



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314317-22

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<b>Development</b>	Construction of a three storey and part two storey detached apartment building consisting of 6 one-bedroom apartments and 1 studio apartment.
<b>Location</b>	Melitta Road, Kildare Town, Co. Kildare.
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	22571
<b>Applicant(s)</b>	Roundtower Developments Limited.
<b>Type of Application</b>	Planning Permission.
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Roundtower Developments.
<b>Observer(s)</b>	No Observers.
<b>Date of Site Inspection</b>	17 <sup>th</sup> of November 2023.
<b>Inspector</b>	Elaine Sullivan

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## 1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.031ha and is located within the administrative area of Kildare County Council and is within the settlement boundary of Kildare town. It is approximately 500m to the north-east of the historic town centre of Market Square and approximately 500m to the south-east of the train station. The site forms part of a neighbourhood centre within the Assumpta Villas and Maryville housing estates. The neighbourhood centre comprises a number of local businesses including butcher's shop, a hairdresser and a convenience shop. The site is positioned on the most westerly corner of the neighbourhood centre and beside the butcher shop.
- 1.2. The site faces onto Melitta Road and has a pedestrian laneway running along the western boundary. This laneway connects Melitta Road to the rear of the houses on Maryville and on the western site is bounded by the rear garden walls of two houses on Assumpta Villas. There is a significant change in level between the subject site and the neighbourhood centre and the carriageway of Melitta Road, which is at a lower level.
- 1.3. To the south the site faces onto Melitta Road with a green area and a public footpath directly adjoining the site boundary. A two-storey development with a butcher shop at ground level adjoins the site to the east and has first floor windows facing onto the site. To the north, the site is bounded by a large open area of hard standing that is also located to the rear of No's 2243, 2241 and 2242 Maryville. On the occasion of the site visit, there was evidence of littering and anti-social behaviour with broken glass and litter along the edges of the space. This area is also used for deliveries to the businesses in the neighbourhood centre, whose yards open onto the space. A laneway from this area extends northwards to the rear of the houses on Maryville and Assumpta Villas.
- 1.4. There is currently a single storey structure in place on the site, which appears to be a semi-permanent structure / portacabin. At the time of the site visit the site was secured and the building appeared to be empty.

## 2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of a part three-storey and part two-storey detached apartment building comprising 6 one-bedroom apartments and 1 studio apartment.
- 2.2. The development would be connected to the public mains water and wastewater systems. The proposal does not contain any car parking or public / communal open space.

## 3.0 Planning Authority Decision

### 3.1. Decision

Planning permission was refused by the Planning Authority, (PA), for the following two reasons,

1. Policy HP 4 of the Kildare Town Local Area Plan 2012 — 2018 seeks to 'encourage appropriate densities for new housing development in different locations in the town while recognising the need to protect existing residential communities and the established character of the town and surrounding area'. It is considered that the proposed three-storey development, having regard to its scale and massing on site, poor architectural expression and elevational treatment including articulation and integration within the context of the area, would have a visually obtrusive and dominant appearance on the streetscape of Melitta Road and would represent over-development of the site. The proposed development would be out of character with existing development in the area, and would therefore be contrary to policy HP 4 of the Kildare Town Local Area Plan 2012 — 2018 and to the proper planning and sustainable development of the area.
2. Having regard to:
  - the nature of the proposed access to the apartments via a narrow unsupervised laneway with inadequate safety and overlooking,
  - the nature and treatment of private open space to serve the apartments,

- the quality of accommodation in unit 6 including lack of aspect and windows to habitable rooms,
- the lack of provision of car-parking to serve the development,

It is considered that the proposed development is substandard in terms of residential amenity. Furthermore, the Planning Authority is not satisfied that the overshadowing effects on the 1st floor residential property to the east have been sufficiently considered in the proposed development. It is therefore considered the proposed development would seriously injure the residential amenity of both future occupants of the subject development and the existing property to the east. The proposed development would therefore conflict with the provisions set out under section 17.7.6 and table 17.9 of the Kildare County Development Plan 2017-2023, would have a negative impact on the residential amenity of the area and would therefore be contrary to the proper planning and sustainable development of the area.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The report of the Planning Officer, (PO), dated the 6<sup>th</sup> of July 2022 informed the decision of the PA and includes the following,

- The site is zoned Objective B – Existing Residential in the Kildare Local Area Plan, (LAP), 2012-2018 and the principle of the residential development is acceptable.
- The LAP outlines that only in exceptional circumstances will apartments be considered outside of town centres or adjoining the train station.
- There is no public or communal open space attached to the development. However, the PO considers this to be acceptable given the infill nature of the site, the proximity to the town centre, the amenity of the nearby Curragh Plains and the generous private open space provided.
- The main concerns regarding the development relate to the scale of the proposal and the overall design approach.

- A report from the Strategic Projects and Public Realm Section of the PA refers to the poor architectural response to the site in terms of elevational treatment and integration. The density of 225 units per hectare and plot ratio of 1:45 is overdevelopment. The height of the building would be overbearing on the existing development and the potential impact from overshadowing has not been considered. The report also notes concerns regarding safety, layout of the eastern boundary, residential mix and access from a narrow laneway.
- A previous planning application for a similar development, (21/1197), was withdrawn on foot of a request for further information. The issues raised in the request were not addressed in the subject proposal.
- The PO notes that Unit 6 is a single aspect, north facing unit with habitable rooms which are served by flat rooflights.

### 3.2.2. Other Technical Reports

- Water Services – Further information requested regarding the treatment of surface water and supporting calculations.
- Roads, Transportation and Public Safety – Further information is requested regarding the provision of cycle spaces, access gradients to and from the building, condition of existing parking area, provision of electric vehicle (EV), charging points and proposals for permeable paving.
- Environment Section – The bin storage area is inadequate for the development. Further information is requested regarding this.
- Kildare Area Office – Further information requested regarding the hard standing area proposed for parking and the applicant's interest in the area.
- Strategic Projects and Public Realm Team – The report recommends that the design and finish of the proposal is revised to incorporate a high-quality architectural approach and improvements to the public realm which make a positive contribution to the streetscape.
- Housing Section – The applicant did not apply for a Part V exemption certificate. One Part V unit is proposed.
- Fire Service – Fire Safety Certificate required.

### 3.3. Prescribed Bodies

- Uisce Éireann – No objection.

### 3.4. Third Party Observations

- No third-party observations received by the PA.

## 4.0 Planning History

On the subject site,

**21/1097** – Planning permission lodged on the 28<sup>th</sup> of July 2021 for the development of a part-three storey and part two-storey apartment development comprising 6 one-bedroom apartments and 1 studio apartment. The application was withdrawn on foot of a request for further information on 15 points.

**05/2231** – Planning permission granted by the PA on the 24<sup>th</sup> of March 2005 for the retention of a dormer window and dormer floor over existing retail unit and for permission to construct a two-storey, semi-detached building to be used as a family medical clinic and associated site works. (Drawings for this application show the first-floor layout over the butcher with five bedrooms – windows to the bathrooms and landing face onto the adjoining site to the west).

## 5.0 Policy Context

### 5.1. Development Plan

- 5.1.1. The site is located within the administrative boundary of Kildare County Council. The operative Development Plan for the area is the Kildare County Development Plan, (KCDP), 2023-2029, which came into effect on the 28<sup>th</sup> of January 2023.
- 5.1.2. The application was assessed by Kildare County Council in accordance with the policies and objectives of the Kildare County Development Plan 2017-2023, which was the operative Development Plan at the time.

- 5.1.3. On review of the contents of both plans I note that there are no material changes between the 2017 County Development Plan and the 2023 County Development Plan as they relate to the appeal site and the current proposal.
- 5.1.4. However, the Kildare Town Local Area Plan, (LAP), 2023-2029, (which was adopted but not enacted at the time of writing), replaces the Kildare Local Area Plan 2012-2018. In the newly adopted LAP the zoning objective for the site has changed from objective 'B – Existing Residential' to objective 'N- Neighbourhood Centre'. Residential development is 'Open for Consideration' in the Neighbourhood Zoning objective. In this regard I consider that the proposal can be assessed against the policies and objectives of the operative Development Plan, namely the 2023 – 2029 Kildare County Development Plan, (KCDP).
- 5.1.5. In the interest of clarity the policies and objectives of the **Kildare County Development Plan 2017-2023 and Kildare Local Area Plan 2012-2018**, which are referenced in the decision of the PA are listed below.
- **Kildare LAP – Policy HP 4** - To encourage appropriate densities for new housing development in different locations in the town while recognising the need to protect existing residential communities and the established character of the town and surrounding area.
  - **KCDP 2017-2023 - Section 17.7.6** – Car parking
  - **Table 17.9** – Car Parking Standards
- 5.1.6. I have reviewed the policies and objectives of the **Kildare County Development Plan 2023-2029**, and the following is a non-exhaustive list of extracts from the Plan which relate to the site.
- Chapter 2 - Settlement Strategy** - Kildare town is designated as a 'Self-Sustaining Growth Town' within the settlement strategy for the county.
- Table 2.8 – Core Strategy Table** – sets out the proposed residential density target (units/hectare) for each settlement type to the end of the Plan period. Kildare Town has a target of 30-40 residential units per hectare.



## **Chapter 3 – Housing**

### **3.7 – Residential Densities – Objectives -**

**HO 04** - Ensure appropriate densities are achieved in accordance with the Core Strategy in Chapter 2 of this Plan, and in accordance with the principles set out in Guidelines for Planning Authorities on Sustainable Urban Development (Cities, Towns and Villages), DEHLG, 2009, Urban Design Manual: A Best Practice Guide, DEHLG, 2009; Urban Development and Building Height Guidelines for Planning Authorities (2018); and with reference to Circular Letter NRUP 02/2021 (April 2021).

**HO 05** - Encourage increased densities that contribute to the enhancement of a town or village by reinforcing street patterns or assisting in redevelopment of backlands and centrally located brownfield sites.

### **3.8 – Protecting Existing Residential Amenity - Objective -**

**HO 06** - Ensure a balance between the protection of existing residential amenities, the established character of the area and the need to provide for sustainable residential development is achieved in all new developments.

### **3.10 – Mix of Dwelling Types – Objective -**

**HO 016** - Promote the provision of high-quality apartments within sustainable neighbourhoods by achieving suitable levels of amenity within individual apartments, and within each apartment development, and ensuring that suitable social infrastructure and other support facilities are available in the neighbourhood. Apartment development must be designed in accordance with the provisions of Sections 15.2, 15.3 and 15.4 (Chapter 15), where relevant, to ensure a high standard of amenity for future residents.

## **Chapter 15 – Development Management Standards**

**15.4.1 – Development Capacity** – Applications for residential development in urban areas will be required to comply with the principles of compact growth and should be balanced with, (among other considerations), achieving adequate privacy and amenities for residential units in the development and retaining adequate privacy and residential amenities for existing / adjoining residential areas.

**15.4.5 – Design, Layout and Boundary Treatments** – Proposals for residential development in towns and villages will be required to fully address the 12 Criteria for

sustainable residential development as outlined in the Urban Design Manual – A Best Practice Guide (DoEHLG, 2009), as well as the guidance set out in Section 14.6 of the KCDP.

**15.4.7 – Apartment Developments** – Planning applications for apartments will be assessed against the Sustainable Urban Housing: Design Standards for New Apartments (2020) or any subsequent guidelines and the Urban Development and Building Height Guidelines (2018).

**15.6.6 – Public Open Space for Residential Development** – A relaxation of standards, (minimum of 15% public open space), may be considered in smaller developments, (less than 8 units and on brownfield sites), for which a minimum of 10% would be required. In cases where standards have been relaxed or where there is a shortfall in the provision of open space due to the practicalities of the site, the council will require an equivalent monetary contribution in lieu of remaining open space provision via the Kildare County Council Development Contribution Scheme.

**15.7.2 – Cycle Parking** – The PA requires the provision of a minimum level of cycle parking spaces to be provided in each new development. The standards are set out in Table 15.4. Apartment developments require a minimum of 1 space per bedroom and 1 visitor space per 2 apartments. (The proposed development would require a minimum of 9 bicycle parking spaces).

**15.7.8 – Car Parking** – Car parking standards are set out in Table 15.8 of the KCDP and are maximum standards. Residential development in proximity to town centres and high-capacity public transport should be designed to have fewer parking spaces. (As per Table 15.8, the proposed development would yield a maximum of 10 spaces, 1.5 per apartment and 1 visitor space per 4 apartments). The PA will normally require the provision of car parking spaces within the curtilage of the site or convenient to the development. Lower rates of parking and car free developments will also be considered where developments are close to and can avail of public transport.

**The Kildare Town Local Area Plan 2023-2029**, (Draft – Adopted but not yet enacted).

The Kildare LAP 2023-2029 replaces the previous LAP which was in place between 2012-2018. At the time of writing the 2023 LAP had been adopted by the Elected Members at a special meeting of the Kildare Newbridge Municipal District.

According to the Kildare County Council website, the LAP will come into effect 6 weeks from the 26<sup>th</sup> of October 2023, (i.e. the 7<sup>th</sup> of December 2023). The following policies which relate to the site have been extracted from the 2023 LAP,

- The subject site is zoned Objective N – Neighbourhood Centre, which is ‘*To provide for new/existing neighbourhood centres and associated facilities.*’. Residential development, (Dwelling), is listed as ‘Open for Consideration’ within the Neighbourhood Centre zoning objective.
- The site is in a Pluvial Flood Risk Assessment Zone as shown on Map 10.2 of the LAP.
- Objective IO 3.1 requires that a site-specific Flood Risk Assessment, appropriate to the scale and nature of the development and the risks arising, to be carried out for developments located within the Pluvial Flood Risk Area as outlined on Map 10.2 Strategic Flood Risk Assessment Map.
- There is a Historic Skyline View, (HS4), to the south-east of the site on Melitta Road, looking towards St. Brigid’s Cathedral and Round Tower. (Map 8.4 – Built Heritage, Scenic Routes and Protected Views). The subject site would be in the periphery of this view and would not interrupt it.
- **Section 3.8 - Future Development Priorities –**
- **Objective CSO 1.3** - Support and facilitate the compact growth of Kildare Town through the sustainable and sequential land use development objectives which consolidate the town centre, commercial uses and established residential areas.
- **Section 6.4 – Residential Density, Mix and Design** – The Core Strategy of the KCDP provides for an average target residential density of 35-40 units per hectare (uph) for Kildare Town. This section also recognises that the predominant dwelling type in the town are houses and that a greater mix in dwelling typology is required.

- **Section 6.5.1.9 – Neighbourhood Centres** – The neighbourhood centre on Melitta Road is the only Neighbourhood Centre which meets the definition outlines in the Retail Planning Guidelines.

## 5.2. National Planning Policy

### 5.2.1. Project Ireland 2040, National Planning Framework, (NPF).

The NPF provides a series of National Policy Objectives (NPOs) which relate to infill development and utilising underused sites and include the following,

- NPO 3a, b and c, seek the delivery of new homes within the footprint of existing settlements.
- NPO 3a, Deliver at least 40% of all new homes nationally, within the built-up footprint of existing settlements.
- NPO 3b, Deliver at least half (50%) of all new homes that are targeted in the five Cities and suburbs within their existing built-up footprints.
- NPO 3c Deliver at least 30% of all new homes that are targeted in settlements, within their existing built-up footprints.
- NPO 11 states that there will be a presumption in favour of development that can encourage more people and generate more jobs and activity within existing cities, towns and villages, subject to development meeting appropriate planning standards and achieving targeted growth.

### 5.2.2. Section 28 Guidelines –

#### **Sustainable Urban Housing - Design Standards for New Apartments (Guidelines for Planning Authorities), 2023.**

- The guidelines support the use of infill sites in urban locations to provide higher density apartment developments.
- Within the guidelines, the site would be defined as within an Intermediate Urban Location as it is within reasonable walking distance of a principal town centre, and a high-capacity urban public transport stop, (Kildare train station).

- Intermediate Urban Locations are generally suitable for smaller-scale, higher density development that may wholly comprise apartments with a broad density of >45 units per hectare.
- SPPR1 - Apartment developments may include up to 50% one-bedroom or studio type units, (with no more than 25% as studios).
- SPPR2 – For urban infill schemes on sites of up to 0.25ha, where up to 9 residential units are proposed, (notwithstanding SPPR1), there shall be no restriction on dwelling mix.
- SPPR3 – Sets out the standards for minimum apartment floor areas.
- SPPR4 – Sets out the minimum number of dual aspect apartments to be provided in any scheme; a minimum of 33% dual aspect units are required in more central and accessible locations, a minimum of 50% in a suburban or intermediate location and on urban infill sites of any size or on sites of up to 0.25ha planning authorities may exercise discretion to allow lower than the 33% minimum.
- SPPR5 – Specifies floor to ceiling heights.
- SPPR6 – Specified maximum number of apartments per floor core.
- Appendix 1 – sets out the minimum requirements for aggregate floor areas, room areas and widths, storage space, private and communal amenity space.
- Car Parking – In areas that are well served by public transport, the default position is for car parking provision to be minimised, substantially reduced or wholly eliminated. This is particularly applicable where a confluence of public transport options are located in close proximity.

**Urban Development and Building Heights, (Guidelines for Planning Authorities), 2020.**

- The guidelines require that the scope to consider general building heights of three to four storeys, coupled with appropriate density, in locations outside what would be defined as city and town centre areas, and which would

include suburban areas, must be supported in principle at development plan and development management levels.

- Criteria for considering additional height are set out in Section 3.2 of the Guidelines.

### **Sustainable Residential Development in Urban Areas (Guidelines for Planning Authorities), 2009**

- The Guidelines updated and revised the 1999 Guidelines for Planning Authorities on Residential Density and set out the key planning issues to be considered in the provision of new housing development in terms of sustainable development.
- The subject site would be categorised as an 'Inner Suburban Infill' site in larger town, (i.e. towns with a population of 5000+), which would be suitable for higher densities subject to the provisions of a Local Area Plan, should one be in place.

### **Circular Letter: NRUP 02/2021**

Re: Residential Densities in Towns and Villages, as set out in Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009).

The Circular was issued to provide clarity in relation to the interpretation of the Section 28 Guidelines - Sustainable Residential Development in Urban Areas 2009, (the 'Sustainable Residential Development Guidelines').

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

- No designations apply to the subject site.

### **5.4. EIA Screening**

- 5.4.1. See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of

significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of appeal include the following,

- The appellant argues that a revised proposal which reduced the scale of the development would not be economically feasible. They contest the decision of the PA and set out the positive aspects of the development which they feel were not adequately considered.
- The grounds of appeal state that the site is an infill site, approximately 350m from a regional train station and is suitable for higher densities.
- There is an existing laneway on the site which is in the land registry ownership of the applicant. The laneway has no passive surveillance and has been subject to anti-social behaviour. The subject proposal has been designed to overlook the laneway which will reduce anti-social behaviour and enhance permeability.
- A communal car park is located to the north of the site. It is under-utilised, not maintained and has been subject to anti-social behaviour. The applicant is willing to fund the upgrade of this area but only if it is economical to do so.
- The appellant does not agree with the opinion of the PA that the overall design is 'poor' and argues that the scheme has been designed in the 'form follows function' design theory. The development has south-facing balconies to maximise amenity and natural materials have been proposed to complement the contemporary design.
- It is acknowledged in the appeal that Unit 6 may be a sub-standard unit and the applicant would be willing to remove this unit from the scheme.
- The appeal argues that a three-storey building is appropriate for the site and that the site is at a slightly lower level than the surrounding two-storey development.

- Regarding the density of the development, the appellant puts forward that on specific, brownfield sites, density should be calculated on the projected population for the development, (i.e. persons per unit), rather than the quantitative measure based on the size of the site and the units per hectare calculation.

## 6.2. **Planning Authority Response**

- A response from the PA on the 24<sup>th</sup> of August 2022 states that the PA reviewed the contents of the appeal and have no further comments to make.

## 6.3. **Observations**

- No observations received.

## 7.0 **Assessment**

7.1. The issues raised can be addressed under the following headings.

- Principle of Development
- Flood Risk – New Issue
- Density
- Residential Amenity
- Design & Layout
- Appropriate Assessment

## 7.2. **Principle of Development**

7.2.1. The subject site is zoned objective 'N - Neighbourhood Centre' in the Kildare Town LAP 2023-2029. At the time of writing, this plan has been adopted but not yet enacted. The LAP was adopted by the Elected Members at a special meeting of the Kildare Newbridge Municipal District. The Kildare County Council website,



([www.kildarecoco.ie](http://www.kildarecoco.ie)), states that the LAP will come into effect 6 weeks from the 26th of October 2023, which would be the 7th of December 2023.

- 7.2.2. Residential development is listed as 'Open for Consideration' under the 'Neighbourhood Centre' zoning objective, and I am satisfied that the location and context of the infill site, (close to a town centre, a train station and in a housing estate), is suitable for the consideration of residential development. Under the previous LAP the site was zoned Objective B – Existing Residential. I am satisfied that the historic and recent zoning objectives display a clear intent by the PA to allow the site to be developed and I am satisfied that the development is acceptable in principle and can be assessed on its merits.

### 7.3. Flood Risk - New Issue

- 7.3.1. The site is located in an area which has been designated as a Pluvial Flood Zone in the Kildare Town LAP 2023-2029. Objective IO 3.1 of the Kildare LAP 2023-2029 requires, '*a site-specific Flood Risk Assessment, appropriate to the scale and nature of the development and the risks arising, to be carried out for developments located within the Pluvial Flood Risk Area as outlined on Map 10.2 Strategic Flood Risk Assessment Map.*'. A Flood Risk Assessment was not submitted with the application and the issue was not addressed in the grounds of appeal. In the absence of this assessment the potential risk of the development in terms of pluvial flooding is unknown.
- 7.3.2. This is a new issue, and the Board may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.

### 7.4. Density

- 7.4.1. In the first reason for refusal the PA considered that due to the scale and massing, poor architectural expression and elevational treatment, the development would represent over-development of the site and would be visually obtrusive and dominant. The applicant argues that the site is suitable for the high density, three-

storey development as it is an urban infill site in a strategic location, approximately 350m from a mainline train station.

- 7.4.2. The report of the PO states that the development would have a plot ratio of 1.45 and would yield a density of 225 units per hectare, which the PO considers to be excessive. The appellant argues that this measurement of density is not appropriate for the site as the recommended density would yield just 1.5 units, which he considers to be an uneconomical waste of land. It is suggested in the grounds of appeal that a more reasonable approach would be to assess density based on household size. The average household size in Kildare town, (as per the Central Statistics Office, CSO), is 2.68 persons for Kildare, the applicant has calculated that the development would at most accommodate 14 persons, which is below the 18.76 persons that would be accommodated for a development of 7 units, based on an average household size of 2.68 persons.
- 7.4.3. I do not accept this rationale as it seems to omit an essential variable. The average household size is based on a range of different housing typologies and sizes and not just on one-bedroom units, as proposed in the subject development. Therefore, the measurements are not comparable. Furthermore, measuring density in housing units per hectare basis is an accepted method which has been applied in all national policy documents, to determine appropriate levels for different areas. It is not reasonable to diverge from this methodology to achieve a more suitable outcome for a specific site. Therefore, the density of the development will be measured by using the widely accepted industry norm of units per hectare. National and local policy also accept that appropriate density for a development or a site must also consider elements such as location, context, design, and the prevailing pattern of development.
- 7.4.4. The proposed density of 225 units per hectare is high and is far above the recommended 30-40 units per hectare in the KCDP. The nature and context of the urban, infill site near a mainline train station with high frequency commuter services is noted. National policy set out in the Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) Guidelines, May 2009, recommend that a minimum net density of 50 units per hectare should be applied within public transport corridors with the highest densities being located at rail stations and bus stops. This advice has been reinforced in more recent guidance such as the Section 28

'Apartment Guidelines' and 'Height Guidelines' which also recommend increased densities within urban settlements where public transport options are available. Whilst the density is high, the following sections will examine whether the development is of sufficient quality to justify such a large divergence from policy.

## 7.5. Residential Amenity

### Proposed Residential Amenity

- 7.5.1. The proposal contains seven one-bedroom apartments, one of which is listed as a studio apartment. The development standards from the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines (2023), have been transposed into the KCDP and the development has been assessed against these standards.
- 7.5.2. The report of the PO noted that the residential mix of solely one-bedroom units had not been justified. SPPR 2 of the Apartment Guidelines allows for not restriction on dwelling mix where up to nine residential units are proposed, provided no more than 50% of units are studio-type units. Only one of the proposed units is described as a studio unit, even though it has a separate bedroom. I am satisfied that the provision of one-bedroom units can be accommodated within the wider area where the dominant housing typology comprises two storey houses of two and three bedrooms. Smaller one-bedroom units would provide some diversity in house sizes and may meet a specific demand for smaller units in the area.
- 7.5.3. Four of the seven units are single aspect, with two of these units being north and east facing respectively. The Apartment Guidelines require a minimum of 33% dual aspect units on more central and accessible sites. This is provided in the subject development, but the guidelines also make allowances for smaller sites of less than 0.25ha.
- 7.5.4. I have reviewed the drawings submitted with the application and all units exceed the minimum floor areas for the unit type as set out in the Apartment Guidelines. They also meet the aggregate floor area, room width and storage requirements. Private open space would be provided though terraces at ground floor and balconies, all of which are attached to the living areas and meet the standards in terms of area. Whilst the apartments have been designed to accord with the development

standards, I would have serious concerns regarding the layout of the units and the level of functional amenity they would provide. Section 15.2.3 of the KCDP require that all new development have regard to the recommendations of *Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.209, 2011)* and *British Standard (B.S.) 8206 Lighting for Buildings, Part 2, 2008: Code of Practice for Day Lighting*, (BRE Guidelines), or other updated relevant documents. The Apartment Guidelines refer to guides such as ‘*A New European Standard for Daylighting in Buildings EN17037*’ or ‘*UK National Annex BS EN17037 and the associated BRE Guide 209 2022 Edition (June 2022)*’, (BRE Guidance), when assessing the performance of apartments in terms of adequate daylight. The application did not contain an assessment on the levels of daylight that the units would receive, and in the absence of an assessment of this nature I will follow the recommendations in the BRE Guidance.

- 7.5.5. Unit 1 is a ground-floor, single-aspect unit which faces east. The bedroom and living area open onto a private terrace with a public laneway beyond this. To provide screening and security for Unit 1, it is proposed to install a wall planter and timber screen to a height of 2.1m along the boundary to the laneway. The width of the terrace varies, and it is impossible to measure from the drawings provided, which are not to scale. However, from an annotated drawing, it appears to be c. 3m at its widest point and c. 1.3m at its narrowest. The timber screen and restricted width of the terrace would restrict the level of natural light into the apartment, and together with the orientation would result in restricted levels of light to the apartment, especially during the winter months. The location of the kitchen to the rear of the unit and behind a storeroom would mean that this area would receive no natural light at all. I would also question whether the open space would receive adequate levels of light.
- 7.5.6. Units 2 and 3 are south facing but have would have a very deep floor plan which would function as combined living, kitchen, and dining areas. Annotated drawings show the room to be 3.3m wide and 9m long with the kitchen area located to the rear of the room. Given the length of the room, the kitchen area would receive very little natural light. The BRE Guidelines make allowances for these situations, and recommend that, where this cannot be avoided that the kitchen is located next to a well-lit area. Whilst the living area is south facing and would be well-lit at certain

times of the day, it is almost 5m long which would be prohibitive in terms of natural light reaching the kitchen area. The balcony is also recessed which would restrict the level of natural light into the space.

- 7.5.7. The applicant has acknowledged that Unit 6 is sub-standard, and I agree. It is a north-facing, single aspect unit with a recessed balcony, which would restrict the level of light to the unit. The kitchen and bedroom would be lit solely by flat roof lights and the bedroom does not seem to have any natural ventilation. No additional storage area is shown for this unit and the living area is small, (just 2.4m in width), and constrained. It may be possible to redesign this unit, but the changes would be comprehensive and may have knock-on effects for the rest of the development. Therefore, this unit should be removed if the Board is minded to grant permission for the development.
- 7.5.8. As noted above the individual units were not assessed for adequate levels of daylight and sunlight, and based on the orientation, recessed balconies and floor plan layouts, I would have serious concerns regarding the levels of daylight for Units 1 and 6, as well as the level of natural daylight to the combined kitchen area in Units 2 and 5. Apart from the general amenity and attractiveness of the space, the need for artificial lighting requires extra demand on energy consumption, which national policy seeks to avoid.
- 7.5.9. Whilst the apartments can meet the general standards in terms of floor areas etc. I am not convinced that the layout and arrangement of the units would lead to sufficient levels of residential amenity for future residents in terms of access to daylight. I would also question the level of amenity that would be provided by the private terrace to Unit 1 which is a restricted east-facing space which would be surrounded by a 2.1m timber screen.

#### Car Parking

- 7.5.10. It is unclear if the applicant is proposing to provide car parking for the development or not. The application form states that the number of car parking spaces to be provided is 14 but the site plans contain no car parking for the development. The Site Plan Layout submitted with the application shows 12 car parking spaces on open space to the rear of the site, which is referred to as an 'Existing Underutilised Communal Car Park' and the Access & Services Report states that, *'It is proposed*

*that the car park to the rear of the property, which is to serve the development remain, as it currently is, as a permeable (hardcore stone) surface'. This area is not within the red line boundary and appears to be in third party ownership. The application does not contain any consent to carry out works in this area from the PA or relevant third party. I note that it is also proposed to connect the development to an existing attenuation tank in the area which is outside of the red line.*

- 7.5.11. The grounds of appeal state that the applicant is amenable to upgrading the area to the rear of the subject site should permission be granted. This would require agreement with the PA and could result in some planning gain from the development. However, in the interest of clarity, I will assess the appeal based on the absence of car parking for the development. The Apartment Guidelines acknowledge that the quantum of requirement for car parking for apartment developments will vary based on proximity and accessibility criteria. The subject site is located in an area which is categorised as an 'Accessible Urban Location', (Section 4.21 of the Guidelines), where car parking can be minimised or omitted entirely in developments. I am satisfied that the absence of dedicated car parking for the development is acceptable and that the quantity and unit typology would not generate a large level of car parking. Given the scale of the proposal for seven units on an infill site, close to public transport, I am satisfied that the development can be considered without car parking.

#### Communal / Public Open Space

- 7.5.12. The development does not include any provision for public or communal open space. However, this can be accepted given the scale of the development, the size of the site and its nature as a brownfield, infill site in a neighbourhood centre.

#### Refuse Storage

- 7.5.13. The layout of the scheme does not provide adequate refuse storage for the development. Plans submitted with the development show only two bins in the storage area. The PA noted that this is insufficient to cater for the apartment development and national policy requires that waste be separated into three different receptacles. This issue has not been addressed by the applicant in the appeal. A condition could be attached to a grant of permission, but good design practice would

require the bin storage area to be contained within the site. It is difficult to see how this could be accommodated in the arrangement shown on the plans submitted.

- 7.5.14. Overall, I am not satisfied that the proposed development would provide a satisfactory level of amenity for future residents. The layout and orientation of Units 1, 2, 5 and 6 would have restricted levels of daylight to the main living spaces which would impact on the amenity of these units. Unit No. 6 is substandard due to the lack of windows and natural ventilation to the bedroom and the external space to Unit 1 would also be restricted and poorly lit.

#### Existing Residential Amenity

- 7.5.15. The main impact on existing residential amenity would be from overlooking and/or overshadowing. This has not been addressed in the application or in the grounds of appeal. The most sensitive receptors to these impacts would be the two-storey houses immediately to the west of the site which face onto Assumpta Villas. Planning history for the site, (PA Ref. 05/2231), also indicates that there is a residential unit at first-floor level above the butcher's shop which adjoins the site to the east.
- 7.5.16. Hillside Manor, on Assumpta Villas is directly to the west of the site boundary and is the closest house to the site. The house is orientated to face east with the rear elevation of the house facing towards the site. Private open space to the rear of the house is restricted and would have a width of 3.5m at its narrowest point. The rear garden wall also forms the western boundary to the public laneway. The house to the north of Hillside partially adjoins the site but is at a further remove.
- 7.5.17. In terms of overlooking, existing residential development would not be impacted by the development. The two-storey elevation on the western side of the block would have a height of 6.7m (as per the drawings) and would be approximately 6m from the rear elevation of Hillside Manor at its closest point. No windows are proposed at first floor level on the western elevation of the development and as such overlooking would not be an issue. However the proximity of the building may result in an overbearing impact when viewed from the space to the rear of the existing house.
- 7.5.18. The potential impact of the development in terms of overshadowing of the properties on Assumpta Villas was not demonstrated in the application. BRE Guidelines recommend that loss of light to existing windows need not be assessed if the

distance to each part of the new development from existing window is three or more times its height above the centre of the existing window. It also states that the diffuse light to an existing building may be adversely affected if part of a new building measured in a vertical section perpendicular to the main window wall of an existing building, from the centre of the lowest window, subtends an angle of more than 25° to the horizontal. If a window falls within a 45° angle both in plan and elevation with the new development in place, then the window may be affected and should be assessed. Based on these criteria, the existing housing on Assumpta Villas may experience some overshadowing from the proposed development. This has not been assessed in the application and therefore the potential impact is unknown.

- 7.5.19. The report of the PO notes that there is residential development at first floor level on the adjoining site to the east. Planning history for the site, (PA Ref. 05/2231), showed the first-floor layout of this property, which at the time, showed the layout of the residential unit with bathrooms along the western side. This could indicate that the first-floor windows on the adjoining building serve bathrooms and a staircase. However, this has not been confirmed in the application documents or in the grounds of appeal.
- 7.5.20. There is very little separation distance between the eastern elevation of the proposed development and the existing windows and as such, the windows would experience a significant loss of daylight from the development. I acknowledge that any two-storey development on the site has the potential to obstruct light to these windows. However, the subject proposal would completely block light to all windows on this elevation and would have a significant impact and negative impact.

## **7.6. Design & Layout**

- 7.6.1. The prevailing pattern of development around the subject site is of single and two storey houses. The proposed development is three storeys with a set-back at the top floor. Although the Building Height Guidelines require the scope to consider buildings of three and four storeys in urban and suburban areas, subject to design considerations and a positive contribution to the existing neighbourhood.
- 7.6.2. I would have serious concerns regarding the bulk and massing of the proposal within the context of the site. Whilst the applicant has sought to reduce the overall mass of



the building by providing a set-back at second floor level, the front elevation of the two-storey element would present a dominant form within the streetscape.

- 7.6.3. The front elevation of the building faces onto Melitta Road and has an overall width of approximately 14m. This is significantly wider than the adjoining, fine-grained pattern of development in the neighbourhood centre to the east. When the width of the elevation is considered in tandem with the architectural features such as recessed balconies and a heavy stone finish, the building would present as an overly dominant form within the streetscape. The subject site is also at a higher level than the adjoining road which would exacerbate the impact.
- 7.6.4. The proposed use of natural stone on the elevation leads to an overly complicated elevation, (as per the images submitted), and in this instance does not reference or contribute to the surrounding environment. The contemporary design would be better served by a more streamlined and simple approach to the external finishes. The elevational treatment is not grounds for a refusal and could be addressed by condition. However, I am not satisfied that the proposed scale and massing of the building presents an appropriate response to the existing streetscape or makes a positive contribution to the overall residential area.
- 7.6.5. The main entrance to the building would be through the existing pedestrian laneway along the western site boundary. It is argued in the grounds of appeal that this will help to animate the laneway and would be a deterrent to anti-social behaviour. I do not agree. The laneway is narrow, and the proposed entrance would be unwelcoming and unattractive and could result in a security issue for residents. Section 3.4 of the Apartment Guidelines states that, *'Entrance points should be clearly indicated, well lit, and overlooked by adjoining dwellings. Particular attention should be given to the security of ground floor apartments and access to internal and external communal areas.'* Given the narrow width of the lane, the applicant has not demonstrated that bicycles and wheelchairs could manoeuvre easily to and from the building. I am not satisfied that the proposed entrance would present a safe, attractive, and functional access point for future residents and would have serious concerns regarding the ground floor layout in terms of security.

## **7.7. Appropriate Assessment**

- 7.7.1. Having regard to the nature and scale of the proposed development within a serviced urban area and separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

- 8.1. I recommend that planning permission be refused for the development.

## **9.0 Reasons and Considerations**

1. Having regard to the pattern of development in the area, it is considered that the proposed development by reason of its scale, massing, architectural finishes, and proximity to existing houses, would present an overly dominant form in the existing streetscape and would be visually intrusive when viewed from the public road and from the adjacent residential properties. Therefore the proposal would have a significant and negative impact on the visual amenity of the area which would be contrary to the policies and objectives of the Kildare County Development Plan 2023-2029 and the proper planning and sustainable development of the area.
2. Having regard to the proposed layout and orientation of the apartments, it is considered that the proposed development would result in an unsatisfactory standard of development for future residents by reason of insufficient levels of daylight and sunlight to the main living areas and to the private open space of Unit 1. The proposed development would therefore be contrary to the policies and objectives of the Kildare County Development Plan 2023-2029 and the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has

influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Elaine Sullivan  
Planning Inspector

23<sup>rd</sup> November 2023

## Appendix 1 - Form 1

### EIA Pre-Screening

**[EIAR not submitted]**

<b>An Bord Pleanála Case Reference</b>	ABP-314317-22		
<b>Proposed Development Summary</b>	Construction of a three storey and part two storey detached apartment building consisting of 6 one-bedroom apartments and 1 studio apartment.		
<b>Development Address</b>	Melitta Road, Kildare Town, Co. Kildare.		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>	X
		<b>No</b>	
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	X		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
			<b>Conclusion</b>
<b>No</b>		N/A	
			No EIAR or Preliminary Examination required
<b>Yes</b>	X	Class 10(b)(i) – 500 residential units	
			Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>	X	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**Form 2**

**EIA Preliminary Examination**

<b>An Bord Pleanála Case Reference</b>	314317-22	
<b>Proposed Development Summary</b>	Construction of a three storey and part two storey detached apartment building consisting of 6 one-bedroom apartments and 1 studio apartment.	
<b>Development Address</b>	Melittta Road, Kildare, Co. Kildare.	
<p><b>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</b></p>		
	<b>Examination</b>	<b>Yes/No/ Uncertain</b>
<p><b>Nature of the Development</b></p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The development is for 7 housing units in a residential area.</p>	<p>No</p> <p>No</p>
<p><b>Size of the Development</b></p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing</p>		<p>No</p> <p>No</p>

and/or permitted projects?		
<p><b>Location of the Development</b></p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>		<p>No</p> <p>No</p>
<b>Conclusion</b>		
<p><b>There is no real likelihood of significant effects on the environment.</b></p> <p>EIA not required.</p>	<p><b>There is significant and realistic doubt regarding the likelihood of significant effects on the environment.</b></p>	<p><b>There is a real likelihood of significant effects on the environment.</b></p>

**Inspector:** \_\_\_\_\_

**Date:** \_\_\_\_\_

**DP/ADP:** \_\_\_\_\_ **Date:** \_\_\_\_\_

(only where Schedule 7A information or EIAR required)