



An
Bord
Pleanála

Inspector's Report

ABP-318293-23

Development	Construction of a three-storey apartment building and all ancillary works.
Location	Wolfe Tone Street, Naas, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	23229
Applicant(s)	Dominic Fagan.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party
Appellant(s)	Arthur and Louise Goonan Josephine Brosnan Anne and Don O'Keeffe
Observer(s)	None.

Date of Site Inspection

09/09/2024

Inspector

Alan Di Lucia

Contents

1.0 Site Location and Description	5
2.0 Proposed Development	5
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	7
3.3. Prescribed Bodies	8
3.4. Third Party Observations	8
4.0 Planning History	9
5.0 Policy Context	10
5.1. Development Plan	10
5.4. Natural Heritage Designations	12
5.5. EIA Screening	13
6.0 The Appeal	13
6.1. Grounds of Appeal	13
6.2. Applicant Response	16
6.3. Planning Authority Response	17
6.4. Observations	17
6.5. Further Responses	17
7.0 Assessment	17
8.0 AA Screening	23
9.0 Recommendation	24

10.0	Reasons and Considerations.....	24
Appendix 1 – Form 1: EIA Pre-Screening		
Appendix 1 – Form 2: EIA Preliminary Examination		
Appendix 1 - -Appropriate Assessment Screening		

1.0 Site Location and Description

- 1.1. The site is located along Wolfe Tone Street in Naas, Co Kildare. The site has a stated site area of 0.02ha and is situated on the northern side of Wolfe Tone Street. The site could be considered an infill site, triangular in shape, fronting onto Wolfe Tone Street.
- 1.2. The site is bounded to the north by the rear gardens of the existing residential development (The Sycamores) and to the southeast by the rear of properties 1-6 Railway Terrace. There is no direct access from the site onto Wolfe Tone Street. The site is approximately 50m to the northwest of the existing junction with the Dublin Road (R445) and Wolfe Tone Street.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of the following:
- A three-storey apartment building (276m²) comprising of:
 - 2 no. two-bedroom apartments (88m²) on ground floor and first floor
 - 1 no. one-bedroomed apartment (75m²) on the second floor.
 - A new pedestrian access onto Wolfe Tone Street to the front of the site.
 - 6 no. bicycle parking spaces, bin storage and hard landscaped areas to the rear of the proposed building, and all ancillary site works.

3.0 Planning Authority Decision

3.1. Further Information

The Planning Authority requested further information regarding the proposed development relating to:

- A visual impact study of the proposed balconies along Wolfe Tone Street.

- Compliance with minimum standards for internal storage space
- Revised details to address the inaccuracies in levels on site.
- Details regarding boundary treatments and a landscaping plan.
- A daylight/sunlight study.
- An investigation in relation to invasive species on site.
- A lighting report

All information was submitted to the Planning Authority. A revised elevational drawing was submitted with changes to the balcony design along the Wolfe Tone Street elevation, which incorporate sliding glazed doors at ground and first floor level. Details relating to landscaping and boundary treatment have provided clearer details as to what is proposed. Daylight/sunlight study submitted details the existing and developed daylight/sunlight impact of the proposal. Lighting report detail's location of lighting to public areas.

3.2. Decision

Following receipt and assessment of the further information received the Planning Authority issued a notification of decision to grant planning subject to 12 Conditions.

Conditions of Note include:

- Cond. 4 Levy €30,000 for deficit of car parking in accordance with development contribution scheme.
- Cond.9 relating to prevention of noise and nuisance from air pollution during construction.
- Cond 13. Security deposit €6000 for satisfactory completion of the development.
- Cond. 14 €17,112 to comply with development contribution scheme.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The Planner's Report had regard to the following planning issues.

- A visual impact study, including a revised balcony proposal, shows how the development integrates with Wolfe Tone Street.
- Proposal meets minimum standards as set out in the "Sustainable Urban Housing Design Standards for New apartments: Guidelines to Planning authorities 2022."
- A cross-section addresses level inaccuracies across the site.
- Boundary treatment includes 2m high plastered and painted concrete walls between the site and rear gardens.
- A daylight/sunlight study indicates negligible impact on surrounding properties.
- No invasive species are present on the site.
- A lighting report confirms no light overspill onto adjoining sites.
- The Planner's Report did not consider that either Appropriate Assessment or Environmental Impact Assessment was required.

3.3.2. Other Technical Reports

- Naas Municipal District: grant subject to conditions.
- Transport, Mobility and Open Spaces Department: grant subject to conditions.
- Heritage Officer: no objection.
- Chief Fire Officer: no objection.
- Environmental Health Officer: grant subject to conditions.

- Environment Section: grant subject to conditions.
- Water Services: grant subject to conditions.

3.4. Prescribed Bodies

Uisce Éireann No objection subject to conditions

3.5. Third Party Observations

Eight third party submissions received by the Planning Authority related to the following issues:

- References previous applications on site.
- Inappropriate and unacceptable development on a constrained site
- No site notice on Railway Terrace
- Impact on privacy and sunlight
- Increase in noise arising from the proposed development.
- No car parking provision.
- Overdevelopment of the site and overlooking leading to impact on privacy.
- Amenity already impacted by existing development along Railway Terrace.
- Access onto Wolfe Tone Street would impact on security of adjoining residents.
- Site was never intended to be developed and used as a service yard for adjoining property.
- Inadequate distances to rear boundaries of adjoining residential properties.
- Excessive height exceeds residential standards.
- Concern regarding overshadowing

- Concerns regarding inaccuracies of levels
- Three storeys out of context with adjoining properties.
- Japanese Knotweed on site

4.0 Planning History

4.1. On Appeal Site (including adjoining lands)

ABP Ref. 73.223861 (PA Ref. 06/500247)

Retention permission granted to Kitside Ltd for Restaurant building and ancillary site works and services as constructed.

PA Ref. 02500082

Permission refused to Kitside Ltd to a) demolish existing restaurant and 1st floor residential accommodation b) construct 2-storey building incorporating restaurant and 2 retail units and 2 2bed apartments, c) bin storage area car parking service yard d) entrance off New Link Road and all ancillary works.

4.2. In the Vicinity of Appeal Site

PA Ref. 21/464

(a) Retention planning permission of as constructed single storey office building, boundary walls, all associated site development works including connection to existing foul sewer on site and 2 car parking spaces. Site access to the retained development to be through existing site entrance to rear of Railway Terrace. (b) Planning permission for change of use from office use to residential. Granted by Planning Authority

PA Ref.18/1558

A single storey office building, all associated site development works including connection to existing foul sewer on site and 2 car parking spaces. Site access to

the proposed development to be through existing site entrance to rear of Railway Terrace. Granted by Planning Authority.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. Kildare County Development Plan 2023-2029 [KCDP] is the relevant statutory development plan for the area. Naas is identified as a Key Town in the Eastern Midlands Regional Spatial and Economic Strategy 2019-2031.
- 5.1.2. The density guidance within the KCDP is based on the provisions of the *‘Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities, DEHLG (2009)’* and the density for brownfield sites and town centres is indicated as site specific.
- 5.1.3. Sections 15.2.2 relates to overlooking and separation distances and indicates that a minimum of 22m is required between directly opposing first floor windows, but this may be reduced if innovatively designed and does not cause overlooking of adjoining properties. Greater separation distances for apartments and buildings over 3 storeys may be required, in the case of overlooking living room windows and balconies 35 metres will be required.

5.2. Naas Local Area Plan 2021-2027 [Naas LAP]

- 5.2.1. The land to which the subject site is located is zoned ‘A: Town Centre’ in the Naas LAP, the objective of which is *‘to protect, improve and provide for the future development of the town centre.’*
- 5.2.2. Table 11.2 Zoning Matrix Definition of terms states that: *“While the zoning objectives indicate the different uses permitted in each zone it is important to avoid abrupt transitions in scale and use at the boundary of adjoining land use zones. In these areas it is necessary to avoid developments that would be detrimental to amenity. In zones abutting residential areas, particular attention will be paid to the*

uses, scales, density, and appearance of development proposals and to landscaping and screening proposals in order to protect the amenities of residential properties. Development abutting amenity and open space will generally facilitate the passive supervision of that space, where possible by fronting onto it.”

- 5.2.3. Section 4.4 states that having regard to the requirements of the guidelines titled ‘Urban Development and Building Heights: Guidelines for Planning Authorities (2018)’ The Naas LAP does not propose to place any height limitations on new developments and the town centre has been identified as possible locations for taller buildings.

5.3. Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities 2024

These guidelines set out policy and guidance in relation to planning and development of urban and rural settlements, which focus on sustainable residential development and the creation of compact settlements.

- 5.3.1. Section 3 of the guidelines, details density ranges within settlements by area type. Table 3.5 provides for density ranges for Key Towns / Large Towns. (5000+ populations) and identifies two area types which are “*Centre and Urban Neighbourhood*” and “*Suburban/Urban Extension*”.

The centre comprises the town centre and the surrounding streets, while urban neighbourhoods consist of the early phases of residential development around the centre that have evolved over time to include a greater range of land uses. It is a policy and objective of these Guidelines that residential densities in the range 40 dph-100 dph (net) shall generally be applied in the centres and urban neighbourhoods.

- 5.3.2. Section 3.3.6 outlines exceptions as follows:

(a) There is a presumption in these Guidelines against very high densities that exceed 300 dph (net) on a piecemeal basis. Densities that exceed 300 dph (net) are open for consideration on a plan-led basis only and where the opportunity for

densities and building heights that are greater than prevailing densities and building height is identified in a relevant statutory plan.

(b) Strategic and sustainable development locations of scale (described in section 4.4.4 of the Development Plans Guidelines for Planning Authorities 2022) will be capable of defining densities or density ranges across different neighbourhoods on a plan led basis, based on considerations such as proximity to centre, level of public transport service and relationship with surrounding built form. Densities within strategic and sustainable development locations may, therefore, exceed the ranges set out in Section 3.3 on a plan-led basis.

(c) In the case of very small infill sites that are not of sufficient scale to define their own character and density, the need to respond to the scale and form of surrounding development, to protect the amenities of surrounding properties and to protect biodiversity may take precedence over the densities set out in this Chapter.

5.3.3. Section 5 of the guidelines details development management standards that apply to residential developments.

- SPPR 1 a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor shall be maintained. Separation distances below this may be considered where there are no opposing windows serving habitable rooms and where privacy measures have been designed to prevent undue overlooking of habitable rooms or private amenity spaces.

5.4. Natural Heritage Designations

The following European Sites are located within the vicinity of the appeal site.

Site Code	Site Name	Distance (Approx.)
00397	Red Bog Kildare SAC	8.5km

002331	Mouds Bog SAC	8.7km
--------	---------------	-------

5.5. EIA Screening

I have carried out a Pre-Screening and Preliminary Examination (See Form 1 & 2 appended to this report)

The proposed development is of a class under Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended, namely Class 10. Infrastructure projects, (b)(i) construction of more than 500 dwelling units and /or (iv) urban developments which would involve an area of greater than 2 hectares. However, as the proposed development comprises three apartments on a site area of 0.02ha, it is significantly below the 500-unit and / or 2 ha threshold limit. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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

Three Appeals were received from the residences of No.15,16, and 17 The Sycamores. These properties adjoin the subject site to the North.

6.1. Grounds of Appeal

6.1.1. Overdevelopment

- The site area is only 0.02 hectares and forms part of the yard of the adjoining restaurant. The proposed development of three residential units would equate to a residential density of 150 dwellings per hectare which is excessive even for a County Town and highlights a High Court Judgement (Ballyboden Tidy Towns Group v Anor-v- An Bord Pleanala & Ors) and

points out that no audit on the capacity on bus and train routes were lodged with the application. A positive decision on this application would be inconsistent with this High Court Decision. (House No. 16)

- The proposal would be over development of the site given the overall context and would have adverse impacts on the existing residential properties with the adjoining residential estate 'The Sycamores.' (House No. 15. 16. 17)
- The proposal is contrary to the policy of the Naas LAP in terms of development in transitional zoning areas. (House No. 16)
- Result in increased noise from day to day/night activities. (House No. 15,17)

6.1.2. Building Block

- The site forms part of the original restaurant permission and does not comprise of an independent building block but consists of the designated yard area of the restaurant and points out that not every tract of land needs to be developed. (House No. 15, 16)
- The Planning Authority's assessment appears to treat the proposal as if it were situated on lands zoned town centre where it actually falls within the traditional suburban housing zone. (House No. 16)
- that a three-story block at this location would be an obtrusive feature to this residential streetscape. It notes that the Planning Authority did not request a photomontage as part of the further information and notes it is open for the Board to do so. (House No. 16)

6.1.3. Loss of Residential Amenity.

- The proposal exhibits a hypersensitive relationship with properties in 'The Sycamores,' with a separation distance of only 9 metres to the nearest dwelling house. (House No. 16)
- The existing use of rear gardens and bedrooms has been significantly impacted resulting from the change of use at No. 1 Railway Terrace to use

as a restaurant. If the proposal were to progress additional bin areas would be provided along their boundary thus leading to additional disruption, smells, noise, and the attraction of vermin. (House No. 15 16, 17)

- The proposed entrance along Wolfe Tone Street, would be a serious breach of security to the rear of the existing properties within the Sycamores. (House No. 15, 17)

6.1.4. Scale and Visual Intrusion

- The separation distances between rear elevations of opposing houses as per the KCDP and points out that the proposed development of nine metres in height would be considered visually obtrusive when seen from No. 16 The Sycamores and from adjacent dwellings. (House No. 15, 16)
- That the boundary treatment between the proposed development and The Sycamores is standard timber fencing and would not adequately screen the proposed development. (House No. 16)
- The difference in ground levels from the proposed site to adjoining residential properties is not clear from the details submitted and would request that a cross section be sought. (House No. 16)

6.1.5. Overshadowing

- Given the building height of the proposal at 9 metres and the proximity to rear boundaries of the adjoining residential properties, it is considered that the proposal would overshadow these rear gardens. (House No. 16)
- That the sunlight and daylight study make no sense and has inconsistencies throughout. (House No. 16)

6.1.6. Overlooking

- Acknowledges the possibility that the incorporation of obscure glass in window openings would prevent overlooking into the adjoining residential properties at the Sycamores. If permission is granted, the submissions

request that a condition be added to ensure such measures are kept in place. (House No. 16)

6.1.7. Hours of Operation

- In the event of permission granted for the development proposed, the submission requests that a condition to restrict hours of construction and delivery before 9 am and after 6pm weekdays and before 9am and after 12am Saturdays. (House No. 16)

6.2. Applicant Response

- The location is town centre and is considered appropriate for apartment type developments due to access to amenities and a variety of transportation services.
- The design and depth facilitate ease of interchange types within the existing cohesive streetscape. Building heights reflect the character of the neighbouring shopping centre and two storey dwellings to the rear.
- The design maximises the use of natural light and sunlight, with the living arrangements facilitating multiple aspects of activity to the public realm.
- The public open space is proposed to the north and west of the site with hard and soft landscaping throughout. Private open space is provided by a secure garden to the north and west of the site.
- The existing footpath network will not be altered as the proposal provides no car access to the development.
- Rear windows serve bathrooms and will have obscure glazing, therefore overlooking is not an issue. The proposal varies from between 11.9m to 20.8m from the rear of the nearest dwellings, overlooking into habitable rooms does not occur.

- The site curtilage includes planters, small trees and low maintenance planting which contributes to a well landscaped environment and is finished with high quality hard and soft landscaping.
- In terms of development capacity, the design of the proposal affords security, privacy, economic use of building land whilst affording architectural expression.
- In relation to density the submission outlines that the development of three apartments in a town centre with 50% open space with easy access to public transport is proper use of land in a central location in Naas.

6.3. Planning Authority Response

The Planning Authority has reviewed the contents of the third-party appeals and has no further comment or observation to make. The Board is referred to the Planning Authority's Planning reports of the various technical departments referred to during the assessment of the application.

6.4. Observations

None

6.5. Further Responses

None

7.0 Assessment

- 7.1. Having examined the application details and all documentation on file, including the submissions and responses received in relation to the appeal, and inspected the site and having regard to local/regional/national policies and guidelines, I am satisfied that the principle of residential development is a permitted use within the

town centre zoning and that the proposal complies with the provisions of “Sustainable Urban Housing Design Standards for New apartments: Guidelines to Planning Authorities 2022” including minimum size requirements for 1 and 2 bed apartments, private and public open space provision and storage provision.

I consider that the main issues in the appeal are as follows:

- Density / Overdevelopment
- Overlooking
- Overshadowing
- Scale and Visual Intrusion
- Other Matters.

7.2. Density / Overdevelopment

- 7.2.1. The proposed development relates to the construction of three apartments on a site with an area of 0.02 hectares. This equates to a density provision of 150 dwellings per hectare (dph). The density guidance within the KCDP is based on the provisions of the ‘*Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities, DEHLG (2009)*’ and the density for brownfield sites and town centres is indicated as site specific. The Naas LAP does not give a defined density for the subject site. It is noted that in April 2021 the Department of Housing, Local Government and Heritage issued a Circular (NRUP 02/2021) relating to guidance in the application of residential densities in settlements. In summary this circular states that, higher densities should be considered based on proximity to and frequency of public transportation links. The high court judgement highlighted in the grounds of appeal references this criterion in considering higher densities.
- 7.2.2. In January 2024, the Department of Housing, Local Government and Heritage issued the “Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities”, which constitute Ministerial Guidelines under

Section 28 of the Planning and Development Act 2000 (as amended). The guidelines provide clarity in relation to the ranges of density provision to be applied within all settlement types.

- 7.2.3. Naas is identified as a Key Town in the Eastern Midlands Regional Spatial and Economic Strategy 2019-2031. Section 3.3.3 of the guidelines provides density ranges for Key Towns of between 40 dph – 100 dph for areas classified as Centre and Urban Neighbourhoods and between 20 dph – 50 dph for areas classified as Suburban / Urban Extension. I consider that the subject site, due to its location and zoning provision as Town Centre, is within an area classified as Centre and Urban Neighbourhood and therefore residential densities in the range 40 – 100 dph can be generally applied. I also consider that the exception outlined in Section 3.3.6 a) of the guidelines does not apply to this location and relates to areas where over 300 dph could apply, such as Dublin or Cork. I further consider that the exception outlined in Section 3.3.6 b) of the guidelines does not apply as the Naas LAP has not been varied to identify any strategic or sustainable development locations to allow for such exceptions.
- 7.2.4. I consider that the exception outlined in Section 3.3.6 c) of the guidelines would apply in this instance as the subject site is a very small infill site that is not at a sufficient scale to define the character and density required. As such, development proposals should respond to scale and the form of surrounding developments, which may take precedent over the densities set out in the guidelines.
- 7.2.5. I consider that, based on the above, the development as proposed has not considered its location as a transitional area between zoning areas as detailed in the Naas LAP, in particular that zones abutting residential areas, particular attention should be given to scales, density and appearance of development proposals in order to protect the amenities of residential properties.
- 7.2.6. I therefore conclude that the proposal to provide three apartments on a 0.02ha site at this location exceeds the density provisions set out “Sustainable Residential

Development and Compact Settlements: Guidelines for Planning Authorities” 2024 and I consider that the proposal is overdevelopment of this small infill site.

7.3. Overlooking

- 7.3.1. Separation distances from the proposed development to the adjoining residential properties at the Sycamores is between 11m and 15m. SSPR1 of the 2024 Guidelines states *“that separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity space.”* On foot of a site inspection and the details submitted as part of the application I am satisfied that living spaces are designed not to overlook adjacent properties and windows facing adjoining properties solely consist of bathrooms with obscure glass. I am satisfied that the scheme has been designed to ensure that the proposal will not overlook adjacent properties and therefore would not be contrary to SSPR 1 of the “Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities” 2024

7.4. Overshadowing

- 7.4.1. The daylight / sunlight study submitted indicates that all properties in the Sycamores will not be further impacted regarding daylight / sunlight resulting from the proposed development. The study indicates that approximately 80% reduction occurs to the rear gardens of properties No. 16 and 17, but this is a result of the existing boundary wall between the properties. The study demonstrates that no further loss of daylight / sunlight will occur as a result of the proposed development. Based on the information provided and a site inspection, I am satisfied that there will be no further overshadowing resulting from the proposed development onto the adjoining properties in the Sycamores.
- 7.4.2. Whilst the grounds of appeal states that the daylight/sunlight study makes no sense and has inconsistencies., it does not elaborate on this statement. I am satisfied

based on the information provided and proximity and heights of adjoining existing buildings that the results provided are sufficient to make an informed decision.

7.5. Scale and Visual Impact

- 7.5.1. The design concept of the development proposed reflects the brief of providing three apartments on a 0.02ha infill site. The design constraints of the site, the location of adjoining residential properties and the minimum requirements of the “Sustainable Urban Housing Design Standards for New Apartments; Guidelines for Planning Authorities (2022)” has informed the design of the proposed development.
- 7.5.2. Taking the view from the site location back to the junction with the Dublin Road, it is clear that the existing development to the south of Wolfe Tone Street reflects the topography to the street, with building heights at the junction starting at three storeys but reducing to two storeys as you progress down the street.
- 7.5.3. On the proposed development side of Wolfe Tone Street, the buildings at the junction with the Dublin Road start at two storeys (Railway Terrace), with the proposed development increasing the street frontage to three storeys. I am of the opinion that the proposed three-story building at this location disrupts the gradual step-down pattern that characterises Wolfe Tone Street and is so not reflective of the two storey building heights on adjacent properties.
- 7.5.4. The design constraints of the proposed development have resulted in the provision of a private balcony at ground floor level fronting directly onto the streetscape on Wolfe Tone Street. I consider that this intervention at ground floor level would be an unsightly feature of a town centre streetscape and as such would not provide any private amenity for the residents of the proposed ground floor apartment.
- 7.5.5. I am satisfied that the details presented on file and that following a site inspection, that a photomontage of the proposed development is not required in order to assess its potential impact on the existing streetscape.
- 7.5.6. I consider that the design constraints of the project brief and the avoidance of overlooking of adjoining properties has resulted in a monolithic design of the rear

elevation of the proposed development which is the side of the proposal that provides the amenity space for the overall development. I consider this design element would result in an under used open space provision as it provides no passive surveillance on this area.

- 7.5.7. Therefore, as referenced in 7.2.5 above, I am of the opinion that the development as proposed has not considered its location as a transitional area between zoning areas as set out in the Naas LAP and I conclude that the overall design and scale of the development proposed would result in an undesirable visual intrusion onto the urban landscape along Wolfe Tone Street.

7.6. Other Matters

- 7.6.1. The “Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities”, 2024 states that car parking may be wholly eliminated at locations that have good access to urban services and public transport. I am satisfied that due to its town centre location, good access to transport links and adequate car parking provision within walking distance, that it is not a requirement to provide car parking spaces within the development.
- 7.6.2. Based on my observations on site, I am of the opinion that the bin storage area may have a small impact on the adjoining residential properties relating to smells, however I consider that a relocation to non-adjoining boundaries with the residential properties would resolve any issues.
- 7.6.3. I am satisfied that any noise associated with the proposed development, will have no greater impact than the existing residual noise due to the Town Centre location.
- 7.6.4. I am satisfied that with the construction of 2m high boundary walls between the development proposed and the properties at the Sycamores that there are no issues with security to adjoining residential properties resulting from the proposed development. As 2m high walls are standard throughout housing schemes and provide privacy and security between properties and public areas.

- 7.6.5. The details submitted on the planning file have not addressed the issues relating to the difference in ground levels from the proposed site to adjoining properties. Based on my observations on site, I consider that the difference in levels will not unduly impact on the residential amenity of adjoining residential properties as the design of the proposed development will not overlook or overshadow the adjoining residential properties and 2m high boundary fencing will provide adequate screening to these properties.
- 7.6.6. In the event that planning permission would be granted on site, I consider it appropriate to include a condition restricting the hours for construction related activities, which is standard practice for construction on sites adjoining existing residential properties.
- 7.6.7. I do not consider it appropriate to recommend a grant of planning permission by applying a condition to reduce the overall development to two apartments. The constraints of this small infill site would result in a completely different approach as the design brief would be to accommodate one or two residential units. This would provide for a more optimal solution to the overall development site by designing appropriate elevational treatments to both Wolfe Tone Street and adjoining residential properties. Applying such a condition would also deny any third-party rights to make comments or submissions.

8.0 AA Screening

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Site Red Bog Kildare SAC, or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

9.0 Recommendation

Having considered the contents of the application, the provisions of both the Kildare County Development Plan 2023-2029 and Naas Local Area Plan 2021-2027, the provisions of the '*Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities 2024*', the grounds of appeal and response to the appeal submitted, my site inspection and my assessment of the planning issues. I recommend that planning permission be refused for the reasons and considerations set out below.

10.0 Reasons and Considerations

- 1) It is considered that the layout and design of the proposed development, on a small infill site would result in a density of 150 houses per hectare, would be contrary to the Ministerial Guidelines titled the '*Sustainable Residential Development and Compact Settlements: Guidelines for Planning Authorities 2024*' issued under Section 28 of the Planning and Development Act 2000, (as amended), which details that a density provision of between 40 to 100 houses per hectare is considered an appropriate density for development within Key Towns. Therefore, it is considered that the development as proposed would result in a substandard form of development and be contrary to the proper planning and sustainable development of Naas.
- 2) Having regard to the layout and design of the development proposed on a small infill site of 0.02ha and by reason of topography of the streetscape, design constraints and adjoining properties. It is considered that the proposed development would result in overdevelopment of the site and introduce inappropriate interventions which would visually alter the urban streetscape at this location. Therefore, the proposed development would interfere with the character of the landscape, which is necessary to preserve,

in a manner that would be contrary to the proper planning and sustainable development of the area.

Alan Di Lucia
Senior Planning Inspector

October 2024

[EIR not submitted]

Page 26 of 35

		within a city or town in which the predominant land use is retail or commercial use.)	
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)
No		N/A	No EIAR or Preliminary Examination required
Yes	✓	Class.....10 (b) (i) Construction of more than 500 dwelling units or urban development area greater than 2 ha	Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	✓	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ Date: _____

Form 2

EIA

An Bord Pleanála Case Reference	ABP-318293	
Proposed Development Summary	A three-story apartment building (276m ²) comprising of: 2 no. two-bedroom apartments (88m ²) on ground floor and first floor 1 no. one-bedroomed apartment (75m ²) on the second floor. A new pedestrian access onto Wolfe Tone Street to the front of the site. 6 no. bicycle parking spaces, bin storage and hard landscaped areas to the rear of the proposed building, and all ancillary site works.	
Development Address	Wolfe Tone Street, Naas, Co. Kildare	
<p>The Board carried 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> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p>		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development. Is the nature of the proposed development exceptional in the context of the existing environment.</p> <p>Will the development result in the production of any significant waste, emissions, or pollutants?</p>	<p>The proposed is for three apartments on an infill town centre site.</p> <p>None of Significance</p>	<ul style="list-style-type: none"> • No • No

<p>Size of the Development Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and / or permitted projects?</p>	<p>The proposed is for three apartments on an infill town centre site.</p> <ul style="list-style-type: none"> • None of Significance 	<ul style="list-style-type: none"> • No • No
<p>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, or protected species?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?</p>	<ul style="list-style-type: none"> • Not near any ecologically sensitive sites or protected species • None near the site 	<ul style="list-style-type: none"> • No • No
<p style="text-align: center;">Conclusion</p>		
<ul style="list-style-type: none"> • There is no real likelihood of significant effects on the environment. • EIA is not required. 		

Inspector:

Date:

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

(only where Schedule 7A information or EIAR required)

APPROPRIATE ASSESSMENT-SCREENING

ABP-318293-23

11.0 Appropriate Assessment- Screening

11.1. Compliance with Article 6(3) of the Habitats Directive

The requirements of Article 6(3) as related to screening the need for appropriate assessment of a project under part XAB, section 177U of the Planning and Development Act 2000 (as amended) are considered fully in this section.

11.2. Background on the Application

A screening report for Appropriate Assessment was not submitted with this appeal case. Therefore, this screening determination has been carried out *de-novo*.

11.3. Screening for Appropriate Assessment- Test of likely significant effects

The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).

The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.

11.4. Brief description of the development

11.5. The proposed development comprises the construction of the following:

- A three-storey apartment building (276m²) comprising of:
- 2 no. two-bedroom apartments (88m²) on ground floor and first floor
- 1 no. one-bedroomed apartment (75m²) on the second floor.
- A new pedestrian access onto Wolfe Tone Street to the front of the site.
- 6 no. bicycle parking spaces, bin storage and hard landscaped areas to the rear of the proposed building, and all ancillary site works.

Taking account of the characteristics of the proposed development in terms of its location and the scale of works, it is concluded that there are no issues for examination in terms of implications for likely significant effects on European sites:

11.6. Submissions and Observations

None submitted.

11.7. European Sites

The development site is not located in or immediately adjacent to a European site. The closest European site is Red Bog Kildare SAC within 8.5 km of the proposed development.

A summary of European Sites that occur within a possible zone of influence of the proposed development is presented in the table below. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail.

Summary Table of European Sites within a possible zone of influence of the proposed development

European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor)	Considered further in screening Y/N
Red Bog Kildare SAC (00397)	Transition mires and quaking bogs	8.5km	None	No
Mouds Bog SAC (002331)	Active raised bogs* Degraded raised bogs still capable of natural regeneration Depressions on peat substrates of the Rhynchosporion	8.7 Km	None	N

11.8. Identification of likely effects

No elements are identified that may give rise to likely effects on a European Site t due to the distance from and lack of connectivity to the habitat for which the site is designated.

11.9. Mitigation measures

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

11.10. Screening Determination

Finding of no likely significant effect

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on European Site Red Bog Kildare SAC, or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on the following:

The nature and extent of the development proposed and the distance from the European Site and demonstrated lack of any ecological connections.

AA Screening summary matrix

Summary Screening Matrix				
European Site (link to conservation objectives www.npws.ie)	Distance to proposed development/ pathway receptor	Possible effect alone	In combination effects	Screening conclusions:
Red Bog Kildare SAC	Within 8.5 km. This site is outside of any zone of influence of the development due to the lack of ecological connections to the specific habitat type for which the site is designated	No possibility of effects due to the distance from and lack of connections to the habitat for which this site is designated	No effect	Screened out for need for AA
Mouds Bog SAC	Within 8.7 km. This site is outside of any zone of influence of the development due to the lack of ecological connections to the specific habitat type for which the site is designated.	No possibility of effects due to the distance from and lack of connections to the habitat for which this site is designated	No effect	Screened out for need for AA
Ballynafagh Lake SAC	Within 10kms This site is outside of any zone of influence of the development due to the lack of ecological connections to the specific habitat type for which the site is designated	No possibility of effects due to the distance from and lack of connections to the habitat for which this site is designated	No effect	Screened out for need for AA

Ballynafagh Bog SAC	Within 10 km. This site is outside of any zone of influence of the development due to the lack of ecological connections to the specific habitat type for which the site is designated	No possibility of effects due to the distance from and lack of connections to the habitat for which this site is designated	No effect	Screened out for need for AA
Pollards Fen SAC	Within 12.5 km. This site is outside of any zone of influence of the development due to the lack of ecological connections to the specific habitat type for which the site is designated	No possibility of effects due to the distance from and lack of connections to the habitat for which this site is designated	No effect	Screened out for need for AA
Poulaphouca Reservoir (SPA)	>10km This site is outside of any zone of influence of the development due to distance to the specific habitat type for which the site is designated	No possibility of effects due to the distance from the habitat for which this site is designated		Screened out for need for AA