



Development	Extension above commercial unit consisting of 8 one-bedroom apartments.
Location	Courtown Road, Branganstown, Kilcock, Co. Kildare.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	23/399.
Applicant	James Hiney.
Type of Application	Permission.
Planning Authority Decision	Grant of Planning Permission.
Type of Appeal	Third Party v Grant of Planning Permission.
Appellant	<ol style="list-style-type: none">1. Terry McCahey and Others.2. Ursula King & Family.
Observer(s)	None.
Date of Site Inspection	21 st June 2024.
Inspector	Enda Duignan

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1.0 Site Location and Description

- 1.1.** The address of the appeal site is Courtown Road, Branganstown, Kilcock, Co. Kildare. The site has a stated area of c. 0.095ha and is located on the southern side of the R125, c. 30m to the east of the junction with Penwall Lodge. The town centre of Kilcock is located c. 300m to the site's north-east. The site has an irregular shape and is accessed from an existing recessed vehicular entrance located the western end of the site's roadside boundary. The site comprises a single storey, pitched roof commercial building which is currently in use as a dental practice. Surface level customer car parking is provided within the building's front setback and a driveway runs along the western (side) boundary leading to an area which accommodates staff car parking to the site's rear. In terms of topography, the site slopes up from the entrance off the R125 with the existing building being elevated relative to the adjoining road and the property to the east.
- 1.2.** In terms of the site surrounds, there is an existing two storey apartment building (Mollyware Court) to the site's immediate west which is located on the corner of the R125 and Penwall Lodge. Surface car parking is also provided to the front of this property and the development is served by an area of communal amenity space to its rear. To the north-east of the site is a two storey detached dwelling which is a designated a Protected Structure under the current County Development Plan (RPS Ref No. 05-24). The amenity space of this property has a direct abuttal with the appeal site's side (east) boundary. There are also a number of detached residences to the south-east of the site within the Chambers Park cul-de-sac.

2.0 Proposed Development

- 2.1.** The proposed development originally sought planning consent for the partial demolition of the existing building (i.e. roof) and the construction of a ground floor extension and a two storey extension above, which comprises a total of 8 no. 1 bedroom apartments.
- 2.2.** It is proposed to retain the existing dental practice and internal modifications at ground floor level will comprise the provision of a dedicated entrance to the upper floor level

apartments. In addition, a refuse storage and bicycle parking and storage (ground floor extension) is provided at ground floor level.

- 2.3. The floor area of the apartments within the development range in size from c. 46.5sq.m. to 51.4sq.m. The Applicant notes that no private amenity space has been proposed in order to avoid overshadowing and overlooking of the adjoining sites. In terms of communal amenity space, it is stated that a patio, with an area of c. 251sq.m. is proposed to the rear of the site.
- 2.4. The car parking to the front of the property is to be retained for use of residents and visitors of the apartment development (i.e. 12 no. spaces).
- 2.5. In terms of design, the extended building will have a flat roof form and materials and finishes will comprise a combination of a brick (ground floor) and a nap plaster finish for the principal elevations. The extended building will have a maximum height of c.8.85m above natural ground level.
- 2.6. Following concerns regarding the quality of the development's design, the development was modified at further information stage. The overall number of apartments within the scheme was reduced (6 no. apartments in total) and the mix now comprised 4 no. 1 bedroom apartments and 2 no. 2 bedroom apartments. External finishes were also amended and now comprise a mix of nap plaster, stone and black timber cladding for the principal elevations.

3.0 Planning Authority Decision

3.1. Decision

Kildare County Council granted planning permission for the proposed development subject to compliance with 17 no. conditions.

Conditions of note include:

Condition No. 9 requires the submission of a Construction and Demolition Resource

Waste Management Plan.

Condition No. 11 requires the incorporation of green or blue roof construction into the design of the proposed extension.

Condition No. 15 requires the submission of an Operational Waste Management Plan.

3.2. Planning Authority Reports

3.2.1. Planning Report

3.2.1.1. The Kildare County Council Planning Reports form the basis for the decision. The First Planning Report provides a description of the site and surrounds, an overview of the relevant planning policy and details of the pre-planning consultation that was facilitated regarding the scheme. The report also summaries the issues raised in the observations to the application. Although the Planning Authority was satisfied that the principle of development was acceptable at this location and was in accordance with the relevant zoning objective, the Applicant was requested to submit the following by way of further information:

1. A revised design to achieve a higher architectural design standard, while also addressing concerns raised in relation to potential overlooking on the neighbouring residential amenity to the east and west of the site.
2. A Sunlight and Daylight Assessment and comment on any potential impacts on the neighbouring Protected Structure to the east.
3. Clarification that the flat roof will not be used for air handling units or storage of any mechanical plant.
4. A Lighting Report and Site Lighting Layout Plan.
5. The location and level of car parking for the proposed development in accordance with the requirements of the County Development Plan.
6. A swept path analysis for the proposed car parking.
7. The level of cycle parking that may be required for the proposed development in accordance with the requirements of the County Development Plan.

8. A report outlining the overall waste management strategy for the proposed development.

3.2.1.2. As part of the further information response, the Applicant submitted modified plans and updated reports to address the issues raised. The overall number of apartments within the development were reduced (6 no. apartments in total) and the mix now comprised a combination of 4 no. 1 bedroom apartments and 2 no. 2 bedroom apartments. External finishes were also amended and now comprised a mixture of nap plaster, stone and black timber cladding for the principal elevations. The Planning Authority noted the various documentation submitted within the further information response. A clarification of further information was however recommended with respect to the following matters.

1. The Applicant was requested to provide landscaping details for the proposed communal amenity space.
2. The Applicant was requested to submit details demonstrating the location and level of car parking for the proposed dental and residential development, in with the requirements of the County Development Plan (2 spaces per consulting room, number of dentists practicing in development) and confirm that all car parking spaces are to be 2.5 x 5.0m in dimension. In addition, a swept path analysis for the proposed car parking was requested.

3.2.1.3. Following the submission of the Applicant's response to the clarification of further information (i.e. landscape plan & swept path analysis), the Planning Authority was satisfied that proposed development was acceptable subject to compliance with conditions.

3.2.2. Other Technical Reports

Environment: Initial report on file recommending further information with respect to waste management. Second report recommending conditions to be attached.

Heritage Officer: Report on file stating no objection to the proposed development.

Roads Department: Initial report recommending further information with respect to car and bicycle parking as discussed in Section 3.2.1. Second report on file recommending a clarification of further information with respect same. Third report on file stating no objection to the proposed development subject to compliance with conditions.

Water Services: Report on file stating no objection to the proposed development subject to compliance with conditions.

Chief Fire Officer: Report on file stating no objection subject to compliance with conditions.

3.2.3. Prescribed Bodies

Irish Water: Report on file stating no objection subject to compliance with conditions.

3.2.4. Third Party Observations

3.2.5. Five (5) no. observations were received from Third Parties. I note that the observers to the application are Third Party appellants in this instance and the matters raised in the observations are broadly similar to those raised in the grounds of appeal which I will discuss in detail in Section 6 of this report.

4.0 Relevant Planning History

4.1. The Subject Site.

None.

4.2. Site Surrounds.

4.2.1. No permissions of relevance within the immediate surrounds of the appeal site.

5.0 Policy and Context

5.1. Kildare County Development Plan, 2023-2029

5.1.1. The Kildare County Development Plan, 2023-2029 (CDP) is the operative plan for the

purposes of this appeal determination. Kilcock is identified as a self-sustaining town under the County Kildare Settlement Hierarchy. Self-sustaining towns have a high level of population growth and a weak employment base and have the potential to improve their employment offering through biotechnology, knowledge based digital enterprises, logistics, tourism and food and beverage products in order to strengthen their overall economic offering.

5.1.2. It is set out under Objective CS O9 to 'Review and prepare on an ongoing basis a portfolio of Local Area Plans (LAPs) for the mandatory LAP settlements (and environs, where appropriate) of Naas, Maynooth, Newbridge, Leixlip, Kildare, Athy, Celbridge, Kilcock, Monasterevin, Sallins, Clane and Kilcullen in accordance with the objectives of the County Development Plan and all relevant Section 28 Ministerial Guidelines'

5.1.3. I note that Chapter 3 of the Plan sets out the County's policies for 'Housing'. Notably, Section 3.8 (Protecting Existing Residential Amenity) and Section 3.9 (Regeneration, Compact Growth and Densification) of the Plan provides the following policies and objectives of relevance.

- HO O6: Ensure a balance between the protection of existing residential amenities, the established character of the area and the need to provide for sustainable residential development is achieved in all new developments.
- HO P6: Promote and support residential consolidation and sustainable intensification and regeneration through the consideration of applications for infill development, backland development, re-use/adaptation of existing housing stock and the use of upper floors, subject to the provision of good quality accommodation.
- HO O7: Promote, where appropriate and sensitive to the characteristics of the receiving environment, increased residential density as part of the Council's development management function and in accordance with the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities and the accompanying Urban Design Manual, DEHLG, May 2009.
- HO O8: Support new housing provision over the Plan period to deliver compact and sustainable growth in the towns and villages in the County, and supporting

urban renewal, infill and brownfield site development and regeneration, to strengthen the roles and viability of the towns and villages, including the requirement that at least 30% of all new homes in settlements be delivered within the existing built- up footprint.

5.1.4. Chapter 5 (Sustainable Mobility & Transport) of the Plan includes the following policies and objectives that are relevant to the consideration of the proposed development:

- TM P9: Effectively manage and minimise the impacts of traffic in urban areas and prioritise the movement of pedestrians, cyclists and public transport particularly at key junctions, while maximising the efficient use of existing resources.
- TM O31: Ensure the delivery of robust and efficient cycle and walking infrastructure in Naas by enhancing permeability and improving linkages between Naas Town Centre, surrounding residential and employment areas, Sallins Railway Station and the Northwest Quadrant.
- TM O50: Facilitate and support the extension of the DART+ line to Kilcock, the extension of the DART+ Southwest line to Naas/Sallins (and promote a future extension to Newbridge and Kildare Town in the next DART + programme / GDA Transport Strategy Review) and the extension of the LUAS network, in co-operation with Irish Rail, the Department of Transport and the National Transport Authority.

5.1.5. Chapter 6 (Infrastructure & Environmental Services) of the Plan deals with Surface Water/Drainage and highlights the importance of compliance with best practice guidance and the use of Sustainable Urban Drainage Systems (SuDS). Relevant policies, objectives, and actions can be summarised as follows:

- IN O21: Facilitate the development of nature-based SuDS.
- IN O22: Require SuDS and other nature-based surface water drainage as an integral part of all new development proposals.
- IN O23: Reduce storm water run-off and ensure that it is disposed of on-site or attenuated and treated prior to discharge with consideration for ground infiltration, storage, and slow-down.

- IN O24: Only consider underground retention solutions when all other options have been exhausted. Underground tanks and storage systems will not be accepted under public open space, as part of a SuDS solution.
- IN O26: Ensure as far as practical that the design of SuDS enhances the quality of open spaces. SuDS do not form part of the public open space provision, except where it contributes in a significant and positive way to the design and quality of open space. In instances where the Council determines that SuDS make a significant and positive contribution to open space, a maximum of 10% of open space provision shall be taken up by SuDS. The Council will consider the provision of SuDS on existing open space, where appropriate. The 'Sustainable Urban Drainage Systems Guidance Document' prepared as an action of this plan shall supersede this standard.

5.1.6. Noting the location of the appeal site relative to an existing Protected Structure, there is an aim under Chapter 11 (Built and Cultural Heritage) 'To protect, conserve and sensitively manage the built and cultural heritage of County Kildare and to encourage sensitive sustainable development so as to ensure its survival and maintenance for future generations'. It is an objective under AH O32 to 'Ensure that new development will not adversely impact on the setting of a protected structure or obscure established views of its principal elevations'.

5.1.7. Chapter 14 of the current CDP sets out policy with respect to Urban Design, Placemaking and Regeneration.

5.1.8. Chapter 15 of the current CDP sets out Development Management Standards. These policies and objectives, where relevant, will be discussed in further detail within the assessment of the appeal in Section 7 of this report.

5.2. Kilcock Local Area Plan (LAP), 2015-2021

5.2.1. Under the LAP, the site is within an area zoned 'B – Existing Residential & Infill', the objective of which is 'To protect and improve existing residential amenity; to provide for appropriate infill residential development; to provide for new and improved ancillary

services.’ This zoning principally covers existing residential areas. The zoning provides for infill development within these existing residential areas. The primary aims of this zoning objective are to preserve and improve residential amenity and to provide for further infill residential development at a density that is considered suitable to the area and to the needs of the population. Such areas, particularly where bordering the commercial centre, will be protected from the pressure of development of higher order uses such as retail and offices.

5.3. Section 28 Ministerial Guidelines.

5.3.1. Having considered the nature of the proposal, the receiving environment, and the documentation on file, I am of the opinion that the directly relevant Section 28 Ministerial Guidelines are:

- Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024).
- Design Manual for Urban Roads and Streets (DMURS) (2019).
- Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities (2020, updated in 2022) (the ‘Apartment Guidelines’)
- Urban Development and Building Height, Guidelines for Planning Authorities (2018) (the ‘Building Height Guidelines’)
- Childcare Facilities – Guidelines for Planning Authorities 2001 and Circular PL3/2016 – Childcare facilities operating under the Early Childhood Care and Education (ECCE) Scheme
- Regulation of Commercial Institutional Investment in Housing – Guidelines for Planning Authorities (May 2021).

Other relevant national guidelines include:

- Climate Action Plan (CAP) 2024
- Guidelines for Planning Authorities and An Bord Pleanála on carrying out Environmental Impact Assessment, (Department of Housing, Local Government and Heritage) (August 2018).
- Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities (Department of Environment, Heritage and Local

Government, 2009).

5.4. Project Ireland 2040 National Planning Framework (NPF)

5.4.1. The NPF is the Government's high-level strategic plan for shaping the future growth and development of the country to the year 2040. A key element of the NPF is a commitment towards 'compact growth', which focuses on a more efficient use of land and resources through reusing previously developed or under-utilised land and buildings. It contains several policy objectives that articulate the delivery of compact urban growth as follows:

- NPO 3 (b) aims to deliver at least 50% of all new homes targeted for the five cities within their existing built-up footprints.
- NPO 4 promotes attractive, well-designed liveable communities.
- NPO 6 aims to regenerate cities with increased housing and employment.
- NPO 11 outlines a presumption in favour of development in existing settlements, subject to appropriate planning standards.
- NPO 13 promotes a shift towards performance criteria in terms of standards for building height and car parking.
- NPO 27 seeks to integrate alternatives to the car into the design of our communities, by prioritising walking and cycling accessibility.
- NPO 33 prioritises new homes that support sustainable development at an appropriate scale relative to location.
- NPO 35 seeks to increase densities through a range of measures including site-based regeneration and increased building heights.

5.5. 'Housing for All - a New Housing Plan for Ireland (September 2021)'

5.5.1. is the government's housing plan to 2030. It is a multi-annual, multi-billion-euro plan which aims to improve Ireland's housing system and deliver more homes of all types for people with different housing needs. The overall objective is that every citizen in the State should have access to good quality homes:

- To purchase or rent at an affordable price
- Built to a high standard in the right place
- Offering a high quality of life.

5.6. Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES).

- 5.6.1. The primary statutory objective of the RSES is to support implementation of Project Ireland 2040 and the economic and climate policies of the Government by providing a long-term strategic planning and economic framework for the Region. A key National Strategic Outcome (NSO 1) in the NPF and Regional Strategic Outcome (RSO 2) in the RSES is the need to achieve ambitious targets for compact growth in our urban areas.

5.7. Natural Heritage Designations

- 5.7.1. The nearest designated site is the Rye Water Valley/Carton SAC (Site Code: 001398) which is located c. 6.4km to the east of the site.

5.8. EIA Screening

- 5.8.1. See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. Two (2) no. Third Party planning appeals have been submitted in relation to the subject proposal from the following parties.
1. Ursula King & Family.
 2. A combined submission prepared on behalf of:
 - a. Terry McCahey.
 - b. Leah McCahey.
 - c. Ciaran McCahey.
 - d. Jeanette Coughlan.

Ursula King & Family.

- 6.1.2. A Third Party appeal has been prepared and submitted by Ursula King & Family who are the owners and occupiers of the existing detached residence to the north-east of the appeal site. The grounds of the appeal submission are summarised below and engaged with in further detail within the assessment of this appeal.

Significant Information

- 6.1.3. It is highlighted that proper public participation in accordance with law and proper planning and sustainable development, was obstructed, denied and refused - as the Applicant's responses were not deemed to be significant, and the appellant had no further opportunity to make observations on the new information submitted to the Planning Authority by way of Further Information (06/06/23) and a Clarification of Further Information (29/11/23).

Previous Planning permission

- 6.1.4. The appellant notes that they have developed an enclosed garden to the rear which is of enormous amenity and productive value to their family which they use throughout the year. At the time of purchasing their house, the land was subdivided and subsequently a medical surgery (now a dental clinic) was constructed; along with a 2-storey apartment complex to the west of the surgery. As part of the planning permission at that time, in recognition of the site elevational differences and the character and setting of the appellant's house, it is stated that permission (ABP Ref. PL 09.096708) was granted subject to a condition which required the surgery to be restricted to a single storey design so to closely relate in scale and character to the surrounding development. It is the appellant's view that this matter has already been determined by the Board and permission should therefore be refused.

Unauthorised Development

- 6.1.5. It is contended that the proposed development is an extension of an unauthorised development (Ref. UD8440). Therefore, it is the appellant's view that the wrong fees have been applied. As a consequence, a wrong in law process is in operation here. It is stated that retention/demolition has not been sought for the bricks and mortar

construction protruding onto a pathway, obstructing the function and purpose of this pathway, along with industrial fans placed at head height along this pathway.

Higher architectural design standard, and effects on the neighbouring residential amenity to the east and west of the site.

- 6.1.6. The appellant notes that the impacts of the development on the neighbouring Protected Structure and the further information response had not been adequately assessed by the Planning Authority. It is their view that the development would seriously compromise the integrity of their home. In addition, concerns are raised that no Architectural Heritage Assessment Report had been submitted as required under the policy of the Kildare County Development Plan.
- 6.1.7. It is contended that the development adversely impact the amenity of the neighbouring property due to overshadowing and loss of daylight/sunlight. This is exacerbated due to the underlying topography, whereby the appellant's garden slopes from the rear west wall of their garden (adjacent to the Proposed Development) down to their dwelling. The ground floor of the existing dental clinic is c. 1.7m higher than the ground floor of their house. It is noted that at its closet point, their house is c. 13.5m away from the proposed development.
- 6.1.8. It is also noted that no topographical survey or projections of the front façade of the appellants property were submitted with this application and the revised Proposed Contiguous North (front) Elevation has not included the Protected Structure to the east. The appellant notes that the protrusion of the proposed flat roof above the ridge level of their house will negatively change the character of the existing setting of this Protected Structure.
- 6.1.9. It is contended that the addition of two storeys with a flat roof extension is entirely out of character with existing properties on the Courtown Road/Mollyware Street. It is stated that the overbearing and oppressive scale, mass and height of the proposed structure is much aggravated by undisclosed site level differences (c.1.7m). It is their view that if the proposed development will tower over the ridge line of the Protected

Structure and will negatively detract from both the Protected Structure and the other properties on the Courtown Road/Mollyware Street.

Sunlight and Daylight Assessment

- 6.1.10. The appellant has concerns that the Daylight and Sunlight analysis not been adequately modelled. In addition, no modelling for the performance of individual proposed apartments and their ability to receive sunlight has either been requested by the Planning Authority or submitted by the Applicant. It is contended that the Applicant's Daylight and Sunlight Report has relied on and used invalid analysis, simplistic/unclear parameters in certain analysis, out of date guidelines, and has omitted key features intrinsic to the location of the development site.
- 6.1.11. It is the appellant's view that the Planning Authority's assessment of the Applicant's Daylight and Sunlight Report was utterly inadequate and does not demonstrate any critically important independent evaluation. The appellant draws the Board's attention to the judgement of Mr Justice Richard Humphreys in *Higgins & ors v An Bord Pleanála & ors*. IEHC 564 (13 November 2020) which makes it clear that the Planning Authority is required to have appropriate and reasonable regard to the relevant guidelines (and updated versions), and critically evaluate developer submissions rather than simply "cutting-and-pasting of the developer's materials ... without adequate critical interrogation".
- 6.1.12. As part of their submission, the appellant has addressed the submitted Daylight and Sunlight Analysis under the following headings with respect to the revised BRE 2022 guidelines:
- Neighbouring Protected Structure,
 - Proposed Residential Amenity Space,
 - Existing apartments to the West, and
 - Proposed Apartments (not included/discussed in the Daylight and Sunlight Analysis report but the appellant indicates that the Shadow Analysis is relevant).

Site Lighting

6.1.13. The appellant wishes to take this opportunity to request that the existing advertisement lighting and forecourt lighting to the front of the building be turned off at night time to reduce fossil fuel usage and light pollution in this residential area. It is stated that there are bat populations in the gardens, along with other nocturnal creatures (hedgehogs, moths); and a transition to sensor lighting, and orange (LED) light bulbs for remaining existing lights would be most welcome (rather than having white bulbs running all night long).

Location and Level of Car parking for the Existing and Proposed Development

6.1.14. In terms of the Planning Authority's assessment of the Applicant's further information response, it is contended that it is an utterly inadequate response in relation to car parking and demonstrates that there has been no critical evaluation of the submitted material.

6.1.15. As the appellant has outlined in their initial submission, all existing car parking spaces (19 in total) are well utilised during the working day by existing dental clinic staff and clients which is in operation six days a week. The proposed development would result in the loss of 4-5 spaces to the rear and it is unclear where the required 5% disabled parking (5m x 3.75m) is to be provided without further reducing the total number of 12 car spaces. Currently, there is no facility for dental clinic staff or clients to park along Courtown Road and the appellant refers to the policy of the Kildare County Development Plan which states that large scale medical practices should not create overspill. It is also questioned whether it is proposed to remove the trees within the front setback that have not been identified in the submitted plans.

6.1.16. The appellant notes that the development does not have sufficient car parking spaces for the combined dental clinic and proposed apartments and should be refused permission as it is contrary to proper planning and sustainable development of the area.

Waste Management

- 6.1.17. The appellant has questioned whether the Planning Authority has actually read the requested and submitted Operational Waste Management Plan (OWMP). They are also unclear whether the Planning Authority was satisfied with the OWMP which was submitted at further information stage, given a condition has been included which requires one to be submitted prior to the commencement of development. The appellant questions the accuracy of the waste generation model (WGM) provided in the OWMP given the same volumes of waste are predicted in all the apartments (1 and 2 bedroom) and the dental practice. In addition, the model lacks any reference to the current volume of clinical waste in the dental practice. It is argued that the model is erroneous and fails to realistically account for current and potential additional waste generation on this site.
- 6.1.18. In terms of the internal waste storage area for the apartments, the appellant contends that even the maximum 360L wheelie bin size capable of occupying these allotted spaces would be insufficient for six apartments potentially housing 16 occupants (4 bedrooms x 2people, and 2 bedrooms x 4 people). Additionally, it is noted that there is no specific accommodation for storage of additional bulky waste types, outside of individual apartment units e.g., furniture, toys, prams, textiles, chemicals, paints etc.
- 6.1.19. As noted in the OWMP (page 12-13), a dedicated WSA for the dental clinic is located to the side (east) of the building, enclosed by two sets of gates to prevent the public and residents from accessing the area.". However, there are currently three large storage units situated along this eastern access pathway, along with five industrial fans located at head height above the storage units. If these permanent storage units are located here, then the dental clinic waste simply cannot be placed here. Failure to acknowledge the siting of storage and machinery in this location by the Applicant is thoroughly disingenuous. Even if this machinery is relocated elsewhere, the appellant notes that no common sense prevails in obstructing this narrow pathway with waste receptacles and the Board is requested to refuse permission as it is contrary to proper planning and sustainable development of the area.

Procedural Issues

- 6.1.20. It is unclear whether any site inspection was carried out by the Planning Authority as had one been carried out (or had various submissions been read), it would be clear that there was a failure by the Applicant to comply with Article 23 (1) (a) of the Planning Regulations, in relation to omission of the following in the submitted plans:
- Significant belt of evergreen trees on the adjacent property,
 - Storage structures and air handling units,
 - Trees situated within the front curtilage.
- 6.1.21. It is evident that there is a clear failure by the Planning Authority to adequately evaluate and comment on materials submitted by the Applicant - and instead rely on simply copying and pasting from developer submissions.
- 6.1.22. The appellant also questions whether the application should have been deemed to be withdrawn as the Applicant had failed to provide the response to the request for a clarification of further information within the prescribed time period. They refer specifically to correspondence received during the course of the application.
- 6.1.23. It is stated that the site notice was not erected within the required 2 week period and the site notice was not affixed on rigid, durable material and secured against damage from bad weather and other causes - as required per the legislation.

Terry McCahey & Others

- 6.1.24. A Third Party appeal has been prepared and submitted by Terry McCahey, Leah McCahey, Ciaran McCahey and Jeanette Coughlan who are the owners and residents of units within the existing apartment building to west of the appeal site. It is noted within the appeal the proposed development will severely impact on their residential amenity through the severe loss of light to both their residences and communal seating space and garden, overbearance and the likely overspill of car parking onto their shared entrance given the current volume of dental surgery staff and clients using the car park and the addition of potentially 16 no. residents living on the site. The grounds of the appeal submission are summarised below and engaged with in further detail

within the assessment of this appeal.

Daylight & Sunlight

6.1.25. The appellants disagree with all three statements made in the conclusion of the Applicant's Daylight and Sunlight Analysis report and it is highlighted that the Planning Authority have accepted (and just quoted) the submitted report, without any further comment. It is highlighted that the kitchen in Apartment 1 will be severely affected by overshadowing if an additional 2-storeys are added on to the existing dental surgery. The appellants note that this is the only window in their kitchen area and concerns are raised with respect to the loss of sunlight if the development proceeds. The submission notes that the Applicant's analysis has failed to consider the impact on the appellant's outdoor communal space. It is highlighted that this space is a shared space for the residents of the six apartments, the amenity of which will be significantly impacted by the proposed development. The submission also highlights that the Applicant's assessment has failed to provide an analysis of the internal amenity of the proposed apartments nor has the report made any reference to the existing row of evergreen trees which bound the appeal site.

Visual Impact

6.1.26. The appellants refer to the planning history of the site when permission was originally granted for the medical practice on the site. As part of the permission, the height of the development was restricted to single storey in order to minimise the visual impact of the development. It is contended that the decision to grant permission completely overturns the Board's previous decision which had due regard to the character of the surrounds, including the Protected Structure to the east of the development site and the residential amenity of residents in the area. The appellant also refers to the Development Plans policies with respect to extensions to dwellings (i.e. Section 15.4.12).

Car Parking

6.1.27. The appellant's question the information submitted with the application which claims that there are 2 dentists working in the dental surgery which is in direct conflict with

the dental surgery's own website. It is noted that website of the James Clinic lists 11 no. staff with 7 no. treatment rooms in the dental practice. Currently all 12 no. spaces in the front carpark and the 5-6 spaces at the rear of the site (proposed Communal Amenity Area) are well used by dental surgery staff and clients. The proposed development would result in only 12 no. spaces being available for both the dental practice and the apartments which will result in an overspill of car parking into the surrounding street network. It is highlighted that there is no designated car parking along Courtown Road.

- 6.1.28. Within their concluding comments, the Appellant notes that the Planning Permission sign was not erected within the two-week period, and when it was, it was simply a sheet of A4 paper taped on to the wall - exposed to rain and the elements. In addition, the sign incorrectly stated the townland of Branganstown. The appellant also refers to the misleading photo creations provided by the Applicant which grossly overstate the distance between their apartments and the proposed development.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority have indicated that they have reviewed the content of the Third Party Appeals. Having regard to the nature of the development and the policies and objectives of the Kildare County Development Plan, 2023-2029 and the Kilcock Local Area Plan, 2015-2021, it is their view that the proposed development would not seriously injure the amenities of the area or of property in the vicinity.

6.3. Applicant Response

- 6.3.1. A response to the Third Party appeals have been submitted on behalf of the Applicant. The matters raised in the response can be summarised as follows.

Previous Planning Permission

- 6.3.2. It is noted that the previous decision by the Board was almost 20 years ago. Since then, there have been several revised versions of the Kildare County Development Plan, with the most recent development plan focusing on the housing crisis and housing demand. It is contended that the proposed development is fully in compliance

with the requirements of Kildare County Development Plan, 2023-2029.

Unauthorised Development

- 6.3.3. The claim of an unauthorised development is invalid. The "permanent concrete structure" referred to by the appellant is only 1sq.m. in size and has been there for the past 20 years. This small outdoor unit houses an air compressor unit that has been used by the previous General Medical Practice and the HSE Dental Practitioner that sold this premise to the applicant. Since acquiring the site, the applicant has upgraded the insulation of the concrete hut. Should it be required, the applicant is willing to relocate the air compressor unit.

Higher Architectural Standard

- 6.3.4. No Architectural Heritage Assessment Report has been submitted for the proposed development as the proposed works do not consist of works to a Protected Structure and/or its curtilage. Care has been taken that the new development does not impact on the setting of the Protected Structure or obscure established views of its principal elevations.
- 6.3.5. The Applicant has now enclosed Drawing No. JH-AP-001 of the proposed contiguous east elevation and revised proposed contiguous north elevation considering the topographical changes between the Protected Structure to the east and the proposed development.
- 6.3.6. It is highlighted that all apartment blocks within Kilcock are 2-3 storeys in height with low pitch roofs. This was considered in the design of the proposed extension and discussed with the Local Authority planner in a pre-planning meeting, where the design was changed to suit same. A low pitch roof design was deemed unsuitable for this development with the aim of keeping the height of the structure low and in line with the height of the west neighbouring residential block.

Sunlight and Daylight Assessment

- 6.3.7. It is confirmed that the applicant will provide an assessment of the performance of the

individual proposed apartments and their ability to receive sunlight should it be requested by the Board.

- 6.3.8. In support of their response, a revised Sunlight and Daylight Assessment with up-to-date guidelines has been enclosed which takes account of the site level differences, and the mature treeline to the south of the site. The report concludes that the proposed development has little impact on the neighbouring Protected Structure (RPS no. B05-24) located to the east of the site. It is highlighted that the one window which is affected is the ground floor window closest to the boundary wall and it is confirmed that the Applicant is willing to alter the layout of the second-floor units to allow for a step-in within the floor plan to mitigate the impact. It is noted that the proposed communal amenity space to the rear of the development will appear adequately sunlit throughout the year.
- 6.3.9. Further to this, the proposal has no significant impact on the Mollyware Court apartments and their communal amenity space. It is confirmed within their report that the results fall within the guidelines provided by BRE Document: Site layout planning for daylight and sunlight, A Good Guide Practice, PJ Littlefair 2022.

Air Handling Units and Storage of Mechanical Plant

- 6.3.10. As noted, the concrete structure has been located on the eastern side of the practice for the past 20 years and houses an air compressor unit that has had the insulation upgraded. It is stated that the Applicant is willing to relocate the air compressor unit to a different location on site.
- 6.3.11. There are several air conditioning units located around the rear and east side of the dental practice (product information sheet enclosed). It is stated that these units are mainly used for heating, thus emitting a sound pressure level of less than 53dBA and operate inside the limits set down in the Building Regulations.
- 6.3.12. To address the raised concern of fire safety for the dental clinic; a FSCA has been prepared for the dental clinic and the proposed residential extension to ensure that the

development complies to Part B of the Building Regulations. There will be internal amendments within the dental practice to facilitate compliance with Part B of the Building Regulations. These internal alternations will not affect the front facade of the building and will not require planning permission.

Site Lighting

- 6.3.13. It is confirmed that the Applicant is willing to turn off the existing advertisement lights at night time should it be required.

Location and Level of Car Parking for the Existing and Proposed Development

- 6.3.14. The Applicant's response notes that there are two functioning consulting rooms in the dental clinic with the remainder of the rooms are used for storage, labs, x-rays. It is stated that there are 5 no. practicing dental surgeons including the clinical director who alternate between the 4 dental clinics located in Enfield, Kilcock, Mullingar and Ferbane. All 5 dentists are never on site at the same time.

- 6.3.15. It is stated that the 5 no. spaces being allocated to the dental clinic is in compliance with Chapter 15 of the Kildare County Development Plan 2023 - 2029. In addition, the parking layout has been amended and the existing disabled parking spaces are being kept to front of the building. There are no proposed alterations to the front car parking area and it is therefore not intended to remove the mature trees present as these are part of the soft landscaping of the site.

- 6.3.16. The submission highlighted that the maximum provision of parking outlined in the Development Plan should not be viewed as a target. It is encouraged to consider lower rates of parking and car-free developments first, particularly where such developments are close to and can avail of public transport. It is noted that the site is close to the town centre and the various means of public transport available.

Waste management.

- 6.3.17. An OWMP has been provided by the applicant highlighting the location of the residential waste storage location and the dental clinic waste location (not accessible

to the public or residents). It is confirmed that existing storage units along the eastern pathway will be removed to facilitate the dental clinic waste bins. All proposed domestic waste will be facilitated on site and collected by a waste management company under the control of a management company on the site where the apartments are built.

6.4. Observations

6.4.1. None.

6.5. Further Responses

6.5.1. None.

7.0 Assessment

Having examined the application details and all other documentation on file, including the reports 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:

- Residential Amenity
- Built Heritage & Visual Impact
- Car Parking
- Waste Management & Air Handling Units
- Procedural Matters
- Appropriate Assessment

7.1. Residential Amenity

7.1.1. The site currently comprises an existing dental practice and is located within what is an established residential area. The proposed development seeks to develop the site through the construction of a two storey residential extension above the existing dental practice. In total, 6 no. apartments have been approved by the Planning Authority within the two storey extension. Within their assessment of the application, the Planning Authority have referred to the zoning and policy provisions of the Kilcock LAP, where the site and surrounding lands were located in an area zoned 'B – Existing

Residential & Infill'. The objective for 'B' zoned land seeks 'To protect and improve existing residential amenity; to provide for appropriate infill residential development; to provide for new and improved ancillary services.' The primary aims of the zoning are to preserve and improve residential amenity and also provide for further infill residential development at a density that is considered suitable to the area and to the needs of the population. Under Objective CS O9 of the current Plan (2023-2029), it is the intention of the Council to review and prepare on an ongoing basis a portfolio of Local Area Plans (LAPs) for the various mandatory LAP settlements in accordance with the objectives of the Plan and all relevant Section 28 Ministerial Guidelines. The policy identifies Kilcock as a settlement that requires the preparation of an updated LAP and the Kilcock LAP (2015-2021) referred to by the Planning Authority has therefore expired.

- 7.1.2. Irrespective of the above, Section 3.9 (Regeneration, Compact Growth and Densification) of the current Plan notes that it will be necessary to make the best possible use of under-utilised land and buildings, including 'infill', 'brownfield' and publicly owned sites and vacant and under-occupied buildings, with higher housing and jobs densities, serviced by existing and proposed facilities and public transport. The policy notes that existing housing stock of County Kildare provides a valuable resource in terms of meeting the needs of a growing population and its retention and management is of considerable importance. Therefore, having regard to the nature of the proposed development, the pattern of development in the surrounding area, the established use on site and historical zoning that applied to the site and surrounds, I am satisfied that the principle of an infill residential development is acceptable at this location and would make efficient use of a serviced and centrally located site within the settlement of Kilcock. However, it is an objective (HO O6) of the Plan to 'Ensure a balance between the protection of existing residential amenities, the established character of the area and the need to provide for sustainable residential development is achieved in all new developments'. Therefore, the issue that needs to be ascertained is whether the proposed development is acceptable on this specific site, taking into consideration the impact of the development on the amenities of adjoining residents, the overall design and layout of the development, car parking and the

sustainable planning and development of the area, all of which are matters that require detailed consideration and discussed in further detail throughout this assessment.

Overbearance

- 7.1.3. As noted, the appeal is located within an established residential area and has a number of sensitive interfaces, with the Third Party appellants residing in the properties to the east and west of the appeal site. The appeal site shares an eastern site boundary with Ursula King, the appellant who resides with her family in the neighbouring double storey Protected Structure. This dwelling has a north-eastern orientation, and its private amenity space has an abuttal with the common boundary. The proposal seeks consent to demolish the roof of the existing dental practice and construct a double storey extension above, to accommodate the proposed apartments. On its eastern side, the extension will have a flat roof form with a maximum height of c. 8.85m. and a set back of c. 1.64m is provided from the shared boundary. This section of the eastern elevation has a total length of c. 9.5m. The southern end of the eastern façade is then set back c. 6.5m from the boundary it shares with the appellant's property. Given the proximity of the proposed extension to the appellant's boundary, the scale, height and length of the additions and the variation in site levels that existing between the proposed development and the appellant's property, I have some concerns with respect to the potential visual impact of the development when viewed from this interface. I am satisfied that this impact could be ameliorated through the provision of a more generous boundary setback at second floor level from the common boundary. It is therefore my recommendation that the open plan kitchen/living/dining room of Apartment No. 5 be omitted by way of condition. I note that a studio/1 no. bedroom apartment could be provided in place of the storage, bathroom and 2 no. bedrooms of that apartment (i.e. Apartment No. 5).
- 7.1.4. To the west of the proposed development is the double storey apartment development (Mollyware Court), within which a number of Third Party appellants reside. This development is served by an area of communal amenity space to its rear and the appellants have raised significant concerns with respect to the scale, height and form of the development and its impact on the residential amenity of their property by reason

of being visually overbearing. On its western side, the proposed extension will have a maximum height of c. 8.85m and a varied setback of between c. 3.3m (northern end) and c. 7m (southern end) from the western site boundary. Having regard to the overall scale, height and form of the proposed development, the separation distances provided from the common boundary, the siting of the additions relative to the communal amenity space of the apartment building and the building's articulated elevation, I am satisfied that the proposed development will not unduly impact the residential amenity of the adjoining property through visual overbearance and is therefore acceptable in this instance.

Overshadowing & Loss of Daylight/Sunlight

7.1.5. The appellants in this instance have all highlighted concerns with respect to the impact of the proposed development in terms of overshadowing of amenity areas and loss of daylight/sunlight as a consequence of the proposed additions. The appellants claim that the Applicant's Daylight and Sunlight Analysis is fundamentally flawed and disagree with the findings of their report. In addition, concerns have been highlighted that the Planning Authority have not engaged with the Applicant's reports in any meaningful way, and they have simply accepted the findings without any critical analysis provided. In terms of the current Plan's policies (Section 15.2.2) on separations distances, it is noted that in all instances where minimum separation distances are not met, the applicant shall submit a sunlight/daylight/overshadowing analysis for proposed development. In keeping with the principle of compact development and the desire for town and village renewal, where such instances occur within established urban areas, a level of flexibility may be applied by the Planning Authority. The Plan's policy for overshadowing (Section 15.2.3) indicates that high levels of daylight and sunlight provide for good levels of amenity for residents and all new developments are required to have regard to the recommendations of *Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.209, 2011)* and British Standard (B.S.) 8206 *Lighting for Buildings, Part 2, 2008: Code of Practice for Day Lighting* or other updated relevant documents.

7.1.6. In support of the appeal, the Applicant has now enclosed an updated Daylight and

Sunlight Analysis report which has had regard to the relevant BRE document i.e. Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (2022). The consultant's report refers to Section 2.2.5 of the BRE Guide, the method used to measure the loss of light from taller buildings. With this model, it is necessary to draw a section in a plane perpendicular to each affected main window wall of the existing building and then measure the angle to the horizontal subtended by the new development at the level of the centre of the lowest window. If, for any part of the new development, this angle is more than 25 degrees, a more detailed check is needed to find the loss of skylight to the existing building. In terms of the potential impact on the neighbouring property to the east, the consultant's report refers to Drawing No. JH-DL-001 where it can be seen that the calculated angles of the two first floor windows and one of the ground floor windows are 25 degrees or less. It is stated within the report that only one of the ground floor windows located closest to the site boundary produces an angle of more than 25 degrees and a more detailed check is therefore necessary to find the impact on skylight in that particular room.

- 7.1.7. In terms of the rear amenity space of this property, it is stated within the consultant's report that the shadow analysis drawings (JH-DL-003 to JH-DL-005) now take into account the 1.7m level change between the appeal site and the Protected Structure. It is stated that the shadow analysis demonstrates that the proposed extension produces minimum overshadowing of the neighbouring property. On the 21st March, 2 hours of direct sunlight falls on the garden associated with the protected structure, showing no significant loss of light from the proposed development in accordance with Section 3.3.7 of the BRE Guide. In terms of overshadowing impacts, whilst I accept that the Applicant has demonstrated compliance with the relevance guidance, I acknowledge that the impacts are exacerbated during the winter months. In addition, the Applicant's report notes that there are likely impacts to the existing ground floor window of the neighbouring property in terms of loss of light. However, as detailed in the above, I have recommended a revision to the design of the development which will achieve greater separation distances at second floor level from the shared boundary. Subject to the incorporation of this design change, I am satisfied that the residential amenity of the neighbouring property will be maintained, and an appropriate balance

shall be struck in terms of achieving compact growth, whilst preserving the amenity of established residences.

7.1.8. In terms of the apartment development to the west (i.e. Mollyware Court), the consultant's report refers to drawings submitted under the Planning Ref. 021752. It is stated that the majority of windows of the existing block are north, west and south facing, with only two small kitchen windows facing to the east, towards the proposed development. The consultant notes that these windows are not the only source of natural daylight into the rooms and the kitchen and lounge of the units within the block are open plan with large windows/patio doors letting in daylight from the south. Reference is made within the report to Section 3.2.2 of the BRE Guide which notes that obstruction to sunlight may become an issue if some part of a new development is situated within 90° of due south of a main window wall of an existing building. Drawing No. JH-DL-002 has been enclosed which provides an analysis of the achievable skylight of the east facing windows of the existing ground and first floor apartments. The consultant report notes that points north of D - E can receive light around corner A and points south of C - F can receive light around corner B. It is the consultants view that the proposed 2 storey extension does not completely block out the skyline from the working plane of the ground and first floor units of the neighbouring apartment block to the west and it is concluded that the proposal will have no significant impact on the existing windows. Having regard to the separation distances provided from the existing west facing windows, the scale and height of the proposed extensions and the updated analysis provided by the Applicant, it is my view that the proposed development will not unduly compromise the residential amenity of the neighbouring residents by reason of loss of daylight or sunlight.

7.1.9. In terms of the communal amenity space serving the existing apartment block, I note that it is located to its rear and to the south-west of the proposed development. Having regard to the overall scale, height and form of the proposed extensions, the orientation of the site, the siting of the development relative to this communal amenity area and the Applicant's updated shadow analysis, I am fully satisfied that the proposed development will not have adversely impact the residential amenity of this space by

reason of overshadowing. The proposal is therefore acceptable in this regard.

Overlooking

- 7.1.10. In order to mitigate the potential for overlooking of adjoining properties, I note that the proposed development was amended at further information to omit the first and second floor level windows on the eastern and western elevations where overlooking opportunities arose. Whilst I acknowledge that the separation distances from the southern site boundary are restricted at its eastern end, the existing stand of mature trees precludes views of the amenity space of the property to the south. Overall, I am satisfied that the development has been designed to minimise overlooking of properties within the site's vicinity and the proposed development is therefore considered to be acceptable having regard to the residential amenity of the surrounding area.

Proposed Amenity

- 7.1.11. In the case of the apartments within the development, the 1 and 2 no. bedroom apartments have floor areas of between c. 51.2sq.m. and c. 82.4sq.m. respectively. Having examined the plans and particulars, it is evident that the apartments within the proposed development are in compliance with the relevant Specific Planning Policy Requirements (SPPRs) of the Apartment Guidelines in terms of housing mix (SPPR 1 & 2), minimum floor areas (SPPR 3), dual aspect (SPPR 4) and floor to ceiling heights (SPPR 5). In addition, the proposal meets the minimum recommended standards with respect to internal storage. Whilst the apartments are not served by dedicated private amenity space, I am conscious of Section 3.39 of the Apartment Guidelines which notes that for building refurbishment schemes on sites of any size or urban infill schemes on sites of up to 0.25ha., private amenity space requirements may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality. In this instance, the Applicant has not proposed balconies so to minimise overlooking impacts on neighbouring properties and the Planning Authority was satisfied that a relaxation in terms of standards was warranted in this instance. This was due in part to the location of the site relative to public open space within the site's vicinity. Overall, I am satisfied the apartments within the proposed development will afford an acceptable

standard of amenity to its future occupants and is in accordance with the requirements of the Apartment Guidelines.

7.1.12. Both appellants in this case have highlighted concerns regarding the internal amenity of the apartments within the proposed scheme in terms of access to daylight. It was also noted that the communal amenity space would offer a poor standard of amenity and would be in shade throughout the day due to the stand of coniferous trees which are located along the site's south-eastern boundary. It is also highlighted within the appeals that the Applicant has failed to consider these matters in their Daylight and Sunlight Analysis report. Whilst I am conscious of Section 3.3.9 and Figure 31 of the BRE Guide which notes that a dense belt of coniferous trees should be treated as an obstruction to sunlight, I note that these trees have now been included in the Applicant's updated analysis. The Applicant's consultant notes that sunlight can be seen in this area throughout most of the day, with particularly high levels of sunlight between midday and late afternoon and it is stated that the belt of mature trees mostly overshadows the amenity space in the morning. It is also noted that the landscape plan for the communal open space area has accompanied the Applicant's clarification of further information response. Whilst I acknowledge that there are site constraints and an analysis of daylight access to the proposed apartments has not been provided within the consultant's report, I note that the majority of the apartments within the development are dual aspect with a southern orientation. Having regard to the pattern of development in the surrounding area and nature of this urban infill scheme which provides for the consolidation of the existing site, I am satisfied proposed development is acceptable and that the rooms within the apartments would receive adequate access to daylight and an acceptable standard of amenity.

7.2. Visual Impact & Built Heritage

7.2.1. During the assessment of the application, the Planning Authority had raised concerns with respect to the design of the development and formed the view that a higher architectural standard could be achieved on site. In response, the design of the development was revised, whereby the elevations of the building were articulated, and a more varied palette of materials and finishes was incorporated into the scheme. This

was deemed to be acceptable by the Planning Authority. I note that the appellants in this case have raised significant concerns with respect to the overall scale, height and form of the proposed development and it was their view that the development was not in keeping with the character of the site and surrounding area. The location of the site relative to the existing Protected Structure to the east and its impact on same was also raised as a significant issue within the Third Party appeals. Both appellants have referred to the historic planning history of the site, where the height of the existing dental practice was restricted so to respond to the prevailing pattern of development.

7.2.2. As detailed, a Third Party appellant resides in the Protected Structure to the east of the site (RPS no. B05-24; NIAH Ref. 11802035). The aim set out under Chapter 11 (Built and Cultural Heritage) of the current Plan is 'To protect, conserve and sensitively manage the built and cultural heritage of County Kildare and to encourage sensitive sustainable development so as to ensure its survival and maintenance for future generations'. It is also a specific objective under AH O32 to 'Ensure that new development will not adversely impact on the setting of a protected structure or obscure established views of its principal elevations'. I am also conscious of Objective HC 5 of the Kilcock LAP which seeks 'To ensure that development proposals do not adversely affect the character of a protected structure or the setting of a protected structure, where the setting is considered to be of importance'. In this case, the development provides for the demolition of the roof of the existing building and the construction of a two storey extension above. The existing building is substantially set back from the front boundary and given its siting relative to the Protected Structure to the east, I am fully satisfied that the development will not adversely impact on the Protected Structure's setting, nor will it obscure any established views of its principal elevations. Whilst I note that the variation in site levels between the two properties, whereby the development is elevated relative to the neighbouring site, I have recommended a further revision to the development's design that can be addressed by way of condition. The provision of a greater setback at second floor level will provide a more graduated height within the streetscape context and will in my view achieve a greater transition in scale to the neighbouring Protected Structure. Subject to compliance with this condition, I am satisfied that the development is designed to a

good standard and will ensure that the architectural character of the adjoining site is preserved. The proposed development is therefore considered to be acceptable having regard to the visual amenities of the site and surrounding area and will provide a positive contribution to the existing streetscape.

7.3. Car Parking

- 7.3.1. The appellant's have both raised concerns with respect to the inadequacy of the proposed car parking for the proposed development. Currently, customer parking is provided to the front of the dental practice with a number of informal employee parking spaces provided to the rear. It is the appellant's view that the existing car parking spaces serving the dental clinic are well utilised by staff and clients and concerns are raised that the development will result in on-street car parking pressures. The appellants have also questioned the information submitted with the application which claims that there are 2 dentists working in the dental surgery which is in direct conflict with the dental surgery's own website.
- 7.3.2. In support of the further information response, the Applicant enclosed a Traffic Statement for the proposed development. Section 1.3.1 (Parking Arrangement) of this report noted that the site has 12 no. existing parking spaces that currently facilitate the existing dental clinic. Given the central location of the site, it was stated that the existing parking spaces will be made available for the use of the residents of the proposed development. This response was noted by the Planning Authority and a clarification of further information was sought which again requested details regarding the location and level of car parking for the proposed development and a swept path analysis for the scheme. In their response to the clarification of further information, the Applicant refers to Chapter 15 of the current Plan which notes that a dental practice should have 2 no. car parking spaces per practicing dentist. It is confirmed by the Applicant that there are 2 no. practicing dentists at the clinic which therefore requires 4 no. parking spaces. The Applicant refers to Drawing No. JH-CFI-002 which allocated 5 no. spaces to the dental clinic and it is confirmed that the remaining 7 no. spaces are being allocated to the proposed residential development. It is the Applicant's view that the residential parking provision is in accordance with the current Plan's standard

which sets out a maximum requirement of 11 no. car spaces for the residential development. It is also confirmed that car parking spaces Nos. 1 - 11 are 2.5m x 5m and space no. 12 is slightly larger due to its location of being in the corner of the site.

7.3.3. I note that the standards for car parking are set out in Section 15.7.8 and Table 15.8 of the current Plan and it is highlighted that the parking standards are maximum. The policy notes that residential development in areas within walking distances of town centres should be designed to provide for fewer parking spaces, having regard to the need to balance demand for parking against the need to promote more sustainable forms of transport, to limit traffic congestion and to protect the quality of the public realm from the physical impact of parking. In the case of apartments, Table 15.8 requires 1.5 no. space per apartment and 1 no. visitor space per 4 no. apartments. For a 'clinic/group medical practice', a maximum standard of 2 no. spaces per consulting room applies. Therefore, a maximum standard of 9 no. spaces (inclusive of 1 no. visitor space) applies to the apartments and 4 no. spaces apply to the dental practice. In their response to the appeal, it is confirmed by the Applicant that there are two functioning consulting rooms in the dental clinic with the rest of the rooms being used for storage, labs, x-rays. As per the dental clinic's website, there are 5 no. practicing dental surgeons including the clinical director who alternate between 4 other dental clinics and all 5 no. dentists are never on site at the same time.

7.3.4. Having regard to the nature of the existing and proposed development, the location of the site within walking distance of Kilcock town centre and the policies at national and local level that seek reduce car parking at appropriate locations and promote more sustainable forms of transport, I am satisfied that it has been demonstrated that the proposed development is in accordance with the relevant parking standards set out in Section 15.7.8 and Table 15.8 of the current Plan and the proposed development will not result in undue on-street car parking pressures. I would fully agree with the inclusion of the Planning Authority's condition which requires the Applicant to submit a drawing illustrating the signing, lining and marking of the car parking spaces for the dental practice (5 no. spaces) and the apartments (7 no. spaces) and details for the management of same. Subject to compliance with this condition, I am satisfied that

the proposed development is in accordance with the proper planning and sustainable development of the area.

7.4. Waste Management & Air Handling Units

- 7.4.1. As detailed in the appellant's submission on file, the accuracy of the information provided in the OWMP is questioned. Notably, the appellant makes the point that the same volumes of waste has been predicted in all the apartments (both 1 and 2 no. bedrooms) and the dental practice in the model provided within the report. In addition, the model lacks any reference to the current volume of clinical waste in the dental practice. It is argued that the model is erroneous and fails to realistically account for current and potential additional waste generation on this site. During the initial assessment of the application, the Planning Authority's Environment Section requested the Applicant to submit an overall waste management strategy for the development as very little detail had been provided about how the development was to cater for waste management. As part of the Applicant's response, an OWMP was enclosed and Section 4 (Estimate Waste Arisings) of this report indicated that the estimated quantum/volume of waste that will be generated from the residential units had been determined based on the predicted occupancy of the units. In addition, the waste generation for the commercial unit was based on waste generation rates per sq.m. floor area for the proposed area uses with the information for the main waste types presented in Table 4.1.
- 7.4.2. Section 5.1 (Waste Storage) notes that residents will be required to take their segregated waste materials to their designated residential waste storage area (WSA) and dispose of their segregated waste into the appropriate bins. The apartments will have a WSA located internally on the ground floor that can be accessed both internally and externally. The external WSA for the dental clinic is located to the side (east) of the building, enclosed by two sets of gates to prevent the public and residents from accessing the area. The submission of the OWMP was noted in the Planner's Report on file and the report of the Environment Section includes a number of standard conditions. It is therefore unclear whether the Planning Authority have engaged with the content of this report, and I would concur with the appellant regarding the accuracy

of the information provided within the WGM, given there is no variation in the estimated volumes of waste generated in the apartments or the commercial unit. Nonetheless, I note the relatively modest scale of the proposed development and the size of the WSA for the residential development which I deem to be acceptable. I am therefore satisfied that this matter can be readily addressed by way of compliance and is my view that the Applicant should be required to submit a revised OWMP for the proposed scheme prior to the commencement of development.

7.4.3. Within their appeal, it has been highlighted that storage and air handling units have been placed within the eastern side passage, adjacent to the appellant's boundary without the benefit of planning permission. Noise related concerns associated with these units has been raised as an issue and it is the appellant's view that they constitute a fire hazard at this location given that they obstruct access. In addition, the appellant points out that the WSA for the dental practice is proposed at this location as I have discussed above. In response to the appeal, the Applicant notes that the concrete structure within the side passage has been in place for 20 years and houses an air compressor unit that has had an insulation upgrade. It is stated that the Applicant is willing to relocate the air compressor unit to a different location on site if required. They also note that there are several air conditioning units located around the rear and east side of the dental practice and are mainly used for heating which operate inside the noise limits set down in the Building Regulations. In terms of the existing air compressor and conditioning units and the associated noise related concerns, I note that any issues relating to enforcement are a matter for the Planning Authority as these currently serve the existing dental practice and are in situ. The matters raised by the appellant are therefore beyond the scope of this appeal. However, I note that it is unclear how this side passage can act as the WSA for the dental practice given the presence of the existing units within this space. This matter will need to be addressed by way of condition and the Applicant shall be required to submit updated details regarding waste storage. I note that the Applicant may consider the provision of an internal WSA for the dental clinic if necessary. Subject to compliance with this condition, I am satisfied that the proposed development is in accordance with the proper planning and sustainable development of the area.

7.5. Procedural Matters

- 7.5.1. The appellant has questioned whether the Planning Authority had undertaken an inspection of the appeal site. It is the appellant's view that if one had been carried out, then it would be clear that there was a failure by the Applicant to comply with Article 23 (1) (a) of the Planning and Development Regulations, 2001 (as amended), given the various omissions on the drawings submitted by the Applicant. These omissions included a stand of evergreen trees on the adjacent property, the storage structures and air handling units along the side passage and the trees situated within the front curtilage. Whilst the commentary of the appellant is acknowledged, sufficient information has been included within the application (including the further information and clarification of further information stages) and appeal stage to allow for a full assessment of the application to be undertaken. In addition, this assessment represents my *de novo* consideration of all planning issues material to the proposed development.
- 7.5.2. The appellants have noted that the site notice had not been erected within the required 2 week period and the site notice was not affixed on rigid, durable material and secured against damage from bad weather and other causes as required by the Planning and Development Regulations 2001 (as amended). I note that the adequacy of the site notice is a matter for the Planning Authority to consider at the initial validation stage. In addition, Article 26(4) of the Planning and Development Regulations, 2001 (as amended) notes that "Where, on inspection of the land to which the application relates, the planning authority considers that the requirements of articles 17(1)(b), 19 or 20 have not been met, or the information submitted in the planning application is substantially incorrect or substantial information has been omitted, the planning application shall, notwithstanding the fact that an acknowledgement has been sent to an applicant in accordance with sub-article (2), be invalid." I note from the Planning Authority's Planning Report that the site was inspected on 30th May 2023 and concerns with respect to the adequacy of the site notice had not been raised as an issue at this point. The concerns of the Third Party appellants are acknowledged, however, I note that this planning assessment represents my *de novo* consideration of all planning

issues material to the proposed development.

- 7.5.3. It is highlighted within an appeal that proper public participation was obstructed, denied and refused - as the Applicant's responses were not deemed to be significant, and the appellant had no further opportunity to make observations on the new information submitted to the Planning Authority by way of Further Information and a Clarification of Further Information. that this planning assessment represents my *de novo* consideration of all planning issues material to the proposed development. Whilst the appellant's were not afforded an opportunity to comment on the new material during application stage, this did not prevent the concerned parties from making representations at appeal stage and I note that this planning assessment represents my *de novo* consideration of all planning issues material to the proposed development.

7.6. Appropriate Assessment

- 7.6.1. I have considered the proposed residential development in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located within the settlement boundary of Kilcock in an urbanised area. The nearest designated site is the Rye Water Valley/Carton SAC (Site Code: 001398) which is located c. 6.4km to the east of the site. The proposed development comprises the partial demolition of an existing building and the extension of the building to provide a total of 6 no. apartments.
- 7.6.2. Having regard to the nature and scale of the proposed development, and to the nature of the receiving environment, removed from and with no direct hydrological or ecological pathway to any European site, I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

8.0 Recommendation

- 8.1.1. Grant of permission is recommended.

9.0 Reasons and Considerations

9.1.1. Having regard to:

- i. The site's location on lands within an established residential area and the policy objectives and provisions in the Kildare County Development Plan, 2023-2029 in respect of residential development;
- ii. The nature, scale and design of the proposed development which is consistent with the provisions of the Kildare County Development Plan, 2023-2029 and appendices contained therein,
- iii. The location and specific characteristics of the site and the pattern of development in the surrounding area,
- iv. The Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024).
- v. The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, issued by the Department of the Housing and Planning and Local Government, December 2022,
- vi. Housing for All, issued by the Department of Housing, Local Government and Heritage in September 2021, and,
- vii. To the Rebuilding Ireland Action Plan for Housing and Homelessness 2016,

it is considered that, subject to compliance with the various conditions set out below, which includes a requirement provide a greater second floor level setback from the eastern site boundary, the proposed development would not seriously injure the residential amenity of the area or of property in the vicinity, would be of a scale, design and form which would not detract from the architectural character and visual amenities of site and surrounds and would provide an appropriate transition in scale within the streetscape, would not result in on-street car parking pressures and would comprise an acceptable form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 15th day of November 2023 and on the 19th day of December 2023, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.
Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - a. The open plan kitchen/living/dining room Apartment No. 5 shall be omitted to provide a greater second floor level setback from the eastern site boundary. A studio/1 no. bedroom apartment could be provided in place of the storage, bathroom and 2 no. bedrooms of that apartment (i.e. Apartment No. 5) and revised plans, sections and elevations incorporating the revisions shall be submitted to the Planning Authority for written agreement, prior to the commencement of development on site.

Reason: In the interest of visual amenity.

3. Details of the materials, colours and textures of all external finishes to the residential units shall be in accordance with the drawings and specifications hereby approved. There shall be no white uPVC windows or doors within the development.

Reason: in the interest of visual amenity and to provide for acceptable standard and quality of development for future residents.

4. The site shall be landscaped in accordance with the detailed comprehensive

scheme of landscaping, which accompanied the application submitted.

Reason: In the interest of residential and visual amenity.

5. The disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: To prevent flooding and in the interests of sustainable drainage.

6. Prior to the commencement of development, the developer shall enter into a Connection Agreement (s) with Uisce Éireann (Irish Water) to provide for a service connection(s) to the public water supply and/or wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

7. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

8. Public lighting shall be provided in accordance with a scheme which shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of amenity and public safety.

9. The Applicant shall provide 1 no. EV charging space for dental car parking and 2 no. EV charging spaces for residential. All remaining 5 car parking spaces for residential to be ducted for future EV charging spaces should they be required.

Reason: In the interests of a properly planned and serviced development.

10. Prior to commencement of development, the Applicant shall submit to the Planning Authority a drawing illustrating the signing, lining and marking of the car parking spaces for dental practice (5 spaces) and residential apartment use (7 spaces) and provide details of management of same.

Reason: In the interests of managing a shared car parking provision.

11. Site development and building works shall be carried out between the hours of 8am to 6pm Mondays to Fridays inclusive, between 9am to 2pm on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

Reason: To safeguard the amenity of property in the vicinity.

12. Prior to commencement of works, the developer shall submit to, and agree in writing with the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including hours of working, noise and dust management measures and off-site disposal of construction/demolition waste. The following noise limits shall apply to construction activities:

- a. 70 dB(A) (LAeq 1 hour) between the hours of 08:00 and 18:00 Monday to Friday inclusive (excluding bank holidays) and between 08:00 and 13:00 on Saturdays when measured at any noise sensitive location in the vicinity of the site.
- b. Sound levels shall not exceed 45 dB(A) (LAeq 1 hour) at any other time following completion of the site development works.

Reason: In the interest of public safety and amenity.

13. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development (dental practice and residential development), including the provision of facilities for the storage, separation

and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan. The Applicant may consider the provision of internal waste storage area for the proposed dental practice should it not be feasible within the eastern side passage. Details of same shall be provided with the submission.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

14. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of proper planning and sustainable development.

15. Proposals for the name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility.

16. No advertisement or advertisement structure (other than those shown on the drawings submitted with the application) shall be erected or displayed on the building (or within the curtilage of the site) in such a manner as to be visible from outside the building, unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

17. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing overground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

18. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the Planning Authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the Planning Authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

19. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area

of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application or the terms of the Scheme shall be agreed between the planning authority and the developer, or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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.

Enda Duignan
Planning Inspector

20th August 2024

**Appendix 1 - Form 1
EIA Pre-Screening
[EIAR not submitted]**

An Bord Pleanála Case Reference	ABP-319039-24		
Proposed Development Summary	Extension above commercial unit consisting of 8 one-bedroom apartments.		
Development Address	Courtown Road, Branganstown, Kilcock, Co. Kildare.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)	Yes	Yes	
	No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			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			No EIAR or Preliminary Examination required

Yes	<input checked="" type="checkbox"/>	500 residential units	Class 10(b)(i)	Proceed to Q.4
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4. Has Schedule 7A information been submitted?		
No	<input checked="" type="checkbox"/>	Preliminary Examination required
Yes	<input type="checkbox"/>	Screening Determination required

Inspector: _____

Date: 20th August 2024

<p>existing environment?</p> <ul style="list-style-type: none"> Are there significant cumulative considerations having regard to other existing and/or permitted projects? 		No
<ul style="list-style-type: none"> 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? 	<p>No designations apply to the subject site.</p> <p>The development would be connected to the public wastewater services.</p>	<p>No</p> <p>No</p>
<ul style="list-style-type: none"> Conclusion 		
<ul style="list-style-type: none"> There is no real likelihood of significant effects on the environment. EIA not required. 		

Inspector: _____

Date: 20th August 2024

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)