



An  
Bord  
Pleanála

## Inspector's Report PL09.248953

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<b>Development</b>	Single storey dwelling house, site entrance, landscaping and associated site works.
<b>Location</b>	6 Devoy Terrace, Naas, County Kildare.
<b>Planning Authority</b>	Kildare County Council.
<b>Planning Authority Reg. Ref.</b>	17/525
<b>Applicant(s)</b>	Mikey Connors
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party V Decision
<b>Appellant</b>	Mikey Connors
<b>Observer(s)</b>	Paul and Sheila Horan
<b>Date of Site Inspection</b>	6 <sup>th</sup> October 2017
<b>Inspector</b>	Susan McHugh

## 1.0 Site Location and Description

- 1.1. The appeal site is located approximately 1km to the west of Naas Town Centre, and 1.9km to the east of junction 10 on the M7. It is accessed from the Naas to Newbridge Road R445.
- 1.2. The appeal site is one of eight no. semidetached houses located along a short cul de sac at Devoy Terrace, which runs parallel to and south of the Newbridge Road. The area is characterised by low density residential development.
- 1.3. Existing houses no. 1-6 Devoy Terrace are located at a higher level to the road and include steps up to the entrance doors and terraced gardens to the front. Houses no. 7 and 8 are level with the road. Some houses include driveways to the front for parking. Houses along the terrace include long rear gardens.
- 1.4. The appeal site is stated as being 0.04ha. It currently comprises a side vehicular entrance gate and access driveway and rear garden of a two storey semi detached house no. 6 Devoy Terrace. The access driveway and rear garden are currently surfaced in hard standing.
- 1.5. A shed is located to the south east corner along the rear boundary. Existing boundaries to the driveway comprise timber panel fencing on either side and a mature laurel hedge along the eastern and western side and southern rear boundaries. The site is bounded by a fenced off area to the rear of the existing house to the north and an open field to the south. The existing house and rear garden are located at a higher level to the observers' properties to the west, no.s 7 and 8 Devoy Terrace, with a difference in levels of approximately 2.5m.

## 2.0 Proposed Development

- 2.1. Permission is sought for the subdivision of the site, demolition of the existing shed and construction of a single storey house to the rear of the existing two storey house at no. 6 Devoy Terrace.
- 2.2. The proposed dwelling is 130 sqm in area and 4.25m to roof ridge height (2.8m to eaves).

- 2.3. The proposed bungalow is arranged around a central courtyard and comprises a kitchen / living area, study, three bedrooms one ensuite and a shared bathroom.
- 2.4. The proposed house is positioned along the width of the rear boundary and extends along the side boundaries to the east and west by approximately 4m. The proposed house is stepped off the side boundary with the adjoining house to the west no. 5 Devoy Terrace by approximately 1.6m tapering back to 1.2m towards the rear south eastern corner. The north elevation of the proposed house is stepped off the rear boundary with no. 6 by approximately 1.2m and 9m from the rear elevation of the house. A 4m long section of the proposed house is located approximately 3.5m from the side boundary with the house to the west, no. 7 Devoy Terrace.
- 2.5. Windows are proposed facing onto the internal courtyard and to each bedroom orientated to the east and west. It is finished in a plaster finish and slate/tile roof.
- 2.6. The existing house would be provided with a stated 94sqm of private open space and the proposed house with 72sqm.
- 2.7. The vehicular access proposed is from the existing access lane from Devoy Terrace which extends along the side of the existing house. Two car parking spaces are proposed inside the vehicular entrance.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The planning authority decided to refuse permission for the following 3 reasons:

1. The proposed development is located in an area where the stated zoning objective in the Naas Town Development Plan 2011-2017, is B *Existing Residential/Infill* with the stated objective '*to provide and improve existing residential amenity, to provide for appropriate infill residential development and to provide for new and improved ancillary services*'. The proposed development, by reason of its backland location to the rear of an existing dwelling and in the absence of a comprehensive plan for the development of any adjoining sites, constitutes haphazard and substandard overdevelopment

of this backland area. Accordingly, the proposed development would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the stated zoning objective for the area, which seeks inter-alia to *'to protect and improve existing residential amenity, to provide for appropriate infill residential development...'*, and also Section 4.4.3 of the Naas Town Development in relation to infill development, the proposed development located to the rear of existing dwellings in the established residential area of Devoy Terrace, would seriously injure the residential amenity, depreciate the value of properties in the vicinity and would set an undesirable precedent for similar development in the area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
3. In the absence of significant detailing in relation to surface water drainage, the applicant has not demonstrated to the satisfaction of the Planning Authority that surface water can be adequately dealt with within the curtilage of the site. The proposed development, therefore, could lead to conditions which would be prejudicial to public health and be contrary to the proper planning and sustainable development of the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planner's Reports**

The Planner's Report is the basis for the Planning Authority decision. It includes:

- The 4 bedroom detached dwelling has a 'U' shape with a central courtyard/open space area, narrow form and is located against the rear boundary.
- Three no. windows are indicated on the side/east elevation, skylights are indicated on the rear roof slope
- The site is elevated in relation to the adjacent dwelling to the west.
- Two no. car parking spaces indicated at the front of the site, however parking for the existing dwelling is not indicated.

- The proposed residential use is acceptable in principle within the remit of the zoning matrix.
- Having regard to the character of the area where backland development does not exist, there are serious concerns in relation to protection of the residential amenity of adjacent properties.
- The proposed sub division of the site and the proposed footprint would create a piecemeal, haphazard type of development which would be out of character with the established pattern of development in the area, and would create a negative precedent for similar types of development in the future.
- Serious concerns in relation to the negative impact of the proposed development could have on adjacent properties to the east and west and also the existing dwelling on site.
- Due to the higher levels and orientation of the proposed dwelling which addresses the western boundary, consider direct overlooking of the private open space and rear living space associated with no. 7 Devoy Terrace would occur.
- Two no. bedroom windows located on the side elevation directly overlook the adjacent property no. 5 to the east and notwithstanding any boundary that is in place.
- The existing open space associated with the existing dwelling will also be significantly reduced to 92sqm, although noting that this complies with development plan standards.

### 3.2.2. Other Technical Reports

- **Water Services** – Recommends a refusal.
- **Environment Section** – No objection subject to requirements.
- **Roads Section** – No objection subject to conditions.
- **Area Engineer** – Recommends further information in relation to parking providing a shared entrance with the existing dwelling and drainage.

### 3.3. Prescribed Bodies

- **Irish Water** – Further information requested in relation to connecting to the foul sewer.

### 3.4. Third Party Observations

Objections to the proposal received by the planning authority have been forwarded to the Board and are on file for its information. The issues raised are comparable to those raised in the observations to the appeal summarised in section 6 below.

## 4.0 Planning History

**PA Reg. Ref. 03/500113** – Permission **granted** 26/09/2003 for retention of domestic garage/garden shed, entrance and tarmac driveway, subject to 6 no. conditions. Condition no. 2 required the external walls of the garage/garden shed to be plastered and painted to match the existing house.

## 5.0 Policy Context

### 5.1. Development Plan

#### 5.1.1. Kildare County Development Plan 2017-2023

Naas is designated as a 'Large Growth Town I' within the Hinterland Area of Dublin. The role of these towns are to act as important self-sustaining regional economic drivers, accommodating significant new investment in transport, housing, economic and commercial activity, while capitalising on international connectivity and high quality connections to Dublin City Centre. They also have a key role in supporting and servicing a wider local economy.

In the Regional Planning Guidelines, it is an objective to allocate growth within the Hinterland towns of Naas and Newbridge and to consolidate growth in Kildare, Athy, Monasterevin and Kilcullen. This is to be achieved by allocating a minimum 41% of the total growth rate for the county to these towns.

Chapter 4 sets out Housing policy

Section 4.11 refers to Urban Infill and Backland development. It states that *'the development of underutilised infill and backland sites in existing residential areas is generally encouraged. A balance is needed between the protection of amenities, privacy, the established character of the area and residential infill. The use of contemporary and innovative design solutions will be considered for infill and backland development and connections to the surrounding area and services should be identified and incorporated into proposals.'*

SRO2: *'Consider backland development generally only where development is carried out in a planned and co-ordinated manner'*.

Chapter 16 sets out Urban Design Guidelines.

Chapter 17 sets out Development Management Standards.

#### 5.1.2. **Naas Town Development Plan 2011-2017**

The site is within an area zoned 'B – Existing /Infill Residential'. The objective for which is *'to protect and improve existing residential amenity, to provide for appropriate infill residential development and to provide for new and improved ancillary services'*. Dwelling are 'permitted in principle' within this zoning objective.

Chapter 4 Housing Policy

Section 4.4.3 refers to Infill Residential Development. It states that *'a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. Proposals for development involving the intensification of residential uses within existing residential areas such as side gardens will generally be permitted where it can be clearly demonstrated that the proposal respects the existing character of the area and would not harm the amenity value of adjoining properties.'*

### Section 4.6.3 Backland Development

*It states 'the development of backland sites in a coherent and well-designed manner can contribute to enhancing the vibrancy and character of an existing settlement while also contributing to the efficient use of serviced lands. The development of backland sites on an individual basis (i.e. rear garden areas/individual backlands with no frontage) can conflict with the established pattern and character of development in an area. Backland development will generally only be considered where the proposed development forms part of a comprehensive plan for development of the entire backland area.'*

*HP19: 'To permit backland development generally only where development is carried out in a comprehensive redevelopment of the backland to secure a co-ordinated scheme. Each application will be considered on its own merits.'*

## 5.2. Natural Heritage Designations

There are no European sites located within the vicinity of the site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A first party appeal against the decision to refuse permission by the planning authority has been lodged by the applicant. It was accompanied by contiguous elevations and section drawings with details of screening. In summary, the appeal states:

### 6.2. House Design

- The design of the single storey house is based on a house which was the subject of a Grand Designs TV show in the UK.
- The 'U' shape house design ensures privacy for the proposed house and adjoining houses, no. 5, 6 & 7. There will be no overlooking of adjoining properties, and it is proposed to provide boundary treatments using walls or fences with hedgerow planting, all of which was discussed at pre-planning.



- The proposed house with a floor area of 140sqm on a site of over 400sqm represents a site coverage of 37.5%.
- The narrow width and low profile of the proposed house, will not have a negative impact on the adjoining properties given the existing hedgerows on adjoining boundaries.

### 6.3. **Development Management Standards**

- The existing house which is occupied by the applicants' son, has retained a rear, side and front garden and is in excess of the minimum standards and includes adequate car parking.
- Proposal to provide 2 no. car parking spaces to the front of the site and provides pedestrian access to the proposed house.

### 6.4. **Surface Water Drainage**

- Proposed to remove hard standing along the access route and provide a gravel surface which will allow for storm water drainage to percolate to the ground water.
- The central 'private garden' will be landscaped and include for a porous paviour and gravel surface which will assist surface water disposal.
- The roof area will collect surface water and dispose of by means of a soakpit in the private garden area.

### 6.5. **Principle of Development**

- The residents of Devoy Terrace have never expressed a wish to develop their rear gardens, and as there is a lack of access to other rear gardens there is no plan to develop them.
- Indicates that the rear field is owned by Kildare County Council and that there is the potential that they might develop an access to other rear gardens in the future.
- Requests that the Board reassess the planning application for his daughter's needs.

## 6.6. Applicant Response

None.

## 6.7. Planning Authority Response

The planning authority had no further response to the first party appeal.

## 6.8. Observations

An observation was received from Paul and Sheila Horan with an address at 7 and 8 Devoy Terrace. The submission can be summarised as follows:

- Aware of the current pressure on housing in Ireland and challenges facing An Bord Pleanala.
- Notes the recent public notice that current priority is on Strategic Infrastructure, Major Housing Developments and school projects.
- Reassured that An Bord Pleanala apply the same criteria as the local planning authority with the core aim to uphold the 'proper planning and sustainable development in the area'.
- The planners report was quite clear that the proposed development was inappropriate at this location, and would have a negative impact on the residential amenity of existing and adjacent sites.
- The planners report refers to the failure to meet development plan criteria, represents 'haphazard and substandard overdevelopment' of the area and that it would 'seriously injure the residential amenity', both of which are 'contrary to the proper planning and development of the area'.
- No evidence in the letter of appeal that addresses these issues.
- The design may be appropriate for a high density, city location, but is out of character in this area due to its elevation and site location which has a significant impact on the adjoining properties in terms of privacy, noise, overlooking, overshadowing, residential amenity, security, increased traffic etc.

- There is a significant variance in sites levels of at least 2.5m between the ground levels of the appeal site and no. 7 Devoy Terrace.
- There is currently a wooden panel fence (approx.1.8m high) and some mixed hedging (heights varying from 0-0.5m above the panels), however much of the site is clearly visible from four of their bedrooms. Potentially there would be a clear line of sight from the courtyard and living area to their bedrooms and vice versa, impacting on the privacy and right to amenity of both properties.
- An additional 1-2m high boundary would be required to the rear and along the access to address the issue of overlooking, but would result in a 6m high boundary as viewed from house no. 7. This would be oppressive and further impact on light to their property and private open space.
- Concerns raised in relation to car parking have not been addressed in the application or the appeal. Notes that the proposed development includes two car parking spaces, but that the existing dwelling has no car parking spaces. Considers that the provision of parking within the front garden of the existing house would further reduce the amenity of the front garden to the existing house and have a negative impact on the character of the small residential street.
- Concerns with cars travelling up the access lane to the rear of the proposed dwelling, causing noise pollution and disturbance along the adjacent bedrooms and rear of their home as well as safety concerns for traffic at this elevated site.
- Concerns raised in relation to existing drainage on site for soakage or to enter the sewerage system by gravity do not appear to have been answered.
- Development is out of character, would significantly negatively impact on the small community and would be contrary to the proper planning and sustainable development.
- The proposed development would provide a substandard development for any future tenants, significantly impact on the amenity of the current dwelling on site; significantly impact on the amenity and value of their home and other

adjacent property, will increase traffic and reduce the amenity of the cul de sac and other residents on the street.

## 7.0 **Assessment**

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Backland Development
- Residential Amenity
- Open Space
- Surface Water Drainage
- Car Parking
- Appropriate Assessment

### 7.2. **Principle of Backland Development**

7.2.1. As per the Naas Town Development Plan the site is within an area zoned B, the objective of which is 'to protect and improve existing residential amenity, to provide for appropriate infill residential development and to provide for new and improved ancillary services'. In principle the proposal would accord with the said zoning objective.

7.2.2. It is submitted by the applicant that as the site already benefits from a side access to the rear garden, that the proposed development should be considered favourably by the Board.

7.2.3. In this regard I would note that the existing houses have long rear gardens of approximately 25.5m. I also note that the subject site and the two adjoining plots to the west at no. 7 and 8 also benefit from wider plots than the houses to the east, with the exception of house no. 1 at the other end of the cul de sac which has a wider rear garden. The majority of houses do not have side entrances and as such have limited potential to provide for backland development. The subject site is relatively

unique in that it already has a side access, therefore I consider that the principle of backland development on this site is acceptable.

7.2.4. I would not concur with the planning authority that the proposed development of this backland site in the absence of a comprehensive plan to develop the adjoining sites would constitute haphazard and substandard over development. It seems to me that there is little likelihood of the rear gardens of other houses within the terrace being developed in such a way for the foreseeable future at least.

7.2.5. I am satisfied, therefore, that there is no substantive basis for the first reason for refusal.

### 7.3. Residential Amenity

7.3.1. Having regard to the Guidelines for Sustainable Residential Development and the provisions of the current development plan the acceptability or otherwise of the proposed development will be subject to the need to attain a balance between the reasonable protection of the amenities and privacy of adjoining property and the need to provide additional residential development at this location. I proposed to address such matters in the following sections.

7.3.2. Reason for refusal no. 2 refers to the proposed development seriously impacting on the residential amenity of adjoining development.

7.3.3. The layout of the proposed single storey house is 'U' shaped and arranged around a central courtyard. It backs onto the rear southern boundary and is set off the side eastern, western and northern boundaries. The courtyard opens out and is orientated to the west and the adjoining property no. 7 Devoy Terrace.

7.3.4. The applicant contends that the design and layout ensures privacy of adjoining properties. I note that the proposed house is set back 9m from the existing two storey house on site with a small bathroom window along the northern boundary. While I note that there are windows proposed to a study, two bedrooms and a bathroom located between 1.2m and 1.6m off the eastern side boundary to house no. 5, I also note the applicant's proposals to retain the existing hedge along this boundary. I consider the location and proximity of these ground floor windows to the

boundary, which is heavily planted, to be acceptable and that they would not give rise to overlooking to the adjoining house no. 5.

- 7.3.5. As already outlined in section 1 above there is a difference in levels between the appeal site and the observers' properties to the west no. 7 and 8. The sites are level at the entrance from Devoy Terrace to the north and then rise gradually on site no. 6 such that at the southern end of the site is approximately 2.5m higher relative to properties no. 7 and 8. I would also note that there is an existing garage located in the rear garden of house no. 7 along this boundary.
- 7.3.6. The western elevation of the proposed house includes a set of double glazed doors to a hallway and the main entrance door to the house which are located 9.7m from the western boundary. There are also double glazed doors serving bedroom no. 1 which are located 3.5m from the western boundary. It is proposed to retain the existing fence and hedging along this boundary.
- 7.3.7. I am satisfied that due to the single storey design and layout, existing site levels and proximity to site boundaries the proposed house would not give rise to overlooking and would not be overbearing when viewed from adjoining properties, and as such would not be seriously injurious to the residential amenities of the adjoining houses.
- 7.3.8. I am satisfied, therefore, that there is no substantive basis for the second reason for refusal

#### **7.4. Private Open Space**

- 7.4.1. It is proposed to subdivide the existing site such that the existing house would have a private rear garden space of 94 sqm. The proposed house would be served by a central courtyard area of 72sqm. The requirements for private amenity space as set out in the Kildare County Development Plan for a three bedroom house is 60 sqm and for a four bedroom house or more is 75sqm. In this respect the provision of private open space meets the development management standards.
- 7.4.2. I also consider that the proposed layout provides an innovative approach to providing private open space in this backland development and should be considered favourably.

7.4.3. In summary, I consider the open space proposed to serve the existing and proposed house to be acceptable.

## **7.5. Surface Water Drainage**

7.5.1. Reason for refusal no. 3 refers to the absence of significant detail in relation to surface water drainage.

7.5.2. In particular, the Water Services Department of the planning authority noted that the existing drainage was not indicated and suspect that surface water is combined with the foul sewerage. They also note that there is insufficient space to provide a new soakway system as the footprint of the new dwelling is excessive.

7.5.3. While I note that the access driveway and garden area to the rear is currently surfaced, the applicant proposes to remove any hard standing along the access route and provide a gravel surface which will allow storm water drainage to percolate to the ground water. The central private garden will include a porous paviour and gravel surface which will also assist surface water disposal.

7.5.4. I consider that the issue of surface water drainage on site could be resolved, and is not a substantive ground for refusing permission.

## **7.6. Car Parking**

7.6.1. The existing house includes a vehicular access and driveway to the rear of the site where there is room for parking. It is proposed to provide two no. car parking spaces inside the existing driveway entrance to serve the proposed house. I would note that there is also ample space along the cul de sac for on street parking.

7.6.2. I note the observers' concerns in relation to the creation of the car parking spaces to the front of the dwelling, however, I do not consider that they would be out of character. As already noted many of the houses have already created front driveways for parking. While I note the recommendation of the Area Engineer of the planning authority, the Transportation Department of the planning authority had no objections.

7.6.3. I am satisfied that the car parking arrangement is acceptable and that there is sufficient on street car parking to serve the existing house and proposed house.

### 7.7. **Appropriate Assessment**

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### 8.0 **Recommendation**

8.1. I recommend that planning permission should be granted for the following reasons and considerations

### 9.0 **Reasons and Considerations**

Having regard to the location of the site on residentially zoned lands in the Naas Town Development Plan and to the compliance with the development management standards for infill development in the Kildare County Development Plan 2017-2023, to the acceptable scale and design of the dwelling, it is considered that subject to compliance with conditions set out below, the proposed development would not result in haphazard backland development or seriously injure the residential amenities of the area or of property in the vicinity. 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 submitted on the 10<sup>th</sup> May 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed 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.

**Reason:** In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed extension shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

3. The dwelling shall be occupied as a dingle dwelling unit and shall not be sub-divided or used for any commercial purposes.

**Reason:** In the interest of residential amenity.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

5.
  - (a) All foul sewage and soiled water shall be discharged to the public foul sewer.
  - (b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system or soakpits.

**Reason:** In the interest of public health.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

**Reason:** In the interests of visual and residential amenity.

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted, and agreed in writing with, the planning authority prior to commencement of development.

This plan shall provide details on intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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 the 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 of the terms of the Scheme shall be agreed between the planning authority and the developers 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.

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Susan McHugh  
Planning Inspectorate

23<sup>rd</sup> October 2017