

PA Ref: ED/00624

ABP-302774-18

Submission by and on behalf of Brian & Natasha Murphy

18 Riverside Grove, Athgarvan Road, Newbridge,
Co Kildare, W12 RT98

APPLICATION FOR A DECLARATION OF EXEMPTED DEVELOPMENT UNDER SECTION 5.

AN BORD PLEANÁLA	
L.D.G.	ABP-302774-18
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By:	[Signature]
12 NOV 2018	

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Introduction.

As the home owners of 18 Riverside Grove, Athgarvan Road, Newbridge, Co Kildare. It is our intention to respond to the ABP referral ABP-302774-18 by Kildare County Council. The Section 5 referral relates to a request dated 2nd May 2017, submitted by Derek Whyte on behalf of Ms A Mangan of 17 Riverside Grove, Athgarvan Road, Newbridge, Co Kildare.

I note that Kildare County Council as part of their application to An Bord Pleanála have not included the correspondence relating to matters ongoing since the Section 5 submission by Ms A Mangan, which I feel is relevant to this case and should have formed part of their application to An Bord Pleanála. Please note there are errors/duplicates in the information provided by Kildare County Council regarding their application which cannot be accepted as a true, accurate record for the purposes of responding to this request entirely.

History

Following on from a complaint to the Enforcement section of Kildare County Council. Mr Martin Ryan. Executive Planner. Kildare County Council was observed leaving 17 Riverside Grove and then called to 18 Riverside Grove on the 7th September 2017 at 12:30. By mutual agreement it was decided the entire property of 18 Riverside Grove would be available for inspection the following morning 8th September 2017 at 09:00. This inspection was carried out by Mr Martin Ryan Executive Planner KCC and Mr Damian Daly Executive Planner KCC. Please find attached copy of report written by Mr Martin Ryan, Executive Planner KCC dated 11th September 2017.

Mr Ryan Executive Planner KCC report and findings clearly answer the Section 5 request made by Derek Whyte on behalf of Ms Aine Mangan that being:

“The extension to the rear is an exempt development”.

“The blockwork shed to the rear is an exempt development”.

"The detached shed is exempt under Class 3, Part 1, Schedule 2 of the P & D Regulations (as amended)"

Mr Martin Ryan, Executive Planner Kildare County Council's assessment of the shed states:

Detached Shed

"The single storey extension to the rear is exempt under Class 1, Part 1, Schedule 2 of the P&D Regulations 2001 (as amended)"

Please see attached report from Mr Martin Ryan, Executive Planner, Kildare County Council, dated 11th September 2017. I have copied his notes here whereby, in his assessment he states:

We have constructed a ground floor extension to our kitchen. It meets the criteria of exempted development regulations, as supported in documentation by Kildare County Council and Declan Kearns & Associates.

Ground floor extension to the rear.

The roof space of the property is a non-habitable storage area.

Attic/Roof space.

As per the original Section 5 request to Kildare County Council relating to 18 Riverside Grove, Athgarvan Road, Newbridge, Co. Kildare, please note the comments and findings listed below:

Further to this inspection we received a warning letter relating to two issues highlighted by Mr Martin Ryan, Executive Planner, Kildare County Council. Letter dated 5th October 2017, in which the council issued a Warning Letter for the following:

The erection of a timber fence / netting along the side boundary, and the raising of the rear boundary wall.

Please note this was the only issue highlighted from the entire site inspection, carried out by Kildare County Council.

I responded to this letter on the 11th October 2017 and to summarise:

I stated that the timber fence and debris netting were erected for Health & Safety reasons for a very short period of time to enable construction work to proceed safely to the shed and that the temporary wooden structure and debris netting was removed on 9th September 2017. I provided reasons for raising the height of the rear boundary wall and explained that once hard and soft landscaping work would be completed to this area I would expect the height of the wall to be substantially compliant with a finished height of 2m. Please see copy of my response letter attached with full details.

Please note Mr Martin Ryan, Executive Planner, Kildare County Council after issuing a warning letter for this and in his report of 16th November 2017 referred to the raising of the rear boundary wall as a "trivial matter"

Having addressed the points raised by KCC I fully expected this to close out the matter, since Mr Martin Ryan had already stated that the single storey extension and shed were exempt developments. However, Ms Mangan of 17 Riverside Grove was not content with the findings of Mr Martin Ryan's site visit decided to pursue KCC a second time for a follow up visit. It is very important to note that the only thing that had changed externally between these two so called visits would have been the removal of the timber fence and netting. (see pictures on the next page)

Mr Martin Ryan KCC claims to have re inspected the property on the 16th November 2017 and that: "apparently new information has come to light that demonstrates that the extension is built on the party/boundary wall and therefore constitutes unauthorised development"

(the wording used is very similar to Mr Derek Whyte's Section 5 request on behalf of Ms A Mangan), Mr Martin Ryan KCC decides that now the extension constitutes unauthorised development. Yet in his second report he has included pictures that could only have been taken up to 9th September 2017. Therefore, it proves that no new additional information existed.

The issue I have here is that the pictures Mr Martin Ryan KCC has included in this 'new information' are pictures that could only have been taken during his inspection on the 7th September 2017 from 17 Riverside Grove & on the 8th September 2017 from 18 Riverside Grove. Therefore, Mr Ryan was fully aware and viewed the 'as built' construction detail of the extension walls as inspected on 7th & 8th September 2017.

Please see pictures below showing before and after the timber/netting removal.
Note date stamp of pictures



Factually nothing had changed. Mr Ryan KCC changed his mind to suit Mr Derek Whyte's Section 5 submission on behalf of Ms A Mangan and then Mr Ryan decides then to issue a Warning Letter for:

The construction of a single storey extension to the rear of a two-storey semi-detached dwelling. Letter dated the 24th November 2017.

So, to summarise Mr Martin Ryan KCC inspects from Ms Mangan's property 17 Riverside Grove on 7th September. From my own property on the 8th September 2017 and states it's exempt development, and then changes his mind and issues a warning letter for the extension on 28th November 2017 some 12 weeks later. Even if somehow it was the case upon his inspection that the work was not exempt then he should have issued the warning letter within six weeks of receiving the complaint. May I reiterate the point here again that both the extension to the rear, and the shed were classed as exempt developments in Mr Ryan's 11th September 2017 report.

When I received the Warning Letter for the Extension on 28th November 2017, I rang Mr Ryan to find out why he had issued the warning letter for the extension, when his first report very clearly stated the extension and shed complied with exempt development criteria. The answer he gave me was "if the lead is removed off the wall (KCC) will forget about the raised height of the rear boundary wall that resulted in the issue of the first warning letter". Mr Ryan stated he was anxious to have a speedy resolution to close off the file before Christmas.

Please note since that phone call took place I have contacted KCC regarding the transcript or recording of this phone call, but they have responded to say they do not have the details.

When you look closely at the pictures contained in Mr Ryan's second report it is clearly obvious that those pictures were taken at the time of the first inspection where Mr Ryan stated that the extension was an exempt development. The pictures in Mr Ryan's report clearly show the timber fence and netting in the background and therefore the lead on the party/party wall was clearly seen and Mr Ryan's pictures had to have been taken on or before 9th September 2017." Important point to note here subsequently that in the information obtained under FOI request KCC regarded the "raising in height of the rear boundary wall as a trivial matter."

At this stage we appointed a Solicitor to act on our behalf with Kildare County Council as we felt there was something strange with how this case was being pursued. We appointed Mr Pat Liston of James O'Brien & Co. Solicitors to represent us in further correspondence with the council.

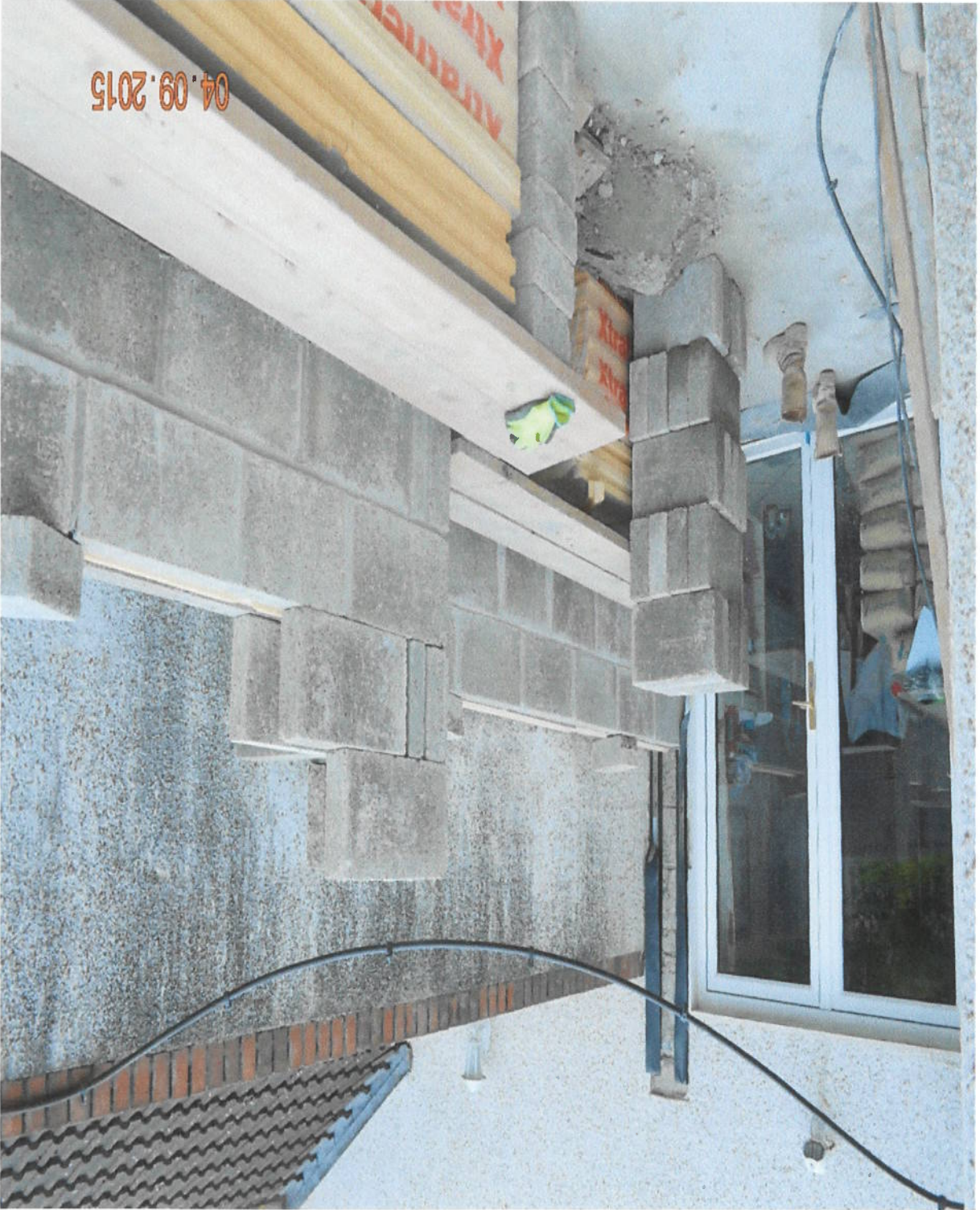
We have included a full set of correspondence letters between Mr Liston (James O'Brien & Co. Solicitors) and Kildare County Council but I feel the following letters are the two most significant letters regarding the extension. Please see following letters dated 11th January 2018 and letter dated 12th February 2018. Mr Liston's letters and pictures attached clearly state and show the fact that the new extension is construction on its own new rising walls and we have attached further pictures to our submission to prove this point.

Please see attached Mr Liston's Letters on the following pages and the various photographs attached to show the new extension walls under construction.

New extension cavity wall under construction at +3 courses above F.F.L. Note existing party/party wall in the background.



Picture clearly shows new walls of the extension under construction.
Note: 2 strips (Inner & Outer leaf) of wall starter strip clearly visible, and the existing party/partly wall behind it.



New extension cavity wall under construction.





The picture above clearly shows the outer leaf of blockwork forming the parapet detail. Note the existing red brick capped party/party wall.



Note new extension wall in relation to existing party/party wall



Outer leaf of blockwork forming parapet. Note foam filled gap between new extension walls and existing party/party wall.



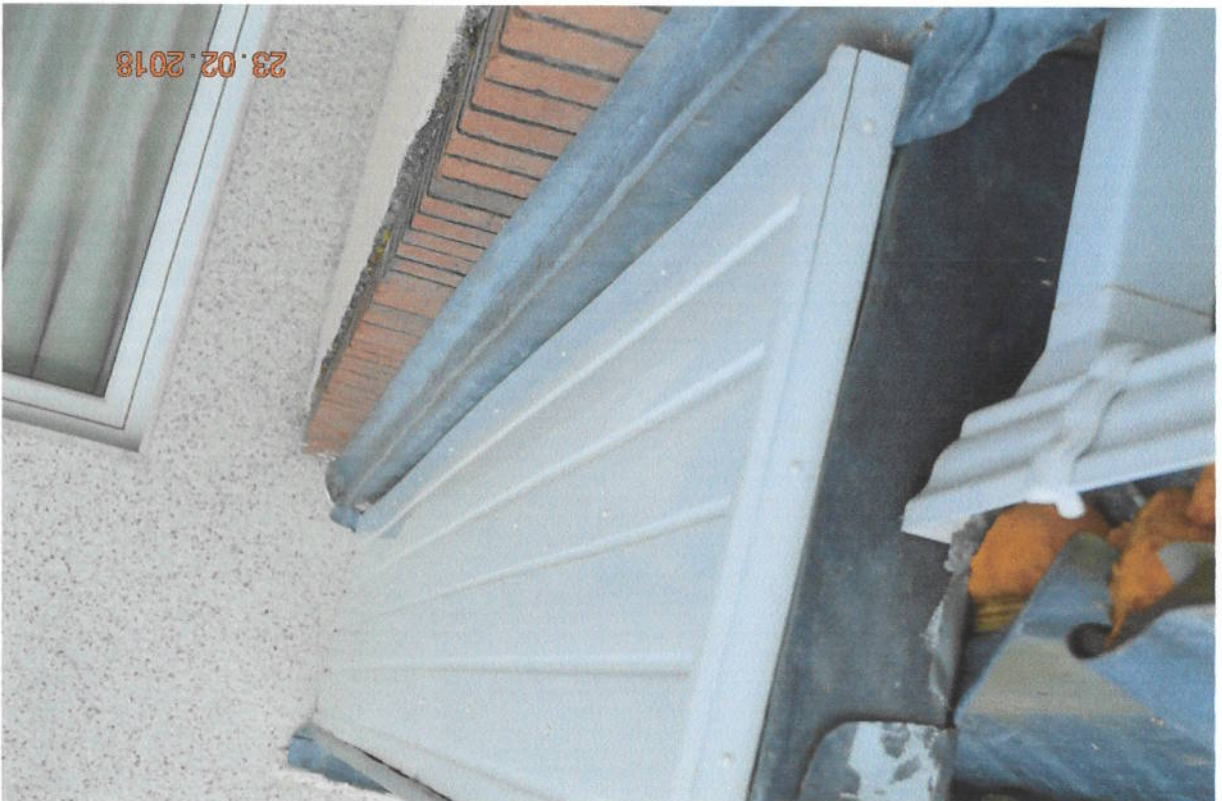
Detail showing that surface water run off/discharge contained within our property.





View along the party/party wall, note the lead does not project pass the centre line.

Due to poor workmanship on the existing party/party wall (red brick capped wall) a levelling fillet was required to partially alleviate a damp issue. 50mm backfill towards rear wall of house. Dampness issues to rear wall of house since houses built 2001. Pre-dates extension construction.





Yours Sincerely

The detached shed is exempt under Class 3, Part 1, Schedule 2 of the P & D Regulations (as amended)

Exempt under Class 1, Part 1, Schedule 2 of the Planning & Development Regulations 2001 (as amended).

Newbridge. Co Kildare are:
 Associates, both very clearly state that the work carried out at 18 Riverside Grove, Athgarvan Road. Engineers opinion on Exemption from Planning Permission as provided by Declan Kearns & The report by Mr Martin Ryan. Executive Planner. Kildare County Council, and subsequently the ourselves and subsequently our Solicitor in resolving the matter.

our property and have found Kildare County Council very hostile and reluctant to engage with at all times complied with the Planning & Development Regulations throughout undertaking work on caused undue stress and hardship on our family over a long and protracted period of time. We have demolition of the extension that they (KCC) had stated is/was exempt development. KCC have on certain aspects of the case) and now Kildare County Council are threatening court action for the manner which to date has been facilitated by Kildare County Council (including changing their mind enforcement case has been instigated and is being pursued by a difficult neighbour in a vexatious relating to our property or general neighbourly issues. I feel this Section 5 and subsequent Ms Mangan has proven to be a very difficult neighbour and completely negative in any matter Kildare.

declaration requested by Ms A Mangan of 17 Riverside Grove. Athgarvan Road. Newbridge. Co This referral to An Bord Pleanala has been requested by Kildare County Council for a Section 5

Conclusion

"I am of the opinion that, based on the services provided at (3) above, the Relevant Development is exempt under Class 1, Part 1 Schedule 2 of the Planning & Development Regulations 2001 (as amended). In my opinion the presence of the lead flashing on the party wall does not affect the exemption of the extension under Class 1, Part 1, Schedule 2 of the Planning & Development Regulations 2001 as amended."

Mr Kearns (DKA) states that:

Whereby we obtained an Engineer's opinion on Exemption from Planning Permission.

Please see attached correspondence from Declan Kearns & Associates dated 18th May 2018.

ENGINEER'S OPINION ON EXEMPTION FROM PLANNING PERMISSION

Re: Premises:- 18 Riverside Grove, Athgarvan Road, Killelin, Newbridge, Co. Kildare.

1. I, Decian Kearns, of Tullywest, Kildare, Co. Kildare am retained Brian Murphy and Natasha Hasset to furnish an opinion on the compliance of a single storey extension to the rear of the above address (hereinafter called the Relevant Development) with the Planning Acts. I confirm that I am a qualified Civil/Structural Engineer, graduating with a B.Eng. (Hons) in Civil Engineering in 1996 from Queen's University Belfast.

2. This opinion is based on a visual inspection only of the Relevant Development. It is issued solely for the purpose of providing evidence for the purposes of the compliance of the Relevant Development with Planning Regulations within the meaning of the Planning Acts. Except insofar as it relates to such compliance/exemption it is not a report on the condition or structure of the Relevant Development. I was not involved in the design or construction of the Relevant Development.

3. On 18/05/18, I carried out a visual inspection of the Relevant Development for the purposes of comparison of the Relevant Development with the Planning Acts.

4. I am of the opinion that, based on the services provided at (3) above, that the Relevant Development is exempt under Class 1, Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended). In my opinion the presence of the lead flashing on the party wall does not affect the exemption of the extension under Class 1, Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended).

DEFINITIONS

Planning Acts means the Local Government Planning and Development Acts and Regulations and any statutory modification or re-enactment thereof current at the date of this opinion.

Relevant Development means the development or part of the development described at paragraph 1 above.

Visual Inspection means an inspection of the Relevant Development as existed on the Inspection Date. No opening up was carried out. The inspection was superficial only and therefore took no account of works covered up or inaccessible.

These opinions do not warrant, represent or take into account any of the following matters:

- (i) Matters in respect of private rights or obligations.
- (ii) Matters of financial contribution and bonds.
- (iii) The physical condition of the premises.
- (iv) Development of the property which may occur after the inspection date.
- (v) Any other development attached to, associated with or otherwise connected to the relevant development, save insofar as such other development may affect the substantial compliance with the planning orders or exemption from planning control within the meaning of the Planning Acts of the relevant development.

Signed:



Date : 18th May 2018

Declan Kearns
Consulting Engineer
For and on Behalf of
Declan Kearns & Associates Ltd.



Tel: (067) 31218 (5 lines)
Fax: (067) 33357
Email: info@jamesobrien.ie
DX 20 008 Nenagh
V.A.T. No. 0033251L

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Nenagh,
Co. Tipperary,
E45 YW77
Established 1904

DUBLIN OFFICE
24/26 Upper Ormond Quay,
Dublin 7.

P. Minnock
Director of Services
Kildare County Council
Araas Chill Dara
Devoiy Park
Naas
Co. Kildare
W91 X77F

DIRECTOR OF SERVICES
7 DEC 2017

SCANNED

Our Ref: P/AR
Your Ref: UD6984
6th December 2017

Re: Our clients: Brian and Natasha Murphy
18 Riverside Grove, Kibbelin, Athgarvan Road, Newbridge, Co. Kildare

Dear Sir/Madam,

We act on behalf of Brian Murphy and Natasha Murphy of 18 Riverside Grove, Kibbelin, Athgarvan Road, Newbridge, Co. Kildare who have consulted us in relation to a warning letter dated 24th November last received by them from Kildare County Council with regard to an alleged unauthorised development, namely the construction of a single storey extension to the rear of their dwellinghouse at 18 Riverside Grove, Kibbelin, Athgarvan Road, Newbridge, Co. Kildare.

We are instructed by our clients that the single storey extension to the rear of their above mentioned dwellinghouse is an exempt development. Our clients further instruct us that their property was inspected by Mr. Martin Ryan, Executive Planner of Kildare County Council on the 8th September last and in his follow up report of the 11th September Mr. Ryan states quite clearly that the single storey extension as constructed by our clients to the rear of their dwellinghouse is an exempt development under Class 1, Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended).

If there is a specific concern that Kildare County Council have with regard to the extension constructed by our clients to the rear of their dwellinghouse then you might please specify exactly what it is and how the contravention of planning regulations arises.

Yours faithfully,

PAT LISTON
JAMES O'BRIEN & CO.

Direct e-mail
patrick.liston@jamesobrien.ie



**Planning Department
PLANNING CONTROL SECTION
045-980839**

Our Ref: UD6984 (Please quote this reference in future correspondence)
Your Ref: PLAR

13th December 2017

Pat Liston
James O'Brien & Co. Solicitors
30 Castle Street,
Nenagh,
Co. Tipperary
E45 W77

Re: 18 Riverside Grove, Kilbelin, Athgarvan Road, Newbridge, Co. Kildare

Dear Mr. Liston,

Your client is correct in stating that the property was initially inspected by Mr. Martin Ryan, Executive Planner on the 8th September 2017 and a Warning Letter was issued on the 5th October 2017 to Brian Murphy and Natasha Hassett. The letter stated 'it has come to the attention of the Planning Authority that unauthorised development is being or may be carried out as follows; The erection of timber fence / netting along the side boundary, and the raising of the rear boundary wall.'

Following additional consultation with the complainant it was decided that the extension to the rear of no. 18 Riverside Grove be re-inspected from the rear garden of no. 17 Riverside Grove.

Mr. Ryan proceeded to take a number of photographs from the rear garden and first floor window of no. 17 Riverside Grove (please see appendix A photos below). It can be clearly seen that a portion of the recently constructed extension to the rear of no. 18 Riverside Grove has been built on the boundary / party wall that separates no. 18 Riverside Grove from no. 17 Riverside Grove.

READ IN CONJUNCTION WITH REPORT 2, (KCC).



Comhairle Contae Chill Dara
Kildare County Council

The pictures were taken on or before 9/9/17

The development comprises an extension to the rear of a semi-detached dwelling. The extension has been constructed on the party/boundary wall between no. 17 and 18 Riverside Grove (please see Appendix A photographs). As the extension is built on the original party / boundary wall, the extension cannot be considered 'within the curtilage' of no. 18 Riverside Grove.

Taking account of the assessment above, the photographs attached and the decision by ABP in respect of RL.2250, it is considered that the extension constructed is not 'within the curtilage' of No. 18 Riverside Grove and therefore does not come within the remit of Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended). It therefore constitutes an unauthorised development.

Yours sincerely,

P. S. S. S.

A/Senior Executive Officer
Planning Department



Comhairle Contae Chill Dara
Kildare County Council

Appendix A (photos)

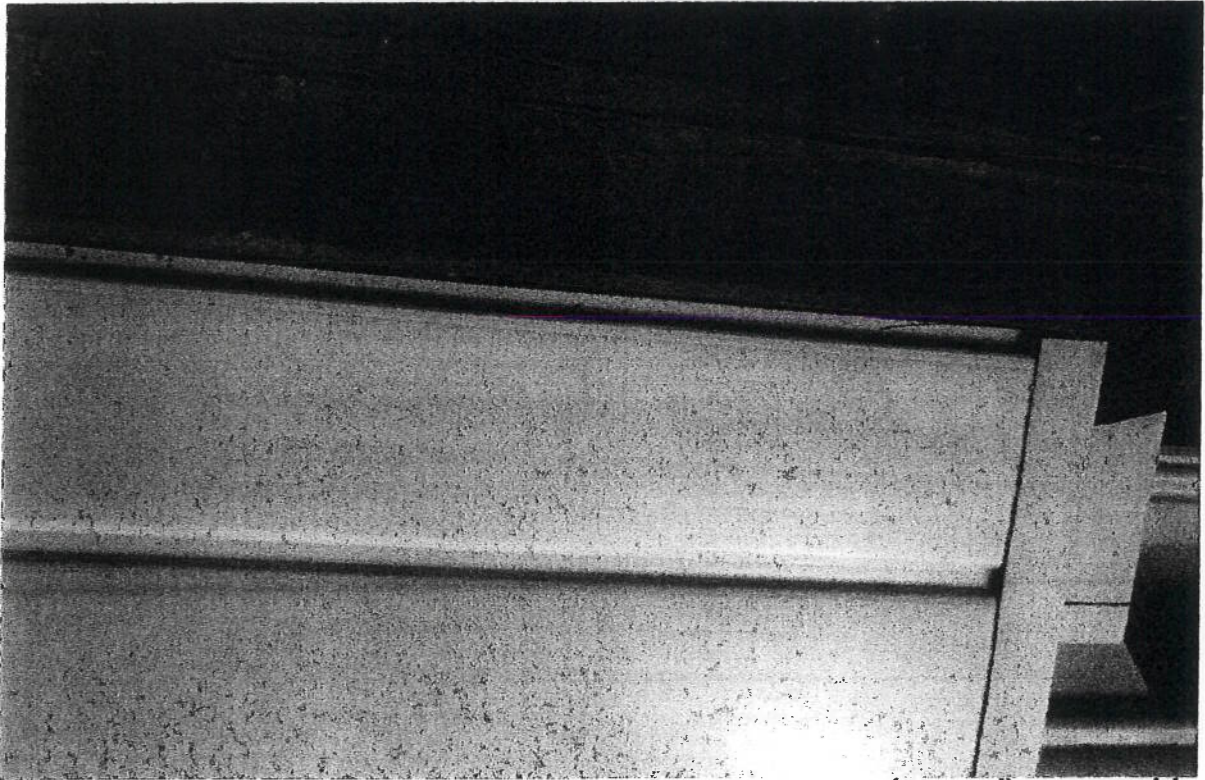


Fig 1.1 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18)

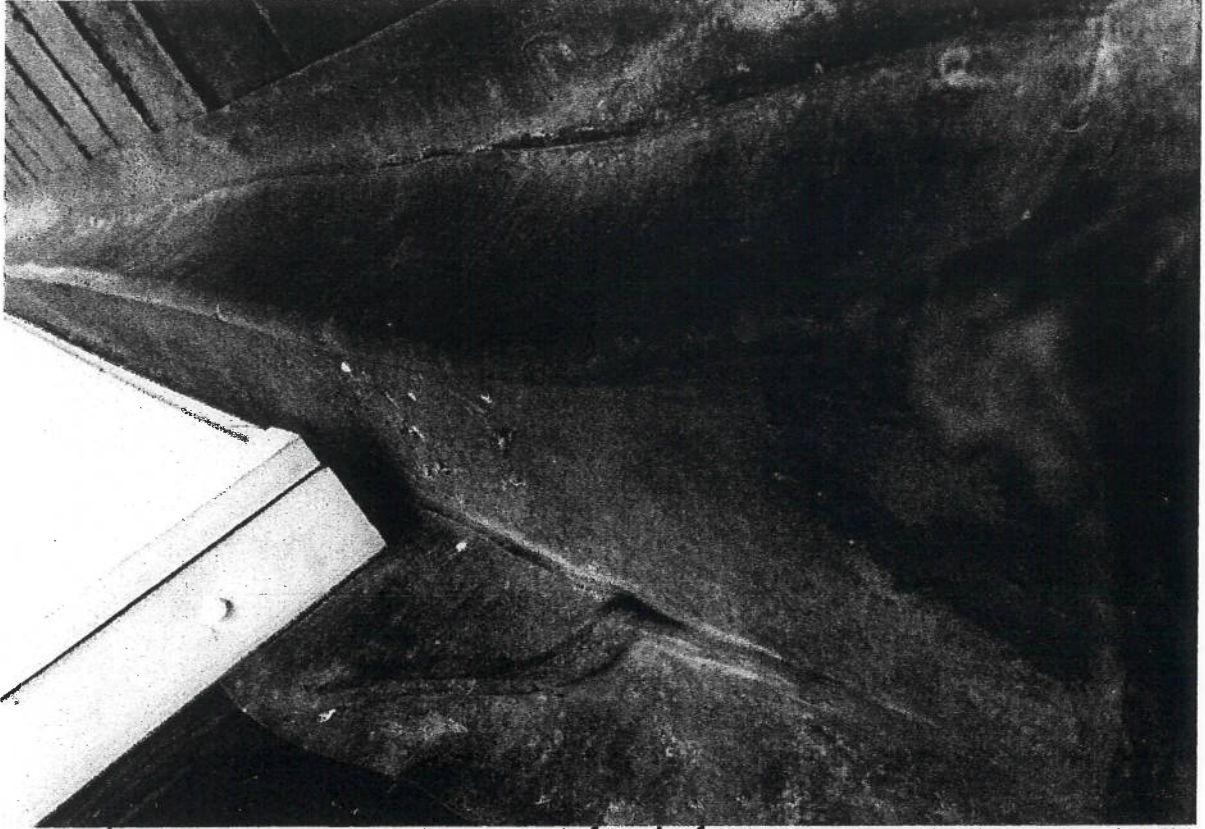


Fig 1.2 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18)

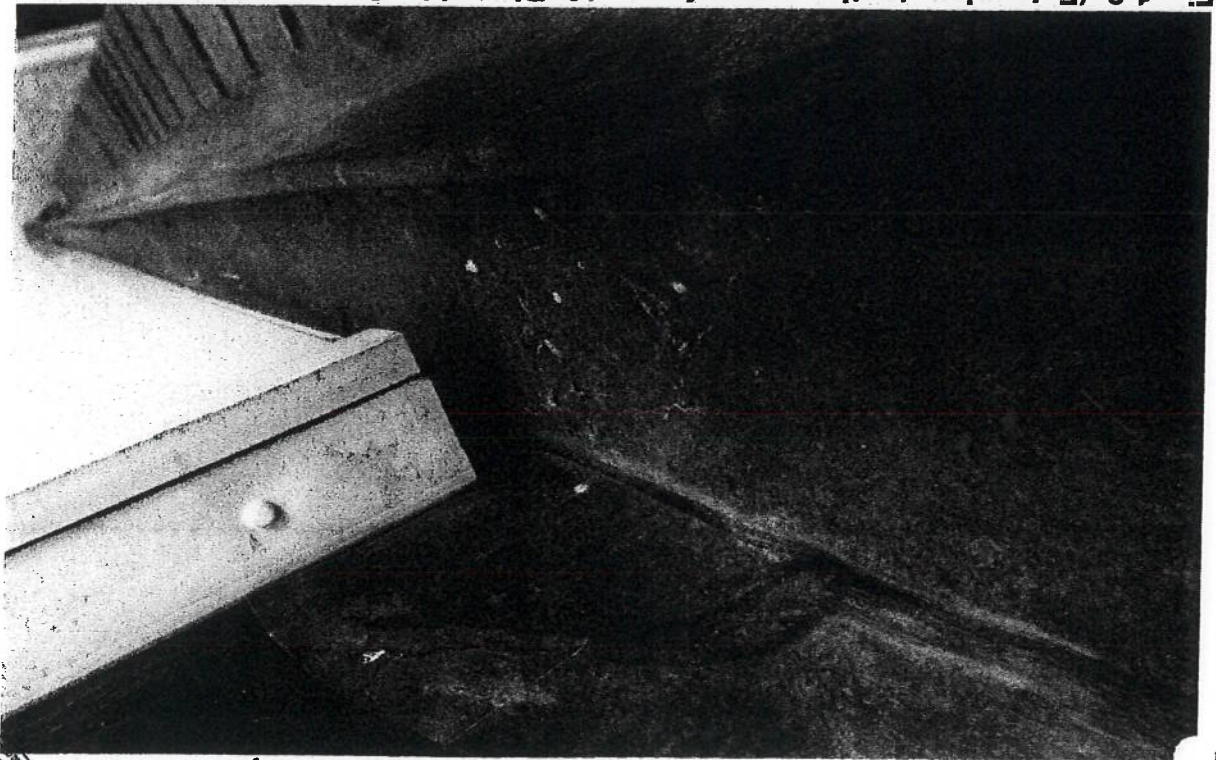


Fig 1.3 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18)



Fig 1.4 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18)



Comhairle Contae Chill Dara
Kildare County Council

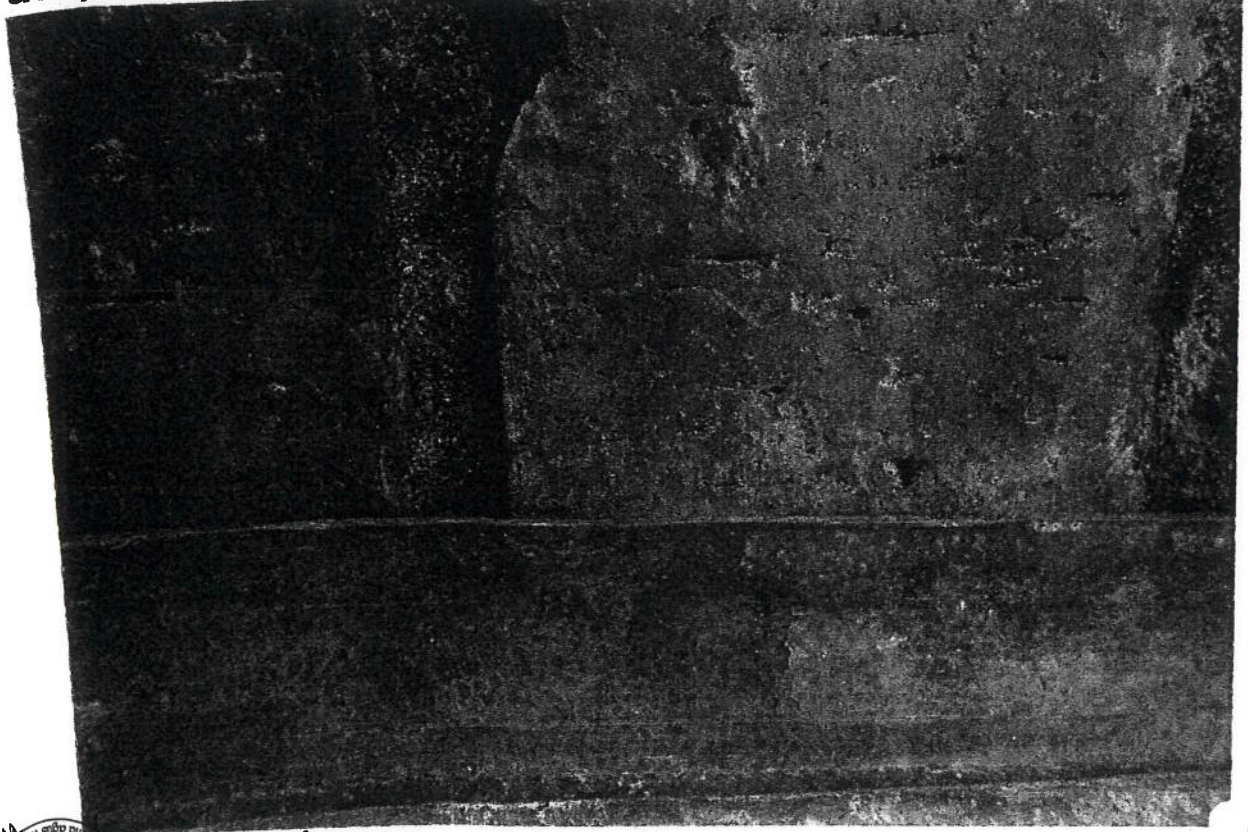


Fig 1.5 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18)



Fig 1.6 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18)

These pictures taken 9 SEPT 17.

NOTE
+
FENCE
NETTING
AS
INCLUDED
IN
REPORT
No 2.



Fig 1.7 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18)

THESE PICTURES IN. FOI REPORT. NO. 2
WERE TAKEN ON OR BEFORE 9/9/17.



Comhairle Contae Chill Dara
Kildare County Council



10.09.2017



Kildare County Council
Planning Department
Aras Chill Dara
Devoy Park
Naas
Co. Kildare
W91 X77F

Our ref: PL/GH/MUB11/1
Your Ref: UD6984

11th January 2018

**Re: Our clients: Brian and Natasha Murphy
18 Riverside Grove, Kilbelin, Athgarvan Road, Newbridge, Co. Kildare**

Dear Sir/Madam,

We refer to your letter of the 13th December last in connection with our above named clients.

We have now obtained instructions from our clients regarding the contents of your letter of the 13th December last.

Our clients have instructed us that the extension as constructed to the rear of their dwellinghouse is within the curtilage of their property and accordingly an exempt development. This was confirmed by Mr. Martin Ryan, executive planner in his report of the 11th of September 2017. The extension to our clients' dwellinghouse has not been constructed on the party/party wall and furthermore the extension consists of its own separate rising walls which were clearly visible when Mr. Martin Ryan carried out his inspection of our clients' property on the 8th of September last.

The photographs which are enclosed with your letter of the 13th December last show a section of lead flashing, which is only laid to prevent water ingress on our clients' side of the party/party wall. We are further instructed by our clients that the section of lead flashing shown in the photographs enclosed with your letter of the 13th December last has been in situ since approximately April 2016 and would have been clearly evident when Mr. Ryan carried out his inspection of our clients' property on the 8th of September last. There was no issue with regard to the lead flashing in Mr. Ryan's report of the 11th September last. Our clients also instruct us that due to the poor construction of the party/party wall between houses numbers 17 and 18 Riverside Grove there is a fall towards the rear of their dwellinghouse so

that dampness in the rear wall of their dwellinghouse has been a constant problem particularly during periods of heavy rain. In order to prevent this problem recurring into the future a section of lead flashing was applied to the side of the extension. We are also instructed by our clients that their youngest daughter who is four and a half years of age suffers from leukaemia and in order to ensure their daughter does not suffer any form of infection or further illness they are anxious to ensure that their property is free from any dampness or water ingress.

If it is the contention of Kildare County Council, which is denied that the placing of lead flashing on our clients' side of the party/party wall contravenes planning legislation then you might please point out the specific planning regulation that precludes the placing of a section of lead flashing on our clients' side of the party/party wall.

In your letter of the 13th December last you referred to a decision of An Bord Pleanála reference number RL.2250. Our clients obtained photographs of the extension the subject matter of this particular appeal which is an extension to the side of a domestic dwellinghouse. We enclose herewith copy photographs (3) of which shows the extension in that particular case and you will note that part of the extension clearly forms part of the adjoining party/party wall with the roof of the extension also being supported by the party/party wall. This is not the case with the Bord Pleanála in case reference number RL.2250 has no relevance to the extension constructed to the rear of our clients dwellinghouse.

In summary, it is our clients' view that their extension is an exempt development and does come within the remit of class 1 of part 1 of schedule 2 of the planning and development regulations, 2001 as amended.

Yours faithfully,

PAT LISTON
JAMES O'BRIEN & CO.
Direct e-mail –
Patrick.liston@jamesobrien.ie



02:03

94-MH-1021

1.90



23 1:03

94-MH-821



Kildare County Council,
Planning Department,
Planning Control Section,
Aras Chill Dara
Devoy Park
Naas
Co. Kildare
W91 X77F

Our ref: PL/GH/MUB11/1
Your Ref: UD6984

12th February, 2018

Re: Our clients: Brian and Natasha Murphy
18 Riverside Grove, Killelin, Athgarvan Road, Newbridge, Co. Kildare

Dear Sirs,

We refer to your letter of the 15th January last in connection with our above named clients.

We have now been informed by our clients that an enforcement notice has been served on them by Kildare County Council by letter dated 31st January last which states that the single storey extension constructed to the rear of their dwellinghouse is allegedly an unauthorised development and that Kildare County Council now require the extension to be demolished and removed by the 2nd of July next. This is despite the fact that Mr. Martin Ryan, executive planner in his report of the 1st September last states that the said extension is an exempted development. In order to reiterate the point that our clients extension is constructed entirely within the curtilage of their property we now enclose herewith copy photographs (2) which shows the rising/structural wall of our clients extension when the wall was three courses high and at a later stage when the wall rose above the existing party/party wall. It is quite obvious from these photographs that our clients' extension is not only within the curtilage of their property but that the said extension is not constructed on the adjoining party/party wall.

As the extension constructed to the rear of our clients' dwellinghouse is an exempted development there is no legal basis for Kildare County Council demanding the demolition and removal of the extension.

We are instructed by our clients that any legal proceedings of any kind which may be initiated or contemplated by Kildare County Council with regard to the extension constructed to the rear of our clients' dwellinghouse will be vigorously defended.

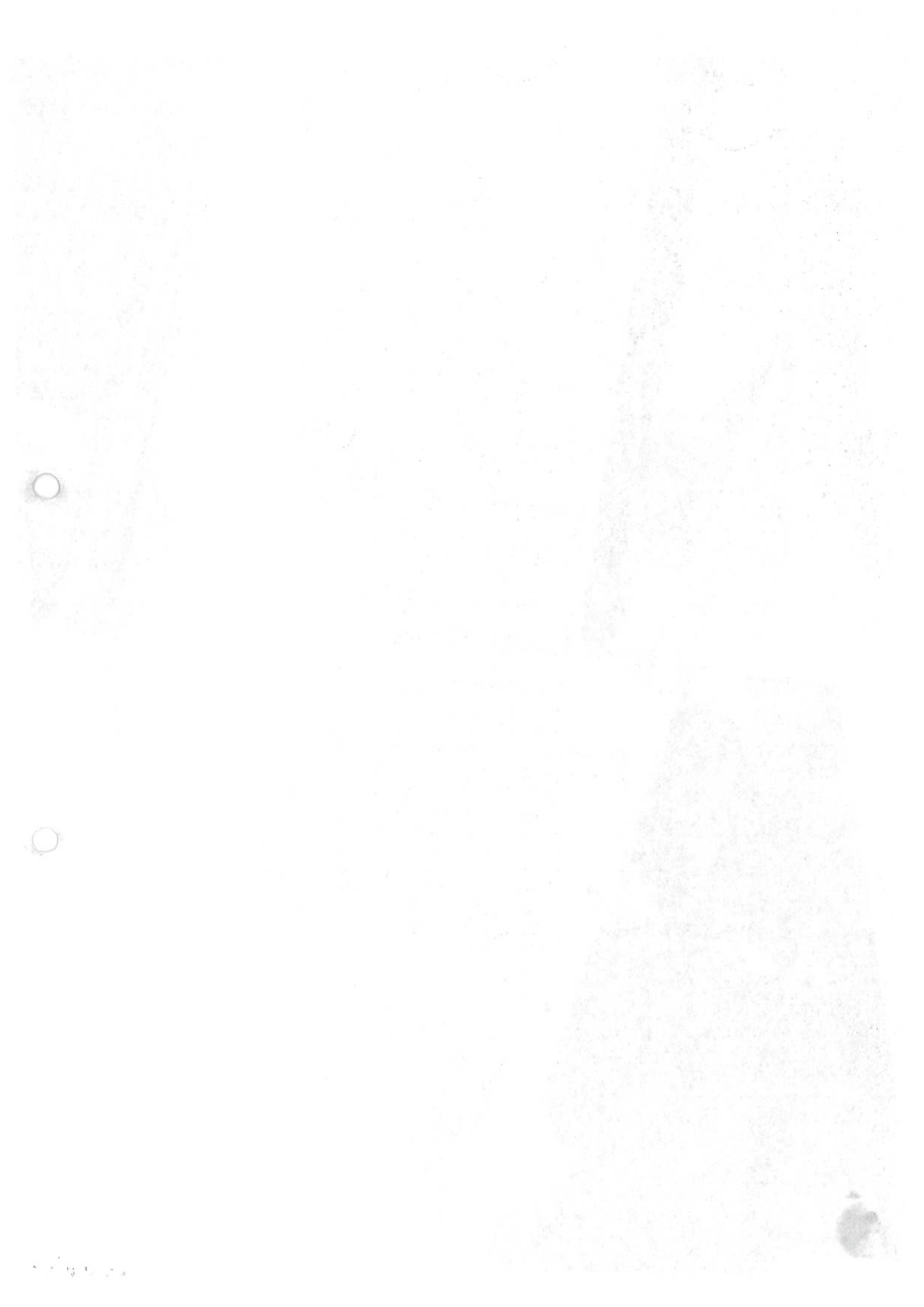
We also note that Kildare County Council have declined to respond in any way to the submissions set out in our letter of the 11th January last. In the event that Kildare County Council initiate any legal proceedings against our clients then you might please note that the contents of our letter of the 11th January last and the failure on the part of Kildare County Council to respond properly to same will be brought to the attention of the court.

Yours faithfully,

PAT LISTON
JAMES O'BRIEN & CO.
Direct e-mail –
Patrick.liston@jamesobrien.ie









Comhairle Contae Chill Dara
Kildare County Council

Planning Department
PLANNING CONTROL SECTION
045-980839

Our Ref: UD6984 (Please quote this reference in future correspondence)
Your Ref: PL/GH/MUB11/1

19th February 2018

Pat Liston
James O'Brien & Co. Solicitors
30 Castle Street,
Nenagh,
Co. Tipperary
E45 YW77

Re: 18 Riverside Grove, Kibbelin, Athgarvan Road, Newbridge, Co. Kildare

Dear Pat,

As outlined in our correspondence to you on the 13th December 2017, a warning letter was issued on the 5th October 2017 to Brian Murphy and Natasha Hassett. The letter stated 'It has come to the attention of the Planning Authority that unauthorised development is being or may be carried out as follows: The erection of timber fence / netting along the side boundary, and the raising of the rear boundary wall.'

Following additional consultation with the complainant it was decided that the extension to the rear of no. 18 Riverside Grove be re-inspected from the rear garden of no. 17 Riverside Grove. It was only discovered through this inspection that a portion of the recently constructed extension to the rear of no. 18 Riverside Grove has been built on the boundary / party wall that separates no. 18 Riverside Grove from no. 17 Riverside Grove. As the extension is built on the original party / boundary wall, the extension cannot be considered 'within the curtilage' of no. 18 Riverside Grove and therefore does not come within the remit of Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended). It therefore constitutes an unauthorised development.



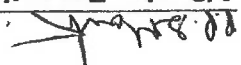
Comhairle Contae Chill Dara
Kildare County Council

The reason no reply was made to your correspondence on the 11th January 2018 was that the council's position had been clearly laid out within its previous correspondence to you on the 11th December 2017. Kildare County Council does not have the time or resources to continuously explain its position on this matter.

Kildare County Council is still firmly of the opinion that the extension cannot be considered 'within the curtilage' of no. 18 Riverside Grove and therefore does not come within the remit of Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended). The development constitutes an unauthorised development. None of the information provided within your correspondence to Kildare County Council on the 11th January 2018 changes that opinion.

Please note that you are fully entitled to submit a Section 5 application under the Planning and Development Act 2000-2017, which would clearly ascertain whether or not the recently constructed **single-storey extension** to the rear of the two-storey semi-detached dwelling constitutes exempt development.

Yours sincerely,


A/Senior Executive Officer
Planning Department



Comhairle Contae Chill Dara
Kildare County Council

WARNING LETTER

Ref No UD 6984

REGISTERED POST

Brian Murphy,
18 Riverside Grove,
Kilbelin,
Athgarvan Road,
Newbridge,
Co. Kildare.

Dear Mr. Murphy,

It has come to the attention of the Planning Authority that unauthorised development is being or may be carried out as follows:

The erection of timber fence / netting along the side boundary, and the raising of the rear boundary wall.

On land at the following address: 18 Riverside Grove, Kilbelin, Athgarvan Road, Newbridge.

The Planning Authority's investigation to date indicates that the development as detailed above would appear to be unauthorised.

Under Section 152(4)(b) of the Planning & Development Acts 2000 - 2017 you are entitled to make submissions or observations **in writing** to Kildare County Council (Planning Enforcement Section, Planning Department) in this regard not later than four weeks from the date of service of this warning letter. Please clearly state the reference number in any correspondence to the Council.

Where the Planning Authority considers that unauthorised development may have been, is being or may be carried out, an Enforcement Notice, pursuant to Section 154 of the Act, may be issued.



The Planning Authority's officials or its authorised agent(s), may at all reasonable times enter onto the land for the purposes of inspection.

Section 151 of the Planning and Development Acts 2000 - 2017 provides that any person who has carried out or is carrying out unauthorised development shall be guilty of an offence. Section 154(8) of the Planning and Development Acts 2000 - 2017 provides that any person on whom an enforcement notice is served who fails to comply with the requirements of the notice within the specified period or within such extended time as the planning authority may allow, not exceeding 6 months, shall be guilty of an offence. A person who is guilty of an offence under Section 151 and/or 154 shall be liable to a fine or term of imprisonment or both.

The possible penalties involved where there is an offence are as follows:

Fines of up to €12,697,380.00 on indictment, or 2 years imprisonment, or both,
Or

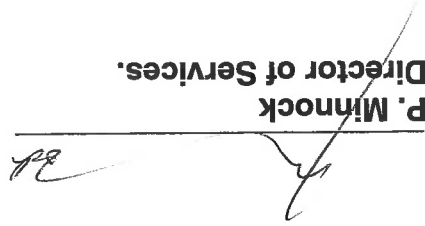
Up to €5,000.00 on summary conviction or 6 months imprisonment, or both.

Under Section 154(7) of the Planning & Development Act 2000 - 2017 any costs incurred by the Planning Authority in relation to enforcement proceedings may be recovered from a person on whom enforcement notice is served or where a court action is taken.

Your attention is drawn to the provisions of Section 156(6) of the Planning & Development Acts 2000 - 2017, which places the onus on a developer to prove that a development is exempt development and it is to be assumed that it constitutes development until the contrary is shown by the developer. Note also that the onus of proof as to the existence of any planning permission lies with the developer.

Your attention is further drawn to the provisions of Section 162(3) of the Planning and Development Acts 2000 - 2017, which states that enforcement action shall not be stayed or withdrawn (including for an application under Section 160) by reason of an application for permission for retention of a development under Section 34(12) or the grant of any such permission.

Signed:


P. Minnock
Director of Services.

Date: 5th Dec 2017

The erection of the timber fence/netting along the side boundary has been removed.

The temporary timber fence and debris netting that was erected on the south west boundary wall has been removed.

its purpose was as follows:

It was provided as a precaution to mitigate and minimise any air borne dust and debris being emitted during the construction of the shed, to prevent any nuisance to house No 17, owner Ms. A Mangan. During the construction of the shed, and to provide a safe working environment, I needed the tree branches and leaves from Ms. A Mangan's tree kept back from oversailing my property. In many cases the branches were, and still are oversailing the blockwork boundary wall by 1.3m. Despite verbally requesting Ms. A Mangan to cut them back on 2 separate occasions 8 and 12 weeks respectively, before work commenced in this area, no action was taken by Ms. A Mangan to address and resolve the oversailing branches from her tree.

This temporary structure was removed on 9th September 2017 two days after the rendering of the shed had been completed.

Further to your letter received on 9th October 2017 I wish to address the issues raised as follows:

Dear Mr. Minnock,

REGISTERED POST

Your Ref: UN 6984

13th October 2017

W91 X77F

Co. Kildare

Naas

Devoy Park

Aras Chill Dara

Planning Department

Planning Enforcement Section

Kildare County Council

Director of Services

P Minnock

SCANNED

Co. Kildare

Newbridge

Athgarvan Road

18 Riverside Grove

DIRECTOR OF SERVICES
13 OCT 2017

9

Ken Kavanagh / Resources Code

The raising of the rear boundary wall.

Within the development of Riverside Grove housing estate built in 2001/2002 by Gainsmount Homes there are many blockwork boundary walls, which were built by the developer at heights ranging from 2.3 to 2.6m dry dash rendered and capped.

At the time KCC staff carried out their survey, the height of the wall in question is currently about 2.3m off the existing (temporary) ground level. Hard and soft landscaping work to this area have not commenced yet, which I expect will reduce the height of the wall above ground level and bring the wall substantially compliant with the 2m height rule.

I raised the rear boundary wall which was at approx. 1.7m, to try and stop my children's footballs from going over the 1.7m wall, and ending up in the void between the wall in question and the blockwork shed directly behind me. There are two sheds behind this wall in question, one of which is on Killelin Lawns and the other is on Killelin Avenue.

In the past footballs had gone over into this void "dead space" between the wall in question and the blockwork sheds behind, and there is no safe way for any child or adult on either side to access this "dead space" to retrieve the balls. I raised the wall and in doing so, by bringing my section of wall up to just under the soffit height of the shed behind me it has minimised the chances of a ball ending up in this area.

The raising of the wall does not impact on the two properties behind me, and it does not affect Ms. A Mangan.

Yours Sincerely



B & N Murphy



Comhairle Contae Chill Dara
Kildare County Council
WARNING LETTER

Ref No UD 6984

REGISTERED POST

Brian Murphy,
18 Riverside Grove,
Kilbeline,
Athgarvan Road,
Newbridge.

Dear Mr. Murphy,

It has come to the attention of the Planning Authority that unauthorised development is being or may be carried out as follows:

- **The construction of a single-storey extension to the rear of a two-storey semi-detached dwelling.**

On land at the following address:

- **18 Riverside Grove, Kilbeline, Athgarvan Road, Newbridge.**

The Planning Authority's investigation to date indicates that the development as detailed above would appear to be unauthorised.

Under Section 152(4)(b) of the Planning & Development Acts 2000 - 2017 you are entitled to make submissions or observations **in writing** to Kildare County Council (Planning Enforcement Section, Planning Department) in this regard **not later than four weeks from the date of service of this warning letter**. Please clearly state the reference number in any correspondence to the Council.

Where the Planning Authority considers that unauthorised development may have been, is being or may be carried out, an Enforcement Notice, pursuant to Section 154 of the Act, may be issued.

The Planning Authority's officials or its authorised agent(s), may at all reasonable times enter onto the land for the purposes of inspection.

Section 151 of the Planning and Development Acts 2000 - 2017 provides that any person who has carried out or is carrying out unauthorised development shall be guilty of an offence. Section 154(8) of the Planning and Development Acts 2000 - 2017 provides that any person on whom an enforcement notice is served who fails to comply with the requirements of the notice within the specified period or within such extended time as the planning authority may allow, not exceeding 6 months, shall be guilty of an offence. A person who is guilty of an offence under Section 151 and/or 154 shall be liable to a fine or term of imprisonment or both.

Forwarded
28/11/17
BPM

Comhairle Contae Chill Dara
Kildare County Council
The possible penalties involved where there is an offence are as follows:




- Fines of up to €12,697,380.00 on indictment, or 2 years imprisonment, or both,
- Or
- Up to €5,000.00 on summary conviction or 6 months imprisonment, or both.

Under Section 154(7) of the Planning & Development Act 2000 - 2017 any costs incurred by the Planning Authority in relation to enforcement proceedings may be recovered from a person on whom enforcement notice is served or where a court action is taken.

Your attention is drawn to the provisions of Section 156(6) of the Planning & Development Acts 2000 - 2017, which places the onus on a developer to prove that a development is exempt development and it is to be assumed that it constitutes development until the contrary is shown by the developer. Note also that the onus of proof as to the existence of any planning permission lies with the developer.

Your attention is further drawn to the provisions of Section 162(3) of the Planning and Development Acts 2000 - 2017, which states that enforcement action shall not be stayed or withdrawn (including for an application under Section 160) by reason of an application for permission for retention of a development under Section 34(12) or the grant of any such permission.

Signed: 
P. Minnock
Director of Services.

Date: 24th Nov 2017



Comhairle Contae Chill Dara
Kildare County Council
WARNING LETTER

Ref No UD 6984

REGISTERED POST

Natasha Hassett,
18 Riverside Grove,
Kilbelin,
Athgarvan Road,
Newbridge.

Dear Ms. Hassett,

It has come to the attention of the Planning Authority that unauthorised development is being or may be carried out as follows:

- **The construction of a single-storey extension to the rear of a two-storey semi-detached dwelling.**

On land at the following address:

- **18 Riverside Grove, Kilbelin, Athgarvan Road, Newbridge.**

The Planning Authority's investigation to date indicates that the development as detailed above would appear to be unauthorised.

Under Section 152(4)(b) of the Planning & Development Acts 2000 - 2017 you are entitled to make submissions or observations **in writing** to Kildare County Council (Planning Enforcement Section, Planning Department) in this regard not later than four weeks from the date of service of this warning letter. Please clearly state the reference number in any correspondence to the Council.

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Comhairle Contae Chill Dara
Kildare County Council
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- Fines of up to €12,697,380.00 on indictment, or 2 years imprisonment, or both,
- Or
- Up to €5,000.00 on summary conviction or 6 months imprisonment, or both.

Under Section 154(7) of the Planning & Development Act 2000 - 2017 any costs incurred by the Planning Authority in relation to enforcement proceedings may be recovered from a person on whom enforcement notice is served or where a court action is taken.

Your attention is drawn to the provisions of Section 156(6) of the Planning & Development Acts 2000 - 2017, which places the onus on a developer to prove that a development is exempt development and it is to be assumed that it constitutes development until the contrary is shown by the developer. Note also that the onus of proof as to the existence of any planning permission lies with the developer.

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Signed: 
P. Minnock
Director of Services.

Date: 24th Nov 2017

From: Veronica Cooke
Sent: Wednesday 10 January 2018 15:36
To: [Mr. Brian Murphy](#)
Subject: [CASE:21920] FOI 17-170 Update on Planning Enforcement records since date of previous FOI Decision dated 27/10/2017 (17/134)
Dear Mr. Murphy,
Attached please find a signed Decision, schedule of documents and the documents being released in answer to your request.
Yours sincerely,
Veronica Cooke
FOI - Planning

Sent from [Mail](#) for Windows 10

Brian Murphy

Yours sincerely

Can you confirm if the council would have a recording of the telephone conversation I had with Mr Ryan.

Dear Ms Cooke,
Subject: RE: [CASE:21920] FOI 17-170 Update on Planning Enforcement records since date of previous FOI Decision dated 27/10/2017 (17/134)
Dear Ms Cooke,

[Redacted signature block]

I can confirm that the council does not have a recording of the telephone conversation that you had with our Martin Ryan.

Dear Mr. Murphy,

[Redacted signature block]

Tá an ríomhphost seo próbháideach agus ní ceadmhach úsáid an ríomhphoist seo d'éinne ach réir an dlí. Munar duit an ríomhphost seo, déan teagmháil leis an seoltóir chomh luath agus is féidir. D'fhéadfadh nach iad tuairimí Chomhairle Contae Chill Dara na tuairimí atá curtha in iúl sa ríomhphost seo.

Déanann Comhairle Contae Chill Dara iarracht ríomhphoist a chosaint ó víris. Mar sin féin, moltar duit gach ríomhphost a scanadh, mar ní ghlacann an Chomhairle aon dliteanas i leith damáiste do do chórais.

This message is intended only for the use of the person(s) to whom it is addressed. It may contain information which is privileged and confidential within the meaning of applicable law. If you are not the intended recipient, please contact the sender as soon as possible. The views expressed in this communication may not necessarily be the views held by Kildare County Council.

Kildare County Council endeavours to protect e-mails and their attachments from viruses.

However, you are advised to scan all messages, as the council does not accept any liability for contamination or damage to your systems, however caused.

[Our Website kildarecountycouncil.ie](#), [Follow us on Twitter](#) - [Like us on Facebook](#)



Comhairle Contae Chill Dara
Kildare County Council

KILDARE COUNTY COUNCIL
PLANNING DEPARTMENT

**ENFORCEMENT NOTICE PURSUANT TO SECTION 153 AND SECTION 154 OF
THE PLANNING AND DEVELOPMENT ACTS 2000 TO 2017.**

Our Ref: UD6984

REGISTERED POST

Brian Murphy
18 Riverside Grove
Kilbain
Athgarvan Road
Newbridge
Co. Kildare

Dear Mr. Murphy,

It appears to Kildare County Council (hereinafter called the Council), being the Planning Authority for the County of Kildare, that lands at 18 Riverside Grove, Kilbain, Athgarvan Road, Newbridge, Co. Kildare as shown on the attached map have been developed in contravention of Section 32 of the Planning and Development Acts 2000 to 2017 i.e. otherwise than in accordance with a permission required under those Acts.

The unauthorised development consists of:

- The construction of a single-storey extension to the rear of a two-storey semi-detached dwelling.

The Council, hereby serves Notice under Sections 153 and 154 of the Planning and Development Acts, 2000 to 2017

The Council, hereby gives you notice that you are hereby required to take the steps specified in the attached schedule within the time for performance specified in the attached schedule.

If within the period(s) specified by this notice or within such extended period (not being more than 6 months) as the Council may allow, the steps specified in the notice to be taken are not taken, the Council may enter on the land and take such steps, including the removal, demolition or alteration of any structure, and may recover any expenses reasonably incurred by them in that behalf.

You may be required to refund to the Council the costs and expenses reasonably incurred by them in relation to the investigation, detection and issuing of this Enforcement Notice and of any preceding Warning Letter issued under Section 152 of the Planning and Development Acts 2000 to 2017 including any costs incurred in



Comhairle Contae Chill Dara
Kildare County Council

respect of the remuneration and other expenses of employees, consultants and advisers, and the Council may recover these costs and expenses by it, in that behalf. If within the period(s) specified by this notice or such extended period, not being more than 6 months, as the Council may allow, the steps specified in the notice are not taken, you may be guilty of an offence and are hereby warned that a prosecution under Section 154 of the Planning and Development Acts 2000 to 2017 may be brought by the Council against you.

Any person who knowingly assists or permits the failure by another to comply with this enforcement notice shall also be guilty of an offence.

Dated this 31 day of January 2018

Planning Department
Kildare County Council

Signed

J. Cooke

This Notice includes:-

A Schedule of Measures

A Summary of the applicable Criminal Sanctions

A Map identifying the property to which this Notice relates.



/KildareCountyCouncil
@KildareCoCo

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Comhairle Contae Chill Dara, Aras Chill Dara, Páirc Uí Dhúbhúil, An Nás, Co. Chill Dara, W91 X77F.
Kildare County Council, Aras Chill Dara, Devoy Park, Naas, Co. Kildare W91 X77F.
T 045 980200 • F 045 980240 • E customercare@kildarecoco.ie • www.kildarecoco.ie



Schedule of Measures

Measures	Date by which measures shall be carried out
(1) Demolish and remove the single-storey extension to the rear of the two-storey semi-detached dwelling.	2 nd July 2018



Summary of the applicable Criminal Sanctions

A person who is guilty of an offence under Sections 151 or 154 of the Planning and Development Acts 2000 to 2017, shall be liable

On conviction on indictment of a fine not exceeding €12,697,381 or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment, or for a term not exceeding six months or both.

If after conviction for an offence there is a continuation of that offence that person shall be guilty of a further offence on every day on which the contravention continues and for each such offence shall be liable

On conviction on indictment to a fine not exceeding €12,697 for each day on which the offence is continued, or to imprisonment for a term not exceeding two years, or to both, or

On summary conviction to a fine not exceeding €1,500 for each day that the offence is continued or to imprisonment for a term not exceeding six months or to both

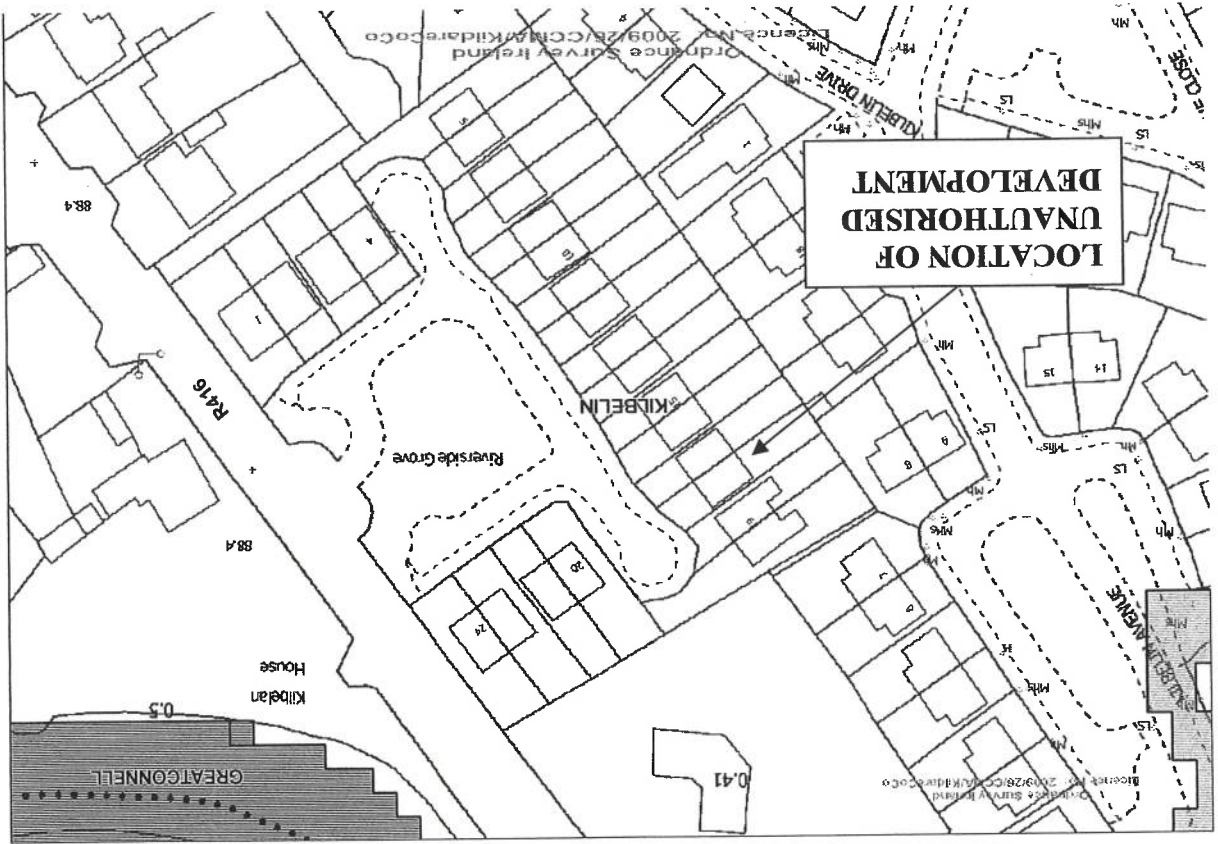
Where a person is convicted of an offence involving the construction of an unauthorised structure the minimum fine shall be
On conviction of indictment the estimated cost of the construction of the structure or €12,697 whichever is less, or
On summary conviction the estimated cost of the construction of the structure or €2,500 whichever is less.

On conviction of an offence under section 154 of the Planning and Development Acts 2000 to 2017, the court may in addition to imposing the penalties specified above, order the person convicted to take the steps specified in the Enforcement Notice to be taken.





Map identifying the property to which this Notice relates.





Comhairle Contae Chill Dara
Kildare County Council

Corporate Services Department
Phone: 045 980 200
Email: dataprotection@kildarecoco.ie

Our Ref: DPA 02/18

Date: 08/06/2018

Re: Planning information and personal data.

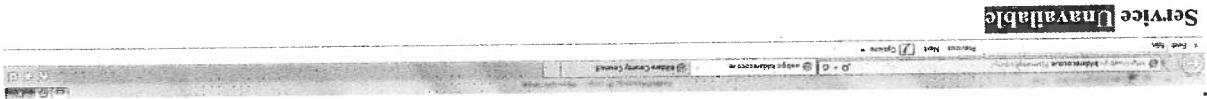
Dear Natasha,

I have been investigating your allegation of publication of personal data on our Planning website following your access request, our telephone conversation, and the follow up enquiry by my colleague, Sharon Snell, which resulted in clarifications of your concerns regarding planning enforcement/alleged unauthorised development, received on 5th June 2018.

I understand that your primary concern is with the publication of planning enforcement details, specifically connected to your name and that of your husband being available on the Councils Planning webpages here: <http://webgis.kildarecoco.ie/PlanningEnquiry/>

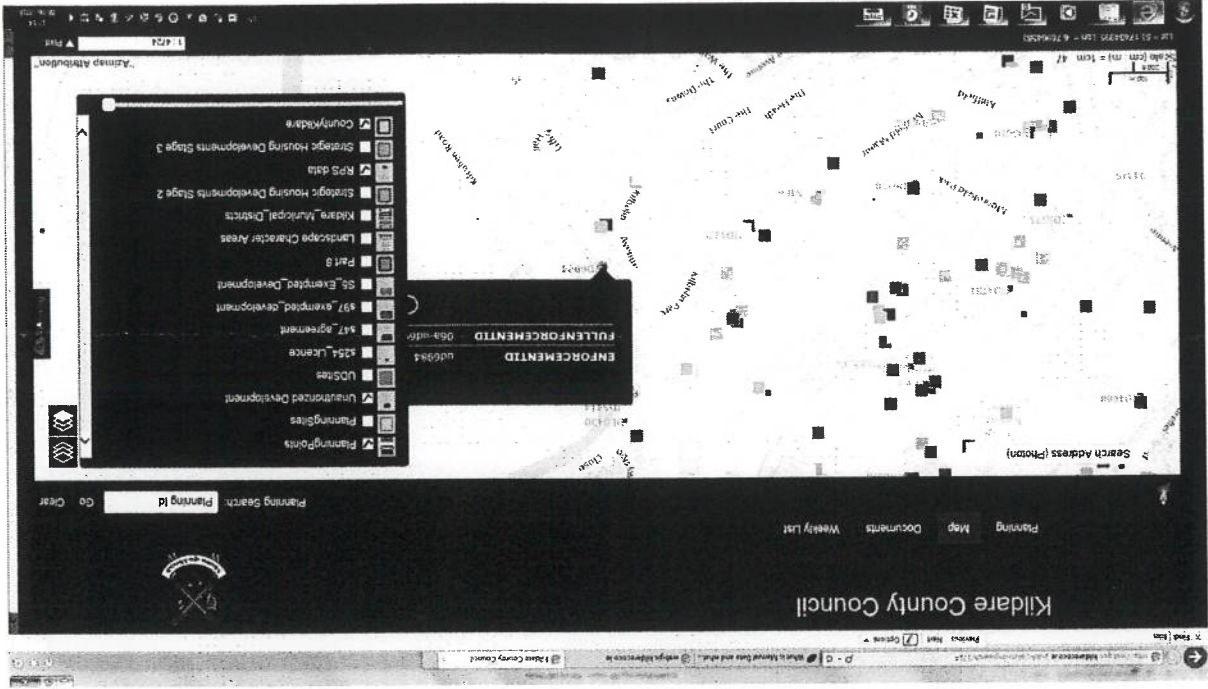
I am advised by the Council's IT Dept that the service at the above location (shown in the screenshot submitted by Mr. Murphy on 5th June 2018) has now been disabled and replaced with a new online facility. I am seeking to establish when this change was made to the service, but it is at least since 5th June 2018,

You will see from below that the service previously available at this location: <http://webgis.kildarecoco.ie/PlanningEnquiry/>, no longer is live.

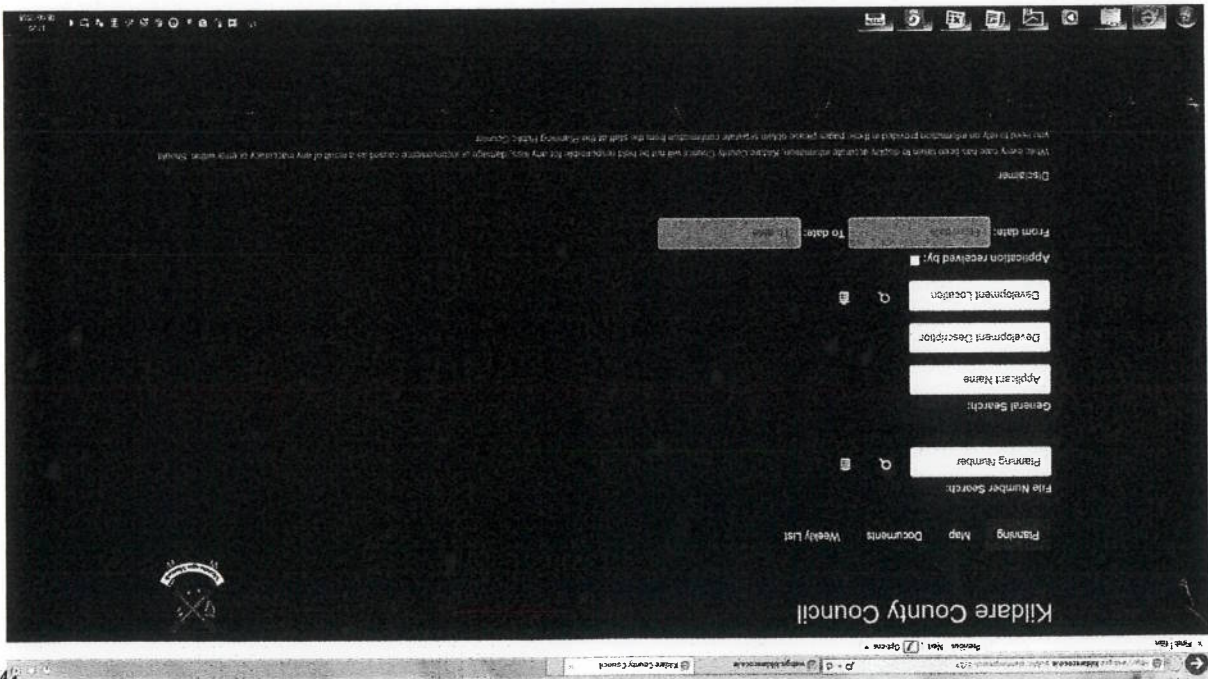


This previous service has been replaced by the online register at this location <http://webgeo.kildarecoco.ie/public/planningsearch/171>

Clicking the reference number no longer identifies any further personal information. No documents related to the declaration are viewable online, no names are retrievable I cannot access this application either by means of a Google search using the name or address.



You will see that searches from the homepage under an Enforcement dataset, as per the previous service are no longer technically possible. Records related to enforcement cases are now retrievable through the Map function and no longer include the names of the owners of properties. Once the Map function is selected, the screen appears as below and upon selecting the relevant layer of data, in this case "Unauthorised Development" the customer will ultimately obtain, by zooming in on the planning maps, a record as displayed as below.





Comhairle Contae Chill Dara Kildare County Council

I am advised, as reference earlier that the link you have emailed regarding your access request is not live, the service was upgraded to the model as outlined above. Searches using the link provided have been disabled: <http://webgis.kildarecoco.ie/PlanningEnquiry/>

Should you wish to discuss this further please contact me by email or phone, details at letterhead.

Finally I am aware that you wish to establish the extent of any further personal data and the processing of same in accordance with the Data Protection Act 2018.

This access request has been assigned to Veronica Cooke and Mark McLoughlin in the Planning Department.

You will receive a formal acknowledgment regarding this in the coming days.

Kind regards

Anthony Shanahan
Access to Information Officer

AN BORD PLEANÁLA

LTR DATED 12 NOV 2018

FROM _____

LDG- _____

ABP- 307774-18

Unauthorised Development Reference No.	UD6984	Report No.	2
Date	16 th November 2017		

Essential Information

Address of site: 18 Riverside Grove, Newbridge, Co. Kildare.

Name of Developers: (1) Brian Murphy
(2) Natasha Hassett

Address of Developers: (1) Brian Murphy, 18 Riverside Grove, Kilbelin, Athgarvan Road, Newbridge.
(2) Natasha Hassett, 18 Riverside Grove, Kilbelin, Athgarvan Road, Newbridge.

Name of landowners: (1) Brian Murphy
(2) Natasha Hassett

Address of landowners: (1) Brian Murphy, 18 Riverside Grove, Kilbelin, Athgarvan Road, Newbridge.
(2) Natasha Hassett, 18 Riverside Grove, Kilbelin, Athgarvan Road, Newbridge.

XY coordinates

Detailed description of alleged development: The construction of a single-storey extension to the rear of a two-storey semi-detached dwelling.

Inspection date (if relevant): 07/09/2017, 08/09/2017 and 05/10/2017

Date file opened: 06/09/2017

Purpose of Report: Warning Letter

Reps: None.

Report of 16th November 2017

AN BORD PLEANALA
 LTR DATED 12 NOV 2018
 FROM _____
 LDG-302774-18
 ABP-

Description of unauthorised development:

The construction of a single-storey extension to the rear of a two-storey semi-detached dwelling.

Description of Complaint Received

The Planning Authority has received complaints in relation to this development, which are on file please refer to same.

Reallocation of case

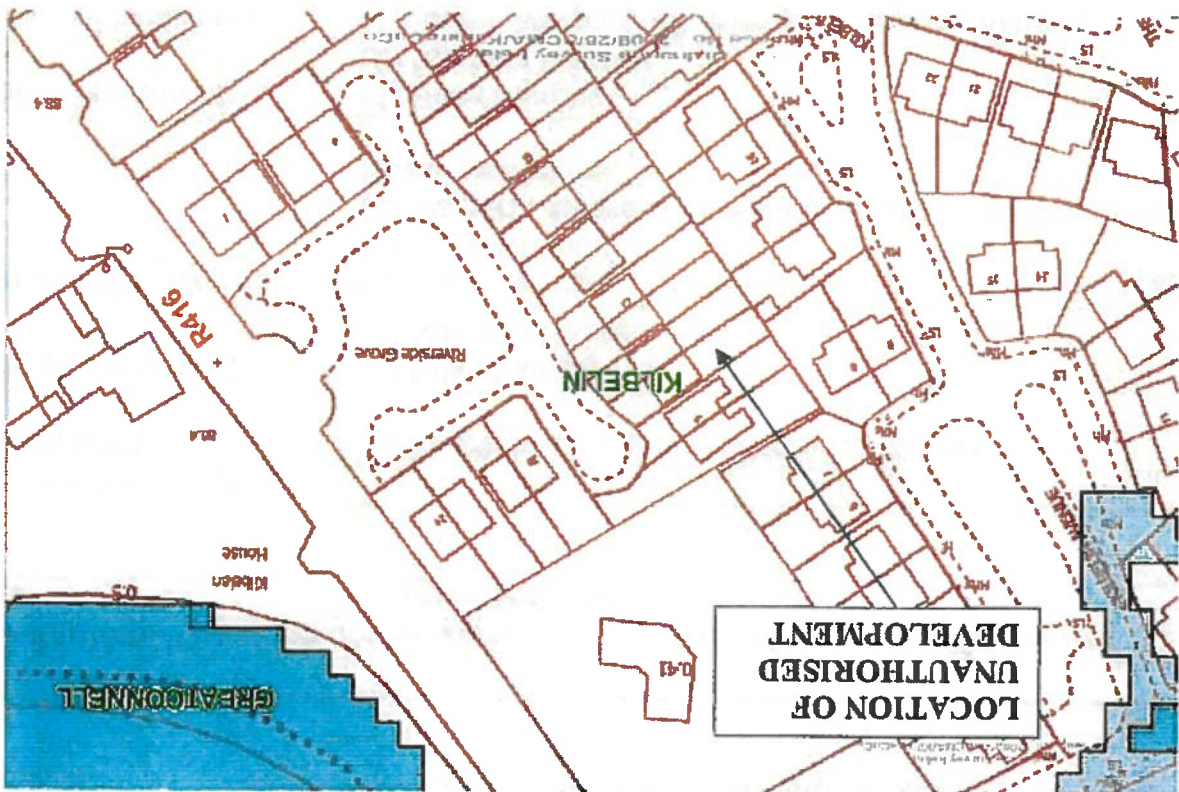
5

①

Not applicable.

Subject Site Location

The subject site is situated in the Riverside Grove housing development, which is located c.1km south of Newbridge main street.



Previous Reports/Correspondences;

Warning letters were issued on the 5th October 2017 to Natasha Hassett and Brian Murphy, which stated 'It has come to the attention of the Planning Authority that unauthorised development is being or may be carried out as follows. The erection of timber fence / netting along the side boundary, and the raising of the rear boundary wall on land at 18 Riverside Grove, Kiltbellin, Athgarvan Road, Newbridge.'

A response was received on the 13th October 2017 from B & N Murphy. In summary the response stated the following 'the temporary timber fence and debris netting that was erected on the south west boundary wall has been removed. The raising of the wall does not impact on the two properties behind me, and it does not affect Ms. A Mangan.'

Legislative Context;

Part 1, Schedule 2 of the P & D Regulations 2001 (as amended) is the relevant class in this instance and states the following;

Development within the curtilage of a house;

Class 1

The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of house or by the conversion for use as part of the house of any garage, store,

1. (a) Where the house has been extended previously, the floor area of any such extension shall not exceed 40 square metres.

shed or other similar structure attached to the rear or to the side of the house.

(b) Subject to paragraph (a), where the house is terraced or semi-detached the floor area of any extension above ground level shall not exceed 12 square metres.

3. (a) Where the house has been extended previously, the floor area of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.

(b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level constructed or erected after 1 October 1964, including those for which planning permission has been obtained shall not exceed 12 square metres.

4. (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.
(c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.

5. The construction or erection of

<p>any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.</p> <p>6. (a) Any window proposed at ground level in any such extension shall not be less than 1 metre from the boundary it faces.</p> <p>7. The roof of any extension shall not be used as a balcony or roof garden.</p>	<p>Class 3</p> <p>The construction, erection or placing within the cartilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.</p>
<p>1. No such structure shall be constructed, erected or placed forward of the front wall of a house.</p> <p>2. The total area of such structures constructed, erected or placed within the cartilage of a house shall not, taken together with any other structures previously constructed, erected or placed within the said cartilage, exceed 25 square metres.</p> <p>3. The construction, erection or placing within the cartilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.</p> <p>4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.</p> <p>5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any</p>	

A detached shed to the rear has also been constructed and I proceeded to take photographs and measurements of the aforementioned shed. The shed has a width of 3.6m and length of 3.96m. The overall floor area of the shed is c. 14.26sq.m. The shed has a slated pitched roof and is below 4 metres in height. The shed has been

height of the single storey extension was measured and is c.3.98m high. the northern elevation. The window is c.1.6m from the boundary it faces. The overall extension was measured at c.34.87sq.m. A window opening has been inserted into measured with a length of 7.75m and width of 4.5m. The overall floor area of the storey extension (please see Appendix A photographs below). The extension was proceeded to take photographs and measurements of the aforementioned single works had largely been finished however the interior remained unfinished. I been constructed to the rear of the semi-detached 2-storey dwelling. The external Mr. Murphy showed us to the rear of the dwelling. A single storey extension had

I was accompanied on the site inspection by Damian Daly (Executive Planner).

I re-inspected the subject site at c.09:30 hours on the 8th September 2017.

site at 09:30 hours on the 8th September 2017. come back at a more convenient time. It was agreed that I could inspect the subject of no. 18 Riverside Grove. Mr. Murphy said that it was not a good time and could I following a complaint about unauthorised development occurring in the rear garden enforcement section of Kildare County Council and was there to inspect the site The door was answered by Mr. Brian Murphy, I told Mr. Murphy that I was from the

I called to the subject site at c.16:00 hours on the 7th September 2017.

Site Inspection

No history found.

Subject Site;

Relevant Planning History

<p>Class 5 The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.</p>	<p>1. The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres.</p>
	<p>6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.</p>

constructed within the curtilage of no. 18 Riverview Grove (please see Appendix A photos).

A timber fence and netting has also been erected along the southern boundary of no. 18 Riverview Grove (please see Appendix A photos). The aforementioned timber fence and netting has an overall height of c.3.5m.

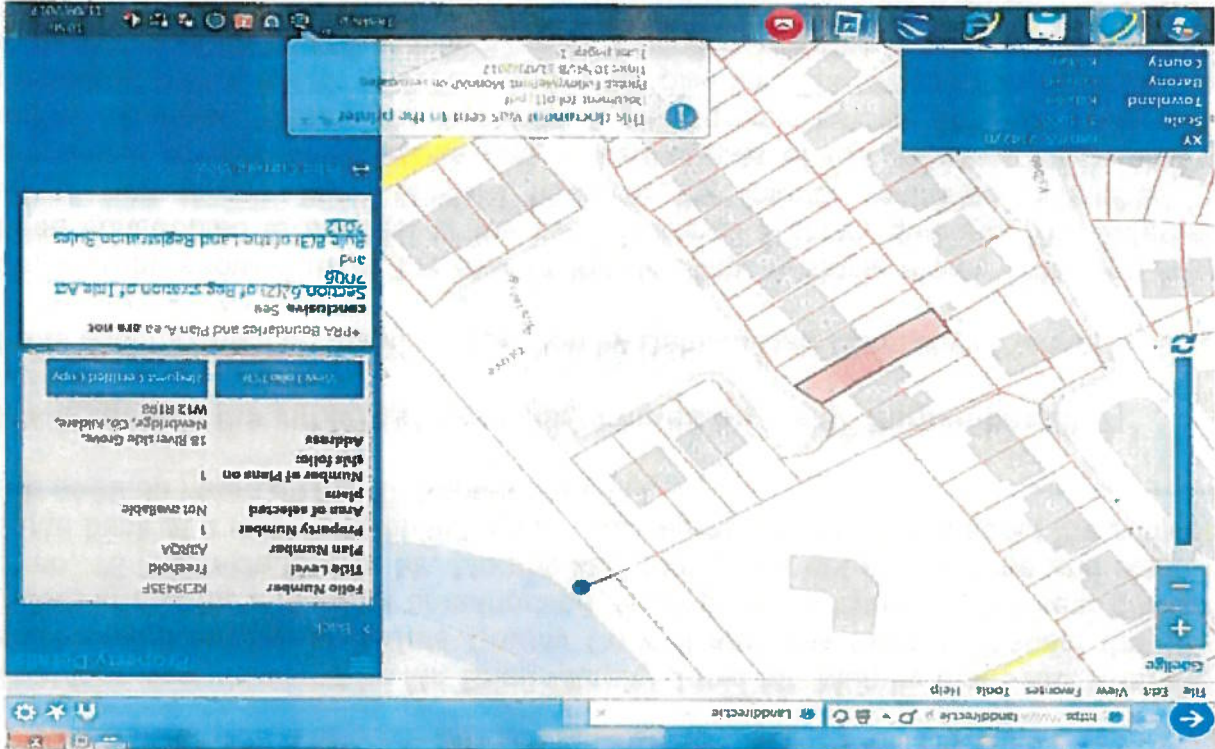
It was also observed that the rear boundary wall has been raised and now has a height in excess of 2 metres.

Following additional consultation with the complainant it was decided that I should re-inspect the extension to the rear of no. 18 Riverview Grove from the rear garden of no. 17 Riverview Grove.

I proceeded to take a number of photographs from the rear garden and first floor window of no. 17 Riverview Grove (please see appendix A photos below). It can be clearly seen that a portion of the recently constructed extension to the rear of no. 18 Riverview Grove has been built on the boundary / party wall that separates no. 18 Riverview Grove from no. 17 Riverview Grove.

Land Registry

On a review of the Land Registry (on line) it would appear the overall site is in the ownership of Brian Murphy and Natasha Hassett of 18 Riverside Grove, Kibbelin, Athgarvan Road, Newbridge. Please see Folio 39435F attached.



Assessment
The overall floor area of the detached shed in the back garden of no. 18 Riverview Grove is c. 14,26sq.m. The shed has a slated pitched roof and is below 4 metres in height. The shed has been constructed within the curtilage of no. 18 Riverview

PICTURES IN THIS REPORT,
TAKEN ON SEPT. VISIT.!

Grove (please see Appendix A photos). The detached shed is exempt under Class 3, Part 1, Schedule 2 of the P & D Regulations 2001 (as amended).

The overall floor area of the single-storey extension was measured at c.34.87sq.m. A window opening has been inserted into the northern elevation. The window is c.1.6m from the boundary it faces. The overall height of the single storey extension was measured and is c.3.98m high. The extension has been constructed within the curtilage of no. 18 Riverview Grove (please see Appendix A photos). The single-storey extension to the rear is exempt under Class 1, Part 1, Schedule 2 of the P & D Regulations 2001 (as amended).

It is considered the extension as constructed meets the conditions and limitations of Class 1, Part 1, Schedule 2 of the P & D Regulations 2001 (as amended), however in order to avail of the aforementioned exemption the extension must be constructed within the curtilage of a house.

The particulars of a decision by An Bord Pleanála under RL.2250 are applicable in this instance as they are particularly relevant to the matter of this UD file. In the Board's decision on 'whether the replacement of an existing flat roof with a tiled and pitched roof is or is not development or is or is not exempted development', it was judged that:

the structure over which it is proposed to construct the replacement roofing incorporates a store not built within the curtilage of the house and, therefore, this store does not come within Class 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, and

The relevant part of the Inspector's report dealing with the above matter detailed that:

The curtilage of a dwelling is not defined in planning legislation and as such is a matter for interpretation on a case-by-case basis. The Collins English Dictionary defines 'curtilage' as 'the enclosed area of land adjacent to a dwelling house'. In the circumstances that apply in this case (i.e. a housing estate) I would consider that the curtilage is clearly marked out as the boundary wall or fence. In particular I would consider that the elements identified as a 'boiler and store' were built on the party wall and therefore cannot be considered 'within the curtilage'. I would therefore consider that these elements of the proposal are unauthorised in terms of the relevant legislation. I consider that the same consideration would not apply to the 'study given that this was converted from a garage built at the same time as the original house.

The development comprises an extension to the rear of a semi-detached dwelling. The extension has been constructed on the party/boundary wall between no. 17 and 18 Riverside Grove (please see Appendix A photographs). As the extension is built on the original party / boundary wall, the extension cannot be considered 'within the curtilage' of no. 18 Riverside Grove.

Taking account of the assessment above, the photographs attached and the decision in respect of RL.2250, it is considered that the extension constructed is not 'within the curtilage' of No. 18 Riverside Grove and therefore does not come within

the remit of Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended). It therefore constitutes an unauthorised development.

Section 4(1)(h) of the Act provides for exempted development as follows:
"Development consisting of the carrying out of works for the maintenance, improvement or other alteration of any structure, being works which affect only the interior of the structure or which do not materially affect the external appearance of the structure so as to render the appearance inconsistent with the character of the structure or of neighbouring structures."


The development in question involves the construction of a substantial single storey extension to the rear of the house, which significantly changes the appearance of the rear of the house. Having inspected the site and with regard to the photographs on file, I am satisfied that the development does not come within the scope of section 4(1)(h) of the Planning and Development Act 2000-2017.


Summary:
I note the Board's decision in the referral case RL2250 as outlined above, which concluded that structures built on the party/ boundary wall cannot be considered to be 'within the curtilage' of a house. It is considered that the same applies in this case and that the exemptions set out in the Planning and Development Regulations 2001 (as amended) do not therefore apply. The single-storey extension to the rear of the house constitutes unauthorised development.

As outlined above, warning letters were issued on the 5th October 2017 to Natasha Hassett and Brian Murphy, which stated "it has come to the attention of the Planning Authority that unauthorised development is being or may be carried out as follows:
The erection of timber fence / netting along the side boundary, and the raising of the rear boundary wall on land at 18 Riverside Grove, Kiltbellin, Athgarvan Road, Newbridge."

The Developers have removed the timber fence / netting along the side boundary and it is considered the raising of the rear boundary wall is a trivial matter. However, in the intervening period, additional information has come to light which demonstrates that the extension is built on the party / boundary wall and therefore cannot be considered to be 'within the curtilage' of a house. The development constitutes unauthorised development.

Recommendation
Having regard to the foregoing I recommend that the Planning Authority issue a warning letter to the following parties as per the attached draft:


Martin Ryan
Executive Planner
16th November 2017


21/11/17



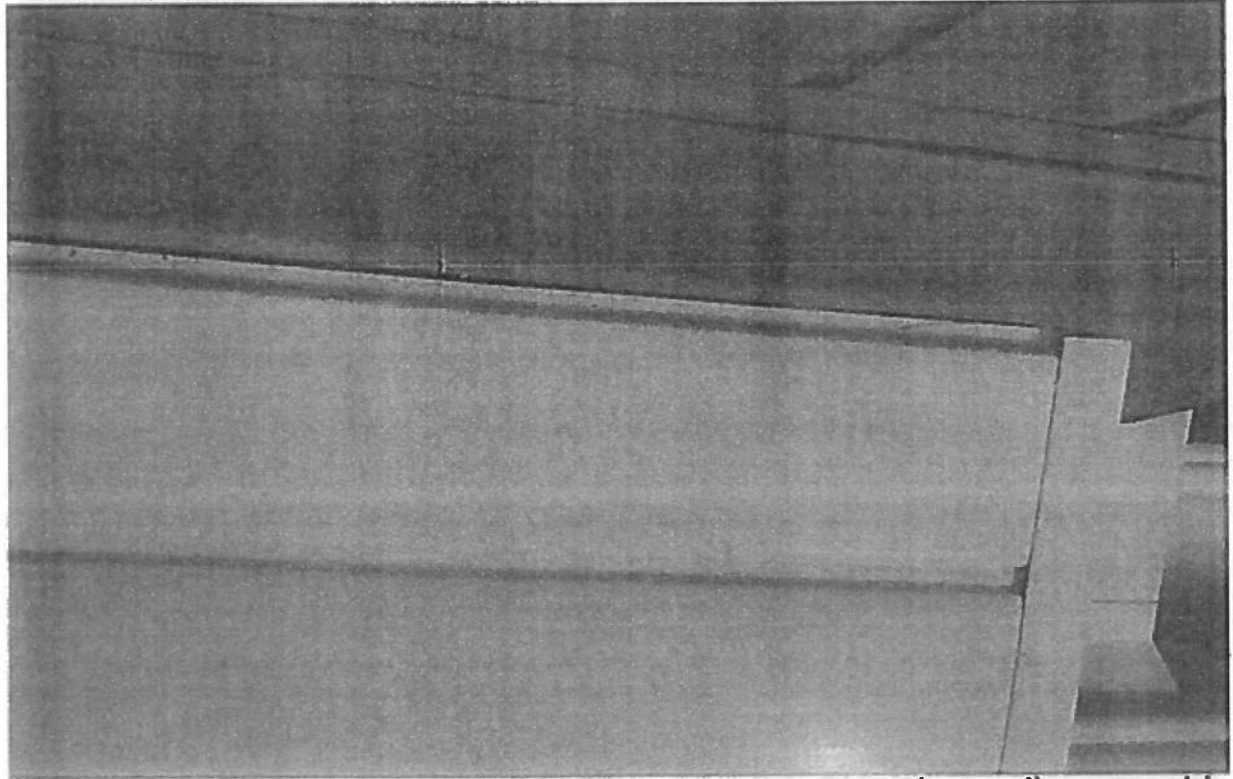


Fig 1.1 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18, photo taken on the 5th October 2017)



Fig 1.2 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18, photo taken on the 5th October 2017)

Fig 1.3 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18, photo taken on the 5th October 2017)

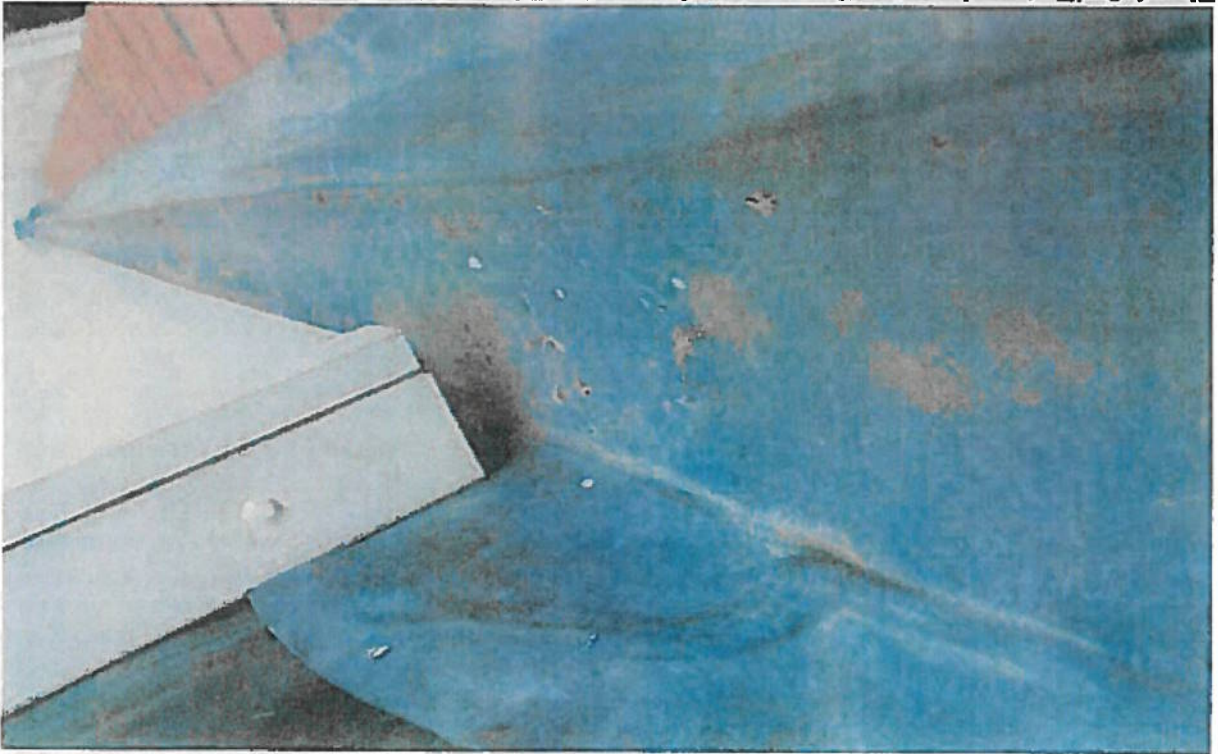


Fig 1.4 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18, photo taken on the 5th October 2017)



NETTING REMOVED, 9/9/17.

Fig 1.6 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18, photo taken on the 5th October 2017)

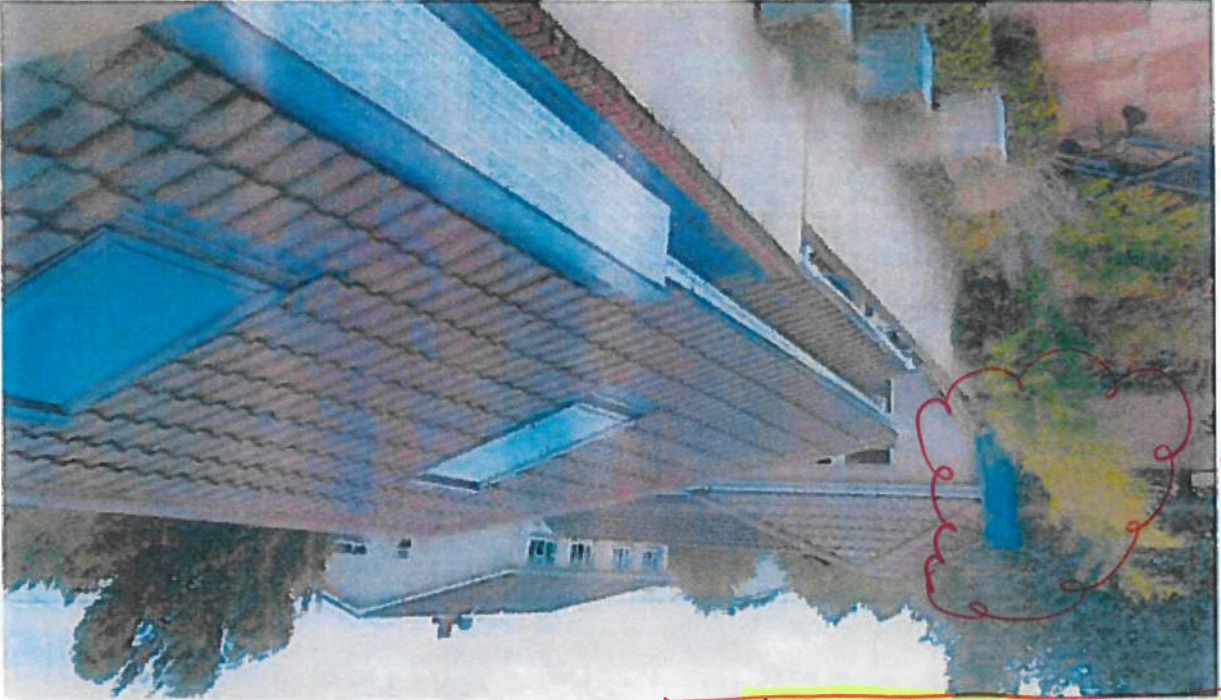
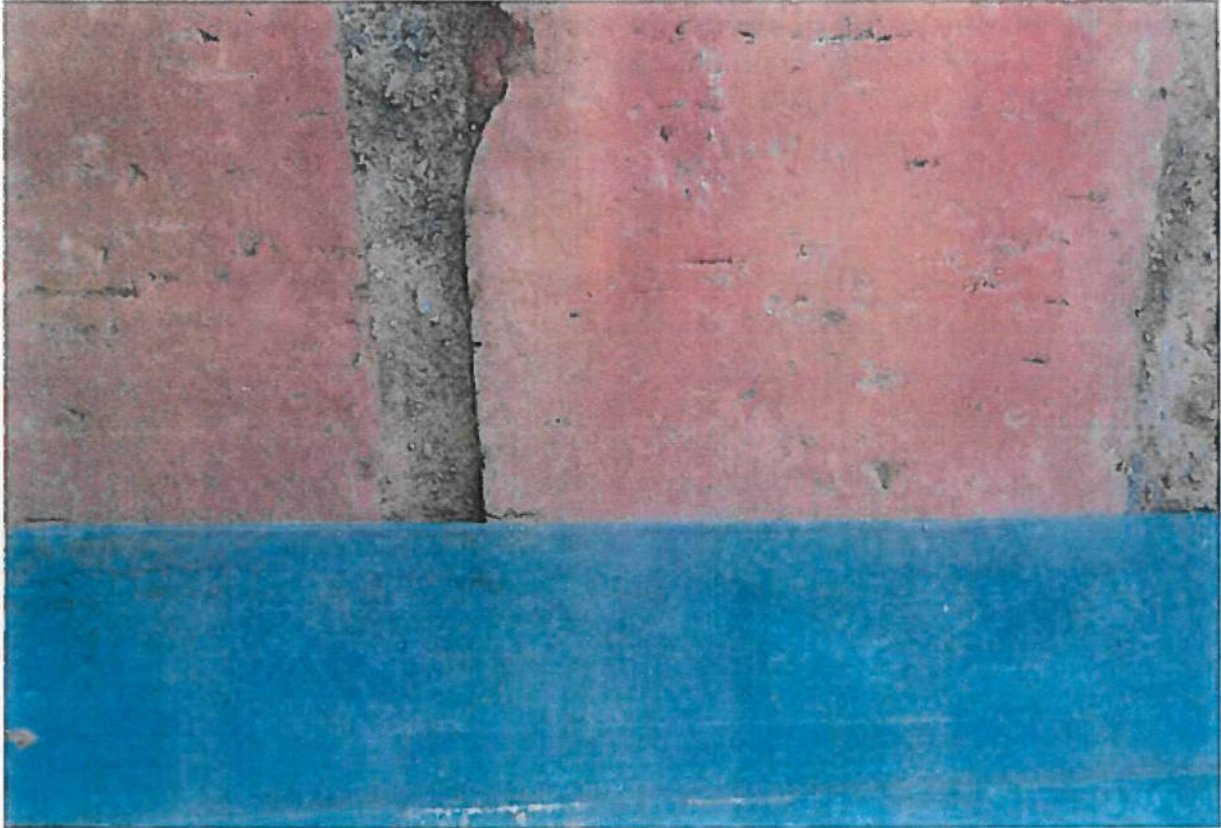


Fig 1.5 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18, photo taken on the 5th October 2017)

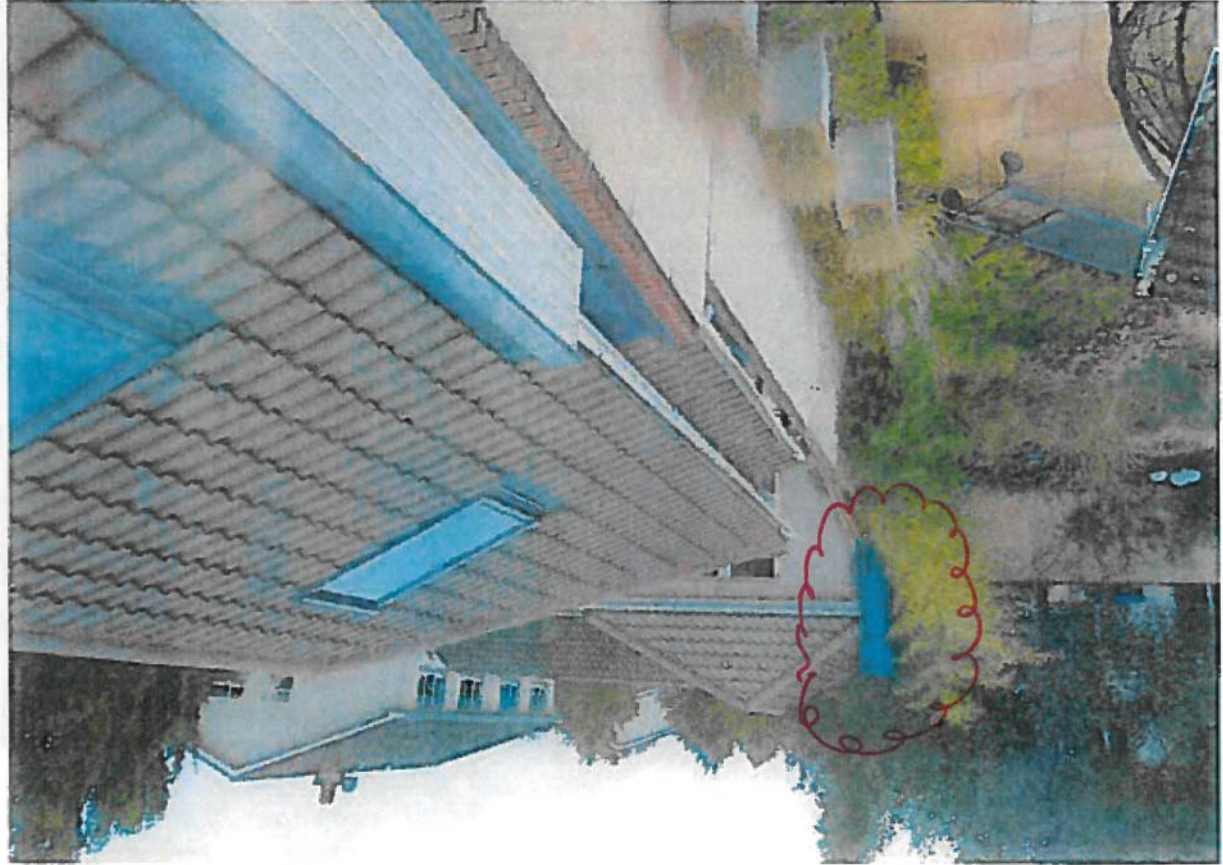


WALLS, CEILING, FLOOR

Fig 1.8 (Interior of the single-storey extension to the rear, photo taken on the 8th September 2017)



Fig 1.7 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18, photo taken on the 5th October 2017)



Handwritten red scribble.

Fig 1.10 (Interior of the single-storey extension to the rear, photo taken on the 8th September 2017)



Fig 1.9 (Interior of the single-storey extension to the rear, photo taken on the 8th September 2017)



Fig 1.12 (Rear elevation of the single-storey extension to the rear, photo taken on the 8th September 2017)



Fig 1.11 (Northern elevation of the single-storey extension to the rear, photo taken on the 8th September 2017)



Fig 1.13 (Boundary treatment along the southern boundary, photo taken on the 8th September 2017)



WARNING LETTER

Ref No UD 6984

REGISTERED POST

Owners Address:
(1) Brian Murphy, 18 Riverside Grove, Kiltbellin, Athgarvan Road, Newbridge.
(2) Natasha Hassett, 18 Riverside Grove, Kiltbellin, Athgarvan Road, Newbridge.

Developers Address:
(1) Brian Murphy, 18 Riverside Grove, Kiltbellin, Athgarvan Road, Newbridge.
(2) Natasha Hassett, 18 Riverside Grove, Kiltbellin, Athgarvan Road, Newbridge.

Dear Sir/Madam,

It has come to the attention of the Planning Authority that unauthorised development is being or may be carried out as follows:

The construction of a single-storey extension to the rear of a two-storey semi-detached dwelling.

On land at the following address: 18 Riverside Grove, Kiltbellin, Athgarvan Road, Newbridge.

The Planning Authority's investigation to date indicates that the development as detailed above would appear to be unauthorised.

Under Section 152(4)(b) of the Planning & Development Acts 2000 - 2017 you are entitled to make submissions or observations in writing to Kildare County Council (Planning Enforcement Section, Planning Department) in this regard not later than four weeks from the date of service of this warning letter. Please clearly state the reference number in any correspondence to the Council.

Where the Planning Authority considers that unauthorised development may have been, is being or may be carried out, an Enforcement Notice, pursuant to Section 154 of the Act, may be issued.

The Planning Authority's officials or its authorised agent(s), may at all reasonable times enter onto the land for the purposes of inspection.

Section 151 of the Planning and Development Acts 2000 - 2017 provides that any person who has carried out or is carrying out unauthorised development shall be guilty of an offence. Section 154(8) of the Planning and Development Acts 2000 - 2017 provides that any person on whom an enforcement notice is served who fails to comply with the requirements of the notice within the specified period or within such extended time as the planning authority may allow, not exceeding 6 months, shall be

guilty of an offence. A person who is guilty of an offence under Section 151 and/or 154 shall be liable to a fine or term of imprisonment or both.

The possible penalties involved where there is an offence are as follows:

Fines of up to €12,697,380.00 on indictment, or 2 years imprisonment, or both,
Or

Up to €5,000.00 on summary conviction or 6 months imprisonment, or both.

Under Section 154(7) of the Planning & Development Act 2000 - 2017 any costs incurred by the Planning Authority in relation to enforcement proceedings may be recovered from a person on whom enforcement notice is served or where a court action is taken.

Your attention is drawn to the provisions of Section 156(6) of the Planning & Development Acts 2000 - 2017, which places the onus on a developer to prove that a development is exempt development and it is to be assumed that it constitutes development until the contrary is shown by the developer. Note also that the onus of proof as to the existence of any planning permission lies with the developer.

Your attention is further drawn to the provisions of Section 162(3) of the Planning and Development Acts 2000 - 2017, which states that enforcement action shall not be stayed or withdrawn (including for an application under Section 160) by reason of an application for permission for retention of a development under Section 34(12) or the grant of any such permission.

Date: ____/____/____

Signed: _____

P. Minnock
Director of Services.



WARNING LETTER

Ref No UD 6984

REGISTERED POST

Brian Murphy,
18 Riverside Grove,
Kilbelin,
Athgarvan Road,
Newbridge.

Dear Mr. Murphy,

It has come to the attention of the Planning Authority that unauthorised development is being or may be carried out as follows:

- The construction of a single-storey extension to the rear of a two-storey semi-detached dwelling.

On land at the following address:

- 18 Riverside Grove, Kilbelin, Athgarvan Road, Newbridge.

The Planning Authority's investigation to date indicates that the development as detailed above would appear to be unauthorised.

Under Section 152(4)(b) of the Planning & Development Acts 2000 - 2017 you are entitled to make submissions or observations in writing to Kildare County Council (Planning Enforcement Section, Planning Department) in this regard not later than four weeks from the date of service of this warning letter. Please clearly state the reference number in any correspondence to the Council.

Where the Planning Authority considers that unauthorised development may have been, is being or may be carried out, an Enforcement Notice, pursuant to Section 154 of the Act, may be issued.

The Planning Authority's officials or its authorised agent(s), may at all reasonable times enter onto the land for the purposes of inspection.

Section 151 of the Planning and Development Acts 2000 - 2017 provides that any person who has carried out or is carrying out unauthorised development shall be guilty of an offence. Section 154(8) of the Planning and Development Acts 2000 - 2017 provides that any person on whom an enforcement notice is served who fails to comply with the requirements of the notice within the specified period or within such extended time as the planning authority may allow, not exceeding 6 months, shall be guilty of an offence. A person who is guilty of an offence under Section 151 and/or 154 shall be liable to a fine or term of imprisonment or both.

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Comhairle Contae Chill Dara
Kildare County Council
The possible penalties involved where there is an offence are as follows:



- Fines of up to €12,697,380.00 on indictment, or 2 years imprisonment, or both, Or
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Your attention is further drawn to the provisions of Section 162(3) of the Planning and Development Acts 2000 - 2017, which states that enforcement action shall not be stayed or withdrawn (including for an application under Section 160) by reason of an application for permission for retention of a development under Section 34(12) or the grant of any such permission.

Signed: 
P. Minnock
Director of Services.

Date: 24 Nov 2017

Ref No UD 6984

REGISTERED POST

Natasha Hassett,
18 Riverside Grove,
Kilbelin,
Athgarvan Road,
Newbridge.

Dear Ms. Hassett,

It has come to the attention of the Planning Authority that unauthorised development is being or may be carried out as follows:

- The construction of a single-storey extension to the rear of a two-storey semi-detached dwelling.

On land at the following address:

- 18 Riverside Grove, Kilbelin, Athgarvan Road, Newbridge.

The Planning Authority's investigation to date indicates that the development as detailed above would appear to be unauthorised.

Under Section 152(4)(b) of the Planning & Development Acts 2000 - 2017 you are entitled to make submissions or observations in writing to Kildare County Council (Planning Enforcement Section, Planning Department) in this regard not later than four weeks from the date of service of this warning letter. Please clearly state the reference number in any correspondence to the Council.

Where the Planning Authority considers that unauthorised development may have been, is being or may be carried out, an Enforcement Notice, pursuant to Section 154 of the Act, may be issued.

The Planning Authority's officials or its authorised agent(s), may at all reasonable times enter onto the land for the purposes of inspection.

Section 151 of the Planning and Development Acts 2000 - 2017 provides that any person who has carried out or is carrying out unauthorised development shall be guilty of an offence. Section 154(8) of the Planning and Development Acts 2000 - 2017 provides that any person on whom an enforcement notice is served who fails to comply with the requirements of the notice within the specified period or within such extended time as the planning authority may allow, not exceeding 6 months, shall be guilty of an offence. A person who is guilty of an offence under Section 151 and/or 154 shall be liable to a fine or term of imprisonment or both.

WARNING LETTER

Comhairle Contae Chill Dara
Kildare County Council



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Comhairle Contae Chill Dara
Kildare County Council
The possible penalties involved where there is an offence are as follows:



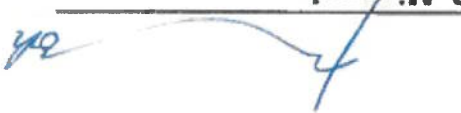
- Fines of up to €12,697,380.00 on indictment, or 2 years imprisonment, or both,
- Or
- Up to €5,000.00 on summary conviction or 6 months imprisonment, or both.

Under Section 154(7) of the Planning & Development Act 2000 - 2017 any costs incurred by the Planning Authority in relation to enforcement proceedings may be recovered from a person on whom enforcement notice is served or where a court action is taken.

Your attention is drawn to the provisions of Section 156(6) of the Planning & Development Acts 2000 - 2017, which places the onus on a developer to prove that a development is exempt development and it is to be assumed that it constitutes development until the contrary is shown by the developer. Note also that the onus of proof as to the existence of any planning permission lies with the developer.

Your attention is further drawn to the provisions of Section 162(3) of the Planning and Development Acts 2000 - 2017, which states that enforcement action shall not be stayed or withdrawn (including for an application under Section 160) by reason of an application for permission for retention of a development under Section 34(12) or the grant of any such permission.

Signed:


P. Minnock
Director of Services.

Date: 24/11/2017



Comhairle Contae Chill Dara
Kildare County Council

**KILDARE COUNTY COUNCIL
REGISTERED POST LIST
PLANNING CONTROL SECTION**

DATE: 27th November 2017

UD6984 **Reg. No.**

Brian Murphy
18 Riverside Grove
Kilbelin
Athgarvan Road
Newbride.

RL 6526 3103 01E

UD6984 **Reg. No.**

Natasha Hassett
18 Riverside Grove
Kilbelin
Athgarvan Road
Newbride.

RL 6526 3104 31E

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TELEPHONE MEMO UD6984



Comhairle Contae Chill Dara
Kildare County Council

5

Caller: Brian Murphy (Developer) 087-2051850

Date: 28/11/2017

Mr. Brian Murphy, developer, phoned the office this morning and asked to speak to Martin Ryan. I enquired what the matter was in relation to and Mr. Murphy stated that he had received a warning letter to which he responded to and that he had just received a second warning letter. I advised Mr. Murphy that Martin was not in the office but that I would check on same and ring him back.

When Martin returned I spoke to him and about the warning letters. I phoned Mr. Murphy back and advised him that the warning letters dealt with two separate issues. I stated that on foot of Mr. Murphy's response to first warning letter a follow up inspection was carried out to determine that the issues referred to in same had been addressed. I advised Mr. Murphy that during this inspection it was noted that the extension had been built on the party/boundary wall. Mr. Murphy stated that the extension was not built on the party wall. I stated that this was the information I had and therefore as the development was not within the curtilage of his property it could not be considered exempted development.

I advised Mr. Murphy that he should respond to the warning letter in writing and he stated that he would get his solicitor to write to us.

He stated that whenever he phoned the office to discuss this matter he has not been able to speak to Martin. I advised Mr. Murphy that Martin had not been in the office when he phoned earlier but when he returned I discussed the file with him. Mr. Murphy was annoyed/upset and said that he responded to the first warning letter within 5 days but did not get an answer to his correspondence and then he received the second warning letter. He also stated that he has a sick child. I advised Mr. Murphy that I was taking note of what he was saying and advised that I would forward the information to Martin and ask him if he would ring him back.

Emma Muirroy

Clerical Officer

I outlined to Mr. Murphy that the subject site was re-inspected and additional information has come to light which demonstrates that the extension is built on the


I rang Mr. Brian Murphy at c.12:00 hours on the 29th November 2017.

Following a conversation between Mr. Brian Murphy (Developer) and Emma Mulroy (Clerical Officer) on the 28th November 2017, it was agreed that the case officer should ring Mr. Murphy to outline the reason for the issuing of the Warning Letter to Mr. Murphy on the 24th November 2017.

Report of 29th November 2017

Essential Information	
Address of site	18 Riverside Grove, Newbridge, Co. Kildare.
Name of Developers	(1) Brian Murphy (2) Natasha Hassett
Address of Developers	(1) Brian Murphy, 18 Riverside Grove, Kibbelin, Athgarvan Road, Newbridge. (2) Natasha Hassett, 18 Riverside Grove, Kibbelin, Athgarvan Road, Newbridge.
Name of landowners	(1) Brian Murphy (2) Natasha Hassett
Address of landowners	(1) Brian Murphy, 18 Riverside Grove, Kibbelin, Athgarvan Road, Newbridge. (2) Natasha Hassett, 18 Riverside Grove, Kibbelin, Athgarvan Road, Newbridge.
XY coordinates	
Detailed description of alleged development	The construction of a single-storey extension to the rear of a two-storey semi-detached dwelling.
Inspection date (if relevant)	07/09/2017, 08/09/2017 and 05/10/2017
Date file opened	06/09/2017
Purpose of Report	Telephone conversation with Brian Murphy (Developer)
Reps	None.


Date	16 th November 2017
Unauthorised Development Reference No.	UD6984
Report No.	2



KILDARE COUNTY COUNCIL

Planning Department

Unauthorised Development - Planning Report



6

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party / boundary wall and therefore cannot be considered to be 'within the curtilage' of a house. The development therefore constitutes unauthorised development.

Mr. Murphy contested this opinion and stated that the lead flashing on the boundary / party wall is not part of the extension. I stated that if this was the case the lead flashing could be removed. Mr. Murphy stated that he was not prepared to remove the lead flashing.

Mr. Murphy asked would I be willing to again inspect the site with him present, I said I would, when I pressed Mr. Murphy to give me an appropriate date he could not give me any date.

Mr. Murphy stated that he had instructed his solicitor to respond to the warning letter, and that he was considering taking the matter to Joe Duffy. I told Mr. Murphy he was entitled to pursue those options if he so wished.

I finished the telephone call by stating that the Council wished to resolve the matter as amicably as possible however we may pursue additional enforcement action if deemed necessary.



Martin Ryan

A/SEP

29th November 2017



Tel: (067) 31218 (5 lines)
Fax: (067) 33357
Email: info@jamesobrien.ie
DX 20 008 Nenagh
V.A.T. No. 0033251L

DUBLIN OFFICE
24/26 Upper Ormond Quay,
Dublin 7.
P. Minnock
Director of Services
Kildare County Council
Aas Chill Dara
Devoey Park
Naas
Co. Kildare
W91 X77F

DIRECTOR OF SERVICES
7 DEC 2017

SCANNED

Our Ref: P/LAR
Your Ref: UD6984
6th December 2017

Re: Our clients: Brian and Natasha Murphy
18 Riverside Grove, Kilbelin, Athgarvan Road, Newbridge, Co. Kildare

Dear Sir/Madam,

We act on behalf of Brian Murphy and Natasha Murphy of 18 Riverside Grove, Kilbelin, Athgarvan Road, Newbridge, Co. Kildare who have consulted us in relation to a warning letter dated 24th November last received by them from Kildare County Council with regard to an alleged unauthorised development, namely the construction of a single storey extension to the rear of their dwellinghouse at 18 Riverside Grove, Kilbelin, Athgarvan Road, Newbridge, Co. Kildare.

We are instructed by our clients that the single storey extension to the rear of their above mentioned dwellinghouse is an exempt development. Our clients further instruct us that their property was inspected by Mr. Martin Ryan, Executive Planner of Kildare County Council on the 8th September last and in his follow up report of the 11th September Mr. Ryan states quite clearly that the single storey extension as constructed by our clients to the rear of their dwellinghouse is an exempt development under Class 1, Part 1, Schedule 2 of the Planning and Development Regulations 2001 (as amended).

If there is a specific concern that Kildare County Council have with regard to the extension constructed by our clients to the rear of their dwellinghouse then you might please specify exactly what it is and how the contravention of planning regulations arises.

Yours faithfully,

PAT LISTON
JAMES O'BRIEN & CO.

Direct e-mail
patrick.liston@jamesobrien.ie

④ ⑤



Planning Department
PLANNING CONTROL SECTION
045-980839

Our Ref: UD6984 (Please quote this reference in future correspondence)
Your Ref: PL/AR

8th December 2017

Pat Liston
James O'Brien & Co. Solicitors
30 Castle Street,
Nenagh,
Co. Tipperary
E45 W77

Re: 18 Riverside Grove, Kibbellin, Athgarvan Road, Newbridge, Co. Kildare

Dear Mr. Liston,



I acknowledge receipt of your correspondence received on 7th December 2017 in connection with the above.

I can confirm that any representations within your letter will be considered by the Planning Authority in deciding whether to issue an Enforcement Notice. If pursuant to the investigation currently taking place, Kildare County Council decides to issue an Enforcement Notice then same may issue without any further notice or warning to you.

Yours sincerely,

P. O'Brien
Senior Executive Officer
Planning Department

9

	KILDARE COUNTY COUNCIL Planning Department Unauthorised Development - Planning Report	
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Unauthorised Development Reference No. UD6984	Report No. 4	Date 11 th December 2017
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Essential Information	
Address of site	18 Riverside Grove, Newbridge, Co. Kildare.
Name of Developers	(1) Brian Murphy (2) Natasha Hassett
Address of Developers	(1) Brian Murphy, 18 Riverside Grove, Kibbelin, Athgarvan Road, Newbridge. (2) Natasha Hassett, 18 Riverside Grove, Kibbelin, Athgarvan Road, Newbridge.
Name of landowners	(1) Brian Murphy (2) Natasha Hassett
Address of landowners	(1) Brian Murphy, 18 Riverside Grove, Kibbelin, Athgarvan Road, Newbridge. (2) Natasha Hassett, 18 Riverside Grove, Kibbelin, Athgarvan Road, Newbridge.
XY coordinates	
Detailed description of alleged development	The construction of a single-storey extension to the rear of a two-storey semi-detached dwelling.
Inspection date (if relevant)	07/09/2017, 08/09/2017 and 05/10/2017
Date file opened	06/09/2017
Purpose of Report	Response to correspondence received from James O'Brien & Co. Solicitors
Reps	None.

Report of 11th December 2017

Please issue the following response to the correspondence received from James O'Brien & Co. Solicitors, which was received by the Council on the 7th December 2017;

Dear Pat,

Your client is correct in stating that the property was initially inspected by Mr. Martin Ryan, Executive Planner on the 8th September 2017 and a Warning Letter was

issued on the 5th October 2017 to Brian Murphy and Natasha Hassett. The letter stated 'it has come to the attention of the Planning Authority that unauthorised development is being or may be carried out as follows; The erection of timber fence / netting along the side boundary, and the raising of the rear boundary wall.'

Following additional consultation with the complainant it was decided that the extension to the rear of no. 18 Riverside Grove be re-inspected from the rear garden of no. 17 Riverside Grove.

I proceeded to take a number of photographs from the rear garden and first floor window of no. 17 Riverside Grove (please see appendix A photos below). It can be clearly seen that a portion of the recently constructed extension to the rear of no. 18 Riverside Grove has been built on the boundary / party wall that separates no. 18 Riverside Grove from no. 17 Riverside Grove.

The development comprises an extension to the rear of a semi-detached dwelling. The extension has been constructed on the party/boundary wall between no. 17 and 18 Riverside Grove (please see Appendix A photographs). As the extension is built on the original party / boundary wall, the extension cannot be considered 'within the curtilage' of no. 18 Riverside Grove.

Taking account of the assessment above, the photographs attached and the decision by ABP in respect of RL.2250, it is considered that the extension constructed is not 'within the curtilage' of No. 18 Riverside Grove and therefore does not come within the remit of Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended). It therefore constitutes an unauthorised development.

Summary:
ABP's decision in the referral case RL2250 is noted, which concluded that structures built on a party/ boundary wall cannot be considered to be 'within the curtilage' of a house. It is considered that the same applies in this case and that the exemptions set out in the Planning and Development Regulations 2001 (as amended) do not therefore apply. The single-storey extension to the rear of the house constitutes unauthorised development.


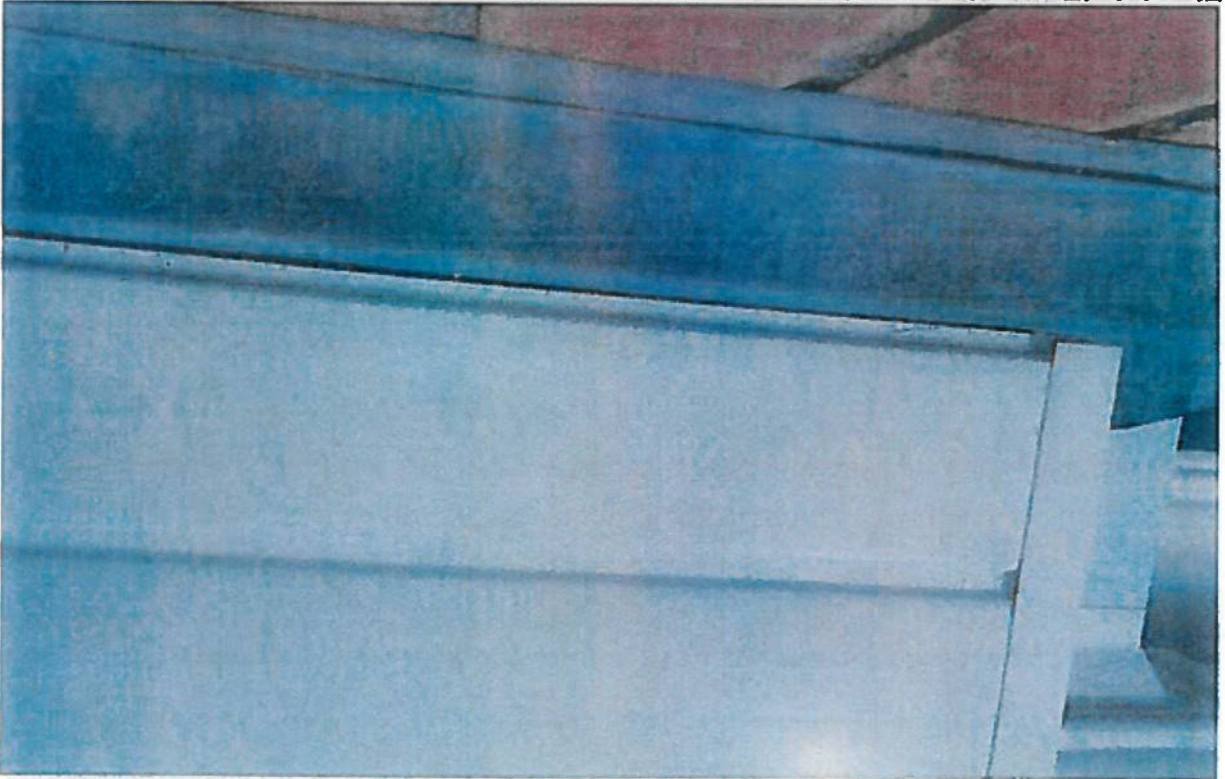

Martin Ryan
A/SEP
14th December 2017

Fig 1.2 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18)



Fig 1.1 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18)



Appendix A (photos)

Fig 1.4 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18)



Fig 1.3 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18)

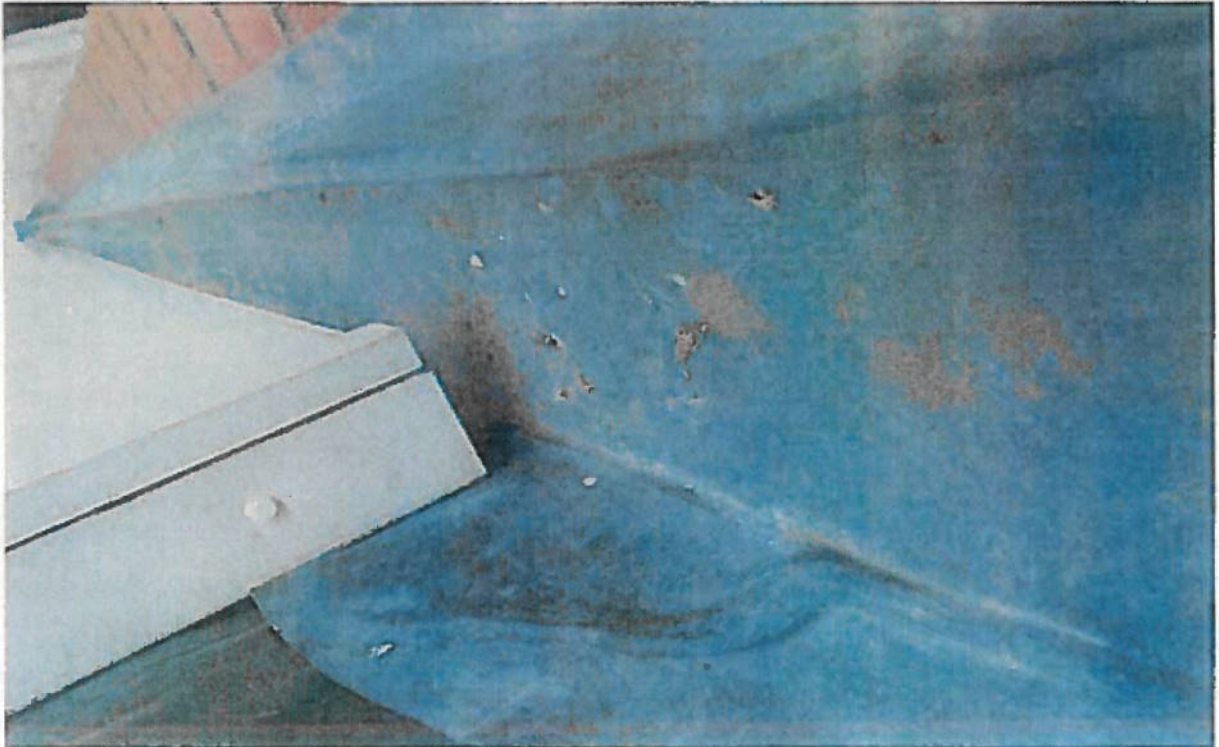


Fig 1.6 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18)



Fig 1.5 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18)

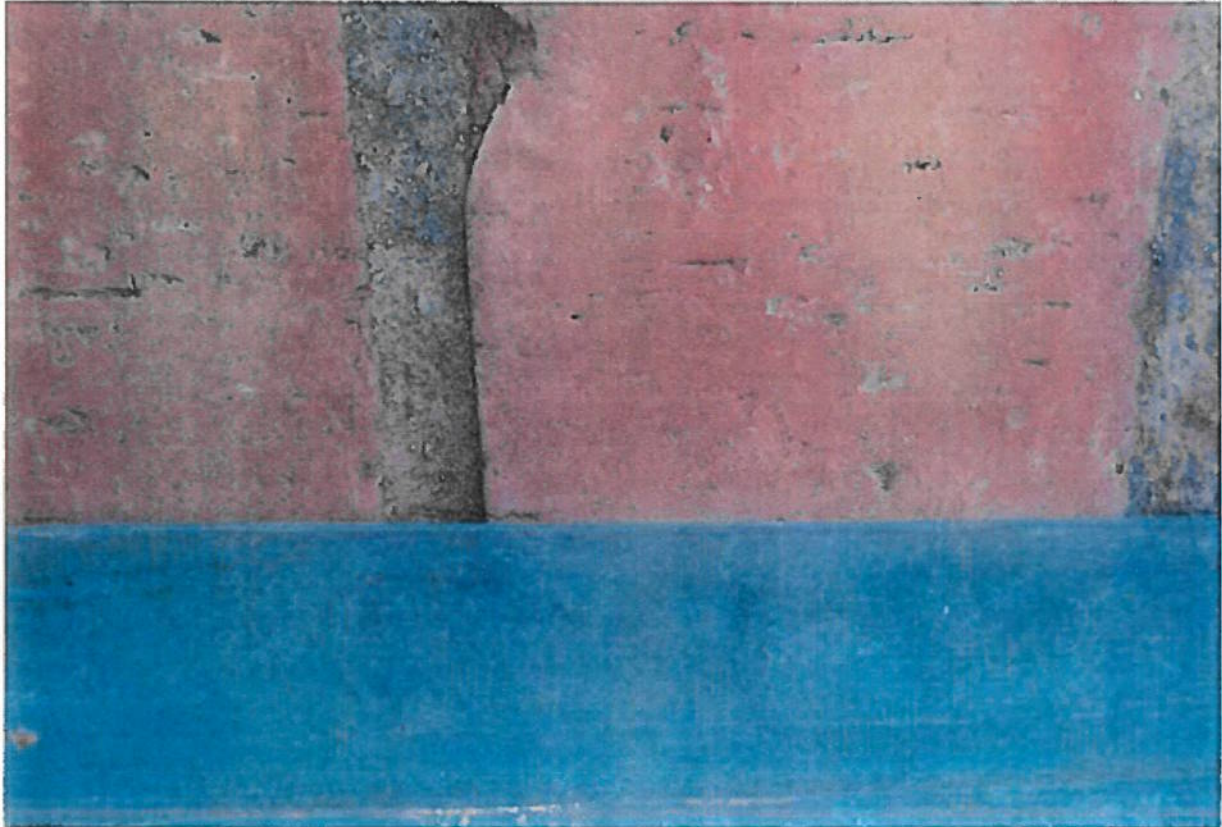


Fig 1.7 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18)



Kildare County Council 2000-2017 Act Applies

Aras Chill Dara, Devoy Park, Naas, Co. Kildare

Ref Number: UD6984

Developer: Brian Murphy & Natasha Hassett

Site Location: 18 Riverside Grove, Newbridge, Co. Kildare

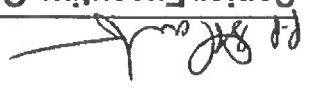
Development: The erection of timber fence / netting along the side boundary and the raising of the rear boundary wall

Ref: Corr from dev

Date Ref: 7/12/2017

To: Martin Ryan

Senior Executive Officer
Planning Department



Report:

Date: _____ Signed: _____



The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that this is crucial for ensuring the integrity of the financial data and for providing a clear audit trail. The text also mentions the need for regular reviews and updates to the records to reflect any changes in the underlying data.

In addition, the document highlights the role of technology in streamlining the record-keeping process. It suggests that using specialized software can help reduce the risk of human error and improve the overall efficiency of the system. The text also notes that it is essential to ensure that the software used is secure and compliant with relevant regulations.

Finally, the document stresses the importance of training staff on the proper use of the record-keeping system. It states that all personnel involved in the process should receive thorough instruction to ensure that they are able to perform their duties accurately and consistently. This training should cover both the technical aspects of the system and the underlying principles of good record-keeping practice.

1

Planning Department
PLANNING CONTROL SECTION
045-980839

Our Ref: UD6984 (Please quote this reference in future correspondence)
Your Ref: PL/AR

13th December 2017

Pat Liston
James O'Brien & Co. Solicitors
30 Castle Street,
Nenagh,
Co. Tipperary
E45 YW77

Re: 18 Riverside Grove, Kibbelin, Athgarvan Road, Newbridge, Co. Kildare

Dear Mr. Liston,

Your client is correct in stating that the property was initially inspected by Mr. Martin Ryan, Executive Planner on the 8th September 2017 and a Warning Letter was issued on the 5th October 2017 to Brian Murphy and Natasha Hassett. The letter stated 'it has come to the attention of the Planning Authority that unauthorised development is being or may be carried out as follows; The erection of timber fence / netting along the side boundary, and the raising of the rear boundary wall.'

Following additional consultation with the complainant it was decided that the extension to the rear of no. 18 Riverside Grove be re-inspected from the rear garden of no. 17 Riverside Grove.

Mr. Ryan proceeded to take a number of photographs from the rear garden and first floor window of no. 17 Riverside Grove (please see appendix A photos below). It can be clearly seen that a portion of the recently constructed extension to the rear of no. 18 Riverside Grove has been built on the boundary / party wall that separates no. 18 Riverside Grove from no. 17 Riverside Grove.



Comhairle Contae Chill Dara
Kildare County Council

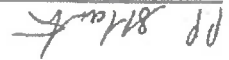
10

CS

The development comprises an extension to the rear of a semi-detached dwelling. The extension has been constructed on the party/boundary wall between no. 17 and 18 Riverside Grove (please see Appendix A photographs). As the extension is built on the original party / boundary wall, the extension cannot be considered 'within the curtilage' of no. 18 Riverside Grove.

Taking account of the assessment above, the photographs attached and the decision by ABP in respect of RL.2250, it is considered that the extension constructed is not 'within the curtilage' of No. 18 Riverside Grove and therefore does not come within the remit of Class 1 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001 (as amended). It therefore constitutes an unauthorised development.

Yours sincerely,



A/Senior Executive Officer
Planning Department



Comhairle Contae Chill Dara
Kildare County Council



Fig 1.1 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18)



Fig 1.2 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18)

Fig 1.4 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18)

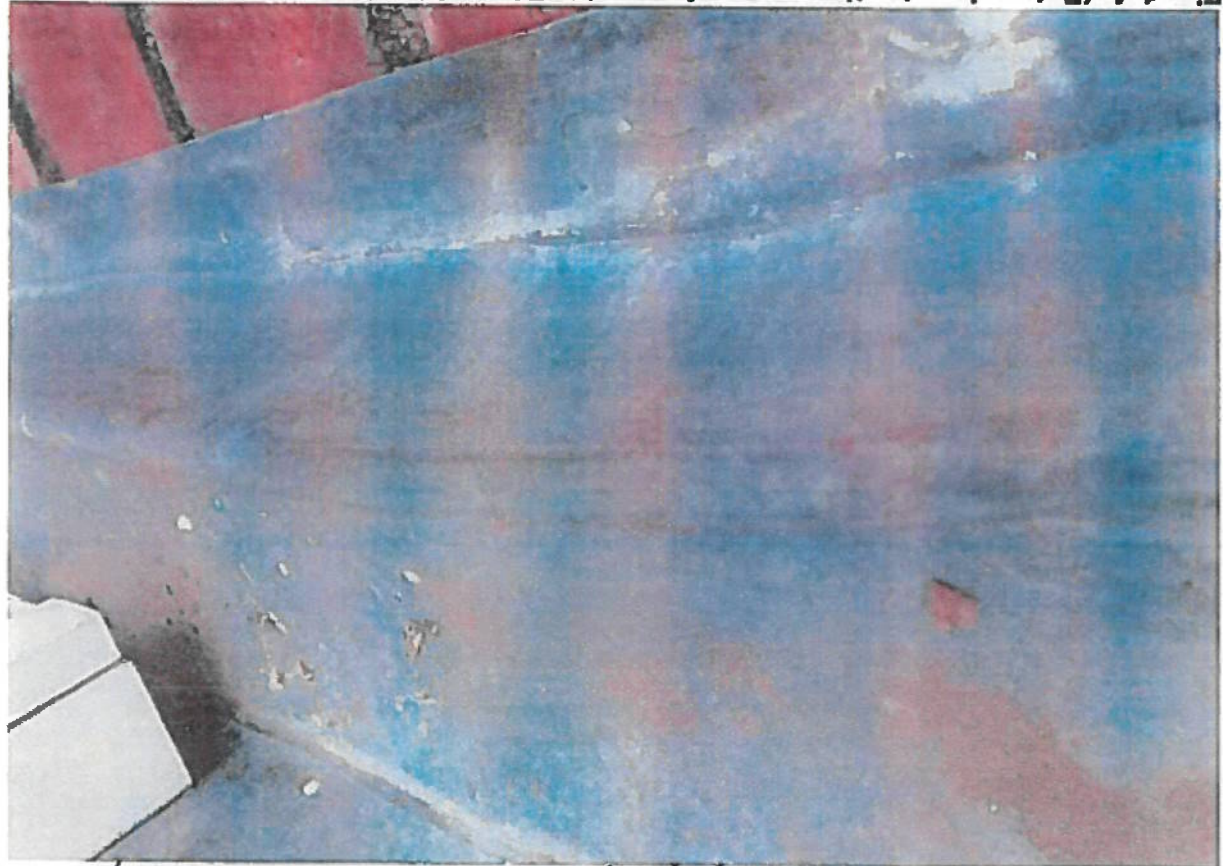
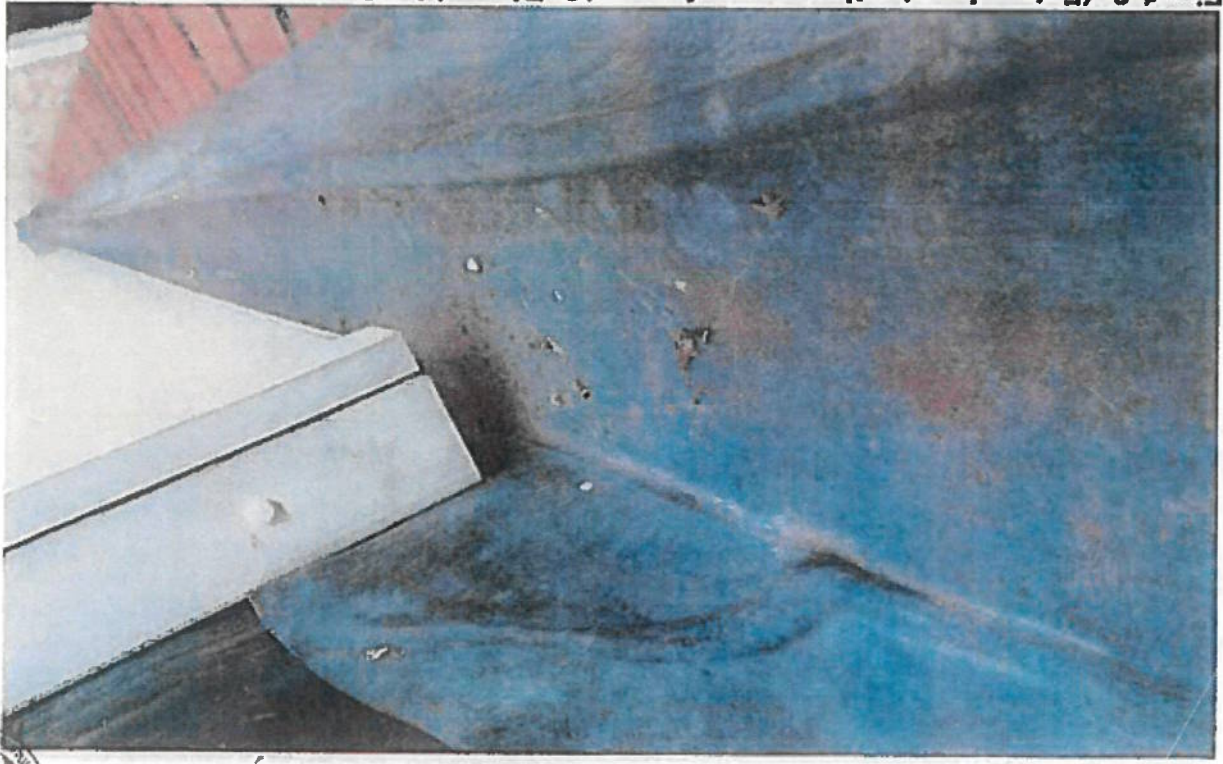


Fig 1.3 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18)



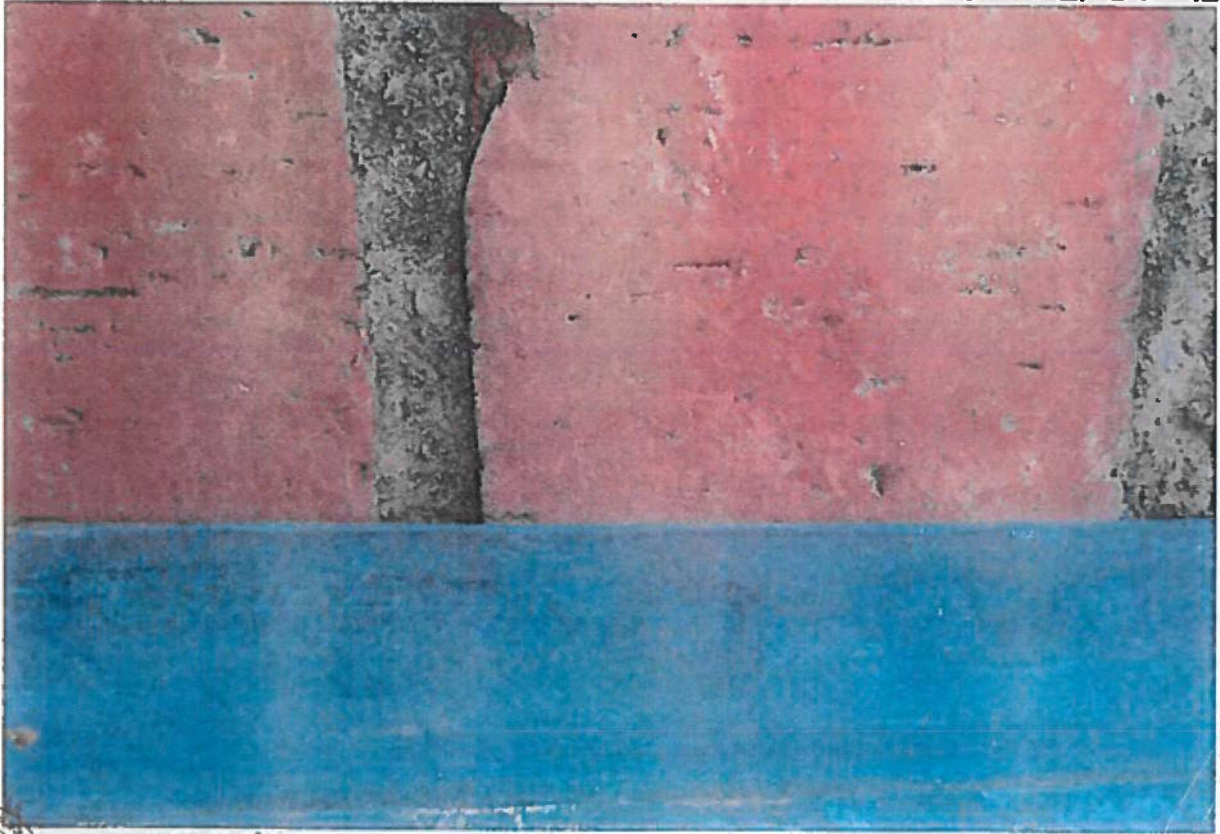


Fig 1.5 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18)

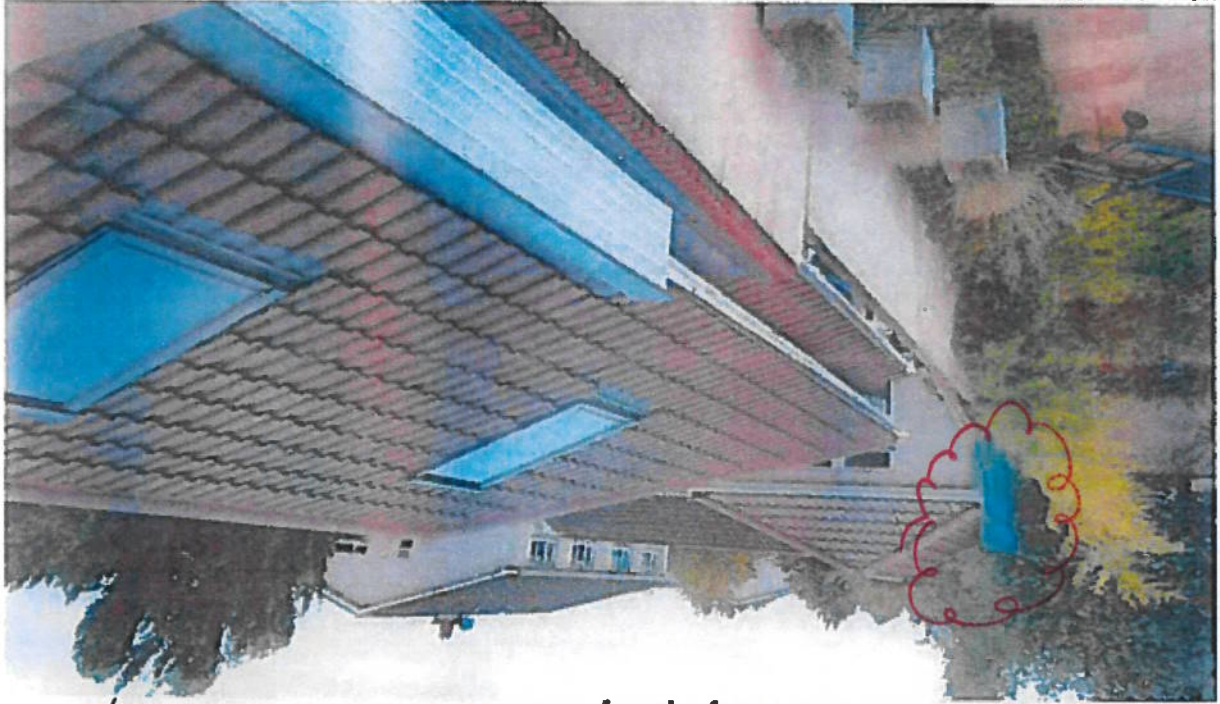
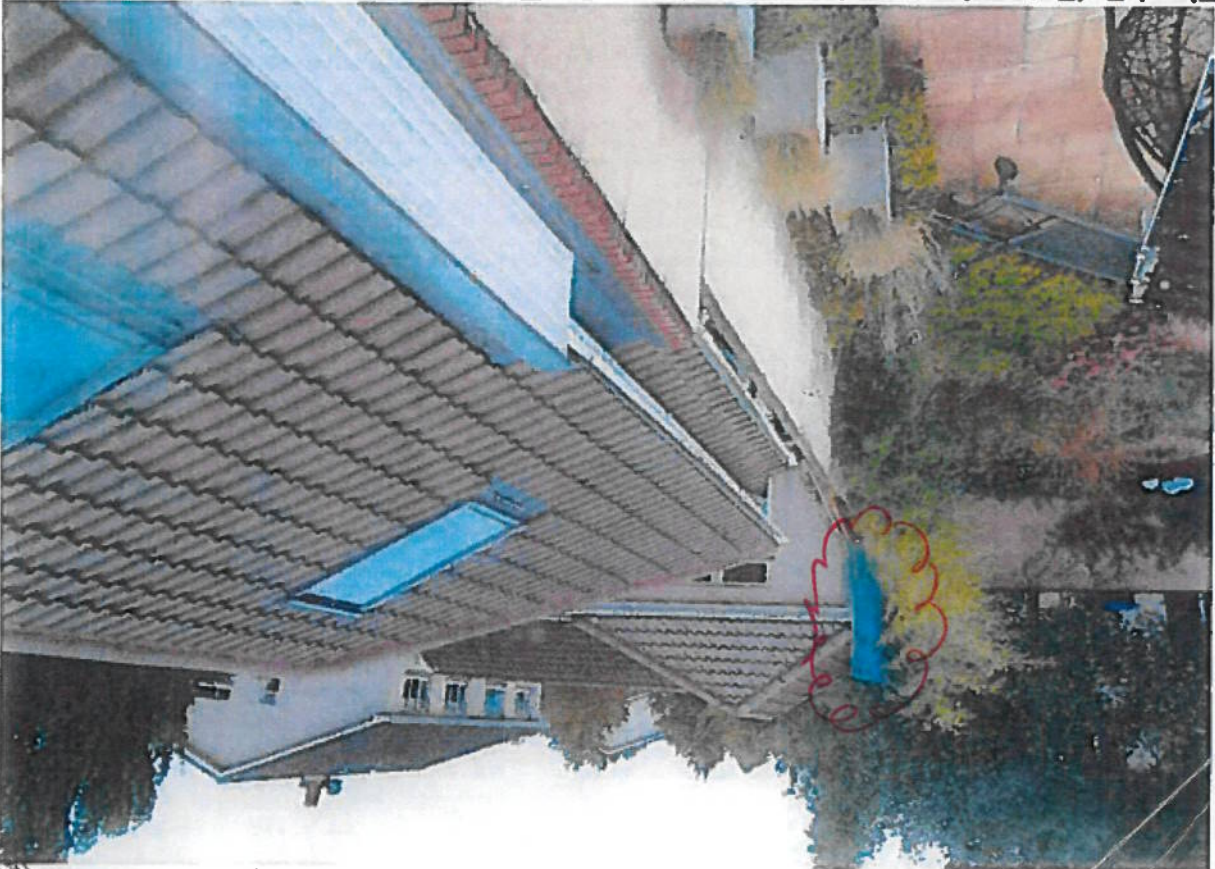


Fig 1.6 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18)


REMOVED 9/9/17

Removed 9/9/17.

Fig 1.7 (Extension to the rear of no. 18 Riverside Grove, which has been constructed on the rear boundary / party wall between no. 17 and no. 18)




AN BORD PLEANÁLA
LTR DATED 12 NOV 2018
LDG- FROM
ABP- 302724-18



KILDARE COUNTY COUNCIL

Planning Department

Unauthorized Development - Planning Report



Unauthorized Development Reference No. UD6984	Report No. 1	Date 11 th September 2017
--	---------------------	---

Essential Information	
Address of site	18 Riverside Grove, Sallins, Co. Kildare.
Name of Developers	(1) Brian Murphy (2) Natasha Hassett
Address of Developers	(1) Brian Murphy, 18 Riverside Grove, Kibbelin, Athgarvan Road, Newbridge. (2) Natasha Hassett, 18 Riverside Grove, Kibbelin, Athgarvan Road, Newbridge.
Name of landowners	(1) Brian Murphy (2) Natasha Hassett
Address of landowners	(1) Brian Murphy, 18 Riverside Grove, Kibbelin, Athgarvan Road, Newbridge. (2) Natasha Hassett, 18 Riverside Grove, Kibbelin, Athgarvan Road, Newbridge.
XY coordinates	
Detailed description of alleged development	The erection of timber fence / netting along the side boundary, and the raising of the rear boundary wall.
Inspection date (if relevant)	07/09/2017 and 08/09/2017
Date file opened	06/09/2017
Purpose of Report	Warning Letter
Reps	None.

Report of 11th September 2017

Description of unauthorised development:
The erection of timber fence / netting along the side boundary, and the raising of the rear boundary wall.

Description of Complaint Received
The Planning Authority has received complaints in relation to this development, which are on file please refer to same.

Reallocation of case

AN BORD PLEANÁLA

1 2 NOV 2018

LTR DATED _____ FROM _____

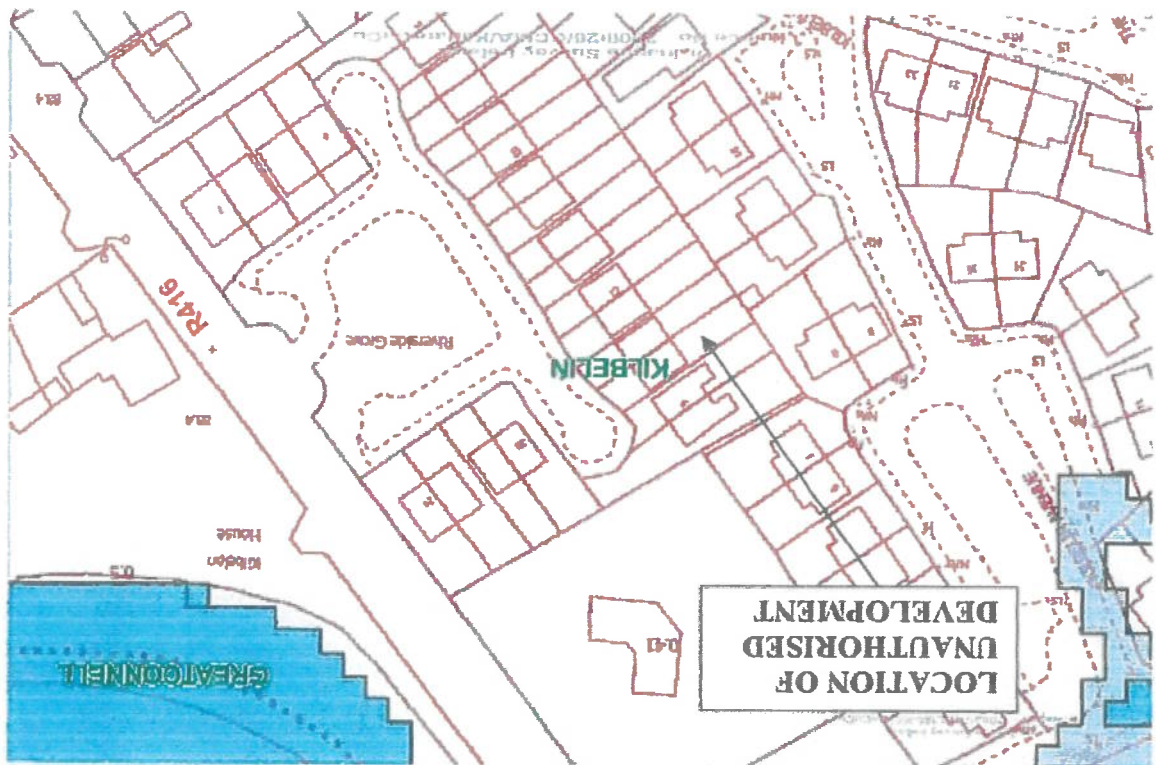
LDG- _____

APP- 302774-18

Not applicable.

Subject Site Location

The subject site is situated in the Riverside Grove housing development, which is located c.1km south of Newbridge main street.



Previous Reports/Correspondences;
None

Legislative Context;

Part 1, Schedule 2 of the P & D Regulations 2001 (as amended) is the relevant class in this instance and states the following:

Development within the curtilage of a house;

<p>Class 1 The extension of a house, by the construction or erection of an extension (including a conservatory) to the rear of house or by the conversion for use as part of the house of any garage, store, shed or other similar structure attached to the rear or to the side of the house.</p>	<p>1. (a) Where the house has been extended previously, the floor area of any such extension shall not exceed 40 square metres. (b) Subject to paragraph (a), where the house is terraced or semi-detached the floor area of any extension above ground level shall not exceed 12 square metres.</p> <p>2. (a) Where the house has not been extended previously, the floor area</p>
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- of any such extension, taken together with the floor area of any previous extension or extensions constructed or erected after 1 October 1964, including those for which planning permission has been obtained, shall not exceed 40 square metres.
- (b) Subject to paragraph (a), where the house is terraced or semi-detached and has been extended previously, the floor area of any extension above ground level taken together with the floor area of any previous extension or extensions above ground level shall not exceed 12 square metres.
- (a) Where the rear wall of the house does not include a gable, the height of the walls of any such extension shall not exceed the height of the rear wall of the house.
- (c) The height of the highest part of the roof of any such extension shall not exceed, in the case of a flat roofed extension, the height of the eaves or parapet, as may be appropriate, or, in any other case, shall not exceed the height of the highest part of the roof of the dwelling.
5. The construction or erection of any such extension to the rear of the house shall not reduce the area of private open space, reserved exclusively for the use of the occupants of the house, to the rear of the house to less than 25 square metres.
6. (a) Any window proposed at ground level in any such extension

<p>shall not be less than 1 metre from the boundary if faces.</p> <p>7. The roof of any extension shall not be used as a balcony or roof garden.</p>	
<p>1. No such structure shall be constructed, erected or placed forward of the front wall of a house.</p> <p>2. The total area of such structures constructed, erected or placed within the cartilage of a house shall not, taken together with any other structures previously constructed, erected or placed within the said cartilage, exceed 25 square metres.</p> <p>3. The construction, erection or placing within the cartilage of a house of any such structure shall not reduce the amount of private open space reserved exclusively for the use of the occupants of the house to the rear or to the side of the house to less than 25 square metres.</p> <p>4. The external finishes of any garage or other structure constructed, erected or placed to the side of a house, and the roof covering where any such structure has a tiled or slated roof, shall conform with those of the house.</p> <p>5. The height of any such structure shall not exceed, in the case of a building with a tiled or slated pitched roof, 4 metres or, in any other case, 3 metres.</p> <p>6. The structure shall not be used for human habitation or for the keeping of pigs, poultry, pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house as such.</p>	<p>Class 3</p> <p>The construction, erection or placing within the cartilage of a house of any tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure.</p>
	<p>Class 5</p>

Relevant Planning History

Subject Site:

No history found.

Site Inspection

I called to the subject site at c.16:00 hours on the 7th September 2017.

The door was answered by Mr. Brian Murphy, I told Mr. Murphy that I was from the enforcement section of Kildare County Council and was there to inspect the site following a complaint about unauthorised development occurring in the rear garden of no. 18 Riverside Grove. Mr. Murphy said that it was not a good time and could I come back at a more convenient time. It was agreed that I could inspect the subject site at 09:30 hours on the 8th September 2017.

I re-inspected the subject site at c.09:30 hours on the 8th September 2017.

I was accompanied on the site inspection by Damian Daly (Executive Planner).

Mr. Murphy showed us to the rear of the dwelling. A single storey extension had been constructed to the rear of the semi-detached 2-storey dwelling. The external works had largely been finished however the interior remained unfinished. I proceeded to take photographs and measurements of the aforementioned single storey extension (please see Appendix A photographs below). The extension was measured with a length of 7.75m and width of 4.5m. The overall floor area of the extension was measured at c.34.87sq.m. A window opening has been inserted into the northern elevation. The window is c.1.6m from the boundary it faces. The overall height of the single storey extension was measured and is c.3.98m high. The extension has been constructed within the curtilage of no. 18 Riverside Grove (please see Appendix A photos).

A detached shed to the rear has also been constructed and I proceeded to take photographs and measurements of the aforementioned shed. The shed has a width of 3.6m and length of 3.96m. The overall floor area of the shed is c. 14.26sq.m. The shed has a slated pitched roof and is below 4 metres in height. The shed has been constructed within the curtilage of no. 18 Riverside Grove (please see Appendix A photos).

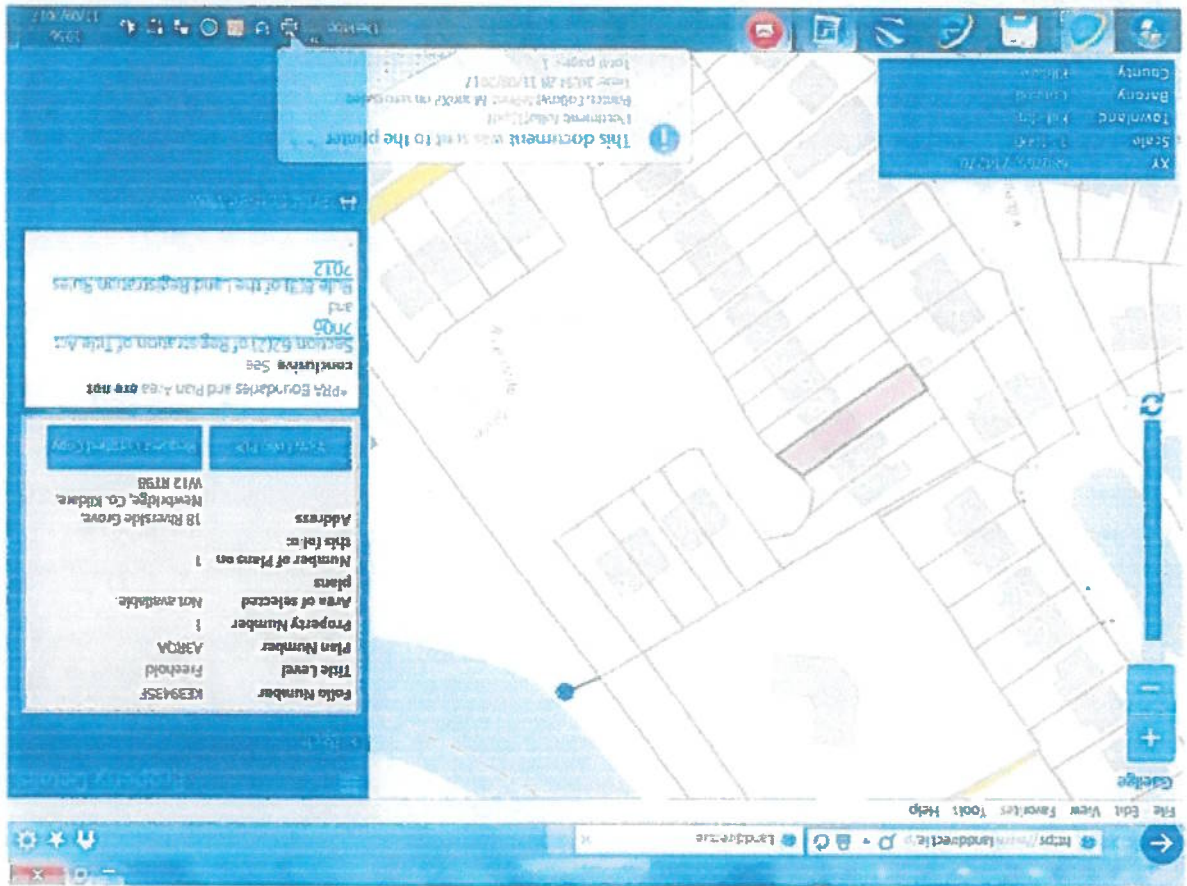
A timber fence and netting has also been erected along the southern boundary of no. 18 Riverside Grove (please see Appendix A photos). The aforementioned timber fence and netting has an overall height of c.3.5m.

The construction, erection or alteration, within or bounding the curtilage of a house, of a gate, gateway, railing or wooden fence or a wall of brick, stone, blocks with decorative finish, other concrete blocks or mass concrete.	1. The height of any such structure shall not exceed 2 metres or, in the case of a wall or fence within or bounding any garden or other space in front of a house, 1.2 metres.
--	--

It was also observed that the rear boundary wall has been raised and now has a height in excess of 2 metres.

Land Registry

On a review of the Land Registry (on line) it would appear the overall site is in the ownership of Brian Murphy and Natasha Hassett of 18 Riverside Grove, Kiltbellin, Athgarvan Road, Newbridge. Please see Folio 39435F attached.



Assessment

The overall floor area of the single-storey extension was measured at c.34.87sq.m. A window opening has been inserted into the northern elevation. The window is c.1.6m from the boundary it faces. The overall height of the single storey extension was measured and is c.3.98m high. The extension has been constructed within the curtilage of no. 18 Riverside Grove (please see Appendix A photos). The single-storey extension to the rear is exempt under Class 1, Part 1, Schedule 2 of the P & D Regulations 2001 (as amended).

The overall floor area of the detached shed in the back garden of no. 18 Riverside Grove is c. 14.26sq.m. The shed has a slated pitched roof and is below 4 metres in height. The shed has been constructed within the curtilage of no. 18 Riverside Grove (please see Appendix A photos). The detached shed is exempt under Class 3, Part 1, Schedule 2 of the P & D Regulations 2001 (as amended).


A timber fence and netting has also been erected along the southern boundary of no. 18 Riverside Grove (please see Appendix A photos). The aforementioned timber fence and netting has an overall height of c.3.5m. It was also observed that the rear

boundary wall has been raised and now has a height in excess of 2 metres. The timber fence and netting, and wall along the rear boundary is not exempt under Class 5, Part 1, Schedule 2 of the P & D Regulations 2001 (as amended) and constitutes unauthorised development.

Summary:
The timber fence / netting, and the raised rear boundary wall is not exempt under Class 5, Part 1, Schedule 2 of the P & D Regulations 2001 (as amended) and constitutes unauthorised development.

Recommendation
Having regard to the foregoing I recommend that the Planning Authority issue a warning letter to the following parties as per the attached draft:

Recommendation noted & agreed
MRS 550
4/10/17


Martin Ryan
Executive Planner
11th September 2017

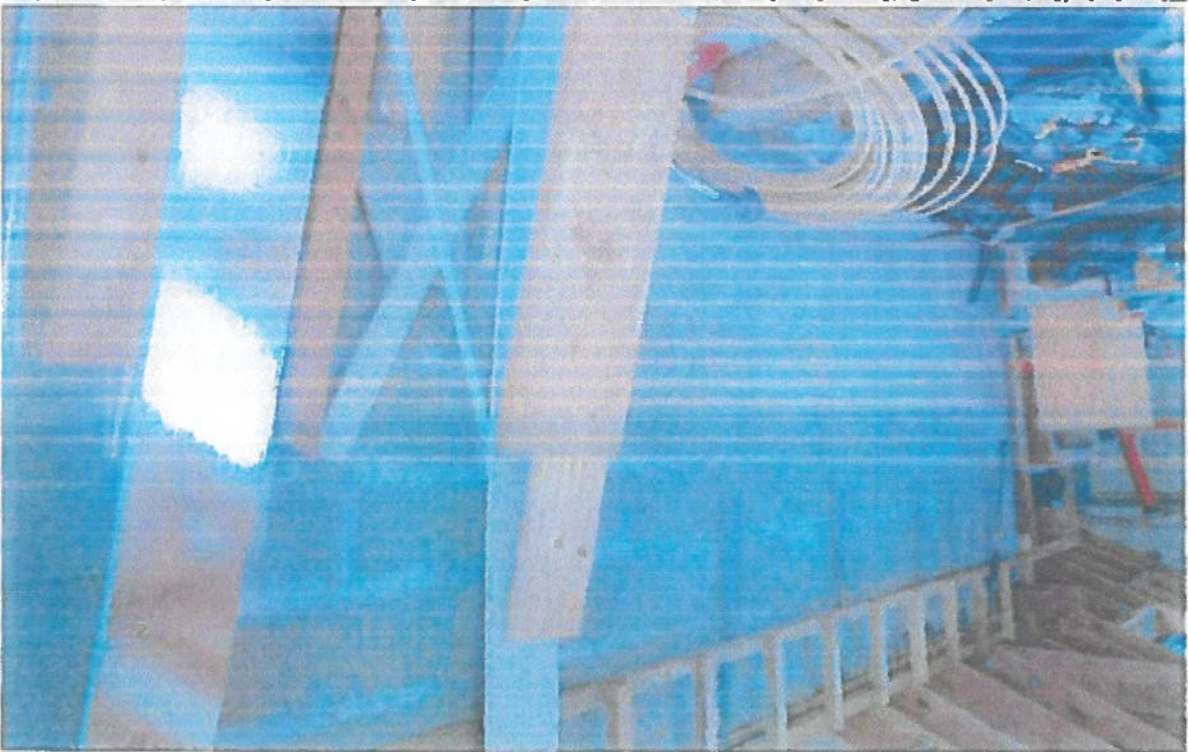


Fig 1.1 (Interior of the single-storey extension to the rear, photo taken on the 8th September 2017)



Fig 1.2 (Interior of the single-storey extension to the rear, photo taken on the 8th September 2017)

Fig 1.4 (Northern elevation of the single-storey extension to the rear, photo taken on the 8th September 2017)

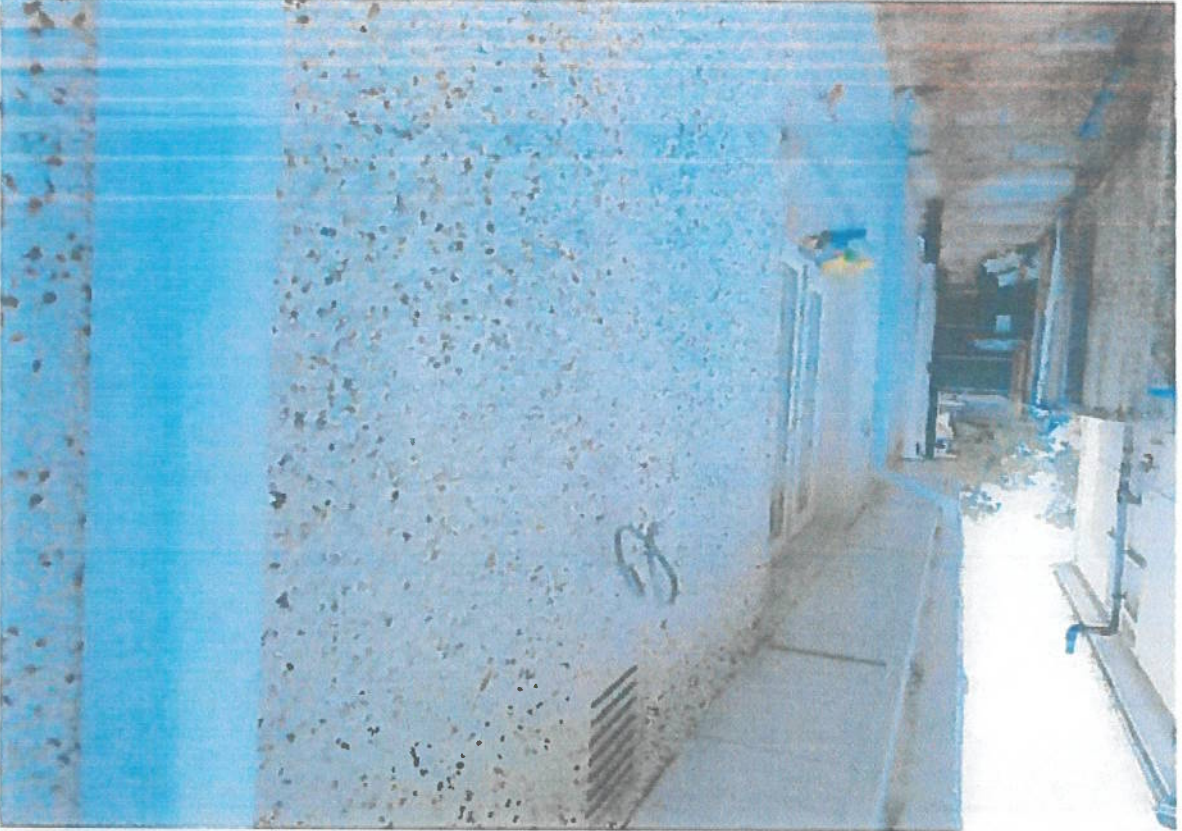


Fig 1.3 (Interior of the single-storey extension to the rear, photo taken on the 8th September 2017)



Fig 1.6 (Boundary treatment along the southern boundary, photo taken on the 8th September 2017)



Fig 1.5 (Rear elevation of the single-storey extension to the rear, photo taken on the 8th September 2017)





Fig 1.7 (Boundary treatment along the southern boundary, photo taken on the 8th September 2017)



Fig 1.8 (Boundary treatment along the southern boundary, photo taken on the 8th September 2017)

Fig 1.10 (timber fence / netting erected along the southern boundary of no. 18 Riverview Grove, photo taken on the 8th September 2017)



Fig 1.9 (timber fence / netting erected along the southern boundary of no. 18 Riverview Grove, photo taken on the 8th September 2017)





Fig 1.11 (Raised boundary wall to the rear, photo taken on the 8th September 2017)



Fig 1.12 (Rear wall of detached shed, photo taken on the 8th September 2017)



Google Earth (Image dated the 2nd June 2016)



Fig 1.13 (Interior of the detached shed to the rear of the dwelling, photo taken on the 8th September 2017)

WARNING LETTER

Ref No UD 6984

REGISTERED POST

Owners Address;
(1) Brian Murphy, 18 Riverside Grove, Kibbellin, Athgarvan Road, Newbridge.
(2) Natasha Hassett, 18 Riverside Grove, Kibbellin, Athgarvan Road, Newbridge.

Developers Address;
(1) Brian Murphy, 18 Riverside Grove, Kibbellin, Athgarvan Road, Newbridge.
(2) Natasha Hassett, 18 Riverside Grove, Kibbellin, Athgarvan Road, Newbridge.

Dear Sir/Madam, *Brian Murphy
Ms Hassett*

It has come to the attention of the Planning Authority that unauthorised development is being or may be carried out as follows:
The erection of timber fence / netting along the side boundary, and the raising of the rear boundary wall.

On land at the following address: 18 Riverside Grove, Kibbellin, Athgarvan Road, Newbridge.

The Planning Authority's investigation to date indicates that the development as detailed above would appear to be unauthorised.

Under Section 152(4)(b) of the Planning & Development Acts 2000 - 2017 you are entitled to make submissions or observations in writing to Kildare County Council (Planning Enforcement Section, Planning Department) in this regard not later than four weeks from the date of service of this warning letter. Please clearly state the reference number in any correspondence to the Council.

Where the Planning Authority considers that unauthorised development may have been, is being or may be carried out, an Enforcement Notice, pursuant to Section 154 of the Act, may be issued.

The Planning Authority's officials or its authorised agent(s), may at all reasonable times enter onto the land for the purposes of inspection.

Section 151 of the Planning and Development Acts 2000 - 2017 provides that any person who has carried out or is carrying out unauthorised development shall be guilty of an offence. Section 154(8) of the Planning and Development Acts 2000 - 2017 provides that any person on whom an enforcement notice is served who fails to comply with the requirements of the notice within the specified period or within such

extended time as the planning authority may allow, not exceeding 6 months, shall be guilty of an offence. A person who is guilty of an offence under Section 151 and/or 154 shall be liable to a fine or term of imprisonment or both.

The possible penalties involved where there is an offence are as follows:

- Fines of up to €12,697,380.00 on indictment, or 2 years imprisonment, or both,
- Or
- Up to €5,000.00 on summary conviction or 6 months imprisonment, or both.

Under Section 154(7) of the Planning & Development Act 2000 - 2017 any costs incurred by the Planning Authority in relation to enforcement proceedings may be recovered from a person on whom enforcement notice is served or where a court action is taken.

Your attention is drawn to the provisions of Section 156(6) of the Planning & Development Acts 2000 - 2017, which places the onus on a developer to prove that a development is exempt development and it is to be assumed that it constitutes development until the contrary is shown by the developer. Note also that the onus of proof as to the existence of any planning permission lies with the developer.

Your attention is further drawn to the provisions of Section 162(3) of the Planning and Development Acts 2000 - 2017, which states that enforcement action shall not be stayed or withdrawn (including for an application under Section 160) by reason of an application for permission for retention of a development under Section 34(12) or the grant of any such permission.

Signed: _____
P. Minnock
Director of Services.

Date: ____/____/____

Land Registry

County Kildare

Folio 39435F

Register of Ownership of Freehold Land

Part 1(A) - The Property

Note: Unless a note to the contrary appears, neither the description of land in the register nor its identification by reference to the Registry Map is conclusive as to boundaries or extent

For parts transferred see Part 1(B)

No.

Description

Official Notes

1

A plot of ground known as 18 Riverside Grove, situate to the west side of the Kildallen Road in the Town of Newbridge being part of the Townland of KILBELIN and Barony of CONNELL shown as Plan(s) A3RQA edged RED on the Registry Map (OS MAP Ref(s) 3606/C).

The Registration does not extend to the mines and minerals

From Folio KE15957N

Land Cert Issued: No

Page 1 of 4

Collection No.:

Land Registry

County Kildare

Folio 39435F

Part 1(B) - Property
Parts Transferred

No. Prop No:	Instrument:	Date:	Area (Hectares):	Plan:	Folio No:
--------------	-------------	-------	------------------	-------	-----------

No. 1 The devolution of the property is subject to the provisions of Part I of the Succession Act, 1965

09-JAN-2003 Brian Murphy of 18 Riverside Grove, Kibelin, Athgarvan Road, Newbridge, County Wick
 D2003KKW00229J Riverside Grove, Kibelin, Athgarvan Road, Newbridge, County Wick
 Kildare are full owners.

Title ABSOLUTE

Part 2 - Ownership

Folio 39435F

County Kildare

Land Registry

Land Registry

County Kildare

Folio 39435F

Part 3 - Burdens and Notices of Burdens

No.	Particulars
-----	-------------

1	<p>The property is subject to the provisions prohibiting letting, subdividing or subdivision specified in Section 12 of the Land Act, 1963, and to the provisions restricting the vesting of interests specified in Section 15 of the said Act in so far as the said provisions affect same.</p> <p>Cancelled</p> <p>D2009LR194194J 01-JAN-2010</p>
---	---

2	<p>09-JAN-2003 D2003KWM00229J</p> <p>The property is subject to rights, covenants and conditions relating to the use and enjoyment of the property.</p>
---	---

3	<p>09-JAN-2003 D2003KWM00229J</p> <p>Charge for present and future advances repayable with interest. Irish life and Permanent plc is owner of this charge. Certificate of Charge issued. Rule 156 - Cancelled.</p>
---	--

Note: Further advances made. See Instrument No. D2009LR194194J 01-JAN-2010.

Note: Certificate of Charge cancelled under Section 73. 01-Jan-2010.

SCANNED

Sinead Martin



27/09/2017: I spoke to EO M Ryan regarding Mr. Murphys query, he said to advise Mr. Murphy that we are waiting for the report to be signed off on and that correspondence should issue within the next week or so. I called Mr. Murphy on his mobile and advised him of this, Mr Murphy asked me what was in the report, I told him that I was unable to tell him at this stage as I did not know. Call ended.

26/9/17: Mr Brian Murphy called the office looking for an update on UD6984 as EO Martin Ryan had been out to site to visit him, I advised Mr Murphy that the EO was not in the office today but that I would check tomorrow and call him back. Mr. Murphy said that this was fine, I took Mr. Murphy's mobile number 087 2051850. Call ended.

Date: 26/9/17 and 27/9/17

Caller: Brian Murphy (Developer)

TELEPHONE MEMO UD6984



Comhairle Contae Chill Dara
Kildare County Council

4



WARNING LETTER

5

Ref No UD 6984

REGISTERED POST

Brian Murphy,
18 Riverside Grove,
Kilbelin,
Athgarvan Road,
Newbridge,
Co. Kildare.

Dear Mr. Murphy,

It has come to the attention of the Planning Authority that unauthorised development is being or may be carried out as follows:

The erection of timber fence / netting along the side boundary, and the raising of the rear boundary wall.

On land at the following address: 18 Riverside Grove, Kilbelin, Athgarvan Road, Newbridge.

The Planning Authority's investigation to date indicates that the development as detailed above would appear to be unauthorised.

Under Section 152(4)(b) of the Planning & Development Acts 2000 - 2017 you are entitled to make submissions or observations in writing to Kildare County Council (Planning Enforcement Section, Planning Department) in this regard not later than four weeks from the date of service of this warning letter. Please clearly state the reference number in any correspondence to the Council.

Where the Planning Authority considers that unauthorised development may have been, is being or may be carried out, an Enforcement Notice, pursuant to Section 154 of the Act, may be issued.



The Planning Authority's officials or its authorised agent(s), may at all reasonable times enter onto the land for the purposes of inspection.

Section 151 of the Planning and Development Acts 2000 - 2017 provides that any person who has carried out or is carrying out unauthorised development shall be guilty of an offence. Section 154(8) of the Planning and Development Acts 2000 - 2017 provides that any person on whom an enforcement notice is served who fails to comply with the requirements of the notice within the specified period or within such extended time as the planning authority may allow, not exceeding 6 months, shall be guilty of an offence. A person who is guilty of an offence under Section 151 and/or 154 shall be liable to a fine or term of imprisonment or both.

The possible penalties involved where there is an offence are as follows:

- Fines of up to €12,697,380.00 on indictment, or 2 years imprisonment, or both,
- Or
- Up to €5,000.00 on summary conviction or 6 months imprisonment, or both.

Under Section 154(7) of the Planning & Development Act 2000 - 2017 any costs incurred by the Planning Authority in relation to enforcement proceedings may be recovered from a person on whom enforcement notice is served or where a court action is taken.

Your attention is drawn to the provisions of Section 156(6) of the Planning & Development Acts 2000 - 2017, which places the onus on a developer to prove that a development is exempt development and it is to be assumed that it constitutes development until the contrary is shown by the developer. Note also that the onus of proof as to the existence of any planning permission lies with the developer.

Your attention is further drawn to the provisions of Section 162(3) of the Planning and Development Acts 2000 - 2017, which states that enforcement action shall not be stayed or withdrawn (including for an application under Section 160) by reason of an application for permission for retention of a development under Section 34(12) or the grant of any such permission.

Signed: 
P. Minnock
Director of Services.

Date: 5th Dec / 2017



53

Ref No UD 6984

REGISTERED POST

Natasha Hassett
18 Riverside Grove,
Kilbelin,
Athgarvan Road,
Newbridge,
Co. Kildare.

Dear Ms. Hassett,

It has come to the attention of the Planning Authority that unauthorised development is being or may be carried out as follows:

The erection of timber fence / netting along the side boundary, and the raising of the rear boundary wall.

On land at the following address: 18 Riverside Grove, Kilbelin, Athgarvan Road, Newbridge.

The Planning Authority's investigation to date indicates that the development as detailed above would appear to be unauthorised.

Under Section 152(4)(b) of the Planning & Development Acts 2000 - 2017 you are entitled to make submissions or observations **in writing** to Kildare County Council (Planning Enforcement Section, Planning Department) in this regard **not later than** four weeks from the date of service of this warning letter. Please clearly state the reference number in any correspondence to the Council.

Where the Planning Authority considers that unauthorised development may have been, is being or may be carried out, an Enforcement Notice, pursuant to Section 154 of the Act, may be issued.



The Planning Authority's officials or its authorised agent(s), may at all reasonable times enter onto the land for the purposes of inspection.

Section 151 of the Planning and Development Acts 2000 - 2017 provides that any person who has carried out or is carrying out unauthorised development shall be guilty of an offence. Section 154(8) of the Planning and Development Acts 2000 - 2017 provides that any person on whom an enforcement notice is served who fails to comply with the requirements of the notice within the specified period or within such extended time as the planning authority may allow, not exceeding 6 months, shall be guilty of an offence. A person who is guilty of an offence under Section 151 and/or 154 shall be liable to a fine or term of imprisonment or both.

The possible penalties involved where there is an offence are as follows:

- Fines of up to €12,697,380.00 on indictment, or 2 years imprisonment, or both,
- Or
- Up to €5,000.00 on summary conviction or 6 months imprisonment, or both.

Under Section 154(7) of the Planning & Development Act 2000 - 2017 any costs incurred by the Planning Authority in relation to enforcement proceedings may be recovered from a person on whom enforcement notice is served or where a court action is taken.

Your attention is drawn to the provisions of Section 156(6) of the Planning & Development Acts 2000 - 2017, which places the onus on a developer to prove that a development is exempt development and it is to be assumed that it constitutes development until the contrary is shown by the developer. Note also that the onus of proof as to the existence of any planning permission lies with the developer.

Your attention is further drawn to the provisions of Section 162(3) of the Planning and Development Acts 2000 - 2017, which states that enforcement action shall not be stayed or withdrawn (including for an application under Section 160) by reason of an application for permission for retention of a development under Section 34(12) or the grant of any such permission.

Signed: 
P. Minnock
Director of Services.

Date: 5th Dec 2017



**KILDARE COUNTY COUNCIL
REGISTERED POST LIST
PLANNING CONTROL SECTION**

DATE: 6th October 2017

Reg. No.

UD6984
Natasha Hassett
18 Riverside Grove
Kilbelin
Athgarvan Road
Newbridge
Co. Kildare

RL 6158 6507 11E

Reg. No.

UD6984
Brian Murphy
18 Riverside Grove
Kilbelin
Athgarvan Road
Newbridge
Co. KILDARE

RL 6158 6509 91E

Reg. No.

Reg. No.

Reg. No.

SCANNED

[Handwritten signature]
Signed: *[Handwritten name]*

Date: 09-10-17

[Handwritten text: Passed by Planning Department]

Report:

[Handwritten signature]
Senior Executive Officer
Planning Department

To: Mourad.

Date Ref: 06/10/2017

Ref: Warning Letter to be mapped

Development: The erection of timber fence / netting along the side boundary and the raising of the rear boundary wall

Site Location: 18 Riverside Grove, Sallins, Co.Kildare

Developer: Brian Murphy & Natasha Hassett

Ref Number: UD6984

Aras Chill Dara, Devoy Park, Naas, Co. Kildare

8

Kildare County Council 2000-2017 Act Applies

This temporary structure was removed on 9th September 2017 two days after the rendering of the shed had been completed.

and resolve the oversailing branches from her tree.

During the construction of the shed, and to provide a safe working environment, I needed the tree branches and leaves from Ms. A Mangan's tree kept back from oversailing my property. In many cases the branches were, and still are oversailing the blockwork boundary wall by 1.3m. Despite verbally requesting Ms. A Mangan to cut them back on 2 separate occasions 8 and 12 weeks respectively, before work commenced in this area, no action was taken by Ms. A Mangan to address it was provided as a precaution to mitigate and minimise any air borne dust and debris being emitted during the construction of the shed, to prevent any nuisance to house No 17, owner Ms. A Mangan. Its purpose was as follows:

The temporary timber fence and debris netting that was erected on the south west boundary wall has been removed.

The erection of the timber fence/netting along the side boundary.

Further to your letter received on 9th October 2017 I wish to address the issues raised as follows:

Dear Mr. Minnock,

REGISTERED POST

Your Ref: UN 6984

11th October 2017

W91 X77F

Co. Kildare

Naas

Devoy Park

Aras Chill Dara

Planning Department

Planning Enforcement Section

Kildare County Council

Director of Services

P Minnock

SCANNED

Co. Kildare

Newbridge

Athgarvan Road

18 Riverside Grove

DIRECTOR OF SERVICES
13 OCT 2017

9

Ken Keenan / Veronica Cocks

The raising of the rear boundary wall.

Within the development of Riverside Grove housing estate built in 2001/2002 by Gainsmount Homes there are many blockwork boundary walls, which were built by the developer at heights ranging from 2.3 to 2.6m dry dash rendered and capped.

At the time KCC staff carried out their survey, the height of the wall in question is currently about 2.3m off the existing (temporary) ground level. Hard and soft landscaping work to this area have not commenced yet, which I expect will reduce the height of the wall above ground level and bring the wall substantially compliant with the 2m height rule.

I raised the rear boundary wall which was at approx. 1.7m, to try and stop my children's footballs from going over the 1.7m wall, and ending up in the void between the wall in question and the blockwork shed directly behind me. There are two sheds behind this wall in question, one of which is on Kibbellin Lawns and the other is on Kibbellin Avenue.

In the past footballs had gone over into this void "dead space" between the wall in question and the blockwork sheds behind, and there is no safe way for any child or adult on either side to access this "dead space" to retrieve the balls. I raised the wall and in doing so, by bringing my section of wall up to just under the soffit height of the shed behind me it has minimised the chances of a ball ending up in this area.

The raising of the wall does not impact on the two properties behind me, and it does not affect Ms. A Mangan.

Yours Sincerely



B & N Murphy

P. MINNOCK
DIRECTOR OF SERVICES
KILDARE COUNTY COUNCIL
PLANNING ENFORCEMENT SECTION
PLANNING DEPARTMENT.

ARAS CHILL DARA
DEVOY PARK
NAAS
CO KILDARE



Senior Executive Officer
Planning Department

Yours sincerely

Dear Sir/ Madam,
I acknowledge receipt of your correspondence received on 13th October 2017 in connection with the above.
In this regard I have forwarded this information on to the enforcement officer dealing with this file.

RE: Unauthorised Development 18 Riverside Grove, Kildelín, Athgarvan Road, Newbridge, Co.Kildare

Brian Murphy & Natasha Hassett
18 Riverside Grove,
Kildelín,
Athgarvan Road,
Newbridge,
Co.Kildare

18th October 2017

Planning Department
PLANNING CONTROL SECTION
045980839
Ref. No. UD6984

10



AN BORD PLEANALA
LTR DATED 12 NOV 2018
LDG- FROM
ABP- 302774-18