposed comprise the redesign of the east facing living room accommodation in the units on this side of the block so that it projects beyond the original eastern façade and the proposed balconies. This partially screens the balconies as well as making the living room windows angled to the north east. Partially obscured glazing is proposed to the living room windows (up to a height of 1.7 metres) and obscure glazing is also proposed to the northern end of the balconies that face towards the Nos. 40-43 The Park, also to a height of 1.7 metres. The first party contend that this revised layout would mitigate potential overlooking of and loss of amenity to the houses to the east and that views from the balconies would be focussed south east towards the area of communal open space within the apartment site.

7.3.4. The **revised layout as submitted with the appeal** is noted, however I consider that there are a number of issues of concern arising. Firstly, while the use of opaque glazing to the living room windows in the east elevation would mitigate actual overlooking from these windows, such a layout is in my opinion such as to result in a very sub standard level of residential amenity for occupants of these apartment units. No clear view would be available from the main living accommodation other than a high level section of the window and this is not such as to provide an adequate level of residential amenity for occupants. As highlighted by the observers to the appeal, issues of

replacement of glazing arise as do potential opening sections of windows and overall therefore I do not consider that the layout for these main living areas is acceptable or such that it would constitute '*innovative design solutions that achieve good performance standards*' as required under Paragraph 7.10 of the Sustainable Residential Development Guidelines for Planning Authorities in circumstances where quantitative standards cannot be met. In addition, while the screening to balconies proposed would mitigate against most direct overlooking of dwellings to the east and north east, there are circumstances (for example unit 28 at third floor level) where there would appear to be the potential for overlooking to occur. In any event, similar to the opaque glazing to the living room windows, the use of screens to a height of 1.7 metres along significant extent of the proposed balconies would in my opinion significantly compromise the amenity value of these private spaces. The first party appellant contends that the Planning Authority have failed to apply the flexibility provided for in Paragraph 7.10 of the Guidelines and have relied on an overly ridged application of the 35 metre separation requirement between upper floor balconies and living room windows and facing upper floor windows provided for in Paragraph 17.2.4 of the development plan. The separation distances proposed in the subject development are however very significantly below the 35 metre distance and, in a number of instances, do not even meet the 22 metre separation requirement. While a relaxation of the 35 metre requirement may be appropriate in some instances, the separation distances proposed are in my opinion such that significant negative impacts on residential amenity would arise and I do not accept the contention of the first party that refusal of permission arises from an overly ridged application of the development plan standard.

- 7.3.5. The extent of opaque glazing required to try and mitigate the impacts of the development on the residential amenity of adjoining properties is, in my opinion indicate of an excessive density of development on a restricted infill site and of a development that is not consistent with the requirements of paragraph 5.3 of the Sustainable Residential Development Guidelines for Planning Authorities regarding the context of apartment buildings in established residential areas (larger towns and cities) which states that '*particular sensitivity is required in*

*relation to the design and location of apartment blocks which are higher than existing adjacent residential development’.*

- 7.3.6. Notwithstanding the proposed use of opaque glazing to both the living rooms and the balconies, I consider that the separation distance between the proposed development and the rear of the residential units to the east and particularly those at Nos. 40-43 The Park, is such that there would be a very significant overbearing visual impact generated that would lead to a significant loss of residential amenity for these established houses by virtue of perceived overlooking and visual intrusion. There also remain bedroom windows in the proposed development that are, in my opinion located excessively close to the existing houses in The Park. Specifically, unit 27 at third floor level has a bedroom window that is located c.23 metres from the rear of No.41 The Park.
- 7.3.7. With regard to **overshadowing**, the application was accompanied by a Shadow Analysis prepared by James Horan Architects. This indicates that there would be some impact on the houses in The Park (primarily on Nos. 40 and 41), and mainly in the mid to late afternoon period. While some impacts would be apparent at these times, the overall impact on surrounding houses is moderate and, while no specific analysis regarding compliance with the BRE Guidelines is presented with the application, it would appear to me that the BRE standards for daylight and sunlight would be met in the development.
- 7.3.8. For all the above reasons, it is my opinion that the proposed development in both the format assessed by the Planning Authority and that presented in the first party appeal is such that it would have a significant negative impact on the residential amenity of surrounding properties, in particular those located to the east and north east in The Park. Development in the original form submitted for assessment by the Planning Authority would, in my opinion result in significant overlooking and loss of privacy for these adjoining houses such as would seriously injure the amenities and depreciate the value of these properties. With the proposed revisions submitted as part of the appeal, I consider that the development would still have a significant negative impact on the residential amenity of these adjoining houses by virtue of overlooking and overbearing visual impact, such as would also seriously injure the amenities and depreciate the value of surrounding properties. Fundamentally, it is my opinion that the

scale of development proposed represents over development of a restricted site that has been left over from the permitted residential development on the overall Westfield lands (Ref. PL09.247909). The principle of apartment units on the site is in my opinion acceptable and the current permitted layout includes two four storey apartment buildings in the layout. The approach pursued in the current application is in my opinion deficient in that it is not properly integrated with the wider overall residential development and is not sufficiently cognisant of its location in an established residential area of lower scale and density development. A density of c.72 units per ha. as proposed is not in my opinion capable of being accommodated on what is restricted infill site surrounded by lower scale established residential development without significantly impacting on residential amenity. For these reasons I consider that the basis of Reasons for Refusal Nos. 2 and 3 as included in the Notification of Decision issued by the Planning Authority and relating to over development of the site and contravention of the zoning objective (reason No.2) and impact on residential amenity of surrounding properties (reason for Refusal No.3) remain valid and that permission should be refused for reasons including reference to these issues.

- 7.3.9. Options as to how the proposed development could be further modified to overcome the issues arising were considered. I do not consider that the omission of the third floor would act to significantly mitigate the overlooking and loss of residential amenity issues arising. A redesign that would provide more dual aspect units that would enable living rooms and balconies to face west rather than east towards the adjoining houses may also be an option though this would likely result in a reduction in unit numbers. Similarly, the option of relocating the block further from the eastern boundary is not feasible due to the location of the existing overhead electricity line and pylon to the west. As is referenced in section 7.4 below, the development is already excessively close to this infrastructure. The re orientation of the block to run east – west could also be an option, particularly if combined with further revisions that would reduce the potential for overlooking.

#### **7.4. Design and Layout**

- 7.4.1. In my opinion, the basic design and layout of the proposed development in terms of integration with the existing residential layout and the design and materials proposed are acceptable. The application was accompanied by a design statement which sets out the detailed design in terms of materials and public realm. Relative to the permitted layout, the proposal would result in a reduction in public open space by c.242 sq. metres, however this would have a limited impact on the overall level of open space within the wider Westfield development which would remain at c.19 percent.
- 7.4.2. With regard to the overall unit mix on the site, the proposed development would increase the percentage of two bedroom units within the Westfield development from 19.2 percent to 24.8 percent (41 no. to 59 no. units) and this is considered acceptable. The proposed alteration to the permitted layout would reduce the percentage of three bedroom units within the development to slightly below 50 percent. Overall, I consider that the residential mix proposed and the impact on the mix within the overall development is acceptable.
- 7.4.3. A number of the third party submissions on file make reference to the proximity of the proposed development to the 110kv overhead lines and the pylon that is located at the south west corner of the site. The south west corner of the proposed apartment building is located c. 16 metres from the centre of the pylon to the south west and is therefore significantly closer than the ESB recommended separation distance cited in Paragraph 17.11.2 of the development plan which is 23 metres from a pylon. In the permitted layout, the closest house is c.25 metres from the centre of the pylon on site and therefore meets the standard set out in the plan. In addition to giving rise to potential health and safety impacts, the proximity of the proposed development to the pylon on site is in my opinion indicative of a development that is excessively dense and large for the restricted and infill nature of the site.

7.4.4. Details on the quantitative standards of the proposed apartments are provided in Table 5.1 of the Planning report that accompanied the application. On the basis of the information presented, the size and layout of the proposed apartment would appear to be consistent with the requirements set out in the Sustainable Urban Housing Design Standards for New Apartments.

## **7.5. Traffic, Parking and Access**

7.5.1. The issue of parking is the basis for one of the reasons for refusal issued by the Planning Authority and the response of the Planning Authority to the first party appeal restates the concerns regarding inadequate provision of car parking to serve the proposed development.

7.5.2. The standard set out in the development plan (Table 17.9) requires the provision of 1.5 spaces per apartment unit and 1 visitor space per 4 no. apartments. The standard proposed to serve the residential part of the development comprises 1 space per apartment unit with an additional one visitor space per four units, or 32 + 8 no. spaces giving a total of 40. In total therefore, the development would be short 16 no. spaces relative to the development plan standard. The case made by the first party is that the provision of parking is based on the indicative requirement as set out in Sustainable Urban Housing Design Standards for New Apartments. This document sets a guide for relatively peripheral locations of 1.0 no. spaces per residential unit with an additional provision of one visitor space per 3-4 no. residential units. The proposed development meets this requirement and, given the mix of apartment units proposed, it is my opinion that the parking provision proposed to serve the residential component of the development is acceptable.

7.5.3. For the creche, the layout indicates a total of 10 no. spaces which is a reduction in the 18 no. spaces that are indicated on the permitted layout (Mc Grane and Partners Drg. No. 1917PD10A). The development Plan standard for parking to serve a creche is 0.5 spaces per staff member and 1.0 space per 4 children. On this basis, and assuming that the creche is as permitted as per the parent permission (Ref. PL09.247909), c.19.5 no. spaces would be required to meet the development plan standard (based on up to 60 no. child spaces and 9 no.

staff referenced in the appeal submission). The level of parking proposed to serve the creche / childcare facility is therefore significantly below the development plan standard.

7.5.4. I note the fact that the first party state that the proposed visitor parking spaces provided in the surface car park could be used as overflow parking for the creche facility during peak periods and that there is therefore a potential for dual usage of these spaces. In common with the position of the Planning Authority, I am not convinced by this argument. The creche spaces may be suitable for overflow visitor / residential parking at times when the creche is closed, such as weekends, however during the week, I consider it likely that the visitor spaces would be taken up with overflow demand from the apartments or houses within the wider development and of limited availability to the creche use. I therefore consider it likely that demand for parking / drop offs and collections at the creche would significantly overlap with the likely peak demand for visitor / overflow parking generated by the apartment and other residential units within the development.

7.5.5. I also note the fact that, as referenced in the first party appeal, there is a current application (Kildare Co. Co. Ref. 20/820) for revisions to the creche facility that would result in an increased number of childcare places, car parking and permission is also sought for amendment to condition no. 10 of PL 09.247909 (KCC reg. ref. 16/282) to allow the proposed revised creche be completed and ready for occupation prior to the completion of 155 no. residential units, (Condition No. 10 of Ref. PL247909 required the completion of the creche prior to the completion of 100 no. units or phase 3 of the development whichever was the lesser). This application proposes to accommodate 81 no. childcare spaces which would lead to a demand for 20 no. parking spaces plus an unstated number of staff. The application is currently the subject of an outstanding FI request that seeks information, inter alia, on the justification for the extended timeline for the creche, clarification of the proposed staff numbers and the location and level of parking to meet development plan standards. The layout submitted with this application indicates 13 no. spaces in a layout that largely reflects the layout in the current proposal but with an additional three spaces provided to the front of the creche building through the use of nose in

parking rather than parallel spaces. The use of nose in parking would not appear to be feasible in the current creche layout given the restricted space to the front of the building and, while the above application has not been determined, it is apparent from the first party appeal that an enlargement of the permitted creche is sought.

7.5.6. On the basis of the information presented with the application I would agree with the assessment of the Planning Authority that the level of car parking proposed within the development is limited and below the standard set out in the development plan. While the parking provision for the apartments is in my opinion acceptable, I do not consider that there is significant scope for the shared usage of spaces between the creche / childcare and residential uses. The level of parking proposed to serve the creche / childcare facility is limited and I would have concerns with regard to the access to the proposed parking spaces and the potential for informal on street parking at peak times in the vicinity of the creche that would create an obstruction and traffic hazard along the narrow access road to the site (The Avenue).

7.5.7. I note the fact that a number of the observations received highlight the current lack of parking for existing houses within the development and that this has led to informal parking within the development. No such parking was observed during the course of my inspection and I note that two parking spaces per house unit have been provided within the development. I also note concerns expressed by the observers with regard to the proposed new pedestrian and cycle connection from the site to Green Lane. I do not have any issue with this proposed connection that would link with the pedestrian and cycle path that runs along the northern side of Green Lane.

## 7.6. **Childcare Provision**

7.6.1. Reason for refusal No.4 included by the Planning Authority in the Notification of Decision to Refuse Permission relates to the failure to make adequate provision for childcare facilities within the proposed development, provision for the additional residential units proposed and to the contravention of the childcare



guidelines and material contravention of Objectives CPF 1 and CPF 2 of the development plan.

- 7.6.2. The submissions of the first party and the third party observers to the case make conflicting assessments with regard to the potential for the proposed development to lead to additional demand for childcare facilities in the vicinity of the site. The submission of the Planning Authority highlights the fact that a number of the third party submissions received point to a general lack of childcare facilities in the vicinity of the site.
- 7.6.3. Firstly, I note the fact that, to date, the creche permitted on the site has not been provided despite being required on foot of Condition No.10 of Ref. PL09.247909 once 100 units were constructed or Phase 3 of the development completed, whichever was the sooner. The failure to provide this facility was the subject of enforcement proceedings by the Council. The first party appeal notes the fact that there is a current proposal on hand for modifications to the permitted layout of the creche that was permitted under Ref. PL09.247909 (Kildare Co. Co. Ref. 20/820) which proposes an increase in the size of the childcare facility to 81 no. child spaces and that it would be constructed on completion of 155 no. residential units. I note that further information relating to this application remains outstanding. I also note that, based on the completion of 128 no. residential units on the overall site to date, the requirement for the creche facility as proposed in ref. 20/820 (on completion of 155 residential units) would kick in with the development of the proposed apartment building (32 no. units) but not if the original layout of 7 houses on the appeal site was constructed.
- 7.6.4. Regarding childcare facilities, the Planning Report submitted with the application sets out how the level of demand for childcare in Leixlip is relatively low when account is taken of households that do not have children and empty nesters. The first party submission also contends that the limited number of family apartment units proposed (4 no. three bed units) replacing the 7 no. houses would likely result in a reduction in the demand for childcare provision. I do not agree with this interpretation and note that the criteria for assessment of childcare requirements as set out in the Apartment Guidelines indicates that it is only studio and one bed units that should be discounted for the purposes of

assessing childcare demand. On this basis, the proposed development would lead to an additional 15 no. units (22 two and three bed apartments as against the permitted 7 no. houses) that would lead to additional demand for childcare. The actual demand for additional childcare places that these additional 15 no. residential units would generate is difficult to determine exactly, but using the national standard of 20 no. spaces per 75 no residential units then there would be a requirement for an extra approximately 3 no. childcare spaces.

7.6.5. I note the issue raised by the first party that the concerns of the planning authority with regard to childcare provision appears to be related to the cumulative increase in demand across the overall site rather than the implications of this specific proposal and I would be in general agreement with this statement. The extant permission for development on the site requires the provision of a childcare facility with a capacity of 52 no. childcare spaces and it is up to the Planning Authority to enforce this condition and ensure the provision of this childcare facility. On the basis that the proposed development would lead to an increase in the overall permitted number of units on the site from 213 no. to 238 no, of which 228 no. would be two bedroom and above that would generate a demand for childcare (as per the Apartment Guidelines), this would equate to a requirement for approximately 60 no. childcare spaces (assuming a rate of 20 no. spaces per 75 units as per Appendix 2 of the Childcare Guidelines). The overall development is therefore deficient in childcare spaces and it is not evident how the additional demand for spaces generated by the proposed development would be met.

7.6.6. It may be the case that there is additional childcare provision planned and in place in Leixlip that can meet the shortfall identified in the Westfield development and on the appeal site and in this regard I note the fact that the letter dated February 2020 from the Director of Little Harvard creche that was submitted with the application indicates that additional childcare capacity is proposed by this company at a new 100 space facility close to Intel and also in a planned expansion of the existing facility at Beechpark (to the immediate south of the appeal site on the opposite side of Green Lane). As highlighted above, the additional demand generated by the proposed development is estimated to be an additional 3 no. childcare spaces and, while this cannot be

provided on site given the deficiency in the permitted creche relative to the overall scale of development, I do not consider that a deficit of 3 no. spaces can reasonably be considered to constitute a basis for refusal of permission on the basis of contravention of the Childcare Guidelines for Planning Authorities.

7.6.7. It is noted that reason for refusal No.4 relating to childcare provision makes reference to material contravention. On this issue, it is submitted by the first party that the Childcare Guidelines state that the standard threshold for the provision of childcare facilities in a development depends on the circumstances of each site, including whether there are adequate childcare facilities in adjoining areas and the demographic profile of the area and that this approach is reinforced in the apartment guidelines. I would agree that this is the case and particularly note Paragraph 2.4 and Appendix 2 of the guidelines in this regard. I also note the fact that the demand for childcare facilities generated by the proposed development is very limited and that there is evidence of existing and planned childcare developments in Leixlip that could accommodate this very modest additional projected demand. For these reasons I consider that the proposed development is not clearly contrary to the provisions of the Childcare Guidelines for Planning Authorities.

7.6.8. The first party goes on to contend that, in the case of the appeal site, the family units in the proposed development would not give rise to a greater demand for childcare places than can be provided. As set out above, I do not agree that this is the case, however the additional demand for 3 no. childcare spaces over and above that which will be provided in the creche facility permitted on the wider Westfield site is not in my opinion a material number in the assessment of the overall demand for spaces and is, in my opinion, such that it could be accommodated in other existing and planned childcare facilities in the town. For this reason, I do not consider that it can reasonably be stated that the proposed development would '*materially*' contravene Objectives CPF 1 and CPF 2 which relate to the provision of childcare facilities in accordance with the Childcare Facilities: Guidelines for Planning Authorities (DEHLG) (Objective CPF 1) and the encouragement and facilitation of the provision of childcare facilities, including community crèche facilities, of an appropriate type and scale, at appropriate locations throughout the county, (Objective CPF 2).

7.6.9. Having regard to the reasons set out above, I consider that the provisions of s.37(2)(b)(ii) are applicable in this case and that the Board is not restricted in the consideration of this case by the wording used by the Planning Authority in Reason for refusal No.4 attached to the Notification of Decision to Refuse Permission.

## **7.7. Other Issues**

7.7.1. The application is accompanied by an infrastructure report (prepared by David Jenkins Consulting Engineers and dated December, 2019) and this summarises how the additional foul water discharge generated by the increased number of units is within the peak flow capacity of the system. No objection to the proposed development is made by the Water Services section of the council and, subject to a valid connection agreement being in place, Irish Water do not have an objection to the proposed development.

7.7.2. The original application for development on the site was the subject of a Flood Risk Assessment which concluded that the site was not at flood risk and that no specific flood mitigation measures were required. I do not see that the conclusions of this assessment are materially changed by the proposed development.

## **7.8. Appropriate Assessment**

7.8.1. Having regard to the nature and scale of the proposed development including the proposed connection of the development to the existing foul and surface water drainage systems and public water supply, 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.

## 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. The appeal site comprises a small infill site within an established residential area and is located on lands that are zoned Objective B (Existing Residential / Infill) under the provisions of the Leixlip Local Area Plan, 2020-2023, where the stated objective is '*to protect and improve the amenity of established residential communities and promote sustainable intensification*'. Having regard to the scale of the proposed development, its proximity to site boundaries and adjoining properties, particularly the houses to the east and north east in The Park, Westfield, it is considered that, notwithstanding the proposed design alterations including the screening of living room windows and balconies, the proposed development would have a significant negative impact on the residential amenities of these adjoining properties by virtue of overlooking, overbearing visual impact and loss of privacy and that the design alterations proposed to the apartment units are such that they would lead to an overall poor standard of residential amenity for future occupants of the apartment units on the eastern side of the proposed block due to lack of daylight and sub-standard outlook from living accommodation. The proposed development would therefore constitute overdevelopment of the site that would be contrary to the Objective B (Existing Residential / Infill) zoning of the site and a form of development that would seriously injure the amenities and depreciate the value of properties in the vicinity of the site.

2. The proposed development, by reason of inadequate provision of car parking to serve the development and particularly the permitted creche use on the adjoining site to the west, would lead to pressure for parking and traffic movements in the immediate environs of the site that would lead to traffic congestion and haphazard parking. The proposed development would therefore endanger public safety by reason of a traffic hazard and obstruction of road users.

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Stephen Kay  
Planning Inspector

20th January, 2021