



An
Bord
Pleanála

Inspector's Report

ABP-309495-21

Development

Change of use from office use to medical centre. Works to include construction of a single storey extension, conservation repairs to Marsville House, construction of 15 houses, and apartment block comprising 8 apartments with car parking spaces.

Location

Marsville House, Main Street, Kill, Co. Kildare

Planning Authority

Kildare County Council

Planning Authority Reg. Ref.

201026

Applicant(s)

Kerpow Limited

Type of Application

Permission

Planning Authority Decision

Refuse Permission

Type of Appeal

First Party

Appellant(s)

Kerpow Limited.

Observer(s)

none

Date of Site Inspection

12th October, 2021.

Inspector

Stephen Kay

1.0 Site Location and Description

- 1.1. The appeal site is located on the northern side of Main Street in Kill and comprises an L shaped parcel of land that has a stated area of 1.21 ha. The site has frontage of approximately 30 metres onto Main Street where there is an existing recessed entrance.
- 1.2. The site is bounded to the east and north east by residential properties comprising single storey houses accessed off Main Street and via a road off Main Street to the east of the site. To the north west, the site has a boundary of c.175 metres with the alignment of the N7 national primary road. The existing boundary comprises a stone wall of approximately 2 metres in height and a timber noise barrier located to the north west of this wall.
- 1.3. To the south, the site is bounded by a residential property and further to the south by the car park located to the rear of the Spar shop on Main Street. The southern end of the site is also bounded by the rear gardens of two storey terraced houses in Whitethorn Grove.
- 1.4. The site is partially occupied by the two storey Marsville House which is located in the northern side of the site. This building comprises a two storey house Victorian era house with outbuildings / garage which is currently unoccupied. The building is in a poor state of repair and was open and not secured at the time of inspection. External finishes are in pebbledash and there have been significant alterations to the exterior of the building over time with replacement windows. Internally, a significant number of original features remain however the layout has undergone significant alterations to provide for the previous HSE use. This house is included on the record of protected structures for County Kildare (Ref. B19-28). The application documentation indicates that the building was previously in use as a HSE health centre for a considerable period of time (since the 1950s) and
- 1.5. The site boundaries to the north and south of Marsville House are characterised by mature hedgerows and trees and the southern part of the site to the rear of the Spar car park is very overgrown, such that access to that part of the site was not possible.

2.0 Proposed Development

- 2.1. The proposed development comprises the refurbishment of Marsville House and the construction of a residential development in the grounds. The following is a summary of the main elements of the proposed development as originally submitted to the Panning Authority.
- 2.2. Change of use of the existing Marsville House from office use to use as a medical centre. The works to the structure include the construction of a single storey extension with floor area of 45 sq. metres to the southern end of the main building connecting it with the former garage structure. Conservation works to the structure comprising refurbishment and repair to services and insulation, the installation of new painted timber sash windows, modification of existing door openings and external render, reinstatement of brick chimney capping.
- 2.3. Repair and modifications to existing single storey annex building and garage building to include installation of new breathable linings and new insulated floors.
- 2.4. Reconstruction of existing rear courtyard boundary wall and installation of stone paving to the rear courtyard. Installation of 14 surface car parking spaces to the front (east) and side (north) of the building.
- 2.5. The construction of 12 no. two storey three bedroom terraced houses on the western side of the site orientated parallel with the boundary facing the M7 and facing this boundary.
- 2.6. The construction of 3 no. single storey three bedroom houses to the east of Marsville House which would face onto the boundary with existing single storey housing to the east of the site.
- 2.7. The construction of a two storey apartment building to the north west of Marsville House accommodating 3 no. one bed apartments and 5 no. two bed apartments.
- 2.8. Access to the development is proposed via the existing access to Marsville House which it is proposed to widen to 5.8 metres and the construction of new access roads.

- 2.9. Open space within the development is proposed to be provided at three main locations, these being at the far western end of the site, to the rear (south) of the apartment building and to the east of Marsville House in a location between the house and the 3 no. bungalows.
- 2.10. All ancillary services and development works.

3.0 Planning Authority Decision

3.1. Request for Further Information

Prior to making a decision the planning authority requested further information on 15 no. issues which included the following:

- Layout of the apartment units and access to same including ensuring that these units are accessible for all.
- Concern regarding the amenity of the area of amenity space located at the southern end of the site and particularly at the rear of Nos. 12-15.
- That the site is adjacent to the N7 national primary road which is designated as a major road under the EC Environmental Noise Regulations, 2018. Noted that the predicted noise levels at 1.5 and 4.5 metres above ground would appear to possibly exceed to 70dBA L den noise or 57 Lnight threshold set out in the Kildare County Council third Action Plan.
- That the internal acoustic conditions would be grossly unsatisfactory were the occupants to require that windows be opened.
- Submission of a revised acoustic design statement requested including revised mitigation measures and relocated units.
- Submission of a Stage 1 and 2 road safety audit.
- Details of bicycle parking area and provision of additional bicycle parking spaces.
- Revisions to the internal roads layout and geometry.

- Submission of a visibility splay and vehicular movements drawing.
- Retention of services of a landscape architect and arborist.
- Revisions to the proposed landscape plan in terms of lighting, play equipment and play areas.
- Submission of a health impact assessment.

The following is a summary of the main information / revisions to the proposed development submitted in response to the request for further information:

- Submission of revised apartment layout (Drg. No. 1817-PLA02-102A) that shows improved access and circulation within the units.
- Revised site layout that omits the area of open space that would be located to the rear of the terraced housing units at the southern end of the site.
- Submission of a revised acoustic design statement that, it is submitted, demonstrates compliance with the Third Noise Action Plan.
- Submission of a Stage 1 and 2 Road Safety Audit.
- Proposals for the provision of bicycle stores to serve the apartment units and a bicycle shelter to serve the medical centre. The bicycle store for the apartment building is proposed to be a combined bicycle and bin store.
- Revised road and junction layout submitted (Drg. D1920-C-12) which includes revisions to corner radii and sightlines. Drg. D1920-C-11 submitted showing vehicle manoeuvres.
- The applicant confirmed that the services of an arborist and landscape architect would be retained.
- Revisions to the lighting layout submitted,
- Revised landscape plan incorporating a play area within open space between the apartment building and Marsville House. Section drawings through open space also submitted.

- Submission of a Human Health Impact Assessment which concludes that there would be no significant adverse health impacts arising from the proposed development.

3.2. Decision

Planning permission was refused for two reasons which can be summarised as follows:

1. That having regard to the proximity of the site to the N7 national primary road which is designated a 'major road' as defined under the EUC Environmental Noise Regulations, 2018, the existing noise environment at the site arising from the proximity to the N7 it is considered that notwithstanding the proposed noise mitigation measures the noise would be such as to have a significant negative impact on the use of the public and private amenity spaces and on the internal living accommodation of the houses and apartments. The proposed development would therefore be contrary to Policy EN4 of the Kildare County Development Plan, 2017-2023 and would seriously injure the residential amenities of future occupants of the development.
2. That the quality of the 'wooded public open space is considered to be deficient given the fact that it does not benefit from passive surveillance and is incidental space. The proposed development would therefore be contrary to the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)* and the open space requirements set out in the *Kildare County Development Plan, 2017-2023*.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The initial report of the planning officer notes that the proposal is consistent with the zoning of the site and that the density of development at c.25/ ha. net is acceptable given the constraints on the development of the site arising from the proximity to the N7 and the retention of Marsville House on the site. Unit mix is considered acceptable by reference to the population mix in the town and the layouts and sizes are considered acceptable by reference to table 17.4 of the Plan. Concern expressed regarding the amenity value and security of the open space area at the south west corner of the site and also the potential noise impact arising from the road. Initial report recommends further information. Second report subsequent to the submission of a response to further information recommends refusal of permission consistent with the notification of decision which issued.

3.3.2. Other Technical Reports

Area / District Engineer – Not satisfied that adequate information submitted to enable assessment and recommends that application be referred to the Roads Section for comment.

Roads and Transportation Department initial report recommends further information on noise, parking, and internal roads issues. Report notes the fact that the indoor noise levels with windows open would appear to be an increase of 10 – 15dB(A) over the recommended indoor ambient levels as per BS8233:2014. Revised acoustic design statement and layout required. Second report subsequent to the submission of further information states that recommend refusal of permission on the basis of excessive noise arising from the proximity of the proposed residential units to the N7 and exceedance of the noise levels specified in the KCC Noise Action Plan.

Water Services – No objection subject to conditions relating to surface water attenuation / SuDS and flood risk. .

Housing Department – Report identifies a number of issues that require to be addressed in the development relating to the internal layout of units. Second report still identifies issues relating to the internal layout of units.

Parks Department – Initial report recommends that the retention of an arborist be confirmed. In the event that permission is granted conditions are recommended. Relating to tree protection, landscape design and open space. Specific reference made to the area of open space located at the south west corner of the site and that revisions to the layout are required in this area. Second Parks Department report recommends clarification of further information on layout of open space which is considered ‘completely unacceptable’, play areas, surface materials and lighting.

Heritage Officer – Recommends that a bat survey would be required.

Environmental Health Officer – Recommends further information.

Environment Section – No objection subject to conditions.

3.4. **Prescribed Bodies**

National Parks and Wildlife Service – That the department agrees with the assessment contained in the archaeological report submitted with the application and monitoring of the site to be undertaken in accordance with licence issued by Department.

Transport Infrastructure Ireland – Submission stating that TII have no observations to make on the application.

Irish Water – Report of the Planning Officer makes reference to a report being received from Irish Water which states that there is no objection to the proposed development. No such report is on the appeal file and when checked with Kildare County Council it is stated that this reference by the Planning Officer is an error.

3.5. Third Party Observations

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

- Impact on residential amenity and security of houses in Whitethorn Grove.
- Overlooking from balconies within the development.
- Negative impact on biodiversity due to loss of woodland area and trees on an bounding the site.
- Lack of capacity in Kill in terms of services. The conversion of Marsville House would be better having use as a creche or a youth club or similar use.
- Need to ensure that the protected structure is not impacted.
- Development out of character with surroundings and with local character.
- Negative impact on the health of future residents.
- Negative impacts arising from construction traffic.

4.0 Planning History

Appeal Site

Kildare County Council Ref. 19/652 – Permission refused to Kerpow Limited for the change of use and sub division of Marsville House from office use to 2 no. residential units comprising a four bedroom two storey house and a three bedroom single storey house. Works to this house, a protected structure to include a single storey extension with floor area of 45 sq. metres and conservation repairs to the structure. Development also included the construction of 7 no. two storey detached houses and 5 no. three storey duplex blocks comprising 5 no. ground floor three bedroom units and 10 no. three bedroom duplex units. Permission refused for a single reason relating to the proximity of the development to the N7 which is designated as a major road under the EC Environmental Noise Regulations, 2018 and that notwithstanding the noise mitigation measures proposed in the development it is considered that the proximity to the N7 would be such that the noise levels within the development would

be unacceptable and in excess of those allowable under the Kildare County Council Noise Action Plan 2019-2023. The proposed development would seriously injure the residential amenity of future occupants of the development by virtue of excessive noise and inadequate usable public and private open space for the development, would be contrary to Objective EN4 of the County Development Plan and the Third Noise Action plan and would be contrary to the proposer planning and sustainable development of the area.

Kildare County Council Ref. 14/230 – Permission granted by the Planning Authority for change of use of Marsville House from office use to use as a single family dwelling and the refurbishment and repair of the existing building (a protected structure). Works to include the construction of a new single storey extension of 13 sq. metres to the single storey rear annex and construction of a new single storey bedroom wing on the western side of the structure with a floor area of 100 sq. metres.

Adjacent Sites

Kildare County Council Ref. 19/967; An Bord Pleanála Ref. ABP-307397-20 – Permission refused by the Planning Authority and decision upheld on appeal for the construction/erection of 11 residential units on a site located to the south west of the current appeal site at the far western end of the settlement and bounding the N7. The reasons for refusal cited by the Board related to the layout and visually incongruous form of development proposed and also to the proximity of the development to the N7 and the resulting negative impacts on residential amenity for future occupants of the development due to excessive noise.

5.0 Policy Context

5.1. National and Regional Policy

Dublin and Midlands Regional Spatial and Economic Strategy

Kill is identified as part of the core region in the Dublin and midlands Regional Authority area. It is not identified as any specific category of settlement identified in the strategy.

The target population projects for County Kildare set out in the RSES are 222,500 in 2016, 249,000-254,000 in 2026 and 259,000-266,500 in 2031.

5.2. Local Planning Policy

Kildare County Development Plan, 2017-2023

Chapter 2 contains the core strategy and the settlement strategy for the county is set out in Chapter 3.

As per Table 2.2 and Table 3.1 of Variation No.1 of the development plan, Kill is identified as a town with 'Local service and employment functions in close proximity to higher order urban areas.'

Paragraph 2.11.5 of Variation No.1 relating to Towns states that

'Sallins, Kilcullen, Kill, Clane, Prosperous, Rathangan, Athgarvan, Castledermot and Derrinturn are designated as towns. They contain local service and employment functions such as convenience retail and are proximate to larger urban centres. The Council will seek to support new local employment opportunities in these towns.'

Table 3.3 of Variation No.1 sets out the settlement hierarchy and population and housing unit allocation for 2020-2023. For Kill, Table 3.3 identifies that the population growth between 2020 and 2023 is 219 and the target number of additional dwellings over the same period is 78.

The development management standards relating to residential and commercial development types are set out in Chapter 17 of the Plan.

Objective EN4 of Volume 1 of the Plan states that it is an objective of the council *‘Facilitate the implementation of the Kildare Noise Action Plan 2013-2018 and Litter Management Plan 2016-2019 and any subsequent amendments during the period of this Plan.’*

Kill Small Town Plan, 2017-2023

The appeal site is located on lands that are zoned Objective A (Town Centre) under the provisions of the *Kill Small Town Plan, 2017-2023*. The stated objective is *‘to provide for the development and inappropriate town centre uses including residential, commercial, office and civic uses’*.

A section of the eastern side of the site is located within a zone of archaeological potential as per map V2 of the Kill Small Towns Plan.

Policy KL1 seeks to facilitate residential development for the lifetime of the plan largely within the town centre zone on areas designated as existing residential infill and on lands zoned new residential.

Policy KL4 relating to the town centre seeks to encourage and promote development within the town centre, which is of a high standard of design, has an appropriate mix of uses and enhances the built environment and delivers a high quality public realm.

Policy KL33 seeks to preserve and protect the structures and items listed on the Record of Protected Structures.

5.3. Kildare County Council Third Noise Action Plan, 2019-2023

This third Noise Action Plan 2019 - 2023 has been prepared in accordance with the requirements of the European Communities Environmental Noise Regulations 2018, S.I. No. 549 / 2018 which give effect to the EU Directive 2002/49/EC relating to the assessment and management of environmental noise. The Directive has three main approaches to be followed:

1. Undertake strategic noise mapping to determine exposure to environmental noise,
2. Ensure information on environmental noise and its effects is made available to the public,
3. Adopt action plans based upon the noise-mapping results, with a view to preventing and reducing environmental noise where necessary and particularly where exposure levels can induce harmful effects on human health and to preserving environmental noise quality where it is good.

The stated aim of the document is to provide an overview of the requirements of the Regulations, to review the results of the strategic noise mapping within Kildare County Council, (as set out in Section 5 of the Plan), and to set out an approach to the strategic management and control of environmental noise over the next five years. The objectives of the Noise Action Plan are to avoid, prevent and reduce on a prioritised basis, where necessary, the harmful effects due to long term exposure to environmental noise.

The Regulations set out a requirement for the assessment of noise impact through the use of strategic noise maps. In Kildare, for “Major Roads”, revised Strategic Noise Maps for national roads were completed in 2017 by the Transport Infrastructure Ireland (TII) and are included in the Plan. The appeal site is located adjacent to the N7 which is identified as a major road.

The 2019 - 2023 Noise Action Plan proposes noise levels thresholds for this assessment of 70 dB (A) Lden, and 57 dB (A) Lnight for both “Major Roads” and “Major Railways” set in accordance with the Environmental Protection Agency (EPA) “Guidance Note for Noise Action Planning, July 2009”. The plan states that these limits are arbitrary at present as there is no existing legislation that limits environmental noise to a particular value.

This action plan sets out a number of proposals for the prevention and avoidance of increasing levels of environmental road noise. Under the heading of Planning and Development, the following actions are included:

- Development of guidance for council planners and engineers, to include a set of standard conditions relating to noise mitigation to be attached to decisions,
- Stated that ‘a significant trust of future action will focus on land use zoning and the siting of “noise sensitive receptor” development’ ,
- Where noise is currently an issue, ensure any future development will improve the existing noise situation by:
 - Requiring noise impact assessments as part of the planning and development process for proposed noise sensitive development(s) which may be below the scale associated with full EIA requirements within the study area, and
 - Ensuring the implementation of noise abatement measures for proposed noise sensitive development(s) within the study area by the imposition of conditions pursuant to the grant of planning permission.
- Use of “Pro PG: Professional Practice Guidance on Planning & Noise, New Residential Development. (May 2017)” with regard to proposed residential development near “Major Roads” and “Major Railways” during the planning application process.

5.4. Relevant Guidance

Sustainable Urban Housing – Design Standards for New Apartments (2018) – these guidelines apply to all developments that incorporate apartment units and set out clear standards around, inter alia, floor areas / internal space standards, dual aspect requirements, floor to ceiling heights, stair cores , storage areas and amenity space provision.

5.5. Natural Heritage Designations

The appeal site is not located within or close to any European sites.

The closest European sites to the appeal site are as follows:

- Poulaphouca Reservoir SPA (site code 004063) located c. 9.75 km to the south of the appeal site.
- Wicklow Mountains SAC (site code 002122) located c. 11km to the east / south east of the site at the closest point.
- Ballynafagh Bog SAC (site code 000391) located c.13km to the north west of the appeal site.
- Mouds Bog SAC (site code 002331) located approximately 13km to the west of the appeal site.
- Rye Water Valley/Carlton SAC (site code 001398) is located approximately 15km to the north of the appeal site at the closest point.

6.0 The Appeal

6.1. Grounds of Appeal

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

- That the proposed layout is a considered response to the refusal of permission issued under Ref. 19/652 which provides for a balanced mix of typologies and the refurbishment and reuse of Marsville House.
- That a decision was made not to appeal the previous refusal of permission and to redesign the scheme having particular regard to the Noise Action Plan.
- The revised design has been prepared in consultation with AWN Consultants who inputted in the area of noise and compliance with the requirements of the Noise Action Plan.

- The main noise mitigation concepts developed and incorporated into the design are set out in Figure 1 of the appeal and include a berm and noise barrier to the N7 boundary, design of the housing facing the N7, sheltering of the open spaces from the noise source by buildings and use of a single storey design on the eastern side of the site.
- The barrier to the N7 is proposed to comprise a berm and noise barrier with an overall height of 5.5 metres. The access road to the houses would be behind the barrier to increase separation and the design of the houses provides for main habitable accommodation to face away from the road. These two storey units replace the previous three storey duplex units which analysis indicated were not capable of achieving the required noise levels on the third floor.
- That the design of the apartments follows a similar principle to the houses with noise sensitive rooms facing away from the road as far as possible, noise mitigation / insulation and shelter for the open space areas from the noise generated by the N7.
- That the proposed change of use of Marsville House to medical use is identified as a permitted use under Town Centre Zoning Objective A.
- That the wooded area at the western end of the site adjoining the Whitethorn Grove residential development is proposed to be retained as it provides screening and buffer between the proposed development and the houses in Whitethorn Grove.
- That prior to the submission of the application, representative of AWN Consulting made a pre-application submission to the Roads Department of Kildare Co Co and the reply received indicated that the proposal was acceptable. A second pre application submission that included an acoustic report also received a favourable response.
- That the request for further information which issued was responded to in full and included a detailed response to Item 3 that related to the potential noise impact. Considered that despite compliance with the noise requirements being demonstrated by AWN, the Council considered without clear evidence

and in a subjective manner that the noise levels would possibly exceed the thresholds set out in the KCC Third Noise Action Plan.

- Submitted that it has been demonstrated that environmentally acceptable noise levels will be achieved in private and public amenity spaces. Noted that PG2.46 of BS8233-2014 that the acoustic environment of external amenity areas should be assessed with noise levels ideally not above the range of 50-55 dB LAeq 16 hr. The BS recognises that this standard may not be achievable in all circumstances and that the development should be designed to provide the lowest practicable noise level rather than the development being prohibited. As set out in the AWN report attached with the appeal, the noise at the external amenity areas is predicted to be acceptable and would not give rise to significant impacts as stated in the reason for refusal.
- With regard to the impact of the proposed development on internal living accommodation and the ability to open windows, the Pro PG document (which is the only one referenced in the KCC Noise Action Plan) provides guidance with regard to achieving noise levels with windows open and states that *'designing the site layout and the dwellings so that internal target levels can be achieved with open windows in as many properties as possible , demonstrate good acoustic design'*. The AWN report attached with the appeal demonstrates that all bedroom windows bar 4 no. located in houses Nos. 1 and 2 meet the target levels and that the degree that these fail to meet the required standard is very limited. To ensure full compliance, it is suggested that the design / layout of Units 1-3 could be amended from a three bedroom to a two bedroom plus smaller study layout with changes to the floorplan / location of bedrooms for Units 1 and 2.
- Regarding the layout and quality of the amenity space, the layout is designed to respond to the site shape, the existing buildings on the site and the character of the site. Specifically, the open character of the surrounds of Marsville House is proposed to be retained and the retention of the wooded area at the western side of the house provides a buffer to the adjoining residential area.

- A number of options are put forward for the fencing off of the wooded area or the incorporation of the area into Unit 15. Submitted that even without this area the development meets the minimum 10 percent public open space requirement.
- That the external and internal noise levels would fall within the acceptable standards for residential development as per the methodology set out in the KCC Noise Action Plan.
- Submitted that KCC also treated the threshold values set out in the Noise Action Plan as absolute limits whereas the plan clearly states that the values are arbitrary.
- The appeal is accompanied by a Human Health Impact Assessment which concludes that the no significant adverse effects on human health would arise as a result of the proposed development.

6.2. Planning Authority Response

The following is a summary of the main issues raised in the response received from the Planning Authority dated 23rd March, 2021.

With regard to compliance with the Kildare County Council Third Noise Action Plan, the following points are highlighted:

- That the submitted AWN reports did not clearly demonstrate that the development complied in full with the Noise Action Plan in that the predicted post mitigation Lden noise levels at 4.5 metres above ground level are clearly indicated as being within the 75dB contour. Specifically Figure 13 of the Acoustic design statement does not indicate that the predicted noise would be below 70dB(A) Lden.
- That the predicted post mitigation Lnight noise levels at 4.5 metres above ground are indicated within the 60-65dB noise contour and would therefore be above the 57dB(A) threshold in the Noise Action Plan. Similarly, the predicted Lnight noise levels at 1.5 metres above ground would be within the 55-60

noise contour and it is not therefore clear that they would be below the 57dB(A) threshold.

- That the predicted post mitigation noise levels at 4.5 metres above ground indicate that houses Nos. 2 to 15 and Marsville House are exposed to predicted noise contour of 55-60dB(A) and therefore it is not clear that they would be below the 57dB(A) threshold.
- That the statement in the first AWN report notes that the first floor facades of the nearest houses would be in the region of 59-62dB Lnight it is stated that this would be mitigated by the layout. This is considered to be a gross contravention of the noise action plan. Noted that a 3dB increase represents a doubling of the sound level.
- Submitted that the applicant has not unequivocally or fully demonstrated compliance with the Noise Action Plan requirements and the content of the request for further information. .

With regard to compliance with the Planning and Noise Professional Practice, Guidance on Planning and Noise New Residential development (May 2017) known as the ProPG Report, the following points are highlighted:

- That ProPG provides guidance on the maximum internal noise from individual events. Individual noise events should not normally exceed 45dBA more than 10 times a night. In the event that the 10 threshold is exceeded then a more detailed site and scheme specific assessment is required.
- Appendix A19 states that a site should not be regarded as negligible risk where the external L_{Amax} exceeds or is likely to exceed 60dB more than 10 times and should be considered to be high risk where L_{Amax} exceeds 80dBA more than 20 times a night.
- Noted that the response to FI did not provide detailed assessment of the potential impact on the occupants of the bedrooms and whether individual noise events were the cause of exceedance of the 45dBLAF max inside the bedrooms of the development.
- That the LAF max values of the noise survey (5 nights) ranged between 71.2 and 87.9 dBA recorded 33 times per night.

- On the basis of the above, the applicant did not comply with the requirements of ProPG.
- That the content of the AWN report submitted with the appeal which refers to internal noise levels with windows open for the terraced houses and apartments would appear to relate to bedrooms as referred to in the internal criteria of BS8233:2014 which requires such values to be in the range 30-35dBA and appear to have been obtained by applying a relaxation of 5dBA in accordance with Note 7 of these BS.
- That the predicted noise levels appear to be totally at variance with the predictions contained in the first AWN Noise Assessment submitted with the application and specifically section 5.22 of that document. This table indicates night time noise levels that significantly contravene the BS.
- It appears that the predicted Lden and Lnight noise levels as per the assessment submitted with the appeal are 6dB lower than the levels indicated in Figures 12 to 15 of the AWN report submitted with the application. The 6dB reduction is justified by a correction applied for façade geometry and recessed balconies. Questioned why this 6dB correction was not applied previously but is now justified bringing the predicted noise levels below the relevant threshold set out in the Noise Action Plan.
- That the appellants predicted internal noise levels with windows open do not appear realistic given the recorded Lnight noise survey results and the LAF max results cited over the 5 nights of the noise survey.

7.0 Assessment

7.1. The following are considered to be the main issue relevant to the assessment of this appeal:

- Principle of Development and Compliance with Core Strategy
- Design and Layout
- Impact on Amenity including Noise
- Traffic and Access
- Other issues
- Environmental Impact Assessment
- Appropriate Assessment

7.2. Principle of Development and Compliance with Core Strategy

7.2.1. The appeal site is located on lands that are zoned Objective A Town Centre, under the provisions of the *Kill Small Town Plan* contained at Volume 2 of the *Kildare County Development Plan, 2017-2023*. 'Dwellings' and 'Medical Consultant / Health Centre' are both listed in Table 1.8.3 of Volume 2 of the Plan as being uses that are permitted in principle on lands that are zoned Town Centre. The uses proposed on the site are therefore consistent with the zoning of the site.

7.2.2. Chapter 2 of the *Kildare County Development Plan, 2017-2023* contains the core strategy for the county. This has however been superseded by the adoption of Variation No. 1 of the Plan. As per Table 2.2 and Table 3.1 of Variation No.1 of the development plan, Kill is identified as a town with 'Local service and employment functions in close proximity to higher order urban areas.' Paragraph 2.11.5 of Variation No.1 states that the Council will seek to support new local employment opportunities in the identified towns in the settlement hierarchy, including Kill. The proposed medical use to be housed in Marsville House is in my opinion consistent with the local service function of the settlement and the promotion of the employment opportunities in such settlements. I therefore consider that the form of development proposed comprises an appropriate mix of uses for a town centre site.

7.2.3. The development proposes the refurbishment and reuse of the existing Marsville House which is a protected structure. The house was formerly used as offices occupied by the HSE. It is not completely clear from the application documentation how long it has been unoccupied, however the property is currently in a relatively poor state of repair and was not properly secured at the time of inspection of the site, such that the continued vacancy of the house would be likely to have a material adverse impact on its condition. The proposed conversion of the house to use as a medical facility is in my opinion an appropriate reuse of the building and one which would comply with good conservation practice around the adaptation and active reuse of protected structures. More detailed consideration of the conservation impacts of the proposed development on the structure is undertaken in the sections below.

Core Strategy

- 7.2.4. Table 3.3 of Variation No.1 sets out the settlement hierarchy and population and housing unit allocation for 2020-2023. For Kill, Table 3.3 identifies that the population growth between 2020 and 2023 is 219 and the target number of additional dwellings over the same period is 78.
- 7.2.5. A review of the recent planning application history in Kill indicates that there have been two large developments permitted under the Strategic Housing Development legislation. Under Ref. ABP-307013-20 permission was granted in September 2020 for 167 no. residential units at Kill Hill and Earls Court, and under Ref. ABP-305416-19, permission was granted in January 2020 for 147 no. residential units at Newtown, Kill. Even with a reasonable allowance for headroom, the target number of additional dwellings as set out in the revised core strategy as set out in Variation No.1 of the Plan would therefore appear likely to be exceeded.
- 7.2.6. While the potential exceedance of the core strategy population allocation for Kill is noted, I note the central location of the appeal site and its location on lands that are zoned Objective A (town centre) under the provisions of the Kill Small Town Plan. Policy KL1 of the Kill Small Town Plan seeks to facilitate residential development for the lifetime of the plan largely within the town centre zone and the proposed development would be consistent with a sequential approach to the development of

zoned lands which is identified at section 1.5.7 of the plan as a principle to guide the future development of the settlement as well as being proximate to existing services. For these reasons, and having regard to the relatively small scale of the development in terms of units, it is my opinion that the proposed development would be consistent with the proper planning and sustainable development of the area notwithstanding the potential exceedance of the population allocation to the settlement as per the core strategy.

7.3. Design and Layout

- 7.3.1. The basic design proposes the retention of Marsville House as the centre point of the site with the addition of housing in the form of the single storey units on the eastern side, the two storey apartment building to the rear of Marsville House and the two storey terraced housing located on the western / south western side of the site. The scale of the proposed residential development is such that it is subservient to the existing protected structure, Marsville House and the impact of the proposed development on conservation and the protected structure is considered in more detail in section 7.5 below. The basic layout with single storey residential development to the front of the protected structure and the incorporation of two storey development to the rear of the site is in my opinion acceptable. In addition to the basic layout of the site, the form of development proposed is in my opinion significantly constrained by the requirement that residential units would afford a reasonable standard of amenity for future occupants and that the negative noise implications of the proximity to the N7 would be addressed in the design. Given these factors, the layout as proposed with residential units running parallel to the boundary with the N7 and the inclusion of an access road along this boundary is in my opinion the only clear option available. Overall, I consider that the basic layout proposed reflects the constraints of the site, particularly in terms of the central location of a protected structure on the site and the proximity of the N7 and is acceptable.
- 7.3.2. The overall gross **density** of development proposed is relatively low with a total of 23 units on 1.21 ha equating to a gross density of 19 no. units per ha. The net density of the development on the residential element of the site (excluding Marsville House

and immediate curtilage and roads and paths) is indicated by the first party as being c.25 units per ha. The proposed density is therefore significantly below the 30-40 units per ha. target for small towns set out in Table 4.2 contained at Volume 1 of the *Kildare County Development Plan, 2017-2023* or the 30-40 plus cited in Paragraph 6.9 of the Sustainable Residential Development Guidelines for Planning Authorities as being appropriate for centrally located sites in smaller towns or villages (less than 5,000 population). These guidelines do however note the fact that because of the variety of contexts and the probability of mixed use developments, it is difficult to be prescriptive about the appropriate level of density for such sites and in the case of the appeal site there are in my opinion a number of factors which mitigate against the achievement of the density levels recommended. Specifically, the constraint formed by the incorporation of the protected structure Marsville House into the layout, the central location of this building on the site, the proximity of the N7 and resulting restrictions in terms of height and building location necessary to mitigate negative noise impacts, the surrounding pattern of development and the limited size and irregular shape of the site all combine to mitigate against the achievement of a higher density than that proposed. Having regard to these limitations, it is my opinion that the density proposed is acceptable in this instance.

- 7.3.3. The **unit mix** proposed on site comprises a mix of one, two and three bedroom units with 3 no. one bed apartments, 5 no. two bed apartments and 15 no. three bed houses. Given the nature of the settlement and the central location it could be argued that a greater proportion of smaller units could be justified, however on balance I consider that the unit mix is acceptable.
- 7.3.4. With regard to the **residential layout**, I consider the basic configuration of the apartment block to be acceptable with an angled footprint reflecting the northern boundary of the site. Similarly, I consider that Units 4 – 11 are generally acceptable in terms of their layout and separation to site boundaries. In the case of Units 12-15 at the far western end of the site, both the request for further information and the request for clarification of further information identified the layout in this area and the relationship between the proposed units and the public amenity space in this location as problematic. I agree with this assessment, and in the event of a grant of permission consider that the terrace of Units Nos. 12-15 need to be orientated to face more to the west than north west as per the proposed layout. Such a

reorientation would enable the area of private amenity space at the western end of the site to be properly overlooked and supervised which is not the case in the existing layout and to remove the area to the side of unit No.15. Such a reorientation would result in the gable end of unit No.15 coming within c.17 metres of the closest house to the west in Whitethorn Grove which is c. 1-2 metres closer than the existing proposed layout. The re orientation of Units 12-15 would however have the effect of presenting the side elevation of Unit 15 to the closest house in Whitethorn Grove mitigating potential overlooking issues. Should the Board consider that such a modification have a material adverse impact on the amenity of the residents of Whitethorn Grove then revised public notices may be required. Alternatively, the omission of a unit in this location would result in the separation distances to the closest houses remaining approximately the same as proposed. On balance I consider it most appropriate that unit No.15 would be omitted from the development.

7.3.5. In summary, in the event of a grant of permission I would recommend the following changes to the layout:

- The omission of Unit No.15 from the development,
- The reorientation of the remaining Units No. 12-14 inclusive to face in a more westerly orientation and to directly address the area of public open space in this part of the site.
- Reconfiguration of the proposed private amenity areas serving the remaining Units 12-14 with no area of public open space being located to the rear of the building line formed by the realigned block Nos. 12-14.

7.3.6. I note that the reorientation of these units (Nos. 12-14) would potentially alter the effectiveness of the terrace (Nos. 4-14) as a noise barrier and alter the results of the noise modelling exercise undertaken by the first party. The issue of noise and amenity is considered in more detail in section 7.4 below, however I note that a revised design could retain a similar gap between the units as the layout modelled and would also facilitate units 12-14 being relocated slightly further from the noise source.

7.3.7. The extent of **public amenity space** proposed to be provided equates to c.1,543 sq. metres or approximately 13 percent of the site area. The public open space provision is therefore in excess of the 10 percent standard specified in the Kildare

County development Plan and is also above normal requirements. Subject to the alterations to the layout proposed above I consider that the three main amenity spaces proposed would be of good quality and amenity value and are acceptable. The revisions proposed above would likely not result in a significant change to the overall amount of public open space provision and would not result in the reduction of space to below 10 percent.

- 7.3.8. I note the comments contained in the first party appeal with regard to Reason for Refusal No.2 relating to the quality of the public amenity spaces and specifically that located at the western end of the site. The response puts forward a number of options including the fencing off of the wooded area or the incorporation of the area into Unit 15 and it is submitted that even without this area the development meets the minimum 10 percent public open space requirement. I do not consider that the fencing off of a part of the site as proposed is feasible or desirable from a safety and amenity perspective and also do not see how such a large area could realistically be incorporated into the curtilage of a single unit. Even if this was done the balance of the amenity space in this part of the site would not be adequately overlooked. In addition, the omission of the area would result in overall amenity space provision of only c.870 metres or c.7 percent of the total site area.
- 7.3.9. **Private amenity space** provision for the housing units is detailed on the Site Plan drawing (Drg No. 1817-PLA02-003) submitted as part of the response to further information and is acceptable in principle. In the case of the terraced houses, the minimum private amenity area is proposed to be c.68 sq. metres comprising 54 sq. metres of rear garden and a c.14 sq. metre terrace at first floor level. Private amenity space for the single storey houses exceeds 100 sq. metres per unit and the private space per apartment unit is set out on the schedule of accommodation submitted and is in excess of the minimum requirements set out in the Apartment Guidelines for Planning Authorities. In the case of the terraced houses and apartment units it is also noted that the private amenity spaces are south or south east facing.
- 7.3.10. The application is accompanied by a schedule of accommodation setting out the internal accommodation areas and demonstrating compliance with the requirements of the apartment guidelines and quality housing for sustainable communities as appropriate. The **internal layout** of the apartment units and the terraced houses

has been significantly influenced by a requirement to minimise the potential impact of road noise with windows to the main living and bedroom accommodation located on the southern elevation away from the road (N7) and ancillary spaces facing towards the road. Notwithstanding this design requirement, I consider that the internal layout of both the apartment units and houses to be acceptable in principle. Some detailed concerns highlighted in the reports on file from the Housing Department and specifically around access within units are noted, however I consider that the revised layouts as submitted in response to the request for further information are acceptable. Other aspects of the apartment layout with regard to aspect and units per access / core are in accordance with the provisions of the apartment guidelines. Overall, therefore, I consider that the internal layout of the proposed units is acceptable and such as to provide a good quality of accommodation for future occupants.

7.4. Impact on Amenity including Noise

- 7.4.1. With regard to **overlooking and separation** between proposed development and adjoining residential properties on other sites, I note that no part of either the two storey apartment building or the terraced housing would be located closer than 22 metres from other properties. In the case of the units located at the eastern end of the site, the separation distances to the adjoining single storey dwellings are c.9 metres in the case of Units Nos. 1 and 2, however I consider that these separation distances are acceptable having regard to the single storey scale of the existing and proposed dwellings in this location.
- 7.4.2. The design and location of the proposed apartment building is in my opinion such that no significant issues of overlooking or loss of amenity arise. The closest house would be located approximately 20 metres from the proposed apartments and the design of the apartments is such that the main accommodation would be facing south and away from the surrounding houses. External access to the first floor units is proposed on the northern elevation, however these areas would be significantly screened from the residential properties to the north east by the proposed berm and screen that is proposed to run close to the northern elevation of the apartment block.

7.4.3. On the western side of the site, the proposed terraced houses would have their primary living accommodation facing south in the direction of the Eurospar car park. The proposed alteration to the layout of the western end of these units as discussed above would have the effect of orientating Nos. 12-14 more towards the adjoining car park that the rear of the houses in Whitethorn Grove. As discussed above, the proposed alteration would have the effect of bringing unit No.15 within c. 17 metres of the closest house in Whitethorn Grove or approximately 23 metres if Unit No.15 is omitted. I note that the design of these units indicates a first floor terrace area that would be located on the south western side of the floorplan and that from the drawings it would appear that the parapet to these terraces would only be c.1.2 metres above floor level. Given the proximity of these units to the site boundary and to the houses in Whitethorn Grove, I consider that additional screening to these terrace areas is required and in the event of a grant of permission I consider it necessary that details of the proposed first floor terrace areas to the rear of the terraced houses would be submitted showing how clear views from these terraces over the houses to the south would be prevented. In particular, I consider that the end unit would need to incorporate a solid side (south west facing) elevation to the terrace of minimum 1.8 metres in height. Subject to these requirements, I do not consider that the terraced houses in this part of the site would lead to a loss of amenity due to overlooking or overbearing visual impact.

Daylight and Sunlight - Shadowing

7.4.4. The planning application does not contain documentation relating to the impact of the proposed development in terms of daylight and sunlight and it has not been specifically referenced in the grounds of appeal or observations received by the planning authority. The scale of development proposed at two storeys is limited and this combined with the relative siting of the existing and proposed developments and the separation distances between existing and proposed development which are generally consistent with the development management standards set out in the development plan, are such that I do not anticipate that the proposed development would negatively impact on the daylight and sunlight levels enjoyed by residents of properties surrounding the site. Notwithstanding these factors, daylight and sunlight is an issue to be considered in applications for multi-unit residential development.

7.4.5. The provisions of BS 8206-2:2008 (British Standard Light for Buildings- Code of practice for daylighting) and BRE 209 – Site Layout Planning for Daylight and Sunlight – A guide to good practice (2011) are relevant in the assessment of this development. Both documents are referenced in the Kildare Development Plan (Section 17.2.5 Development Management Standards). Reference to same is also made in the Section 28 Ministerial Guidelines on Urban Development and Building Heights 2018. While I note and acknowledge the publication of the updated British Standard (BS EN 17037:2018 ‘Daylight in buildings’), which replaced the 2008 BS in May 2019 (in the UK), I am satisfied that this document/UK updated guidance does not have a material bearing on the outcome of the assessment and that the more relevant guidance documents remain those referenced in the Urban Development & Building Heights Guidelines and the Kildare Development Plan.

7.4.6. Paragraph 17.2.5 of the Kildare County Development Plan, 2017-2023 relates to Overshadowing and states that:

‘Where development of a significant height is located close to existing development, the planning authority may require daylight and shadow projection diagrams to be submitted. The recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BRE 1991) or Lighting for Buildings Part 2 1992: Code of Practice for Day Lighting B.S. 8206 and any updates to these documents should be followed as a minimum in this regard.’

7.4.7. No Sunlight Analysis was submitted as part of the planning documentation by the applicants. The development is a traditional low density low level scheme rather than being of ‘significant height’ as cited in paragraph 17.2.5 and is therefore one where the BRE209/BS2806 targets would generally be expected to be met in all instances. There is nothing apparent in the documents and drawings submitted that would highlight any issue in this regard. Specifically, in the case of the proposed terraced houses at the western side of the site, the layout as submitted indicated a minimum separation of c.17 metres to the closest houses in Whitethorn Grove or larger (c.23 metres) if unit No. 15 is omitted. The proposed new houses are however located north and north west of the existing properties and therefore such that when combined with the separation distance no negative impacts on daylight and sunlight to the existing properties would arise. In the central part of the site, the proposed

apartment building is located to the south west of an existing bungalow that is close to the site boundary. The separation distance between the proposed apartment building and the site boundary and the adjoining bungalow are c.16 metres at the c.20 metres respectively. Given these separation distances, the relative orientations, fact that the apartment building is only two storey in height, the location of the apartment building to the south of the main amenity space and the size of the amenity space serving the existing dwelling I do not consider that the proposed apartment building would give rise to any negative impacts in terms of daylight and sunlight to third party properties. Finally, in the case of the three single storey houses proposed for the eastern side of the site the existing hedgerow site boundary and the scale of dwellings proposed are such that I do not consider that these houses would give rise to any negative impacts in terms of daylight and sunlight to third party properties.

- 7.4.8. In conclusion therefore, while there is no documentary evidence to demonstrate compliance with BRE209 requirements, based on the planning documentation submitted, I am satisfied that this is not a material or likely potential impact/deficit in information and that for the reasons set out above, the proposed development would not be likely to have any negative impact on the daylight and sunlight levels enjoyed by residents of properties surrounding the site.

Road / Traffic Noise and Impact on Amenity

- 7.4.9. The basis of reason for refusal No.1 cited by the Planning Authority is that the proximity of the development to the N7 national primary road which is designated a 'major road' as defined under the EUC Environmental Noise Regulations, 2018, is such that notwithstanding the proposed noise mitigation measures proposed in the development that noise would be such as to have a significant negative impact on the use of the public and private amenity spaces and on the internal living accommodation of the houses and apartments. It is therefore concluded by the Planning Authority that the proposed development would be contrary to Policy EN4 of the *Kildare County Development Plan, 2017-2023* and would seriously injure the residential amenities of future occupants of the development.

7.4.10. The issue of noise was addressed by the applicant in an initial noise assessment report submitted with the application and subsequently in a revised noise assessment report submitted as part of the response to further information. In response to the Notification of Decision to Refuse Permission, the first party appeal contains a further noise assessment report prepared by AWN Consulting which sets out how the residential accommodation contained in the proposed development would be consistent with both the external façade limits referenced in the Third Noise Action Plan prepared by the council and secondly how the internal noise environment in bedroom accommodation would remain within generally acceptable limits with windows open. The appeal contends that the reports of the Roads and Transportation section of the council do not adequately justify their assertions that the proposed development would be contrary to the Noise Action Plan and that noise impacts in the development would be such as to have a significant negative impact on the residential amenity of future occupants of the development. These first party grounds of appeal has been the subject of a relatively detailed rebuttal from the Roads Department of the council which sets out how it is considered that compliance with the limits specified in the Noise Action Plan have not been achieved / demonstrated and which also highlights what are stated to be a number of inconsistencies in the analysis presented on behalf of the first party. Before proceeding to consider the detail of the noise issues raised by the parties there are in my opinion a number of factors which are of significant relevance to the assessment.

7.4.11. Firstly, in my opinion, the proposal has to be seen in the context of the ***purpose of the Noise Action Plan*** which is to ensure compliance with the EC Environmental Noise Regulations 2018 and EU Directive 2002/49/EC relating to the assessment and management of environmental noise. Under these pieces of legislation, the council is obliged to adopt action plans based upon the noise-mapping results, with a view to preventing and reducing environmental noise where necessary and particularly where exposure levels can induce harmful effects on human health and to preserving environmental noise quality where it is good. The legislation itself does not prescribe any specific level of noise that is appropriate to achieve this aim and I note the fact that the executive summary of the current Plan clearly states that the identified noise limits are derived from the EPA Guidance Note for Noise Action

Planning (July, 2009) and that '*These limits are arbitrary at present as there is no existing legislation that limits environmental noise to a particular value*'. (my emphasis added).

- 7.4.12. The focus of the Roads Department submissions during the course of the assessment of the application the subject of this appeal and the appeal response is on the demonstration of the achievement of the proposed noise levels thresholds for of 70 dB (A) Lden, and 57 dB (A) Lnight. As set out above, these limits are not specified in legislation, are arbitrary and the achievement of the exact levels specified are not required in order for a development to be considered acceptable.
- 7.4.13. Secondly, as per the requirement of the directive and the regulations, the focus of the Noise Action Plan is on the identification of noise bands or contours and the mapping of same. In the case of a residential development such as that proposed on the appeal site, while the noise band that would reach the façade of a building facing the road at a level of 1.5 or 4.5 metres above ground level is of relevance, the real significance from a residential amenity perspective is the detailed design proposed and the impact of road generated noise on the internal residential accommodation proposed. In the case of the proposed development, the first party has in my opinion gone to very significant lengths to ***mitigate the impact of noise in the design*** of the development. Specifically, the proposal incorporates the provision of a 5.5 metre high noise attenuation structure along the north west and part of the northern boundaries of the site comprising an approximately 3 metre high earth bund topped by a 2.5 metre high timber noise attenuation barrier. In addition, the site layout provides for the location of the access road between the residential development and the site boundary and the use of the building layout to effectively form a barrier that screens the balance of the site from noise. Internally, the proposed layout has been carefully designed to ensure that main living accommodation and bedrooms face south away from the road and the overall height has been limited to two storeys as analysis indicated that accommodation at higher levels could not be adequately protected from noise. In conclusion, I consider that the design approach proposed by the first party in terms of both the site layout and the detailed design of the accommodation is as far as can reasonably be undertaken to mitigate noise impacts in the development.

7.4.14. Thirdly, and very significantly, I consider that significant regard needs to be given to ***the location and zoning*** of the appeal site. The site is in a central position within the village and is zoned Objective A (Town Centre) under the provisions of the Kill Small Town Plan contained in Volume 2 of the *Kildare County Development Plan, 2017-2023*. The consolidation of development within the settlement with sequential development of other lands is a core principle for the development of the settlement as set out at paragraph 1.5.7 of the Kill Small Town Plan. Objective KL1 of the Plan states that it is an objective to '*facilitate the development of residential developments for the lifetime of this plan largely within the town centre zone, on lands areas designated as existing residential / infill and on lands zoned new residential ...*'. The reality of development in a settlement such as Kill is that a significant element in town centre development is going to be residential and this is recognised in the Kill Small Town Plan. It is not in my opinion tenable for the Planning Authority to identify lands for development and to zone them for a purpose that envisages residential uses as forming a significant element and then to refuse permission on the basis of a strict interpretation of what is recognised as an arbitrary standard as set out in the Noise Action Plan. In my opinion this is particularly the case in circumstances such as the appeal site where the first party has clearly set out to have detailed regard to the potential impact of road generated noise and, as detailed above, has gone to very significant lengths to mitigate such impacts in the design of the development.

7.4.15. On this issue, I note that Section 11.1 of the Third Noise Action Plan includes a Summary of Actions under the heading of Planning & Development. These actions include (2) *Having regard to planning applications for proposed developments containing noise sensitive receptors (which may be below the scale associated with full EIA requirements), promote the process of good acoustic design in development* and (3) *Propose rezoning of lands such that noise sensitive receptors are located away from areas of existing high noise levels including areas where "Major Roads" and "Major Railways" are situate*. As set out above, in its layout and detailed design I consider that the development the subject of this appeal has clearly demonstrated good acoustic design and consider that the continued zoning of the site for development has to be interpreted as meaning that the Planning Authority are satisfied that the site is suitable for town centre uses including residential development.

- 7.4.16. With regard to the detailed issues raised in the appeal, I note and am in general agreement with the first party that the submissions made demonstrate that environmentally acceptable ***noise levels will be achieved in private and public amenity spaces*** in the development. Specifically, on the basis of the information presented it appears to me that public and private amenity spaces within the development would meet the requirements set out in BS8233-2014, which is that noise in such areas would ideally not above the range of 50-55 dB LAeq 16 hr. I also note that the BS recognises that this standard may not be achievable in all circumstances and that the development should be designed to provide the lowest practicable noise level rather than the development being prohibited.
- 7.4.17. With regard to the impact of the proposed development on ***internal living accommodation*** I note the comments of the Roads Department in the response to the grounds of appeal where a number of queries are raised regarding apparent conflicts between the external façade noise levels cited in the Noise Action Plan and the layout of the proposed residential accommodation as indicated on the Noise Contour Mapping submitted with the application and submitted as part of the response to the grounds of appeal. The local authority contend that these noise contour maps do not conclusively demonstrate that the facades of the proposed development would meet the Noise Action Plan standards, however in the majority of the instances cited it would appear that the facades are within the relevant noise band and it is not clear to me that compliance could not be achieved. Analysis presented with the appeal indicates to me that compliance with these facade limits can be met in the majority of circumstances, however as discussed above I would highlight firstly the arbitrary nature of the NAP limits, the fact that the internal room noise levels is a more appropriate measure of amenity and also the fact that the lands are zoned and that the realistic limits of noise mitigation have in my opinion been incorporated into the proposed development.
- 7.4.18. With regard to the assessment of internal noise levels within habitable rooms and specifically bedrooms, I note that the Pro PG document (which is the one specifically referenced in the KCC Noise Action Plan) provides guidance with regard to achieving noise levels with windows open and states that '*designing the site layout and the dwellings so that internal target levels can be achieved with open windows in as many properties as possible , demonstrate good acoustic design*'. This would

suggest to me that achievement of the specified internal standard in all units is not mandatory and I would again reference the fact that the appeal site is zoned and that a very significant level of design consideration has been given to the mitigation of noise.

7.4.19. The appeal response received from the Planning Authority highlights the fact that the full noise survey information on which the AWN noise assessment is based has not been provided and that in the absence of this information, it is not possible to verify that the internal standards set out in ProPG have been met and specifically that it is not possible to determine the number of significant individual noise events per night that occurred. Under ProPG such information would be required to identify whether the internal accommodation of the proposed development could be classified as negligible or high risk and whether a more detailed assessment is warranted. The AWN report submitted with the appeal appears to me to demonstrate compliance with the internal standards specified in BS8233:2014 and, when put together with other relevant considerations relating to the status of the Noise Action Plan, the site zoning and the design mitigation proposed, is in my opinion acceptable and such that an acceptable level of residential amenity would be achieved for future occupants of the development.

7.4.20. I note the fact that the AWN report attached with the appeal demonstrates that all bedroom windows bar 4 no. located in houses Nos. 1 and 2 meet the target levels and that mitigation in the form of amendments to the design / layout of Units 1-3 is proposed which would ensure that the relevant standards are met. In the event of a grant of permission it is recommended that these changes to Units Nos. 1 and 2 be required to be submitted for the agreement of the planning authority and that these alterations would result in these units changing from a three bedroom to a two bedroom plus smaller study.

7.4.21. In conclusion on the issue of noise and residential amenity, I note the submissions of both parties on the issue and the specific issues highlighted by the Planning Authority response to the first party appeal which raises a number of technical and detailed concerns with regard to the approach taken by the first party and the assessment submitted with the appeal. I note that this submission has not been circulated to the first party for comment and in the event that the Board was minded to refuse permission on the basis of traffic noise impacts and the impact on the

residential amenity of future occupants it would appear appropriate that the first party would be given an opportunity to respond to the specific issues raised.

Notwithstanding the concerns raised in the Planning Authority response, I would highlight the broad purpose of the Noise Action Plan and specifically the fact that the limits cited in the document are recognised as somewhat arbitrary. I would also highlight the fact that the site is zoned that this zoning envisages that the site would accommodate residential development and that the approach of the first party has sought to incorporate the noise context and appropriate noise mitigation in the design in both site layout and building design. The first party has in my opinion presented a convincing case as to how the proposed mitigated design would meet recognised external and in particular internal noise standards such as would in my opinion result in a development that would not have a significant negative impact on residential amenity by virtue of environmental noise and specifically noise generated by the adjoining N7 national road.

7.5. Conservation Issues

- 7.5.1. The development proposes the refurbishment, extension and reuse of the existing house and outbuildings on the site, Marsville House. The house is stated to date from c.1908 and comprises a two storey pitched roof house with projecting bays and single storey outbuildings. The building was previously used as a dispensary and also accommodation for the Health Service Executive. It has been vacant for a number of years and at the time of inspection was observed to be unsecured and in danger of significant deterioration. The survey and conservation report submitted with the application indicates that internal the building is in good condition with much of the original building fabric and layout remaining unaltered. The building is included on the National Inventory of Architectural Heritage (NIAH) with a regional significance, and it is also included on the record of protected structures.
- 7.5.2. In my opinion the principle of the proposed reuse of the building as a medical or health centre is appropriate given the location and character of the building and the proposed reuse is in accordance with best conservation practice regarding adaptive reuse of such structures. The detailed works proposed as set out in the submitted conservation report are in my opinion appropriate and include the replacement of the

pvc windows with timber sliding sash, repairs and reinstatement of rainwater goods and the removal of non original render to part of the elevations. Internally, the level of interventions proposed is limited and the refurbishment would result in the removal of a number of non original features and modifications. No significant alterations to the layout or access to the structure are proposed. On the basis of the information presented I am satisfied that the works to the main building and outbuildings are consistent with best conservation practice and are such that they would facilitate the active reuse of the structure and would not result in the loss of existing built fabric or other negative impact on the character of the structure.

- 7.5.3. As part of the development, it is proposed to add a small (c.45 sq. metre) extension to the side of Marsville House. The location and design of this extension is not in my opinion such that it would clearly be subservient to the main building and such that it would not in my opinion detract from the character of the existing structure.
- 7.5.4. In terms of the impact on the setting of the structure, the main new development comprising the apartments and terraced housing would be located to the rear of Marsville House and therefore such that they would be significantly screened from views from the entrance and approach to the house. The scale of this new residential development is such that it would be lower than the main house and the overall impact on the setting of the protected structure would in my opinion therefore be limited. The approach to the house from the existing entrance is proposed to remain undisturbed by new buildings and the proposed 3 no. single storey houses located to the east and north east would not in my opinion act to significantly impact on views of the house or its setting.
- 7.5.5. Policy KL33 of the Kill Small Town Plan seeks to preserve and protect the structures and items listed on the Record of Protected Structures. For the reasons set out above, the proposed development would in my opinion be consistent with this Policy and such that the proposed development would not have any unacceptable negative impacts on the built fabric, character or setting of Marsville House.

7.6. Traffic and Access

- 7.6.1. In terms of car parking, the proposed layout provides for surface car parking throughout the site with 2 no. parking spaces proposed per house unit and 1.5 no. spaces per apartment unit. Two visitor spaces are also proposed to serve the apartment units and the parking provision to serve the residential uses proposed on the site are therefore consistent with the requirements of Table 17.9 of the Kildare County Development Plan and are in my opinion acceptable.
- 7.6.2. Parking to serve the medical use is proposed to be provided at a rate of 2 no. spaces per consulting room which means 14 no. spaces. This is in accordance with Table 17.9 of the Plana and is in my opinion acceptable. A total of 18 no. bicycle parking spaces are proposed which is consistent with the standard set out in Table 17.10 of the plan and is acceptable.
- 7.6.3. The site access is proposed to remain via the existing access point to Marsville House from main Street with the access slightly widened to facilitate two way traffic. The access at this location is set back from the road edge with grassed / landscaped strip between the entrance and the road edge. The entrance is located in relatively close proximity to an access laneway that runs along the southern side of the site and which accesses a single storey dwelling to the south. Visibility at the existing access point is in my opinion adequate and consistent with the requirements of DMURS.
- 7.6.4. The internal road layout is in my opinion acceptable in principle and details should be made the subject of agreement with the Planning Authority with regard to the detailed layout and design. Drawing No. D1929-C-01 indicates the measures incorporated into the scheme that accord with DMURS principles including regarding road lengths, and junction geometry. A Stage 1 and 2 road safety audit of the internal road layout has been completed and recommendations arising implemented.

7.7. Other issues

7.7.1. Ecology

- 7.7.2. The site provides a number of habitats of which the largest are broadleaved woodland and dry meadow with significant extent of hedgerow and built ground also recorded. In summary the northern part of the site is characterised by meadow grassland with hedgerow and tree boundaries and the southern part by broadleaved woodland.
- 7.7.3. The site was the subject of a number of surveys including for bats, birds, and mammals. None of the habitats recorded on the site are of particular significance or included on the EU Annexed habitats list, and no species of significant importance were observed. The development will likely result in some disturbance to existing mammals on the site as well as bird species, however given the species observed such impacts are not considered to be such as to have a significant negative impact on ecology.
- 7.7.4. The potential of the site to provide suitable bat habitat is recognised in the Ecological Impact Assessment submitted with the application and an assessment was undertaken of the potential for suitable roosting structures for bats to be present on site. The assessment states that buildings were the subject of assessment and that any trees identified as potentially suitable were climbed and inspected. Bat detectors were also employed on the site and survey locations included the attic of Marsville House, the outbuildings to the house and the woodland at the western end of the site. No evidence of bat activity was recorded in the surveys undertaken.
- 7.7.5. A number of mitigation measures are set out in section 6.0 of the submitted Ecological Impact Assessment. These include the undertaking of a pre-development bat survey of Marsville House, and the installation of bat boxes and bird nesting boxes. Protection is proposed to trees and boundary vegetation that is proposed to remain. Given the nature of the site it is my opinion that subject to the mitigation measures proposed no significant negative impacts on ecology are likely to arise.

Archaeology

- 7.7.6. A section of the eastern side of the site is located within a zone of archaeological potential as per map V2 of the Kill Small Towns Plan. An archaeological assessment undertaken and submitted with the application does not indicate the presence of archaeological material. I note the submission received from the National Parks and Wildlife Service on the appeal file which states that the department agrees with the assessment contained in the archaeological report submitted with the application and monitoring of the site to be undertaken in accordance with licence issued by Department.
- 7.7.7. In the event of a grant of permission it is considered appropriate that a condition be attached requiring that the construction works would be the subject of archaeological monitoring.

Flooding and Flood Risk

- 7.7.8. A site specific flood risk assessment is submitted with the application and this summarises the available OPW flood risk data. Under the Eastern CFRAM Study mapping flooding is predicted along the Kill River to the east of the appeal site. There are no recorded incidents of flooding on the site, however there are recorded instances of flooding off site approximately 100 metres to the east where the Kill River flows under the N7.
- 7.7.9. The submitted assessment notes that fluvial flooding is the most likely source of potential flooding at the appeal site however this risk is considered to be remote given the location of the Kill River relative to the site.
- 7.7.10. The design of the surface water drainage system on site proposes the discharge of water to ground and the incorporation of surface water attenuation in the design. Given these factors it is not considered that there is a likely significant risk of pluvial flooding.
- 7.7.11. Overall, on the basis of the available information relating to flood risk in the vicinity of the site, the location of the site relative to the Kill River, to the nature of the proposed development and to the site location within an established town centre location I consider that the proposed development is consistent with the requirements of the

Flood Risk Management Guidelines for Planning Authorities and I do not consider that the flood risk is such that permission should be refused on this basis.

Part V – Social and Affordable Housing

7.7.12. The form of development proposed comprising the construction of 23 no. residential units is such that the provisions of Part V of the Planning and Development Act, 2000 (as amended) are applicable in this instance. The application identifies units which are proposed to be the subject of Part V and in the event of a grant of permission it is recommended that a condition be attached requiring the applicant or other person with an interest in the land to which the application relates to enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of the Act.

Site Servicing

7.7.13. The development is proposed to be connected to the public water supply and drainage networks with foul drainage connecting to an existing sewer close to the north west corner of the site and water supply via an existing supply on Main Street. The Engineering Planning Report submitted with the application indicates that the first party submitted a pre-connection enquiry to Irish Water and that the response indicated that subject to a valid connection agreement that the proposed development could be facilitated. A copy of this response is appended to the Engineering Planning Report. In the event of a grant of permission it is recommended that a condition be attached requiring that the developer enter into a connection agreement with Irish Water.

7.8. EIA

- 7.8.1. The form of development proposed comes within the scope of classes 10(b)(i) and 10(b)(iv) of part 2 of the Fifth Schedule which relate to:
- (i) Construction of more than 500 dwelling units.*
- (iv) Urban development which would involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere.*
- 7.8.2. The proposed development is therefore of a class for the purposes of EIA.
- 7.8.3. The following is an assessment of the requirement for EIA under the headings as set out in the Seventh Schedule of the Planning and Development Regulations, 2001 (as amended).

Characteristics of Proposed Development

- 7.8.4. The form of development proposed comprising 23 no. residential units is very far below the 500 unit threshold for the purposes of EIA. Similarly, the overall site size at 1.21 ha. is very significantly less than the threshold for urban development of 10 ha. in an urban area. In terms of design, the form of development proposed at two stories is in my opinion not such as to give rise to any likely significant effects that would require EIA.
- 7.8.5. No significant demolition works are proposed, and the development would not result in significant natural resource usage or the production of significant pollution or nuisances.
- 7.8.6. Similarly, the form of development proposed is not such that there is a risk of major accident hazards arising. The proximity of the site and the proposed residential development to the N7 national road is recognised and has potential health impacts in particular relating to noise. As set out in section 7.4 above, I consider that significant design mitigation to minimise noise impacts for future residents have been incorporated into the development and such that I do not consider that the proposed development would clearly have significant health impacts for future occupants of the development.

Location of Proposed Development

- 7.8.7. The site is located close to the centre of an existing urban centre and on lands that have previously been partially developed with Marsville House. The site is not considered to be of particular environmental sensitivity or such that it would impact on a land use of particular scarcity.
- 7.8.8. The proposed development would not impact either directly or indirectly on any wetlands, riparian areas, river mouths, coastal zones, or marine environment. Similarly, it would not impact on any mountain and forest areas, nature reserves and parks or areas classified or protected under legislation, including Natura 2000 areas designated pursuant to the Habitats Directive and the Birds Directive.
- 7.8.9. The development would have some potential amenity impacts on surrounding areas however these are not considered likely to be potentially significantly adverse and no significant population concentrations would be impacted. The existing structure on the site is included in the record of protected structures, however the form of development proposed is not considered likely to have a significant impact on significant landscapes or sites of historical, cultural, or archaeological significance.

Types and Characteristics of Potential Impacts

- 7.8.10. Any environmental impacts generated by the proposed development, including amenity impacts for future occupants or surrounding residential properties, are considered to be such as to be limited in spatial extent. No transboundary impacts of any form would arise and the intensity, duration, frequency, and complexity of any such impacts are not such as to warrant EIA.

Conclusion

- 7.8.11. Having regard to the provisions of Article 109(2) of the Planning and Development Regulations, 2001 (as amended), on the basis of the above, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded.

7.9. Appropriate Assessment - Screening

Introduction

- 7.9.1. The application was not accompanied by a Screening for Appropriate Assessment. The assessment undertaken by the Planning Authority states that the *'having regard to the proximity of the nearest SAC and given the location, nature and extent of the proposed development it is not considered there would be potential for significant effects on the Natura 2000 network.'* .
- 7.9.2. As no screening assessment has been submitted with the application, this screening assessment has been carried out de novo.
- 7.9.3. The project is not directly connected with or necessary for the management of any European site.

Proposed Development

- 7.9.4. The proposed development comprises a mixed use residential and commercial development that includes the change of use of the existing Marsville House from office use to use as a medical centre. The works to the structure include the construction of a single storey extension with floor area of 45 sq. metres and the refurbishment of the building. On the balance of the site it is proposed to construct 12 no. two storey three bedroom terraced houses on the western side of the site orientated parallel with the boundary facing the M7 and facing this boundary, 3 no. single storey three bedroom houses to the east of Marsville House which would face onto the boundary with existing single storey housing to the east of the site and the construction of a two storey apartment building to the north west of Marsville House accommodating 3 no. one bed apartments and 5 no. two bed apartments.
- 7.9.5. Access to the development is proposed via the existing access to Marsville House which it is proposed to widen to 5.8 metres and the construction of new access roads.
- 7.9.6. Open space within the development is proposed to be provided at three main locations, these being at the far western end of the site, to the rear (south) of the apartment building and to the east of Marsville House in a location between the house and the 3 no. bungalows.
- 7.9.7. All ancillary services and development works.

European Sites

7.9.8. The appeal site is not located within or close to any European sites. A summary of the European sites located within 15km of the appeal site are as follows:

- Poulaphouca Reservoir SPA (site code 004063) located c. 9.75 km to the south of the appeal site.
- Wicklow Mountains SAC (site code 002122) located c. 11km to the east / south east of the site at the closest point.
- Ballynafagh Bog SAC (site code 000391) located c.13km to the north west of the appeal site.
- Mouds Bog SAC (site code 002331) located approximately 13km to the west of the appeal site.
- Rye Water Valley/Cartron SAC (site code 001398) is located approximately 15km to the north of the appeal site at the closest point.

7.9.9. The nature of the proposed development is such that there are no emissions or discharges from the operational phase of the development that would have any potential direct effects on the conservation objectives of any European sites. The development would result in some increased level of discharge to surface and foul sewers as a result of the increased population on site. This level of increase would however be relatively limited given the relatively small number of residential units proposed (23 no.) and the nature and scale of the proposed commercial use on the site.

7.9.10. During the construction phase of the project there is potential for construction related spillages and discharges. Given the urban location of the site and the location relative to European sites there are no viable pathways between the appeal site and any European sites during the construction phase.

7.9.11. In conclusion, given the nature of the proposed development, the increased intensity of development proposed on the site and the location relative to European sites and the absence of any clear pathways or connections between the appeal site and any of the above European sites it is not considered that any of the above sites need to be considered further in this screening assessment.

Mitigation Measures

- 7.9.12. No measures designed or intended to avoid or reduce any harmful effects of the project on a European site have been relied upon in this screening exercise.

Screening Determination

- 7.9.13. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act, 2000 as amended. Having carried out screening for appropriate assessment of the project it has been concluded that the project either individually or in combination with other plans or projects would not be likely to give rise to significant effects on any European sites in view of the conservation objectives of the relevant sites and appropriate assessment is not therefore required.

8.0 Recommendation

- 8.1. Having regard to the above, it is recommended that permission be granted based on the following reasons and considerations and subject to the attached conditions.

9.0 Reasons and Considerations

Having regard to the central location and town centre zoning objective for the site, to the design of the development including boundary berm, height, site layout and internal layout which seeks to minimise the potential impact of road traffic noise and to the pattern of development in the area, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would ensure a satisfactory standard of amenity for future occupants of the development such as would not be prejudicial to public health and would not have an adverse effect on the character or setting of any protected structure. 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 submitted on the 22nd day of December 2020 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) The omission of Unit No.15 from the development,
 - (b) The balance of the block containing Units No. 12-14 inclusive shall be reorientated to face in a more westerly direction and to directly address the area of public open space in this part of the site.
 - (c) Following from the amendments required at (a) and (b), the reconfiguration of the proposed private amenity areas serving Units 12-14 with no area of public open space being located to the rear of the building line formed by the realigned block Nos. 12-14.
 - (d) The side (south west facing) elevation to the first floor terrace of the end unit at the southern end of the site shall be redesigned to incorporate a solid side to this terrace to a minimum height of 1.8 metres above floor level of the terrace.
 - (e) The internal layout of Units Nos. 1 and 2 shall be revised as detailed in the first party appeal submission received by the Board on 19th day of February, 2021.

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 interests of residential amenity.

3. Details of the materials, colours, and textures of all the external finishes to the proposed dwellings 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. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

5. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreements with Irish Water.

Reason: In the interest of public health.

6. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs, shall be in accordance with the detailed standards of the planning authority for such works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

7. All service cables associated with the proposed development shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

8. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility [and to ensure the use of locally appropriate placenames for new residential areas].

9. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of this development.

10. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority. .

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

11. 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.

12. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 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 order to safeguard the residential amenities of property in the vicinity.

13. 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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

14. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation, and collection of the waste and, in particular, recyclable materials 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.

15. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall -

- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
- (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
- (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

Reason: In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

16. Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

17. All of the communal parking areas serving the residential units shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply 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 sustainable transportation.

18. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

19. 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.

Stephen Kay

Planning Inspector

1st November, 2021