



An
Bord
Pleanála

Inspector's Report

ABP-314430-22

Development	Subdivision of the site and the construction of a house in the rear garden.
Location	No. 506 Newtown Road, Maynooth, Co. Kildare, W23 Y8P6.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	22/753
Applicant	Stephanie Butler.
Type of Application	Permission.
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Louise & John Murphy.
Observer(s)	None.
Date of Site Inspection	07/01/2023.
Inspector	Enda Duignan

1.0 Site Location and Description

- 1.1.** The address of the appeal site is No. 506 Newtown Road, Maynooth, Co. Kildare. The site is located on the southern side of Newtown Road, c. 180m to the west of the junction of Newtown Road and Meadowbrook Road. The site comprises the rear garden area of No. 506 Newtown Road and the red line boundary extends along the western boundary of the site and includes the existing vehicular entrance on Newtown Road. No. 506 Newtown Road is a single storey, semi-detached dwelling with car parking provided within its front setback. A single storey boiler room and garage are also located to the west of the dwelling. The principal amenity area is located to the dwellings rear. The site has a stated area of 0.08ha.
- 1.2.** In terms of the site surrounds, the site is located within an established residential area which is typically characterised by single storey, detached and semi-detached dwellings of a similar architectural form. There are a number of backland developments within the immediate surrounds of the appeal site, including the property to the west at No. No. 507A Newtown Road and to the east at No. 505A Newtown Road. The cul-de-sac of Beaufield Crescent is located to the south of the appeal site.

2.0 Proposed Development

- 2.1.** Planning permission is sought the subdivision of the existing site and the construction of a detached, single storey dwelling within the rear garden of the existing dwelling. The proposed dwelling will have a stated floor area of c. 156sq.m. and will comprise an entrance hall, sitting room, kitchen/dining room, utility room and 2 no. bedrooms with ensuites.
- 2.2.** The proposed dwelling will have a gable sided, pitched roof with a projecting gable and feature window to the front. Two (2) no. roof lights are proposed on the front roof slope above the entrance hall and materials and finishes are not expressly stated on the submitted plans and particulars but appear to comprise a combination of a render and cladding for the principal elevations and a slate roof.
- 2.3.** The proposal seeks to demolish the existing boiler house and garage to the west of the dwelling and a new driveway will be provided along the western site boundary to

provide access to the proposed dwelling. Car parking for 2 no. spaces is to be provided on the northern side of the proposed dwelling. The existing vehicular entrance to the site is proposed to be relocated to the western end of the site frontage and will be modified to provide 2 no. recessed entrances to serve the existing and proposed dwellings.

- 2.4.** Private open space measuring c. 195sq.m. will be provided to the south of the proposed dwelling and will be directly accessible from the kitchen/dining room. A new 2m high capped and plastered masonry wall is proposed to the south of the existing dwelling and will delineate the two sites.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority granted planning permission for the proposed development subject to compliance with a total of 14 no. standard conditions.

Conditions of note included:

Condition No. 4

A new boundary wall shall be provided between the existing and proposed dwellings comprising a masonry wall to be capped and rendered on both sides. The wall shall be no higher than 1.2m at the front and side of the existing dwelling as far as the step back in the side façade at which point a 1.8 – 2m high wall shall be provided for the remainder of the boundary. A 1.8 -2m high capped masonry wall shall be provided along the east and south boundaries.

Reason: In the interest of residential amenity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Kildare County Council Planning Report forms the basis for the decision. The Planning Report provides a description of the site and the subject proposal and summaries the issues raised in the third-party observation on file.

Within their assessment of the application, the Planning Authority considered that the scale and design of the proposal is appropriate for this site and no negative impact is likely to adjoining dwellings to warrant a refusal of permission. It is concluded within the report that the zoning of the site supports infill residential development and the development complies with the requirements of both the Kildare County Development Plan, 2017-2023 and the Maynooth Local Area Plan, 2013-2019. A grant of permission is therefore recommended subject to standard conditions.

3.2.2. Other Technical Reports

Transportation Department: Report received stating no objection subject to conditions.

Area Engineer: Report received stating no objection subject to conditions.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

One third-party observation was received from Louise & John Murphy of Newtown Road, Maynooth, Co. Kildare (Third-Party Appellant). The issues raised can be summarised as follows:

- The proposal constitutes an overdevelopment of the subject site.
- The submitted plans are encroaching on the boundary. Maps are enclosed showing the correct boundary.
- There is a lack of detail with respect to proposed boundary treatments.
- Concerns with respect to overshadowing impacts associated with the proposed development.

4.0 Planning History

None on appeal site.

4.1. Relevant History

4.1.1. 505A Newtown Road, Maynooth (Third Party Appellant)

09/520: Planning permission granted by the Planning Authority in September 2009 for development consisting of minor alterations to previously granted no: 08/1143, comprising small internal alterations to the layout and minor external modifications to all elevations including proposed new chimney

5.0 Policy Context

5.1. Project Ireland 2040 National Planning Framework (NPF) Local Policy

5.1.1. The first National Strategic Outcome expected of the National Planning Framework is compact growth. Effective densities and consolidation of urban areas is required to minimise urban sprawl and is a top priority. 40% of future housing delivery is to be within the existing footprint of built up areas (National Policy Objective 3a).

5.1.2. National Policy Objective 35 of the NPF seeks to “Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights”.

5.1.3. Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES).

A key National Strategic Outcome (NSO 1) in the NPF and Regional Strategic Outcome (RSO 2) in the RSES is the need to achieve ambitious targets for compact growth in our urban areas. Urban regeneration and infill sites can contribute to sustainable compact growth and revitalisation of existing settlements of all scales. This will help to address National Policy Objective 3a, 3b and 3c of the NPF which targets the delivery of new homes within the footprint of existing settlements.

5.2. Kildare County Development Plan, 2023-2029

5.2.1. The Kildare County Development Plan, 2023-2029 (CDP) came into effect on 28th January 2023, and after the decision of the Planning Authority to grant planning permission. Celbridge is designated a ‘Key Town’ within the current CDP. I note that Chapter 3 of the Plan sets out the County’s policies for ‘Housing’. Notably, Section 3.9 (Regeneration, Compact Growth and Densification) of the Plan provides the following policies and objectives of relevance.

- **HO P6** Promote and support residential consolidation and sustainable intensification and regeneration through the consideration of applications for infill development, backland development, re- use/adaptation 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.
- **HO O8** Support new housing provision over the Plan period to deliver compact and sustainable growth in the towns and villages in the County, and supporting urban renewal, infill and brownfield site development and regeneration, to strengthen the roles and viability of the towns and villages, including the requirement that at least 30% of all new homes in settlements be delivered within the existing built- up footprint.

5.2.2. Chapter 14 of the current CDP sets out policy with respect to Urban Design, Placemaking and Regeneration.

5.2.3. Chapter 15 of the current CDP sets out Development Management Standards.

5.3. Maynooth Local Area Plan (LAP), 2013-2019

5.3.1. The site is within an area zoned B (Existing Residential), the objective of which is 'To protect and improve existing residential amenity; to provide for appropriate infill residential development and to provide for new and improved ancillary services'. The policy states that this zoning principally covers existing residential areas and also provides for infill development within these existing residential areas. The primary aims of this zoning objective are 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. I note that dwellings are identified as being 'permitted in principle' under this zoning objective.

5.4. Natural Heritage Designations

- 5.4.1. The nearest designated site is the Rye Water Valley/Carton SAC (Site Code: 001398) c. 2km to the north-east of the site. The proposed Natural Heritage Area (pNHA): Royal Canal, is also located c. 100m to the north of the site.

5.5. EIA Screening

- 5.5.1. Having regard to the nature and scale the development, which consists of the construction of a detached single storey dwelling in a serviced urban 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

A Third Party appeal has been prepared on behalf of Louise & John Murphy of Newtown Road, Maynooth, Co. Kildare (Third-Party Appellant). The Third Party appellant's are the owners and occupiers of the property to the immediate east of the appeal site. The grounds of appeal can be summarised as follows:

- The appeal notes that the appellants received planning permission under Ref. 09520 for the construction of their dwelling which included windows and a door in the west facing wall providing daylight and sunlight to the kitchen/dining area and to the living room of their dwelling. It is stated that these features are important to the enjoyment and amenity of their property. Of these features, the window to the kitchen area is most important as it is distant from alternative sources of daylight and sunlight and is also a significant source of solar heat gain to the property.
- Concerns are highlighted that the Planning Authority did not have due regard to the observation on the planning file and permission was granted for such mass and proximity to their boundary in the absence of a daylight and shadow study.
- The proposal fails to comply with the policy of the current County Development Plan and a daylight and shadow study should have accompanied the application.

- A daylight and shadow study has been prepared on behalf of the appellant and now accompanies the Third Party appeal. It is contended that the study demonstrates that there will be a significant adverse impact on the residential amenity of the adjoining property.
- In terms of house design, it is stated that the proposed dwelling is shoehorned onto the site with minimal spaces to the east and west boundaries and takes little account of the natural vegetation along the existing boundaries. There is also little detail on the lodged documents specifying what the new boundaries will consist of.
- It is stated that it is reasonable to assume, based on the accommodation provided at ground floor level and the steep pitch of the roof that the future intention is to convert the roof space for habitable use. It is submitted that if the board are disposed to granting planning permission, the roof pitch should be limited to 30 degrees, similar to the roofs of neighbouring dwellings.
- It is stated that the appellants are not opposed to the development of the site for a single dwelling, but find it unacceptable that a gable wall with the maximum height 7m is located immediately opposite the window to their habitable kitchen and dining area. It is stated that the ridge heights of the adjoining properties are 1.5 meters below the ridge height of the proposed dwelling.

6.2. Planning Authority Response

Response received dated 20th September 2022 which notes that the Planning Authority has no further comments or observations to make, and it is requested that the decision be upheld.

6.3. First Party Response

A response to the Third Party appeal has been submitted and prepared on behalf of the Applicant. In addition to the response, a Daylight Analysis and Overshadowing Report has been enclosed. A summary of the matters raised within the report are detailed as follows:

- The response provides a description of the site and surrounds and an overview of the development proposal. The report also sets out a number of precedent

cases across the County and within the surrounds of the appeal site that are relevant to the consideration of the development proposal.

- It is contented that the overall height of the development at c. 7m will not have serious negative impacts on the residential amenities of the Third Party appellant's property, as evidenced in the accompanying Daylight Analysis and Overshadowing report.
- In terms of concerns raised with the future use of the attic space for habitable accommodation, it is stated that the Applicant has no intention to undertake these works. Should this space be utilised for this use in the future, then a separate planning application would be forthcoming.
- In terms of design, it is argued that there is a precedent in the surrounding area for dwellings with varying heights and pitches, exceeding that of those situated immediately adjacent to the site as Nos. 505A and 507A Newtown Road.
- The response sets out the local and national policy that this relevant to the consideration of the appeal and outlines how the proposal is compliant in this regard.
- The accompanying Daylight Analysis and Overshadowing report provides a 'Sunlight Assessment on Amenity Space – 50% Rule' of the 2 no. adjoining properties and examination of the Average Daylight Factor (ADF) within a number of rooms of the property to the east. The report concludes that both adjacent amenity spaces achieve at least two hours of sunlight on March 21st, and therefore will receive adequate levels of sunlight. In addition, the rooms of the adjoining property to the east exceed the required daylight levels, meaning the rooms would be reasonably well lit.

6.4. Observations

None

6.5. Further Responses

None sought.

7.0 Assessment

The main issues to be considered are those raised in the Third Party 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.
- Residential & Visual Amenity.
- Access.
- Other Matters.
- Appropriate Assessment.

7.1. Principle of Development

- 7.1.1. The proposal seeks planning consent for the subdivision of the existing site and the construction of a detached single storey dwelling within the existing rear amenity space. From an inspection of the appeal site, I observed a pattern of backland development within the immediate surrounds of the site, with the rear amenity areas of the properties to the west and east of the site being developed in the past to provide single storey detached dwellings. The appeal site is located on lands zoned B (Existing Residential) of the Maynooth LAP, the objective of which is 'To protect and improve existing residential amenity; to provide for appropriate infill residential development and to provide for new and improved ancillary services'. I note that dwellings are identified as being 'permitted in principle' under this zoning objective and the primary aims of this zoning objective are 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. Having regard to the nature of the proposed development, the pattern of development in the surrounding area and the applicable zoning designation, I am satisfied that the principle of a new dwelling at this location is acceptable. The issue that needs to be ascertained is whether the proposed development is acceptable on this specific site, taking into consideration the impact on the amenities of adjoining residents, the design and layout, access and the sustainable planning and development of the area.

7.2. Residential & Visual Amenity

7.2.1. As noted in the foregoing, the adjoining sites to the west and east of the site have been developed to provide backland dwellings. Both dwellings are accessed from Newtown Road to the north, have car parking areas to their north (front) and both served by areas of amenity space to their rear (south). A similar arrangement is proposed in this instance and the front building line will generally match that of the property to the east and is set behind the front building line of the property to the west. I note that the rear building line of the proposed dwelling does not project beyond the rear building lines of the neighbouring properties. On its eastern side, the gable end of the dwelling has a total length of c. 11.2m and is set back c. 1.8m from its eastern site boundary. The dwelling has a total length of c. 9.4m on its western side and a setback of c. 1.6m is provided from this boundary. The pitched roof dwelling has a maximum height of c. 7m above natural ground level, with the gable fronted projection to the front of the dwelling having a maximum height of c. 5.4m.

7.2.2. The Third Party appeal has contended that the proposed development amounts to an overdevelopment of the appeal site and significant concerns are raised with respect to the impact of the proposed development on the residential amenity of the adjoining property to the east. The appeal submission has highlighted concerns with respect to the height and design of the dwelling, the lack of sufficient boundary setbacks and the impact of the proposal on the appellant's property in terms of loss of daylight and sunlight. The appellant has specifically referred to Section 17.2.5 of the previous CDP (2017-2023) which stated that 'Where development of a significant height is located close to existing development, the planning authority may require daylight and shadow projection diagrams to be submitted'. A similar policy is prescribed under Section 15.2.3 (Overshadowing) of the current CDP. Concerns are highlighted that the application was not supported by a shadow or daylight study and a shadow study has been submitted as part of the appeal submission. Although the proposed dwelling is marginally taller than the adjoining properties, I am satisfied that the proposal does not constitute 'significant height', and I would consider the requirement for the Applicant to prepare a detailed shadow study to be overly onerous given, the pattern of development in the immediate area and the siting and scale of the dwelling relative to adjoining properties. Notwithstanding this, I that the Applicant has submitted a Daylight

Analysis and Overshadowing report as part of the First Party response to the planning appeal.

7.2.3. Given the orientation of the site and the siting of the proposed dwelling relative to the adjoining property, it is evident that there will be a degree of overshadowing of the existing west facing windows of the adjoining property in the late afternoon period. The appeal submission has referred specifically to their existing windows on the dwelling's western elevation which will be most impacted by the proposed development. However, having inspected the appeal site and reviewed the floor plans of the dwelling to the east, as permitted under Ref. 09520, it would appear that both the living room (north facing) and kitchen/dining room (south facing) of this dwelling are dual aspect. The kitchen/dining room is served by windows and bi-folds doors on its southern elevation and would therefore benefit from good solar access. The proposed dwelling is set back c. 1.8m from the eastern site boundary and a separation distance of c. 4m is proposed to be provided between the existing and proposed dwellings. Whilst the outlook from these windows will be altered, I am satisfied that the proposed development will not unduly compromise the residential amenity of the properties within the vicinity of the site by reasons of overlooking, overshadowing, loss of daylight/sunlight or by being visually overbearing. I have also had regard to the Daylight Analysis and Overshadowing report submitted in response to the appeal which demonstrates that the Average Daylight Factor (ADF) in each of studied rooms exceed the minimum required daylight levels (i.e. Predicted ADF of 3.5 for the living room and 5.9 for the kitchen/dining room). The proposed development is generally consistent with the pattern of development in the area and is therefore considered to be acceptable having regard to the residential amenity of the surrounds. In this regard, I recommend that planning permission be granted for the proposal.

7.2.4. The Third Party appeal submission has also highlighted concerns with respect to the pitch of the roof and the possible intention of the Applicant to convert the roof space into habitable accommodation in the future. I note that this attic space is identified as storage on the submitted plans and particulars and proposals for habitable accommodation at attic level do not form part of the development proposal. I

recommend the inclusion of a condition which shall require the proposed development to comply with the plans and particulars lodged with the application.

- 7.2.5. The proposed dwelling is sited to the rear of the existing dwelling and a setback of c. 45m is provided from the Newtown Road boundary. The gable sided, pitched roof dwelling has contemporary projection to the front with a feature window. Although the dwelling is marginally higher than the existing properties to the east and west of the site, the scale and height of dwelling is generally consistent with the pattern of development in the area and the dwelling will only be partially visible within the Newtown Road streetscape context. Overall, I am satisfied the proposed development will not detract from or erode the character of the surrounding area and I therefore consider the proposed development to be acceptable having regard to the visual amenity of the surrounds.

7.3. Access

- 7.3.1. In order to facilitate access to the appeal site, the proposal seeks planning consent to demolish the boiler house and garage to the west of the existing dwelling and provide a new driveway long the western site boundary. Car parking for 2 no. spaces is to be provided on the northern side of the proposed dwelling. The existing vehicular entrance is proposed to be relocated further to the west and 2 no. recessed entrances will serve the existing and proposed dwellings. A report is on file from the Planning Authority's Transportation Department who have recommended suitable conditions in the event of the grant of planning permission. Overall, I am satisfied that the proposals are acceptable and will not endanger public safety by reason of a traffic hazard, subject to compliance with these suggested conditions.

7.4. Other Matters

- 7.4.1. In terms of the proposed water supply, the application form indicates that a new connection is proposed to the public mains. A new foul connection to the public sewer has also been proposed. I note that a report has not been received from Irish Water in this instance. Therefore, I recommend the inclusion of a condition which shall require the Applicant to enter into water and waste water connection agreement(s) with Irish Water and adhere to the standards and conditions set out in that agreement.

7.5. Appropriate Assessment

- 7.5.1. The nearest designated site is the Rye Water Valley/Carton SAC (Site Code: 001398), c. 2km to the north-east of the site. Taking into consideration the nature, extent and scope of the proposed development and to the nature of the receiving environment, with no direct hydrological or ecological pathway to any European site, 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. Grant of permission is recommended.

9.0 Reasons and Considerations

- 9.1. Having regard to the nature and extent of the proposed development which comprises the construction of a single storey, backland dwelling, the urban location of the site and to the pattern of development in the area, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would, therefore, be accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The proposed development shall comply with the plans and particulars lodged with the application submitted, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. Reason: In the interest of clarity.
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2.	<p>Details of the materials, colours, and textures of all the external finishes to the proposed dwelling shall be submitted to and agreed in writing with the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>The dwelling shall be occupied as a single dwelling unit and shall not be subdivided or used for any commercial purposes.</p> <p>Reason: In the interest of residential amenity.</p>
4.	<p>A new boundary wall shall be provided between the existing and proposed dwellings comprising a masonry wall to be capped and rendered on both sides. The wall shall be no higher than 1.2m at the front and side of the existing dwelling as far as the step back in the side façade at which point a 1.8 – 2m high wall shall be provided for the remainder of the boundary. A 1.8 - 2m high capped and rendered masonry wall shall be provided along the east and south boundaries.</p> <p>Reason: In the interest of residential amenity.</p>
5.	<p>Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
6.	<p>Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water and adhere to the standards and conditions set out in that agreement. All development shall be carried out in compliance with the Irish Water Standards codes and practices.</p> <p>Reason: In the interest of public health.</p>
7.	<p>a. Entrance to site shall be part of a shared recessed entrance and shall be constructed generally in accordance with Drawing E/3639-2 copy attached and Site Layout Plan Drawing No A01 submitted to the Planning Authority on 20th June 2022.</p> <p>b. Lines of sight at the entrance to the site shall be provided strictly in accordance with The Department of Transport, Tourism and Sport D.M.U.R.S. document and Site Layout Plan Drawing No A01 submitted to the Planning Authority on 20th June 2022.</p>

	<p>c. The existing front roadside verge shall be kept free from obstruction and shall be maintained by the occupant so as not to impede lines of sight at the entrance as provided in accordance with The Department of Transport, Tourism and Sport D.M.U.R.S. document.</p> <p>Reason: In the interest of traffic safety</p>
8.	<p>The applicant shall ensure that electrical charge points are provided at the driveway of the new dwelling to allow for the night-time charging of Electric Vehicles (EVs), linked to the individual domestic electricity meter. The EV Charger should be compatible with the Sustainable Energy Authority of Ireland's Triple E Register</p> <p>Reason: To promote the use of night-time renewable energy.</p>
9.	<p>Site development and building works shall be carried out only between the hours of 8am to 6pm Mondays to Fridays inclusive, between 9am to 2pm 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>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
10.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. 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 developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development</p>

	Contribution Scheme made under section 48 of the Act be applied to the permission.
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Enda Duignan
Planning Inspector

07/02/2023