



An
Bord
Pleanála

Inspector's Report

ABP-314690-22

Development	The construction of a dwelling with new entrance and the connection to the main sewer, mains water and surface water sewer with all ancillary site works.
Location	Jigginstown Court, Old Caragh Road, Naas, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	22/567
Applicant	Keava McAuley.
Type of Application	Permission.
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party v Grant of Permission
Appellant(s)	Eugene Fleming.
Observer(s)	None.
Date of Site Inspection	08/02/2023.
Inspector	Enda Duignan

1.0 Site Location and Description

- 1.1.** The address of appeal site is Jigginstown Court, Old Caragh Road, Naas, Co. Kildare. The site has a stated area of 0.113ha is located on the southern of the Old Caragh Road, opposite the Carragh Court residential estate. The existing roadside boundary is elevated relative to the appeal site and there is a level difference of c. 1m between the appeal site and the Old Caragh Road. The site is under grass and boundaries comprise a combination of hedgerows and trees.
- 1.2.** There is an existing stream which runs along the site's eastern boundary. A detached dwelling is located further to the east, with this site being elevated relative to the appeal site. There is an extant permission (Ref. 20/1039) for a detached dwelling on the lands immediately to the west of the appeal site and the lands to the south of the site are greenfield in nature.

2.0 Proposed Development

- 2.1.** Planning permission is sought for the construction of a double storey dwelling on the appeal site. The dwelling has a stated floor area of c. 140sq.m. and comprises an entrance hall, living room, lounge, WC, utility and kitchen/dining room at ground floor level and 4 no. bedrooms and a bathroom at first floor level.
- 2.2.** The gable sided pitch roof dwelling has a maximum height of c. 7.7m and materials and finishes comprise a combination of a plaster and stone for the principal elevations with a slate roof.
- 2.3.** The dwelling is proposed to be accessed via a new vehicular entrance at the eastern end of the site's boundary to the Old Caragh Road. A new driveway will lead to a car parking area on the northern side of the dwelling and an area of amenity space is proposed to its sides and rear.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority granted planning permission subject to compliance with a total of 17 no. standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Kildare County Council Planning Reports forms the basis for the decision. The First Planning Report provides a description of the site and the subject proposal, it sets out the planning history of the site and identifies the policy at local level that is relevant to the development proposal. The report also summaries the Third Party observation on file.

The Planning Authority indicate within their assessment that the principle of the proposed development is acceptable having regard to the zoning objective of the lands. However, further information is requested with the respect to the following matters:

- Recommendation to alter the fenestration on the front elevation.
- Revised drawings which accurately reflect the change in site levels at this location and which identify the existing stream that abuts the eastern site boundary.
- Modifications to the proposed vehicular entrance so that it is relocated and combined with the permitted entrance (Ref. 20/1039) at the western end of the roadside boundary.
- Proposals for the collection and disposal of surface water run-off.

The Second Planning Report deemed the Applicant's further information response to be acceptable and a grant of planning permission was recommended subject to compliance with conditions.

3.2.2. Other Technical Reports

MD Engineer: Report received stating no objection.

Transportation: Initial report recommending further information. Second report received stating no objection subject to conditions.

Environment: Report received stating no objection subject to conditions.

3.3. Prescribed Bodies

Irish Water: Report received stating no objection subject to conditions.

3.4. Third Party Observations

One third-party observation was received from Eugene Fleming (Third-Party Appellant) who is the owner of the property to the east of the appeal site. The following matters were raised:

- Concerns raised that the proposal has not had regard to the existing stream which adjoins the eastern site boundary.
- Flood related concerns.
- There is an existing public sewer adjacent to this stream and adequate maintenance areas should be provided.
- It was highlighted that there are inaccuracies on the submitted documentation and the plans do not reflect the existing site levels.

4.0 Planning History

4.1. Appeal Site

None.

4.2. Surrounds

22/713: Planning permission granted by the Planning Authority in October 2022 to construct a dwelling with new entrance and to connect to the main sewer, mains water and surface water sewer with all ancillary site works. The site is located to the west of the appeal site and is identified as the Applicant's sister.

20/1039: Planning permission granted by the Planning Authority in November 2020 to construct a new dwelling house with garage and to connect to the main sewer, mains

water and surface water sewer with all ancillary site works. The site is located immediately to the west of the appeal site and is identified as the Applicant's parents.

19/360 (ABP-304870-19): Planning permission granted by the Planning Authority and the Board in November 2019 for the demolition of the Existing Creche and erection 4 Semi-detached 3-storey, 4-Bed Houses with 8 Parking Spaces with a new Vehicular Entrance set back from existing Frontage at Old Caragh Road, Naas County Kildare. The site is also located to the west of the appeal site.

I note that the permitted works on foot of the aforementioned permissions have not commenced on site.

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".

5.2. Design Manual for Urban Roads and Streets (DMURS), 2019

5.3. Kildare County Development Plan, 2023-2029

- 5.3.1. 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. Naas is designated Large Growth Town 1 within the current CDP. Naas is also designated as a Primary Economic Growth Town and is promoted for local and regional enterprise and servicing its urban and rural hinterland areas.

5.3.2. 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.

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

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

5.4. Naas Local Area Plan (LAP), 2021-2027

5.4.1. The site is within an area zoned 'B – Existing / Infill Residential', the objective of which is 'To protect and enhance the amenity of established residential communities and promote sustainable intensification'. I note that dwellings are identified as being 'permitted in principle' under this zoning objective. Lands to the east and west of the site are also zoned 'B', with the lands to the south of the appeal site zoned C₍₁₎, the objective of which is 'To provide for new residential development'.

5.4.2. In terms of 'Residential Development' It is the policy (Policy HC1) of the Council to ensure that sufficient land is available at appropriate locations to satisfy the County Core Strategy growth allocation for Naas, to ensure Naas maintains its status as one of Kildare's Key Towns and that good quality housing is provided.

5.4.3. Relevant objectives of the LAP include:

- **HCO 1.1** Support new residential development and infill development that occurs in tandem with the delivery of supporting physical and social infrastructure.
- **HCO 1.3** Encourage the appropriate redevelopment of brownfield and infill sites for residential uses within the footprint of the existing built-up area.

5.5. Natural Heritage Designations

5.5.1. The nearest designated site is the Mouds Bog SAC (Site Code: 002331) c. 7.3km to the east of the site. The proposed Natural Heritage Area (pNHA): Grand Canal, is also located c. 70m to the south of the site.

5.6. EIA Screening

5.6.1. Having regard to the nature and scale the development, which consists of the construction of a detached double 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 by Eugene Fleming (Third-Party Appellant), the owner and occupier of the property to the east and south-east of the appeal site. The main grounds of appeal can be summarised as follows:

- Concerns raised with respect to the potential for overlooking from the proposed dwelling. The appellant does not accept the Planning Authority's contention that the existing sheds on his property will preclude overlooking into his rear amenity

space. The impact of overlooking will be exacerbated by the proposals to change the levels across the site (i.e. brought up to road level).

- To address these concerns, the following modifications to the design have been suggested.
 - o The provision of a single storey dwelling in lieu of a double storey dwelling.
 - o Reorientation of the dwelling so that it aligns with the appellant's dwelling and is shifted further away from the existing stream.
- Included within the appeal are a number of drawings from the application which include notations from the appellant.

6.2. Planning Authority Response

6.2.1. None

6.3. First Party Response

6.3.1. A response has been received from the First Party dated 8th October 2022 which noted the following:

- It is highlighted that the Applicant is an aspirational first-time home owner with two children and currently residing in a rental property.
- The site was purchased by the Applicant's great grandparents and the site has been cleaned up and maintained by the family since then. It is confirmed that the Applicant's parents and sister have been granted planning permission on the lands to the west and it is noted that the spacing between the proposed and permitted dwellings is sympathetic to the local built environment.
- Although the concerns of the appellant with respect to overlooking are acknowledged, the dwelling has been designed to provide appropriate boundary setbacks and orientated in such a way so that overlooking is mitigated.

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 and Visual Amenity.
- Site Access
- Appropriate Assessment.

7.1. Principle of Development

- 7.1.1. The proposal seeks planning consent for the construction of a detached double storey dwelling on the appeal site. Under the current LAP, the lands to which this appeal relate are zoned B (Existing Residential/Infill), the objective of which is 'To protect and enhance the amenity of established residential communities and promote sustainable intensification'. I note that 'dwellings' are identified as being 'permitted in principle' under this zoning objective. Land uses designated under each zoning objective as 'Permitted in Principle' are generally considered to be acceptable, subject to compliance with those objectives as set out in other chapters of the Plan. There is also policy support pursuant to Objective HO P6 of the current CDP and Objectives HCO 1.1 and HCO 1.3 of the LAP for infill development of this nature. Therefore, having regard to the planning history of the surrounds, 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 its design and layout, access, the impact on the amenities of adjoining residents, and the sustainable planning and development of the area.

7.2. Residential & Visual Amenity

- 7.2.1. As noted in Section 4 of this report, there are a number of extant permissions on the lands to the west of the appeal site. Planning approval is in place on these lands for the construction of detached double storey dwellings of a similar scale and architectural form to that of the subject proposal. When inspecting the appeal site and surrounds, it was evident that there was a noticeable level difference between the public road to the north and the appeal site. The existing property to the east was also further elevated relative to the appeal site. The contiguous elevation submitted with the application shows the proposed dwelling at the same level as the existing dwelling to the east and the proposed dwelling to the west. Following concerns raised by the Third Party observer, the Planning Authority requested the Applicant to submit a revised Site Layout Plan with accurate spot levels. From examining the submitted documentation, the proposal would necessitate a degree of fill across the site to raise the ground level so that it generally aligns with the level of the existing road. Although spot levels have not been included for the property to the east, I question the accuracy of the contiguous elevations as this property is further elevated relative to the public road and the appeal site. Concerns are highlighted by the Third Party appellant with respect to the potential for overlooking from the proposed dwelling given the separation distances proposed, its siting and orientation and the degree of fill required across the site, resulting in an elevated finished floor level. I note that the amenity space of the Third Party appellant is located to the south-east of the appeal site. There are 3 no. first floor windows on the rear elevation of the dwelling serving 2 no. bedrooms and a bathroom. The proposed dwelling is set back c. 10m from the site's rear (southern) boundary and there are a number of double height shed structures located within the adjoining site to the south-east, behind the rear building line of the appellant's dwelling. A separation distance of between c. 17.4m and 25.1m is provided from the rear of the proposed dwelling and these structures. Having regard to the separation distances proposed in this instance, I am satisfied that the proposed development will not result in undue overlooking of the Third Party appellant's property and is a typical arrangement found in suburban areas. I would also concur with the Planning Authority that the location of the shed structures to the rear of the adjoining property will also further limit overlooking of this dwelling's principal amenity area. I am therefore satisfied that the proposal is acceptable in this instance and will not unduly

compromise the residential amenity of the neighbouring property by reason of overlooking.

- 7.2.2. Having regard to the overall scale, height and form of the dwelling, the setbacks provided from its site boundaries and the orientation of the site, I am also satisfied that the proposed development will not adversely impact the residential amenity of properties within the vicinity of the appeal site by reasons of overshadowing or by being visually overbearing. The proposed development is therefore considered to be acceptable having regard to the residential amenity of the surrounding area.
- 7.2.3. In terms of the floor area of the proposed dwelling and the quantum of open space provided, I note that the proposed dwelling exceeds the quantitative standards set out in Table 15.2 of the current CDP. This policy prescribes a minimum floor area of 110sq.m. for a 4 no. bedroom dwelling with a minimum private open space of 75sq.m. I am therefore satisfied that the proposed dwelling would provide an acceptable good of amenity to its future occupants.
- 7.2.4. Section 15.4.6 (House Design) of the current CDP is relevant to the consideration of this appeal. The Planning Authority seek to ensure that a high standard of building design, detailing and specification of materials and a high standard of craftsmanship is provided for residential development. The policy states that new developments should not be incongruous or have an overbearing effect on the established environment. The proposed double storey dwelling has a vernacular character with a pitched roof form. The dwelling is of design and form which is generally in keeping with the character of the surrounding area, including the permitted dwellings to the west of the appeal site. Overall, I am satisfied that the proposed dwelling is designed to an acceptable standard and the proposal is therefore acceptable having regard to the visual amenity of the surrounding area.
- 7.2.5. Notwithstanding the foregoing, I note that there is lack of detail with respect to existing and proposed boundary treatments on the submitted Site Layout Plan. In addition, the boundary treatments have not been identified on the existing or proposed contiguous elevations. It is also difficult to determine the relationship between the modified ground

levels across the site and the existing stream which runs along the eastern site boundary. The revised Site Layout Plan submitted at additional information stage shows proposed tree planting within the site along the full length of this stream. Given the level of ambiguity which surrounds this element of the proposed development, I recommend the inclusion of a condition which will require the Applicant to submit a detailed layout plan clearly identifying all existing and proposed boundary treatments. This shall include the boundary between the site and the permitted dwelling to the west. Section diagrams shall also be submitted which show the relationship between the dwelling, the modified site levels and the existing stream which runs along the eastern site boundary, the details of which are to be agreed with the Planning Authority, prior to the commencement of development on site

- 7.2.6. Concerns were highlighted by the Third Party during the application stage with respect to the potential for flooding on site given the location of the existing stream relative to the proposed dwelling. As per Map 9.1 of the current LAP, I note that the appeal site is not located within a flood zone. This point was also confirmed by the Planning Authority and no concerns in this regard were raised. I am therefore satisfied that the proposed development would not be susceptible to an adverse risk of flooding. However, I have recommended a condition requiring the Applicant to submit further details with respect to the revised site levels and its relationship with the existing stream, which are to be agreed with the Planning Authority, prior to the commencement of development on site.

7.3. Site Access

- 7.3.1. The proposed development originally sought to provide a new vehicular entrance at the eastern end of the roadside boundary which would lead to a car parking area to the front (north) of the dwelling. Following concerns raised by the Planning Authority's Transportation Department, the proposal was modified at additional information so that the entrance was relocated and combined with the permitted entrance located immediately to the west of the appeal site. Suitable conditions were recommended by the Planning Authority The red line boundary was also modified, and the relocated entrance and portion of the driveway would now be sited to the immediate north of the dwelling permitted under Ref. 20/1039. Whilst I note that this will impinge on the site

to the west, these lands are located within the blue line boundary and the permitted dwelling is identified as being the Applicant's parents and is therefore an acceptable arrangement in this instance. Notwithstanding this, the Applicant when the developing the adjoining site will need to satisfy themselves that they can carry out and complete the permitted works in accordance with the relevant permission (i.e. Ref. 20/1039).

7.4. Appropriate Assessment

- 7.4.1. The nearest designated site is the Mouds Bog SAC (Site Code: 002331) c. 7.3km to the 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, the pattern of development in the area and the 'B – Existing Residential / Infill' zoning of the site, it is considered that the proposed development, subject to compliance with the conditions set out below, would accord with the policy provisions of both the Kildare County Development Plan, 2023-2029 and the Naas Local Area Plan, 2021-2027, 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 on 17/05/2022, as amended by Further Information received on 11/08/2022, except as may otherwise be required in
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	<p>order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The Applicant shall submit a revised Site Layout Plan clearly indicating all existing and proposed boundary treatments. In addition, the Applicant shall submit a section diagram, clearly showing the relationship between the proposed dwelling, the modified site levels across the site and the existing body of water which runs along the site's eastern boundary. The plans should also provide details of all hard and soft landscaping treatments within this portion of the site. The revised plans and particulars shall be submitted to the Planning Authority for written agreement prior to the commencement of development on site.</p> <p>Reason: In the interest of the proper planning and sustainable development of the area.</p>
3.	<p>The design and layout of the proposed vehicular entrance shall comply with the requirements of the Planning Authority. The Applicant shall ensure that electrical charge points are provided at the driveway of the new dwelling to allow for the nighttime charging of electric vehicles, 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: In the interest of proper planning and sustainable development and to promote the use of night-time renewable energy.</p>
4.	<p>The external finishes shall be consistent with the Drawings received by the Planning Authority on 11/08/2022. The roof shall be blue/black slate or slate grey in colour, using tiles or slates. All external finishes shall be uniform/neutral in colour.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<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>

6.	<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>
7.	<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>
8.	<p>During the construction, the Applicant shall provide adequate off carriageway parking facilities for all traffic associated with the proposed development, including delivery and service/trucks. There shall be no parking along the road outside the site boundary.</p> <p>Reason: In the interest of traffic safety.</p>
9.	<p>Site development and building works shall be carried out only between the hours of 8am to 7pm 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>No spoil, dirt, debris or other materials shall be deposited on the public road, footpath or verge by machinery or vehicles travelling to or from the development site during the construction phase. The Applicant shall ensure that no building material or plant shall be used or stored on the public footpath or road without the prior consent of the Planning Authority.</p> <p>Reason: In the interest of public health.</p>
11.	<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</p>

<p>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 Contribution Scheme made under section 48 of the Act be applied to the permission.</p>

Enda Duignan
Planning Inspector

23/03/2023