



An
Bord
Pleanála

Inspector's Report ABP-303610-19

Development	2-storey 3-bedroom house.
Location	89 Crodaun Forest Park, Celbridge, County Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	181024
Applicant(s)	Trevor Quinn.
Type of Application	Permission.
Planning Authority Decision	Grant Permission.
Type of Appeal	Third Party v. Decision
Appellant(s)	1. Anthony and Mary Keating 2. Robert and Karen Nesbitt. 3. Miriam and Dermot Flynn & Others.
Observer(s)	None.
Date of Site Inspection	21 st May 2019.
Inspector	Susan McHugh

Contents

1.0 Site Location and Description.....	4
2.0 Proposed Development.....	4
3.0 Planning Authority Decision	6
3.1. Decision.....	6
3.2. Planning Authority Reports.....	6
3.3. Prescribed Bodies.....	7
3.4. Third Party Observations.....	8
4.0 Planning History.....	8
5.0 Policy and Context.....	9
5.1. Kildare County Development Plan 2017-2023.....	9
5.2. Celbridge Local Area Plan 2017-2023	10
5.3. Natural Heritage Designations.....	11
5.4. EIA Screening	11
6.0 The Appeal.....	11
6.1. Grounds of Appeal No. 1	11
6.2. Grounds of Appeal No. 2	12
6.3. Grounds of Appeal No. 3	13
6.4. Applicant Response	14
6.5. Planning Authority Response	16
6.6. Observations	17
6.7. Further Response from Applicant.....	17
6.8. Further Responses from Third Party's	18
7.0 Assessment.....	19
8.0 Recommendation.....	27

9.0 Reasons and Considerations 27

10.0 Conditions 28

1.0 Site Location and Description

- 1.1. The appeal site is located in the residential estate of Crodaun Park located off the R-405 in Celbridge. The estate is located south of the M4 in a predominantly residential area, approx. 2.7km north west of Celbridge town.
- 1.2. The existing dwelling house no. 87 is one of four detached single storey bungalows located along a short cul-de-sac. House no. 87 includes a shed and garage type structure to the side and parking area to the front.
- 1.3. The appeal site is roughly triangular in shape, and unusual in configuration extending to the north of the side boundary of the adjoining bungalow to the south east house no 88. House no. 88 at the end of the cul de sac lies perpendicular to no. 87.
- 1.4. The appeal site shares its northern rear boundary with the rear garden boundary walls of four no. two storey semi-detached dwellings. Along its eastern boundary the site abuts a cul de sac and turning area serving two storey semi-detached dwellings, each with driveways.
- 1.5. The turning area is separated from the eastern boundary of the appeal site by a planted grass verge. I noted on the day of my site inspection that the turning area was in use as an informal parking area. There are no footpaths on either of the cul-de-sacs where the bungalows and two storey houses are located.
- 1.6. There is a single lane vehicular access from the turning area to one other dwelling house which then connects to a narrower pedestrian link and bridge over a stream to the south within the estate.
- 1.7. The entire appeal site has a stated area of 0.61ha.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a 2 storey 3-bedroom house with a stated floor area of 111.6sqm on a site area of 0.23ha.
- 2.2. The proposed house is rectangular in form has a flat roof, and is contemporary in design, finished in a smooth render finish and cedar paneling.

- 2.3. The dwelling height ranges from c. 5.85m to c. 6.85m with the chimney level at 7.9m. A roof garden is proposed on the north western corner of the dwelling to provide light into first floor bedrooms 2 and 3. It will be screened by a 2m high opaque glazed screen and has access from both bedrooms.
- 2.4. The dwelling is located 7m to the east of the existing bungalow on site, a minimum of 2m from the southern boundary, and c.1m from the northern boundary of the site.
- 2.5. It is proposed to subdivide the overall existing site with the construction of a 2m high wall in line with the gable of the existing house. This will result in 150sqm of private open space to serve the existing house and 98.1sqm to serve the proposed house.
- 2.6. An outdoor storage shed, bicycle and bin storage facilities, are also proposed. The storage shed is c. 2.6m in height, clad in cedar with a flat roof and is c. 3.75sqm in area. The bin storage area is located along the southern boundary of the site.
- 2.7. A new vehicular entrance will be provided from the adjacent cul-de-sac to the east, which requires the demolition of the existing boundary wall. Proposed parking for two cars is to be provided via an underground car lift. The existing grass verge and kerb is also to be removed, with hard and soft landscaping proposed to the front of the proposed house.
- 2.8. SUDS measures proposed include a green sedum roof.
- 2.9. Works also include the installation of a new rooflight to the front of the existing house No. 89, and the relocation of an existing window to the rear of the house and all associated site works.
- 2.10. The application was accompanied by the following;
 - A Planning Report including 3D images of the proposed dwelling.
 - A letter of consent from the owner of the site (the applicant's mother) to lodge the planning application.
 - A Certificate of Exemption from requirements of Part V of the Planning and Development 2000 Act as amended was also submitted.

- 2.11. The proposed development was modified by way of further information lodged 06/12/2018 to include the omission of the proposed car lift to provide two surface car parking spaces.
- 2.12. The application was accompanied by a revised site plan including the existing house outlined in red, Sunlight Assessment, and contiguous cross section drawings

3.0 **Planning Authority Decision**

3.1. **Decision**

The planning authority decided to **grant** permission subject to 13 no. standard conditions. Conditions of relevance include;

Condition No. 4 – Obscure glazing to bathrooms, WCs and en-suite windows, the stairwell window on the southern elevation and the winter garden screen.

Condition No. 5 – Numbering 89A.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports** (dated 16/10/2018 and 04/01/2019)

The Planners Report is the basis for the Planning Authority decision. The **1st** Report in summary states:

- *Principle of Development* – Considered acceptable.
- *Design and Layout* – Differing heights break up the mass of the building and proposal is not considered excessive in height. Recommends two site sections be requested (east to west and north to south) to illustrate the context of the adjacent single storey and two storey dwellings. The dwelling design is contemporary in its form and design, the fenestration and finishes are mixed, and separation distance proposed is considered acceptable
- *Overshadowing and Overbearing* - Concern in relation to overshadowing given the orientation of the site and adjacent site to the north. Recommends a shadow analysis be requested.

- *Overlooking* – First floor level corner window in bedroom no. 1 and the stairwell windows on the eastern elevation are acceptable. The first-floor stairwell window on the southern elevation should be obscured. The hit and miss vent on the southern elevation of the first-floor bathroom will reduce the potential for overlooking. The screen surround to the roof garden is acceptable and will reduce the potential for overlooking.
- *Private Open Space* – The rear garden space is in excess of the 60sqm required for a 3-bedroom house and is acceptable.
- *Access/Parking* - The car lift is not required, and two car parking spaces can be accommodated on the site. Recommends further information in this regard. Notes that access to the site is proposed across the existing grass verge and kerb which will be removed, and that the estate was taken in charge by KCC in 1988 and 2014.
- *Water Services* – In the absence of a report from Water Services Section of KCC recommends further information in relation to existing surveys and the proposed layout up to and including connection to all public services.
- *Red Line Boundary* – Notes that the red line boundary is not consistent on all drawings submitted and recommends further information for clarification.

The 2nd Report in summary states;

- Issues raised in request for further information have been addressed and are considered acceptable, recommends permission be granted.

3.2.2. Other Technical Reports

Water Services: No objections subject to conditions.

Transportation Dept.: No objections subject to conditions.

Area Engineer: No objections subject to conditions.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

A number of third-party submissions were lodged from the following parties;

- David Mulcahy Planning and Consultants Ltd, on behalf of;
 - Miriam and Dermot Flynn, 88 Crodaun Forest Park.
 - Mairead and Tim O'Meara, 97 Crodaun Forest Park.
 - Mary and Joe Carroll, 98 Crodaun Forest Park.
 - Anne and Robert Nevin, 99 Crodaun Forest Park.
- Denham and Audrey Darlington, 90 Crodaun Forest Park.
- Donal and Mary Cotter, 101 Crodaun Forest Park.
- Philip and Bea Munro, 102 Crodaun Forest Park.
- Robert and Karen Nesbitt, 103 Crodaun Forest Park.
- Anthony and Mary Keating, 104 Crodaun Forest Park.
- Caroline and Donal Graham, 105 Crodaun Forest Park.
- Liam and Lisa McCarthy, 109 Crodaun Forest Park.

Issues raised are similar to those raised in the grounds of appeal, summarised in section 6 below.

4.0 Planning History

P.A. Reg. Ref. 98/1466: Permission was **refused** (January 1999) for a bungalow in the side garden of the subject site. The two reasons for refusal referred to the following;

1. *'The proposed development by reason of its location on a restricted site which is part of the side garden of the existing house, would constitute disorderly tandem development in private open space. Furthermore, this development would injure the residential amenities of existing residential properties on adjoining sites and would therefore be contrary to the proper planning and development of the area.'*
2. *The proposed development would represent an over intensive use of the site and would represent a sub-standard form of residential development, as no rear garden*

space is proposed for the house. It is a requirement of the County Development Plan that the back gardens should have a minimum depth of 11 metres. The proposed development would therefore be contrary to the proper planning and development of the area.'

5.0 Policy and Context

5.1. Kildare County Development Plan 2017-2023

Chapter 4 sets out Housing policy in relation to inner suburban/infill sites.

Table 4.1 refers to 'Inner Suburban/Infill'

'The existing built fabric of large towns often contains residential areas where additional dwellings can be accommodated without compromising the existing residential amenity or residential character of the area. The provision of additional dwellings within inner suburban areas of towns can be provided either by infill or by sub-division. Infill residential development may range from small gap infill, unused or derelict land and backland areas, up to larger residual sitesSub-division of sites can be achieved where large houses on relatively extensive sites can accommodate new residential development without a dramatic alteration in the character of the area or a negative impact on existing residential amenities. Sub-division shall be considered subject to safeguards regarding residential amenity, internal space standards, private and public open space, car parking and maintenance of the public character of the area.'

Section 4.11 refers to Urban Infill and Backland Development.

'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 new 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.'

Chapter 16 sets out Urban Design Guidelines.

Chapter 15 refers to Infill Development and Guiding Principles.

Chapter 17 refers to Development Management Standards.

Section 17.2.4 Overlooking states;

'In general, a minimum distance of 22 metres between opposing above-ground floor level windows is required for habitable rooms. In cases of innovative design where overlooking into habitable rooms does not occur, this figure may be reduced. A separation distance of 35 metres will normally be required in the case of overlooking living room windows and balconies at upper floors.'

Section 17.2.5 Overshadowing states;

'Where development of a significant height is located close to existing development, the planning authority may require daylight and shadow projection diagrams to be submitted. The recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BRE 1991) or Lighting for Buildings Part 2 1992: Code of Practice for Day Lighting B.S. 8206 and any updates to these documents should be followed as a minimum in this regard.'

5.2. **Celbridge Local Area Plan 2017-2023**

The appeal site is identified as zoning objective '**B-Existing Residential/Infill**',
'To protect and enhance the amenity of established residential communities and promote sustainable intensification.'

Section 6.2.1 refers to Residential Development: Capacity and Delivery

RDO1.3: *'To encourage the appropriate redevelopment of brownfield and infill sites for residential uses within the LAP are subject to compliance with the relevant development management standards of the County Development Plan.'*

Section 6.2.2 refers to Residential Density, Mix and Design

Policy RD 2: *'It is the policy of the Council to require that all new residential development provides for a sustainable mix of house types, sizes and tenures and the new development complements the existing mix.'*

5.3. Natural Heritage Designations

5.3.1. The Rye Water Valley/Carton Estate SAC (Site Code 001398) is located 2.7km to the north of the subject site.

5.4. EIA Screening

5.4.1. Having regard to the nature the proposed development, the nature of the receiving environment, and proximity to the nearest sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal No. 1

6.1.1. A Third-Party appeal was lodged by Anthony and Mary Keating, 104 Crodaun Forest Park, Celbridge. The appeal was accompanied by a report prepared by Carrig Safety Consultants in relation to safety concerns commissioned by Dermot Flynn 88 Cordaun Forest. The grounds of appeal can be summarised as follows;

- *Errors and inaccuracies in the planning application* – Include failure to identify the ‘main sewer’ running through the property, incorrect measurements on drawings, and incorrect details on surrounding properties.
- *Health and safety issues* – Proposed development will result in traffic congestion and construction traffic will impact on pedestrian safety, with insufficient space on the site to accommodate construction vehicles.
- *Removal of car parking and turning area* – Established for 38 years.
- *Car parking* – Proposals for two-tier carport is completely impractical.
- *Removal of mature planting and trees* – Contrary to section 17.2.6 Soft Landscaping, KCC Development Plan, no plan to replant trees.

- *Non-compliance with KCC Development Plan, Celbridge LAP and National Planning Guidelines*– The appeal site does not constitute an infill site as set in the KCC Development Plan.
- *Out of character* – Two storey dwelling design and finishes located within 7m of bungalows incompatible with the area.
- *Planning history* – Previous refusal for a bungalow on the site, proposed two storey dwelling will be overbearing.

6.2. Grounds of Appeal No. 2

6.2.1. A Third-Party appeal was lodged by Robert and Karen Nesbitt, 103 Crodaun Forest Park, Celbridge. The grounds of appeal can be summarised as follows;

- *Breaches of the Planning and Development Regulations* – Removal of six mature trees, and visuals presented as part of the application show trees on the site which do not exist.
- *Changes to the streetscape of the area* – Design and appearance of the proposed two storey house will be out of character with bungalows within the estate.
- *Accuracy of drawings* - Drawings submitted by way of further information do not include the proposed chimney which will be 1500mm above the parapet.
- *Infill development* – Proposed house does not constitute infill development and is contrary to Development Plan Policy regarding infill development. No need for residential infill development within the estate.
- *Residential amenity* – Proposed house within 7 meters of bungalow. Drawings indicate a block wall to the north between it and nos. 98 and 99 which does not exist.
- *Loss of light* – Height and position of the proposed house will diminish daylight to back gardens and patio areas.
- *Overlooking and loss of privacy* – First floor window to the front of the house will have a direct view into the back garden of no 88. Overlooking from first-

floor balcony to the rear of adjoining houses and the patio to the rear of No. 99. Overlooking from first floor bedroom of houses opposite.

- *Changes to the traffic layout of cul-de-sac and traffic safety* – Three-bedroom house could result in four additional cars being added to the cul de sac which will lead to problems with access for residents, utilities such as refuse collection and emergency vehicles, and put pedestrians at risk in the absence of footpaths. Concern in relation to the relocation of a junction box.
- *Car parking* – Removal of hammerhead turning point which is used for car parking will result in congestion and pose a traffic hazard.
- *Construction traffic* – Concern in relation to traffic safety.
- *Planning history* – Issues raised in assessment and reasons for refusal on previous application not addressed in current proposal.

6.3. Grounds of Appeal No. 3

A Third-Party appeal was lodged by David Mulcahy Planning Consultants Ltd. on behalf of;

- Miriam and Dermot Flynn, 88 Crodaun Forest Park
- Mairead and Tim O'Meara, 97 Crodaun Forest Park
- Mary and Joe Carroll, 98 Crodaun Forest Park
- Anne and Robert Nevin, 99 Crodaun Forest Park

The grounds of appeal can be summarised as follows;

- *Procedural Issues* – Failure to accord with Article 23 of the Planning and Development Regulations 2001, as the extension to the side of No. 88 Crodaun Forest Park was not shown on plans submitted. The P.A. did not consider the response to further information as significant the proposed development was not re-advertised and consequently third parties were not afforded the opportunity to make further submissions.
- *Overbearing Impact* – The P.A. assessment did not address the overbearing impact of the proposed development, which will have an adverse impact on nos. 98, 99, and 88 Crodaun Forest Park.

- *Shadow Impact* – Methodology used in the shadow analysis submitted by the applicant is difficult to analyse, there will be a material loss of sunlight to nos 98 and 99. Unclear if the chimney which is 1.5m in height was included in the analysis.
- *Loss of carparking* – Issue raised in submission but not addressed by the P.A. The loss of the recessed communal parking area will result in vehicles being parked in a haphazard fashion which will lead to a traffic hazard.
- *Visual impact* – The P.A. assessment does not directly address the visual impact of the development. The proposed house will appear dominant and incongruous and will have a strong negative impact on the established streetscape. Notes also that the drawings submitted at further information stage do not show the proposed chimney.
- *Proposed carparking* – The car parking arrangement will result in increased reversing traffic movements on the public street and creates a potential traffic hazard.
- *Amenity of future occupants* – Question the amenity value of the first-floor balcony which is very unorthodox, and the standard of accommodation in terms of daylight to the bedrooms.
- *Foul sewer* – In the absence of information on whether the existing foul drain can be properly accommodated, is prejudicial to public health and the development should be refused on this basis.
- *Health and safety* – Concerns in relation to the construction and operational phase of development and refer to safety analysis prepared by Carrig Safety Consultants attached.

6.4. Applicant Response

- 6.4.1. An individual response to each of the three third party appeals, was lodged by Patrick Power Design Associates acting on behalf of the applicant. To avoid unnecessary repetition, I have grouped similar issues and generic responses, which can be summarised as follows;

- *Errors and inaccuracies in the Planning Application* – The ‘main sewer’ is a 150mm foul drain from No.89 which runs across the site and discharges into a manhole in the cul de sac. This drain has been identified in the application and Drawing No. 18.03.PL06C shows a new drainage proposal and provides for diversions to accommodate these drains. The measurements on the drawings are correct, and all surrounding properties are correctly shown. There is no proposal to provide a two-tier car port, two car parking spaces are provided within the boundary of the site.
- *Injury to the amenities of the area including the removal of parking area and trees* – Disagree, the recessed area outside the site is not a car park, the proposed entrance is set back behind the line of the boundary by c.4.3m from the edge of the road/line of existing grass verge, and two storey building is visually integrated into the site and surrounding area. The application provides for retention of existing mature trees to the rear of the site as well as soft and hard landscaping. Two mature trees within the grass verge are to be replaced.
- *Overlooking and loss of privacy* – Disagree, the first-floor screened garden and planning condition to provide opaque glazing to the proposed stairwell window on the south face of the building will address overlooking. The first-floor window to the bedroom will have a view onto the cul de sac only.
- *Loss of light* – Disagree as is evident in the sunlight assessment prepared by Green Solutions.
- *Overbearing impact* – Disagree, the overall scale height and massing of the proposed dwelling is appropriate for the site. The existing site is underutilised.
- *Visual impact* – Disagree that the proposed development will appear dominant and incongruous as it is adjoined by two storey houses to the north and east.
- *Health and safety* – KCC Area Engineer and Roads Department have no objections and proposal will not cause a traffic hazard or an increase in health and safety risk.

- *Non-compliance with KCC Development Plan and Celbridge LAP* – Disagree, proposal accords with Table 4.1 ‘Inner Suburban/Infill’ and Section 4.11 ‘Urban Infill and Backland Development’ of the KCC Development Plan.
- *Planning history* – The previously refused single storey house had a footprint twice the size of a two-storey dwelling and meets the Development Standards of the CDP.
- *Amenity of future occupants* – The proposed house has been carefully developed as a contemporary design which meets all of the standards set out in the KCC Development Plan and the D0EHLG Guidelines for ‘Quality Housing for Sustainable Communities’.

6.5. Planning Authority Response

The planning authority response can be summarised as follows;

- Notes that the location of the proposed entrance to the site is in a turning area and not a parking area. The proposed access will not negatively impact on the existing pedestrian access to the south, as appropriate construction management procedures will have to be complied with.
- The application was considered valid and compliant with the Planning and Development Regulations and the further information received was deemed to be significant given the alterations to the site boundary.
- The application site can facilitate 2 no. in curtilage car parking spaces which accords with the KCC Development Plan, while the existing informal parking outside the site was not a consideration.
- The innovative design of the proposed development and a condition regarding opaque glazing will not result in any undue overlooking to adjacent properties.
- A Shadow assessment of the impact of the proposed house on the rear areas of adjacent dwellings was included within the further information response and demonstrated the proposed development will not result in a substantial loss of sunlight and is therefore considered to be acceptable.
- Having regard to the size of the application site and separation distances it is considered the proposed development would not be unduly overbearing.

- The proposed design is innovative, contemporary and modern, and is considered wholly appropriate within this suburban context.
- Would welcome if ABP wish to attach a condition to include supplementary planting.
- The two-storey design and location of the dwelling is not considered to be overly obtrusive and notes the dwellings to the north and east are two storey dwellings.
- Request that ABP uphold the decision to grant permission.

6.6. Observations

None received.

6.7. Further Response from Applicant

6.7.1. A further response was lodged by Patrick Power Design Associates acting on behalf of the applicant in relation to the Planning Authority response. It can be summarised as follows;

- The planning application was prepared having regard to the Development Standards of Kildare County Development Plan 2017-2023, the Celbridge Local Area Plan, and the DoEHLG Quality Housing for Sustainable Communities and Neighbourhood Standards 2009.
- Overlooking has been designed out of the proposal.
- Loss of sunlight and overshadowing is not an issue as demonstrated by Green Energy Solutions 'Site Layout Planning for Daylight and Sunlight :A Guide to Good Practice (BRE 1991)' analysis.
- Concur with the views of KCC and submit to the Board that the decision to grant planning permission be upheld.

6.8. Further Responses from Third Party's

6.8.1. Further responses were lodged by the three third party appellants; David Mulcahy Planning Consultant on behalf of Miriam and Dermot Flynn and others, Anthony and Mary Keating, and Robert and Karen Nesbitt.

6.8.2. To avoid unnecessary repetition, I have grouped similar issues and generic responses, which can be summarised as follows;

- *Observations from KCC* - Strongly disagree with the observations outlined by KCC and question the assessment of the PA and whether the agents who prepared the application examined the site in detail.
- *Safety and pedestrian access* - Restrictions will need to be put in place for those who have cars and live around the turning area, and especially the household whose driveway runs parallel to the adjacent pedestrian walkway. An independent health and safety report prepared by Carrig Safety Consultants and submitted to KCC identified major safety concerns. These were not addressed by the P.A. in the planning decision or submission to ABP.
- *Traffic hazard* – The proposed house is located at the very edge of the road, in contrast to other houses in the estate which are set back. The existing boundary wall restricts views at the entrance to the south, which is very dangerous for pedestrians and cars.
- *Layout of 'locked in' car parking* – Is not in accordance with proper planning. The informal parking should be considered in the assessment of the application.
- *Construction management* – There is no place for construction traffic other than on the access road. Post construction health and safety issues not addressed.
- *Validity of the application* – Queries the errors on the site measurement, failure to identify location of main sewer and incorrect details on the surrounding properties and original plans.

- *Revised public notices* – Query why on foot of significant further information that the proposed development was not re-advertised.
- *Planning history* – Similar issues raised in previous application which was refused.
- *Overlooking* – The proposed balcony will result in overlooking of the adjoining properties. The balcony is 12.4m from the neighbours and there is no indication of how the opaque glazing is to be fitted.
- *Shadow analysis* – Query the quality of the assessment, query the inclusion of the chimney which measures 2.2m.
- *Loss of Sunlight & Overbearing* – Separation of 1m from the back fences of two houses adjoining the site will result in an undesirable precedent. 5.9m high wall will run down the back of two gardens which will be overbearing.
- *Design* – Out of place in a mature estate. Flat roofs are inappropriate and will add to the overbearing and overshadowing impact.
- *Roof garden* – Unorthodox arrangement and out of character.
- *Appropriate development* – Disagree, design height and confined site will seriously damage the amenities of adjoining properties,
- *Current housing demand* – Has unduly influenced sound planning decisions in the context of the scale of residential development in the area.
- *Planting* – Query condition in relation to supplementary planting in the absence of space for planting. KCC should have included a condition to include supplementary planting.

7.0 **Assessment**

7.1. There are three Third Party appeals, and I consider them jointly. The main issues raised in this appeal are those raised in the grounds of appeal and it is considered that no other substantive issues arise. Appropriate Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development

- Design and Visual Impact
- Impact on Adjoining Residential Amenities
- Access Parking and Traffic
- Other Matters
- Appropriate Assessment

7.1.1. I refer the Boards attention to the previous history on the site under P.A. Reg. Ref. 98/1466 whereby permission was refused in 1999 for a single storey bungalow on this site. The reasons for refusal have been cited above and relate to; the restricted site area, injury to residential amenities, over intensive use of the site, substandard residential development, inadequate provision of open space and rear garden depth.

7.1.2. The appellants have submitted that the current proposal does not address the reasons for refusal under P.A. Reg. Ref. 98/1466 and that similar reasons still apply to the proposed development.

7.1.3. The main differences between the previous application and this current application relate to the, provision of a two-storey house which has a reduced building footprint of 65.85sqm. This is significantly less than the footprint of the previously proposed single storey house. The current proposal provides a contemporary design and increased provision of open space. In this regard, I am satisfied that the current proposal is materially different to the previous proposal. The current application seeks to address issues raised in the previous application and reasons for refusal. However, my assessment will focus on the current proposal on its own merits.

7.2. Principle of Development

7.2.1. The Kildare County Development Plan 2017-2023 and the Celbridge Local Area Plan 2017-2023 are the current statutory development plans for the area.

7.2.2. The appeal site has a land use zoning objective 'Existing Residential/Infill' with the stated objective '*To protect and enhance the amenity of established residential communities and promote sustainable intensification.*' The proposed development comprises the subdivision of the site and construction of a two-storey house. In this

zone residential/infill development is permitted, and I consider that this type of development is acceptable in principle.

- 7.2.3. It is also noted that policy in relation to 'Inner Suburban/Infill' as set out in Table 4.1 of the Kildare County Development Plan supports the provision of additional dwellings within inner suburban areas of towns by infill or by sub-division. Section 4.11 of the Plan refers to 'Urban Infill and Backland Development' and supports the use of contemporary and innovative design solutions. In this context, the proposed development is considered entirely appropriate.
- 7.2.4. Concerns have been raised in relation to the proposed subdivision of the site for residential infill development which is not in accordance with Table 4.1 and Section 4.11. The subject site is reasonably generous in size with an overall stated area of 0.61ha and has an unusual configuration. It has the added advantage of being capable of being accessed from a separate entrance to the existing dwelling. In my opinion the site lends itself to subdivision.
- 7.2.5. I am satisfied that the development is fully in accordance with the zoning objective for the site. It will make a positive contribution to housing in the area and is considered appropriate from a planning perspective.
- 7.2.6. I am satisfied that the proposal is in line with the Kildare County Development Plan and is acceptable in principle.

7.3. Design and Visual Impact

- 7.3.1. The subject site is adjoined by a single storey bungalow with associated side and rear garden to the south, and the rear gardens of a number of two storey semidetached houses to the north. To the east the subject site has frontage onto a grass verge and planted area with vehicular turning area. It is located opposite two storey semidetached houses, and therefore requires a considered design response.
- 7.3.2. A previous application for a bungalow on the site under P.A. Reg. Ref. 98/1466 was refused by the P.A. in 1999. As noted above the current proposal for a two-storey house which is staggered in height and includes a flat sedum roof. The house is contemporary in design with external finishes mainly comprising smooth render.

- 7.3.3. The planning authority had concerns in relation to the proposed design in the context of the adjoining residential properties and requested site sections be submitted to illustrate the context of the adjacent single storey and two storey dwellings.
- 7.3.4. I have reviewed the elevation drawings and 3D images submitted with the application, including cross sections submitted by way of further information. I consider that they illustrate a realistic representation of the proposal as viewed from the adjoining houses and streetscape.
- 7.3.5. I concur with the appellants in that there are some discrepancies in these images notably the omission of the chimney, and inclusion of planting which does not currently exist.
- 7.3.6. The proposed two storey house is contemporary in terms of its form, roof profile, fenestration and finishes and in my opinion has been designed to take account of its context on this infill site. The overall height of the proposed house is staggered and ranges from 5.85m to c. 6.85m while the chimney level is 7.9m in height. I do not consider the building height to be excessive particularly given that flat roof design which considerably reduces the massing and bulk of the house.
- 7.3.7. I am also of the view that the proposed house can be accommodated on this site located as it is to the rear of two storey semidetached houses to the north and opposite the site to the east.
- 7.3.8. However, I also concur with the applicant and the planning authority that the relatively modest building height is not excessive on this site. I accept that the proposed design is in contrast to the established housing types within the estate, but I consider given the configuration of the site and relationship with adjoining houses and existing streetscape that an alternative design can be accommodated on this site.
- 7.3.9. I am satisfied from my site visit that the proposed design is an appropriate urban form on this infill site and represents an imaginative and innovative design response compared to the previous application on the site. It also represents a sustainable and efficient use of the site.
- 7.3.10. I am satisfied that the proposed design responds to the sites context and is acceptable in terms of urban design and visual amenity and will not detract from the streetscape.

7.4. Impact on Residential Amenity

- 7.4.1. Noting the residential/infill zoning objective for the appeal site, there is an obligation to reconcile the need to meet the requirements of the applicant seeking to maximise accommodation with the need to protect the residential amenities of adjoining property.
- 7.4.2. It is contended by the appellants that the proposed development is excessive in scale and will result in overshadowing and overlooking of adjoining residential properties.

Scale

- 7.4.3. As detailed above, the proposed house has a relatively modest floor area of 111.6sqm, on a site area of 0.23ha, and provides for a rear garden area of 98.1sqm. The provision of private rear amenity space, including the proposed roof garden is in excess of the development plan requirement for a 3-bedroom house. This layout also allows for a rear garden area to serve the existing bungalow of 150 sqm. In this context, I am satisfied that the development does not constitute overdevelopment of the overall site which has an area of 0.61ha.

Overshadowing

- 7.4.4. Section 17.2.4 and 17.2.5 of the County Development Plan provides guidance in respect of overshadowing and protection of residential amenities.
- 7.4.5. In this regard, I note the proposed development is set back from adjoining residential boundaries. The bungalow to the south of the appeal site and home to one of the appellants, has an east facing rear garden. The two storey houses to the north of the appeal site, benefit from south facing rear gardens.
- 7.4.6. The proposed two storey house as already noted is not excessive in scale or height and includes a flat roof which significantly reduces the massing of the proposed dwelling. I would also note that the rear gardens of the houses to the north each include sheds at the southern end of the gardens.
- 7.4.7. As noted in the planners' report, the planning authority initially had concerns in relation to the impact on the adjoining properties to the north and south and requested that a shadow analysis be submitted. On review of the shadow analysis drawings submitted they were satisfied with the proposal.

- 7.4.8. I have examined the shadow analysis carried out by the appellants agent and submitted as part of the further information response. I also note as highlighted by the appellants that the proposed chimney is indeed omitted from the analysis.
- 7.4.9. Nonetheless, the analysis indicates a marginal increase in overshadowing during the Spring equinox, at 1200hrs. Having visited the site early morning in the month of May, I am satisfied that the existing rear gardens of the appellants properties are not overshadowed at this time of day and that the proposed dwelling will not give rise to significant overshadowing.

Overlooking

- 7.4.10. Issues in relation to overlooking from the proposed first floor windows and winter garden have been raised in the third-party appeals. While I can appreciate these understandable concerns, having examined the details of the floor plans and elevations, including fenestration and screening proposals to the first-floor winter garden, I am satisfied that the proposed design has had due regard to this important residential amenity issue.
- 7.4.11. In particular I note that there are no windows on the first-floor gable north facing elevation directly adjoining the rear gardens of residential properties to the north. The proposed first floor winter garden in particular seeks an alternative design solution in providing day/sunlight to two of the first-floor bedrooms (which compensates for the absence of bedroom windows to bedroom 2 and 3). The 2m high screen around the winter garden will be finished in opaque glazing. I also note that the two storey houses located to the north benefit from standard rear garden lengths.
- 7.4.12. I also note that the only window at first floor on the southern side elevation serves a stairwell and this is to be finished in opaque glazing. I do not accept that there will be overlooking from the first-floor bedroom no. 1 of the existing two storey houses located opposite.
- 7.4.13. In summary, I am satisfied, that the proposed dwelling would not seriously injure the amenities of adjacent properties by way of overshadowing, overlooking, or overbearing and would be in keeping with the proper planning and sustainable development of the area.

7.4.14. I consider, therefore, that the appeal should not be upheld in relation to the issue of residential amenity.

7.5. Access Parking and Traffic

Access

7.5.1. The proposed dwelling is to be accessed from the adjoining cul de sac to the east along Crodaun Forest Park. In order to facilitate this, it is proposed to create a new vehicular entrance from the existing turning area, across an existing planted grass verge.

7.5.2. Concern has been raised by the appellants in relation to the principle of accessing the site from the east via Crodaun Forest Park, and in particular via the turning area in the cul de sac and consequent loss of car parking.

7.5.3. I would note given the configuration of the site that there is no alternative access available to the subject site. I would also note that in this instance the cul de sac is slightly unusual in that there is a narrow road from the cul de sac serving two additional houses to the south, which then leads to a pedestrian link to another road in the estate.

7.5.4. I also note that the Transportation Section of the P.A. had no objections to the proposed access. I am of the opinion that the proposed access arrangement is a reasonable solution to facilitate the development of this site.

Loss of Car Parking

7.5.5. Concern has been raised in relation to the parking arrangement and loss of car parking within the turning area. While I acknowledge that the existing turning area is used as an informal car parking area, as already mentioned each house along Crodaun Forest Park includes a driveway and parking area.

7.5.6. The proposed development provides for two in curtilage car parking spaces, which for a three-bedroom house accords with the car parking requirements as set out in County Development Plan. I see no issue with the car parking arrangement which is not unusual. In my opinion the issue of the loss of car parking spaces in what is essentially a turning area is overstated by the appellants.

Traffic and Pedestrian Safety

- 7.5.7. Concern has also been raised with regard to traffic and pedestrian safety during the construction and operational phase of the development and the appellants have submitted a safety report as part of the grounds of appeal.
- 7.5.8. I have had regard to the contents of this report and note that the main points relate to the construction phase of the development. I do accept that there are no footpaths along this cul de sac but would also note that the roadway is of sufficient width to accommodate cars and pedestrians. From my site inspection I do not accept that the roadway is congested and consider that the volume of traffic generated by the proposed development is potentially very modest, with no impediments to sightlines.
- 7.5.9. Again, I am of the opinion that the issue of traffic safety is overstated by the appellants. I am satisfied that subject to a construction traffic management plan being submitted for written agreement by the P.A. the proposed development for a single residential dwelling, will not give rise to a traffic hazard.
- 7.5.10. I am satisfied therefore, that there is insufficient basis to refuse permission on these grounds.

7.6. Other Matters

- 7.6.1. *Procedural matters* – The matters raised relate to the detail of the application drawings submitted to the planning authority and the planning authority procedures in dealing with the application. These are not matters on which the Board can adjudicate. The appeal before the Board is valid and the third party's right to participate is given full effect.
- 7.6.2. *Foul Drainage* - The appellants have raised concern in relation to whether the existing foul drain can be properly accommodated on site. In this regard Drawing No. 18.03.PL06C submitted with the application identifies the proposed drainage proposal which provides for diversions to accommodate the existing drains. I note the proposed foul and surface water arrangements were acceptable to the Environment Section and Water Services Department of the planning authority. I am satisfied that the proposal is acceptable subject to compliance with the requirements of the planning authority.

7.6.3. *Landscaping and trees* – The existing grass verge along the eastern boundary of the appeal site includes planting and trees which are to be removed to facilitate access to the proposed development. The appellants have raised concern regarding the loss of trees and representation of the existing planting and proposed planting on drawings submitted. The applicant has clarified in their response to the appeal that the two existing trees in the grass verge will be replaced. I concur with the P.A. that a condition in relation to proposed landscaping can be attached by way of an appropriate condition.

7.7. **Appropriate Assessment**

7.7.1. Having regard to the nature and scale of development to be constructed, to the nature of the receiving environment, 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 permission 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, to the pattern of development in the area and to the compliance with the development standards in the Kildare County Development Plan 2017-2023, and Celbridge Local Area Plan 2017-2023, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of property in the vicinity, would be acceptable in terms of traffic safety and convenience, would not be prejudicial to public health and would be in accordance with the provisions of the Kildare County Development Plan 2017-2023. 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 22nd August 2018, as amended by the further plans and particulars submitted on the 6th day of December 2018, except as may other 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 interest of clarity.

2. The windows to bathrooms, WC's and en-suite windows, the stairwell on the southern elevation and the winter garden screen shall be glazed with obscure glass.

Reason: To prevent overlooking of adjoining residential property.

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

Reason: In the interest of visual amenity.

4. The proposed dwelling shall be occupied as a single dwelling unit and shall not be subdivided or used for any commercial purposes.

Reason: In the interest of residential amenity.

5. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than [1:500] showing –

(i) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as

mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder which shall not include prunus species

(ii) Details of screen planting which shall not include cupressocyparis x leylandii

(iii) Details of roadside/street planting which shall not include prunus species

(iv) Hard landscaping works, specifying surfacing materials, and finished levels.

(b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment

(c) A timescale for implementation including details of phasing

All planting shall be adequately protected from damage until established.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

6. 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.

7. 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.

8. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

9. 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 this permission.

Susan McHugh

Planning Inspectorate

6th June 2019