



An
Bord
Pleanála

Inspector's Report ABP-310727-21

Development	Construction of a single storey dwelling house, garage/store for domestic use, connection to foul sewer and vehicular recessed entrance.
Location	Naas East, Naas, County Kildare.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	21268
Applicant(s)	Michael Moran
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party V Decision
Appellant	Ms. Sheila Deane
Observer(s)	None
Date of Site Inspection	31st August 2021
Inspector	Fergal O'Bric

1.0 Site Location and Description

- 1.1. The appeal site is located within the town development boundary of Naas, approximately 0.3 kilometres east of Main Street North, with access off a cul-de-sac which in turn leads onto Friary Road, a link Road between the Blessington Road to the east and Main Street to the west of the appeal site. The appeal site is located approximately 2.2 Kilometres south-west of junction 9 on the M7 Motorway, linking Dublin with the south-west of Ireland.
- 1.2. The appeal site is as infill one with a detached dwelling on very generous grounds to the west, the Gleann na Gréine residential development, a terrace of six dwellings to the north, two detached dwellings on individual sites to the east, and the cul-de-sac access road to the south and east of the appeal site. The houses in this vicinity include generous garden spaces. The area is characterised by low density residential development.
- 1.3. The appeal site is stated as being 0.084 hectares. The western boundary of the site comprises a post and wire fence and mature trees (within the bounds of the property to the west of the appeal site). The southern boundary comprises a double access gate to the appeal site, the eastern boundary comprises a timber fenced 2 metre boundary and the northern boundary is open to the south-eastern boundary of the Gleann na Gréine development. Site levels remain constant with those of the adjoining cul-de-sac and fall gradually towards the rear of the site, from south to north.

2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of a single storey dwelling, construction of garage/store for domestic use in rear garden space, connection to foul sewer on the cul-de-sac of the Gleann na Gréine development, new vehicular recessed entrance onto right of way leading to Friary Road and all associated site works.
- 2.2. The proposed dwelling would measure 229 square metres in area and would be 5.7 metres to the ridge level.

- 2.3. The proposed dwelling is of traditional style with contemporary elements, including a courtyard area to its west with 5 picture window features facing onto the courtyard area. The design of the house is narrow and elongated, consistent with the configuration of the appeal site. The internal layout arrangement provides for a kitchen/lounge/dining area, study, three ensuite bedrooms, a study, a television room, hot-press and bathroom.
- 2.4. The west elevation of the proposed house would be located approximately 10.5 metres from the rear elevation of the nearest house within the Gleann na Gréine development and 6 metres from the dwelling to the east (the appellants residence). The proposed dwelling would be located approximately 1.1 metres from the side (eastern and western) boundaries.
- 2.5. The applicant is proposing to lower ground levels on the site by approximately 0.267 metres (Drawing P5, submitted to the Planning Authority as part of the further information response). The finished floor levels of the proposed dwelling would be consistent with levels of the neighbouring residential properties to the east of the appeal site. The external finishes would comprise a napp plaster finish and a natural slate roof.
- 2.6. The dwelling would be provided with approximately 65 square metres of amenity space within the rear garden area, a courtyard area of approximately 77 square metres to the west of the dwelling and a further 80 sq. m of amenity space within the front garden area.
- 2.7. The vehicular access is from the cul-de-sac off Friary Road. The applicant is proposing to set back the entrance from the road. Space for two cars to park is proposed to the front of the dwelling.
- 2.8. Further information was submitted to the Planning Authority in relation to: The footprint of the dwelling, proximity to the site boundaries and the constrained nature of the site; Overlooking of neighbouring residential properties; Submission of a tree survey report; The submission of finished floor levels for the development; Boundary treatment details; Response to issues raised in third party observation.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority granted planning permission subject to 19 standard conditions. The relevant conditions are considered to be:

Condition Number 1: Permission been granted in accordance with details submitted to the Planning Authority on the 5th day of March 2021 and the further information submitted to the Planning Authority on the 18th day of May 2021.

Condition Number 2: External wall and roof finishes.

Condition Number 3: Landscaping in accordance with landscape plan submitted to the Planning Authority on the 18th day of May 2019.

Condition Number 9: Entrance details.

Condition Number 12; Surface Water management.

Condition Number 13: Connection agreement with Irish Water.

Condition Number 15: Site Development working hours.

Condition Number 19: Development Contributions.

3.2. Planning Authority Reports

3.2.1. Planner's Reports

The Planner's Report is the basis for the Planning Authority decision. It set out the following:

- The dwelling is of traditional design. It has a maximum ridge height of 5.7 metres.
- A two-metre block wall with concrete capping is proposed along the eastern site boundary and a timber post and rail fencing and landscaping along the western site boundary.
- Two car parking spaces are indicated at the front of the site.
- The proposed residential use is acceptable under the town centre zoning objective.

- Having regard to the urban and serviced location of the site, the residential character of the area, the scale of dwelling proposed, the separation distances achievable from the neighbouring residential properties and the proposed boundary treatment along the site boundaries, the proposed development would be considered to accord with the proper planning and sustainable development of the area.

3.2.2. **Other Technical Reports**

- Water Services: No objection subject to conditions
- Roads Transportation and Public Safety: No objection subject to conditions.
- Area Engineer: No objection subject to conditions.

3.3. **Prescribed Bodies**

- Irish Water: No objection subject to conditions.

3.4. **Third Party Observations**

An observation was received by the planning authority from a neighbouring resident, who owns a protected structure (former railway building) east of the appeal site. The issues raised within the observation are similar to those raised in the appeal submission summarised in section 6 below.

4.0 **Planning History**

I am not aware of any planning history pertaining to the appeal site.

5.0 **Policy Context**

5.1. **Development Plan**

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

Naas is designated Large Growth Town 1 within the Development Plan. Naas is designated as a Primary Economic Growth Town and is promoted for local and regional enterprise and servicing its urban and rural hinterland areas.

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.’

Chapter 16 sets out Urban Design Guidelines.

Chapter 17 sets out Development Management Standards.

5.1.2. **Naas Town Plan 2011-2017 (as extended)**

The site is within an area zoned ‘A – Town Centre’. To provide for the development and improvement of appropriate town centre uses including retail, residential, commercial, and civic uses. Dwellings are ‘permitted in principle’ under this zoning objective.

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.

5.1.3. **Draft Naas Local Area Plan 2021-2027**

This plan is at an advanced stage of preparation with material amendment having been on public display until August 2021. Within this Draft Plan, the appeal site is within an area zoned ‘A – Town Centre’

5.2. Natural Heritage Designations

None relevant.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal against the decision to grant planning permission by the planning authority has been lodged by the neighbour immediately to the east of the appeal site. The neighbour is presently carrying out works to a protected structure, changing its use from a restaurant to a dwelling as permitted by the Planning Authority under planning reference number 20/193.. The appeal may be synopsised as follows:

6.2. Design and Layout

- Is the bulk and mass of the dwelling appropriate on this restricted site?

Residential Amenity

- Mature trees have been removed from the site
- The privacy of the appellant has been adversely impacted upon with the removal of the trees.
- An unstable and low-level timber fence exists along the eastern boundary of the appeal site (facing the appellants property).
- A two-metre walled boundary as submitted by the applicant as part of his further information response would be satisfactory to the appellant. Should the Board decide to grant permission for the proposed development, this wall should be constructed prior to the commencement of development on the appeal site.

6.3. Applicant Response

The applicant made no response to the third-party appeal.

6.4. Planning Authority Response

The Planning Authority set out the following within its appeal response:

- The revised proposal submitted as part of the further information response are acceptable from a land use, residential amenity, and visual perspective subject to the provision of the two-metre wall along the eastern boundary of the appeal site.
- No overlooking or overshadowing of the neighbouring residential development would arise in this instance.

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 Development
- Design and Layout
- Residential Amenity
- Other Issues
- Appropriate Assessment

7.2. Principle of Development

7.2.1. As per the Naas Town Development Plan the site is within an area zoned A- Town Centre, the objective of which is 'To provide for the development and improvement of appropriate town centre uses including retail, residential, commercial, and civic uses. Dwellings are 'permitted in principle' under this zoning objective.'

7.2.2. The site already benefits from a vehicular access to it.

7.2.3. The houses in this vicinity of Naas have generous garden spaces. The subject site comprises a linear narrow infill site, with a depth of up to 43 metres and a width ranging from 6 metres at the entrance point to 9 metres within its rear garden space area.

- 7.2.4. I note that the Municipal District Engineer, the Roads, Transportation and Public Safety Department and Water Services Departments of the Local Authority outlined no objections to the proposed development subject to conditions.
- 7.2.5. I am satisfied, therefore, that given the urban, serviced nature of the site which is accessible to vehicles that the proposal would accord with the proper planning and sustainable development of the area, subject to issues in relation to design, layout and residential amenity being satisfactorily addressed. The proposal would accord with the guidance set out with Section 4.4.3 regarding infill development of the Naas Town Plan

7.3. Design and Layout

- 7.3.1. The appellant has raised the issue of the bulk and scale of the proposed dwelling on a restricted site. The site is deep and narrow. The design as presented provides for a narrow fronted single storey dwelling. As part of the further information response the applicant has lowered the finished floor levels and submitted a landscaping plan for the site as well as revised boundary treatment proposals.
- 7.3.2. The shape and configuration of the site have influenced the design and layout of the dwelling. The applicant has designed the dwelling as single storey, and this necessitates providing all accommodation on a single level. The dwelling would be set back approximately 19 metres from the roadside boundary. I am satisfied that the bulk and mass of the dwelling is well integrated in this instance, as the dwelling will read as a modest dwelling from the roadside entrance, is set will back from the roadside entrance and will be integrated in the townscape with the implementation of the landscaping plan as submitted as part of the further information response.
- 7.3.3. On balance, I consider that the design is satisfactory and has been specifically chosen having regard to the characteristics of the site, and that the revised proposal as submitted provides for a dwelling that will integrate satisfactorily within the local built urban environment.

7.4. Residential Amenity

- 7.4.1. 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 propose to address such matters in the following sections.

- 7.4.2. The applicant and the Planning Authority contend that the design and layout ensure that the privacy of adjoining properties is respected. I note that the proposed house is located approximately 6 metres removed from the nearest part of the appellants dwelling on the opposite (eastern) side of the cul-de-sac access road, and approximately 1.1 metres from the eastern site boundary.
- 7.4.3. I note that there are windows proposed to a ground floor bedroom located approximately 1.1 metres off the eastern side boundary, adjacent to the appellants dwelling). I also note the applicant's proposals to introduce a two-metre capped and plastered boundary wall along the eastern site boundary. I consider the location and proximity of these ground floor windows to the boundary to be acceptable. I am satisfied that the ground-floor fenestration would not give rise to overlooking of the neighbouring properties given the proposal for the boundary wall. Any visibility from the eastern elevation ground floor windows would be of the roof area of the appellants property, by virtue of the angle of the line of sight from the fenestration and is, therefore, considered acceptable.
- 7.4.4. I am satisfied that due to the satisfactory design and layout, amenity space provision, proposed boundary treatment, site levels and separation distances to neighbouring residential properties, the proposed dwelling would not give rise to undue overlooking or overshadowing of neighbouring properties and would not be seriously injurious to the residential amenities of the neighbouring dwellings.

7.5. **Other Issues**

- 7.6. The appellants raised the issue of the felling of trees on the site. It is apparent from the Google and GIS mapping imagery that the site was heavily planted with trees. The applicant states that the trees were removed due to safety concerns and that it is permissible to fell trees in urban settings under forestry legislation, once the trees are not subject to a preservation order. I am not aware of any tree preservation order being in place on this site. A report from Alderwood Tree care was submitted by the applicant as part of the further information response which states that the Cypress and Sycamore trees were felled due to their maturity and lack of maintenance and were deemed unsafe and unstable and posed a threat to adjoining properties and

the public road. I consider the explanation provided by Alderwood Tree care services to be acceptable.

7.7. Appropriate Assessment

- 7.7.1. The site is not located within any European site. The closest such European site to the subject site is at Poulaphouca Reservoir SPA which is located c.10.4 kilometres to the south-east of the site at the closest point.
- 7.7.2. The conservation objective for the Poulaphouca SPA is
- To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA:
- 7.7.3. The development proposal would not generate any foul discharges or surface water pathways that would impact on the conservation objectives of the Poulaphouca site. Given the relatively modest nature of the works, the degree of separation between the subject site and the European site, I do not consider that there is a clear pathway for emissions from the site arising from construction activities to reach the SPA and, therefore, I do not consider that there are any likely significant negative impacts arising in this regard.
- 7.7.4. 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 be granted for the following reasons and considerations

9.0 Reasons and Considerations

Having regard to the location of the site on town centre zoned lands in the Naas Town Development Plan 2011-2017 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 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 to the Planning Authority on the 5th day of March 2021, as amended by the further plans and particulars submitted on the 18th day of May 2021, 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 single 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. The applicant shall enter into water and waste-water connection agreements

with Irish Water, Prior to the commencement of development.

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 and Environmental 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. Site development and building works shall be carried out only between the hours of 0700 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 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 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.

- 10 The landscaping scheme shown on drawing number 03/E/21, submitted as further information to the planning authority on the 18th day of May 2021 shall be carried out within the first planting season following substantial completion of external construction works.

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.

Species shall be submitted to and agreed in writing with the Planning Authority. A timeframe for the implementation of the landscaping proposals shall also be submitted.

Reason: In the interest of residential and visual amenity.

Fergal Ó Bric
Planning Inspectorate

7th October 2021