



An
Bord
Pleanála

Inspector's Report ABP-303547-19.

Development	Permission for retention of as built two storey extension to rear (south) of existing two storey semi-detached dwelling together with all associated elevational alterations and site works.
Location	44 Osberstown Park, Sallins, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	18/1312
Applicant(s)	Mr. & Mrs. Stawski
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party vs. refusal
Appellant(s)	Mr. & Mrs. Stawski
Observer(s)	None
Date of Site Inspection	2 nd April 2019.
Inspector	A. Considine

1.0 Site Location and Description

- 1.1. The appeal site is located in the Osberstown Park housing estate in Sallins, Co. Kildare. The estate is located approximately 200m south of the Grand Canal and 800m north of the M7 motorway and to the west of Sallins Main Street which leads into Naas. The Odlums Mill site lies to the north-east of the estate.
- 1.2. The housing estate comprises semi-detached dwellings. The subject dwelling, no.44, faces onto a green open space area which is bound by the Grand Canal, approximately 100m to the north. The rear garden is south facing.
- 1.3. The site covers an area of 0.0283ha and the existing house on the site has a stated floor area of 98.33m².

2.0 Proposed Development

- 2.1. Permission is sought for the retention of an as built two storey extension to rear (south) of existing two storey semi-detached dwelling. The extension has a stated floor area of 25.09m² comprising 9.85m² and 15.24m² at first floor level. The development extends approximately 2.8m from the original rear wall of the house and is the full width of the existing house, at approximately 5.75m, extending from the party wall with the adjacent, attached semi-detached house, no. 43 Osberstown Park.
- 2.2. The proposed extension provides for an extended kitchen area at ground floor level and an extended master bedroom with dressing room at first floor level.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for the following stated reasons:

1. The as built extension by virtue of its size and scale would significantly impact the residential amenity of the attached residential dwelling at 43 Osberstown Park. The extension as built overshadows the attached neighbouring property and decreases the amount of daylight and sunlight entering into the dwelling; especially into the first floor bedroom and the ground floor living

accommodation. The development as constructed is therefore contrary to the provisions of the Kildare County Development Plan, 2017-2023 and would set an undesirable precedent for further developments of this nature within the local area in the County. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. Having regard to the character and location of the subject site within an established residential area taken together with the built pattern within the estate, which comprises of predominantly semi-detached two storey dwellings, the proposed development would contravene materially, the zoning objective for the area which seeks, inter-alia, to protect and improve residential amenity and to provide for appropriate infill. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report formed the basis for the Planning Authority decision. The report notes the nature of the extension the subject of the retention application and considers that the development if permitted, will have an unacceptable impact on the neighbouring property by reason of overshadowing and reducing daylight, sunlight and residential amenity.

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

3.2.2. Other Technical Reports

Area Engineer: No objection

Water Services: No objection subject to conditions

Environment Section: No objection subject to conditions

3.3. Prescribed Bodies

Irish Water: No objection

3.4. **Third Party Observations**

None

4.0 **Planning History**

There is no planning history pertaining to the subject site.

There have been a number of applications for extensions within the housing estate.

ABP ref. PL09.247847 (PA ref. 16/910): Permission granted in June 2017 for a side and rear extension at no. 16 Osberstown Park.

PA ref. 16/128: Permission granted permission in July 2016 for a side and rear extension at no.35 Osberstown Park.

PA ref. 08/678: Permission granted permission in November 2008 for a two storey side extension at no.37 Osberstown Park.

5.0 **Policy Context**

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

- 5.1.1. Chapter 17 of the Kildare County Development Plan deals with Development Management Standards, and Section 17.4.8 deals with Extension to Dwellings. It states 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.

- 5.1.2. In addition, the Plan states that the following basic principles shall apply (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; An extension should complement the area in which it is located, and its design and scale should have regard to adjoining properties; 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. Sallins Local Area Plan 2016 – 2022

The dwelling is located in lands zoned B – Existing Residential/Infill. The zoning objective for this land use zoning is ‘To protect and improve existing residential amenity, to provide for appropriate infill residential development and to provide for new and improved ancillary services’. The purpose of this zone objective is to preserve and improve residential amenity and to provide for infill residential development at a density that is considered appropriate to the area.

5.3. Natural Heritage Designations

There are no designated sites within the vicinity of the site. Mouds Bog SAC (Site Code 002331) and Pollardstown Fen SAC (Site Code 000396) are located approximately 8km and 10km respectively to the south-west of the site. Red Bog, Kildare SAC (Site Code 000397) is located approximately 11km south-east of the site. Poulaphouca Reservoir SPA (Site Code 004063) is located 14km south-east of the site. Ballynafagh Bog SAC (site Code 000391) and Ballynafagh Lake SAC (Site Code 001387) are located c.10km north-west of the site.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first party appeal submitted against the Councils decision to refuse permission for the proposed retention of the extension. The grounds of appeal are summarised as follows:

- The development does not seriously injure the amenities of the area or property in the vicinity and would be in accordance with the proper planning and sustainable development of the area.
- No third party objections were submitted and a letter of support was received from the owners of no. 43 Osberstown Park.

- A Daylight and Shadow casting analysis was carried out with respect to 3 forms of development – pre-existing, as-built and for benchmarking in relation to the exempted development provisions. It has been shown that the development does not injure the amenities of adjacent property.
- Any loss of daylight or sunlight to the rear garden of the neighbouring property is not likely to be noticeable.
- The development accords with the requirements of the development plan.

There are a number of enclosures with the appeal. It is requested that permission be granted for the retention of the extension as constructed.

6.2. Planning Authority Response

The Planning Authority submitted a response to the first party appeal restating their objections to the proposed development. The response notes the unauthorised development and discusses the issues around the requirements to submit the application for retention for the extension. The response concludes that the extension is unacceptable for the reasons stated.

6.3. First Party Response to Planning Authority Response

The appellant submitted a response to the PAs response to the first party appeal and seeks to advise regarding the delay in the submission of the retention application as referred to in the PAs submission. In addition, the response addresses the points raised in the PA submission.

7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Visual Impact
3. Residential Amenity
4. Appropriate Assessment

7.1. Principle of Development:

7.1.1. The appeal before the Board seeks the retention of a two storey extension to the rear of a semi-detached house within a medium density, suburban style housing development. While there is no planning history associated with the subject site or those in the immediate vicinity, permission has been granted for extensions to a small number of properties within the estate.

7.1.2. The extension has a stated floor area of 25.09m² over two floors. I consider that the scale of the proposed extension is modest and if permitted, adequate private open space has been retained to serve the house. Having regard to the current residential use of the property, together with the residential zoning objectives for the site in the Sallins Local Area Plan 2016 – 2022, and the development management requirements in the Kildare County Development Plan, it is considered that the principle of the residential extension is acceptable and would accord with the zoning afforded to the site and wider area.

7.2. Visual Amenities

7.2.1. The as constructed extension provides for a hipped roof which differs from the roof design of all the existing houses within Osberstown Park estate. It may be considered that this would impact on the visual amenity and uniformity with the roof

on the existing house. The proposed finish of the extension will match those of the existing house, and the Board will note that this has been the case with the roof finish.

- 7.2.2. Overall I have no objection to the proposed development and consider that the development, if permitted as constructed, will not result in a significant visual impact in the wider residential estate.

7.3. Residential Amenities

- 7.3.1. The PAs primary concerns arising from the retention of the extension relate to overshadowing and the potential loss of sun and daylight to the adjacent property. In this regard, I note that the neighbour has not objected to the development and has submitted a letter of support of the retention of the extension.
- 7.3.2. The houses run in a north-south direction with the rear gardens having a southern aspect. In this regard, these private open spaces enjoy sunshine for most of the day. The potential for overshadowing arises in the afternoon to evening and in order to establish the potential impact of the extension on the neighbouring property, the appellant has submitted a detailed shadow analysis. I carried out my site inspection in the afternoon, at approximately 3-3.30pm and I noted the extent of the shadow arising on no. 43 Osberstown Park arising from the extension. It is clear that there is an impact arising from the extension, and in particular on the ground floor area immediately adjacent to the extension. In this regard, I accept that there will be an impact from the extension on the adjoining house when the sun is setting.
- 7.3.3. In light of the above, I note the findings of the daylight, sunlight and shading analysis submitted in support of the appeal. While I could not wholly concur that the loss of sunlight and daylight, and resulting shadowing is 'not likely to be noticeable', I do not consider the impact to seriously injure the amenities of the adjacent property.

7.4. Appropriate Assessment

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, namely an urban and fully serviced 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 that planning permission 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 on residentially zoned lands, to the pattern of development in the area and to the compliance with the development standards for extensions to dwellings, as set out in the Kildare County Development Plan 2017 - 2023, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area. 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 retained and completed in accordance with the plans and particulars lodged with the application submitted on the 30th day of October 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. Details of the materials, colours and textures of all the external finishes to the proposed extension 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 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.

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

Reason: To ensure adequate servicing of the development, and to prevent pollution.

5. 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.

A. Considine

Planning Inspector

15th April 2019

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