



An
Bord
Pleanála

Inspector's Report

ABP-314340-22

Development	Construction of a two storey detached dwelling and single storey gate lodge.
Location	Ryston, Newbridge, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	211652
Applicant(s)	Denise Harris
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Cllr. Robert Power, Evonne Boland, John & Margaret Armstrong & others.
Observer(s)	Cllr. Tracey O'Dwyer, Melanie Tierney, Peggy O'Dwyer, Noel & Ann Caffrey.

Prescribed Bodies

Development Applications Unit,
Department of Housing, Local
Government and Heritage

Date of Site Inspection

19th December 2023.

Inspector

Clare Clancy

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1.0 Site Location and Description

- 1.1.1. The appeal site, which has an overall stated area of 1.548 ha is located at Ryston in the town of Newbridge. The site is a backland site. It is bounded to the northwest by Ryston Sports and Social Club and pitch and putt course, to the northeast and south by the Liffey Linear Park, and to the southwest by Ryston Avenue housing estate. A number of single dwellings adjoin the site at the southwestern corner and at the western boundary. There is an area of 'open space' associated with the public amenity walkway of the park abutting the site to the southeast. There is an existing access in place from the pitch and putt course in the north-eastern boundary of the site and a pedestrian access (kissing gate) from the site onto Ryston Avenue located midway on the northwestern boundary.
- 1.1.2. The topography of the site is relatively flat and level with the immediate adjoining residential areas. The site is slightly elevated relative to the adjoining public amenity areas (Liffey Linear Park) to the east and northeast, and beyond the site the wider area is generally low-lying. The site is enclosed by steel fencing and the eastern boundary of the site is well defined by mature trees and hedgerow. The northwestern and southwestern boundaries of the site are defined by overgrown hedgerows and mature trees.
- 1.1.3. The recreational route serving the Liffey Linear Park is accessed off the R416 to the south of the site where there is an existing public car park at this access point. The route is approx. 1.2 km in distance and extends along the rear of Ryston Close, to the rear of the appeal site and loops around to the northeast of the site heading parallel with the River Liffey to the east and the R416 to the west. It terminates at the junction of the R445 and the R416. The appeal site is located between an area zoned 'open space' and the town centre, and is also situated approx. 1.4 km to the southeast of Newbridge train station.
- 1.1.4. The proposed vehicular access to serve the site will be off Ryston Avenue which is a cul de sac road providing access from the existing residential development onto the adjoining R416 Athgarvan Road. A temporary construction road will provide access to the site via the pitch and put golf course to the northwest where there is already an existing access in place. There are no defining boundaries in place for the dwellings fronting onto Ryston Avenue, between the access drives and the gardens serving the

dwellings and that of the carriageway serving Ryston Avenue. There are no footpaths along the avenue to the public road.

2.0 Proposed Development

The proposed development comprises the construction of a two-storey detached dwelling (1,036.86 m²), a single storey detached dwelling / gate lodge (107.78 m²) a new vehicular entrance off Ryston Avenue, car parking, driveway, landscaping, a temporary construction access from Ryston Pitch and Putt Course, and all ancillary site development works.

3.0 Planning Authority Decision

In considering the application, the planning authority sought further information and clarification of further information in relation to a number of matters including access arrangements from the site, road traffic safety, landscaping proposals, landownership, details in relation to connection to the foul sewer and wayleave agreement with the council. Clarification of further information was sought in relation to the revised access arrangements, following the further information request.

3.1. Decision

- 3.1.1. On the 13th July 2022, Kildare County Council issued notification of decision to grant permission subject to 25 conditions. The conditions include for an occupancy condition restricting the use of the two dwellings and the site for private residential use only, the transfer of lands as per planning application 21/1625 to Kildare County Council, management of surface water, implementation of the landscaping plan with a separate condition preventing occupation of the dwelling until the landscaping is fully implemented.

Other conditions relating to the management of the site during construction phase were included relating to hours of operation, noise control, management of potential archaeology on site and managing construction vehicles and /or equipment with regard to the public roads in accessing the site.

3.1.2. Condition No. 1 of Schedule 2 of the final grand notes the following:

The proposed development shall be carried out in accordance with the documentation received by the planning authority on 23rd November 2021, 30th March 2022, and 21st June 2022 and revised statutory notices received 05th April 2022 except where altered or amended by conditions in this permission.

It would appear that one of the dates 21st June 2022 which relates to Clarification of Further Information received by the planning authority as specified in condition 1, may be incorrect and should read 17th June 2022.

3.2. Planning Reports

Three planning reports form the basis of the assessment and decision of the planning authority.

- The first planning report sought further information on 17 no. items. The main points related to;
 - the submission of site section drawings and levels vis a vis adjoining dwellings and for the proposed entrance,
 - clarification regarding landownership at the proposed entrance,
 - to address sight lines and to provide a critical swept path analysis for Ryston Avenue,
 - to provide a landscaping management plan including the management of boundary treatments,
 - to enter into a wayleave agreement in regard to regulating future access/maintenance requirements for the 'surface water' connection in Liffey Linear Park,
 - to provide a vehicular access service road along the southern boundary of the site,
 - and the transfer of 2 areas of land to Kildare County Council that relate to the aforementioned southern boundary of the site.
- The second planning report concluded that all of the issues that were raised were addressed, however further clarification of the response received in

regard to item no. 7 of the initial further information request was required. This related to the swept path analysis for the proposed access to the site off Ryston Avenue. The planning authority was not satisfied that the applicant had shown that access was adequately achievable.

- Following receipt of the clarification of further information, the planning authority concluded that the proposed access from the site onto Ryston Avenue was acceptable and recommended to grant permission, subject to 25 conditions.

3.3. Other Technical Reports

Water Services:

- No objection subject to conditions, ensure adequate wayleave in place around pipe to ensure future access, if required, Irish Water connection agreement and conditions relating to surface water management.

Municipal District Engineer:

- No objection subject to conditions relating to surface water management and the construction of drains, construction waste management vis a vis public roads, and any damage to the public roads or Ryston Avenue to be repaired by the applicant.

Roads, Transportation and Public Safety Department:

- Following on from the further information request and a additional request for clarification of further information, the third report dated 06th July 2022 notes no objection to the proposed development subject to inclusion of a number of standard conditions and specifically a condition requiring the lines of sight at the vehicular entrance on the R416 are strictly maintained in accordance with drawing number 5007.

Parks Department:

First report dated 18th January 2022 recommended further information in regard to:

- The provision of details and plans for the site boundaries proposed landscaping, identifying trees and hedgerows to be retained / removed, for

remedial and improvement works to retained trees whilst noting that timber fencing or timber post and rail fencing is not acceptable.

- Transfer of 2 no. plots of lands to Kildare County Council along the southern site boundary, (i) the area of land containing the required vehicular service access road along the southern site boundary, (ii) the area of land located at the southern site boundary outside of the existing palisade fence indicated on drawing KCC 22-06-02.

Second report dated 27th April 2022 recommended refusal of permission as the applicant did not agree to the requirement to provide a vehicular service access road along the southern site boundary but recommended conditions in the event of a grant.

Heritage Officer:

- Further information to be sought in regard to providing a lighting plan to ensure lighting does not impact on local biodiversity.
- Second report dated 03th April 2022 noted potential for archaeology given proximity to River Liffey and recommended inclusion of condition regarding archaeological assessment.

3.4. Prescribed Bodies

Irish Water:

- No objection subject to conditions.

An Taisce:

- No submission received.

Inland Fisheries Ireland:

- Highlighted the significance and sensitivity of the River Liffey and local watercourses in the Liffey catchment area in supporting Atlantic salmon listed under Annex II and V of the EU Habitats Directive, sea trout, resident brown trout and several other fish species. No objection subject to comprehensive conditions in relation to surface water management.

National Heritage Council:

- No submission received.

An Comhairle Ealaíon:

- No submission received.

Department of Transport, Tourism and Sport:

- No submission received.

Fáilte Ireland:

- No submission received.

Development Applications Unit:

- Recommended archaeological monitoring to be carried out as a condition of planning.

3.5. Third Party Observations

A total of 25 observations were made in objection to the proposed development. The issues raised are largely covered by the grounds of appeal.

4.0 Planning History

Relevant Adjacent Site to the northwest:

P.A. Ref. No. 05/171 permission granted alterations and a two storey extension to the existing clubhouse.

5.0 Policy Context

5.1. National Planning Framework (NPF)

- 5.1.1. The NPF seeks to focus growth on cities, towns and villages with an overall aim of achieving higher densities than have been achieved to date. The relevant National Strategic Outcomes (NSOs) and National Policy Objectives (NPOs) include the following:

- NSO 1 Compact Growth

From an urban development perspective, we will need to deliver a greater proportion of residential development within existing built-up areas of our cities, towns and villages and ensuring that, when it comes to choosing a home, there are viable attractive alternatives available to people.

- NPO 4 Ensure the creation of attractive, liveable, well designed, high quality urban places that are home to diverse and integrated communities that enjoy a high quality of life and well-being.
- NPO 5 Develop cities and towns of sufficient scale and quality to compete internationally and to be drivers of national and regional growth investment and prosperity.
- NPO 6 Regenerate and rejuvenate cities, towns and villages of all types and scale as environmental assets, that can accommodate changing roles and functions, increased residential population and employment activity and enhanced levels of amenity quality, in order to sustainably influence and support their surrounding area.
- NPO 35 Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development structures, area or site-based regeneration and increased building heights.

5.2. Ministerial Guidelines and Circulars

5.2.1. Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities, January 2024.

In line with the priorities as set out in the NPF;

- The overarching objective when planning for sustainable residential development and compact settlements is to support more intensive use of existing buildings and properties, including the re-use of existing buildings that are vacant and more intensive use of previously developed land and infill sites, in addition to the development of sites in locations served by existing facilities and public transport,

- Table 3.6 Areas of Density Ranges Small to Medium Sized Towns – it is a policy and objective of the Guidelines that the scale of new development in the central areas of small to medium sized towns should respond positively to the scale, form and character of existing development, and to the capacity of services and infrastructure (including public transport and water services infrastructure).
- Policy and Objective 3.1 – it is a policy of the Guidelines that the recommended residential density ranges set out in Section 3.3 are applied within statutory development plans and in the consideration of individual planning applications, and that these density ranges are refined further at local level using the criteria set out in Section 3.4 where appropriate.

5.2.2. Development Management Guidelines for Planning Authorities, June 2007

Section 5.13:

“.....where in making an application, a person asserts that he/she is the owner of the land or structure in question, and there is nothing to cast doubt on the bona fides of that assertion, the planning authority is not required to inquire further into the matter. If, however, the terms of the application itself, or a submission made by a third party, or information which may otherwise reach the authority, raise doubts as to the sufficiency of the legal interest, further information may have to be sought under Article 33 of the Regulations. Only where it is clear from the response that the applicant does not have sufficient legal interest should permission be refused on that basis. If notwithstanding the further information, some doubt still remains, the planning authority may decide to grant permission. However such a grant of permission is subject to the provisions of section 34(13) of the Act, referred to above. In other words the developer must be certain under civil law that he/she has all rights in the land to execute the grant of permission.

5.3. Regional Spatial Economic Strategy for the Eastern and Midlands Region (RSES) 2019 – 2031

- RSO2: Compact Growth and Urban Regeneration

Promote the regeneration of our cities, towns and villages by making better use of under-used land and buildings within the existing built-up urban footprint and

to drive the delivery of quality housing and employment choice for the Region's citizens. (NSO 1).

5.4. Development Plan

5.4.1. Kildare County Development Plan 2023-2029 is the operative plan:

- Newbridge is identified as a 'Self-Sustaining Growth Town' in the Settlement Hierarchy of Chapter 2 Core Strategy and Settlement Strategy.
- Table 2.8 Core Strategy Table identifies the Targeted Residential Density of 35-50 units per hectare for Newbridge town.
- The following relevant policies and objectives of the council are set out in Chapter 2:

CSO 1 Ensure that the future growth and spatial development of County Kildare is in accordance with the population and housing allocations contained in the Core Strategy which aligns with the regional growth strategy as set out in the National Planning Framework and Regional Spatial and Economic Strategy for the Eastern and Midland Region and further specified in the 'Housing Supply Target Methodology for Development Planning'.

CSO 4 Ensure that sufficient zoned and adequately serviced lands are available to meet the planned population and housing growth of settlements throughout the county in line with the Core Strategy and the Settlement Hierarchy.

CSO 5 Promote compact growth and the renewal of towns and villages through the development of underutilised town centres and brownfield sites, and where appropriate, pursue through active land management measures a co-ordinated planned approach to developing appropriately zoned lands at key locations....

- The following policies and objectives set out in Chapter 3 Housing are relevant:

HO P6: Promote and support residential consolidation and sustainable intensification and regeneration through the consideration of applications for infill development, backland development, re-use / adaption of existing housing stock and the use of upper floors, subject to the provision of good quality accommodation.

HO O7: Promote, where appropriate and sensitive to the characteristics of the receiving environment, increased residential density as part of the Council's development management function and in accordance with the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities and the accompanying Urban Design Manual, DEHLG, May 2009.

- Chapter 15 sets out the Development Management Standards for residential development in Section 15.4.

5.5. Local Area Plan

The appeal site is located in the functional area of the Newbridge Local Area Plan 2013-2019¹ (NLAP) (extended to 22nd December 2021). No replacement plan has been adopted to date. However the following is noted:

- The appeal site was zoned E2 with the objective that Ryston is '*generally identified for a nursing home with supporting infrastructure*'.
- Map 3 Strategic Flood Risk Assessment – indicated that the site is located in an area where development proposals are to be the subject of site-specific Flood Risk Assessment appropriate to the type and scale of the development being proposed.
- Map 5 Natural and Archaeological Heritage – indicated trees for protection within and adjoining the site.

Table 16 Trees to be Protected – referred to trees in the grounds of Ryston along Athgarvan Road and at the main entrance and also includes trees along boundary to residential development to the south.

5.6. Natural Heritage Designations

The nearest European sites in close proximity to the appeal site are the following:

¹ Newbridge Local Area Plan 2025-2031 is currently at pre-draft stage.

European Site	Designation	Site Code	Distance
Pollardstown Fen	SAC	00396	2.4 km to west of site
Mounds Bog	SAC	002331	3.4 km to north of site
Ballnafagh Lake	SAC	001384	10.5 km to north of site
Ballynafagh Bog	SAC	000391	12.4 km to the north of site
River Barrow & River Nore	SAC	002162	12.54m to south west of site

5.7. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity or any connectivity to any 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.

5.8. Grounds of Appeal

There are three third party appeals against the decision to granted permission from the following:

Cllr. Robert Power, Evonne Boland on behalf of Newbridge Community Development and John and Margaret Armstrong and others.

It should be noted that a fourth appeal from Jenny Tierney and others was withdrawn.

The issues raised in the appeals can be summarised under the following key headings:

5.8.1. Land Use Zoning and the Principle of Development

- The development is contrary to the zoning objective for the site 'Community and Education E2' in the Newbridge Local Area Plan (NLAP) which identifies the use of a nursing home and supporting infrastructure for the site.

- The strict caveat associated with the definition of 'Open for Consideration' only allows for a dwelling if the general objectives for the zone are met.
- The proposed development will extinguish any future potential for the lands to deliver for community and educational use for the town.
- The NLAP previously proposed access via the Pitch and Putt Club rather than through Ryston Avenue.
- The proposed development contravenes the Open Space objectives of the NLAP. The Draft Newbridge Town Renewal Plan indicates that the lands should be classified for 'Leisure Uses'.
- The site is identified in the Draft Newbridge Town Renewal Plan as an area for potential enhancement.
- The proposed development is an inefficient use of prime back lands adjacent to the town centre. If the site was zoned 'residential' the council would be seeking a high density development for the site.
- The planning authority's assessment concluded that 'the principle of infill development and compact settlements is promoted at national, regional and local levels' which the development does not achieve.
- There is a historic use of the lands being used for recreational and amenities.
- The proposed development will fully privatize the lands and restrict access.
- There is an increased demand for recreational and sporting activities given the increase in population in Newbridge.
- Access to Liffey Linear Park needs to be safeguarded and extended.
- The site should be the subject of a masterplan exercise to ensure best possible outcomes for the area, and as such no development should be approved until aforementioned plans have been considered and agreed.
- Lands directly to south of the site zoned Open Space are referenced in the planning report as mitigation for the loss of potential community development land. These lands are in private ownership and are located on the other side of the River Liffey.

5.8.2. Access and Traffic

- The Ryston Avenue access is unsuitable and substandard due to its limitations in terms of width, design and absence of footpaths.
- The significant increase of traffic movements on the avenue which will result in traffic safety issues for residents.
- The capacity of the avenue cannot accommodate large vehicles in particular emergency and refuse vehicles due to the acute bend resulting in vehicles to reverse from the main road up to the bend where the residents leave their bins.
- The swept path analysis submitted by the applicant is not representative of the actual physical conditions on site.
- The increased traffic movement will impact on the Athgarvan road R416 which is extremely busy where sightlines are poor.

5.8.3. Design and Scale

- The design and scale of the development is inappropriate and is inconsistent with the scale and pattern of the existing dwellings in the immediate area.
- The proposed development will result in significant carbon emissions at construction stage and maintenance post construction due to scale and size.
- The proposed development will impact negatively on the landscape.
- The need for such a dwelling is not justified, applicant is not a member of the local community.

5.8.4. Other Issues

- The planning authority assessment was not objective.

5.9. **Applicant Response**

The applicant's response to the grounds of the appeal can be summarised as follows, under the following headings:

5.9.1. Zoning & Objectives

- The zoning objective stated in the NLAP for the site, E2, the site is '*generally identified for a nursing home with supporting infrastructure*', the word '*generally*' confirms that it is not exclusively reserved for a nursing home, but that it is the preferred land use.
- The subject site is zoned for development and specifically a large building such as a nursing home.
- 'General Objectives' for the zoning are not defined. Section 7.10 Community Facilities was reviewed, and no specific reference to the site and no reference to a 'dwelling' use is highlighted as a concern for community zoned lands.
- In relation to 'permitted or existing uses' a dwelling is considered to be a compatible use with the established residential use in the area and would not have a negative impact on the park.
- Section 8.1 Application of Zoning Policy is highlighted as being important in the context of the land use zoning objective. If a land use is 'open for consideration', it is still subject to all other planning factors and policies as contained in the plan. Other uses that are not necessarily community or educational can be allowed, provided that they are listed as 'permissible' or 'open to consideration'.
- At pre-application stage, the planning authority indicated that the proposed development was 'open to consideration' subject to a clear justification and all planning issues considered, which is consistent with the decision.
- OS1 is a broad based objective and is not specifically linked to any specific site and there is sufficient land zoned for open space and amenity in the NLAP.
- OS2 refers to open space zoned lands, and is not relevant.
- Draft Newbridge Town Renewal Plan cannot be relied upon as part of the planning assessment of the application.

5.9.2. Future Development of Site

- Figure 18 of the NLAP shows a 'built form / urban edge' on the site which indicates that the site is to be developed for buildings rather than a park.

- The diagrams in the NLAP are indicative in nature and aspirational and more weight should be placed on the core maps in the NLAP.
- There is no pedestrian route associated with the site as per Map 2: Movement Objectives.
- Access to the adjoining lands to the northeast, east and south zoned 'F – Open Space & Amenity' is noted to be limited, but this is not relevant to the planning application. The applicant will provide lands free of charge to the council within the existing Liffey Linear Park.

5.9.3. Landownership

- Figure 14 of the NLAP identifies the site and adjoining lands as 'semi-private open space. The lands are in private ownership. There is no other specific goal in the NLAP in terms of use as a public park.
- Notwithstanding the former use of the site as a sports field by a private company, the site is in private ownership and is not available to the public for use.
- There is a strategic landbank identified and safeguarded within the NLAP for public use as an amenity area and public open space.

5.9.4. Access / Traffic

- The proposed development will generate approx. 2-3 traffic movements per day, similar to that of a typical house.
- Regarding HGVs and refuse lorries, KCC Transportation Department raised no issues in regard to same, following the submission of the swept path analysis.

5.9.5. Design / Visual Impact

- In acknowledging that the dwelling is large and the design doesn't reflect that of the dwellings in the area and in Ryston, it will be mitigated by the large nature of the site, by the established mature trees within the site and proposed boundary wall.
- Other examples of large dwellings are identified in Fig. 3 of the submission.

- The site is visually disconnected from its surroundings and its borders are heavily screened.
- The proposed boundary onto Ryston will comprise decorative railing. There will be no high-rise walls facing onto Ryston Avenue other than at the entrance to the site.
- There is a precedent for walls and timber fences.

5.9.6. Unsustainable Development

- The proposal does not maximise the sites potential but infill development in a transition area between a low density housing development and a public park would be entirely unsuitable.
- The site forms a buffer between the low density housing and the Linear Park and is an important element of this transition area.
- The large landscape gardens will complement the park in terms of biodiversity.

5.9.7. Other Matters

- Reference is made to the 'Tierney appeal' nothing that it was withdrawn, and that Jenny Tierney remains listed as one of the appellants in the resident's appeal. The legitimacy of the third party appeal made by John and Margaret Armstrong and others is therefore questioned, given that it involves an appellant that is involved in another appeal, irrespective of the second appeal being withdrawn.

5.10. **Planning Authority Response**

The planning authority made no further comments or observations to the appeal and requests the decision to grant planning permission to be upheld by An Bord Pleanála.

5.11. **Prescribed Bodies**

One observation was received from the Development Applications Unit, Department of Housing, Local Government and Heritage which is summarised as follows:

- Acknowledges and broadly concurs with the findings and recommendations on page 5 of the desk-based Archaeological Impact Assessment dated June 2021.

- Recommends the inclusion of a condition in regard to a programme of licensed Archaeology Monitoring, including licensed metal detection survey.
- That the conditions provided in the department's submission are reproduced verbatim to ensure archaeological works are carried out in line with the recommendations of the Department.

5.12. Observations

Four observations were received from Cllr. Tracey O'Dwyer, Melanie Tierney, Cllr. Peggy O'Dwyer, Noel & Ann Caffrey. The issues raised can be summarised as follows:

- Kildare County Council did not consider the objections submitted by the residents of Ryston Avenue.
- The existing access and road to the Ryston Avenue can only manage current traffic serving the existing dwellings.
- The Swept Path Analysis provided abuts no. 5 Ryston Avenue where there is a sharp right-angled bend adjacent to the house. The size of the fire tender described in the planning consultant report is considerably smaller and shorter than other fire tenders.
- The residents of Ryston Avenue have always maintained hedgerow and road surface and borne the costs associated with same.
- Ryston Avenue was never used as an access route to serve the site when it was previously used as a sports field, all access to the site came through the Ryston Pitch and Putt Club entrance.
- Newbridge is presently preparing a number of public realm opportunities with open space as a key priority. This area has historically been used both for recreational and amenity purposes.
- This is a key site which would facilitate the expansion of the Linear Park. Access to Newbridge Linear Park is severely restricted.
- The condition relating to the proposed development being confined to residential use is questionable in regard to preventing the proposed

development being converted into an inappropriate future use such as commercial development, which Ryston Avenue would be unsuitable for.

- No provision is made for footpaths along Ryston Avenue.
- Nearby residents will lose natural landscaping that they have enjoyed for many years.
- Landownership issues are raised in relation to private third party land including trees, boundaries, access, entrance walls, piers, gate and the access road serving Ryston Avenue.

6.0 Assessment

6.1. Introduction

Having examined the application details and all other documentation on the file including the appeal and inspected the site, and having regard to the relevant local, regional, national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development and Compliance with Planning Policy,
- Access & Traffic,
- Design & Layout,
- Landownership,
- Appropriate Assessment,
- Procedural Matters.

6.2. Principle of Development and Compliance with Planning Policy

- 6.2.1. A key issue which is raised in the appeal submissions is that the proposed development materially contravenes the zoning objective of the site. The appeal site is zoned 'Community and Educational' in the Newbridge Local Area Plan (NLAP) with the following site specific zoning objective E2, that Ryston is '*generally identified for a nursing home with supporting infrastructure*'. The appeal site is a backland and / or

infill site that is located approx. 200 m to the southeast of the designated town centre boundary, and it retains the benefits of serviced land.

- 6.2.2. I note that the planning authority decided the application under the Kildare County Development Plan 2017-2023 and the Newbridge Local Area Plan 2013-2019 (extended to December 2021). However, the NLAP has now expired and a new Kildare County Development Plan 2023-2029 has been adopted which has had regard to current national and regional policies and local policies. It is therefore a requirement to have regard to the policies and objectives as set out in the current CDP. I note that references are also made within the planning application details as well as within the appeals to the 'Draft Newbridge Town Renewal Plan 2019' which I note is a non-statutory draft plan and which does not appear to have been finalised. I also note that this plan has not been incorporated into the current CDP.
- 6.2.3. National policy is to encourage the densification and consolidation of urban areas in order to achieve compact and sustainable growth. The NPF advocates for increased densities in urban areas and NSO 1 and NPO 35 seek to achieve this. The CDP aligns with and incorporates the broader objectives of national and regional policy within its strategic framework. Newbridge is identified as a 'Self-sustaining Growth Town' in the core strategy and objective CSO 5 seeks to promote compact growth through the development of underutilised town centres etc, by managing appropriately zoned lands at key locations within the urban footprint of settlements. This also is reflected in Chapter 3 of the CDP and specifically objective HO P6.
- 6.2.4. I note the policies and objectives within the CDP and the NPF which fully support and reinforce the need for urban infill residential development on sites in close proximity to town centres where services are available. Therefore, having regard to the foregoing, and in particular, Newbridge town's designation as a Self-sustaining Growth Town in the CDP, the location of the appeal site in close proximity of the town centre, I consider that the proposed development would result in the underdevelopment of a strategic site, would fail to support the consolidation of the urban environment, and would result in a form of development which would result in an inefficient use of scarce zoned and serviced lands which would be contrary to the provisions of the NPF and the CDP which seek to secure compact and sustainable growth. In this regard, I do not consider the principle of development to be acceptable at this location.

6.2.5. Reference is made within the appeal that the proposed development would jeopardize the delivery of NLAP objectives in the provision of high quality public amenity open spaces and the sites' proximity to the River Liffey and the Liffey Linear Park however as already noted in Section 6.2.2, the NLAP has expired. I note that the adjoining land uses to the east, northeast, southeast of the site were zoned Open Space and Amenity. While I acknowledge the concerns raised in regard to protecting the adjoining open spaces and recreational amenities from encroachment of incompatible types of development, I consider that the appeal site should be considered on its own merits and on a site-specific basis, having regard to national and local policy and other relevant planning considerations. I note that the process has commenced in relation to the preparation of a Draft Newbridge Local Area Plan 2025-2031 which would be the appropriate review platform to deal with future zoning objectives for the town and the site.

6.3. Access & Traffic

- 6.3.1. The appellants raise specific road safety concerns relating to the existing width and capacity of Ryston Avenue through which the applicant proposes to use as the means of access to serve the appeal site. They contend that the road is not capable of facilitating the proposed development due to its narrow width, tight 90° bend, no turning area and that the swept path analysis submitted by the applicant is not representative of the actual physical condition on site. Landownership is also questioned in relation to the road however this will be addressed later in the assessment under the relevant heading.
- 6.3.2. The applicant proposes a temporary construction access route to the site through Ryston pitch and putt course which adjoins the site to the north. This premises directly accesses the R416 and will facilitate construction traffic for the duration of the construction period. I note that the management of same will be through the provision of a Construction Management Plan which is a pre-development condition. I note that condition 23 is also included which seeks to manage Ryston Avenue during the construction phase of the development.
- 6.3.3. As part of the planning authority's initial further information request, I note that the applicant was requested to demonstrate sight lines from Ryston Avenue onto the R416

along with necessary road upgrades i.e. new corner radii, dished kerbs and the management of surface water runoff in accordance with the Design Manual for Urban Roads and Streets 2019 (DMURS). This was deemed acceptable by the council and a condition was included with regard to the maintenance of the lines of sight at the existing entrance on the R416. I concur with this as the proposals will improve road safety at this location.

- 6.3.4. With specific reference to the confined nature of Ryston Avenue and the traffic movements on same, I note that these issues were raised by the planning authority at further information stage. Following on from the further information request, the proposed access was relocated further south along the western boundary and consequently, clarification of further information in relation to same was sought and I note that the planning authority accepted the revised proposals submitted.
- 6.3.5. I note the swept path analysis showing how larger vehicles will emerge from the appeal site onto Ryston Avenue, whilst also showing the route of the vehicle relative to the 90° bend at house no. 5 and beyond. At time of site inspection I observed that the carriageway of the existing cul de sac is narrow in width with no footpaths and that the bend abutting house no.5 has a mature hedgerow established on the corner of this property. Also there is a low black steel fence on the northern side of the bend that links with the existing pillar and access serving the existing dwelling to the north of the bend. The details shown on the swept path analysis indicate that it will be achievable for larger vehicles to egress from the appeal site and use the existing carriageway. However I do concur with the appellants in that there will be a degree of difficulty for a refuse truck making the turn at the bend which I note will require a three-point turn at the new site access. It would have been preferable if both vehicles were shown at the bend on the site layout plans provided. Notwithstanding, this was accepted by the council and I am satisfied that this is achievable on the ground.
- 6.3.6. The volume of traffic that the proposed development will generate is also raised by the appellants. DMURS provides guidance relating to the design of urban roads and streets and I refer to Section 3.2.1 and Table 3.1 which detail the movement function of streets providing categories of Arterial, Link and Local. Figure 3.3 describes *'local streets as streets that provide access within communities and to Arterial and Link Streets'*. Section 4.4.4 of DMURS notes that the standard carriageway width of local streets should be between 5-5.5 m. Table 4.1 indicates that the design speed for

vehicles in a suburban context and the designated function of the road in this case local, is 10-30 km/hr. Having regard to same, I would consider that Ryston Avenue is below the 'local' threshold in the hierarchy. The width of the carriageway is approx. ≤ 5 m and the traffic speed which this road can accommodate would be less than 20 – 25 km/hr.

- 6.3.7. In terms of traffic that will be generated by the proposed development, I note that the proposed development has provided for 10 no. car parking spaces to serve the main dwelling and 2 to serve the 'gate lodge' staff dwelling. Table 15.8 of the CDP requires 1 space each for units up to and including 3 bed units and 1 space + 0.5 visitor spaces for units of 4 bedrooms or greater. Between the main dwelling and the ancillary staff accommodation, I note from the details on the file that it is anticipated that the proposal will generate approximately 2 to 3 traffic movements per day, and more on other occasions (this is not explained). Should the proposed development be operational, then the development may create conflicting traffic movements at times with cars on the cul de sac e.g. if cars are parked on the road and if service vehicles are using the road. However, such conflicts are not considered to be dissimilar to the current situation on the ground and would generally be transitional. I therefore do not consider that the additional traffic arising for a residential use such as that proposed would have a significant impact from a road safety perspective with vehicles likely to be moving very slowly, having regard to the design of the road and the speed which it can facilitate.
- 6.3.8. I note from the submissions on file that Ryston Avenue has been in existence for a substantial period of time and predates any of the best practice guidance documents such as Design Manual for Urban Roads and Streets 2019 and 2013 (DMURS) and the 2009 Sustainable Residential Development in Urban Areas Guidelines. I further note that this cul de sac road is not taken in charge by the council and that residents of Ryston Avenue have maintained the road privately historically and continue to do so. While I do not consider that it is currently possible for 2 vehicles to pass simultaneously on the road without some degree of difficulty, in that they would be required to pass slowly with due care, it is clear from the details outlined in the appeal submissions as well as in the objections to the planning authority that the cul de sac already caters for large vehicles such as refuse collection trucks and fire tenders, and will continue to do so to serve the dwellings on this road. I therefore consider that on

balance, the proposed access and the existing cul de sac are satisfactory to serve the needs of the 2 dwellings as proposed at this location. As the road is not taken in charge, any ongoing maintenance of the road is a civil matter between the third parties involved.

6.4. Design & Layout

6.4.1. The appellants have raised a number of residential and amenity concerns. These include:

- The design and scale of the proposed development is inconsistent with the scale and pattern of the existing dwellings in the immediate area.
- The design of the house, a large Italianate style dwelling is at variance with the vernacular architecture of Newbridge, is overbearing and is out of scale and character with the area.

The focus therefore is to consider if the proposed development adequately integrates with the existing surrounding area.

6.4.2. The area of the site is 1.543 ha. The proposed dwelling has a stated area 1,036.86 m² and the gate lodge a revised stated area of 99.62 m².

The lands adjoining the site to the north, northeast and south comprise of lands in use for recreational and amenity uses. The lands to the northwest, west, and southwest are in residential use and accommodate two storey dwellings. There is also an apartment complex located further to the west of the site off the adjoining Athgarvan road R416.

6.4.3. The appeal site is enclosed due to the existing mature trees and hedgerow around the perimeter fencing. The ground levels within the site relative to the residential development to the northwest, west and southwest are similar, whilst the ground level within the site relative to the Linear Park to the east and southeast are slightly higher due to the park being located a lower level, with a difference of approx. 3-4 metres.

6.4.4. The main dwelling will have an overall ridge height of 10.501 meters and with the chimney stack 11.50 metres. It will be positioned in the centre of the site. The proposed gate lodge dwelling the use of which is to accommodate security staff will be located

adjacent to the western boundary of the site. This dwelling will be single storey and modest in design and scale.

The gated entrance to the site will be located within the site itself which I consider will mitigate against the concerns raised in relation to constant surveillance encroaching onto the privacy of the residential amenities fronting onto Ryston Avenue. A comprehensive landscaping plan is designed for the site and I note that it is proposed to retain and augment existing screening on the site, particularly along the perimeter of the site along with providing buffer planting along the southern and south western boundaries.

- 6.4.5. In considering the relationship between the proposed design of the dwelling and the surrounding area, I consider that the proposed architectural design of the dwelling is a departure from the prevailing suburban varied dwelling design in the area. As the appeal site sits in an urban area in close proximity of the town centre, this enables flexibility in terms of accommodating varied architectural design. Given the size of the site, it does lend itself to accommodating a large scale development. The enclosed nature of the site afforded to it as a result of the existing screening defining the perimeter, and the low-lying nature of the site relative to its surrounding area allows for the proposed development to integrate with the area.

Having regard to the matters considered in the above assessment, I consider that the proposed development would not seriously injure the visual amenities of the surrounding area.

6.5. Landownership

- 6.5.1. Issues have been raised in regard to the applicant's control of the lands which form the application site boundaries including encroachment of neighbouring third party property, as well as ownership of Ryston Avenue.

I note that the applicant initially proposed to provide a new access adjacent to the existing vehicular access and boundary that serves the appellant's property to the northwest of the appeal site. Following the request for further information, the proposed access was relocated further south on Ryston Avenue which sought to address the concerns raised.

- 6.5.2. I note that it is further raised in the appeal that the applicant's boundary maps are inaccurate and that issues continue to be raised in relation to the ownership of the appellants piers, gateway and garden.

The applicant was asked as part of the further information request to demonstrate her legal interest in the lands including Ryston Avenue. I note from the details contained on the file that maps were provided that were issued by the Property Registration Authority in relation to folio KE10104 which appear to demonstrate that the applicant has sufficient legal interest in the lands and which I note that the planning authority accepted.

- 6.5.3. I refer to Section 5.13 of the Development Management Guidelines 2007 'Issues relating to title to land' as set out in Section 5.2.2 above, and in relation to same, I note that the Board does not have a remit to determine land ownership, and generally does not question issues of title. Notwithstanding, I would note that the granting of permission for a development does not overcome all legal hurdles that an applicant may have to overcome, including any issues of land title or ownership. Notwithstanding, should the Board decide to grant permission, I would recommend a condition is attached ensuring no construction related traffic through Ryston Avenue.
- 6.5.4. The issue of landownership was further raised by the appellants is noted in relation to Figure 13 of the NLAP which shows the appeal site identified as 'semi-private open space' on the map and that the historic use of the site as open space by the local community, in particular when it was used as a football playing field. It is submitted by the appellants that the NLAP sets out a clear objective for the appeal site in terms of access through the pitch and putt club and access to the field (site of appeal) for education and community uses. I note that these concerns are raised in light of broader future development plans for the adjoining Liffey Linear Park as indicated in Figure 15 Public Realm Strategy in the NLAP and that the proposed development would fully privatise the lands and restrict access or use to the public.
- 6.5.5. I note that documentation provided by the applicant in relation to the appeal site specifically dealing with the applicant's sufficient legal interest in the lands shows that the appeal site has been in private ownership for a substantial period of time. While I acknowledge that the now expired NLAP has indicated a broader strategic development framework for the area including the appeal site, suggesting that there

are future strategies in the making by Kildare County Council, the Board however cannot have regard to same as it is not incorporated in the current Kildare County Development Plan, which is the operative plan at present for Newbridge town.

6.6. Appropriate Assessment

Having regard to the nature and scale of the proposed development and the absence of any direct or indirect pathway including hydrological link between the appeal site and any European site, in particular the nearest European designated sites Pollardstown Fen SAC and Mounds Bog SAC, I am satisfied that no appropriate assessment issues arise. Therefore I do not consider 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.

6.7. Procedural Matters

I note the question of validity of an appeal is raised by the first party in respect of named parties, Jenny Tierney and others, on an appeal that was withdrawn. In this respect, having regard to the number of parties named in the appeal by John and Margaret Armstrong and others, it is my view that there is no reason to invalidate the submissions as received.

7.0 Recommendation

I recommend permission be refused for the following reason.

8.0 Reasons and Considerations

It is considered that the application site with a stated area of 1.548 ha which retains the benefits of public infrastructure and services including water, wastewater, access, and footpaths, along with its close proximity to the town centre, commercial and retail development, community services and public transport, and access to adjoining recreational amenities, represents an unacceptably low density to maximise proper use of serviced lands and fails to address its spatial relationship with the town centre. Having regard to:

- the provisions of the National Planning Framework (2018) which aims to promote compact growth within towns and villages, and specifically National Policy Objectives NPO 4, NPO 5 and NPO 6 which seek to deliver higher residential densities in towns,
- Newbridge town's designation as a Self-Sustaining Growth Town in the Kildare County Development Plan 2023-2029 which is required to be developed in an efficient and consolidated manner,
- the policies and objectives of the Kildare County Development Plan 2023-2029 in particular CSO 1, CSO 5 and HP O6 which seek to promote compact growth, residential consolidation and the future growth and spatial development in towns and villages in Co. Kildare as set out in the Core Strategy,

it is considered that the proposed development would result in an inefficient and unsustainable use of serviced lands in close proximity to a town centre and would give rise to increased urban sprawl as demand for housing is met by development further out from established town cores. Having regard to the foregoing, it is considered that the proposed development would be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Clare Clancy
Planning Inspector

30th January 2024

Form 2 - EIA Preliminary Examination

An Bord Pleanála Case Reference	314340	
Proposed Development Summary	Construction of a two storey detached dwelling and single storey gate lodge	
Development Address	Ryston, Newbridge, Co. Kildare	
<p>The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.</p>		
•	Examination	Yes/No/ Uncertain
<ul style="list-style-type: none"> • Nature of the Development • Is the nature of the proposed development exceptional in the context of the existing environment? • Will the development result in the production of any significant waste, emissions or pollutants? 	<p>The appeal site is located in an urban area. The proposed development is not exceptional in the context of the existing receiving environment.</p> <p>No. The site retains the benefit of services i.e. water, wastewater, stormwater.</p>	<ul style="list-style-type: none"> • No
<ul style="list-style-type: none"> • Size of the Development • Is the size of the proposed development exceptional in the context of the existing environment? • Are there significant cumulative considerations having regard to other existing 	<ul style="list-style-type: none"> • No. The site has an area of 1.548 ha and is an infill / backland site situated within an urban context and within the town boundary of Newbridge. • The site is located in an urban area. All other existing adjoining developments are established uses. 	<ul style="list-style-type: none"> • No

and/or permitted projects?		
<ul style="list-style-type: none"> Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area? 	<p>The nearest European Sites to the appeal site are:</p> <ul style="list-style-type: none"> Pollardstown Fen SAC00396 2.4 km to west of site Mounds Bog SAC 002331 3.4 km to north of site <p>The site is serviced in terms of wastewater and storm water disposal. In the event that planning permission is upheld, any surface water arising from the proposed development will be managed by condition that will include for standard best practices and methodologies for the control and management of surface water on site.</p> <p>Potential impacts that could arise from the proposed development to receiving receptors may include impacts to ground water arising from the mismanagement of surface water disposal on site. Given the absence of pathways to any sensitive ecological sites / receiving environment, it is considered that no issues arise.</p>	<ul style="list-style-type: none"> No
<ul style="list-style-type: none"> Conclusion 		
<ul style="list-style-type: none"> There is no real likelihood of significant effects on the environment. <p>I conclude that EIA is not required.</p>		

Inspector: _____

Date: _____