



An
Bord
Pleanála

Inspector's Report ABP-303222-18

Development	Demolition of shed, construction of extension to house and enlarging side access gate.
Location	57 The Walled Gardens, Celbridge, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	18943
Applicant(s)	Richard O'Hagan.
Type of Application	Permission.
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Nigel Free.
Observer(s)	None.
Date of Site Inspection	8 th March 2019
Inspector	Susan McHugh

1.0 Site Location and Description

- 1.1. The appeal site is located within an established residential estate c. 1km north of Celbridge town centre.
- 1.2. The existing two storey semi-detached house is situated on a corner site and is one of a group of houses along a short cul de sac. The houses are mock Georgian in design, characterised by a red brick finish to front with wet dash finish to side and rear elevations.
- 1.3. The front and side boundary is defined by a 2m high perimeter wall which is also finished in red brick. The front boundary wall includes a pedestrian gate adjoining the gable of the house.
- 1.4. There is an existing shed at the end of the rear garden which adjoins the western side boundary with no. 56, home to the appellant.
- 1.5. As a corner site it benefits from a relatively large side and rear garden with a stated area is 0.0293ha.

2.0 Proposed Development

- 2.1. Permission is sought for the demolition of the existing garden shed. This has a stated floor area of 13sqm, and a lean to roof with a height of 2.75m.
- 2.2. It is proposed to construct a single storey extension, with a stated floor area of 49.3sqm. This is roughly 'L shaped and is located along the western side and rear boundaries of the subject site. It accommodates an open plan kitchen, dining and family area with glazed sliding doors and large windows to the south west and south-east elevations. It has a flat roof with 3 no. rooflights and an external height of 2.892m. Finishes generally comprise a smooth render finish.
- 2.3. At ground floor modifications to the internal layout of the existing house include the provision of separate TV area to the front, new WC, office and utility area. External modifications include blocking up the existing gable side access door and provision of a new access door serving the utility area.
- 2.4. At first floor modifications to the internal layout include the provision of two double bedrooms and larger bathroom.

- 2.5. It is proposed to convert the attic for use as a walk-in wardrobe with access stairs from the first-floor landing. This area is to include two new rooflights to the rear roof slope.
- 2.6. It is also proposed to replace the existing front pedestrian access gate to the side/rear garden with a new double entrance gates approx. 3m in width.

3.0 **Planning Authority Decision**

3.1. **Decision**

The planning authority decided to **grant** permission subject to 10 no. standard conditions.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports (dated 26/09/2018 and 22/11/2018)**

The Planners Report is the basis for the Planning Authority decision. The 1st Report in summary states:

- Concern in relation to impact of proposed extension on adjoining property to the north in terms of daylight and shadow implications.
- Notes proposed smooth render finish which should be changed to a finish consistent with that of the existing dwelling, to be dealt with by condition.
- Recommends a request for further information, to include a north-western elevation indicating the relationship between the proposed extension and the existing boundary wall with no.56, and a shadow analysis or alternatively revise the design of the extension.

The 2nd Report in summary states;

- Satisfied that the proposed extension will have little or no impact on the existing boundary wall.
- Satisfied that the proposed extension will have minimal impact on the adjoining property to the north-west in terms of overshadowing.

3.2.2. **Other Technical Reports**

Water Services: No objections subject to conditions.

Transportation Dept.: No objections subject to conditions.

Area Engineer: No objections subject to conditions.

3.3. **Prescribed Bodies**

Irish Water: No objections subject to conditions.

3.4. **Third Party Observations**

One submission was lodged from the owner of the adjoining house to the north no. 56 and the appellant in the current appeal. Issues raised can be summarised as follows:

- Length and height of extension will result in overshadowing
- No precedent for extension full length of the garden
- Alternative design options would have less of an impact on residential amenity

4.0 **Planning History**

There is no planning history pertaining to the appeal site.

5.0 **Policy and Context**

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

5.1.1. **Chapter 17** refers to Development Standards

5.1.2. **Section 17.2.5** Overshadowing states;

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.

5.1.3. **Section 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 relevant to the subject site include;

- ‘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.
- 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 2017-2023**

The appeal site is identified as zoning objective ‘B-Existing Residential/Infill’.

5.3. **Natural Heritage Designations**

5.3.1. There are no European sites in the vicinity.

5.4. **EIA Screening**

5.4.1. 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 Paul Redmond, Architect on behalf of Nigel Free, no.56 The Walled Garden, Celbridge. It was accompanied by a rough sketch of an alternative layout, a letter from the appellant, and a photograph of the rear garden indicating existing structures. The grounds of appeal can be summarised as follows;

- *Loss of Light and Overshadowing* – to property and rear garden.
- *Alternative Layout* – suggest proposed extension be moved back into the applicants' garden away from the boundary wall by a distance of between 1.0m and 1.25m, which could include a small entrance lobby from the main structure for the first 1.5m of boundary only.
- By moving the extension away from the boundary wall, the main issue of overshadowing will be 85% removed. This would not result in a reduction of floor area and the appellants property would not feel as enclosed at the rear of the house.
- *Planning Authority Decision* - Request that it be overturned or a condition attached requiring the extension be moved away from the boundary wall.

6.2. Planning Authority Response

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

6.3. Applicant Response

A response to the third-party appeal was submitted by Ruby Architectural on behalf of the applicant. It was accompanied by a letter from the applicant to the appellant

dated 8/12/2018 which included design revisions. The response may be summarised as follows;

- *Overshadowing* – Disputes assertion that the proposed extension would result in serious overshadowing of no. 56. This has been demonstrated to the P.A. by providing a shadow study for the existing and proposed development.
- *Alternative Layout* – Would result in a strip of land totalling 8.35sqm in area as a back garden which would be completely unusable. Applicant paid a premium price for the property due to the nature of the house on a corner site, and proposal to give up a portion of their site for no good reason is completely unacceptable.
- *Separation to rear boundary wall* - The hand drawn alternative layout is misleading, the proposed extension will be located as close to the rear boundary wall as the existing shed.
- *Calculation of reduction in overshadowing* – Query how a figure of 85% was reached.
- *Existing house* – Is not fit for purpose as owners require extra space for their family, while also maintaining outdoor amenity space.
- *Amenity of neighbours* – Owners have taken cognisance of their neighbours and designed a flat roof extension. Prior to lodging the application owners offered to build a shared wall on the boundary line at their own expense to whatever finish the appellant would like, but did not receive a response.
- *Design Revisions* – Propose stepping the proposed extension off the boundary and into his own property by 500mm, and to lower the height of the extension by 300mm by lowering the finished floor level which will require an internal step. Have constructed a temporary timber wall to demonstrate how little impact the proposed extension would have on adjoining rear yard.
- *Response from Appellant* – None received, and offer to reduce the height has been retracted.

6.4. **Observations**

None.

6.5. **Further Responses**

A response to the first party response was submitted by the appellant and includes a shadow survey. The response can be summarised as follows;

- *Shadow Survey* – Indicates when the rear of the house and garden are totally overshadowed or seriously overshadowed, and this will impact on ability to dry clothes and grow plants.
- *Sense of enclosure* – Proposed extension will totally enclose rear garden space.
- *Contact with Applicant* – Request to agree in writing the design revisions proposed was not forthcoming.

7.0 **Assessment**

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 Amenity
- Other Matters
- Appropriate Assessment

7.1. **Residential Amenity**

- 7.1.1. The development is located in an area zoned B:'Existing Residential/Infill'. In this zone residential extensions to an existing house are considered acceptable in principle. However, there is an obligation to reconcile the need to meet the requirements of the applicant seeking to maximise accommodation with the need to protect the residential amenities of adjoining property.

Scale of proposed extension to the rear

- 7.1.2. The existing 3 bedroom house has a narrow plan and with a stated floor area of 72.3sqm, which is very modest. The internal layout at ground floor provides for an entrance hall with kitchen dining area to the front, with a side access door to the garden, and sitting room to the rear. At first floor there are three bedrooms (double, single, and box room) and bathroom.
- 7.1.3. The proposed extension single storey extends along the entire length and partly along the rear boundary of the site and has a stated floor area of 49.3sqm. It will in part replace the existing garden shed to the rear which has a stated area of 13sqm. and with a lean-to roof has a height of 2.75m.
- 7.1.4. As presented in plan the proposed extension appears quite substantial particularly relative to the existing house and garden to the rear. However, the planning authority were satisfied having requested an elevation of the proposed extension as presented to the neighbouring property that the extension was acceptable.
- 7.1.5. In my opinion, the scale of the extension is acceptable and provides for sufficient rear garden amenity area.
- 7.1.6. I am satisfied, given the nature of this corner site that the proposed extension does not constitute overdevelopment of the site.

Impacts on the adjoining neighbour

- 7.1.7. In my view the principal issue in this case relates to the single storey rear extension, and the impact on the appellants property no. 56 to the north west. I also note the narrow plot width of c. 10m, rear garden depth of c. 8.m along the side boundary, and north-eastern orientation of the appellants rear garden. In addition, I note the existing structures in the garden and relatively modest rear garden area of the appellants property.
- 7.1.8. Section 17.2.5 and Section 17.4.8 of the County Development Plan provides guidance in respect of residential extensions, in particular; to overshadowing and protection of residential amenities.
- 7.1.9. The proposed single storey extension to the rear is 7.6m in length and has a flat roof with a height of 2.892m.

- 7.1.10. As noted in the planners' report, the planning authority initially had concerns in relation to the impact on the adjoining property to the north west, and requested a shadow analysis be submitted. On review of the shadow analysis drawings submitted they were satisfied with the proposal.
- 7.1.11. On examination of the shadow analysis carried out by the applicant's agent there is a negligible increase in overshadowing during the Spring and Autumn equinox at 1000hrs, 1200hrs and 1600hrs. I have also examined the shadow analysis carried out by the appellants agent and submitted as part of the appeal, which indicates a significant increase in overshadowing during the Spring equinox, Summer and Winter Solstice at 1000hrs. Having visited the site early afternoon in the month of March, I am satisfied that the existing rear garden of the appellants property is overshadowed at this time of day already.
- 7.1.12. I note from my site inspection that the applicant has erected a timber structure to illustrate the height and impact of the proposed extension. I viewed the appeal site from the appellants property and vice versa, and while I am mindful of the length of the proposed extension along the side boundary, I am of the view that it is not excessive in height or length.
- 7.1.13. Having regard to the single storey extension which has a flat roof and is relatively modest in height and bulk, I consider, given the north-eastern orientation of the gardens, that the overshadowing impact will not be significant. I have also had regard to the large ground floor window and glazed door serving the living room. I am therefore, not convinced that the proposed extension will result in significant overshadowing of the neighbouring property and that this has been overstated by the appellant.
- 7.1.14. I note the alternative layout sketch submitted by the appellant and proposals to set the extension off the side boundary by 1.25m. I have also considered the response by the applicant to namely to step the proposed extension off the boundary by 500mm. I consider this a more reasonable approach and more efficient use of the site. I recommend therefore, that the proposed extension be set off the boundary as proposed by the applicant and this can be dealt with by condition.
- 7.1.15. I have also considered the merits of the amendments proposed by the applicant in the appeal, namely to lower the floor level and consequent height by 300mm.

However, I am not convinced that this would result in a material difference in terms of overbearance.

7.1.16. In summary, I am satisfied, that the proposed extension subject to modifications would not seriously injure the amenities of the adjacent property by way of overshadowing or overbearance and would be in keeping with the proper planning and sustainable development of the area.

7.1.17. I consider, therefore, that the appeal should not be upheld in relation to the issue of residential amenity.

7.2. Other Matters

7.2.1. *Entrance Gates* – The proposal to replace the pedestrian entrance gate with a 3m wide entrance gate with pillars is also considered acceptable.

7.2.2. *Finishes* – I note that the planning authority attached a condition in respect of the proposed external finishes which are to match those of the existing house. I would concur with this and this can be dealt with by way of a condition.

7.3. Appropriate Assessment

7.3.1. Having regard to the nature and scale of development 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

8.1. I recommend that permission be granted for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the location of the site on residentially zoned lands and to the compliance with the development standards for residential extensions in the Kildare

County Development Plan 2017-2023, it is considered that subject to compliance with conditions set out below, the proposed development would not seriously injure the residential amenities of property in the vicinity. 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 3rd August 2018, and as amended by further information 2nd November 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 external finishes of the proposed extension shall harmonise with those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity.

3. The proposed development shall be amended as follows:

(a) The proposed extension to the rear shall be stepped off the north-western side boundary with no. 56 by 500mm.

Revised plans, which incorporate this amendment, 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 property.

4. The existing dwelling and proposed 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.

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 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.

Susan McHugh
Planning Inspectorate

12th March 2019