



**Development**

New vehicular and pedestrian access and parking spaces to proposed new private tennis court to side of existing house along with the erection of a new 2.4m high chain-link fence surround with additional 1.0m high netting (3.4m total) and all associated site works.

**Location**

Land adjacent to 1 Moyglare Green, Mariavilla, Maynooth, Co. Kildare.

**Planning Authority**

Kildare County Council

**Planning Authority Reg. Ref.**

221272

**Applicant(s)**

Alvaro Blasco

**Type of Application**

Permission

**Planning Authority Decision**

Grant permission

**Type of Appeal**

Third Party

**Appellant(s)**

1. Margaret Egan and Daibhi Mac Domhnaill
2. Julia and Andrew Meszaros
3. Brian and Lisa Kelly

**Observer(s)**

None

**Date of Site Inspection**

4<sup>th</sup> June 2023

**Inspector**

Ronan O'Connor

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## 1.0 Site Location and Description

1.1. The site is located adjacent to No. 1 Moyglare Green, Mariaville, which is a recently completed housing estate to the north-east of Maynooth. There is an existing timber and chain link fence separating the application site from the existing housing estate. The subject site is a field that is relatively overgrown.

## 2.0 Proposed Development

2.1. New vehicular and pedestrian access and parking spaces to proposed new private tennis court to side of existing house along with the erection of a new 2.4m high chain-link fence surround with additional 1.0m high netting (3.4m total) and all associated site works.

## 3.0 Planning Authority Decision

### 3.1. Decision

Grant permission (Decision Date 20/12/2022). Conditions of note include:

- Condition No. 2 – Tennis court shall be ancillary to existing dwelling/not for commercial use/no charge for entry.
- Condition No. 3 – No lighting or floodlighting.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports<sup>1</sup>

Concerns in relation to amenity raised in the submissions in relation to use and lighting can be addressed by way of condition.

Notes that there will be no impacts on trees.

Notes the concerns of the Transportation Division in relation to the number of car parking spaces proposed/lack of space for turning manoeuvres and vulnerable road

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<sup>1</sup> I note that the application was assessed under the provisions of the previous Development Plan 2017-2023 as well as the provisions of the Maynooth LAP 2013-2019.

users/However notes the private use of the court and it was not considered that a request for FI was necessary.

Proposed development was considered to be acceptable and it was recommended that permission be **Granted**.

### 3.2.2. Other Technical Reports

Transportation – Concerns in relation to the number of car parking spaces proposed/lack of space for turning manoeuvres and vulnerable road users. Applicant to comment and provide improvements for same. Request Additional Information.

Heritage – No objection.

Municipal District – No objection.

### 3.3. Prescribed Bodies

None.

### 3.4. Third Party Observations

8 no. third party submissions were made on the applications. The issues raised in the submissions reflect those issues raised in the Grounds of Appeal.

## 4.0 Planning History

None on subject site.

## 5.0 Policy Context

### 5.1. Development Plan

Kildare County Development Plan 2023 -2029

The Kildare County Development Plan 2023 -2029 came into effect on 28<sup>th</sup> January 2023.

Chapter 5 relates to Transport.

Chapter 11 relates to Built & Cultural Heritage.

Chapter 15 relates to Development Management Standards. Section 15.7.8 refers to car parking.

### Maynooth Local Area Plan 2013-2019

The site is zoned Objective I – Agriculture – “To retain and protect agricultural uses”.

The purpose of this zoning is to ensure the retention of agricultural uses and protect them from urban sprawl and ribbon development. Uses which are directly associated with agriculture or which would not interfere with this use are open for consideration. Tourism related projects such as tourist caravan parks or campsites and amenity uses such as playing fields and parks are also be open for consideration.

## **5.2. Natural Heritage Designations**

- 5.2.1. Rye Water Valley/Caron SAC is located c910m to the east of the site. The site is located within the Caron Demesne Special Study area.

## **5.3. EIA Screening**

- 5.3.1. Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, 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.

## **5.4. AA Screening**

- 5.4.1. Having regard to the modest nature and scale of development, location in an urban area, connection to existing services and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

3 no. third party appeals were submitted. I have summarised the appeal submissions below:

#### Margaret Egan and Daibhi Mac Domhnaill, 8 Moyglare Grove

- Application was not sent to the Parks Dept of KCC.
- Concerns relating to landscape, residential and visual amenity were not considered.
- Not all trees and proposed access road were shown on the plans/no tree survey/Impact Assessment undertaken/new construction would have an impact on the trees.
- No bat survey undertaken.
- The fence would be visually prominent from the public open space areas adjunct to the site and from neighbouring rear gardens/no buffer proposed.
- The plans and documentation are of such poor quality that they are illegible on the KCC planning portal.
- Development is not part of the wider masterplan for the neighbourhood.
- Transport Dept raised concerns/why are so many spaces required for a private tennis court/a total of 6 spaces to a residence is excessive.
- Existing road is used by children/would raise safety issues
- Drainage issues to the rear of properties where the soil is quite wet/development would increase hardstanding/no drainage details or SuDs measures submitted.

#### Julia and Andrew Meszaros, 3 Moyglare Grove

- Lands are on a special study area/surround a Protected Structure (RPS 119005006)
- No Conservation Report submitted/Impact on Carton Demesne

- No Ecological Impact Assessment has been provided/impacts on wildlife including bats and birds/impact of the netting.
- Visual amenity impact as a result of the fencing.
- Noise impacts from the proposed development.
- No need for 4 additional car parking spaces/Increased traffic as a result of same.
- Negatively affect the value of adjacent houses.
- No need for such a court/many good tennis courts available a short driving distance from the estate.

Brian and Lisa Kelly, 2 Moyglare Grove

- Land is zoned agricultural
- Accept that rezoning is mentioned in the new Development Plan but this is restricted to Tourism and Amenity Developments
- Does not give sufficient consideration to car parking granted
- Noise impacts/Conditions do not go far enough in terms of restricting the usage
- Proposed fence will be an eyesore
- Impact on trees/biodiversity
- Within a special study area
- Negative impact on house value
- Drainage issues

**6.2. Applicant Response**

None.

**6.3. Planning Authority Response**

Notes the content of the appeals. No objection was raised by the Heritage Department. Concerns of Transportation could be addressed by way of condition. A number of restrictive conditions were attached included those relating to use and lighting.



## 6.4. Observations

None

## 7.0 Assessment

7.1. The main planning issues that arise in relation to this appeal are as follows:

- Principle of Development
- Impact on surrounding residential amenity
- Transport Issues
- Conservation

### Principle of Development

7.1.1. Under the Maynooth Local Area Plan 2013-2019 the site is zoned Objective I – Agriculture – “To retain and protect agricultural uses”. As noted in Section 5 of this report, the purpose of this zoning is to ensure the retention of agricultural uses and protect them from urban sprawl and ribbon development. Uses which are directly associated with agriculture or which would not interfere with this use are ‘open for consideration’. Tourism related projects such as tourist caravan parks or campsites and amenity uses such as playing fields and parks are also be open for consideration.

7.1.2. Notwithstanding the view of the Planning Authority, I am of the view that the development of a private tennis court on this site is contrary to this ‘Agriculture’ zoning objective. While amenity uses are ‘open for consideration’, I am of the view the amenity uses referred to are ones that are publicly assessable, and provide a wider benefit to the community as a whole, noting that the examples of such amenity uses that are referred to are ‘playing fields’ and ‘parks’, uses that have wider community benefits. The development of the hardstanding for a private tennis court, and the associated car parking would also prevent any the use of these lands for agricultural uses, or for uses that are ‘open for consideration’, contrary to the zoning objective.

- 7.1.3. As such it is my view that the proposal materially contravenes the zoning objective for this site, as set out in the Maynooth LAP 2013-2019, and I am of the view that development should be refused on this basis.

#### Impact on Surrounding Residential Amenity

- 7.1.4. I note that the proposed tennis court includes an extensive area of 3.4m high fencing, which runs for some 34.8m along to the side and rear of existing dwelling houses. This fencing would be visually prominent from both the rear of No.s 2 and 3 Moyglare Grove, impacting on the visual amenity of same, and would also be visually prominent from the wider estate. I am of the view that the proposal should also be refused on the basis of its negative impact on the visual amenity of the area.
- 7.1.5. I am not of the view that the noise impacts from the use of the proposed development would be significant, noting that only one court is proposed, and noting that the use of the court would be limited to times when sufficient daylighting is available. I would not be of the view that artificial or floodlighting of the court would be appropriate, for reasons of residential amenity, and possible ecological impacts.

#### Transport Issues

- 7.1.6. The Transportation Department raised concerns in relation to the number of car parking spaces proposed, the lack of available turning space and the potential impact on vulnerable road users. I share these concerns and do not consider the limitation on the use of the court (limiting it to a private use) would overcome these issues. It is questionable if the use of a private court would require an additional 4 no. car parking spaces, and there is a further lack of clarity as to the management of the spaces in the long term. There is no mechanism to prevent these spaces being utilised by the adjacent dwelling house, and the provision of up to 6 no. spaces associate with No. 1 Moyglare Green would be contrary to the standards as set out in Table 15.8 of the Development Plan (which allocates a maximum of 1 space per unit). These car parking spaces are not in the interest of promoting sustainable transport patterns and would be contrary to policy provisions relating to same (Policy TM P10 refers). The lack of space for vehicle turning also raises road safety concerns, and may encourage unsafe vehicle manoeuvres such as reversing for excessive lengths along this cul-de-sac. I would recommend that the application is also refused on this basis.

### Conservation

- 7.1.7. The site lies within the western extent of the 'Special Study Area' associated with the Carton Demesne (Map V1 11.1 refers). There does not appear to any elaboration on this designation within the Development Plan however, and there are no specific policies that refer to same. However, I am of the view that the site is sufficiently distant from the boundaries of the Carton Estate so as not to impact on the historical landscapes associated with same. The site lies within 180m of a Protected Structure (Maria Villa RPS No. B05-09), but I am of the view that the proposal does not have any impact on same, given the distance to same and the screening provided by the tree and hedgerow boundary to the east of Maria Villa.

### Other Issues

Ecology – I am not of the view that the proposal would have significant impacts on ecology given the relatively small scale of development.

Drainage – I note concerns have been raised in relation to poor drainage of the site. I note no objection was raised by the Water Services Division of the Planning Authority. Should the Board be minded to grant permission, appropriate conditions could be imposed in relation to same.

Impact on Property Values – An appellant has raised this as an issue. However there is no evidence submitted to support the contention that the proposed development would impact on property values.

## **8.0 Recommendation**

- 8.1. I recommend that permission be **REFUSED** for the reasons and considerations as set out below.

## **9.0 Reasons and Considerations**

1. The proposed development of a private tennis court, with associated car parking, would be contrary to the 'Agriculture' zoning objective for the site. While amenity uses are 'open for consideration' on sites that are zoned 'Agriculture', the Board is of the view that such amenity uses are those which are publicly accessible and have wider community benefit, and the

development as proposed does not fulfil these criteria. As such the proposed development would represent a material contravention of the zoning objective associated with the site and would be contrary to the provisions of the Maynooth Local Area Plan 2013 to 2019.

2. The provision of 4 no. car parking spaces on the site, associated with a tennis court attached to a private residence, in addition to the existing 2 no. car parking spaces associated with No. 1 Moyglare Green, would not promote the use of sustainable forms of transport. The proposal would also raise road safety issues due to the lack of available space for vehicle manoeuvres within the site. As such, the proposal would be contrary to Policy TM P10 and Table 15.8 'Car Parking' of the Kildare County Development Plan 2023-2029, and would endanger public safety by reason of traffic hazard.
3. The proposed fencing associated with the tennis court would be visually intrusive when viewed from neighbouring dwellings, and when view from the wider estate as a whole, and as such would have a detrimental impact on the visual amenity of existing occupiers of the estate, and would therefore be contrary to the principles of proper planning and sustainable development.

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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Ronan O'Connor  
Senior Planning Inspector

06<sup>th</sup> June 2023