



An
Bord
Pleanála

Inspector's Report

ABP-305626-19

Development	Construction of a part single storey and part dormer detached bungalow.
Location	1 Rowan Close, Castletown, Celbridge, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	19850
Applicant(s)	Erika Murray
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Liam Roe & Veronica Brady & Others
Observer(s)	None
Date of Site Inspection	13 th February 2020
Inspector	Mary Crowley

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1.0 Site Location and Description

1.1. The appeal site with a stated area of 0.0386 ha is located in the mature residential estate of Castletown, Celbridge which is situated to the north of Celbridge Town. The site forms part of the side garden of No 1 Rowan Close, a two storey detached dwelling located at the entrance to the cul de sac. The area is characterised by detached and semi-detached homes built circa 1930 and onwards. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

2.0 Proposed Development

2.1. Planning Permission is sought for the construction of a part single storey and part dormer detached 3-bedroom bungalow (128.2 sqm) infill development in the side garden of No 1 Rowan Close with new vehicular entrance onto The Avenue together with all associated site works.

2.2. The application was accompanied by the following:

- KCC Section 97 Exception Certificate
- Letter of consent from the owner to make the planning application (father to daughter)

3.0 Planning Authority Decision

3.1. Decision

3.1.1. KCC issued a notification of decision to grant permission subject to 14 no generally standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Case Planner** recommended that permission be granted subject to conditions. The notification of decision to grant permission issued by KCC reflects this recommendation.

3.2.2. Other Technical Reports

- **Environment Section** – No stated objection subject to conditions relating to foul sewage, surface water, waste collection and bunding.
- **Area Engineer** – No stated objection subject to conditions relating to surface water, vehicular access and sightlines.
- **Transportation** – No stated objection subject to conditions relating to the entrance, surface water, roadside drainage, provision of 2 no accessible car parking spaces and sight lines.
- **Area Office** – Public notice worded and dated as per that submitted with application.
- **Kildare Fire Service** – No objection
- **Water Services** – No stated objection subject to conditions relating to IW connection agreement and surface water.

3.3. Prescribed Bodies

- **Irish Water** – No objection

3.4. Third Party Observations

- 3.4.1. There are three observations recorded on the planning file from (1) Marie and Matthew McEvoy, (2) Resident of No 7 Rowan Close and (3) Jim Roe & Veronica Brady. The issues raised relate to the scheme being out of character, precedent, contrary to the proper planning and sustainable development of the area, contravention of existing density, loss of hedgerow, building line, injure amenities and depreciate property values.

4.0 Planning History

- 4.1. There is no evidence of any previous planning appeal at this location. The following planning history has been provided:

Reg Ref 17/744 – KCC refused permission for a two storey four-bedroom detached dwelling with new driveway access on the appeal site for the following reason:

The proposed development, a two-storey dwelling, due to its scale, bulk, design and form on a prominent corner site, would be incongruous and out of context with the established pattern and character of residential development in the area. The proposed development would seriously injure the amenities and depreciate the value of property in the vicinity, would set an undesirable precedent for further such development and would therefore be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative plan for the County is the **Kildare County Development Plan 2017-2023**. Chapter 17 deals with Development Management Standards. The operative plan for the town is the **Celbridge Local Area Plan 2017-2023**. The site is zoned **B: Existing Residential** where the objective is *to protect and enhance the amenity of established residential communities and promote sustainable intensification*.

5.2. Natural Heritage Designations

- 5.2.1. The site is not located within a designated Natura 2000 site. The Rye Water Valley / Carton SAC is c2.5km north of the appeal site.

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development comprising a new dwelling house in a serviced urban area there is no real likelihood of significant effects on the environment arising from the proposed development. The need for

environment 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

6.1.1. The third-party appeal has been prepared and submitted by Liam Roe & Veronica Brady & Others. The issues raised may be summarised as follows:

- In 2017 KCC turned down a similar proposal (Reg Ref 17/744 refers). However now KCC invoke the same plans to take the opposite position. Apart from a few tweaks to this new proposed development, all of the previous grounds for refusing planning permission apply to this scheme.
- The proposed part single storey, part dormer detached bungalow would be the only one of its type in Castletown so close to the footpath and *“due to its scale, bulk, design and form on a prominent corner site would be incongruous and out of context with the established pattern and character of residential development in the area”*.
- Noted that permission was refused on a site directly opposite the appeal site at No 9a Rowan Close in 2006; Reg Ref 06/1429 refers. Numerous objections were received at the time. KCC response stated that *“the proposed development would due to its location and positioning, impinge upon the established building line in this area, would seriously injure the amenities of and depreciate the value of property in the vicinity of the proposed development, would act as an undesirable precedent to further such development and otherwise be contrary to the proper planning and sustainable development of the area”*. This is equally pertinent in this case. Further permitting this scheme may result in the owners of No 9 seeking permission to build on their site.
- To permit the scheme would ultimately devalue the houses on this road as KCC stated in Reg Ref 17/744 decision.
- The public notice was placed inside Rowan Close, thus not visible for residents on The Avenue where the new entrance is proposed.

6.2. Applicant Response

6.2.1. The first party response to the appeal has been prepared has submitted by Devaney Williams Architects and may be summarised as follows:

- The applicant has previously been refused permission for a 4-bedroom house on this site. The applicant then engaged in a consultative process with KCC and attended pre-planning meetings. The form of the current proposal took the comments of the planners into consideration, takes references in size and scale form the bungalow next door and the building lines on The Avenue and Rowan Close.
- The development will have its entrance off The Avenue therefore the density and ambiance of 9 houses will be maintained within Rowan Close. The hedgerows will remain as conditioned in the planning decision. The boundary between 1 Rowan Close and the proposed development is part hedgerow and the remainder of the boundary may also be hedgerow (Condition No 3 refers). The closest point of the development to the footpath will be 3.9m.

6.3. Planning Authority Response

6.3.1. KCC state that they have no further observations.

6.4. Observations

6.4.1. There are no observation recorded on the appeal file.

6.5. Further Responses

6.5.1. There are no further responses recorded on the appeal file.

7.0 Assessment

7.1.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Corner / Side Garden Site
- Traffic Impact
- Other Issues

7.2. Principle

7.2.1. Under the provisions of the Celbridge Local Area Plan 2017-2023 the site is wholly contained within an area zoned B: Existing Residential where the objective is *to protect and enhance the amenity of established residential communities and promote sustainable intensification*. I refer to Table 13.4 Land Use Zoning Matrix of the LAP where residential developments are considered a permissible use. Accordingly, the principle of the proposed dwelling house at this location is acceptable at this location.

7.3. Corner / Side Garden Site

7.3.1. I have considered the proposed scheme and I am satisfied that:

- The proposal in terms of size, elevational treatment, design, layout and relationship with the parent existing dwelling and immediately adjacent properties has been well considered. I am satisfied that the proposed scheme will not overwhelm or detract from the wider streetscape.
- Having regard to the design and location of the proposed dwelling I am satisfied that it will not impact significantly on the amenities of neighbouring residents by reasons of overlooking, overshadowing or loss of daylight.
- I am satisfied that the proposed dwelling meets the minimum accommodation standards for occupiers and the Development Plan standards for both the existing and proposed dwelling in terms of car parking and private open space.
- The proposed building line and set back is both appropriate and acceptable at this corner site.

7.3.2. As documented this is a compact serviced urban site. The proposed dwelling reflects the character of the area and is compatible in relation to design and scale with adjoining dwellings in terms of proportions, heights and materials and represents an appropriate and reasonably sympathetic design response to the sites context. The

private open space to serve the new dwelling is well considered without significant diminution of the amenity value of the principle dwelling. Further, as stated, the scheme will not result in any significant over shadowing of adjoining properties and will not result in an unreasonable loss of natural light to neighbouring residential properties.

- 7.3.3. Overall, I consider the sub-division of the existing house to provide an additional dwelling in this existing built up area to be acceptable. I am satisfied that the proposal complies with the requirements of the Development Plan and the LAP and that to permit same would not materially contravene the residential zoning objective for the site. It is recommended that permission be granted.

7.4. Traffic Impact

- 7.4.1. I note from the plans and details submitted that the existing house will be served by the existing vehicular entrance off Rowan Close and that the proposed new dwelling will be served separately by a new entrance off The Avenue to the north west. Site plans submitted refer. Given the urban location of the appeal site within an established residential neighbourhood I am satisfied that the vehicular movements generated by the proposed development would not have a material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements in the immediate area particularly taking into account the location and scale of the development.
- 7.4.2. Accordingly, I am satisfied that the proposed development provides for a safe means of access to and from the site which will not result in the creation of a traffic hazard and that the proposed development would function satisfactorily from a traffic point of view.

7.5. Appropriate Assessment

- 7.5.1. I refer to the KCC Appropriate Assessment Screening Report and Conclusion Statement on the appeal file. Having regard to the nature and scale of the proposed development comprising the construction of detached house in a side garden and its distance to the nearest European 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.

7.6. Other Issues

- 7.6.1. **Public Notice** - Concerns raised regarding the location of the public notices are noted. However it is not for An Bord Pleanála in this instance to determine whether the application was in breach of the Planning and Development Regulations.
- 7.6.2. **Precedent** – I note the concerns raised that permitting this scheme may result in the development of further similar schemes in the area. I do not consider that to permit this development would set undesirable precedent particularly as any application for a similar development would be considered and assessed on its own merits from first principles.
- 7.6.3. **Property Values** – The scheme before the Board is for a new dwelling house in the side garden of an existing house, within a serviced urban area where such developments are considered a permissible use and where it is reasonable to expect developments of this kind would normally be located. Therefore, the proposed scheme is not considered to be a bad neighbour in this context and I do not therefore consider that to permit this development would lead to a significant devaluation of property values in the vicinity. Accordingly, I am satisfied that this matter is not material to the consideration of this appeal.
- 7.6.4. **Development Contributions** – Kildare County Council has adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended) and is in place since 15th November 2015. The proposed development does not fall under the exemptions listed in the scheme and it is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

8.0 Recommendation

- 8.1. It is recommended that permission be **GRANTED** subject to the reasons and considerations set out below

9.0 Reasons and Considerations

9.1. Having regard to the site's location on serviced urban lands and the policy and objective provisions in the Celbridge Local Area Plan 2017-2023 in respect of residential development, the nature, scale and design of the proposed development, to the pattern of existing and permitted development in the area, 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 or of property in the vicinity and would be acceptable in terms of traffic and pedestrian safety. 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, 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 and boundary treatments 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. Water supply and drainage arrangements, including the attenuation and 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.

4. 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 adjoining property in the vicinity

5. 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

6. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

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 the 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

Mary Crowley

Senior Planning Inspector

2nd March 2020