



An
Bord
Pleanála

Inspector's Report ABP-301732-18

Development

Retention of existing detached timber structure. Permission is sought for an extension (or link) to a detached timber structure on site to cottage on site (note the extension was previously approved by An Bord Pleanála under planning reference number PL09.243283). The extension/link element will function as a living room. The timber structure and the link element together will become an extension of existing cottage and the completed development will function as one dwelling. Also permission is sought to provide a new interconnecting door from the extension/link to the main cottage and to replace the existing timber finish with a rendered fibre cement board finish and all associated site works.

Location

386 Ballyoulster, Celbridge, Co. Kildare

Planning Authority

Kildare County Council

Planning Authority Reg. Ref.	18254
Applicant(s)	Pat & Aida Grant
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Pat Grant
Observer(s)	(1) Cllr Brendan Young & others (2) Raymond Kane (3) Mary Sheridan
Date of Site Inspection	21 st August 2018
Inspector	Colin McBride

1.0 Site Location and Description

- 1.1 The appeal site, which has a stated area of 0.118 hectares, is located in Ballyoulster off the R-403 linking Celbridge and Lucan. The site is located within an established residential area on the eastern fringes of the zoned lands of the settlement boundary of Celbridge. The houses within this estate were originally single storey cottages that fronted onto a large open space. The cottages have been extended to over time with some dormer extensions to the rear. The existing dwelling on the appeal site consists of a single storey semi-detached dwelling on a narrow inverted 'L' elongated shaped site. The timber structure which it is proposed to retain is located to the side and rear of the existing cottage and has independent access to services including an independent heating oil tank. This structure is currently in use as an independent dwelling.
- 1.2 To the north of the site is no. 385, which is a single-storey semi-detached dwelling. To the south is no. 387, which is a single-storey semi-detached dwelling that is attached to the existing dwelling on site. To the north a dwelling back onto the site.

2.0 Proposed Development

- 2.1. Permission is sought for retention of the existing detached timber structure on the site, permission for an extensions (or link) from the aforementioned detached structure to the main cottage (note the extension was previously approved by ABP under ref no. PL09.243283). The extension/link element will function as a living room. The timber structure and the link element together become an extension of the existing cottage and the completed development will function as one single dwelling. Permission is also sought to provide a new interconnecting door from the extension/link to the main cottage and to replace the existing timber finish with rendered fibre cement board finish and all associated site works. The floor area of the structure for retention is 78.6sqm and the extension is 27sqm in floor area.

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on two reasons...

1. The proposed development by virtue of its form, scale, appearance and lack of screening proposals, would contravene Section 17.4.8 of the Kildare County Development Plan 2017-2023, which refers to domestic extensions. The proposed development would therefore set an undesirable precedent for other similar developments. Which would in themselves and cumulatively be harmful to the residential amenities of the area and be contrary to the proper planning and sustainable development of the area.

2. The existing site is an area zoned 'Existing Residential/Infill under the Celbridge Local Area Plan 2017-2023. The specific zoning objective of the site is to protect and enhance the amenity of established residential communities and promote sustainable intensification. Having regard to the ad hoc, piecemeal and substandard nature of the development, it is considered that the development would seriously injure the amenities and depreciate the value of property in the vicinity, would not constitute appropriate infill, would materially contravene the specific zoning objectives for land zoned existing residential/infill in the Celbridge Local Area Plan 2017-2023 and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Environment Section (09/04/18): No objection subject to conditions.

Roads, Transportation & Public Safety Department (25/04/18): No objection subject to conditions.

Water Services (03/05/18): Further information required including submission of a site layout plan showing the layout of both surface water and foul drains.

Irish Water (04/05/18): Further information as per water services report.

Planning report (04/05/18): The fact that the existing structure on site is an independent dwelling was noted with it considered that the form and scale of the structure would have an adverse impact on the amenities of adjoining properties and be out of character at this location. It was noted that the proposal is way in excess in scale of what would be considered a family flat and would be contrary to Development Plan policy. Permission was refused based on the reasons outlined above.

3.3. **Third Party Observations**

Two submission were received from

Raymond Kane, 387 Ballyoulster, Celbridge, Co. Kildare.

Mary Sheridan, 385, Green View Cottage, Celbridge, Co. Kildare.

- Issues raised include unauthorised development, adverse visual impact and adverse impact on residential amenity.

4.0 **Planning History**

14/61: Permission refused to retain and complete a detached dwelling to side and rear of site. Refused for two reasons

PL09.243283: Split decision, permission granted for an extension to join onto existing cottage and permission refused for the retention and completion of the detached dwelling to the side and rear of the site. Refused based on one reason...

1. It is considered that the retention and completed of the detached dwelling to the side and rear, resulting in a separate dwelling unit, would constitute undesirable backland development to the rear of the existing cottage, would set an undesirable precedent and would seriously injure the amenities of the

area. This element of the development would, therefore, be contrary to the proper planning and sustainable development of the area.

11/548: Permission refused for a single-storey timber dwelling to the rear of an existing dwelling.

05/1163: Permission granted for changes to front elevation of existing dwelling.

PL09.209200: Permission refused for a single-storey dwelling and alteration of existing entrance.

97/1787: Permission refused for a single-storey dwelling to the rear of existing dwelling.

5.0 Policy Context

5.1. Development Plan

The relevant Development Plan is the Kildare County Development Plan 2017-2023.

Section 17.4.8 relates to 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 rural areas, the design of extensions should have regard to the Key Principles set out in Chapter 16 Rural Design Guide.
- The extension should not provide for new overlooking of the private area of an adjacent residence where no such overlooking previously existed.
- 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 The site is zoned 'B' (Existing residential/Infill) under the Celbridge Local Area Plan 2017-2023 with a stated objective 'to protect and enhance the amenity of established residential communities and promote sustainable intensification'.

6.0 The Appeal

6.1. Grounds of Appeal

A first party has been lodged by David Mulcahy Planning Consultants Ltd on behalf of Pat and Aida Grant, 386 Ballyoulster, Celbridge, Co. Kildare.

- It is noted that the built form of the structure to the rear and the extension is consistent with the existing dwelling on site. The extension will not be readily visible due to its location to the rear of the existing dwelling. It is noted that the proposed external finish is suitable and will be same colour as the existing dwelling. It is noted that the roof profile is a shallow pitched and the current roof finish will be replaced with a roofing material to match the existing dwelling.

- It is noted that the applicant/appellant is willing to erect 1.8m, high walls along the sides of the rear garden and such would be within the applicant's property (drawings submitted). Such boundaries would deal with all concerns regarding visual impact, overlooking or overbearing impact.
- It is noted that the proposal is not ad hoc or piecemeal development and that there are a number of rear extensions to the properties at this location. It is also argued that the proposal is not substandard development.
- The appellants note that reference to the development as a material contravention of Development Plan policy is unfounded. It is noted that the Board should grant permission having regard to the pattern of development and permission granted in the area.
- The appellants have submitted drawings showing that the existing foul sewer is well removed from the structure and the construction of the link extension over part of the surface water drains is not an issue of concern.
- The appellants confirm that they have not applied for a family flat and the proposal is to amalgamate the existing structure with the existing dwelling to create a single dwelling. It is noted that the kitchen in the wooden detached structure is being removed and that there is ample storage within the proposed development.
- It is noted that the proposal is satisfactory in the context of the adjoining amenities of no. 385 and 387 in terms of scale, orientation and impact on adjoining amenities.

6.2. **Observations**

6.2.1 An observation has been submitted by Cllr Kevin Byrne, Cllr Ide Cussan, Cllr Bernard Caldwell, Cllr Anthony Larkin, Cllr Michael Coleman, Cllr Joe Neville, Cllr Brendan Young.

- It is noted that proposal should be approved and is similar in design and scale to an extension previously approved under 051163.

6.2.2 An observation has been submitted by Raymond Kane, 387 Ballyoulster, Celbridge, Co. Kildare.

- The structure is visible from the public road and the observer's property.
- It overlooks the observer's garden with an adverse impact residential amenity.
- Granting permission would set an undesirable precedent in the area.
- The proposal is contrary planning policy.
- The observer questions whether the proposed walls would be built and notes that the log cabin is located at a higher level that the observer's garden and walls would not prevent overlooking.
- The window overlooking the observer's garden should be blocked up.
- The observer notes that lack of consultation between the appellants and himself and various issues that have arisen between both parties.

6.2.3 An observation has been submitted by Mary Sheridan, Green Cottage View, 385 Ballyoulster, Celbridge, Co. Kildare.

- The observer highlights the fact that unauthorised development has taken place and frustration with the continued breaches of planning law and precedent that it would set.
- The observer highlights that the proposal has an adverse impact on the visual amenities of the area and her residential amenity through overlooking.

7.0 **Assessment**

7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Principle of the proposed development

Design, scale, visual and residential amenity

Unauthorised development

Material contravention

Appropriate Assessment

7.2 Principle of the proposed development:

7.2.1 The appeal site and the existing structure on the site has a considerable planning history, which is outlined above. The site is currently occupied by the original single-storey dwelling on site and a detached single-storey timber structure, which is in use as a separate and independent dwelling from the original dwelling on site. There is a long history of proposals to construct a separate dwelling on site being refused as well as refusal for retention of the existing timber structure. Notwithstanding such history on site, the development description in the public notices is for retention of the existing detached structure, a link extension between it and the original dwelling on site. The proposal seeks to integrate the detached structure into the existing dwelling and amalgamate the two to use as a single dwelling. Alterations also include an internal link between the two structures on site, removal of kitchen in the detached timber structure and alterations of the external finishes including wall and roof finishes to better integrate with the original dwelling on site. The proposal is to integrate the detached timber structure as an extension of the original dwelling on site. The development description as written in the public notices is what is being assessed and will be assessed on its merits.

7.2.2 Based on the development description the proposal is for an extension to an existing dwelling. The site is in an established residential area and is zoned 'B' (Existing residential/Infill) under the Celbridge Local Area Plan 2017-2023 with a stated objective 'to protect and enhance the amenity of established residential communities and promote sustainable intensification'. The nature of the development proposed is consistent with this zoning objective.

7.3. Design, scale, visual and residential amenity:

7.3.1 As noted above the proposal is to link the two detached structures on site. The original dwelling on site is a single-storey dwelling with a pitched roof. The new connecting extension and the structure for retention will form a single-storey

extension to the original dwelling, which features a shallower pitched roof and with the external finishes of both the roof and wall to match the existing dwelling. The ridge height of the proposed extended section is lower than the original dwelling and such is located to the side and rear of existing dwelling on site. I would consider that the overall scale of the extended area is not excessive in relation to the existing dwelling as it features a lower ridge height than the existing dwelling and is the logical pattern of development for an extension of the existing dwelling. I am satisfied that the proposal is to provide external finishes consistent with the existing dwelling that would mean the proposed development would be satisfactory in the context of the visual amenities of the area.

7.3.2 The issue of residential amenity is raised in the observations. To the north of the site is no. 385 and to the south is no. 387, both single-storey semi-detached dwellings (no. 387 is attached to the existing dwelling on the appeal site). The extended section of the dwelling incorporating the structure for retention, extends on a north east axis into the rear garden. The extension relative to no. 385 is modest in height and does not extend beyond the rear elevation of the dwelling at no. 385 (falls well short of this limit). The extension is physically well separated from no. 385 and is of an acceptable scale in the context of residential amenity. In the case of no. 387, the extension is also set back from the boundary with the adjoining property. As noted earlier the extension is single-storey and modest in height relative to the existing dwelling on site and dwellings on adjoining properties.

7.3.3 The observations raise concerns regarding overlooking from the existing timber structure on site. The proposal entails incorporation of this structure into the existing dwelling on site as an extension to its floor area. The observer at no. 385 notes that the existing structure on site overlooks her property. I would note above the overall scale and position of the extension relative to the observer's property is satisfactory. I would note that the extension is visible from the observer's property as result of the fact that boundary treatment between the two properties is particularly weak for boundaries between rear gardens. I would consider that the design and scale of what is proposed would not be excessive relation to adjoining properties in terms of

scale or impact on privacy. I would note that boundary treatments relative to no. 387 on the other side is better with a wall and wooden fencing. It is notable that the applicant/appellant has submitted plans with the appeal submission providing for the provision of 1.8m high walls along the side boundaries of the garden. I would consider that the proposal for additional boundary treatment is entirely reasonable and is of a type of scale typical of a suburban housing development such as this. Existing boundary treatment is fragmented and weak at present with high visibility into the appeal site from adjoining properties as well as out of the site into adjoining properties. Additional boundary treatment taken in conjunction with scale of the development, would mean no adverse impact on residential amenity.

7.3.4 The observer at no. 387 refers to the existing window on the south eastern elevation closest to the boundary between the two properties. I would recommend that this window in the event of a grant of permission be blocked up due to its proximity and height relative to the rear garden of no. 387 (different in ground levels). The loss of this window is not significant as the room it serves is well served with windows in the other two elevations.

7.3.5 The refusal reason notes that the proposal is not consistent with Development Plan policy in relation to extensions under Section 17.4.8 of the County Development Plan. Having regard to the scale and design of the proposal subject to consideration, I am satisfied that the proposal is consistent with development plan policy and would have no adverse impact in regards to the visual amenities of the area or the residential amenities of adjoining properties.

7.4. Unauthorised development:

7.4.1 As noted earlier the proposal being assessed in this case is for extension of an existing dwelling and retention of an existing detached structure to form an extension to the dwelling on site and for use as a single dwelling. It is clear from the submission that there is considerable frustration at unauthorised development on site. It is not part of the Boards function or remit to deal with unauthorised development, the proposal being assessed on its merits is that in the development

description, which amounts to an extension to the long existing dwelling on site. Some of the observations indicate concerns that alterations and aspects of the development may not be implemented if permitted. This is speculation and is not a planning consideration, the proposal is being assessed on its merits as proposed and in the context of the proper planning and sustainable development of the area. It is function of Local Authority to deal with matters concerning unauthorised development with provisions under the Planning and Development Act, 2000 (as amended) to do so should the need arise.

7.5 Material contravention:

7.5.1 Refusal reason 2 notes that the proposal would be a material contravention of zoning objective under the Local Area Plan. As discussed earlier, the proposal for an extension to an existing dwelling is consistent with zoning policy and the design and scale of what is proposed would be satisfactory in the context of the residential amenities of adjoining properties. The proposal would not constitute a material contravention of zoning policy or any policy under the Local Area Plan or any policy under either the Local Area Plan or County Development Plan.

7.5.2 Notwithstanding such I would draw attention to Section 37(2)(b) of the Planning and Development Act, 2000 (as amended). It notes the following...

(b) Where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with *paragraph (a)* where it considers that—

(i) the proposed development is of strategic or national importance,

(ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or

(iii) permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the

area, and any relevant policy of the Government, the Minister or any Minister of the Government, or

(ii) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

As noted above, I do not consider that the proposal constitutes a material contravention of Development Plan policy. I would note that this section refers to material contravention of the Development Plan and not necessarily a Local Area Plan, which is what refusal reason no. 2 refers to. I would also consider that having regard to the pattern of development, that the proposed development is in keeping with other extensions carried out to other properties in the vicinity.

7.6 Appropriate Assessment:

7.6.1 Having regard to the nature and scale of the proposed development and its proximity 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 individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

8.1. I recommend a grant of permission subject to the following conditions.

9.0 **Reasons and Considerations**

Having regard to the location of the proposed development, to the front of residential property, the modest nature of the extension and to the use of similar materials to the existing development, it is considered that the proposed development, subject to compliance with the conditions set out below, would not give rise to overlooking or detract from the visual amenity of the area or the residential amenity of property in

the vicinity of the site. The proposed development 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, and as amended by the revised plans submitted on the 29th May 2018, 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 window on the south eastern elevation serving the sunroom in the timber structure to be retained shall be blocked up. Revised plans showing this alteration shall be submitted and agreed in writing with the Planning Authority prior to the commencement of development on site.

Reason: In the interests of residential amenity.

3. The external finishes of the proposed extension shall be the same as those of the existing dwelling in respect of colour and texture. Samples of the proposed materials 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. 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 amenities of property in the vicinity.

5. 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.

6. The existing dwelling on site, the proposed link extension and the timber structure for retention shall be jointly occupied as a single residential unit and the subsequent extended area of the original dwelling on site shall not be sold, let or otherwise transferred or conveyed, save as part of the existing dwelling.

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

7. 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.

Colin McBride
Planning Inspector

20th August 2018