



An
Bord
Pleanála

Inspector's Report

ABP-316107-23

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| Development | Demolition of existing buildings & structures. Construction of 3 houses, 29 apartments, and one office with associated site development works. |
| Location | 11/12 O'Loughlin Road, Kilkenny, R95 N25X |
| Planning Authority | Kilkenny County Council |
| Planning Authority Reg. Ref. | 22131 |
| Applicant(s) | M.J. McGuinness. |
| Type of Application | Permission. |
| Planning Authority Decision | Grant |
| Type of Appeal | Third Party |
| Appellant(s) | Eugene McGuinness and Others. Claire Meehan and Others. Ellen and Austin Wise. |
| Observer(s) | None |
| Date of Site Inspection | 15th March 2024. |
| Inspector | Peter Nelson |

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1.0 Site Location and Description

- 1.1. The site is located on O'Loughlin Road, on the edge of Kilkenny City centre. It is approximately 550m from the Railway Station and 1km to John's Bridge in the city centre.
- 1.2. The site contains a two-storey commercial building containing a Chinese restaurant and a takeaway. This building is set back from the pavement with a forecourt area. A hardstand area and another commercial building containing a constituency office are to the rear. There is also a shed and containers at the rear of the site.
- 1.3. To the south of the site, there is an area of open space with a playground and to the north, an area of open space containing a number of graves and a 1920s Limestone memorial slab, which is a protected structure, RPS Ref.no: B127. To the rear of the site is an access lane serving the rear gardens of Assumption Place.
- 1.4. On the opposite side of O'Loughlin Road are the ESB Kilkenny Depot and Nowlan Park Sports Ground. Directly opposite the site are the turnstiles, pedestrian entrances and two emergency exits to the sports ground.
- 1.5. On the southwestern boundary, a block boundary wall and a section of railings are shared with the public open space, and to the rear of the site, there is a blockwork boundary wall. On the other western boundary, a capped stone wall is shared with an open space area
- 1.6. There is a bus stop 20m from the site. A bus shelter has been recently constructed at this bus stop. This is a bus stop for the KK2 bus route, an east-west 30-minute frequency route through the city centre. There is another bus stop on the opposite side of the road close to the pedestrian entrances to Nowlan Park.

2.0 Proposed Development

- 2.1. The proposed development originally applied for consisted of the demolition of the existing buildings and for an existing public house/restaurant and residential building,

existing out-offices, warehousing and other buildings and the construction of the following:

- Four-level apartment building comprising of:
 - 11 no.1-bedroom apartments,
 - 7 no. 2-bedroom apartments,
 - 3no. 3-bedroom apartments,
 - 1 no. 'own door' office.
- Terrace of three-storey, three-bedroom dwellings.
- Three-level apartment building comprising of:
 - 2 no. 2-bedroom ground floor apartments,
 - 6 no. 1-bedroom apartments
- Associated site works.

2.2. After the submission of Further information, the proposed development is now 34 no apartments consisting of:

- 11 apartments at first floor level (10no. 2 beds and 1no. 1 bed)
- 13 at second-floor level (11no. 2 beds and 2 no. 1 bed)
- 10 at third floor level (9no. 2 beds and 1 no. 1 bed)

With an 'own door' office and car parking.

3.0 Planning Authority Decision

3.1. Decision

3.2. The planning authority, on the 26th April 2022, requested the applicant to submit further information relating to the following:

- The design of the proposed development,
- The scale and bulk of the proposed development,
- Protection of the neighbouring trees,

- The lack of public open space,
- The design of the private open space,
- Approval from adjacent owners to remove boundary walls,
- Letter of consent from the owner of land to the east to apply for permission,
- A re-examination of the overall access, vehicle circulation, parking and roads/footpath design of the proposed development,
- A DMURS Quality Audit,
- External Lighting design,
- The proposed surface water design,
- A Waste Management Plan,
- Revised details of communal refuse storage,
- An Outline/design stage Construction Environment Management Plan.

3.3. Further Information was submitted to Kilkenny County Council on the 3rd February 2023.

The Planning Authority granted permission on the 2nd March 2023 subject to 16no. conditions.

Condition no. 6 requires the applicant to submit revised drawings showing all apartments having adequate access and having windows/lights as per the relevant standards and a communal open space on the roof space on the third floor.

Condition no.16(a) requires the applicant to agree to a landscaping scheme for upgrading the adjacent parklands and public play area, to be constructed at cost to the developer.

3.4. Planning Authority Reports

3.4.1. Planning Reports

The main points of the planner's report dated the 1st March 2023 can be summarised as follows:

- The initial application has been significantly altered after the further information and now represents a new development with a single design philosophy.
- The revised proposal is more in keeping with the character of Assumption Place.
- The elevation to O'Loughlin Road and how the building addresses the street has now been improved.
- The step back on the southern elevation will assist the building's assimilation into the streetscape.
- The development does not lead to overlooking or overshadowing.
- The site's proximity to the city centre means that the development will contribute to the objectives of compact growth.
- The adjoining open space will provide amenity space and ensure adequate setback and assimilation of the building in its settings.
- The proposed roofline is not excessive, and the bulk and height of the building are not excessive for this location proximate to the city centre.
- Communal open space is not required, given the proximity of the parkland.
- All access/egress is from O'Loughlin Road, with a negligible impact on the road network.
- All parking is now proposed to be on site, and given the council's policies on active travel, the quantity is acceptable.
- The concerns relating to access/egress arrangements for refuse collection, emergency services and deliveries have been addressed.
- The waste storage facilities will be adequate.
- There is concern that the internal layout will not provide adequate amenities for the residents. This can be dealt with by condition.
- The proposed development would not seriously injure the residential or visual amenities of the area and would not adversely affect the character of the area.

3.4.2. Other Technical Reports

Area Engineer – Further Information required.

Environment Report – Further Information required.

Road Design - Further Information required.

Technical Reports in response to further information received:

Housing Section

The main points of the report dated the 1st March 2023 can be summarised as follows:

- The letter indicating provisional agreement for Part V is not relevant to the revised scheme.
- Concerns relating to the quality of the apartments, including:
 - Apartments are generally single-aspect, with some facing north with limited daylight.
 - There is no public open space.
 - Concern that the storage areas will be used as bedrooms.
 - Balconies will overlook the existing open space and playground.

Roads Design

The main points of the report dated the 28th February 2023 can be summarised as follows:

- The car parking proposed represents a shortfall of 28 spaces (43%) from development plan standards.
- There is concern that the shortfall in parking provision will give rise to further parking issues in the existing residential areas.
- It is recommended that the applicant submit proposals to ensure that the required level of accessible parking is provided on-site or an alternative dedicated parking arrangement is provided.

- An alternative entrance layout detail is required to ensure that the footpath is continuous across the entrance on the pedestrian desire line to prioritise pedestrians and cyclists over vehicular movements.
- Revised public lighting design required to include the public road frontage.

3.5. Prescribed Bodies

None

3.6. Third Party Observations

The planning report states that 45no. third-party observations were lodged during the public consultation period.

The following provides a summary of the key points raised in the submissions:

- Proposed development will increase traffic congestion in the immediate area.
- Proposed development will add to the congestion due to car parking in the area.
- Proposed development will create overshadowing.
- The height of the proposed development is excessive.
- Loss of local amenities and services in the existing buildings.
- Substandard car parking spaces.
- Inadequate site lines at the entrance.
- Lack of surface water and foul water disposal details.
- Overlooking and overshadowing of adjoining private amenity areas.
- Concern over an increase in crime rate.
- Concern relating to access of emergency vehicles in the existing area.
- Entrance points through the Assumption Place will cause traffic chaos.
- The design of the building is at odds with Assumption Place.
- Increased pollution in the area during construction.
- The road under the railway bridge is already an accident blackspot.

- An increase in traffic will increase the likelihood of an accident.
- The scale and bulk of the development will be out of character with the area.
- Lack of car parking.
- The proposed development will create additional congestion on match days.
- The proposed development looks like a large passenger ferry moored in dock.
- The planning application does not address overshadowing issues as required under BRE Guidelines.
- Construction waste management.
- Urban Design Statement should have been included with the application.
- The proposed entrance over the existing footpaths on O'Loughlin Road will create issues, particularly on match days.
- Dysfunctional traffic management plan.
- The integrity of the existing playground will be compromised.
- Removal of heritage boundary walls.
- No setback of the front building line.
- Unacceptable overhanging balconies directly over the public footpaths.
- No adequate provision is made for surface water run-off.
- Insufficient waste disposal area.
- Increase in noise level, disturbance & pollution.
- Poor or non-existing outdoor space.
- Objection to the use of the existing laneway as a vehicle entrance.
- Loss of existing property values.
- Unacceptable spray on plaster.

4.0 Planning History

P.A. 0999008

Permission was granted on the 25th of August 2009 for the change of use of an existing convenience store to a fast-food outlet.

P.A. Ref: 07990128

Permission was granted on the 7th of April 2008 for refurbishment and extension of premises fronting onto O'Loughlin Road to accommodate the existing public house and food market with the addition of office space and an additional floor in new roof space for storage with all associated site works. Also, permission was sought for the building to the rear of the site, namely, to revise the building's external design, change of use for office space on the ground floor to use as a creche and increase the height of the first floor to accommodate 2 no. office spaces with all associated site works.

5.0 Policy Context

5.1. Development Plan

The Kilkenny City and County Development Plan 2021-2027 is the operational plan for the area. It came into effect on 15th October 2021.

Zoning

In the Kilkenny City and County Development Plan 2021, the site is zoned 'Existing Residential'. The objective of this zoning is: *'To protect provide and improve residential amenities.'*

Policies

Core Strategy Objectives

- 4C To actively promote the redevelopment and renewal of areas in need of regeneration whether urban or rural through appropriate active land management measures during the period of the Plan.
- 4E To strengthen the role of Kilkenny City as a self-sustaining regional economic driver with a significant zone of influence and a Key Town on Dublin – Carlow-Kilkenny Waterford M9 Road/Rail.

- 4G To achieve a growth of more than 30% in population for Kilkenny City from 2016 to 2040 to 34,500, subject to capacity analysis and sustainable criteria under Section 3.3 of the RSES,
- 4H To deliver 30% of that growth within the current built footprint of the city.

Residential Development

- 6A To ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- 6E To implement the provisions of the Housing Strategy contained in Appendix B.
- 6F To require 10% of the land zoned for residential use, or for a mixture of residential and other uses, be made available for the provision of social housing.
- 6G To require that a mixture of residential unit types and sizes are developed to reasonably match the requirements of different categories of households within the city and county.
- 6J To ensure the widest possible range of housing options in each new development and to prevent the proliferation of limited option house types in any particular area.

Movement and Mobility

- 12A To plan for and progressively implement a sustainable, integrated and low carbon transport system by enhancing the existing transport infrastructure in terms of road, bus, rail, cycling and pedestrian facilities and interfacing different modes as the opportunity arises.
- 12B To plan for a transition towards sustainable and low carbon transport modes, through the promotion of alternative modes of transport, and 'walkable communities' together with promotion of compact urban forms close to public

transport corridors to encourage more sustainable patterns of movement in all settlements.

2.9.15 Non- Conforming Uses

Throughout the City and Environs there are uses which do not conform to the zoning objectives for the area. Extensions and improvement of premises accommodating these uses may be permitted where the proposed development would not seriously injure the amenities of the area or prejudice the proper planning and development of the area. In some cases, the Planning Authority may encourage relocation of permitted incompatible uses.

5.2. Section 28 Guidelines

Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2004.

5.3. Natural Heritage Designations

River Barrow and River Nore Special Area of Conservation (002162): c.380m from appeal site

River Nore Special Protection Area (004233): c.380m from appeal site

5.4. EIA Screening

Having regard to the nature, size and location of the proposed development, comprising the construction of 34 residential units in a serviced urban area, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Refer to Appendix 1 regarding this preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

There have been three appeals received.

Ellen Wise and Austin Wise.

The main points of appeal can be summarised as follows:

- The placement of the building will seriously impact the privacy of the residents of Assumption Place.
- The increase in population is of concern as there are no local amenities, which could lead to antisocial behaviour.
- There is significant congestion on O'Loughlin Road, and Assumption Place has a consistently high traffic volume.
- Issue with the public boundary walls being altered/ changed and potentially removed as this is a private development, and the applicant has no authority to do so.

Claire Meehan, Kieran McCardle, Ellen McCardel, John Paul & Sinead Soames.

The main points of appeal can be summarised as follows:

- The revised design is overbearing compared to the direct residential size and predominant building form and style of Assumption Place/O'Loughlin Road.
- The front façade is not set back sufficiently from the road.
- Health and Safety concerns relating to:
 - Emergency exits open directly onto the existing playground.
 - Balconies overhanging the playground.
 - Maintenance of the building would result in encroachment of the playground.
 - There are no boundaries between the car park vents and the playground.
 - The internal circle does not allow sufficient height for service vehicles.
- The development should not rely on existing open space to provide communal open space for residents.
- The existing boundary wall should be reinstated.
- The Assumption Place laneway should not be used for the development.
- There will be a shortfall of 20 car parking spaces.

- The adjoining parkland, which includes graves, needs to be treated with extra sensitivity.
- The entrance to the proposed development is only 10m from the entrance to Nowlan Park GAA stadium.
- There is already insufficient road infrastructure to support the current needs.
- The development's main entrance is extremely close to the railway bridge, a recorded accident black spot.

Eugene Mc Guinness, Michael Doran, Bernadette Maher, The Cantwell Family, Vicki Seamus Teresa, Bernadette Burke, Joanie Owens, John Cahill, Eimear O'Connor & Kathleen O'Connor.

The main points of appeal can be summarised as follows:

- Car parking for the development is insufficient to meet the needs of the apartment proposed.
- The only extra parking available is at Assumption Place, which will worsen an existing parking problem.
- Kilkenny County Council recently passed a motion to investigate the possibility of turning Assumption Place/O'Loughlin Road into a one-way system to try and alleviate the severe traffic problems.
- No development should take place until these issues have been resolved.
- The main entrance to Assumption Place passes under a railway bridge, which has been an accident black spot.
- No further Development should be considered until this accident black spot has been eliminated.
- The proposed entrance junction will result in a serious accident with little or no possibility of emergency vehicles reaching the scene in time.
- The development's design, size and scale are unsuitable for the area and are out of character with the surrounding buildings.
- The proposed development does not provide sufficient open space.

- Concerns that removing boundary walls on the southern side of the site will effectively give ownership of the existing green space to the new residents.
- The development does not seem to achieve A2 energy rating targets.
- As the proposed development is on what is an extension of the neighbouring burial ground, it should be treated with the utmost sensitivity.
- The proposed development does not meet the policies and objectives of Kilkenny City and Environs Development Plan and does not conform with the proper planning and development of the area.

6.2. Applicant Response

The main issues raised by the applicant in response to the appeal can be summarised as follows:

- The proposed development is an efficient use of the site and contributes towards the objectives of compact growth.
- The proposed building successfully reconciles the scale of Nowlan Park on one side with the 2-storey houses in Assumption Place on the other.
- The appearance of the building is enhanced by the mansard roof and enclosing the lift shaft.
- It would be a missed opportunity to retain a deep setback: building to the edge of the footway will create a better streetscape.
- The balconies will not overlook the residents' properties and gardens.
- Conditions 6(d) requires proposals to remove any opportunities for overlooking from a third-floor amenity space.
- The building will meet the requirements of Part L of the Building Regulations.
- Urban design encourages overlooking public areas to provide passive security and discourage antisocial behaviour.
- The site benefits from public green spaces to the north and south; the latter includes a playground.

- The provision of additional public open space would be poor use of serviced land.
- Condition No.16(a) requires the applicant to upgrade the public open spaces to the north and south.
- The proposed footpath and cycle through the site from O'Loughlin Road to Assumption Place will be a useful spur off the O'Loughlin Road cycle route for all residents and add to the wider area's 'active travel' network.
- The traffic counts incorporated into the TTA do not bear out the claimed traffic hazard.
- Official records do not record the railway bridge as a black spot.
- The traffic generated by the proposed development will not be significant and can be partially offset by the existing commercial traffic to and from the site, which will cease.
- Traffic is two-way on Assumption Place, with on-street parking neatly contained between the trees in the road verges.
- The main entrance to Nowland Park is at Ossory Park/Hebron Park, not O'Loughlin Road.
- Government publication "Design Standards for New Apartments" recommends that '*parking provision be minimised*' at accessible urban locations served by public transport.
- The TTA states that the proposed parking provision is satisfactory.
- The appellant's misgivings about the administration of the Development Contribution Scheme should be taken up with the local authority.
- The boundary wall to the burial ground is mainly from the 20th century, with remnants of some other random rubble walling.
- The lowering of the wall is not essential to the scheme.
- The applicant knows the sensitivities around works in a burial ground and will comply with all relevant statutory and archaeological requirements.

6.3. **Planning Authority Response**

The Planning Authority has no further comments to make.

6.4. **Observations**

- None

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report/s of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Zoning & Density
- Open Amenity Space
- Residential Amenity
- Design
- Car Parking
- Traffic
- Built Heritage.

7.2. **Zoning and Density**

- 7.2.1. The site is zoned 'Existing Residential' with the objective: To protect, provide and improve residential amenities.' Residential development is a permission use in the zoning. Offices are not a permissible use or open for consideration in this zoning.
- 7.2.2. Section 2.9.15 of the Kilkenny City and County Development Plan states that extensions and improvement of premises accommodating non conforming uses may be permitted where the proposed development would not seriously injure the amenities of the area or prejudice the proper planning and development of the area.

While there is an existing office on site and the use has been established, I do not consider the proposed new office to be an extension or improvement to the existing office. Therefore, I consider that the proposed office use is contrary to the zoning objective of the area.

- 7.2.3. The density for the proposed development equates to 147 units per hectare. While I note that Section 13.4.1 of the Kilkenny City and County Development Plan states that it is not intended to prescribe maximum residential density standards, Section 13.5 *Infill Developments* of the Development Plan states that the council will have regard to the *Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) Guidelines for Planning Authorities (DEHLG, 2009)*. These have now been replaced by the *Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, 2024*. Kilkenny is designated as a significant Key Town in the Regional Spatial and Economic Strategy (RSES) for the Southern Region, and the site is located in an urban neighbourhood. It is a policy of the guidelines that residential densities in the range of 40dph to 100dph shall be generally applied to areas like this.
- 7.2.4. The proposed development exceeds the density ranges for such a site. The Guidelines do state that it may be necessary and appropriate in some exceptional circumstances to permit densities above or below the ranges.
- 7.2.5. Section 13.5 of the Development Plan states that the appropriate residential density in any particular location will be determined by a range of factors, including the extent to which the design and layout follow a coherent design brief, resulting in a high-quality residential environment.
- 7.2.6. Given that the site is surrounded by open space on two sides and adjacent to two-storey residential developments, and considering the design and amenity issues discussed below, I consider that there is not a justifiable reason for the proposed density or a deviation in the standards and that the proposed density of development is contrary to the proper planning and sustainable development of the site.

7.3. Open Amenity Space

- 7.3.1. One of the appellants considers that the development should not rely on existing open space to provide communal open space for residents.
- 7.3.2. The Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2023 requires a minimum floor area for private amenity space of 5 sqm for a one-bedroom apartment, 6 sqm for a two-bedroom (3-person apartment), and 7 sqm for a two-bedroom (4-person apartment).
- 7.3.3. The guidelines allow for urban infill schemes on sites of up to 0.25ha; communal amenity space may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality. I note an access door on the third floor to a flat roof is proposed. The planning authority attached a condition requiring that details of the use of the roof space for the residents' amenity space whilst removing the opportunity for overlooking be submitted and agreed. This area is surrounded by a 1.65m parapet/mansard roof, which should reduce any overlooking of the amenity area of No.17 Assumption Place. This section of the roof should achieve adequate sunlight.
- 7.3.4. With adequate screening to prevent overlooking and adequate landscaping, I consider providing this area of communal open space, which would be easily accessible and secure, acceptable. There is an additional area of communal open space on the southern side of the first floor. I consider that the proposed development is adequately served with communal open space.
- 7.3.5. All the apartments have private open space in the form of balconies, the sizes of which comply with the minimum standards as contained in the Design Standards for New Apartments.
- 7.3.6. One of the appeal comments stated that the development should not rely on existing open space to provide communal open space for residents. There is an area of open space to the north of the site and an area of open space containing play facilities to the south of the site. The Planners Report notes that given the extent of proximate public open space, the proposal is acceptable in this regard.
- 7.3.7. Given the proximity of public open space and the proposed communal and private space, I consider that the proposed development would be adequately served with open space.

7.4. Residential Amenity

Existing Residential Amenity

- 7.4.1. One of the concerns raised in the appeal related to the balconies overhanging the playground. Most balconies on the southwest elevation are set back from the site boundary and do not overhang the playground. Six balconies on the site's southwest corner are on the boundary with the adjoining open space and playground.
- 7.4.2. Other concerns raised in the appeals are the removal of the open space's boundary walls and the lack of boundaries between the car park vents and the playground. Seven windows serving the office are proposed on the boundary with the play area. An external-opening door is proposed from the office directly onto the open space. Ventilation grills serving the car parking area on the ground floor are proposed on the boundary with the existing public open space/ playground.
- 7.4.3. In response to the appeal, the applicant states that overlooking public areas is encouraged in urban design to provide passive security and discourage anti-social behaviour. While I consider this to be the case for the balconies on the upper floors, I consider that office windows and car parking grills directly on the boundary with the public open space/ playground will be injurious to the amenity value of the existing public open space as it may limit some ball-related recreation activities. I also consider that the car parking ventilation grills on the boundary would provide a hostile frontage and would be injurious to the character of the public realm.
- 7.4.4. I do not consider that the proposed development respects the landscaping around the site and would be prejudicial to the amenity enjoyed by neighbouring residential uses.

Proposed Residential Amenity

- 7.4.5. I note that the layout includes 7no. apartments with a bedroom without a window and two apartments with a bedroom without an access door. These are not considered draughting errors, as the elevations have no corresponding windows. On the first and second floors, corridors lead only to windows, and on the third floor, corridors lead nowhere and have no windows.

- 7.4.6. Eight of the proposed apartments are dual aspect. This would equate to 24% of the proposed apartments being dual aspect. Specific Planning Policy 4 of the Sustainable Urban Housing: Design Standards for New Apartments- Guidelines for Planning Authorities 2023 states that for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha. planning authorities may exercise further discretion to consider dual aspect unit provision at a level lower than the 33% minimum outlined above on a case-by-case basis, but subject to achieving overall high design quality in other aspects. The site area is less than 0.25ha, and therefore, discretion can be applied. Given that this site is open on all sides, the layout is not constrained by other buildings, and the internal layout includes apartments with windowless bedrooms, I consider that the proposed development does not achieve a high-quality design. Therefore, I consider it unacceptable that, in this instance, only 24% of the total apartments are dual-aspect.
- 7.4.7. I consider that the design of the proposed development has not been adequately resolved and would lead to a substandard layout and insufficient residential amenity.

7.5. Design

- 7.5.1. The suitability of the design has been raised as an issue in the appeals, stating that the proposed design will completely dominate the surrounding estate and that the revised design is overbearing when compared to the residential size, predominate form and style of Assumption Place/O'Laughlin Road.
- 7.5.2. Section 13.5.1.1. of the Kilkenny City and County Development Plan 2012-2017 requires that infill development have exceptional quality of design and that multiple units on infill site will need to address best practice in terms of meeting the 12 Urban Design Criteria set in the Design Manual, Best Practice, 2009.
- 7.5.3. I consider that the development's design and location on the site do not sufficiently respond to its surroundings and, therefore, do not meet the first criteria in the Urban Design Manual.
- 7.5.4. The revised scheme, as submitted, consists of a single block with a mansard roof. While there is a setback on the third floor to the rear of the building, the overall

length of the building, at nearly 70m, will be a dominant form in this area, surrounded by open space and two-storey residential buildings.

- 7.5.5. In response to the appeal, the applicant states that the building successfully reconciles the scale of Nowlan Park on the one side with the 2-storey houses in Assumption Place and that the mansard treatment of the upper floors enhances the appearance of the building. While the scale of Nowlan Park is recognised, the site is surrounded on two sides by public open space. Given the prominence of the site on O'Loughlin Road when approaching from the city centre, I considered the scale and massing of any new development need to be carefully considered.
- 7.5.6. While it is accepted that urban densification, which is supported in the Kilkenny City and County Development Plan, is welcomed on this site, I consider that the development's place and time have not informed the massing and design approach of the proposed development and will therefore ultimately detract from the character of the surrounding area.
- 7.5.7. One of the points of appeal states that the proposed development is not set back sufficiently from the road and should have a setback in line with the existing building on site. There is no established building line along this side of O'Loughlin Road, and on the opposite side of the road, the buildings and boundary wall of Nowlan Park directly back onto the rear line of the footpath. Notwithstanding the above comments relating to the proposed design, I consider that, if appropriately designed, this site can establish its own building line.

7.6. Car Parking

- 7.6.1. Two of the appeals consider that there is insufficient parking proposed for the development, as there are existing parking issues on Assumption Place. Thirty-seven parking spaces have been proposed for the ground-floor car park.
- 7.6.2. Table 12.3 of the Kilkenny City and County Development Plan sets out car parking standards. For apartments, 1.25 spaces are required per unit and 0.25 spaces per unit for visitors. These are not maximum standards. Therefore, in order to comply

with the development plan, a development consisting of 34 apartments should provide 51 spaces.

- 7.6.3. The maximum car parking requirement for offices is 1 space per 1 car parking space per 15m² of gross floor area and additional space to be determined by the Planning Authority. A 200m² office space would require a maximum of 14 spaces.
- 7.6.4. The Planner's report notes that the Council's Road Section is concerned that the shortfall will lead to parking on the street. The Planner comments that having regard to the County and City Development Plan, which promotes active travel, and the site's proximity to the City Centre adequate provision of parking has been proposed.
- 7.6.5. I note that the NTA Cycle Connects draft proposal, I proposes a primary orbital cycle network along O'Loughlin Road.
- 7.6.6. Specific Planning Policy 3—Car Parking of the Sustainable and Compact Settlement states that car parking should be substantially reduced for sites in Intermediate locations as defined in Chapter 3, and the maximum parking provision per apartment shall be 1.5 spaces. The proposed development proposes a figure of 1.08 spaces per apartment. It is noted that some of these spaces may be used for office use. As it is a requirement to apply the specific planning policy, I consider that the parking provision is in compliance with SPPR3.

7.7. Traffic

- 7.7.1. Two appeals have raised the issue of traffic congestion and safety. One appellant states that the increase in traffic numbers resulting from the proposed development would increase the risk of a serious accident at the railway bridge that crosses O'Laughlin Road southwest of the site. They also state that no further development should be allowed until the accident black spot at the railway bridge has been eliminated.
- 7.7.2. The applicant's response states that O'Loughlin Road does not function as an arterial route like Dublin Road or Hebron Road and that the TTA has demonstrated that O'Loughlin Road has spare capacity.

- 7.7.3. The railway bridge's opening is wide enough for only one vehicle at a time using a stop control system. The rest of O'Loughlin Road has footpaths on either side. The speed limit is 50km/h along this road.
- 7.7.4. The applicant submitted a Traffic and Transport Assessment Report and a Stage 1 Quality Audit in response to the Planning Authority's request for further information.
- 7.7.5. The TTA observed that overall traffic flows were relatively light during the peak periods and that O'Loughlin Road was not congested. It found that although some short queues formed at the junctions, they moved quickly, and there were frequent periods with no queues on the junction arms. It concluded that junctions have spare capacity to accommodate additional traffic.
- 7.7.6. The TTA predicts that the trip rate to the development in the AM peak is 9 and from the development is 11. The trip rate to the development in the PM peak is 11, and from the development is 11. The TTA states the existing development is not intensively used, and the restaurant would attract trips mainly outside peak hours. It was observed that there is existing traffic travelling to and from the development during peak hours. The report presumes that the existing uses generate 20% of the predicted traffic flows associated with re-development.
- 7.7.7. I note that the entrances on O'Loughlin Road to Nowlan Park are for pedestrian use or for emergency access/exit only.
- 7.7.8. I do not consider O'Loughlin Road a major arterial road, and I am satisfied that, with the evidence presented in the TTA, the proposed development of 34 apartments will not cause undue additional traffic or traffic congestion in the area.
- 7.7.9. I note that an adequate head height of 4.88m will be over the turning circle for emergency and service vehicles, as the first floor is set back over it.

7.8. Built Heritage

- 7.8.1. Concerns have been raised in the appeal about the impact of the development on the adjoining site to the north and its boundary walls. The adjoining site contains a 1920s limestone memorial slab, which is a protected structure. The site is also a burial ground opened in 1893 and closed in 1968. The graveyard is included in the National Inventory of Architectural Heritage Register as having a regional value.

There are two standard Commonwealth War Graves and a later headstone from the 1950. A commemorative plaque for those interred in the graveyard on the boundary wall is shared with the appeal site. This boundary wall is proposed to be reduced to 600 above ground level. I consider that in order to protect the historic integrity and setting of the adjoining site the existing stone boundary should be retained at its current height.

7.9. AA Screening

- 7.9.1. I have considered the apartment development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located approximately 380m from the River Barrow and River Nore Special Area of Conservation (002162) and River Nore Special Protection Area (004233).
- 7.9.2. The proposed development comprises an apartment building with thirty-four apartments, offices, and parking on the ground floor.
- 7.9.3. No nature conservation concerns were raised in the planning appeal.
- 7.9.4. Having considered the nature, scale, and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows [insert as relevant:
- Nature of works in this urban site
 - The distance from the nearest European site and lack of connections.
 - Taking into account screening report/determination by LPA
- 7.9.5. I conclude that on the basis of objective information, the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.
- 7.9.6. Likely significant effects are excluded, and therefore, an Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

8.0 Recommendation

I recommend that permission be refused for the following reasons:

9.0 Reasons and Considerations

1. It is considered that the proposed development, by reason of its height, scale, massing and density at this prominent site, on O'Loughlin Road adjacent to two areas of open space and established two-storey dwellings, would constitute an overdevelopment of the site and seriously injure the amenities of the area and of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the Urban Design Manual—a Best Practice Guide, issued by the Department of the Environment, Heritage and Local Government in 2009, in which context is a key criteria, and to the Existing Residential Zoning of the site, the development, as proposed, would have an adverse visual impact on O'Loughlin Road and results in a poor quality of architectural design that is substandard in its form and does not respond to its setting and surrounding, would therefore not protect the established character and amenities of the existing adjoining residential areas. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. Having regard to the site's zoning as contained in the Kilkenny City and County Development Plan 2021-2127, the objective of which is to protect, provide, and improve residential amenities, and the site's location adjoining an existing residential estate, it is considered that the proposed office element of the development would contravene the said development plan zoning objective and would be contrary to the proper planning and sustainable development of the area.

4. The proposed accommodation standard is considered substandard, taking particular account of the absence of windows in bedrooms and the low level of dual-aspect apartments on this open site. This substandard form of development is considered to have a significant negative impact on the residential amenity of future occupants. The proposal would be contrary to Specific Planning Policy Requirement 4 of the Sustainable Urban Housing: Design Standards for New Apartments 2023, which requires a minimum of 33% of dual-aspect apartments. The proposed development 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.

Peter Nelson
Planning Inspector

24nd May 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

| | | | | |
|---|---|---|----------------------------------|--|
| An Bord Pleanála Case Reference | 316107-23 | | | |
| Proposed Development Summary | Demolition of existing buildings & structures. Construction of 34 apartments, ow-door office and car parking. | | | |
| Development Address | 11/12 O'Loughlin Road, Kilkenny, R95N25X | | | |
| 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 | X | |
| | | No | | |
| 2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class? | | | | |
| Yes | | Class..... | EIA Mandatory EIAR required | |
| No | X | | 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 | | N/A | | No EIAR or Preliminary Examination required |
| Yes | X | Class10 <i>Infrastructure Projects</i> (b) (i) Construction of more than 500 dwelling units. | | Proceed to Q.4 |

4. Has Schedule 7A information been submitted?

| | | |
|------------|----------|---|
| No | X | Preliminary Examination required |
| Yes | | Screening Determination required |

Inspector: _____ **Date:** _____

Form 2

EIA Preliminary Examination

| | | |
|--|--|------------------------------|
| An Bord Pleanála Case Reference | 316107-23 | |
| Proposed Development Summary | Demolition of existing buildings & structures. Construction of 3 Houses, 29 apartments, and one office with associated site development works. (amended to 34 apartments & office after the submission of significant further information) | |
| Development Address | 11/12 O'Loughlin Road, Kilkenny, R95N25X | |
| <p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p> | | |
| | Examination | Yes/No/ Uncertain |
| <p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> | <p>The proposed development of 34 apartments in an existing residential area is not exceptional in the context of the existing environment, which is an existing residential area.</p> | No |
| <p>Will the development result in the production of any significant waste, emissions or pollutants?</p> | <p>The proposed residential development will not result in the pollution of any significant waste, emissions or pollutants.</p> | No |
| <p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> | <p>The size of the development, which consists of 34 apartments in a three-storey building, is not exceptional in this existing built-up urban environment.</p> | No |
| <p>Are there significant cumulative considerations having regard to other existing</p> | <p>There are no significant cumulative considerations having regard to other existing projects and there are no significant projects permitted in the area.</p> | |

| | | |
|---|--|--|
| and/or permitted projects? | | |
| Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area? | The site of the proposed development is not located on, in or adjoining any ecologically sensitive site or location nor does the proposed development have the potential to significantly impact such a site. The proposed development does not have the potential to significantly affect other significant environmental sensitivities in the area. | |
| Conclusion | | |
| There is no real likelihood of significant effects on the environment. EIA is not required. | There is significant and realistic doubt regarding the likelihood of significant effects on the environment. | There is a real likelihood of significant effects on the environment. |

Inspector: _____

Date: _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)