



An  
Bord  
Pleanála

## Inspector's Report

### ABP-316042-22

<b>Development</b>	Change of use of existing building to residential use as constructed and all associated site works. The development is within the curtilage of a Protected Structure (NS 19-037)
<b>Location</b>	Millbrook, Naas, Co. Kildare W91EC42
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	316042/23
<b>Applicant(s)</b>	Fairgreen Properties
<b>Type of Application</b>	Retention.
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant</b>	Fairgreen Propert
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	09.06.2023
<b>Inspector</b>	Fiona Fair

## 1.0 Site Location and Description

- 1.1. The subject site is located within the town of Naas, County Kildare and is accessed off Millbrook Villas. The building is within the curtilage of Mill House which is a Protected Structure (NS 19-037) It is described in the Kildare Record of Protected Structures as ‘Detached five bay three storey miller’s house built c.1790, now in use as offices.

## 2.0 Proposed Development

- 2.1. The development will consist of:

**Retention permission** for change of use of existing building to residential use as constructed and all associated site works.

The development is within the curtilage of a Protected Structure NS 19-037

The development comprises one 4 bedroom two storey unit, some 147 sq. m in area.

Ground floor has a stated area of 48 sq. m

First floor has a stated area of 99 sq. m

## 3.0 Planning Authority Decision

### 3.1. Decision

Refuse Permission for one number reason, namely:

1. “Having regard to the layout, inadequate windows, lack of open space and insufficient storage space associated with the change of use, the development if permitted will constitute a substandard form of residential development and would be contrary to Section 15.4.6 of the Kildare County Development Plan 2023 – 2029. The development is considered inappropriate and would set an undesirable precedent for similar type of development in the area. Therefore, the development will be contrary to the proper planning and sustainable development of the area”.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

- The planners report considers that having regard to the layout, inadequate windows, lack of open space and insufficient storage space associated with the change of use, the development if permitted would constitute a substandard form of development.

### 3.2.2. Other Technical Reports

- Water Services: No objection subject to conditions.
- Transportation: None Received
- Environment: No objection subject to conditions.
- Fire Services: Further information

## 3.3. Prescribed Bodies

- Irish Water: No objection subject to conditions.

## 3.4. Third Party Observations

None received.

## 4.0 Planning History

The Planners report on file states: “**UD7665** – Enforcement proceedings currently being carried for unauthorised residential use and all associated works at 4 Millbrook, Naas, Co. Kildare”.

## 5.0 Policy Context

### 5.1. Development Plan

#### **Kildare County Council Development Plan (2023 - 2029)**

It is the objective of the Council to:

CS O5 promote compact growth and the renewal of towns and villages through the development of underutilized town centres and Brownfield sites and where appropriate, pursue through active land management measures and a coordinated planning approach to developing appropriately zoned lands at key locations, including regeneration areas, vacant sites and underutilized areas in cooperation with state agencies while also maintaining a 'live' baseline database 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.

Under Map 11.1 of the current **Naas LAP 2021 – 2027** the subject site has zoning objective “K” “– Commercial / Residential (mixed use M1)” with the zoning objective ‘To provide for commercial and appropriate residential mixed – use developments’.

The following policies / objectives of the Naas LAP 2021 – 2027 are of particular relevance to the development:

#### **Chapter 4 – Homes and Communities**

To facilitate the delivery of liveable, high-quality, nearly zero – energy, integrated residential development that provides for an appropriate demographic mix in tandem with the delivery of vibrant and diverse communities.

**Policy HC1:** It is policy of the Council to ensure that sufficient land is available at appropriate locations to satisfy the County Core Strategy growth allocations for Naas, to ensure Naas maintains its status as one of Kildare’s Key Towns and that good quality housing is provided.

**Objective HCO 1.1:** Support new residential development and infill development that occurs in tandem with the delivery of supporting physical and social infrastructure.

**Objective HCO1.3:** Encourage the appropriate redevelopment of brownfield and infield sites for residential uses within the footprint of the existing built up area.

**Policy HC2:** It is the policy of the council to encourage that all new residential development provides for a sustainable mix of housing types, sizes and tenures and that new development complements the existing residential mix.

#### 5.1.1. **Planning Guidelines**

The following planning guidance and strategy documents are relevant:

- Design Manual for Urban Roads and Streets (DMURS) 2019
- National Planning Framework (NPF) – the Government’s high-level strategic plan for shaping the future growth and development of Ireland to the year 2040;
- Urban Development and Building Heights Guidelines for Planning Authorities (2018);
- Sustainable Urban Housing: Design Standards for New Apartments – Guidelines for Planning Authorities (2018);
- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (including the associated Urban Design Manual) (2009)

#### 5.2. **Natural Heritage Designations**

None Relevant.

#### 5.3. **EIA Screening,**

- 5.3.1. Having regard to the nature of the proposed development comprising of retention of change of use of structure to residential, comprising one residential unit and all associated site works, in an established urban area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- A First Party Appeal has been submitted by Whyte Planning Consultants on behalf of the applicant Fairgreen Properties. It is summarised as follows:
  - Ask that consideration is given to a temporary grant of retention planning permission for 3 years.
  - The applicant has a medium-term lease arrangement with the tenant which is due to expire in August 2014.
  - The tenant will be unable to find alternative accommodation in Naas and currently works as a doctor in Naas General Hospital.
  - Request leniency for the tenant to find alternative suitable accommodation.
  - The applicant is in the process of acquiring a number of properties and lands in the immediate vicinity of the site. The intention of the applicant is to undertake a full planning appraisal of the site and car park and to develop the site in a planned fashion for mixed use development and age friendly developments.
  - If the proposal is granted the applicant is willing to install an approved fire alarm system.
  - One bedroom will be removed to allow Bedroom 4 to be enlarged and to create a storage space of 3.5 sq. m
  - In terms of open space it is suggested that, given the temporary nature of the retention application, it can be relaxed. Town centre location of the property and proximity to numerous urban green areas.
  - The development has existed for a number of years to provide much needed accommodation and has never caused an issue.
  - Appeal is accompanied with:
    - A letter from Ian Talbot Director of Fairgreen Properties

- A Map indicating folio numbers of property adjoining the subject appeal site.
- A Residential Letting Agreement for Unit 3 Millbrook Naas.

## 6.2. Applicant Response

- None relevant

## 6.3. Planning Authority Response

- Response received. It refers the Board to the PA's report.

## 6.4. Observations

- None received.

## 6.5. Further Responses

- None received.

## 7.0 Assessment

7.1.1. I have read the entire contents of the file, visited the subject site and its surroundings and have had particular regard to the issues raised in the grounds of appeal. I consider the principal issues pertaining to the application before the Board are as follows:

- **Reason for Refusal**
- **Appropriate Assessment (AA)**

## 7.2. Reason for Refusal (a substandard form of residential development)

7.2.1. Planning permission was refused for one number reason, set out in full in section 3.1 of this report above. The PA consider that having regard to the layout, inadequate windows, lack of open space and insufficient storage space associated with the change of use, the development if permitted will constitute a substandard form of

residential development and would be contrary to Section 15.4.6 of the Kildare County Development Plan 2023 – 2029.

Section 15.4.6 House Design of the Kildare CDP 2023 – 2029 states:

“In addition to an appropriate layout, a high standard of building design, detailing and specification of materials and a high standard of craftsmanship will be required.

While the planning authority welcomes contemporary architecture. New developments should not be incongruous or have an overbearing effect on the established environment. Context remains very important, particularly in the case of the smaller towns and villages in the county”.

House design open space provision shall have regard to the following requirements:

Unit Type (House)	Floor Area	Storage Area	Minimum Private Open Space
One bedroom	55m <sup>2</sup>	3m <sup>2</sup>	48m <sup>2</sup>
Two bedroom	85m <sup>2</sup>	6m <sup>2</sup>	55m <sup>2</sup>
Three bedroom	100m <sup>2</sup>	9m <sup>2</sup>	60m <sup>2</sup>
Four bedroom	110m <sup>2</sup>	10m <sup>2</sup>	75m <sup>2</sup>

\* Minimum private open space requirement for dwellings with four or more units.

Table 15.2 - Minimum Floor space and Open Space Requirements for Houses

7.3. The 4 bedroom dwelling for retention has a floor area of some 147 sq. m, it has one ground floor window in the kitchen / living room. The remainder of the habitable space at first floor (4 bedrooms and a bathroom) served by roof lights only. The Fire services in their report have stated that the means of escape from fire from the first floor is inadequate and the bedrooms have not been provided with windows suitable for escape or rescue. No private amenity open space or storage area is proposed.

7.4. I note the First Party Appeal proposal that a three year temporary permission be considered by the Board, in the short term to facilitate the tenant to relocate. It is submitted that the applicant is in the process of acquiring additional property at this location and aims to develop the lands in a planned fashion. The applicant is willing to install an approved fire alarm system, certified in accordance with a fire safety



certificate. To reduce the number of overall bedrooms to three, increasing the area of bedroom 4 and providing a storage area of some 3.5 sq. m. it is argued that given the urban location of the subject site that there is a need for accommodation and that there are ample public open spaces within proximity of the residential unit.

7.5. Having cognisance to the arguments put forward by the first party I consider that the serious matter with respect to fire safety and lack of private open space has not been satisfactorily resolved. The lack of adequate windows suitable for escape or rescue from first floor bedrooms is inappropriate, contrary to policy and contrary to the principle of good design. It would clearly constitute a substandard form of residential development. While I acknowledge there is a housing crisis and there is a need for additional accommodation, the provision of substandard accommodation, of the manner proposed, is not the answer.

7.6. The applicant has not overcome the valid reason for refusal by the planning authority and therefore I recommend that retention planning permission be refused in this instance.

#### **7.7. Appropriate Assessment**

7.7.1. The appeal site is not within or adjoining any Natura 2000 site. Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

#### **8.0 Recommendation**

8.1. I recommend that retention planning permission be refused, for the reasons and considerations set out below.

## 9.0 Reasons and Considerations

1. Having regard to the land-use zoning objectives for the site, as set out in the Kildare County Council Development Plan 2023 – 2029 and the Naas Local Area Plan 2021 - 2027, to the nature, scale and design of the proposed development, in particular inadequate window opes and lack of private amenity space, it is considered that the retention of the residential unit would be contrary to Section 15.4.6 ‘House Design’ of the Kildare County Development Plan 2023 – 2029. The development is considered inappropriate and would set an undesirable precedent for similar type of development. Therefore, the development would 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.

---

Fiona Fair  
Senior Planning Inspector

10/06/2023