



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311330-21

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<b>Development</b>	Two detached houses with shared vehicular access and associated site development works
<b>Location</b>	Curragh Road, Kildare Town, Co. Kildare.
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	201191
<b>Applicant(s)</b>	Rod Lynch
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Nahuel Uhlig
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	8 <sup>th</sup> February 2022
<b>Inspector</b>	Ian Boyle

## 1.0 Site Location and Description

- 1.1. The appeal site is located on the southern side of the R445 (Regional Road), also known as Curragh Road, near the eastern entry point to Kildare town centre, Co. Kildare. It is an infill site and adjoined by existing single storey semi-detached houses to the east and west, being Nos. 526 and 525 Curragh Road, respectively. Permission was recently granted for a bungalow on the rear part of No. 525. The bungalow would be near the shared boundary between the appeal site and No. 525.
- 1.2. The site is overgrown with scrub and undergrowth and there is a thick line of trees running along the front of the property. There is a hedgerow and some trees on the southern (rear) boundary of the site and beyond that there are agricultural fields. A painted concrete wall encloses the site on its front northern boundary. The wall extends in front of the neighbouring properties to the east and west.
- 1.3. There is a footpath at the front of the site leading into Kildare town centre, which is roughly 1.2km to the west. The housing development on the opposite side of Curragh Road is known as Ruanbeg Lawns.
- 1.4. The wider surrounding area is characterised by a mix of low-density detached and semi-detached housing and commercial development
- 1.5. The site has a stated area of 0.13ha

## 2.0 Proposed Development

- 2.1. The proposed development is for the construction of two detached houses with a shared vehicular access, private open space, car parking, and associated site development works.
- 2.2. The Planning Authority requested further information on 1<sup>st</sup> December 2020, including details regarding: the scale of the development proposed (Item 1), overshadowing of adjoining property to the west (Items 2 and 3), access arrangements (Item 4), proposed treatment for the site's eastern boundary (Item 5), provision of a landscaping plan (Item 6), details of foul water disposal (Item 7), and to note and response to third party observations made on the application (Item 8).

- 2.3. The Applicant responded with further information on 16<sup>th</sup> April 2021. The main revisions included a change showing a single storey dwelling on the south part of the site, as opposed to a 1½ storey house, and increased separation distance of 22m between it (House 1) and the proposed dwelling to the north (House 2).
- 2.4. The Planning Authority requested clarification of further information (CFI) on 4<sup>th</sup> May 2021, including a request for the Applicant to clarify drawing discrepancies relating to dwelling heights, and details regarding the proposed method of foul sewer disposal.
- 2.5. The Applicant responded with clarification of further information on 3<sup>rd</sup> August 2021.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The Planning Authority issued a Notification of Decision to Grant Permissions on 23<sup>rd</sup> August 2021, subject to 11 no. conditions, which were standard in nature.

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

##### **3.2.1. Planning Report**

- The proposed dwelling to the north of the site (House 1) broadly maintains the established building line along the street.
- The revisions to House 1, submitted as further information, comprised a reduced floorspace (decrease of c. 20.8sqm) and changes to internal layout. This has addressed the previous concerns regarding a lack of separation distance from the shared (western) boundary of the site.
- The revisions to House 2, submitted as further information, are also acceptable and the construction of a single-story house in this part of the site is preferable. This adequately addresses the concerns regarding potential overshadowing of the adjacent permitted dwelling (Reg. Ref. 18/848).
- The overshadowing analysis submitted as further information shows the potential impact on adjoining properties. It indicates that the proposed development would not negatively impact existing either the existing houses / sheds, or the permitted bungalow.

- Vehicular access to the proposed dwelling to the south (House 2) would be better served by sharing the driveway granted under Reg. Ref. 18/848 (permitted bungalow). The Applicant has not agreed such an arrangement with the adjoining the landowner. However, it is considered that the proposal – revised as part of further information – has overcome the previous concerns regarding separation distances and potential to cause negative residential amenity impacts, such as overshadowing.
- The proposed boundary treatment on the eastern side of the site, which is horizontal timber fencing with an overall height of 2m, is acceptable.
- The submitted landscaping plan and proposed foul sewer service arrangement are both acceptable.
- In summary, having regard to the nature and design of the proposed development, and character of adjoining development, it is considered that the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be in accordance with the proper planning and sustainable development of the area, subject to conditions.

### 3.2.2. **Other Technical Reports**

Area Engineer: No objection, subject to standard conditions.

Water Services: Initially further information requested showing details of the proposed foul service arrangement, including finished floor levels, ground levels, etc. to demonstrate that the public foul sewer could be served by gravity. Standard conditions recommended upon receipt of CFI response.

Transportation: No objection, subject to standard conditions.

Housing: No objection.

### 3.3. **Prescribed Bodies**

Irish Water: Initially further information requested as the proposed gradients onsite would not achieve a self cleansing velocity in the pipework. Standard conditions recommended upon receipt of Applicant's CFI response, including that the Applicant must sign a connection agreement for water and sewerage with Irish Water prior to the commencement of the development.

### 3.4. Third Party Observations

A total of 2 no. third party submissions were received by the Planning Authority. The submissions are from residents in the area, including Tom McCormack (Silver Birch Cottage, Curragh Road, Kildare) and Nahuei Uhlig (526 Curragh Road, Kildare).

The main issues can be summarised as follows:

- There is permission for a bungalow on the adjoining site to the west (Reg. Ref. 18/848). The proposed development should not negatively impact on the residential amenity of this permitted dwelling.
- No objection to a single storey dwelling being built on the site, which would be in line with other existing dwellings and the character of development on Curragh Road.
- The proposed development would lead to high intensity housing in low density setting.
- The proposed dwellings are located too close to the adjoining east and west party boundaries and would lead to overlooking and overshadowing of adjoining properties and gardens.
- Traffic concerns.

### 4.0 Planning History

#### Subject Site

None.

#### Surrounding Area

Reg. Ref. 18/848: The Planning Authority granted permission for the construction of a bungalow and ancillary site works on the site adjoining west. The site is owned by one of the third party observers (Tom McCormack).

## 5.0 Policy Context

### 5.1. Kildare Local Area Plan 2012-2018

The appeal site is zoned 'B – Existing Residential' under the Kildare Local Area Plan 2012-2018 ('LAP'), which has the following stated objective:

- *To protect and improve existing residential amenity: to provide for appropriate infill residential development; to provide for new and improved ancillary services.*

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

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

#### **Section 2 Core Strategy**

Section 2 of the Kildare County Development Plan 2017-2022 (the 'County Development Plan') recognises Kildare as a 'Moderate Sustainable Growth Town – Hinterland Area'.

#### **Section 3 Settlement Strategy**

Section 3.4.2 (Settlement Strategy) states that the overall function for Moderate Sustainable Growth Town within the Hinterland Area is to develop in a self-sufficient manner, reducing commuting levels and ensuring sustainable levels of housing growth, providing a full range of local services adequate to meet local needs at district level and for surrounding rural areas.

The provision of a strong social infrastructure in tandem with growth in population, particularly in relation to schools and leisure facilities is also required. These towns will also seek to encourage economic opportunities through the provision of high

quality transport connections, good social infrastructure provision and a strong local labour market.

### **Other Relevant Sections**

The following sections of the County Development Plan are considered most relevant:

- Chapter 4 – Housing
- Chapter 13 – Natural Heritage and Green Infrastructure
- Chapter 14 – Landscape, Recreation and Amenity
- Chapter 15 – Urban Design Guidelines
- Chapter 17 – Development Management Standards

Table 4.1 of the Development provides guidance on appropriate locations for new residential development and states the following in this regard:

*“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 sites or sites assembled from a multiplicity of ownerships. Sub-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.”*

### **Policy DL 1**

*Promote a high quality of design and layout in new residential developments and to ensure a high quality living environment for residents, in terms of the standard of individual dwelling units and the overall layout and appearance of the development.*

### **Objective SRO 1**

*To encourage the consolidation of existing settlements through well designed infill developments in existing residential areas, located where there are good connections to public transport and services and which comply with the policies and objectives of this Plan.*

### **Objective SRO 2**

*Consider backland development generally only where development is carried out in*

#### **GI 9**

*Ensure that proper provision is made for the consideration, protection and management of existing networks of woodlands, trees and hedgerows when undertaking, approving or authorising development.*

#### **GI 11**

*Ensure that hedgerow removal to facilitate development is kept to an absolute minimum and, where unavoidable, a requirement for mitigation planting will be required comprising a hedge of similar length and species composition to the original, established as close as is practicable to the original and where possible linking in to existing adjacent hedges. Native plants of a local provenance should be used for any such planting.*

### **Section 17.4.5 Dwelling Houses – Design / Layout / Boundary Treatment**

- *Special consideration should be given to boundary treatments particularly where these adjoin existing dwellings. Boundaries between the rear of existing and proposed dwellings shall be a minimum of 1.8m high and shall be constructed as capped, rendered concrete block or brick walls, to ensure privacy, security and permanency.*
- *High quality boundary treatments are generally required to enclose private open space. A 1.8m – 2m high wall of solid block, capped and plastered on both sides, is generally acceptable. The Council will consider alternative boundary treatments on their merits. All boundaries shall be of high quality solid construction with no gaps. Post and wire or timber post and panel fencing is not permitted.*



### 5.3. National Planning Policy

- *sSustainable Residential Development In Urban Areas – Guidelines for Planning Authorities, 2009*
- *BRE Guide 'Site layout Planning for Sunlight and Daylight', 2011*
- *Design Manual for Urban Roads and Streets, 2019*

### 5.4. Natural Heritage Designations

There are no designated European sites within the vicinity of the subject site.

Pollardstown Fen SAC and pNHA (Site Code 000396) is located approximately 4.3km metres to the northeast of the site.

The Curragh pNHA (Site Code: 000392) is roughly 520 metres to the east of the site.

### 5.5. EIA Screening

Having regard to the nature and small scale of the proposed development, which consists of two detached dwellings in a fully serviced, urban area, and its 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

There is one third party appeal on file, which is from Nahuei Uhlig of No. 526 Curragh Road, Kildare, which is the adjoining property to the east.

The main grounds of appeal are summarised as follows:

- The proposed 2m high timber boundary treatment is inappropriate having regard to health and safety risks posed by a wooden division, including:

- Driveways for the existing and proposed dwelling would be only a few centimetres apart and, therefore, would give rise to car pollution, noise, security issues, disruption to daily life, and a risk of parking accidents.
- Strong winds coming off the Curragh and motorway during the wintertime could pose a safety risk if the boundary treatment is only wooden.
- A 2m high concrete boundary would be more appropriate.
- The proposed Landscape Plan should be reconsidered as there are mature and significant trees situated at the rear (south) part of the site that accommodate birds and various wildlife from the area. The removal and/or replacement of these trees would have an irreversible impact on flora and fauna.

## 6.2. Applicant Response

- None received.

## 6.3. Planning Authority Response

- Planning Authority has reviewed the Third Party Appeal and has no further comments or observations to make. The Council requests the Board to uphold its decision to grant permission for the proposed development.

## 7.0 Assessment

The main planning considerations relevant to this appeal case are:

- Design, Layout and Boundary Treatments
- Landscaping
- Appropriate Assessment

### 7.1. Design, Layout and Boundary Treatments

- 7.1.1. Kildare is identified as a Moderate Sustainable Growth Town in Hinterland Area in the County Development Plan. The site is zoned 'Objective B - Existing Residential / Infill', which has the stated objective *'to protect and improve existing residential*

*amenity, to provide for appropriate infill residential developments and to provide for new and improved ancillary services’.*

- 7.1.2. The appeal site is in an established residential area located in the transition between the edge of centre and outer town area, as per the description referenced in the ‘Sustainable Residential Development Guidelines in Urban Areas for Planning Authorities (2009)’. The principle of infill residential development and consolidation of the existing zoned and serviced area is consistent with the principles set out in national and local policy regarding urban consolidation and densification. It is also consistent with Policy SRO 1 of the County Development Plan, which seeks to encourage the consolidation of existing settlements through well designed infill developments in existing residential areas, located where there are good connections to public transport and services and which comply with the policies and objectives of the Plan. Therefore, the principle of an infill residential development on this site is considered acceptable.
- 7.1.3. On foot of the request for further information, the Applicant increased the setback distances for the proposed development from its side boundaries and reduced the height of dwelling on the south part of the site from 1½ storeys to 1 storey (House 2). House 1 was reduced in floor area and internal layout changes were made to address potential concerns regarding overshadowing and overlooking. The proposed overall site layout was also amended so that a minimum 22m separation could be achieved between each of the new houses on the appeal site. No overlooking or significant impacts on the residential amenity of adjoining property is, therefore, considered likely to arise.
- 7.1.4. I note, however, that the Appellant has raised concerns regarding the quality and robustness of the proposed boundary treatment along the eastern side of the site, which comprises horizontal timber fencing with concrete posts. I note that the new driveway would be situated parallel and very close to the existing driveway associated with No. 526 Curragh Road, which is on the Appellant’s property. In my opinion, such an arrangement would likely result in unacceptable amenity impacts arising, for both properties, including that of noise caused by vehicles using the driveways.
- 7.1.5. The Appellant submits that a concrete wall would be a more appropriate boundary treatment in this location and that, in addition to helping to reduce or ameliorate noise, it would also be easier to maintain and provide better safety for residents on

each side of the party boundary. In this regard, I note Section 17.4.5 of the County Development Plan, which is in relation to 'Dwelling Houses – Design / Layout / Boundary Treatment'. The Plan states that *'high quality boundary treatments are generally required to enclose private open space. A 1.8m – 2m high wall of solid block, capped and plastered on both sides, is generally acceptable. The Council will consider alternative boundary treatments on their merits. All boundaries shall be of high quality solid construction with no gaps. Post and wire or timber post and panel fencing is not permitted'*.

- 7.1.6. Whilst I acknowledge the proposed boundary treatment would not exclusively be used for the enclosure of private open space, I consider that a design and finish which generally matches the above policy description would be more appropriate than timber fence in this case. Therefore, I recommend that the provision of a 1.8 – 2m high wall of solid concrete block, capped and plastered on both sides, should be made a requirement under condition, should the Board be minded to grant permission. A proposal for planting along the boundary wall should also be included as part of the revised landscaping plan (see Section 7.2 below).

## **7.2. Landscaping**

- 7.2.1. The Appellant has raised a concern in that the trees along the southern / rear part of the appeal site are to be removed and that this would have a negative impact on birds and other wildlife in the area.
- 7.2.2. During my site inspection I noted that there is a hedgerow and line of trees on this part of the site and that beyond this there are agricultural fields. Given the mature and established nature of the hedgerow and trees against a backdrop of open countryside and undeveloped farming land, I consider that the retention and ongoing maintenance of the subject vegetation would be appropriate. In this regard, I note Policies GI 9 and GI 11 of the County Development Plan, which seek to protect, manage and keep to an absolute minimum the removal of hedgerows to facilitate new development, and that where this is necessary to require a hedge of similar hedge length and species composition.
- 7.2.3. The Landscape Plan submitted as part of further information (Drwg. No. FI-008, dated 24<sup>th</sup> February 2021) provides limited details regarding the Applicant's intention

for the above-mentioned hedgerow and trees. Whilst I note that the Proposed Site Layout Plan (Drwg. No. FI-007, dated 24<sup>th</sup> February 2021) indicates that the general intention is to retain and reinforce the existing boundary, this should be included on the relevant Landscape Plan with specific maintenance and management measures outlined, together with any supplement planting that is envisaged.

- 7.2.4. Therefore, in the event permission is granted by the Board, I recommend that a condition be included requiring that a detailed Landscape Plan be completed and submitted to the Planning Authority for consideration prior to commencement of development. As noted above, proposed details of planting species for along the eastern boundary wall should also be included. Where space is limited, this potentially could be ivy or a similar such species.

### 7.3. **Appropriate Assessment**

Having regard to the nature and small scale of the proposed development; which is for two detached houses and ancillary site works, located within an urban and serviced area, and the distance from the nearest European site; no Appropriate Assessment issues arise. Therefore, 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 reasons and considerations set out below.

## 9.0 **Reasons and Considerations**

Having regard to the provisions of the Kildare County Development Plan 2017-2023, the Kildare Local Area Plan 2012-2018, and to the size, scale, design and location of the proposed development, which is consistent with the character and form of development in the surrounding area, 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 the area, or of property in the vicinity,

would provide an acceptable standard of amenity for future residents and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>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 16<sup>th</sup> April 2021, and by the further plans and particulars received by the Planning Authority on the 3<sup>rd</sup> August 2021, 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <p>(a) The proposed party wall on the eastern boundary of the site shall be a minimum of 1.8m in height and constructed in solid concrete block, capped, and plastered on both sides.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interests of visual and residential amenity.</p>
3.	<p>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:</p> <p>(a) A plan to scale of not less than 1:500 showing –</p>

	<ul style="list-style-type: none"> <li>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.</li> <li>ii. Details of roadside/street planting.</li> <li>iii. Hard landscaping works, specifying surfacing materials, finished levels.</li> </ul> <p>(b) Specifications for mounding, levelling, cultivation, and other operations associated with plant and grass establishment.</p> <p>(c) Details of the proposed planting species for along the eastern boundary wall.</p> <p>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.</p> <p><b>Reason:</b> In the interest of residential and visual amenity.</p>
4.	<p>The trees and hedgerow on the southern site boundary shall be retained and maintained with the exemption of those strictly required to facilitate the development, unless otherwise agreed in writing with the Planning Authority.</p> <p><b>Reason:</b> In the interests of residential and visual amenity.</p>
5.	<p>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 all intended construction practice for the development, including measures for protection of existing development and boundary walls, construction traffic routing and management, construction parking, materials storage, site compound,</p>

	<p>noise management measures and off-site disposal of construction/demolition waste.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
6.	<p>Prior to commencement of development, final finishes, construction makeup and detailing of the proposed footpath and the layout of the proposed car parking, junction kerbing, drainage, road markings, and signage, shall be submitted to and agreed in writing with the Planning Authority.</p> <p><b>Reason:</b> In the interests of public safety and residential amenity.</p>
7.	<p>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.</p> <p><b>Reason:</b> In order to safeguard the [residential] amenities of property in the vicinity.</p>
8.	<p>Surface water drainage arrangements for the proposed development shall comply with the requirements of the Planning Authority.</p> <p><b>Reason:</b> In the interest of public health.</p>
9.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
10.	<p>The developer shall pay to the planning authority a financial contribution 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</p>



	<p>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.</p> <p><b>Reason:</b> 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.</p>
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Ian Boyle  
Planning Inspector

5<sup>th</sup> April 2022