



An
Bord
Pleanála

Inspector's Report

ABP-314380-22

Development	Demolition of existing structures and the construction of 15 apartments and 2 retail units.
Location	Main Street, Johnstown, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	22/632
Applicant(s)	MIRC Properties Limited
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v Refusal
Appellant(s)	MIRC Properties Limited
Observer(s)	1. Johnstown Manor Residents Assoc. 2. Johnstown Community Assoc.
Date of Site Inspection	31 st October 2023.
Inspector	Susan McHugh

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Appendix 1 – Form 1: EIA Pre-Screening

1.0 Site Location and Description

- 1.1. The site is located on the eastern side of Johnstown Village to the south of the N7 arterial route leading to Dublin and Limerick. Johnstown is located between Kill village to the east and Naas town to the west.
- 1.2. It includes an existing vacant residential dwelling (bungalow), and associated outbuildings to the rear. It is adjoined to the west by a bungalow located to the north-western corner of a large residential plot.
- 1.3. The site is located opposite a retail warehouse which has a large private surface level car park served by vehicular access from the Main Street to the north of the appeal site. Access to the adjoining ramped pedestrian/cycle overbridge of the N7 is located directly to the east of this site adjoining which is an area of undeveloped open space.
 - 1.3.1. To the east the appeal site is adjoined by two retail units both of which front onto the Main Street. These include an equestrian shop and security offices. There are seven on street parking spaces and a bus stop located in front of these premises. The no.126 bus route provides a direct connection to Rathangan, Kildare, Nass and Dublin. Johnstown House which lies to the east of the retail units is a Protected Structure.
- 1.4. The existing house on site is located at a higher level to the road and slopes at the southern end towards the river Morrell. To the north the appeal site is defined by a low retaining wall which adjoins the footpath running along Johnstown Road.
- 1.5. The sites eastern and western boundaries are defined by a dense line of trees/hedge. The southern boundary of the site is defined by tree planting along the riverbank to the river Morrell.
- 1.6. The site comprises a long rectangular plot measuring c. 0.2 ha.

2.0 Proposed Development

- 2.1. The demolition of an existing vacant residential dwelling and retail unit, and 2 no. associated outbuildings, and the construction of 15 no. apartments and 2 no. retail units in two blocks (Block A and Block B).

- 2.2. Block A is a three-storey apartment building facing onto the main street and consisting of 4 no. one bedroom apartments, 2 no. two bedroom apartments, 1 no. three bedroom apartment, 1 no. retail unit and 1 no. retail/café unit. Block A includes balconies at first and second floor level on the southern elevation as well as apartment storage area and a retail bin store at ground floor level.
- 2.3. Block B is a three storey apartment building located to the rear of the site consisting of 6 no. two bedroom apartments and 2 no. three bedroom apartments with balconies at first and second floor level on both the northern and southern elevations, and a bin store at ground floor level.
- 2.4. The proposed development includes amendments to an existing outbuilding to provide a residential bin store, 25 no. car parking spaces, 40 no. cycle parking spaces, hard and soft landscaping and all associated site works and services.
- 2.5. The application was accompanied by the following;
- Design Statement
 - Housing Quality Assessment
 - Social Infrastructure Audit
 - Site Specific Flood Risk Assessment
 - Archaeological Clarification Statement
 - Noise Impact Assessment
 - Engineering Services Report
 - Appropriate Assessment Screening Report

3.0 **Planning Authority Decision**

3.1. **Decision**

Permission was **refused** for the following reasons;

1. The excessive scale, form and pastiche architectural language of the proposed development would result in an inappropriate form of development which would have an injurious impact on the character and streetscape of

Johnstown village and would therefore be contrary to the proper planning and sustainable development of the area. It is considered that the proposed development fails to comply with the Village Centre zoning objective which seek to protect and enhance the special character of the village centre. The proposed development would conflict with the provisions set out under section 2.5.7.12 of the Johnstown Village Plan (Kildare County Development Plan 2017-2023, Volume 2) which requires new development to have regard to the character form and scale of the streetscape buildings in the village and for new development to have regard to protected structures in the village. The development would therefore be contrary to the proper planning and sustainable development of the area and would seriously injure the amenities and depreciate the value of property in the vicinity.

2. Having regard to the absence of private amenity open space for the three proposed apartments and the substandard level of private amenity open space for one proposed apartment is considered the proposed development would contravene the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities 2020 (Department of Housing, Local Government and Heritage), and with the Kildare County Development Plan 2017-2023 and would result in a substandard residential amenity and would be contrary to the proper planning and sustainable development of the area.
3. In the absence of significant detailing in relation to surface water drainage and a suitable SuDS strategy, the applicant has not demonstrated to the satisfaction of the Planning Authority that surface water can be adequately dealt with within the curtilage of the site. Furthermore, the Planning Authority is not satisfied that the Site Specific Flood Risk Assessment submitted and it has not been demonstrated to the satisfaction of the planning authority that the proposed development would not lead to conditions which would be prejudicial to public safety and be contrary to the proper planning and sustainable development of the area.
4. Having regard to the absence of a road safety audit, in particular relating to the shared surface arrangement which would be used by vehicles, HGVs, cyclists and pedestrians and where there are no segregated facilities

proposed, it has not been demonstrated to the satisfaction of the Planning Authority that the proposed development would not endanger public safety by reason of traffic and, would therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Report (dated 14/07/2022)

- *Zoning and Council Policy* – Notes zoning objective and permissible uses under the Kildare County Council Development Plan 2017-2023.
- *Archaeological Heritage* - Notes submission of an Archaeological Clarification Statement which states that the SMR mapping for Johnstown indicates that KD019-060- is located approximately 600m to the east and southeast of the subject site and ‘there is no monument depicted as being positioned within the immediate environs of the subject proposed development lands’. Notes also a Standing Stone KD019-059 located c.100m west of the site.
- *Design and Layout* – Refers to proposed projecting signage along the side elevation which is not appropriate. Serious concerns regarding the proposed design which is a mock Georgian townhouse in terms of scale and form and inappropriate for this village setting.
- *Private Amenity Open Space* - Notes private amenity space for apartments 1, 2 and 5 not indicated on floor plans and insufficient for appt. 7. Agrees balconies facing main street would not be appropriate or acceptable, and that proximity of N7 which would impact on the enjoyment of the private open space. Considers it inappropriate for apartment units to have no private amenity open space and redesign is therefore required. A redesign may result in a change to the number of apartments proposed and recommends further information.
- Concludes that concerns regarding design, impact on the village setting etc. warrant a total redesign which could not adequately be dealt with through a further information request.

- *Housing Mix* – Details in tabular form unit no, floor area, no. of bedrooms, storage and private open space provision which ties in with assessment of private open above.
- *Strategic Infrastructure Audit* – Notes content, delayed census as a result of the pandemic and a number of recent developments in the Johnstown area information provided is in places out of date. Refers to capacity issues in childcare facilities and schools quoted while also acknowledging the profile of the 4 no. one bedroom units not counted for requirements for childcare or school places.
- *Landscaping* – Proposed landscaping lacks details and should be requested by way of further information along with details of boundary treatment indicating retention of existing hedgerows on site.
- *Part V* – Refers to report received from the Housing Department, and information requirements for Part V calculation not provided.

Recommendation – Recommends permission be refused.

3.2.2. Other Technical Reports

Water Services: Recommends further information.

- *Surface Water Drainage* - request a drainage and SuDS strategy be submitted in compliance with WSD SuDS and Drainage Study Guidance Document, GDSDS, CiRIA SuDS Manual, Water Sensitive Urban Design Best Practice Interim Guidance and IFI Urban Watercourses Planning Guide and the surface water drainage policies and objectives in the Johnstown Village Plan in the relevant CDP. A list of specific items are included for addressing in the revised drainage and SuDS strategy, which shall not interfere with any existing flood defence walls on the subject site shown on OPW CFRAMS fluvial mapping for Johnstown (see floodinfo.ie).
- *Surface Water Attenuation* – request a revised drainage design (attenuation and pipe network) and SuDS design. Revised drainage layout drawings and SuDS construction detail drawing is also requested in respect of the above. A list of specific items is included for addressing in the revised drainage design.
- *Flood Risk Assessment* – request a peer review of the FRA submitted undertaken by an independent, impartial accredited and competent flood risk consulting engineer and the review recommendations to be incorporated into a

revised FRA to be submitted to the PA. A list of specific items are included for addressing in the revised FRA including the flood protection standard remaining from the constructed Johnstown Flood Alleviation Scheme(s) shown on the OPW CFRAMS fluvial mapping for Johnstown (see floodinfo.ie).

Transportation and Roads Department: Recommends further information in relation to a Road Safety Audit 1/ 2 to examine design details of the proposed shared surface access arrangement (where there are no segregated facilities proposed). A revised site layout indicating adequate room for safe car parking, and traffic movements in view of the site constraints, indicating also lighting proposals and details of permeable paving is requested.

Architectural Conservation Officer: Notes that Johnstown village is included in the draft Kildare County Development Plan 2023-2029 to be investigated as a proposed Architectural Conservation Area. Details of Johnstown House a protected structure is also noted.

Principle of demolition of existing bungalow and outbuildings is acceptable as is the proposed development. Refers proposed 2 no. 3 storey buildings, to front façade which reads as buildings of Georgian proportions and fenestration patterns similar to Johnstown House. This has resulted in a pastiche architectural language considered inappropriate in a historically sensitive village setting and therefore significantly detracts from the legibility of the development of Johnstown. The scale of the development is dominating in its setting, the form and in particular the gable appears monolithic and lacks definition and character, will detract from the existing streetscape and is not acceptable. Notes that any future development proposals should be advised by a suitably qualified conservation architect, while consideration of the location of the old mill race should be integrated in any future proposals. Recommends refusal.

Heritage Officer: No objections.

Environment: No objections subject to conditions.

Housing: Recommends further information.

Environmental Health Officer: No objections subject to requirements.

Chief Fire Officer: Recommends further information.

3.3. Prescribed Bodies

Irish Water: No objections subject to conditions,

Environmental Health Officer: No objections subject to conditions.

The application was referred to An Taisce and the Heritage Council, but no reports were received at the time of writing.

3.4. Third Party Observations

A number of third-party observations were submitted to the PA and are on file for the Boards consideration. Issues raised are similar to those raised in the observations to the appeal.

4.0 Planning History

None.

5.0 Policy Context

5.1. National and Regional Policy

- 5.1.1. NPO 32 of the National Planning Framework sets out a target for the delivery of 550,000 households by 2040. One of the key objectives of the NPF is to ensure balanced regional population growth, the promotion of compact development and the minimisation of urban sprawl. The NPF sets a target of at least 40% of all new housing to be delivered within the existing built-up areas of cities, towns and villages on infill or brownfield sites. Under NPO 1b, the population of the eastern and midlands region is to increase by between 490,000 and 540,000, to c.2.85 million by 2040.
- 5.1.2. The village of Johnstown is located in the area identified as the core region in the Regional Spatial and Economic Strategy for the Eastern and Midland Region. The site is located close to Naas which is identified as a key town in the strategy, being a large economically active town that provides employment for the surrounding area,

and which have high quality transport links and the capacity to operate as economic drivers.

5.2. Flood Risk Management Guidelines 2009

- 5.2.1. National guidance on flood risk management is contained within the Department's document 'The Planning System and Flood Risk Management'. The guidelines seek to avoid development in areas at risk of flooding, substitute less vulnerable land uses and if avoidance and substitution are not possible, mitigate and manage risks. Less vulnerable development is considered to include commercial development.
- 5.2.2. Exceptions to the restrictions on development due to potential flood risks are provided using a justification test. In this regard the Guidelines recognise that some existing urban centres may have been targeted for growth and recommend a precautionary approach.
- 5.2.3. The Guidelines are issued under Section 28 of the Planning and Development Act 2000 as amended and the Board is required to have regard to them.

5.3. Development Plan

- 5.3.1. Johnstown is designated as a village under the provisions of the Kildare County Development Plan, 2023-2029. The county plan includes a Village Plan for the settlement of Johnstown that is contained at Section 3.14 of Volume 2 of the County Plan. This plan identifies specific zonings and objectives for the settlement, and the appeal site is located on lands that are zoned as follows.
- 5.3.2. The site is zoned Objective A (Village Centre) with a stated objective, 'to provide for the development and improvement of appropriate village centre uses including residential, commercial, office and civic use'.
- 5.3.3. **Chapter 2** of the Kildare County Development Plan relates to the core strategy and a number of these policies have relevance to the assessment of this case.

CS 05 Promote compact growth and the renewal of towns and villages through the development of underutilised town centres and brownfield sites, and where appropriate, pursue through active land management measures a co-ordinated planned approach to developing appropriately zoned lands at key locations,

including regeneration areas, vacant sites and under-utilised areas in cooperation with state agencies, while also maintaining a 'live' baseline dataset to monitor the delivery of population growth on existing zoned and serviced lands to achieve the sustainable compact growth targets of 30% of all new housing within the existing urban footprint of settlements.

Section 2.7 The Core Strategy and Zoning for Residential Use -Serviced Zoned Land – comprising lands that are able to connect to existing development services and positioned within the existing built-up footprint of a settlement or contiguous to existing developed lands or spatially sequential within the plan area.'

Objective V GO 4 (Volume 2) states that it is policy to 'generally control the scale of individual development proposals to 10-15% of the existing housing stock of any village or rural settlement over the lifetime of the Plan in accordance with the Sustainable Residential Development in Urban Areas Guidelines (2009).'

Objective V GO 9 (Volume 2) is to 'restrict growth in a village/rural settlement where necessary physical and social infrastructure cannot be delivered. In the absence of the necessary physical or social infrastructure, the projected growth for that development centre may be allocated to other serviced settlements within the same Municipal District or adjoining Municipal District or to serviced towns within the upper range of the settlement hierarchy.'

5.3.4. **Section 3.14** of Chapter 2 of Volume 2 contains the village plan for Johnstown.

V JT1 Consider mixed-use developments within the village centre zoning. A loss of active commercial or retail floorspace to residential use will not be permitted.

V JT3 Requirement that 'all new developments complement the character of the village with respect to their height, scale, design and materials and do not diminish the distinctive sense of place.'

V JT9 'It is an objective of the Council to ensure that development proposals for lands identified by the dashed pink line on Map V2 – 3.8 shall be subject to a site-specific flood risk assessment¹⁰ appropriate to the type and scale of development being proposed.'

5.3.5. Density of development is set out at **Chapter 3** of Volume 1 of the County Plan and Table 3.1 identifies that the appropriate density for edge of centre sites within small towns and villages is in the range 20-35 units per ha.

Core Strategy Table 2.8 indicates that the population of Kildare will increase by up to c.25,146 over the 2023-2028 period. The housing target for County Kildare over the 2023-2028 period is identified as c.9,144 units.

Table 2.8 sets out the population growth provided for the villages of which Johnstown is one. These figures are that the percentage growth of population over 2023-2028 is 4.7 percent, and that the population and unit growth figures over the 2020-2023 period are 1006 and 366 respectively.

5.4. Natural Heritage Designations

5.4.1. The site is not located in or close to any European sites. The following European sites are in the vicinity.

	Designation	Site Code	Approx. Distance
Red Bog Kildare	SAC	000397	7.4km SE
Mouds Bog	SAC	002331	9.5km W
Poulaphouca Reservoir	SPA	004063	11km SE
Ballynafagh Bog	SAC	000391	11.6km NW
Ballynafagh Lake	SAC	001387	11.4km NW
Wicklow Mountains	SAC	002122	13km SE
Pollardstown Fen	SAC	000396	15km W

5.4.2. The Morell River runs along the southern boundary of the appeal site. The Morrell River is a tributary of the River Liffey. The River Liffey discharges to Dublin Bay where there are a number of European sites designated.

5.5. EIA Screening

5.5.1. Having regard to the scale of the development proposed which comprises a construction of 15 (revised to 14) apartments, to the degree to which this is below

the threshold set out in the Fifth Schedule (500 units) to the urban infill location and nature of the site and to the absence of any particular sites or features of particular environmental sensitivity in the vicinity, 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 and, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The first party appeal was submitted by Gravis Planning on behalf of the applicant MIRC Properties Limited.

The appeal was accompanied by the following;

- Revised Drawings & Housing Quality Assessment (HQA)
- Surface Water Drainage and SuDS Strategy
- Site Specific Flood Risk Assessment (SSFRA)
- Road Safety Audit
- Response to Local Submissions

The grounds to the appeal can be summarised as follows;

Refusal Reason No. 1 – Scale and Design

- *Scale and Form* –
 - Dispute proposed development is excessive and statement is unjustified. A 3-storey development relative to Johnstown House is not excessive for the village centre location.
 - Assert that 14 no. residential units and 2 retail units is not excessive in this context.
 - Front building line is maintained with the gable of Block A pulled further away from the nearby structures than the existing vacant bungalow.
 - Essential that development potential of such sites is optimised.

- Form and massing of the blocks and roof informed by pre planning and further revised in response to PA's assessment. Design changes include the introduction of a minor setback and additional fenestration to the eastern gable end and reduction in parapet height.
- *Pastiche Architectural Language* – Design approach led by response to nearby historic structures and represents a significant improvement to the local streetscape. Architectural language is sympathetic to buildings to the east adopting similar features such as traditional quoins, timber sliding sash windows and Heritage style shopfronts. Contend that design is a more contemporary modern architectural form and finish and provides a significant enhancement and reinforcement of the local streetscape.
- *Inappropriate form of development* – Disagree. Proposal replacing a vacant bungalow of no design merit and no connection with the historic character of the village is an improvement to the local streetscape reinforcing the village centre, bringing new life and vibrancy.
- *Village Centre Zoning Objective* - Proposal is in accordance with the zoning objective, and also serves to 'protect and enhance the special character of the village centre'.
- *Johnstown Village Plan* – Reason for refusal states that the proposal would conflict with the provisions of Section 2.5.7.12 of the Johnstown Village Plan. This section of the Village Plan sets out a number of principles for development in the village and specifically refers to (iv) and (v).

'(iv) have regard to the character form and scale of the proposed streetscape buildings in the village and reuse, where possible, existing buildings and outbuildings in order to promote sustainable development.'

'(v) have regard to the protected structures in the village core.'

Asserts that the proposed development accords with Section (iv) and (v). Its design has been led by the need to have regard to the character, form and scale of nearby streetscape buildings, including the protected Johnstown House.

It is not subservient to the nearby buildings but also does not overwhelm them or detract from their setting. It continues the stepped linear form of the buildings to the

east and provides a significant enhancement and reinforcement of the local streetscape.

Notes that one of the outbuildings is to be used as a bin store.

- *Seriously injure the amenities of property in the vicinity* – PA have not provided any assessment. Both blocks have been designed to prevent risk of overlooking to existing residential properties through the incorporation of raised and obscured windows.
- *Depreciate the value of property in the vicinity* – No basis for such a claim and is not a valid planning consideration.

Refusal Reason No. 2 – Residential Amenity

- *Private Amenity Open Space* - Omission of balconies from three proposed apartment units was informed by the Noise Impact Assessment and prevailing noise environment given the sites proximity to the N7 considered at pre planning stage.
- *Revised Design* - Design of Block A has been revised so that all units now provide requisite level of private amenity space. 'Winter Gardens' now proposed to units 2 and 5 with appropriate glazing installed in accordance with the NIA. Revised design provides for a 3-bed unit at first floor in place of 2 no. 1 bed units. Substandard level of private amenity space to one of the proposed apartments has been increased to 9sqm in accordance with the Guidelines.

Refusal Reason No. 3 – Surface Water Drainage, SuDS and SSFRA

- Asserts that it has been demonstrated in the submitted material that surface water can be adequately dealt with within the curtilage of the site.
- Refers to wording in reason for refusal being very general and does not refer to specific detail within the submitted Drainage and Flood Risk Assessment material. Notwithstanding individual technical statements are provided in response to the comments from the Water Services Department. Notes internal report recommended further information and not a refusal. Refers to Appendices D and E.

Refusal Reason No. 4 - Road Safety

- Acknowledges absence of a Road Safety Audit and inclusion in Appendix F.

- Refers to a no. of design amendments incorporated into revised site layout as a result of the Safety Audit.
- Revised layout does not endanger public safety by reason of traffic hazard.

Response to Local Submissions

The applicant has submitted a letter in response to issues raised in third party submission to the PA, which it states was submitted to but omitted by the PA as 'unsolicited additional information'. The issues raised can be summarised as follows;

- *Lack of Services and Amenities* – Proposed development includes 1 no. retail units and 1 no. retail/café unit for which occupancy terms have already been agreed with an established local café/retail business and a hairdressing/beauty salon and beauty products business which combined will provide over 25 full and part time jobs.
- *Anti-Social Behaviour* – Proposed retail units will overlook the main street and significantly increase the level of activity and passive surveillance and reduce the risk of anti-social behaviour.
- *Scale and Density of Development* – The scale of the proposed development is appropriate to its village centre context and respects the historic character and form of the village. Acknowledges that the density is high but this is a factor of the small site size (0.2ha.).
- *Building Height* – Proposed development at 3 storeys has been designed to reflect and reinforce the existing linear street frontage of 2-3 storey terrace adjacent to the site. The existing higher site level is also noted.
- *Overlooking* – Proposed development has been designed to include obscure glazing incorporated into side elevations to avoid any risk of overlooking of adjacent residential properties. Also notes mature planting that will significantly screen development from adjoining properties.
- *Village Character* – Proposed adopts a contextual, sympathetic architectural style and represents a significant improvement to the local streetscape compared to the existing vacant property.

- *Impact on Local Business* – Refers to detailed Construction Management Plan which will be submitted in advance of any development commencing which will set out measures to minimise disruption to residents. Proposed development will provide a significant boost to local businesses through increased population and footfall in the village centre.
- *Flood Risk* – A Site Specific Flood Risk Assessment has been prepared and finds that the proposed development satisfies all if the Justification Test criteria set out in the ‘Planning System and Flood Risk Management – Guidelines for Planning Authorities (2009)’. Assert that the proposed development will reduce the amount of surface area draining toward the road and – by extension- the risk of impact on the Old Garden Centre site.
- *Traffic Safety* – Proposed development has been designed to prioritise walking cycling and public transport over the motor car. It incorporates a ‘shared surface’ access and circulation arrangement which is considered highly desirable by DMURS in circumstances such as the proposed development. The proposed development uses a well-established access point on to the Main Street and achieves sight lines in accordance with DMURS.
- *Car Parking* – Proposed development has been designed to prioritise more sustainable modes of travel rather than as a car-oriented development considered appropriate given its village centre location. Refer to car parking provision which is in accordance with the ‘Sustainable Urban Housing: Design Standards for New Apartments’ Guidelines’ and notes the flexibility on the application of parking standards to infill schemes on sites of up to 0.25ha.
- *Cycleway* – Contend that the proposed development will not hinder the delivery of the approved Part 8 Scheme for the ‘Naas to Kill Cycle Scheme’ which will run along the Main Street to the front of the site.
- *Use of Existing Structures* – Proposed to retain one of the existing outbuildings for use as a bin storage building to serve Block A.
- *Archaeology* – Refers to Archaeological Statement from Byrne Mullins & Associates submitted with the application which addresses an apparent mapping error in the CDP relating to a Recorded Monument (Ref. KD 019-060) which is

located approx. 600m to the east south-east of the subject site. The applicant confirms that they have no objection to archaeological testing or other appropriate pre-commencement requirements including precautionary ecological surveys being conditioned as a requirement of planning permission.

6.2. Planning Authority Response

The Planning Authority responded to state that it did not have any further comment to make on the first party grounds of appeal.

6.3. Observations

A number of third-party observations were submitted to the Board by the following parties.

- Johnstown Manor Residents Association
- Johnstown Community Association

Issues raised in both submissions can be summarised as follows;

- *Increased traffic* - will be a challenge to exiting the adjoining estate.
- *Insufficient parking* - will lead to on street parking.
- *Scale and form* - excessive relative to adjoining dormer bungalow.
- *Visual impact*– negative visual impact at entrance to village.
- *Design* - minor revisions still not suitable.
- *Flood risk* – increased risk of flooding unwelcome.
- *Lack of amenities* – not addressed in proposed development.
- *Housing provision* - Johnstown village has already played its part in increasing the number of homes by 50% in a very short time.
- *Anti-social behaviour* – 50% increase in population with no facilities or amenities, leading to rise in anti-social behaviour in the area.
- *Development should not proceed* - weighted towards financial benefit rather than community's need.

6.4. Further Responses

None.

7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. The issues are addressed under the following headings;

- Principle of Development
- Surface Water Drainage & Flood Risk
- Scale and Design
- Residential Amenity
- Traffic and Road Safety
- Other issues
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The proposed development involves the demolition of a bungalow that fronts onto the main street and outbuilding/sheds to the rear. I consider that this house is not of any significant architectural or other merit and that its removal along with the outbuilding to the rear are required to develop the site. The design and scale of the proposed replacement residential and commercial development is the subject of comment under the heading Design and Scale below, however I do not have any objection to the principle of demolition of the existing structures as proposed.

7.2.2. With regard to the Core Strategy, contained at Chapter 2 of Volume 1 of the Kildare County Development Plan 2023-2029, CS 05 seeks 'to promote compact growth and renewal of towns and villages through the development of underutilised town centre and brownfield sites'. The appeal site located in the village centre can be considered an underutilised brownfield site. I am satisfied that the proposed development of this

underused village centre brownfield site is in accordance with CS 05 of the County Development Plan.

- 7.2.3. The Village Plan for the settlement of Johnstown is contained at Section 3.14 of Volume 2 of the County Plan. The appeal site is located on lands zoned Objective A 'Village Centre' under the Land Use Zoning Map Johnstown Plan. The stated objective of this zoning is '*to provide for the development and improvement of appropriate village centre uses including residential, commercial, office and civic use*'. The proposed residential and retail/commercial uses are, therefore, acceptable in principle on lands zoned Objective A.
- 7.2.4. I also note that within the Land Use Zoning Map Johnstown Plan the site is located within the area identified by the dashed pink line on Map V2 – 3.8, (see attached) for which the Plan states shall be subject to a site-specific flood risk assessment.
- 7.2.5. I would note also that the Kildare County Development Plan 2023-2029, was subject to Strategic Flood Risk Assessment carried out by RPS dated 26th January 2023, and Johnstown Village is listed under Table 2-1 as within the Study Area. In relation to Johnstown Village, it states 'a Justification Test was carried out by KCC and found that it is considered appropriate to retain the existing zonings. Any future development in the flood risk areas will be subject to SSFRAs. This will ensure the sequential approach is followed at site-specific level and also inappropriate development is not permitted in flood zones. The Justification Test is included in Appendix C.'
- 7.2.6. As part of the Site Specific Flood Risk Assessment undertaken by Clandillon Civil Consulting, a development management justification test was carried out. This noted that under the Flood Risk Assessment Guidelines the proposed residential development would be classified as a 'highly vulnerable' development within Flood Zone B and determined that the proposed development satisfied all the relevant justification test criteria set out in the guidelines.
- 7.2.7. I have examined the justification test submitted and note under item (i) 'Block B is closer to the river Morrell, will be built on stilts minimising the Flood plain interference. The report notes that the hydraulic modelling exercise has shown that there is no increased 0.1% AEP+CC water levels in the proposed scenario and that the proposed development will not increase flood risk elsewhere. The applicant

claims that the proposed development will improve surface water management on the site with the implementation of a drainage/SuDS strategy that will provide additional flood/drainage capacity.

- 7.2.8. Item (ii) states that the proposed retail and residential block finished floor levels is set to be 500mm above the 1 in 100 years+CC. To minimise the existing flood risk for the 0.1%AEP+CC event all residential units are proposed at first floor level and above.
- 7.2.9. Item (iii) The proposed retail and residential blocks present a residual risk for the 1 in 1,000 year+CC event. All the apartments will be located at first floor level and above, higher than the 1 in 1,000year+CC flood level. The report notes that the implementation of a SuDS strategy and the provision of an emergency exit will ensure that the residual risk can be managed at an acceptable level and is not considered significant.
- 7.2.10. The report notes that the proposed development will be built on a site zoned as village centre which is a priority area for locating retail and residential development and concludes that the proposed development is compatible with the achievement of wider planning objectives in relation to the development of good urban design complying with the Kildare County Development Plan 2017-2023 and associated SFRA.
- 7.2.11. It is also noted by the applicant that the site-specific risk assessment does not consider the future flood alleviation scheme which will be implemented in the Naas AFA and that will decrease the level of flood risk for the Johnstown village.
- 7.3. In conclusion, I am satisfied that having regard to the zoning objective of the appeal site, that the principle of the proposed development is acceptable, subject to an assessment of the Site Specific Flood Risk Assessment, see below.

7.4. Scale and Design

- 7.4.1. Reason for refusal no.1 refers to the excessive scale, form and pastiche architectural language of the proposed development which would result in an inappropriate form of development.

- 7.4.2. The proposed development has a stated overall floor area 1,721sqm. This comprises 175sqm commercial and 1,545sqm residential, providing 843sqm in Block A, and 878sqm in Block B. The site coverage is stated to be 40% with a plot ratio of 0.9 on a site area of 0.18ha.
- 7.4.3. The scheme has been revised in the appeal to include a change in the number, mix and configuration of residential units. A comparison between the scheme as proposed and as amended in response to refusal presented in appeal is set out in table 1 below. While the number of units has been reduced by one, the bulk and massing of the blocks has not altered. The reconfiguration of units has been due to the accommodation of private amenity space within the footprint of the blocks.

Apartments	Proposed	Revised on Appeal
One Bed	5	4
Two Bed	7	6
Three Bed	3	4
Total	15	14

Table 1

- 7.4.4. The revised development comprises two commercial units (100sqm café +75sqm retail unit) and 14 no. residential apartments (1,060sqm) which are arranged in two blocks on a site of 0.2ha. The density of development proposed works out at c. 70units per ha when the whole site (inclusive of the open space area) is counted.
- 7.4.5. Density of development is set out at Chapter 3 of Volume 1 of the County Plan and Table 3.1 identifies that the appropriate density for edge of centre sites within small towns and villages, such as the appeal site, is in the range 20-35 units per ha. Similarly, the density set out at Chapter 6 of the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities is also in the range of 20-35 units per ha for edge of centre sites.
- 7.4.6. The scale of the development proposed including the two commercial units is therefore far in excess of the recommended density in the CDP and the Guidelines. The omission of block B would reduce the number of residential units to 7 giving a residential density of c. 35 units per ha. If the Board were minded granting

permission Block B could be omitted by way of condition however for reasons explained in more detail below, I am not satisfied that this would be the most desirable way to develop the site.

- 7.4.7. The first reason for refusal states that the proposal would conflict with the provisions of Section 2.5.7.12 of the Johnstown Village Plan. This section of the Village Plan sets out a number of principles for development in the village and specifically refers to (iv) and (v).

‘(iv) have regard to the character form and scale of the proposed streetscape buildings in the village and reuse, where possible, existing buildings and outbuildings in order to promote sustainable development.’

‘(v) have regard to the protected structures in the village core.’

- 7.4.8. The applicant in the appeal asserts that the proposed development accords with Section (iv) and (v) and that the design has been led by the need to have regard to the character, form and scale of nearby streetscape buildings, including the protected Johnstown House.

- 7.4.9. At this juncture I draw the Boards attention to the objectives under section 3.14.1 Village Centre of the current Johnstown Village Plan of the recently adopted Kildare County Development Plan 2023-2029, (see attached) where it is an objective of the Council to;

V JT1 Consider mixed-use developments within the village centre zoning. A loss of active commercial or retail floorspace to residential use will not be permitted.

V JT3 Requirement that ‘all new developments complement the character of the village with respect to their height, scale, design and materials and do not diminish the distinctive sense of place.’

- 7.4.10. I note the comments of the Conservation Officer, and the location of Johnstown House a protected structure approx. 140m to the north of the site, however I also note that the appeal site is not located within the curtilage of this protected structure or within an Architectural Conservation Area.

- 7.4.11. Johnstown House is included on the Record of Protected Structures for Kildare RPS ref. B19- 22 and is included on the National Inventory of Ireland survey, NIAH ref. 11812020. It is as a substantial three-bay three-storey Georgian house, c.1800

originally a detached dwelling house set in its own grounds. It is described by the NIAH as, 'a fine and well-maintained substantial Georgian house of considerable architectural and social interest – the scale and fine detailing of the house suggest that it was built and historically inhabited by a family of high status in the locality' Johnstown house is attached to the west to a 2-storey building called 'the Old Mill' which, historically, was served by a Mill Race evident on 1st OSI c.1837, that ran through the subject site. Johnstown House is now read as part of a stepped terrace of 3 buildings, each which appear to be of different era of construction.'

- 7.4.12. From the outset it is fully accepted that the site in its current form is underutilised, and any form of new mixed-use development over three floors will result in a significant visual impact within the streetscape.
- 7.4.13. I also accept given the context of the site at the edge of the village centre and adjacent to a mix of development types including Johnstown House a Protected Structure, the development of the site does present a design challenge. The applicant has detailed early engagement with the PA at preplanning stage and presented the evolution of the design process which has taken references from the PS.
- 7.4.14. Having inspected the site and reviewed the drawings submitted and revised on appeal I share the concerns of the PA and Conservation Officer in relation to the proposed design. In my opinion the design of the blocks does not respond adequately to the sites context and results in very abrupt transition with existing adjoining development at the edge of the village centre.
- 7.4.15. A number of minor design changes have been proposed in revised elevational drawings submitted on appeal. The changes proposed relate to the eastern gable elevation of Block A which the applicant states are to address concerns raised namely by the Conservation Officer of the PA in relation to the monolithic design which it is asserted lacks definition and character.
- 7.4.16. I note the materials finishes have been 'broken up' with the introduction of a stone finish to part of Block A which is welcomed. The design of the gable has been revised with the introduction of a minor set back and additional fenestration including the wintergarden openings. The parapet height of the front/side element of Block A has also been reduced slightly.

- 7.4.17. The site levels are already raised to the front of the site with proposed finished floor levels to Block A indicated as (FFL18.50). Block A is indicated as having a proposed ridge height of 11.8m. Block B located to the rear is indicated as having a ridge height of 12.3m and extends along the width of the site. This increase in ridge height to the rear is presumably as a consequence of providing a 500mm freeboard in response to being located in Flood Zone A & B.
- 7.4.18. I have examined the proposed contiguous elevations, proposed section drawings and CGI images submitted which illustrate the proposed blocks in context and in relation to Johnstown House. I have considered the removal of mature planting which provides screening along site boundaries to the side and rear. I have also had regard to the building depth of Block A stated as 15.8m compared to Block B which has a building depth of 21.46m.
- 7.4.19. I have considered these amendments in light of the design as proposed and would still have serious concerns in relation to the bulk and massing of both block A and block B. The applicant has noted in the appeal response that the building height from ground floor level to the top of the roof is equivalent to the nearby Johnstown House. While this well may be the case the proportions of the two are completely different. In my opinion the use of a pitched roof over the extent of the blocks is a significant design flaw which given their extent are far more suited to a flat roof. In my opinion the roof profile adds significantly to the massing of the blocks.
- 7.4.20. In my opinion, and notwithstanding the incorporation of traditional design elements such as timber sash windows, and stone finishes, both blocks and associated roof pitches are at odds with the more traditional elevations located along the streetscape.
- 7.4.21. In terms of the proposed roof profiles, I have considered the merits of amending these by way of condition and require the replacement with a flat roof. In this instance, however. I consider this a significant intervention to the structural design, and on balance I think a fresh redesign would be more appropriate and allows an opportunity to break up the bulk and massing of the blocks more effectively.
- 7.4.22. I do not accept as asserted by the applicant that the proposed development is subservient to the nearby buildings and in my opinion, it would overwhelm them and detract from their setting. I am not satisfied that the proposal provides a significant

enhancement and reinforcement of the local streetscape. I am of the view therefore that the proposed development is contrary to objective VJT3 of the Johnstown Village Plan.

- 7.4.23. In my opinion the scheme would negatively impact on the street scape and adjoining developments and would overall benefit from a fresh redesign, which could significantly reduce the bulk and massing of both blocks on site.
- 7.4.24. I am not satisfied that the revised design proposals submitted on appeal have addressed this reason for refusal.

7.5. Residential Amenity

- 7.5.1. Reason for refusal no 2 relates to private amenity space. It refers to the absence of private amenity open space for three no. apartments and the substandard level of private amenity open space for one apartment.
- 7.5.2. The unit mix proposed comprises a mix of one-, two- and three-bedroom units. The mix was altered on foot of the response to the reason for refusal submitted on appeal. It is now proposed to provide 4 no. one bed units, (28.5%) with the bulk 6 no. two bed units (43%) and 4 no. three bed (28.5%) and the unit mix in my opinion is acceptable.
- 7.5.3. The internal layout of the units and compliance with the requirements of the development plan (Section 15.6 of Volume 1) and with Quality Housing for Sustainable Communities, is set out in revised floor plans and a revised schedule of accommodation submitted as part of the appeal in response to this reason for refusal. Unit sizes, layout and room sizes are all in accordance with the relevant standards and are considered acceptable.
- 7.5.4. The revised layouts submitted on appeal provide for private amenity space to serve each unit in Block A to the side/rear of the front building line. For apartments no. 2 and 5 the private amenity space is in the form of winter gardens. The private amenity space for the 3-bed apartment at second floor level of Block A (now apartment 4) has been increased to 9sqm. and the size of these areas is consistent with the requirements set out at Table 15.3 of the current County Development Plan.

- 7.5.5. Communal amenity space is provided to the rear of Block B. This area is south facing and has a stated area of 313sqm. Existing mature planting including hedges and trees located along the eastern and western side boundaries and along the southern boundary with the Morell River are to be removed. New hedges are proposed along the eastern and western boundaries. I would have concerns in relation to the usability of this area of communal open space as it slopes steeply towards the rivers edge.
- 7.5.6. I note also design amendments presented in the appeal which include obscure glazing along the proposed east and west elevations of Block B to avoid overlooking of adjoining properties.
- 7.5.7. The issue of the proximity of the appeal site to the M7 and the potential for noise impacts to arise is recognised. A Noise Impact Assessment prepared by iAcoustics was submitted with the application which concludes that the Lden and Lnight levels recorded would be within acceptable limits subject to noise mitigation measures in the form of acoustic ventilators at the highest noise locations.
- 7.5.8. The applicant in the appeal has also indicated the use of reinforced glass as further noise mitigation. Based on the information presented, the noise impacts arising, while not ideal are requiring mitigation to achieve the requirements set out in the Kildare County Council Noise Action Plan, are acceptable. If the Board are minded granting permission a specific condition setting out requirements in relation to noise mitigation would be appropriate certainly on the residential units in Block A closest to the M7.
- 7.5.9. While I do note concerns raised by observers in relation to anti-social behaviour, I would argue that the proposed café with outdoor seating area and retail uses at ground would provide animation and vibrancy in this area of the village. Combined with residential use at upper floors would provide passive surveillance thus acting as a deterrent to antisocial behaviour.
- 7.5.10. I am satisfied therefore that reason for refusal no. 2 has been adequately addressed in the revisions to the proposed development submitted to the Board on appeal.

7.6. Drainage and Flood Risk

- 7.6.1. Reason for refusal no. 3 relates to surface water drainage and flood risk.

Surface Water Drainage

- 7.6.2. It is proposed to provide a connection to an existing foul sewer and the applicant is satisfied that there is sufficient capacity. In relation to a storm water sewer the applicant has indicated that they have been unable to identify the location of a storm water sewer despite evidence of existing road gullies.
- 7.6.3. It is acknowledged by the applicant (following investigation) that the appeal site has a low soakage rate and so it is proposed to provide surface water attenuation storage on site.
- 7.6.4. Appendix C of the Services Report includes A Soak Test Report prepared by Declan Kearns & Associates Ltd. indicates an infiltration rate (f value) in trial pit ST1 as 0.000056m/min. A groundwater level was encountered at 1.20m bgl after 48hrs in the trial whole excavated to a depth of 1.9m. Included also are calculations in relation to the Soakaway design.
- 7.6.5. Appendix D of the Services Report contains Surface Water Attenuation and Storage Calculations and Appendix E includes details of the StormTech System proposed. The system proposed has a chamber storage capacity of 43m³. The Storm Drainage Layout Plan Drawing G10306-04 indicates the location of the storage area as located between Block A and B beneath the area designated for surface car parking.
- 7.6.6. In relation to storm water, it is proposed that this will flow to the Morrell River at a rate of 2L /Sec. The use of a hydrocarbon filter is proposed to control the rate of flow and limit potential pollutants.
- 7.6.7. The reason for refusal cited the absence of significant detailing in relation to surface water drainage proposals and a SuDS strategy. Concern was also raised in relation to whether surface water can be adequately dealt with within the curtilage of the site.
- 7.6.8. The applicant in the appeal disputes this and refers to the Surface Water Drainage Layout & Storm Drainage Section drawings submitted as part of the application.
- 7.6.9. The Water Services Section of the PA in their report raised concern in relation to the overall surface water attenuation strategy and recommended a revised strategy be undertaken. Items to be addressed relate to rainwater recovery and reuse systems, proposals for road and car park area run-off to discharge directly to bioretention swales and tree trenches, and small bioretention areas and or rain gardens-planters.

A rationale for excluding nature-based SuDS was requested as were further details in respect to site investigation report and soil infiltration rate, groundwater monitoring, surface storage SuDS including detention basin risk assessment. Essentially a revised drainage design for the attenuation and pipe network was sought taking account of the revised SuDS strategy, planned drainage failure-design exceedance flow routing, provision for drainage pipe network designed for a 2- or 5-year return period, also allowing for a failure off SuDS into account.

- 7.6.10. The applicant has submitted further details as part of the appeal which include Surface Water Calculations (Appendix C & D) & Surface Water Drainage and SuDS Strategy GWCE Statement (Appendix E).
- 7.6.11. I note proposals to provide a 'grasscrete' or similar grass system within the surface car parking area, however there are no proposals for the provision of a green roof green or blue roofs and green living walls, or other semi natural bioretention systems. There remains a lot of surface area devoted to building footprint, shared access roads and surface parking, with very little natural drainage bar the area of open space to the rear. I note proposals to provide additional attenuation storage for 100-year over 30-year storm of 22m³ bring the total attenuation storage to 62m³. I am unclear however from the details submitted how or where this additional storage will be provided. I note that the surface water attenuation tank is located within flood Zone B.
- 7.6.12. In my opinion the concerns raised by the Water Services Department are valid and I am not satisfied that the applicant has addressed items raised in any meaningful way.

Flooding

- 7.6.13. The reason for refusal referred to the Site-Specific Flood Risk Assessment and raised concern that the proposed development would be prejudicial to public.
- 7.6.14. A Site Specific Flood Risk Assessment (SSFRA) prepared by Clandillon Civil Consulting accompanied the application. In response the applicant has submitted a Technical Note Statement which includes hydraulic model results which is found in Appendix E of the first party appeal. The report refers to the preparation of an Emergency Plan for managing flood risk during construction and a willingness to

prepare an general flood emergency plan for the proposed development is considered appropriate to be submitted for approval in advance of occupation.

- 7.6.15. The applicant has indicated that given the time available it has not been possible to appoint a consultancy to perform a peer review of the FRA but that they are willing to do so if requested by the Board.
- 7.6.16. As mentioned above in section 7.2 of this report the Kildare County Development Plan 2023-2029, was subject to Strategic Flood Risk Assessment SFRA carried out by RPS dated 26th January 2023, and Johnstown Village is listed under Table 2-1 as within the Study Area.
- 7.6.17. The SFRA notes that the extent of the areas where an SSFRA must be carried out as part of planning applications has been delineated. The extent of the FRA requirement area has been expanded to account for climate change scenarios that could impact on the settlement in the future. FRAs should address all types of flood risk, mitigation measures, residual flood risk and the sequential approach to assign appropriate land use with respect to vulnerability of the proposed development type. FRAs for planning applications in Johnstown must examine and consider the climate change flooding extents. All planning applications are required to be developed in accordance with the KCC CDP surface water and drainage policies and to undertake a Surface Water Management Plan to mitigate any potential pluvial flood risk.'
- 7.6.18. The fact that the overall site is prone to flooding is acknowledged and clearly identified as being located in Flood Zone A and B in the Land Use Zoning Map for Johnstown Village Plan 2023-2029. In this regard I note the previous Johnstown Village Plan 2017-2023 did not identify flood zones.
- 7.6.19. Objective VJT9 of the Johnstown Village Plan seeks to ensure that development proposals for lands identified by the dashed pink line on Map V2 3.8 shall be subject to a site-specific flood risk assessment appropriate to the type and scale of development proposed. The appeal site is located within this dashed pink line.
- 7.6.20. The Morell River Flood Management Scheme (MRFMS) was approved by ABP 26/04/2018 under 09.JA0042. The extent of this scheme includes the construction or restoration of over 9,000 metres of embankment, the construction of up to 480m of flood wall, two stream re-alignments and up to 11 culvert alterations. An update on the progress of the scheme is indicated on the Kildare County Council web site

setting out the Project Timeline. The project commenced in summer 2020 and (as of January 2023) is due for completion in Winter 2025

7.6.21. The southern boundary of the project area extends along the southern side of the N7 opposite the appeal site to where the Morrell River crosses the N7 (see map attached). Given the proximity and sensitivity of the appeal site to the project area, Morrell River and adjoining identified flood areas, and expected completion date, I consider that the development of the appeal site to be premature pending the completion of the Morrell River Flood Management Scheme. From an abundance of caution, I consider this to be the case given the 'highly vulnerable' residential land use 'albeit on stilts' proposed. I also do not consider this to be a constructive precedent for future residential development in the area.

7.6.22. A concern also raised is that the development will exacerbate flooding already prevalent in the area. The OPW CFRAMS fluvial mapping for Johnstown (see attached) clearly indicates the extent of flooding in respect of present day and mid-range future scenario. I suggest to the Board that the single greatest constraint to development on this site is the extent of the site which is included within Flood Zone A and B. While I did consider the merits of omitting Block B which is located entirely within Flood Zone B I am not satisfied that this is the optimal way to develop the site. I consider the future development potential of this site is towards the higher part of the site adjacent to the public road in the location of the existing bungalow.

7.6.23. In conclusion, I am not satisfied that this reason for refusal has been adequately addressed and still applies.

7.7. Traffic/Road Safety

7.7.1. Reason for refusal no. 4 relates to traffic safety. The reason for refusal cited the absence of a Road Safety Audit, having regard to the shared surface arrangement for vehicles, HGVs, cyclists and pedestrians and lack of segregated facilities proposed.

7.7.2. The existing site access will be upgraded from a vehicular crossing of a footpath to a kerbed shared surface carriageway. It will be widened such that a shared surface measuring between 4.8m and 6.0m in width will provide vehicle, cycle, and

pedestrian access into the site directly from the Main Street, including service vehicles.

- 7.7.3. Auto-track drawings indicate the width of the proposed internal shared surface sufficient for a refuse vehicle to enter and exit the site. Access ramps are proposed to the front and rear of Block A to provide level access to the retail units and the rear residential entrance from the street level. Lifts are proposed in Block A and B providing access to the upper floors.
- 7.7.4. Cycle parking is provided throughout the site and includes 25 no. covered secure spaces for residents and 8 no. for visitors. In this regard I note the objective under the current Johnstown Village plan to provide a footpath and cycle track through the village along the main street which runs along the appeal site boundary to the north.
- 7.7.5. Car parking spaces are provided for the retail units along the front of the site arranged perpendicular to the units. Car parking for the residential units is provided at surface level to the rear of Block A and at ground floor level of Block B.
- 7.7.6. The Transportation and Roads Dept of the PA noted the absence of a Road Safety Audit and raised concerns in relation to public safety.
- 7.7.7. The applicant submitted a Road Safety Audit (RSA) as part of the first party appeal. The RSA looked specifically at the problem areas and identified a number of changes to the layout. These include changes to the parking layout such the perpendicular car parking spaces located to the front of the site are now replaced with parallel car parking, thus avoiding vehicles reversing across the public footpath. The shared access along the gable of Block A has been widened to 5m which allows for a 1.2m wide pedestrian priority zone demarcated at one side. This delineated is proposed to reduce risk of conflict for pedestrians with vehicles entering and exiting the site. Additional road marking is now also proposed to indicate the entrance to a shared surface home zone.
- 7.7.8. Other changes include revisions to cycle parking to allow unimpeded access to disabled parking space and access ramp to the rear of Block A and enhanced access to cycle parking generally within the scheme.
- 7.7.9. I have reviewed the RSA and the revised site layout drawings submitted and am satisfied that the subsequent amendments to the development are necessary and

are addressed without compromising the development in any significant way. I would note however that it is regrettable that this RSA was not carried out earlier in the design process such that it could have informed the overall layout and design, rather than done retrospectively.

7.7.10. I note observers concerns regarding increased traffic and insufficient parking. While I accept that the proposed development will lead to an increase in vehicular movements into and from the main street to the site, I consider that the proposed development will not in itself give rise to excessive traffic. I am also satisfied that the width and alignment of the main street and traffic speeds within the village will not give rise to a traffic hazard. I am satisfied that the replacement of perpendicular parking with parallel parking will also improve traffic safety.

7.7.11. Concerns raised in respect to on street parking are noted. I note the reduction in the number of on street parking spaces as a consequence of the revised layout. I also note the reduction to the number of apartments and car parking requirement.

7.7.12. In this regard I also note the proximity of the appeal site to adjoining residential development, and the availability of on street parking in the vicinity of the site to serve the retail units. I also note that residential car parking provision which provides for 19 no. spaces i.e., 1 space per unit plus 5 visitor spaces is in accordance with development plan standards.

7.7.13. In my opinion the issue of increased traffic and parking is overstated and does not warrant a reason for refusal in this instance.

7.7.14. In conclusion, I am satisfied that reason for refusal no. 4 has been adequately addressed by the applicant in the appeal response and that traffic safety is not a basis for refusal.

7.8. Other Matters

7.8.1. *Public Water Supply and Drainage Networks* - The development is proposed to connect to the public water supply and drainage networks. A submission from Irish Water states that there is no objection to the development subject to conditions including regarding a connection agreement with Irish Water being in place. There is no indication on file that this is not acceptable to the local authority.

- 7.8.2. *Archaeology* - The Johnstown Village Land Use Zoning Map Plan 2023-2029 indicates an Archaeological Monument immediately northeast of the rear garden of the subject site. The reference no. of the Monument is KD019-60. This was also indicated in the previous Johnstown Village Land Use Zoning Map Plan 2017-2023.
- 7.8.3. The application was accompanied by an Archaeological Clarification Statement which outlines that on examination of the Sites and Monuments Record (SMR) of the Archaeological Survey of Ireland that KD019-60 is in fact located approx. 600m to the east-southeast of the subject site. It is claimed that an error has occurred on the Land-Use Zoning Objectives Map. I note the application was not referred to the Development Applications Unit of the department.
- 7.8.4. The applicant has indicated in the first party appeal that they have no objection to archaeological testing or other appropriate pre-commencement requirements including precautionary ecological surveys being conditioned as a requirement of planning permission. If the Board are minded granting planning permission a suitably worded condition outlining archaeological testing and reporting requirements would be appropriate.
- 7.8.5. *Lack of Amenities* - The third-party observers to the application and the appeal raise concerns regarding the lack of provision of play areas, sports pitches, meeting places etc. which are lacking in the village. They question the capacity of facilities and services in the village to cater for additional population. These issues are particularly highlighted given the additional population generated by three other residential developments Furness Woods, Toberton Wood and Knightswood that comprise 132 no. units combined.
- 7.8.6. The application was accompanied by a Social Infrastructure Audit report which set out the demographic profile of the area, the likely population growth and changes to this profile likely to arise from the subject proposal and 3 other permitted developments, and an outline of the main facilities available to meet this demand.
- 7.8.7. The Audit sets out the existing sport and recreational facilities serving the wider area including Naas and Kill including walking routes and significant areas of open space in the vicinity. The Audit also sets out existing community facilities such as the Kildare Mobile Library Service, nursing homes, along with healthcare facilities, and childcare facilities.

7.8.8. I accept as advocated by the applicant that the proposed development in and of itself is not of a scale to generate a requirement for a standalone facility. I am satisfied that the proposed development which includes two retail units one of which is a café will provide a much needed and valuable social amenity within the village. There is also the argument that this and other new development will help create critical mass for services which should create a viable demand for future providers in the village.

7.8.9. I also note the relatively significant area of Zoned open space located diagonally opposite the appeal site to the northeast between the main street and N7 which is within easy access of the appeal site.

7.9. **Appropriate Assessment**

7.9.1. The proposed development comprises the demolition of an existing bungalow and outhouses and the construction of a mixed-use development comprising two no. commercial units and 15 (14 as per revised layout) no. apartments. The development is proposed to be connected to the public water supply and drainage networks and surface water discharge from the site is proposed to be connected to the adjacent Morrell River and on to the river Liffey. The River Liffey discharges to Dublin Bay where there are a number of European sites designated.

7.9.2. The site is not located in or close to any European sites. The closest European sites to the appeal site is the

- Red Bog Kildare SAC (site code 000397) which is located c.7.4km upslope and remote to the southeast of the appeal at the closest point,
- Mouds Bog SAC (site code 002331) which is located c.9.5km upstream to the west,
- Poulaphouca Reservoir SPA (site code 004063) which is located c.11km upslope to the southeast of the site,
- Ballynafagh Bog SAC (site code 000391) which is located c.11.6km to the northwest, the River Liffey and Grand Canal are both between the SAC and Johnstown,

- Ballynafagh Lake SAC (site code 001387) which is located c.11.4km to the northwest, the River Liffey and Grand Canal are both between the SAC and Johnstown,
- Wicklow Mountains SAC (site code 002122) which is located c.13km upslope to the southeast,
- Pollardstown Fen SAC (site code 00396) which is located c.15km upstream to the west.

7.9.3. There are no pathways between the appeal site and these sites as they are all either upslope of the proposed development or are separated from the development site by significant waterways.

7.9.4. There is a potential pathway between the appeal site and the European sites located in the Dublin Bay area. This pathway is via the Morrell River to the River Liffey in the case of surface water and via the drainage network to the Upper Liffey Valley Regional Sewerage Scheme (Osberstown) in the case of foul drainage.

7.9.5. The proposed development will provide a separate foul and surface water drainage system. Surface water from most of the site will be discharged to the Johnstown Stream via two underground attenuation storage areas at a rate of 2.0l/s. Car parking spaces within the site will be constructed with permeable paving to help manage surface water runoff. Surface water from the front portion of the site will continue to drain towards rainwater gullies in the road as per the existing arrangement.

7.9.6. The relevant sites in the Dublin Bay area that have a potential pathway to the appeal site are as follows:

- North Bull Island SPA
- South Dublin Bay and Tolka Estuary SPA
- South Dublin Bay SAC

7.9.7. The qualifying interests and conservation objectives for these sites are as follows:

North Bull Island SPA (site code 004006)

To maintain the favourable conservation condition of the following species and habitats in North Bull Island SPA, as defined by the specific attributes and targets listed:

- Light-bellied Brent Goose (*Branta bernicla hrota*)
- Shelduck (*Tadorna tadorna*)
- Teal (*Anas crecca*)
- Pintail (*Anas acuta*)
- Shoveler (*Anas clypeata*)
- Oystercatcher (*Haematopus ostralegus*)
- Golden Plover (*Pluvialis apricaria*)
- Grey Plover (*Pluvialis squatarola*)
- Knot (*Calidris canutus*)
- Sanderling (*Calidris alba*)
- Dunlin (*Calidris alpina*)
- Black-tailed Godwit (*Limosa limosa*)
- Bar-tailed Godwit (*Limosa lapponica*)
- Curlew (*Numenius arquata*)
- Redshank (*Tringa totanus*)
- Turnstone (*Arenaria interpres*)
- Black-headed Gull (*Chroicocephalus ridibundus*)
- Wetland and Waterbirds

South Dublin Bay and Tolka Estuary SPA (site code 004024)

To maintain the favourable conservation condition of the following species and habitats in South Dublin Bay and River Tolka Estuary SPA, as defined by the specific attributes and targets listed:

- Light-bellied Brent Goose (*Branta bernicla hrota*)
- Oystercatcher (*Haematopus ostralegus*)
- Ringed Plover (*Charadrius hiaticula*)
- Grey Plover (*Pluvialis squatarola*)

- Knot (*Calidris canutus*)
- Sanderling (*Calidris alba*)
- Dunlin (*Calidris alpina*)
- Bar-tailed Godwit (*Limosa lapponica*)
- Redshank (*Tringa totanus*)
- Black-headed Gull (*Chroicocephalus ridibundus*)
- Roseate Tern (*Sterna dougallii*)
- Common Tern (*Sterna hirundo*)
- Arctic Tern (*Sterna paradisaea*)
- Wetland and Waterbirds

South Dublin Bay SAC (site code 000210)

To maintain the favourable conservation condition of the following habitats in South Dublin Bay SAC, as defined by the specific attributes and targets listed:

- Mudflats and sandflats not covered by seawater at low tide
- Annual vegetation of drift lines
- Salicornia and other annuals colonising mud and sand
- Embryonic shifting dunes

7.9.8. The separation distances in these cases are significant with the closest sites (South Dublin Bay and River Tolka Estuary SAC/SPA sites being more than 30km from the appeal site on a direct path and significantly more via the hydrological pathway via Osberstown. The Plant at Osberstown is the subject of a discharge licence from the EPA and the most recent available information indicates that there is significant spare capacity available (37,450(PE)) at this location and that emissions are within the limit values set by the EPA. In view of this, it is not considered that there is any potential significant impacts arising from the site post construction.

7.9.9. There is the potential for some discharges from the site during the construction phase of the development. The Morrell River is located adjacent to the southern site boundary and so there is a risk of construction related pollutant being discharged to the stream. The proposed surface water attenuation areas and use of a hydrocarbon filter proposed to control the rate of flow discharging to the Morrell River

will limit potential pollutants entering the river and therefore, the risk of any pollutant being discharged to the river is considered very slight.

7.9.10. In any event, the separation distance between the site and the Dublin Bay European sites is well more than 30km and is such that there is not considered to be any likely significant effects on the Dublin Bay sites having regard to their conservation objectives.

7.9.11. In conclusion, the proposed development is not likely to have significant effects on the identified European sites in the light of the conservation objectives of the sites.

8.0 Recommendation

8.1. I recommend that permission be **refused** for the reasons and considerations below.

9.0 Reasons and Considerations

1. The site is located adjacent to the River Morrell on lands designated as within Flood Zone A and Flood Zone B in the current Development Plan for the area. Having regard to the surface water drainage proposals, Site Specific Flood Risk Assessment submitted with the application and on appeal, and notwithstanding the flood risk mitigation measures proposed, the Board is not satisfied that the proposed mixed use development because of the proximity to the River Morell and the loss of an existing floodplain that is attached to the River, in advance of the completion of the Morrell River Flood Management Scheme along the River Morrell as a whole, would not increase the risk of increased flooding of other lands and property upstream and downstream in the vicinity. It is considered that the proposed would, therefore, be contrary to the provisions of The Planning System and Flood Risk Management Guidelines for Planning Authorities, issued by the Department of the Environment, Heritage, and Local Government in November 2009, would be prejudicial to public health and to the proper planning and sustainable development of the area.
2. The excessive scale, bulk, massing, and design of the proposed development would constitute overdevelopment of the site and result in an inappropriate

form of development which would have an injurious impact on the character and streetscape of Johnstown village. The proposed development would conflict with the provisions set out under section 3.14.1 of the Johnstown Village Plan (Kildare County Development Plan 2023-2029, Volume 2) Objective V JT3 which requires 'that all new developments complement the character of the village with respect to their height, scale, design and materials and do not diminish the distinctive sense of place'. The proposed development would constitute a visually discordant feature that would be detrimental to the distinctive architectural character of the area which it is appropriate to preserve and would therefore, be contrary to 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.

Susan McHugh
Senior Planning Inspector

7th November 2023

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	314380-22		
Proposed Development Summary	Demolition of existing structures and the construction of 15 apartments and 2 retail units.		
Development Address	Main Street, Johnstown, Co. Kildare.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)	Yes	<input checked="" type="checkbox"/>	
	No	No further action required	
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?			
Yes		Class.....	EIA Mandatory EIAR required
No	<input checked="" type="checkbox"/>		Proceed to Q.3
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]?			
		Threshold	Comment (if relevant)
			Conclusion
No	<input checked="" type="checkbox"/>	N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	✓	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____