



An
Bord
Pleanála

Inspector's Report PL09.248843

Development	Works/extension and alterations to existing house previously permitted and retention of modifications to existing roof and associated works.
Location	No. 4 Green Road, Newbridge, Co. Kildare.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	17/122.
Applicant(s)	John Morrissey.
Type of Application	Permission.
Planning Authority Decision	Grant permission subject to conditions.
Type of Appeal	Third Party vs grant.
Appellant(s)	Brendan and Marian Darby.
Observer(s)	None.
Date of Site Inspection	31 st August 2017.
Inspector	Ciara Kellett.

1.0 Site Location and Description

- 1.1. The appeal site is located in Newbridge, Co. Kildare. It is located c. 1 km to the south-west of the town centre on Green Road, which runs south off the R445 Road, the main road through the Town Centre. It is located within the Newbridge Local Area Plan 2013 – 2019 boundary.
- 1.2. Green Road is a busy road providing access to the Curragh and an alternative access to the M7 from Newbridge Town, albeit mainly a residential area with clusters of dwellings either side of the road. No.4 Green Road is located between the junction of Green Road with Moore Park and The Village.
- 1.3. The site itself is one of a cluster of seven detached dwellings which are mainly single storey, with a mix of hipped, pitched and gable roofs, on the western side of Green Road. Low walls, hedgerows and shrubbery form the boundaries of most of the dwellings. Parking bays along the road have been provided to accommodate additional on-street parking. A laneway runs to the south of No.7 Green Road providing pedestrian access off Green Road to the housing estates to the rear. A bus stop is provided near the laneway.
- 1.4. No.4 Green Road is stated as being 0.11Ha in area and comprises a single storey dwelling and garage. The dwelling is mid construction – the pitch roof appears almost complete but glazing is missing from windows.
- 1.5. Appendix A includes maps and photos.

2.0 Proposed Development

- 2.1. The proposed development is described as for the retention of works/extension and alterations to the existing house, previously permitted under Planning Reg. Ref. 14/378, which includes for extensions to the front and rear of the existing house, as well as retention of modifications to permitted roof to include for dormer level habitable accommodation, increase in height of 450mm, rooflights and all associated works.
- 2.2. The drawings indicate the extended floor area to the rear and a new dormer level to be retained to be 109.2sq.m in area. The existing house is stated as being 102sq.m. The ground floor front and rear extensions have previously been permitted under

Reg. Ref. 14/378 – there is no change in the footprint proposed to that already granted permission. The additional floor space which is over and above that already permitted is the dormer/attic space which is stated as being 58sq.m in area.

- 2.3. The 'as-built' roof ridge height is 6.2m. The originally permitted roof line has been raised by c. 0.5m to provide for the new dormer/attic area as habitable space. The rear roof incorporates 5 rooflights. The dormer/attic space is identified as being for a play room and a fourth bedroom on the drawings.
- 2.4. In summary, retention permission is sought for this increased roof ridge height, habitable attic space and additional rooflights, and other minor façade changes.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to 12 standard conditions.

3.2. Planning Authority Reports

The Planner's Report is the basis for the Planning Authority decision. It includes:

- States that the area for retention relates to attic space only and not the other areas shaded blue (i.e. the ground floor extensions). Considers that the area shaded blue received permission under Reg. Ref. 14/378.
- Notes third party submissions, but considers that the subject application is not a significant departure from what was previously approved for the following reasons: The structure has the same footprint as previously permitted; it is not considered that the additional height of 500mm will have a significant impact on the residential amenity of the area; and, the additional living accommodation in the attic space does not impact on the residential amenity of adjacent properties, as the use of rooflights instead of dormer windows negates direct overlooking. Figures are incorporated into the Planner's Report of both applications (Reg. Ref. 14/378 and the subject application) for comparison purposes.

- Notes objectors concerns in relation to fire safety and as raised by the Chief Fire Officer, and seeks Further Information.
- Further Information in relation to the Chief Fire Officers concerns was requested in March 2017, and responded to by the applicant in May 2017 which was deemed acceptable.
- Recommends permission is granted subject to conditions.

The decision was in accordance with the Planner's recommendation.

3.2.1. Other Technical Reports

- **Area Engineer:** Requests Further Information
- **Water Services:** No objection subject to conditions.
- **Chief Fire Officer:** Requests Further Information. Following response, no objection.
- **Enforcement:** Enforcement Notice issued relating to use of garage for habitable accommodation.

3.3. Prescribed Bodies

- **Irish Water:** No objection subject to conditions.

3.4. Third Party Observations

Two submissions were received – one by the appellant at No.3 Green Road, and another from a neighbour in No.2 Green Road. In summary submissions state:

- As built development nearly 0.5m higher than permitted – overbearing and obtrusive development.
- Two storey garage built without the benefit of planning permission and history of garage development detailed.
- Reference to recent Enforcement detailed with respect to the house (roof height and 5 no. opes for rooflights vs. 2 permitted) and garage which was in use for habitable purposes.

- Considers the cumulative impact of the two storey garage and the roof extension by 0.5m, to negatively impact on daylight and sunlight.
- Reference made to Building Regulations.
- These issues are further addressed in Section 6 below.

4.0 Planning History

There are a number of planning applications associated with the site.

- **UD6882:** Enforcement Notice issued to the applicant in relation to the existing garage which is currently being used as a residence.
- **Reg. Ref. 14/378:** Permission granted in October 2014 for development including extensions to the front and rear and for retention of the garage.
- **Reg. Ref. 09/755:** Permission granted in December 2009 for an extension to the front and rear which would result in a large dormer dwelling.
- **Reg. Ref. 07/1877:** Permission refused in April 2008 for raising the roof to convert attic space into habitable space and a storey and a half extension to the rear running almost the length of the rear garden. Planning Authority considered that development would result in overlooking, and have an overbearing appearance, and would seriously injure and depreciate the value of property in the vicinity.

5.0 Policy Context

5.1. Newbridge Local Area Plan 2013 – 2019

Under the Newbridge Local Area Plan the site is zoned 'B – existing residential/infill' on Map 7.

Part A of the Plan provides an Introduction and Context. Part B refers to the Policies and Objectives and Part C refers to the Land Use Zoning Objectives.

The zoning objective for lands zoned B is:

To protect and improve existing residential amenity, to provide for appropriate infill residential development and to provide for new and improved ancillary

services. This zoning principally covers existing residential areas. The zoning provides for infill development within these residential areas. The primary aim of this zoning objective is to preserve and improve residential amenity and to provide for further infill residential development at a density that is considered appropriate to the area.

5.2. Kildare County Development Plan 2017 - 2023

Chapter 4 refers to Housing and chapter 17 refers to Development Management Standards.

Section 4.11 refers to Residential Development in Established Urban Areas – Infill, Backland, Subdivision of sites and corner sites. Extensions to dwellings are referenced. It 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 17.4.8 refers to Extensions to Dwellings. It states that the following basic principles shall be applied (inter alia):

- *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.*
- *The extension should not provide for new overlooking of the private area of an adjacent residence where no such overlooking previously existed.*
- *New extensions should not overshadow adjacent dwellings to the degree that there is a significant decrease in daylight or sunlight entering into the house.*

5.3. Natural Heritage Designations

Pollardstown Fen SAC (Site Code 000396) is located c. 1.4km to the north-west of the site and Mouds Bog SAC (Site Code 002331) is located c.4.2km to the north.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal has been lodged on behalf of the appellants against the decision of the planning authority to grant permission. In summary it states:

- Appellants have not objected to any of the previous applications but due to non-compliance with permissions, and consequential serious injurious impact due to the construction of larger and bulkier structures, feel they have no choice but to engage in the planning system.
- The as-built ridge height is nearly half a metre higher than permitted under the 2014 permission. Ridge height under Reg. Ref. 14/378 is 5.72m but the development has provided an unauthorised dormer level of accommodation, which has resulted in a roof height of 6.2m without the benefit of planning permission. Consider this has dwarfed their property and provided an overbearing and obtrusive development.
- The planning history of the garage is included, as well as the associated enforcement history with the garage and the roof under construction. Considers that the cumulative impact of the use of the garage for human habitation and the additional floor level has a serious impact upon residential amenity.
- Submit that the Planning Officer of the Council considered the additional height of the scheme, but did not assess the consequential bulk and overbearing nature of the development, and no assessment of the cumulative impact of the works to be retained, nor the presence of the two storey garage was undertaken.

- Fundamentally disagree with the Planning Officers assessment that the additional roof height does not have a significant impact on residential amenities of the area.
- Reference made to Section 17.4.8 of the Development Plan particularly regarding sunlight, daylight and privacy. Assessment provided with respect to each principle described in Section 17.4.8.
- Note no dimension provided for location of rooflights and consider they will facilitate extensive overlooking of their garden.
- Cumulative impacts: 1. The house extension development to be retained, 2. The two storey garage that was provided without planning permission (with the express knowledge that the Planning Authority had previously considered a two storey garage to be inappropriate), and, 3. Its use for habitation in contravention of its use condition.
- Concludes that the proposal contravenes the zoning objective and is seriously injurious to their residential amenity.

6.2. Planning Authority Response

The Planning Authority responded stating they have no further comment.

6.3. Further Responses

No response to the appeal was received from the applicant.

7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Residential Amenities
- Unauthorised Development/Cumulative Impact
- Appropriate Assessment

7.1. Residential Amenities

- 7.1.1. The Planner's Report refers to the specific details of the development the subject of this application. While the drawings indicate that the front and rear extensions are part of this application, the Planner notes that the extensions are already permitted on foot of Reg. Ref. 14/378. I have looked at the aforementioned file and can confirm to the Board that the front and rear extensions already have permission, and there is no change proposed to that footprint in the subject application.
- 7.1.2. The change proposed for retention permission is the increase in the roof ridge height, which was raised from 5.72m to 6.2m to enable habitable attic space to be incorporated. This increase in ridge height has resulted in a change to the roof, albeit no comparison drawing with the 2014 permission has been provided. Thus, I consider the main aspects of the development to be: the increase in the roof ridge height and resulting change in roof profile; the addition of habitable attic space incorporating a bedroom and playroom; 5 rooflights vs. 2 rooflights; windows on either side of the dwelling (north and south elevations); and, rear façade changes.
- 7.1.3. The appellants consider that the increase in roof height is inappropriate and contravenes section 17.4.8 of the County Development Plan, which refers to principles for house extensions. It is considered that the additional roof height does have a significant impact on the residential amenity of the appellants.

The proposal involves no change in the overall footprint of the dwelling – the extensions have already been permitted, and are therefore not the subject of this application. While I understand the concerns of the appellants, the footprint of the extension is already established by the 2014 permission. The change in the roof profile as a result of the c 0.5m increase in height is not a significant change to that already permitted when viewed from the appellant's rear bedroom or their patio. I do not consider that the change in the roof profile, in and of itself, to that already permitted significantly changes any overbearing impact the extension may have caused.

- 7.1.4. I consider the conversion of attic space for habitable purposes to be acceptable and note that a number of the dwellings along the road have converted attic space and included dormer windows. The roof heights along this section of Green Road also vary, albeit they are mostly single storey in this cluster.

Therefore, I do not consider that the subject dwelling has changed the character of the area, nor has it failed to respect the scale of development in the area.

- 7.1.5. Two rooflights to the rear were permitted in the 2014 grant. The subject application requests permission for five rooflights. I do not consider that the rooflights will cause undue overlooking. The first floor habitable space is towards the front of the dwelling, however, no dimensions have been provided on the drawing with respect to the actual location of the dormers. This detail should be provided by the applicant and can be subject to a condition.
- 7.1.6. The appellant's consultants assess the development against the principles for extensions as set out in the County Development Plan, with particular emphasis on the impact the increase in roof height causes. I do not accept that the change in the roof height, in and of itself, has distorted the scale and mass of the structure, as stated by the appellant's consultants. Nor do I accept that the change, in and of itself, is having a negative visual impact of any greater significance to that which has already been granted permission.
- 7.1.7. I do not consider changes to the side windows, or the replacement of a window with a door, to have any significant impact on residential amenities.
- 7.1.8. Reference is made to the side passageway width which is 700mm. This is quite narrow, however as noted above, no change in footprint is proposed in the subject application.
- 7.1.9. In conclusion, I am of the opinion that the change in the roof height and the subsequent addition of habitable attic space, as well as the addition of 5 rooflights, do not of themselves cause a seriously injurious impact on the residential amenities of the appellants.

7.2. Unauthorised Development/Cumulative Impact

- 7.2.1. The appellant's consultants provide information on the history of the garage and its unauthorised development and use for habitable purposes. The two storey nature of the garage, and its use, is considered to cause a cumulative impact, and negatively impact on the daylight and sunlight received at their clients dwelling.

7.2.2. The garage and its use is not part of the planning appeal before the Board, and the Board has no role in enforcement. However, I have considered if the garage would have a cumulative impact as well as the changes proposed for retention.

7.2.3. The garage is located along the southern boundary and closer to no.5 Green Road. With respect to overshadowing, I do not consider that the garage structure would cause significant adverse cumulative impact on overshadowing. The use of the garage for habitable purposes is a matter for the Council.

7.3. **Appropriate Assessment**

Having regard to the nature and scale of development proposed and to 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**

I recommend that planning permission should be granted permission subject to conditions for the reasons and considerations as set out below.

9.0 **Reasons and Considerations**

Having regard to the nature and location of the development for which retention is sought, and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the amenities of the area or of property in the vicinity. The development for which retention is sought would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 **Conditions**

1. The development shall be carried out and completed in accordance with

the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 17th day of May, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The existing dwelling and extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: To restrict the use of the extension in the interest of residential amenity.

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, without a prior grant of planning permission.

Reason: In the interest of the amenities of the area.

4. The rooflights located in the western facing slope of the roof, shall be carried out in accordance with details which shall be submitted to, and agreed in writing with, the planning authority.

Reason: To prevent overlooking of adjoining residential property.

5. No part of the development, including fascia boards, soffits, gutters, drainpipes or other rainwater goods shall at any time overhang or encroach onto the neighbouring properties.

Reason: To protect the amenities of the adjoining property.

6. The external finishes of the proposed extension (including roof

tiles/slates) shall be the same as those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity.

7. Water supply and drainage arrangements, including the attenuation and 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.

8. Notwithstanding the provisions of Article 10(4) of the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, no room in the proposed house shall be used for the purpose of providing overnight paying guest accommodation without a prior grant of planning permission.

Reason: In order to prevent overdevelopment of the site in the interest of residential amenity.

9. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

10. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Ciara Kellett
Inspectorate

22nd September 2017