



An
Bord
Pleanála

Inspector's Report

ABP-306676-20

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| Development | A first-floor extension to the rear of a mid-terrace dwelling over existing rooms below and all associated site works |
| Location | 2A Temple Mills, Celbridge, Co. Kildare W23 C997. |
| Planning Authority | Kildare County Council |
| Planning Authority Reg. Ref. | 19537 |
| Applicant(s) | Aine and Liam O'Dwyer |
| Type of Application | Domestic Extension |
| Planning Authority Decision | Refuse Permission |
| Type of Appeal | First Party |
| Appellant(s) | Aine and Liam O'Dwyer |
| Observer(s) | None |
| Date of Site Inspection | 29/05/2020 |
| Inspector | Adrian Ormsby |

1.0 Site Location and Description

- 1.1. The site is located on the Newtown Road c. 1km south of the centre of Celbridge and within the towns defined settlement boundary. The site is a mid-terrace two storey dwelling in a terrace of four dwellings and is finished in painted nap plaster and black roof slates. The site is bound to the public road by a low wall with railing on top. There is no public path on this side of the road and the pedestrian gate from the site is directly on to a narrow shoulder of the public road. There is a significant stand of mature trees to the rear and western boundary of the site. The River Liffey flows northwards c.85m to the west of the site.

2.0 Proposed Development

- 2.1. The applicants have applied for a first-floor extension to the rear of the dwelling over an existing rear return and all associated site works. The stated site area is 0.0136 ha. The existing dwelling has a stated floor area of 135.2 sq.m and the proposed extension will provide a stated 18.6 sq.m. The existing drawings show three existing bedrooms in the first floor of the dwelling.
- 2.2. The application proposes redeveloping bedroom 3 to provide a new bathroom and extended landing and two new bedrooms providing four bedrooms in total to the house. New Bedroom 3 will have a floor area of approx. 10.3 sq.m and new bedroom 4 will have a floor area of approx. 6.1 sq.m. Both bedrooms will have a window located a stated 4.65m from the southern boundary adjoining 3A Temple Mills.
- 2.3. The proposed development extends a stated 5.287 m from the rear of the main dwelling block and is a stated 4.336m wide. The extension is designed with parapet walls and a recessed pitch roof profile hipped at the western end. The parapet has a height of approx. 5.9m. The proposed ridge level has a stated height of 7.07m.
- 2.4. The existing rear return has a flat roof with parapet wall to the western end. The flat roof appears to have a height of approx. 2.9m. The parapet height is approx. 3.2m.
- 2.5. The development is proposed directly along the northern boundary of the site i.e. adjoining 1A Temple Mills. and appears to extend to the rear western boundary of the site.

- 2.6. Following a request for an overshadowing survey through Further Information (FI) the Planning Authority invited the applicants through Clarification of Further Information (CFI) to revise the scale of the proposed extension in terms of roof profile and reducing the height of the parapet level having regard to the impacts of overshadowing.
- 2.7. The applicants submitted revised proposals omitting the pitched roof and providing a parapet level at 6.175m. Drawing No. CFI-03 shows the parapet level along the northern boundary with a stated level of 6.175m. Drawing No. CFI-02 shows the parapet level at 6.175m along the western rear boundary. This drawing does not appear to show a parapet wall along the southern elevation and instead appears to show a flat roof height of approx. 5.8m.

3.0 Planning Authority Decision

3.1. Decision

On the 22/01/2020 Kildare County Council refused permission for the development for the following reason-

Having regard to the scale and siting of the proposed first floor extension to the rear of the mid terrace dwelling including the raising of the northern boundary wall by 2.93m in height, it is considered that the proposed development by reason of overshadowing and overlooking of adjoining private open space and its overbearing nature would be seriously injurious to the amenities of the established residents in the vicinity of the subject site, depreciate the value of properties in the vicinity, and be out of character with the established built form. The proposed first floor extension would therefore be contrary to both Objective SRO 3 and the provisions of Section 17.4.8 'Extensions to Dwellings' of the Kildare County Development Plan 2017-2013, which seek to ensure that new extensions 'should complement the area in which it is located, and its design and scale should have regard to adjoining properties.' The proposed development would therefore seriously injure the amenities of adjoining properties, would materially contravene the zoning

objective for the area which is to 'protect and enhance' the amenity of established residential communities and promote sustainable intensification and accordingly would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Planning Report 1 signed 05/07/19. FI- requesting an overshadowing survey and to submit a site layout drawing showing the relationship between the proposed extension and boundaries.
- Planners Report 2 signed 03/12/19. CFI- Photographic evidence and a northern elevation drawing of existing and proposed extension requested. The applicants were also invited to revise the scale of the extension having regard to the impact of overshadowing.
- Planners Report 3 signed 21/1/20. Notwithstanding the revised design submitted by the applicants, the report concludes that proposed first floor extension will have a significant impact on the rear private amenity space on adjoining property to the north by way of overshadowing at all times of the year. The increased height of the boundary wall to a parapet level of 6.175m for entire rear garden depth will constitute an overbearing feature. The first floor windows 4.65m from southern boundary would lead to overlooking. Refusal Recommended for one reason.

3.2.2. Other Technical Reports

- Environment Section- No objections raised, and standard environmental conditions included.
- Area Engineers Report- no objections raised, and typical comments noted/ticked.
- Water Services- standard conditions included, report notes existing watermain and sewerage connection.

3.3. Prescribed Bodies

- Irish Water- No objections raised and standard comments in relation to new connections noted.

3.4. Third Party Observations

None

4.0 **Planning History**

Following an online inspection of Kildare's planning register it appears that there is no relevant planning history to this site. This is also acknowledged in the Planning Authority's first planning report for this development.

5.0 **Policy Context**

5.1. **Kildare County Development Plan 2017-2023**

Section 4.11 of the County Plan is titled- '*Residential development in established urban areas - infill, backland, subdivision of sites and corner sites.*' In relation to 'Extensions to Dwellings' this section states-

'Domestic extensions are an effective way for homeowners to adapt to changing household needs without having to move house. The design, scale and layout should have regard to the amenities of adjoining properties, particularly as regards overshadowing and privacy.'

Section 4.11 also sets out the following relevant Council objective-

'SRO 3 Facilitate the extension of existing dwellings in accordance with the standards set out in Chapter 17 of this Plan.'

Chapter 17 sets out Development Management Standards. The following sections are relevant to the proposed development-

17.2.4- *'Overlooking*

In general, a minimum distance of 22 metres between opposing above-ground floor level windows is required for habitable rooms. In cases of

innovative design where overlooking into habitable rooms does not occur, this figure may be reduced.

17.2.5 *Overshadowing*

Where development of a significant height is located close to existing development, the planning authority may require daylight and shadow projection diagrams to be submitted. The recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (BRE 1991) or Lighting for Buildings Part 2 1992: Code of Practice for Day Lighting B.S. 8206 and any updates to these documents should be followed as a minimum in this regard.

17.4.8 *Extension to Dwellings.*

Primarily, the design and layout of extensions should have regard to the character of the existing dwelling, the nature of the surrounding area and the amenities of adjoining properties, particularly as regards sunlight, daylight and privacy. The following basic principles shall be applied:

– The extension should be sensitive to the existing dwelling in its form, scale and appearance and should not adversely distort the scale or mass of the structure or adjoining properties.

– The extension should complement the area in which it is located, and its design and scale should have regard to adjoining properties.

However, a flexible approach will be taken to the assessment of alternative design concepts and contemporary designs will be encouraged.....

–In an existing developed area, where a degree of overlooking is already present, the new extension must not significantly increase overlooking possibilities.

– New extensions should not overshadow adjacent dwellings to the degree that there is a significant decrease in daylight or sunlight entering into the house.

– The physical extensions to the floor area of a dwelling should not erode its other amenities. In all cases a minimum private rear garden area must be retained.

5.2. Celbridge Local Area Plan 2017-23

The site is zoned B- Existing Residential / Infill, with an objective- *‘To protect and enhance the amenity of established residential communities and promote sustainable intensification.’*

According to Map 10.2 of the LAP the site is located within a ‘Proposed Architectural Conservation Area Boundary’.

Section 10.3.2 (i) deals with Proposed Architectural Conservation Areas and specifically states-

‘It is also considered appropriate to preserve the architectural value of the Temple Mill buildings and associated workers cottages further south along the Liffey, through the designation of an ACA.’

Policy BH3 – Architectural Conservation Areas states-

It is the policy of the Council to preserve the historic character of proposed Architectural Conservation Areas and to carefully consider any proposals for development that would affect the special value of these areas.

The following LAP objective is relevant-

BHO3.3: To ensure that new development, including infill development, extensions and renovation works within or adjacent to the ACAs preserve and enhance the special character and visual setting of the ACA including views and vistas, streetscapes, building lines, fenestration patterns and architectural features.

Appendix 1 of the LAP refers to Architectural Conservation Areas - Character Areas and for the area of the application states-

Temple Mills-

This character area comprises the surviving buildings and features associated with Temple Mills, Temple Mills House and the terraced cottages at Temple Place. The weir, mill race and sluice also add to the industrial heritage of the River Liffey. Collectively, these buildings and features define a complex that is of social, technical and architectural value.

5.3. Ministerial Guidelines

DoEHLG- Quality Housing for Sustainable Communities Best Practice Guidelines 2007.

These guidelines generally refer to new residential developments, however it is noted that Section 5.3 deals with Internal Layout and Space Provision. As regards bedroom sizes the Guidelines state-

'The area of a single bedroom should be at least 7.1m² and that of a double bedroom at least 11.4m².'

This is considered the minimum standard for quality bedroom living space.

5.4. Natural Heritage Designations

The site is not located within or adjoining any sites of natural heritage. The nearest Natura 2000 site is the Rye Water Valley/Carton SAC (001398) located c. 5.4.km to the north east of the application site.

6.0 The Appeal

6.1. Grounds of Appeal

The following grounds of appeal are raised-

- Serious injury to the amenities of adjoining properties
 - a. Overshadowing

The applicants refer to the Overshadowing Report submitted in response to FI and section 17.4.8 of the Kildare County Development Plan which states *'New extensions should not overshadow adjacent*

dwellings to the degree that there is a significant decrease in daylight or sunlight entering into the house'. The applicants contend 'the proposed development will not cause a significant decrease of daylight or sunlight entering the adjacent dwelling'.

b. Overlooking

The applicants contend that *'there are no proposals that the development will have an outlook over the adjoining properties and therefore there will be no loss of privacy to established residents.'*

c. Overbearing nature of the proposed development

The applicants refer to the existing dwelling and the nature of the proposed development over the existing footprint of the rear return. They argue the development is sensitive to its appearance and will not distort the scale or mass of the structure or adjoining properties. The applicants detail how the planning application and overshadowing report have been shared with the owners of both adjoining properties and no concerns have been raised with the Planning Authority.

The applicants contend *'the planning authority is wrong to refuse permission on the basis that the proposed development would seriously injure the amenities of adjoining properties.'*

- The development would be out of character with the established built form

The applicants argue that the development is simple in design and complimentary to the existing dwelling and the area it is located. There is no disturbance to the scale and the historic character is to be maintained. The proposed finishing materials will be in keeping with the vernacular architecture. The applicants highlight the revised design through the CFI process and state *'there is no reference to these revised drawings in the decision of the planning authority'*. They highlight their preference for the original proposal and their willingness to proceed with revised proposal. They refer to section 17.4.8 of the County Plan and state *'a flexible approach will be taken to alternative design concepts and contemporary designs will be encouraged'*. This does not appear to be a direct quote from the Development

Plan which can be viewed in section 5.1 for clarity. The applicants detail the proposal does more to enhance the original dwelling than the current flat roof single storey extension. The applicants conclude for these reasons the proposal is not out of character with the established built form.

- Material contravention of zoning objective

The applicants detail they have been members of the residential community for more than 20 years and have restored the property. The development is sympathetic to the existing dwelling, surrounding area and built environment and to the amenities of adjoining properties. They submit that the proposal is *'compliant with the zoning objective for the area'*.

6.2. Planning Authority Response

There is no response from the Planning Authority on file.

7.0 Assessment

- 7.1. Having regard to my site visit and the information on file, it is considered that the key issues for assessment are the impact of the proposed development on the residential amenity of the adjoining properties by virtue of scale, height, overshadowing, overlooking and the provision of quality internal space.
- 7.2. It is noted that the design of the proposed development has been revised through the CFI stage. The applicants have indicated their desire for the original design with pitched roof to be permitted but are prepared to accept the revised design submitted at CFI stage.
- 7.3. It is proposed to assess this appeal under the following headings-
- Overshadowing
 - Overbearing
 - Overlooking
 - Quality of proposed internal space
 - Character of the Area and established built form

- Zoning and Material Contravention of Zoning Objective
- Appropriate Assessment

7.4. Overshadowing-

The applicant's rear garden faces west and experiences overshadowing to certain degrees from the existing built structures in the area and adjoining sites at differing times of the day. Overshadowing also occurs from the presence of a significant stand of mature trees along the western boundary of the terrace of houses.

As per the '*Daylight Analysis and Overshadowing*' report submitted with the application at FI stage, it is noted that the proposed development would increase the shadow cast from the applicant's property onto the dwelling to the immediate north-1A Temple Mills and in particular its private open space as follows-

- March 21st at 12.00 and 14.00 (The impact of overshadowing from the proposed extension are unclear later in the day based on the report showing overshadowing from trees along the western boundary which suggests that the rear garden is almost completely overshadowed at 16.00.)
- June 21st at 12.00 and 14.00. (The impact of overshadowing from the proposed extension are unclear later in the day based on the report showing overshadowing from trees along the western boundary which suggests that the rear garden is completely overshadowed at 18.00.)
- September 21st at 12.00 and 14.00. (The impact of the proposed development is unclear in the evening as the report shows overshadowing from trees along the western boundary which suggests that the rear garden is completely overshadowed at 18.00.)
- December 21st 12.00 and 14.00

The report concludes that '*net additional overshadowing is quite marginal*'.

It is my view that the report does not adequately demonstrate the impact of overshadowing from the proposed development on its own. While existing trees outside of the site can impact on overshadowing, I do not consider it appropriate to

rely on these to make a case for the proposed development, particularly when the same trees can be removed outside the scope of this application.

Therefore, having regard to the height and depth of the proposed extension along the northern boundary of the site, I am not satisfied that the proposed development would not lead to significant and undesirable overshadowing of the private open space to the rear of 1A Temple Mills. I therefore consider, that the proposed development, would negatively impact upon the residential amenity of the neighbouring property.

7.5. Overbearing-

I consider that the proposed increase in height of 2.93m along the sites northern boundary running the full length of the rear return i.e. 5.287m would create a significant and negative overbearing and visual impact on the residential amenity of 1A Temple Mills.

7.6. Overlooking-

The application proposes two first floor windows in the side elevation of the first floor extension facing south and a stated 4.65m from the boundary of the dwelling to the south. I share the Planning Authority's view that the proximity of these windows to the adjoining boundary would be injurious to the existing residential amenity of 3A Temple Mills by way of overlooking of private amenity space.

7.7. Quality of proposed Internal Space-

It is noted that this issue was not raised by the Planning Authority. The provision of a bedroom of c. 6.1 m² is below the recommended provision of at least 7.1 m² for a single bedroom as set out in the DoEHLG 2007 Quality Housing for Sustainable Communities Best Practice Guidelines. As such the development as proposed is considered substandard in its provision of a 'good quality living space'.

7.8. Character of the Area and Established Built form-

The site is located within the Temple Mills ACA as per Map Ref 10.2 of the Celbridge LAP. The proposed development is to be finished in nap render. The original roof was to be finished in natural slate to match the existing roof. Following CFI, the applicants proposed a flat roof.

Based on the photographs submitted at CFI stage to the Planning Authority and dated the 18/12/19 it appears that the rear of the main block of the dwelling and neighbouring dwellings is finished in stone which is more than likely original.

Having visited the site and inspected the general area I could not observe any similar first floor extensions as proposed in the terrace. Furthermore, no other such developments are noted by the applicants in their appeal.

Having regard to the bulk, scale and depth of the proposed extension and its negative impacts on neighbouring properties from overshadowing, overbearing and overlooking I consider that the proposed development would be out of character with the established built form of the area, notwithstanding the revised roof profile and proposed finishes.

7.9. Zoning and Material Contravention of Zoning Objective-

The appeal site lies on land zoned B- Existing Residential / Infill, with an objective- *'To protect and enhance the amenity of established residential communities and promote sustainable intensification.'*

The applicants refer to the refusal reason and the Planning Authority's wording in which it is stated that the proposed development *'would materially contravene the zoning objective for the area.....'*

The principle of an extension to the dwelling is considered consistent with the zoning objective for this area and as such does not 'materially contravene' it.

Notwithstanding this, I considered that the extension does not *'protect and enhance'* the amenity of the established residential community for the reasons set out above.

7.10. Appropriate Assessment-

Having regard to the nature and scale of the proposed development and the nature of the receiving environment, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect, individually or in combination with other plans or projects, on a European site.

8.0 Recommendation

8.1. I recommend that permission for the development be refused.

9.0 Reasons and Considerations

Having regard to the location and orientation of the development, relative to adjoining properties to the north and south, it is considered that the proposed extension, by reason of its design, scale, location and its substandard provision of quality living space, would seriously injure the residential amenity of the area, by reason of overbearing, overshadowing and overlooking and would represent a substandard form of residential development having regard to the 2007 Quality Housing for Sustainable Communities Best Practice Guidelines. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Adrian Ormsby
Planning Inspector

11th June 2020