



An  
Bord  
Pleanála

## Inspector's Report ABP-302312-18

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<b>Development</b>	Demolition of house and erection of 6 No. semi-detached houses
<b>Location</b>	Tony King Motors, Dublin Road, Celbridge, Co. Kildare
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	171481
<b>Applicant(s)</b>	Tony King
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Jill Barrett
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	19 <sup>th</sup> of November 2018
<b>Inspector</b>	Caryn Coogan

## 1.0 Site Location and Description

- 1.1. The subject site (0.1742ha) is located in Celbridge Town Centre, at the south eastern side of the town beside the main Dublin Road (R403). It is accessed off the a laneway that joins two main roads in Celbridge, Dublin Road and Primrose Hill (R405).
- 1.2. Along the actual laneway giving access to the site, there are a variety of land uses, namely a veterinary clinic, a garage workshop and compound area, a snooker hall, houses, a vacant house and a solicitors practice. The narrow laneway has double yellow lines on each side. There is a national school on Primrose Hill opposite the entrance to the laneway, and the site is within a two minute walk of Celbridge Main Street. There are bus stops fronting the access to the site along the Dublin Road.
- 1.3. The subject site is broken up into two parts:
  - (a) The eastern portion of the site is currently a surface carpark, enclosed by a palisade fence, a compound area permitted under PI09.242854. There are a number of cars stored in the yard area, which also includes a container type structure used as an office in the south western extremity of the site. There is a mature planting of trees along the eastern site boundary, screening the adjoining Riverview Apartment complex, which is a three storey residential development fronting onto Dublin Road.
  - (b) The western portion of the site is almost a square configuration. This includes the Tony King garage/ workshop. There is a vacant dwelling located alongside the garage which appears to have remained vacant for a considerable period of time. To the rear of the vacant house is derelict yard area where there are items stored associated with the workshop.
- 1.4 The access lane dissects the subject site. There is a junction along the laneway which is a cul de sac leading to the third-party appellant's single storey dwelling, and a snooker hall/ community building. There are no footpaths along the lane and it is currently in poor structural condition throughout.

1.5 The junction of the laneway with Primrose Hill is narrow and can only cater for one car, whereas the junction of the laneway with Dublin road can accommodate two cars.

## 2.0 Proposed Development

Demolition of existing house and mechanics garage and associated outhouses, sheds and boundary walls. The construction of 4No. 3Bedroomed Houses and 2No. 2 Bedroomed Houses with private driveways and rear gardens to each house. The proposal also include revised laneway and footpaths layout between houses and a landscaped area top the north west section of the site and associated site works.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority granted planning permission for the proposed development subject to 27No. conditions.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

- The floor areas of the dwellings exceed minimum standards., including private open space and parking areas. The development complies with development plan standards.
- The proposal is 6 No. residential units on 0.1742Ha which represents a density of 34units per hectare. The previous application had a density of 57units per hectare and was refused. The proposal is not overdevelopment of the site, and has therefore overcome the second reason for refusal.
- The access points off the main roads are narrow and lack visibility. The report accompanying the planning application states, the traffic will be less associated with the proposed development than the existing auto repair and vehicle compound yard.

### **Further Information:**

Response received on 23<sup>rd</sup> of April 2018 and 19<sup>th</sup> of June 2018 included the revised design details requested and Trip Counts for the Tony King site, and TRICS data based on 6No. dwellings.

#### 3.2.2. Other Technical Reports

Irish Water: Conditions recommended

Fire Officer: No objection

Area Engineer: Further Information recommended

Water Services: No objections subject to conditions

Transportation: Refusal recommended. The proposal would obstruct other road users in this restricted area due to the movement of traffic generated. The proposal would create serious traffic congestion and obstruction of road users.

#### 3.3. **Third Party Observations**

There was one third party objection received, and the concerns expressed are summarised as follows:

- The applicant has a long history of planning enforcement
- The applicant did not comply with conditions of 13/435
- Underground water channels
- Heavy traffic on laneway
- Inadequate parking
- Scots pine inappropriate
- Green space inadequate
- Archaeology

## 4.0 Planning History

### 15/278

Permission refused for 10No. 124sq.m. three-bedroom houses, ridge height 9550mm off ground level, 22 associated carparking spaces, private gardens, public open space and associated site works. The application was refused for 4No. reasons:

- Substandard residential development;
- Over-development of site;
- Traffic hazard/ public safety;
- Potential negative impact on archaeology.

### 13/435 (PI09.242854)

Permission granted to Tony King for (a) use of site as a vehicle compound, (b) fence as constructed, (c) retention of one container for a period of 5years only.

## 5.0 Policy Context

### 5.1. Development Plan

#### **Kildare County Development Plan 2017-2023**

Chapter 4 – Housing

Chapter 17 – Housing Management Standards

#### **Celbridge Local Area Plan 2017-2023**

The subject site is zoned *Existing Residential/ Infill* – To protect and enhance the amenity of established residential communities and promote sustainable intensification

## 5.2. **Built/ Natural Heritage Designations**

The site is not located in the Celbridge Architectural Conservation Area.

There are no protected structures on the site.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

Jill Barrett, Rocklands, Celbridge has taken this appeal against the planning authority's decision to grant planning permission for the propose development. The applicant has a long planning history in respect of planning and enforcement issues.

#### 6.1.1 **Current state of planning and development issue at the site**

The conditions attached to 13/435 were not compiled with. Kildare Co. Co. issued Tony King a *Warning Letter* in relation to enforcement issues, and the matter is still under investigation. This is the same site at planning register number 171481, the current appeal.

#### 6.1.2 **Density of Development**

The application for 6No. houses replaces 1 dormer bungalow and a shed. There is a parking and traffic safety arising from such a density.

(a) There is parking to be provided for each dwelling proposed and visitor parking, the amount stipulated is totally inadequate. In addition, the proposal will result in a loss of public parking spaces. The lack of public parking in the area was exacerbated when Tony King erected fencing around the site to the west of Laurel Lane. The fencing blocked off access to a large open space. The previous Inspectors report stated the veterinary practice had too few parking spaces. The current proposal seeks to eradicate all public parking provision on Laurel Lane.

Also of Laurel Lane is the Quarry Centre, there are 4No. businesses in it. In the 1980s there was planning permission granted for a snooker hall, Ref: 1122.84 which had a condition requiring 64No. carparking spaces that was not complied with.

(b) There access is not safe for 6No. dwellings in particular children playing. There is a large volume of traffic and HGVs entering the builder's providers. Parking of delivery trucks results in pedestrians walking on the road. There is no turning area and cars have to reverse and large vehicles. Given the nature, the width of the access road, the traffic associated with 6No. dwellings will compromise the safety of all road users. The metal fencing along Tony Kings site and the wall at the vets is frequently damaged due to collisions.

The Transportation Department (23/02/18) recommended a refusal as the proposal represented a traffic hazard, and obstruction to other road users due to the extra traffic generated. The roadways along the site are dangerous.

#### **6.1.3 Proximity to Dwelling – Privacy and Amenity**

The existing one dwelling has a boundary wall which has a separation distance that allows both dwellings to have privacy and ability to enjoy amenity value of her dwelling house. The distance will be greatly reduced by 4No. of the 6No. houses proposed as they back onto their home. The increased volume of dwellings will be injurious to the privacy of their home. The proposed 6m high light to be placed outside of her gateway further impinges on this.

#### **6.1.4 Proximity of Dwelling – Height of Development**

The proposed height of the dwellings is a substantial change from the height of the existing residences. There will be overlooking. The number and height of the proposed dwellings will greatly reduce the level of light going into their property.

#### **6.1.5 Protection of Water Mains Supply**

There is no reference in the conditions to the water mains which runs under the common green public area between her house and the subject site at the North east corner. The existing mature tree will be protected but there is no indication as to how the mains water supply will be protected during the works.

#### **6.1.6 Exposure of potential new dwelling occupants to flooding and related insurance issues**

The proposed development is close to the River Liffey, there are underground channels beneath the site. The site could be a flood risk for the future occupants and they might be able to obtain insurance for the properties.

6.1.7 Scots Pine are 35metres in height with an invasive root system.

6.1.8 The proposed open space area contravenes the Council's Guidelines.

## 6.2. Applicant Response

The applicant's engineer has replied on behalf of the applicant to the third party appeal. The following is a summary of the response:

- The alleged breach of planning regarding a planning permission in 2013 is not relevant to the current proposal.
- The vehicle finishing business on the premises has ceased, therefore there are no outstanding enforcement issues associated with the site.
- The proposed development is proportionate to the site and in compliance with Kildare Co. Co. standards.
- Tony King is extending the width of the lane at his own expense to improve the standard for future users. There is no public space coming into private use as part of the application.
- The appellant is trying to tie this current application to the 2013 application which has no relevance purely on parking spaces. The references to a reduction in parking spaces is wholly inaccurate.
- The existing lane is being widened for road width and footpaths, which will increase the safety of the laneway. Turning areas have been tracked and deemed to be acceptable.
- The existing dwellings is a very large dormer bungalow and a very large industrial unit.
- The Council engineers have no concerns regarding water mains, or insurance premiums
- There will be more light into the appellants property as a result of the proposal.
- The development is an infill site and adjoins other amenities, the Council can determine the public open space area based on a number of factors.



### 6.3. Planning Authority Response

Kildare Co. Co. had no further comment to make regarding the appeal.

## 7.0 Assessment

7.1. The following are the salient issues to be assessed in this appeal:

- Development Plan Policy
- Impact on adjoining Residential Developments
- Traffic
- Other Issues
- Appropriate Assessment

### 7.2 Development Plan Policy

The current development plan for the area is the **Celbridge Local Area Plan 2017-2023**. The subject site is zoned *Existing Residential/ Infill* – the objective of which is *‘To protect and enhance the amenity of established residential communities and promote sustainable intensification.’*

The subject site is divided into two small parcels by the access lane. To the west of the lane is a surface carparking enclosed area with a container in one corner, and the eastern portion includes a vacant dormer bungalow and a car repair workshop. It is proposed to remove all the buildings on site and to construct 6No. semi-detached dwellings. On the eastern portion, there are two contemporary semi-detached dwellings proposed, and on the western portion there are 4No. three storey semi-detached units proposed. Each dwelling has parking spaces and a rear garden area.

There is an apartment complex on the adjoining site to the west, a bungalow on the adjoining site to the east, a dwelling along the laneway to the south, and a vacant dwelling on the subject site. I consider a residential development is an appropriate landuse for the site, and in keeping with the current development plan zoning

objective for the area and existing residential pattern of development in the immediate area.

### **7.3 Impact on adjoining Residential Developments**

The replacement of the workshop garage with a residential infill development will improve the visual and residential amenities of the area and the laneway. There will be minimal loss of privacy as there are no opposing windows proposed. The adjoining apartment scheme is configured perpendicular to the proposed dwellings. The single storey dwelling to the west addresses the lane and it is positioned at an oblique angle to the proposed dwellings. There is sufficient separation distance between the existing and proposed dwellings to ensure there is no direct overlooking. Having regard to the orientation and separation distances associated with the proposed dwellings, there will be no loss of light to the adjoining private garden areas.

The appellant is concerned about the planting of Scots Pine in the rear gardens of the dwellings and this is justified as it is an inappropriate specimen for an urban area. A condition will have to be imposed requiring revised landscape proposals conducive to the urban setting.

The proposed development provides for a safe, functional and comfortable residential development which can be easily accessed off the laneway.

The proposed dwellings, private rear gardens areas and carparking provision meet with the development plan requirements and Department Guidelines for sustainable urban living. The proposal represents a density of 34 units per hectare, which is acceptable for this inner urban area. The public open space area is not in accordance with the development plan standards, however, this is an infill development on a Town Centre site where there are existing public facilities in close proximity to the site to cater for the future residents.

### **7.4 Traffic**

The existing lane is relatively narrow, in poor condition and has no footpath. It has double yellow lines, and currently perpendicular parking occurs at Tony King Motors which is an unsatisfactory arrangement. The high palisade fence also restricts pedestrian and vehicular movement. The Dublin Road will provide the main

entrance to the site, and the sightlines at the junction area satisfactory. The Dublin Road is served by a Public Transport Corridor in close proximity to the site.

The traffic generated by 6No. dwellings from 8.00am to 6.00pm using the TRICS data is estimated at 28No. two-way movements. The further information submitted on 23<sup>rd</sup> of April 2018 carried out a traffic survey from 8.25 am to 5:15pm and it indicated 38No. small pallet vans used the lane , 4No. large trucks and 1No. refuse truck. There were 126No. cars used the day during the day.

The proposed development includes the widening of the existing laneway to 5metres, the provision of a 2metres footpath will be provided and connected to the footpath along the Dublin Road. There will be raised platforms provided along the laneway to reduce speeds through the site. The submitted Auotrack illustrates the manoeuvring of the refuse truck and HGV traffic. The refuse truck already utilises the laneway, therefore the proposed development is not generating additional movements in that regard. The proposed layout accords with the design and principles set out in '*Department of Transport Tourism and Sport, Design Manual for Urban Roads and Streets*'. It is concluded in the accompanying Traffic Analysis that the existing long established business on the site generates significantly higher volumes of traffic onto the lane than the proposed 6No. dwellings.

I note the Transportation Department recommended a refusal stating the proposal represents a safety hazard and unacceptable traffic increase. I do not agree with the recommendation or the findings of the report. The revised road layout will improve the safety on the lane for pedestrians and traffic. The onsite parking will eliminate the on street perpendicular parking which is causing an obstruction to road users of the lane at the present time.

## 7.5 Other Issues

Issues raised on appeal relating to enforcement matters are beyond the remit of the Board. The appellant cites the findings of the Inspectors report relating to the subject site as relevant to the current case. The Board reference is PL09.242854, and I was the reporting inspector on the case. The proposed development in the previous case was retention of the use of site as a vehicle compound, which is a

completely different land use and created different impacts to the proposed 6No. dwellings. In my opinion, there is no relevance to the current proposal.

The Water Services section were satisfied with the proposals for connection to the water mains, sewerage and attenuation measures.

## **7.6 Appropriate Assessment**

The 0.17 Ha site is an existing developed site within a built up area. The closest Natura 2000 site is 4 kilometres away and it is the Rye Carton SAC. The planning authority carried out a screening for appropriate assessment and concluded that a Stage 2 Appropriate Assessment is not required. Having regard to the nature and scale of the proposed development, the relative distance of the site from the designation Natura 2000 site and the lack of a pathway to the SAC, I consider no appropriate assessment issues arise. I consider there will be no impact on the habitat area of the SAC as a result of the proposal. In my opinion, the proposed development would be unlikely to have a significant effect on a European site.

## **8.0 Recommendation**

8.1. I recommend the planning authority's decision to grant planning permission for the proposed development be upheld.

## **9.0 Reasons and Considerations**

Having regard to the residential zoning of the site in the current Celbridge Local Area Plan, to the pattern of development in the area, and to the design and scale of the proposal, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in the context of the visual amenities of the area, would be acceptable in terms of traffic safety and convenience and 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 23<sup>rd</sup> of April 2018 and 18<sup>th</sup> of May 2018, 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.

**Reason:** In the Interests of clarity

2. The road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall comply with the detailed standards of the planning authority for such road works. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

3. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey in colour only. The brick colour to be used shall be the same as that used in the adjoining residential area.

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

4. Water supply and drainage arrangements, including the attenuation and 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. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of 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

6. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. 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 and to ensure the use of locally appropriate place names for new residential areas.

7. Provision shall be made for future electric charging points in all car parking spaces.

**Reason:** In the interest of future energy sustainability

8. 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 over ground cables shall be relocated underground as part of the site development works.

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

9. 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.

10. The proposed Scots Pine shall be removed from the scheme, and an appropriate landscaping scheme conducive to an urban setting and respectful of neighbouring residential properties shall be submitted to and agreed in writing with the planning authority prior to the commencement of the development. All landscaping shall be provided within twelve months of the completion of the development.

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

11. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open

space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

12. 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 of 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.



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Caryn Coogan  
Planning Inspector

30<sup>th</sup> of November 2018