



An  
Bord  
Pleanála

## Inspector's Report ABP-314464-22

### Development

- (a) Retention of single storey building currently being used for habitable purposes for a period of 24 months (temporary use)
- (b) full planning permission for domestic garage use after a period of 24 months of building referred to in item (a) to include external modifications, new garage doors and all associated works.

### Location

Station Road, Newbridge, Co. Kildare

### Planning Authority

Kildare County Council

### Planning Authority Reg. Ref.

22774

### Applicant(s)

Michael Connors

### Type of Application

Retention and Permission

### Planning Authority Decision

Refuse

### Type of Appeal

First Party

### Appellant(s)

Michael Connors

**Observer(s)**

Sarsfield Drive Residents Association

**Date of Site Inspection**

08/06/2023

**Inspector**

Lorraine Dockery

## 1.0 **Site Location and Description**

1.1. The subject site, which has a stated area of 0.19 hectares, is located at Station Road, Newbridge, Co. Kildare, directly east of Newbridge train station. The site is accessed off the R416 to the south ('Station Road'). This access, as per the submitted drawings, runs along the western boundary of the site and is shared with a dwelling currently under construction. An access to a commercial fuel depot and distribution facility ('Capital Oil'), which is directly to the north of the appeal site, runs along its western boundary (outside of the site as outlined in red). Lands to the east comprise a housing development of two-storey, detached dwellings known as Sarsfield Drive.

## 2.0 **Proposed Development**

2.1 Permission is sought for (a) retention of single storey building currently being used for habitable purposes for a period of 24 months (temporary use) and (b) full planning permission for domestic garage use after a period of 24 months of building referred to in item (a) to include external modifications, new garage doors and all associated works.

## 3.0 **Planning Authority Decision**

### 3.1. **Decision**

Permission REFUSED for three reasons relating to (i) material contravention of the land use zoning objective (ii) endangerment of public safety by reasons of traffic hazard and additional conflicting traffic movements and (iii) excessive form and scale of proposed substandard residential unit contravenes a condition of previous grant of permission and would be seriously injurious to the residential amenity of future occupants, would set an undesirable precedent and would be contrary to proper planning and sustainable development of the area.

## 3.2. **Planning Authority Reports**

### 3.2.1. Planning Reports

- Reflects decision of planning authority; recommends a refusal of permission

### 3.2.2. Other Technical Reports

Roads, Transportation and Public Safety- Further Information requested, as per MD report below

Newbridge Municipal District (MD) Office- Further Information requested in relation to the existing unauthorised entrance that opens onto the fuel supply compound access road. This entrance is deemed to be in a hazardous location and the applicant is requested to address how he intends to remediate it

## 4.0 **Prescribed Bodies**

Iarnrod Eireann- Conditions attached

## 5.0 **Planning History**

### 21106 (ABP-310701-21)

Permission REFUSED on appeal for retention of a single storey dwelling, originally permitted as a garage, and associated site development works. The reasons for refusal were as follows:

- (i) The appeal site is located in an area zoned 'J- Transport & Utilities' in the Newbridge Local Area Plan 2013-2019, as extended, where the stated objective is to provide for the needs of public transport and other utility providers. This objective is considered reasonable and dwellings are not permitted under this zoning objective. The proposed development would, therefore, materially contravene the land use zoning objectives of the Newbridge Local Area Plan 2013-2019, as extended, and would be contrary to the proper planning and sustainable development of the area.
- (ii) The proposed development by reason of its proximity to, and its shared access arrangement with, an existing industrial development (a

commercial fuel depot) endangers public safety by reason of creating a traffic hazard and additional, conflicting traffic movements. The proposed development is, therefore, prejudicial to public health.

### 20623

Permission GRANTED for the demolition of an existing dwelling on the site, and its replacement with a new two-storey house with garage, domestic store and all associated site works. Conditions 4 and 5 are notable and required photographic evidence of the demolition of unauthorised kennels on the site, and that the permitted domestic garage would not be used for human habitation, respectively (October 2020).

It is noted that the garage in this instance is the structure which is the subject of this appeal case, and for which retention permission is now being sought for temporary residential use.

### Enforcement UD7346

Alleged non-compliance with measures, as set out in Enforcement Notice

Application of note made subsequent to this appeal (same structure as is subject of this appeal but different area outlined in red)

### 221131

Permission REFUSED to Michael Connors for retention of single storey building as constructed for the purposes of workshop use in accordance with land use zoning J, Transport and Utilities – (decision date 09/11/2022)

## 6.0 **Policy and Context**

### 6.1. **Development Plan**

The Kildare County Development Plan 2023-2029 is the operative County Development Plan.

Policy 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.

Newbridge Local Area Plan 2013-2019 (extended to 2021)

Zoning: 'Objective J- Transport and Utilities' which seeks 'to provide for the needs of public transport and other utility providers'.

## 6.2. **Natural Heritage Designations**

The appeal site is not located in or immediately adjacent to a designated European Site, a Natural Heritage Area (NHA) or a proposed NHA.

## 6.3. **EIA Screening**

Having regard to the nature and scale of the development proposed, the site location within an established built-up urban area which is served by public infrastructure and outside of any protected site or heritage designation, the nature of the receiving environment and the existing pattern of residential development in the vicinity, and the separation distance from 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.

## 7.0 **The Appeal**

### 7.1. **Grounds of Appeal**

The main points of the appeal are:

- Zoning- residential use previously permitted on the lands; residential use dating back to 1970s on the lands
- Cites 20/623 in support of his case; outlines need for a residential unit
- Construction started on dwelling permitted under Reg. Ref. 20/623 but due to construction costs cannot complete build presently therefore using permitted garage for residential needs

- Requests ABP to assess the proposal under a non-conforming use
- Traffic- proposed development uses existing entrance which has been in place since 1970s and there has never been an accident or traffic issue; proposal will not generate additional traffic movements
- Building Design- will revert to being a garage for ancillary use to house permitted under Reg. Ref. 20/623. Therefore no issue with residential design standards; will to accept condition relating to temporary use and also willing to reduce size of structure if so required
- Wishes to overturn decision of planning authority

## 7.2. **Planning Authority Response**

No further comment

## 7.3. **Observations**

An observation was received from Sarsfield Drive Residents Association, which may be summarised as follows:

- Outlines planning history; alleged non-compliance with permissions and enforcement matters
- Aside from temporary nature of application, not any different to that previously refused permission on the site
- Zoning of site and notes that dwellings are not permitted under this zoning objective
- Overdevelopment of the site; visually obtrusive
- Reduces residential amenity of the area
- Design of subject structure
- Highlights subsequent application 221131 for retention of this subject structure for workshop use

#### 7.4. Further Responses

None

#### 8.0 Assessment

- 8.1. I have read all the documentation attached to this file including inter alia, the appeal, the report of the Planning Authority and observation received, in addition to having visited the site. The primary issues, as I consider them, are (i) planning history and overcoming previous reasons for refusal (ii) traffic and transport matters and (iii) other matters.
- 8.2. I highlight to the Board that there is a long and protracted planning history relating to this site, including enforcement history. As detailed above, an application has been made to the planning authority for this subject structure since this current decision of the planning authority issued. This subsequent application was not appealed to An Bord Pleanála. This structure currently under appeal was originally permitted as a garage under Reg. Ref. 20/623 although it appears from the information contained within the planning authority file that its size, use and position on site are not as was originally permitted.
- 8.3. This application is similar in nature to that previously refused by An Bord Pleanála, under Reg. Ref. ABP-310701-21 and I refer the Board to same. The primary differences are that in this current appeal, the applicant is applying for a temporary permission for the subject structure for use as a residential unit (24 months) with the structure to revert to use as a domestic garage thereafter. The site as outlined in red is also different, as are the proposed access arrangements and the applicant themselves. However, notwithstanding these differences, both applications refer to the same structure.

#### Zoning

- 8.4. The first reason for refusal in the decision which issued from the planning authority related to the proposal materially contravening for zoning objective and was considered contrary to the proper planning and sustainable development of the area. This was also a reason for refusal in the previous appeal on this site (ABP-31701-21). The zoning has not changed in the interim and remains zoned 'Objective J-



Transport and Utilities' which seeks to 'to provide for the needs of public transport and other utility providers'. The 'Land Use Zoning Matrix' of the LAP (Table 18) states that a dwelling is not permitted in this zone. The land use 'dwelling' is, therefore, in conflict with the zoning for the site and not supported by the relevant statutory plan. I consider that this previous reason for refusal on the site, notwithstanding the temporary nature of this current appeal, has not been overcome.

### Traffic and Transport

- 8.5. The second reason for refusal which issued from the planning authority raises concerns in relation to shared access arrangements with the existing industrial development, endangerment of public safety by reason of a traffic hazard and additional traffic movements. This is similar to the reason for refusal which issued in the previous appeal to the Board on this site. I note the concerns of the planning authority in relation to the sharing of an access with the industrial use (fuel storage and distribution depot) on the wider lands. I noted during my site visit that there was a gated access from the subject site onto the industrial access lane. The submitted drawings do not show this access point. However irrespective of the current access arrangements actually in place, the submitted drawings and the proposal currently before me show the entrance to the structure the subject of this appeal shared with the dwelling currently under construction and not with the industrial enterprise, as was previously the case. This is a difference between this current appeal and the previous appeal on the lands and this is the proposal I am currently assessing. Given that the proposal before me is for a temporary timeframe (24months) while the dwelling under construction is being completed, it is therefore the case that it would remain that there would only be one dwelling utilising the access, given that the proposal seeks to revert back to the structure being domestic garage after the 24 month period. The access was previously considered acceptable for one dwelling under Reg. Ref. 20/623. It would be a different situation if there were two dwellings using the access point, but that is not what is being proposed. It would also be a different matter if the proposal were using the shared access with the industrial depot- the drawings show this is not the case. Any matters of non-compliance with conditions is a matter of enforcement for the planning authority. Notwithstanding the history of non-compliance with conditions on this site, I am satisfied that the subject entrance is acceptable for one dwelling to utilise and given the temporary nature of

the residential element of the proposal and the use of the structure as a domestic garage into the future, I consider it acceptable in this instance. If the Board is disposed towards a grant of permission, I recommend that a condition be attached to any such grant stipulating that the existing gated entrance onto the shared laneway with the industrial depot, be permanently closed within six months of the date of decision.

- 8.6. To conclude, I therefore recommend that this matter not be included as a reason for refusal in this instance.

#### Standard of Accommodation/Scale of Development

- 8.7. The third reason for refusal which issued from the planning authority cited concerns regarding the standard of residential accommodation being provided for. It also stated that the proposed structure is considered excessive in scale and form for use as a domestic garage, once the temporary permission expired. In terms of standard of residential accommodation being provided, I would not be unduly concerned in this regard, given the temporary nature of the proposal. In terms of the scale and form of the structure, once reverted back to being a domestic garage, I would concur with the opinion of the planning authority in this regard. I consider it to be excessive in scale, height and form for such a use. If the Board is disposed towards a grant of permission, I recommend that a condition be attached reducing its overall height and floor area to that of scale more appropriate for such a use.

#### Other Matters

- 8.8. I note the concerns raised within the observation in terms of impacts on visual amenity and over-development of the lands. I note the size of the overall site within the built-up area of Newbridge. I do not consider the proposal to be excessively dominant, overbearing or obtrusive in its context nor to represent over-development of the site.
- 8.9. In terms of impacts on residential amenity, given the height and design of the proposed structure, I am of the opinion that it would not unduly overbear, overlook or overshadow adjoining properties, and would not seriously injure the amenities of property in the vicinity of the site to such an extent as to warrant a refusal of permission. I have no information before me to believe the proposal would result in

the setting of precedent for similar type developments. In any event, each application is assessed on its own merits.

### Conclusion

- 8.10. Having regard to having regard to zoning objective of the site ('Objective J – Transport and Utilities'), which does not permit a dwelling, I consider that the proposed development materially contravenes the Newbridge LAP, as extended, and therefore the proposal is considered to be inconsistent with the proper planning and sustainable development of the area.

## **9.0 Appropriate Assessment Screening**

- 9.1 Having regard to the nature and scale of the proposed development, the location of the site within an adequately serviced urban area, the physical separation distances to designated European Sites, and the absence of an ecological and/ or a hydrological connection, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

## **10.0 Recommendation**

- 10.1 I recommend permission be REFUSED for the following reason

## **11.0 Reasons and Considerations**

1. The appeal site is located in an area zoned 'J- Transport & Utilities' in the Newbridge Local Area Plan 2013-2019, as extended, where the stated objective is to provide for the needs of public transport and other utility providers. This objective is considered reasonable and dwellings are not permitted under this zoning objective. The proposed development would, therefore, materially contravene the land use zoning objectives of the Newbridge Local Area Plan 2013-2019, as extended, and 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.

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Lorraine Dockery  
Senior Planning Inspector

11<sup>th</sup> June 2023