



An
Bord
Pleanála

Inspector's Report ABP-304923-19.

Development	Demolition of extension to rear and erection of two storey extension to side and over garage and single storey extension to rear.
Location	9 Thornhill Heights, Celbridge, Co. Kildare.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	19/280.
Applicant(s)	Dara Byrne.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party
Appellant(s)	Oldtown Mill Group.
Observer(s)	None.
Date of Site Inspection	19 th September, 2019.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The subject site is located to the north west of the town centre and within the established suburban Thornhill Heights residential estate in Cellbridge, Co. Kildare. The M4 Motorway lies approximately 1.5km to the north of the site. The Thornhill Heights estate comprises two storey semi-detached houses. The estate is connected to public services. The existing houses within the estate comprise two storey semi-detached houses, and some have been extended to include garages and additional accommodation.
- 1.2. To the south of the site, lies the rear gardens of houses in The Glade residential estate – comprising two-storey semi-detached houses with a combination of two and three bays. These houses are finished with a combination of brick and a pebble dash. To the west, the rear of the subject site backs onto the rear gardens of houses in The Meadows residential development. These properties comprise two storey terraced blocks of 4 houses which have a mix of brick and plaster finishes.
- 1.3. The subject site is located at the end of a cul-de-sac site which is bound on all sides by houses. Given the location of the house, the site has a larger front garden area than other houses in the estate and the site has a stated area of 436m². The existing house comprises a semi-detached two storey, three bedroom house with an overall floor area of 90m².

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for the demolition of existing sub-standard timber sunroom extension to rear and for the erection of a new two storey bedroom and bathroom extension to side over garage, and single storey living room and utility room extension to rear of house with all associated site and drainage works, all at 9 Thornhill Heights, Celbridge, Co. Kildare.
- 2.2. The proposed development will result in the extension of the existing house by 98m². The development will extend the living area to the rear of the house at ground floor level and the construction of a utility room and large garage to the side of the house. On the first floor, the development proposes the construction of a master suite above the proposed garage.

2.3. Following a request for further information, the applicant submitted revised plans showing the height of the extension stepped down from the existing house ridge.

3.0 **Planning Authority Decision**

3.1. **Decision**

The Planning Authority decided to grant planning permission for the proposed development subject to 11 conditions.

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

The Planning report considered the proposed development in the context of the details submitted with the application, the third party submissions, internal technical and prescribed bodies reports and the County Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

The initial report required the submission of further information in relation to the following:

- Revised ridge height
- Clarification of land ownership
- Boundary treatment plan and planning status of works carried out on the site.
- Clarification of what is indicated by the double red dashed lines running east to west beneath the proposed structure
- Comment on third party submissions

Following receipt of the response to the further information request, the final planning report concludes that the proposed development is acceptable and recommends that permission is granted subject to compliance with conditions. This Planning Report formed the basis of the Planning Authority's decision to grant planning permission.

3.2.2. **Other Technical Reports**

Area Engineer: Further information required in relation to the ownership of the land and clarification required in relation to the red coloured

dashed lines running east to west beneath the proposed structure. The Board will note that a copy of this report was not submitted as part of the PA file. A copy has been printed for the file.

Following the submission of a response to the FI request, the Area Engineer noted that the Deed of Transfer noted in the FI response was not included in the submission.

Water Services: No objection subject to compliance with conditions.

Environment Section: No objection subject to compliance with conditions.

3.2.3. Prescribed Bodies

Irish Water: No objection subject to compliance with conditions.

3.2.4. Third Party Submissions

There are 3 no. third party objections/submissions, including one with multiple signatories, noted on the planning authority file. The issues raised are summarised as follows:

- Proximity to existing property will result in overlooking of rear gardens
- The removal of the traditional field boundary and mature trees which were planted on 'no man's land' without consultation has taken away privacy and increased security risk as the back garden is exposed to entry from the rear fence.
- The loss of the trees has also increased noise impacts from people and traffic. Third parties also object to construction noise.
- The proximity of the extension will impact the light into rear gardens, will cast a shadow in the garden and rear windows of the house and will impact plants and shrubs in existing gardens.
- The development will impact the value of existing houses.
- The site boundary includes the 'no man's land' area which should not be included.

- The scale of the extension is excessive as it is more than doubling the size of the existing house and will be a visual eyesore. The development proposes two extensions, one to the side and one to the rear so the description of the development is questioned.
- The future use of the garage is questioned.
- The development would set a precedent for further copy-cat development, dramatically changing the landscape of the housing estate.
- The removed natural field boundary, which was deliberately maintained by the developers of the estates, was a natural habitat and hub for biodiversity and its removal is a tremendous loss in the urban area. Its removal is not in keeping with the spirit and vision of the National Biodiversity Action Plan 2017-2021.
- The trees that were removed were actively growing and healthy.
- Confirmation of trees / shrubs are to be replanted to reinstate privacy and security for neighbours required.
- Hours of work, in the event of planning permission being granted, should be carried out only Monday to Friday 9am-6pm as working outside these hours would negatively impact residential amenity.

4.0 Planning History

There is no relevant planning history pertaining to the subject site. The following Planning history relates to the adjacent house, No. 10 Thornhill Heights:

PA ref 03/1104: Permission granted for development consisting of a two-storey extension to the side of the house.

5.0 Policy and Context

5.1. Development Plan

The Kildare County Development Plan 2017-2023 is the relevant policy document pertaining to the subject site.

Chapter 17 of the Plan deals with Development Management Standards, and section 17.4.8 of the Plan deals with Extension to Dwellings.

5.2. Local Area Plan

The Cellbridge Local Area Plan 2017-2023 is relevant in relation to the subject site.

The site is zoned B Existing / Permitted Residential and where it is the stated objective of the zoning 'to protect and improve existing residential amenities; to provide for appropriate infill residential development; to provide for new and improved ancillary services.'

5.3. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Rye Water Valley / Carton SAC (&pNHA)(Site Code: 001398) which is located approximately 3.2km to the north of the site.

The Royal Canal pNHA, Site Code 002103, lies approximately 3km to the north of the site. The Grand Cana pNHA, Site Code 002014, lies approximately 3.9km to the south east of the site.

5.4. EIA Screening

Having regard to nature and scale of the development, together with the brownfield nature of the site, 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

This is a third-party appeal against the decision of the Planning Authority to grant planning permission for the proposed development. The issues raised reflect those as submitted to the Planning Authority and are summarised as follows:

- Proximity of the development to existing properties will impact privacy, natural light, overlooking and security.
- Issues raised in objections to the PA have not been addressed including loss of value to properties.
- The applicant submitted untruths:
 - the house is over 30 years old and has always had 'ease of entry and exit'.
 - the dashed double red lines runs the length of the estate and all residents have kept the natural boundary until now.
 - no consent was given before the removal of the trees.
 - refutes the comment that the level of daylight will be increased.
 - the extent and boundaries of the site is defined by registered folio and not by the claim of the applicant.

6.2. Applicant Response

The first party has submitted a response to the third-party appeal. The response is summarised as follows:

- It is not considered that privacy of neighbours will be compromised as a result of the proposed works. There is only one no. high level window in the gable wall, in the garage, and will be fitted with obscure glazing.
- The rear bedroom window is no closer than the existing bedroom windows.
- The removal of the 6m high trees has allowed more light into the neighbouring properties. The proposed extension will be further back from the boundary and will not impact light. The removal of trees was undertaken by mutual consent of neighbours.
- The neighbouring properties are not overlooked. The thought that neighbours will be imprisoned is outrageous.
- The land in question has been legally transferred to the applicant.

- Planting of laurel trees along the boundary has taken place which will give required privacy and security in the near future. The temporary raised boundary fence can be lowered or removed at that stage.
- There is no evidence to suggest that the development will devalue neighbouring properties.
- The trees that were removed were in very poor condition and were in danger of falling. A compact gravel base was laid in lieu of the soft margin of side garden.
- The dashed double red lines referred to represent the line of a long since filled in ditch over which the land has been absorbed into the gardens.
- It is not considered that the scale of the development is excessive as stated by the appellant. It is not the intention of the applicant to use the extension as a separate house as suggested.

6.3. Planning Authority Response

The Planning Authority submitted a response to the third-party appeal advising no further comments.

6.4. Observations

None

6.5. Further Responses

None

7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the 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. Compliance with Plans & Impact on Residential Amenity
2. Other Issues
3. Appropriate Assessment

7.1. Compliance with Plans & Impact on Residential Amenity:

- 7.1.1. The subject site is located within the settlement boundary of Cellbridge and the proposed development comprises an extension to the site and rear of an existing semi-detached house within a well established residential estate. The Cellbridge Local Area Plan 2017-2023 identifies that the site is zoned B: Existing / Permitted Residential. It is the stated objective of the zoning 'to protect and improve existing residential amenities; to provide for appropriate infill residential development; to provide for new and improved ancillary services.' I am generally satisfied that the proposed residential extension is acceptable in principle.
- 7.1.2. Chapter 17 of the Kildare County Development Plan 2017-2023 deals with development management standards and Section 17.4.8 deals with extensions to dwellings. This section 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.'
- 7.1.3. In this context, the Plan requires that 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 Board will note that the adjacent semi-detached house has been

extended in a similar manner to that currently proposed at the subject site. I note that the PA required that the extension to the side of the house be set down in terms of the ridge height from the existing ridge and the applicant submitted revised plans to represent this requirement. The proposed extension to the rear will be single storey and I have no objection to this. While I acknowledge the proposed floor area of the extension, overall, I am satisfied that the proposed extension is sensitive to the existing dwelling in terms of its form and appearance, and is acceptable.

- 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.
 - The overall design of the proposed extension reflects the design and scale of the existing house and is considered acceptable.
- In rural areas, the design of extensions should have regard to the Key Principles set out in Chapter 16 Rural Design Guide.
 - N/A
- The extension should not provide for new overlooking of the private area of an adjacent residence where no such overlooking previously existed.
 - The Board will note that the third-party appellants have raised concerns regarding the proximity of the extension to adjacent properties and the increase potential for overlooking. It is also submitted that the neighbours would feel imprisoned by the development of a two-storey building on the site. There is no doubt that the removal of the boundary trees has opened up the rear of the adjacent houses and it is this action that is likely to increase the sense of overlooking potential. The location of the proposed extension will be approximately 18-20m from the houses to the south. As part of the proposed development, the applicant has submitted proposals to replace the trees which were indicated as having been removed due to their poor quality and health. On the date of my inspection, I noted that planting has occurred along the southern boundary of the site and I also noted that the boundary

fence has been increased in height which essentially precludes overlooking from the site into adjacent gardens.

- In an existing developed area, where a degree of overlooking is already present, the new extension must not significantly increase overlooking possibilities.
 - I refer the Board to my comments above in relation to overlooking. Overall, I am satisfied that the proposed extension is acceptable at this location and, if permitted, will not impact on the existing residential amenities of adjacent 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 appellants have raised concerns in terms of the impact of the two-storey extension development within such close proximity to boundaries and subsequently on natural light. The Board will note that the proposed development site runs in an east – west direction and the proposed extension is to be erected on the southern side of the building, with the single storey element along the rear (western) elevation.

The third-party properties in the vicinity of the site lie primarily to the south of the site and in this regard, there is no potential for the proposed development, to be located to the north of the north facing third party gardens, to result in overshadowing of these properties.

In terms of the properties to the west, I am satisfied that there is adequate distance between the proposed extension and third-party properties. I am satisfied that the development, if permitted will not result in overshadowing of adjacent dwellings or decrease daylight or sunlight entering into the houses.

- 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.
 - The proposed development will result in the retention of a rear garden area of 91.59m², excluding the side garden / side entry area. The Kildare County Development Plan, 2017 sets out the

minimum private open space requirements for dwelling houses at Table 17.5 of the plan. The development, if permitted will result in the house having 4 bedrooms and therefore a minimum of 75m² of private open space is required. I am satisfied that the proposed development is acceptable in this regard.

7.2. Other Issues

7.2.1. Site Boundary Issue

The Board will note that the pertinent issue arising in the third-party appeal relates to a disagreement on the boundary of the site, and the ownership of the area which was previously occupied by the trees. I also note that the applicant indicated that evidence of Title over the area was submitted the Planning Authority and that the land has been legally transferred to the applicant. This evidence has not been fully submitted to the Board with the Planning file, in that the title deeds submitted failed to include the relevant maps. Neither is this information available on the PAs website.

However, I am satisfied that this is a civil matter. I would further be satisfied that the provision of Section 34(13) of the Planning & Development Act, 2000 as amended, which states 'A person shall not be entitled solely by reason of a permission under this section to carry out any development' is sufficient to ensure that the civil issues are rectified prior to the commencement of development on the site.

7.2.2. Water Services

The subject site is connected to the public services in Cellbridge. The Board will note that neither Irish Water nor the Water Services Section of Kildare County Council raise any objections to the proposed development. I am satisfied that the development is acceptable in this regard.

7.2.3. Development Contribution

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

7.3. Appropriate Assessment

The site is not located within any designated site. The closest Natura 2000 site is the Rye Water Valley / Carton SAC (&pNHA)(Site Code: 001398) which is located approximately 3.2km to the north of the site. The Royal Canal pNHA, Site Code 002103, lies approximately 3km to the north of the site. The Grand Cana pNHA, Site Code 002014, lies approximately 3.9km to the south east of the site.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the 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 planning permission be granted for the proposed development for the following stated reason and subject to the following stated conditions.

9.0 Reasons and Considerations

Having regard to the provisions of the current Kildare County Development Plan, 2017-2023 and the Cellbridge Area Local Area Plan, 2017-2023, the pattern of existing and permitted development in the vicinity and area and having regard to the information submitted as part of the planning application, together with the information submitted in the appeal, I am satisfied that the proposed development, subject to compliance with conditions, consisting of the construction of an extension to an existing house, generally accords with the policy requirements of the stated Plans as they relate to dwelling extensions. It is further considered that the design, scale and finish of the proposed extension would not seriously injure the residential amenities or architectural character of the area and 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, as amended by plans and particulars submitted to the Planning Authority on the 28th day of May, 2019 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.

In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. 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.

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, shall be erected on the site/within the rear garden area, without a prior grant of planning permission.

Reason: In the interest of the amenities of the area.

4. The external finishes of the proposed extension, including roof tiles/slates of the proposed first floor extension, shall be the same as those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity.

5. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the planting of trees along the southern boundary of the site.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

6. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

7. 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.

8. 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

17th October, 2019