



Development	Construction of a first-floor extension with gabled roof over the garage/extended kitchen; to include one new sun tunnel to the front and two new roof-lights to the rear in the existing roof, and associated ancillary site works.
Location	111 Oaklawn West, Leixlip, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	19/99
Applicant(s)	Barry & Niamh Foster
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Graham Prendergast
Observer(s)	None
Date of Site Inspection	8 th August 2019.
Inspector	Michael Dillon

1.0 Site Location and Description

The site, with a stated area of 0.0262ha, forms one of a pair of semi-detached, two-storey houses with no. 112. The house is located in a housing estate within suburban Leixlip, Co. Kildare. The house has a multi-coloured brick façade at ground floor level to the front: with plaster on the remaining walls. There is a small, single-storey, living-room extension to the rear of the house. The attic of the house has been converted, and a bathroom installed – lit by two rooflights in the rear pitch of the brown tiled roof. There is an attached, single-storey, flat-roofed garage to the side of the house – which immediately abuts a similar garage of the adjoining no. 110. There are no side passages with these houses. There is parking for two cars within the front garden curtilage.

2.0 Proposed Development

Permission sought on 6th February 2019, to extend the house on the site by 21.25m², in the following manner-

- First floor extension above flat-roofed garage – to provide for bedroom and bathroom accommodation.
- Extension of pitched roof over the new, first-floor, side extension; and insertion of roof-lights in the rear pitch and a 'sun tunnel' in the front pitch. The extended roof-space is stated to be for the purposes of storage.

3.0 Planning Authority Decision

By Order dated 2nd April 2019, Kildare Co. Council issued a Notification of decision to grant permission, subject to 8 no. conditions – the principal ones of which may be summarised as follows-

1. Development shall be carried out in accordance with plans and particulars, received on 6th February 2019.
2. Attic space shall be used for storage purposes only. A revised floor plan, showing the omission of the proposed bathroom, shall be submitted for the written agreement of the PA, prior to commencement of development.

4.0 Planning History

There is no mention made of any recent relevant planning applications, pertaining to the current appeal site.

5.0 Policy Context

5.1. Development Plan

The relevant document is the Kildare County Development Plan 2017-2023. Within this overarching framework – the Leixlip Local Area Plan 2017-2023 is of relevance. The site is zoned Objective ‘B’ – Existing residential and Infill – the objective of which is “To protect and enhance the amenity of established residential communities and promote sustainable intensification”.

5.2. Natural Heritage Designations

The site is located neither within nor immediately abutting any natural heritage designation.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The appeal from Ger Fahy Planning, agent on behalf of Graham Prendergast, of 110 Oaklawn West, Leixlip; received by An Bord Pleanála on 29th April 2019, can be summarised in bullet point format as follows-

- The appeal site forms part of a pair of semi-detached dwelling-houses – the garage of which abuts the garage of the appellant’s house.
- The existing garage is 2.34m in width.
- There are two windows in the gable elevation of the appellant’s house which light the hall, stairs & landing and a bathroom. This development will significantly reduce the amount of light to these windows.

- The kitchen of the appellant's house has been extended into the rear portion of the garage. As part of that development, the height of the roof of the single-storey element to the rear, was raised.
- The quality of the drawings submitted are poor and severely lacking in detail. The drawings do not show the separation from the appellant's party wall. The drawings also fail to acknowledge the differences in height between the roofs of the two garages.
- The proposed development will devalue the appellant's property, due to loss of light.
- The proposed development would result in trespass on the appellant's property – for which the applicant has no consent.
- The appellant has concerns in relation to structural stability of his property – should this development proceed. These houses have had to be underpinned in the past, due to subsidence.
- The development would result in overshadowing of the appellant's back garden – which is north-facing.

6.1.2. The appeal is accompanied by a series of annotated colour photographs of the appellant's house.

6.2. Applicant Response

6.2.1. The response of David Mulcahy, Planning Consultant, agent on behalf of the applicants, Barry & Niamh Foster; received by An Bord Pleanála on 21st May 2019, can be summarised in bullet point format as follows-

- The site is located within a mature suburban estate. There are a number of similar-style, first-floor extensions within the wider estate – a list of which (with photographs) are appended to the response submission.
- The County Development Plan contains a number of policies in relation to house extensions – all of which are complied with.
- It is accepted that the drawings submitted do not show the width of the proposed extension. However, the internal width of the existing garage is

shown at 2.345m. For clarity, the width of the proposed extension is 2.53m and the length is 9.5m.

- It is noted that the rear portion of the flat-roofed extension of the adjoining no. 110, has been slightly raised (by 150mm). The height of this roof has no material bearing on the assessment of the planning application.
- The gable windows in the appellant's house are both in opaque glazing. The windows do not light habitable rooms. There are no views from these windows, so the large, blank gable elevation facing them will be of no significance. There are numerous examples of similar-type extensions within the same estate, and there is widespread precedent for this type of extension.
- There will be no devaluation of the appellant's house, as the windows referred to do not light habitable rooms.
- There will be no trespass on no. 110, in the construction of this extension. The outer wall of the extension will be built within the curtilage of no. 111. Condition no. 4 of the Notification of decision to grant planning permission is clear in relation to encroaching on or oversailing neighbouring property. Section 34(13) of the Act indicates that a grant of planning permission does not entitle a person to carry out a development. The applicant will have to ensure that the necessary legal entitlements are in place before carrying out the work.
- The appellant has not provided any documentary evidence to support the allegation of subsidence. The extension will be at first-floor level only, and will not impact on ground-floor walls.
- The rear garden of no. 110 is not north-facing, as claimed by the appellant: but rather, faces east. The majority of the shadow impact would fall on the roof of the garage/kitchen structure of the neighbouring no. 110. The only potential for overshadowing of the rear garden, would be in the late afternoon.

6.3. Planning Authority Response

There is no response from KCC to the grounds of appeal submitted.

6.4. Observations

None received.

7.0 Assessment

The principal issue of this appeal relates to residential amenity.

7.1. Design & Layout

- 7.1.1. The proposed extension is not untypical in houses of this design, and is to be seen in a number of houses throughout the Oaklawn estate – the closest being no. 114, a short way to the south. The roof of the house is to be extended across the new first-floor extension. I would not consider that an hipped roof would be appropriate – in an estate where full gables are the norm. The proposed extension is in keeping with the scale and design of the existing house – and would not render the house out of character with its neighbours.
- 7.1.2. Drawings submitted indicate that the garage is 2.345m in width. It would appear from the drawings submitted that it is proposed to construct the gable wall of the extension on the party wall separating the two garages. This wall is jointly owned by no.s 111 & 110. It has not been indicated how the roof of the adjoining garage will be supported and made watertight if the new wall is built on top of the party wall. The appellant has stated that the applicants have no permission to enter his property at no. 110. It is not at all clear how the gable wall of the proposed extension can be finished externally, without encroaching onto the appellant's property. The extended roof is shown as occupying the space of the party wall. Whilst there are no over-sailing eaves, it is difficult to see how, in the absence of a concrete overlap of the roof-tiles, rainwater can be prevented from seeping into the roof area. It would be possible to attach a condition to any grant of permission from the Board, requiring that, in the absence of consent from the adjoining neighbour in no. 110 to construct the new extension on the party wall, the new extension be constructed inside the party wall – entirely within the property of the applicants. The applicants have not indicated if the party wall has sufficient load-bearing capacity for a new gable wall, such as is proposed.

- 7.1.3. The appellant states that the extension will remove light from a staircase window and from a bathroom window in the gable elevation of his house. This is a true statement. However, the void space over the kitchen/garage of no. 110 will remain, and sufficient light will penetrate to light, what are not considered to be habitable spaces. As referred to elsewhere in this report, a number of other houses in the area have similar-style, first-floor extensions. The appellant claims that the proposed extension will result in overshadowing of the rear garden of his house. The rear gardens in this area face east. The proposed extension will result in some degree of afternoon overshadowing in the rear garden. However, the extent of overshadowing will not be significant in the context of a suburban development of two-storey, semi-detached houses in relatively compact form.
- 7.1.4. Condition no. 2 of the Notification of decision to grant permission required that the extended attic area be used for the purposes of storage only. This would appear to be reasonable – given that the necessary floor-to-ceiling height ratios are not present to allow of the accommodation to be classified as habitable space. The attic of the existing house has been converted and now contains an ‘Ancillary Room’ and a ‘Bathroom’. The condition requires the submission of revised floorplans for the agreement of the PA, to show the bathroom removed. I would consider that such an internal change to the house is a matter for the occupants; and would recommend that it not be repeated in any grant of permission to issue from the Board. It is sufficient to require that the attic area be used for storage purposes only.
- 7.1.5. I would see no difficulty with the proposed roof-light arrangement in the rear pitch of the roof or to the ‘sun tunnel’ feature in the front pitch of the roof.

7.2. **Other Issues**

7.2.1. Structural Stability

The appellant has not submitted any evidence to substantiate the claim of subsidence to houses in the area. There is no reason as to why the construction of an extension, if properly undertaken, should result in subsidence or structural stability problems for neighbouring property. The applicant has stated that the proposed extension will be constructed entirely within the curtilage of the site. It is not clear from drawings submitted whether the dividing wall between the garages is a party wall: but this would seem likely.

7.2.2. Development Contribution

The Notification of decision to grant permission did not include a condition requiring payment of a development contribution, for this 21.25m² extension. The Development Contribution Scheme for the country provides that the first 40m² of extension to a house will be exempt from the need to pay a development contribution.

7.2.3. Devaluation of Property

The appellant contends that his adjoining property will be devalued, due to loss of light to a staircase window and a bathroom window in the gable elevation of his house. No evidence has been submitted to substantiate the claim of devaluation. It is not unusual for similar-style houses to be extended in the manner proposed. I would not consider that the proposed development would result in a devaluation of the appellant's property.

7.2.4. Water

There is a report on the file from Irish Water, indicating no objection to the development. There is a further report on the file from the Water Services Section of KCC, indicating no objection in relation to disposal of surface water. There will be no increase in hard surface areas within the site, arising from the proposed development.

7.2.5. Appropriate Assessment

The development was screened for appropriate assessment by KCC. The closest European site is the Rye Water Valley/Carton SAC (Site code 001398) – located some 300m to the northwest. There is no pathway linking the appeal site with the SAC. Having regard to limited nature of the proposed development, and to the fact that it will be connected to the public sewer network, 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 an European site.

7.2.6. Environmental Impact Assessment

Having regard to the nature and scale of the proposed development and the nature of the receiving environment, 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 stage, and a screening determination is not required.

8.0 Recommendation

I recommend that permission be granted for the Reasons and Considerations set out below, and subject to the attached Conditions.

9.0 Reasons and Considerations

Having regard to the limited nature of the proposed first-floor extension, and to the pattern of development in the vicinity, it is considered that, subject to compliance with the attached conditions; the proposed extension would not have a significant impact on the amenity of adjoining houses and would not result in devaluation of property in the vicinity.

10.0 Conditions

1. The development shall be carried out in accordance with plans and particulars submitted with the planning application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed extension shall not be constructed on the party wall with neighbouring no. 110 Oaklawn West, without the express consent of the owner of this property. In the absence of this consent, the proposed extension shall be constructed entirely within the curtilage of no. 111 Oaklawn West. No part of the proposed extension shall encroach on or over-sail adjoining property.

Reason: In the interest of the structural stability and residential amenity of adjoining property.

3. The proposed attic extension shall be used for the purposes of storage only; and shall not be used as habitable space.

Reason: In the interest of residential amenity.

4. 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.

5. All surface water generated by the proposed extension shall be discharged to a soakway(s) on the site. No surface water shall be discharged to any public foul sewer or combined sewer. All foul waste shall be discharged to the public foul sewer.

Reason: In the interest of public health.

6. The site and building works required to implement the development, shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, 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.

**Michael Dillon,
Planning Inspectorate.**

9th August 2019.