



An  
Bord  
Pleanála

## inspector's Report ABP-303116-18

### Development

Retention of Permission for recessed entrance to public roadway, retention of window to Northeast elevation of Cottage, demolition of Sheds and Outbuildings to rear of Dwelling and construction of new single storey Domestic Garage/Store to rear of Cottage and all ancillary site works.

### Location

821 Raheenaderragh, Athy County Kildare.

### Planning Authority

Kildare County Council

### Planning Authority Reg. Ref.

18/1125

### Applicant(s)

Krzysztof & Joanna Falkiewicz.

### Type of Application

Third Party V. Decision.

### Planning Authority Decision

Grant subject to conditions.

### Type of Appeal

Third Party V. Decision.

### Appellant(s)

Andy and Caroline Wallace.

### Observer(s)

None.

**Date of Site Inspection**

18<sup>th</sup> February 2019.

**Inspector**

Susan McHugh

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## 1.0 Site Location and Description

- 1.1. The appeal site is located within the rural townland of Raheenaderragh approx. 7km north west of Athy town centre along the R428.
- 1.2. It is one of a number of single storey semi-detached and detached dwellings, located to the north west of the R428. The houses are characterised by having long rear gardens, and many have been extended to the side and rear in varying styles.
- 1.3. The adjoining semi-detached dwelling to the south east has been extended to the rear and includes flat roofed sheds. The neighbouring house to the north-west no. 821a is a detached single storey house with accommodation at roof level.
- 1.4. The appeal site comprises a recently refurbished, but not currently occupied, single storey semi-detached cottage, with extension to the rear. There is one ground floor window to the north-western elevation of the cottage, and a side door entrance to the rear extension. There are also a number of single storey flat roofed sheds to the rear.
- 1.5. The site shares its north-western boundary with house no. 821a, home to the appellants. This boundary is defined by a low solid timber fence to the front of both properties which rises at the side to approx. 2m in height.
- 1.6. The entrance to the property comprises a recessed gated entrance. The front garden bounded to the front by a low wall.
- 1.7. The overall site area is 0.1ha.

## 2.0 Proposed Development

- 2.1. Retention permission is sought for the recessed entrance to the public roadway. The 3m wide entrance is splayed and set back from the road edge by 5.9m.
- 2.2. Retention permission is also sought for ground floor kitchen window of the cottage and hallway door of the rear extension along the north-western elevation. The existing cottage is set back 3.3m from the north-western side boundary while the extension to the rear is recessed and set back 4m from the boundary.
- 2.3. Permission is also sought for demolition of existing flat roof sheds and outbuildings to the rear of the dwelling, these have a stated floor area of 39.35sqm. Permission is

sought for the construction of new domestic garage/store. This will have a stated floor area of 53sqm and a pitched roof with a ridge height of 4.8m.

### 3.0 Planning Authority Decision

#### 3.1. Decision

The planning authority decided to **grant** planning permission subject to 7 no. conditions. Conditions of relevance include the following;

**Condition 2.** - Limitation on use to be domestic use only.

**Condition 4.** –Surface water disposal requirement.

**Condition 5.** – Vehicular entrance requirements.

#### 3.2. Planning Authority Reports

##### 3.2.1. Planning Report (dated 06/11/2018)

The Planners Report is the basis for the Planning Authority decision, and can be summarised as follows;

- Extension to the rear measuring approx. 38sqm. is exempt development.
- Window to be retained is approx. 3m from the adjacent party boundary wall and is not directly in line with a window in the adjacent dwelling.
- A separation distance of 6.5m from the side elevation of the adjacent dwelling and the existing boundary remains.
- Not considered that the privacy of the adjacent dwelling would be negatively infringed on.
- Existing door has frosted glazing and provides access to a non-habitable room and is therefore not considered an issue.
- Proposed garage will not give rise to overshadowing given its limited height and distance from the adjacent boundary.

### 3.2.2. Other Technical Reports

**Transportation:** No objection subject to conditions.

**Water Services:** No objection subject to conditions.

**Area Engineer:** No objection subject to conditions.

### 3.3. Prescribed Bodies

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

### 3.4. Third Party Observations

One submission was received objecting to the development referring to impacts on the adjoining dwelling. Issues raised are similar to those in the grounds of appeal.

## 4.0 Planning History

No recent planning history pertains.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. The Kildare County Development Plan 2017-2023 is the operative plan.

**Chapter 17** relates to Development Management Standards and **Section 17.4.8** refers to Extensions and provides guidance in relation to the proposed development in this regard.

**Section 17.4.8** specifically indicates that;

*'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. Natural Heritage Designations

5.2.1. The following European sites are within a 15km radius of the appeal site:

Site Name	Designation	Site Code	Distance
Ballyprior Grassland	SAC	002256	3.9km SW
River Nore and Barrow	SAC	002162	4.3km E

## 5.3. Environmental Impact Assessment

5.3.1. Having regard to the nature the proposed development, the nature of the receiving environment, and proximity to the nearest sensitive location, there is no real

likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The third-party appeal was submitted by Andy and Caroline Wallace, the adjoining property to the northwest. It was accompanied by their original submission to the planning authority. The main grounds can be summarised as follows;

- *Overlooking* - from the door and window on the north eastern elevation of the property which directly overlooks existing windows and a doorway in their property.
- *Loss of light and View* – Object to the pitched roof and height of the proposed Garage/Store and impact on family room window, which could be redesigned.
- *Planning Authority Decision* – Did not take on board issues raised in their submission.

### 6.2. Applicant Response

A response to the third-party appeal was submitted by MCD Engineering Consultants Ltd on behalf of the applicants, may be summarised as follows;

- *Privacy* – The extension to the rear of the existing dwelling is exempt. The door to the north-eastern elevation of the extension should be considered to be authorised development. The window to the north-eastern elevation of the original dwelling was required to provide daylight into a sitting room area (incorrectly noted on the planning drawings as a kitchen) as the previous opening was closed up by the extension to the rear of the dwelling.
- Photographs taken by the appellants appear to be taken from an elevated position which gives a misleading picture of the potential impact of the side window on the privacy of the appellants dwelling.



- The existing panel fence is 2m in height and presents a more than adequate privacy screen between the dwellings
- *Loss of light* – The extension is fully compliant with the Planning and Development Regulations and must be considered exempt and consequently an authorised development.
- *Garage* – Applicants are willing to lower the floor level by 300mm and to change the pitch of the roof from 35 to 25 degrees giving an overall reduction in height of 915mm, giving an overall height of 3.95m. The proposed garage is approx. 900mm below the roof of the existing extension to the adjacent dwelling to the south of the application site.

### 6.3. **Planning Authority Response**

The planning authority confirms its decision and refers to the planners report.

### 6.4. **Observations**

None.

### 6.5. **Further Responses**

None.

## 7.0 **Assessment**

7.1. The main issues raised in this appeal are those raised in the grounds of appeal and it is considered that no other substantive issues arise. Appropriate Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Residential Amenities
- Other Matters
- Appropriate Assessment

## 7.2. Residential Amenities

- 7.2.1. In my view the principal issue in this case relates to the single window and door to the north-western elevation of the single storey cottage and rear extension, and the roof profile and height of the single storey garage/store to the rear and the impact on the appellants property to the north west.
- 7.2.2. Section 17.4.8 provides guidance in respect of residential extensions, in particular; to overlooking, overshadowing and protection of residential amenities.
- 7.2.3. The ground floor window and door to be retained are located to the side of the existing single storey property and set off the side boundary by 3.3m and 4m respectively.
- 7.2.4. The appellants property no 821a is set back approx. 3.3m from the side boundary. It includes a number of ground floor windows and side door along the south-eastern side elevation facing the appeal site.
- 7.2.5. As noted in the planners report the ground floor side window to be retained is not in line with any other windows along the side boundary of the appellants property, and the side door which includes opaque glazing gives access to a hallway and not a habitable room.
- 7.2.6. I viewed the appeal site from the appellants property and vice versa, and while I am mindful of the location of three no. windows and glass side door to the appellants property, I am still of the view that the existing window and door will not give rise to overlooking of the appellants property.
- 7.2.7. Given, the separation distances to the shared boundary, between both properties, the height of the existing boundary treatment and the location of the appellants property to the north west of the appeal site, I do not consider that the window and door to be retained results in overlooking of the appellants property.
- 7.2.8. In relation to the roof profile and height of the proposed single storey garage/store, I do not consider the ridge height of the pitched roof of 4.8m as proposed is excessive. However, I have considered the merits of the amendments proposed by the applicant in the appeal, namely to lower the floor level by 300mm and to change the pitch of the roof from 35 to 25 degrees giving an overall reduction in height of 915mm, giving an overall height of 3.95m.

- 7.2.9. I have also considered the generous separation distance of 7.8m from the proposed garage to the north-western boundary. Having regard to the location of the proposed garage to the south east of the appellants property, and to the fact that it will extend approx. 5.5m beyond the rear building line of their property, I consider that a reduction in overall ride height would be appropriate in this instance.
- 7.2.10. In summary, I am satisfied, that the development to be retained and to be constructed would not seriously injure the amenities of the adjacent property by way overlooking, overshadowing or overbearance and would be in keeping with the proper planning and sustainable development of the area.
- 7.2.11. I consider, therefore, that the appeal should not be upheld in relation to the issue of residential amenity.

### 7.3. **Other Matters**

- 7.3.1. *Recessed Entrance* – I note the layout and design of the vehicular entrance to be retained. In this regard I note that the Area Engineer had no objection to the development and that the planning authority attached a standard condition in relation to the appropriate standards.
- 7.3.2. *Foul and Surface Water Drainage* – I note the location of the existing septic tank, percolation area and soakaway area to the rear. I note that the Area Engineer had no objection to the development subject to requirements and that the planning authority attached a standard condition in relation to the disposal of surface water.
- 7.3.3. *Internal Layout* – The applicant has noted the incorrect labelling of the internal layout of the extension. I have reviewed the alterations and consider them very minor.

### 7.4. **Appropriate Assessment**

Having regard to the nature and scale of development to be retained and to be constructed, 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 permission for retention should be granted subject to conditions for the reasons and considerations as set out below

## 9.0 Reasons and Considerations

Having regard to the location of the site and to the compliance with the development standards in the Kildare County Development Plan 2017-2023, to the acceptable scale and design of the alterations to be retained and of the garage/store to be constructed, and to the pattern of development in the area, it is considered that subject to compliance with the conditions set out below, the development to be retained and completed would not seriously injure the residential or visual amenities of the area or property in the vicinity. The development to be retained and completed would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application, 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. Details of the materials, colours and textures of all the external finishes to the garage/store shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

3. The proposed garage store shall be amended as follows:

- (a) The finished floor level shall be lowered by 300mm.
- (b) The pitch of the roof shall be altered from 35 to 25 degrees with the overall ridge height not exceeding of 3.95m.

Revised plans, which incorporate these amendments, shall be submitted to the planning authority for written agreement before the development commences.

**Reason:** In the interest of protecting the residential amenity of adjacent properties.

- 4. The existing dwelling and proposed garage/store shall be jointly occupied as a single residential unit and shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

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

- 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. All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

**Reason:** In the interest of traffic safety.

- 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, 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.

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Susan McHugh  
Planning Inspectorate

21<sup>st</sup> February 2019