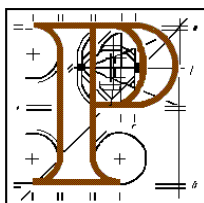


An Bord Pleanála



Inspector's Report

Development

Description: Permission for the retention of existing structure as per previously approved (Ref. 08/1759) and permission or continuation to completion of the construction of a revised and reduced construction of a 2 storey, 3 bedroom detached house with ancillary site works.

Address: 25 Aylmer Crescent, Kilcock, Co Kildare.

Planning Application

Planning Authority: Kildare County Council.
Planning Authority Reg. Ref.: 15/430.
Applicant: Cornelius Walsh.
Type of Application: Permission.
Planning Authority Decision: Grant Permission with conditions

Planning Appeal

Appellant: Aidan & Sharon Maher, Mr & Mrs Bob Gabbett, Mr & Mrs Sean Brady.
Type of Appeal: Third Party v Grant
Observers:
Date of Site Inspection: 13th June 2016
Inspector: Bríd Maxwell.

1.0 SITE LOCATION AND DESCRIPTION

1.1 The appeal site which has a stated area of 0.063 hectares is located at 25 Aylmer Crescent, within an established residential estate to the south east of Kilcock, Co Kildare. The appeal site which is roughly triangular in shape is the easternmost dwelling site at the end of a cul de sac of two storey semi-detached dwellings. The appeal site has a larger side garden than its twin dwelling and adjacent at Aylmer Crescent as the northern appeal site boundary splays outwards to the rear where it meets adjacent two storey dwelling sites in Royal Meadows, another residential estate, which back on to the appeal site. To the side of the established dwelling on the appeal site a two storey blockwork detached structure has been recently constructed which has window opes to front side and rear elevations. The structure maintains the front building line of the established dwelling on site.

1.2 Photographs of the Appeal Site and context taken at the time of my site visit are appended to this report.

2.0 PROPOSED DEVELOPMENT

2.1 The proposal as set out in public notices is permission for the retention of existing structure as previously approved (Ref No. 08/1759) and permission for continuation to completion of revised and reduced construction of a two storey, 3 bedroom detached house with ancillary site works. The proposed dwelling will have a floor area of 120m².

3.0 PLANNING AUTHORITY'S DECISION & DELIBERATIONS

3.1 **Submissions.**

- 3.1.1 Aiden and Sharon Maher, 49 Royal Meadows object to the development on impact on residential amenity in terms of overlooking, by front and rear windows. Development is visually obtrusive and non-compliance with development standards. Potential for future development is of concern.
- 3.1.2 Submission from Sean and Niamh Brady, 51 Royal Meadows object to the development on grounds of overlooking and negative impact on residential amenity. Design is out of character.
- 3.1.3 Submission from Ann and Bob Gabbett, 50 Royal Meadows object to the development on grounds of overlooking, overshadowing. Potential for future development over the flat roof. Design is out of character. .

3.2 Internal Reports.

- Environment Section Report indicates no objection subject to conditions.
- Kildare Fire Service report indicates no objection subject to conditions.
- Roads Transportation and public safety Department – No objection subject to conditions.
- Water Services report – no objection subject to conditions.
- Irish Water Report indicates no objection subject to conditions.
- Planner's initial report requests further information to include a revised design and shadow projection diagram. Applicant was also requested to address third party concerns. Final Report recommends permission subject to conditions.

3.3 Decision

- 3.3.1 Kildare County Council issued notification of decision to grant permission on 15/02/2016 subject to 17 conditions which included the following of particular note:
- Condition 2. The proposed half hipped roof to be replaced by a full gable roof.

Condition 17. Development Contributions of €5,764.50 in accordance with the development contributions scheme.

4.0 PLANNING HISTORY

- **PL09.244246 14/829** Previous application for retention and completion of structure as previously approved 08/1759 refused on grounds that the height scale and design of the dwelling would give rise to overlooking and have a significant overbearing impact on adjacent dwellings.
- **08/1759** Permission granted 16/02/2009 to Con Walsh for the construction of a 2 storey, 3 bedroom detached house on the site adjacent to existing semi –detached house.
- **UD6477** Enforcement notices issued to the applicant in September 2014.

5.0 GROUNDS OF APPEAL

5.1 The appeal is submitted by Mr and Mrs Aidan Maher, 49 Royal Meadows, Mr and Mrs Bob Gabbett, 50 Royal Meadows and Mr and Mrs Sean Brady, 51 Royal Meadows. Grounds of appeal are summarised as follows:

- Overlooking of front windows of No 49 Royal Meadows. Fig 1 of appeal submission comprising photograph taken from rear bedroom window of 49 Royal Meadows shows significant overlooking.
- Scale and bulk of development will be intrusive into 50 Royal Meadows. Two storey element will be the dominant backdrop obliterating view and creating an imposing enclosed environment.
- Development is visually obtrusive. Single storey structure within 1m of the boundary wall will be 1m higher than the wall.
- Failure to impose condition to permission prohibiting further development is a grave oversight.

- Condition requiring change in roof design from hipped roof to gable will extend roof line and may affect shadow projection.
- Request the Board to refuse permission.

6.0 APPEAL RESPONSES

6.1 Planning Authority

6.1.1 The Planning Authority response makes no comment on the appeal and refers the Board to the two planner's reports which informed the Council's decision.

6.2 First Party Response

6.2.1 Response on behalf of the first party is submitted by Michael Malone Architects on behalf of the first party. The response sets out the context and background to the application as well as addressing the specific grounds of appeal and is summarised as follows:

- Board is respectfully requested to uphold the decision of the planning authority.
- The Planning Authority carefully considered the application and determined it to be in compliance with the Kildare County Development Plan 2011-2017.
- Proposed development does not visually detract from neighbouring dwellings.
- Front elevational treatment in terms of style and finish generally matches neighbouring dwellings and is much reduced in height from the previous proposal.
- Shadow projection dwellings indicate no significant overshadowing.
- As regards overlooking of front window into 49 Royal Meadows, reciprocal overlooking is not feasible due to the oblique angle of approximately 120 degrees involved. Development standard separation distance of 22m is not relevant.

- Finished height of single storey element is 3m as opposed to the original maximum height at the apex of 8.69m part of which is constructed and photographed.
- Concerns regarding future development are unfounded and any such development would require permission.
- Removal of hipped roof is of marginal significance given lack of visibility from the public road.
- Development is in accordance with the development plan and with the proper planning and sustainable development of the area. Request that the Board uphold the decision to grant permission for the development.

7.0 POLICY CONTEXT

7.1 NATIONAL POLICY AND GUIDELINES

7.1.1 Sustainable Residential Development in Urban Areas May 2009

7.1.2 These Guidelines encourage high quality sustainable residential development, urban form and design and are concerned to promote a sequential approach to development and to create an overall design framework with linkages to the existing developed area. They support Local Area Plans and the phasing of development, also having regard to the availability of infrastructure. Regard is had to the availability of community facilities, public transport and the quality of open space. Chapter 3 concerns the role of design. Chapter 4 provides for planning for sustainable neighbourhoods. Chapter 6 refers to growth in small towns and villages, which it defines as 400 to 5,000 persons and provides that higher densities are appropriate in certain locations. Chapter 7 deals with the home and its setting and discusses issues such as daylight, sunlight, privacy, open space and communal facilities.

7.1.3 Regard is had to the accompanying DOEHLG 'Urban Design Manual-A best practice guide 2009' and to the 12 criteria to promote quality sustainable urban design discussed in this document. Regard is also had to the application of these criteria, which are divided into three sections: Neighbourhood, Housing Site and Home.

7.2 DEVELOPMENT PLAN PROVISIONS

7.2.1 The site is governed by the policies and provisions contained in the Kildare County Development Plan 2011-2017 and the Kilcock Local Area Plan 2009. The site is zoned B: Existing / permitted residential where the zoning objective is 'To protect and improve existing residential amenity; to provide for appropriate infill residential development; to provide for new and improved ancillary services.'

8.0 PLANNING ASSESSMENT

8.1 Following my inspection of the site and consideration of the documentation on file, the prevailing local and national policies and plans, I propose to consider the appeal under the following broad headings:

- Principle of development.
- Quality of design and layout. Impact on established residential amenity.
- Traffic and Servicing
- Appropriate Assessment

8.2 Principle of development

8.2.1. As regards the principle of development, having regard to the urban location and zoning of the site B Existing / Permitted Residential, and to the planning history on the site, in particular grant of permission 08/1759,

the principle of subdivision of the site for a sustainable residential use in accordance with the general policy desirability to increase densities within serviced urban areas and in the interest of efficient land use resources and economies of scale is appropriate. The proposal is in keeping within the zoning objective which is *“to protect and improve existing residential amenity; to provide for appropriate infill residential development; to provide for new and improved ancillary services.”* I consider that the principle of constructing a new dwelling on the site is acceptable subject to compliance with normal planning considerations.

8.3 Design and Layout & Impact on Established Residential Amenity.

8.3.1 The proposed dwelling takes its reference from the adjacent dwellings and includes similar materials and finish, including incorporation of the mock tudor detailing. On balance I form the view that the proposed design is acceptable on this site and subject to appropriate landscaping can be successfully integrated. As regards the half hipped roof I would tend to concur with the planning authority that it is visually inappropriate and should be replaced by a standard gable. I do not consider that this will significantly influence shadow projection.

8.3.2 The proposal is clearly in accordance with the general policy desirability to increase densities within serviced urban areas in the interest of efficient land use resources and economies of scale. As regards the site capacity and standard of amenity provided by the proposed dwelling, I consider that the proposed layout with regard to open space and residential amenity space both internally and externally are acceptable and that an adequate standard of residential amenity is achieved.

8.3.3 In terms of the impacts on amenity levels of established adjacent properties, the third party appellants object to the development on grounds of overbearing impact and overlooking and note the impact of the partly constructed structure as illustrated within the photographs

attached to the appeal. The proposed design seeks to mitigate the impact on established residential amenity by way of setting back the second storey element of the proposal from the common boundary with adjacent dwellings on Royal Meadows to a minimum of 3m. The single storey element which extends to 3m in height is set back 1m from the common boundary which is at a height of 2m. A monopitch roof finished in fibre glass / *trocac* is proposed to the single storey element. No windows are proposed on the northern side elevation of the proposed dwelling at first floor level. In my view the revised proposal significantly mitigates the impact of the structure on established residential amenity of adjacent dwellings in terms of overbearing impact.

8.3.4 As regards overlooking by the first floor window on the front elevation of the proposed dwelling of No 49 Royal Meadows, I would tend to concur with the agent for the first party that on the basis of the angle of opposition, the degree of overlooking is not so significant as to present an undue loss of amenity. I note that regard should be given to the suburban location of the site and residential zoning. On the basis of this context, I consider that it would be unreasonable to expect a completely open aspect and the appropriate balance needs to be achieved between protecting established residential amenity and providing sustainable residential development. Landscaping to site boundaries will maintain the residential privacy of the area.

8.4 Traffic and Servicing

8.4.1 The site accesses onto quiet cul de sac and I do not consider that the proposal will give rise to traffic hazard. The site is serviced with access to foul services and public water supply and no specific concerns arise in this regard.

8.5 Appropriate Assessment

8.5.1 As regards the issue of Appropriate Assessment having regard to the nature and scale of the proposed development on a fully serviced urban site, zoned for development, and to the nature of the receiving environment and distance to the nearest European site no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

9.0 RECOMMENDATION

9.1 I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. The proposed development is considered to be acceptable having regard to the land use zoning objective of the appeal site. The proposed development provides for an adequate standard of residential amenity and is not such as to be injurious to the existing residential amenities of the area. The proposed development would not give rise to a traffic hazard and is considered to be in keeping with the proper planning and sustainable development of the area. I recommend that planning permission be granted for the reasons set out below.

REASONS AND CONSIDERATIONS

Having regard to the urban infill nature of the proposed site on lands zoned for residential purposes, the Board is satisfied that the proposed development would be in keeping with the existing character and pattern of development in the immediate area. The proposal would not be seriously injurious to the existing residential amenities of the area, would be acceptable in terms of traffic safety and convenience, would provide an adequate standard of residential amenity, would not be prejudicial to

public health and would otherwise be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by the plans and particulars received by the planning authority on the 19th January 2016 except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) The proposed half hipped roof shall be replaced by a full gable roof. Revised drawings showing compliance with these requirements shall be submitted to, and agreed with, the planning authority prior to commencement of development.

Reason: In the interest of visual and residential amenity.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. Development described in Classes 1 or 3 or Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of any of the proposed dwellinghouses without a prior grant of planning permission.

Reason: In the interest of residential amenity.

5. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

6. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

7. The site shall be landscaped in accordance with details which shall be submitted to and agreed in writing with, the Planning Authority prior to commencement of development.

Reason: In the interest of residential and visual amenity.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to

any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Bríd Maxwell
Planning Inspector
14th June 2016