



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307721-20

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<b>Development</b>	Construction of a single storey extension to the side and part single storey and part dormer extension to the rear.
<b>Location</b>	84 The Way, Craddockstown Park, Naas, Co Kildare
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	20/385
<b>Applicant(s)</b>	Paul and Barbara Crawford
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Eamonn and Valerie Curley Michael and Majella Carney
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	19 <sup>th</sup> November 2020
<b>Inspector</b>	Phillippa Joyce

## 1.0 Site Location and Description

- 1.1. The appeal site is located at No. 84 The Way, an established residential estate located c.1.2km to the southeast of Naas town centre. The estate comprises a mix of two storey semi-detached dwellings and detached dormer bungalows.
- 1.2. The appeal site is located towards the northern part of the estate, in close proximity to the main entrance with Craddockstown Road. The site accommodates a detached dormer bungalow, with a stated floor area of 127.39 sqm. The dwelling is gabled fronted in design with a principal depth of c.12.5m. Due to the design and orientation of the dwelling, the first floor accommodation is served by a combination of dormer window and rooflights in the side roof planes.
- 1.3. The dwelling is the middle property in a row of three similar properties. Adjacent to the northeast of the dwelling is No. 85 (c. 7m closest separation distance), and adjacent to the southwest is No. 83 (c. 4m separation distance). The three properties have the same roof profile featuring a dormer window and rooflights in the northeast side elevations and rooflights in the southwest side elevations.
- 1.4. The size of site is stated as 0.0401 hectares.

## 2.0 Proposed Development

- 2.1. The proposed development comprises a single storey extension to the northeastern side of the dwelling; a part single storey and part dormer extension to the rear; rooflights; internal and external elevational alterations to the existing dwelling, and all site works.
- 2.2. The extended floor area is stated as being 43.85 sqm and, at ground floor level, provides an additional bedroom and bathroom in the side extension, and additional kitchen and dining area to the rear. At first floor level, the additional floor area extends an existing bedroom space to the rear.
- 2.3. The northeastern side extension has an asymmetrical double-pitched roof profile with a principal height of 5.33m. The proposed side extension results in alterations to the roof profile whereby, on the northeastern side elevation the existing dormer window is to be relocated c. 1.2m in a southeasterly direction and the existing rooflight serving Bedroom 1 is to be removed and replaced with a new rooflight on

the southwestern side elevation. External finishes proposed are matching to those of the existing dwelling.

- 2.4. The proposed side extension is set back c.0.9m from the boundary wall with No. 85, and the dwelling remains served by an area of private open space to the rear of the site. There are no alterations to the existing boundaries or access arrangements to the property.

### **3.0 Planning Authority Decision**

#### **3.1. Summary of Decision**

On 3<sup>rd</sup> July 2020, the Planning Authority issued a Notification of Decision to Grant Permission subject to 9 no. conditions.

The conditions are standard in nature, relating to the single residential use of the dwelling, matching external finishes, water services infrastructure, measures to minimise construction impacts, and a development contribution.

### **4.0 Planning Authority Reports**

#### **4.1. Planning Report**

The planner's report is the basis for the Planning Authority decision. The report notes, inter alia:

- Relevant policy referred to is Section 17.4.8 *Extension to Dwellings* of the Kildare County Development Plan 2017-2023;
- The planner's report concludes that the proposal does not increase the existing level of overlooking of the adjoining properties No.s 83 or 85;
- An Appropriate Assessment screening report has been undertaken and a conclusion statement indicates there is no potential for significant effects on the Natura 2000 network.

#### 4.2. Other Technical Reports

Naas Municipal District: no objection subject to standard conditions relating to surface water services, public roads and construction activity.

Roads, Transportation and Public Safety Dept: no objection subject to standard conditions relating to surface water and car parking.

Water Services Section: no objection subject to standard conditions relating to surface water services.

Chief Fire Officer: no objection, no conditions recommended.

#### 4.3. Prescribed Bodies

Irish Water: no objection subject to standard condition for connection agreement, available capacity and required standards.

#### 4.4. Third Party Observations

Two third party observations were received by the Planning Authority from the adjacent property owners of No. 83 and No. 85, The Way objecting to the proposed development. The most significant issues raised include:

- A loss of privacy from a first floor bedroom of No. 83 due to the positioning and proximity of the proposed new rooflight in the southwest side elevation; and
- A loss of privacy from a ground floor living area window and overlooking of the rear garden area at No. 85 arising from the proposed relocated dormer window in the northeast side elevation.

#### 5.0 Planning History

Appeal Site:

No planning history.

No. 85, The Way (adjacent site to the northeast):

PA Ref. 08500010 – Permission granted on 22<sup>nd</sup> April 2008 for a dormer extension to the side and rear of house. This permission has been implemented. The side extension is to the northeast side of the subject house.

## 6.0 Policy Context

### 6.1. Development Plan

The site is located on lands zoned as 'B – Existing/ Infill Residential' in the *Naas Town Development Plan 2011-2017*, the objective for which is '*To protect and improve existing residential amenity, to provide for appropriate infill residential development and to provide for new and improved ancillary services*'. It is noted that this plan has expired.

The applicable development plan is the *Kildare County Development Plan 2017-2023*, which states (Section 1.4.3 *County Kildare Plans, Strategies and Studies*) it replaces the Town Plan until the preparation of a new local area plan.

**Section 4.11 Residential Development in Established Urban Areas** recognises the effectiveness of extensions in adapting existing properties to changing household needs. The policy guides that the design, scale and layout of extensions should have regard to the amenities of adjoining properties, particularly as regards overshadowing and privacy.

The section includes objectives in respect of sustainable residential development in established urban areas. Of relevance to the proposed development is:

**Objective SR03** '*Facilitate the extension of existing dwellings in accordance with the standards set out in Chapter 17 of this Plan.*'

From Chapter 17, applicable policy and standards are included in Section 17.2.4 and Section 17.4.8 as follows:

#### **17.2.4 Overlooking**

*'In general, a minimum distance of 22 metres between opposing above-ground floor level windows is required for habitable rooms. In cases of innovative design where overlooking into habitable rooms does not occur, this figure may be reduced....'*

#### **17.4.8 Extensions 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 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 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 extension should not provide for new overlooking of the private area of an adjacent residence where no such overlooking previously existed.*
- In an existing developed area, where a degree of overlooking is already present, the new extension must not significantly increase overlooking possibilities.*
- 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.’*

## **6.2. Natural Heritage Designations**

The appeal site is not located in or near to any European site.

## **7.0 The Appeal**

### **7.1. Grounds of Appeal**

Two third party appeals have been made on the case, one from each of the adjacent property owners.

#### **7.1.1. No. 83, The Way**

The following is a summary of the main issues raised in the grounds of appeal in respect of No. 83, adjacent property to the southwest of the appeal site:

- Objection raised to the insertion of a bedroom roof window in the southwest side elevation and the negative impacts arising;
- The proposed first floor roof window is located directly opposite and c. 6.6m apart from an existing bedroom window at first floor in No. 83 and will remove all privacy enjoyed by the appellant in that room;
- To a lesser extent, privacy will also be removed by the proposed roof window from the existing rear bedroom window which is c. 7.7m apart, and the rear garden area will be overlooked;
- Refers to noncompliance with policy on extensions and overlooking in the *Naas Town Development Plan 2011-2017* and in the *Kildare County Development Plan 2017-2023*;
- The planner's report does not reference and fails to consider that the proposed roof window is directly opposite the existing bedroom window.
- Photomontages are included indicating an outline of the proposed roof window as viewed from the existing bedroom window and the rear garden area;
- While there is an existing small rooflight on the southwestern roof elevation (this is considered to serve an office space), it should not be considered as a precedent for inserting the new roof window;
- The three adjacent properties were designed with all first floor windows looking north east and if the proposed roof window is granted it upsets the symmetry and will cause a loss of privacy to the residents of the three properties;
- The proposed development will cause a significant increase in overlooking of the property.

#### 7.1.2. No. 85, The Way

The following is a summary of the main issues raised in the grounds of appeal in respect of No. 85, adjacent property to the northeast of the appeal site:

- Objection raised to the relocated dormer window c.1.4m in a southeasterly direction along the roof plane and the negative impacts arising;
- The relocated dormer window causes overlooking into the existing single storey living area to the rear of the property and of the rear garden area;
- Images are included indicating the vision splays for the existing and proposed dormer windows into the living area and garden area;
- Photomontages are included indicating an outline of the relocated dormer window as viewed from the living area and rear garden;
- Refers to noncompliance with policy on extensions and overlooking in the *Naas Town Development Plan 2011-2017*;
- The proposed development will cause a significant increase in overlooking of the property;
- Suggests a revised design solution for the roof profile of the side extension from a double-pitch roof to a single asymmetrical pitch (image provided) thereby removing the requirement for the dormer window to be relocated;
- The planner's report appears to have incorrectly assumed that the window the appellants' expressed concern over in the original submission to the Planning Authority was a ground floor office window, as opposed to that of the living area now clearly identified by photos in the appeal documentation.

## 7.2. Applicant Response

The applicant's response to the grounds of appeal is summarised as follows:

- The applicant states that there is a pre-existing element of overlooking from the appeal site to both adjacent properties – of No. 83 from the small roof light on the southwestern side elevation (which is confirmed as serving a bedroom not an office space), and of No. 85 from the dormer window;
- Disagrees that the three properties were designed with all first floor bedroom windows looking north east;



- The applicant has submitted revised plans and elevations of the proposed development for the Board's consideration, date stamped 26<sup>th</sup> August 2020.
- On the southwestern side elevation facing No. 83, a smaller scaled, lower-positioned, top hung rooflight with obscure glazing is indicated.
- On the northeastern side elevation facing No. 85, the roof profile of the side extension has been redesigned with an asymmetrical pitched roof and the existing dormer window remaining (similar to the suggested redesign included in the third party appeal from that appellant). A new rooflight is proposed replacing the existing rooflight serving Bedroom 1, which had been required to be removed to allow for the construction of the proposed side extension.

### 7.3. **Planning Authority Response**

The Planning Authority has responded stating it has no further observations, refers to the planner's report which is considered to address all issues raised, and requests the Board uphold the decision.

No comment has been received on the revised drawings of the proposed development made by the applicant in response to the appeals.

### 7.4. **Observations**

None received.

### 7.5. **Further Responses**

Further responses have been made on the applicant's response, one from each of the adjacent property owners, the main points of which are:

- The concern remains from the owners of No. 83 in relation to overlooking caused due to the proposed first floor roof window in the southwestern side elevation;
- The applicant's proposed solution of a smaller, lower roof window with obscure glazing is not acceptable as, once open, the issues of overlooking, loss of privacy and devaluation of No. 83 continue to arise;

- The appellant (No. 83) suggests the roof profile of the proposed side extension be revised whereby the ridge of the roof be lowered so that the associated alterations at first floor level, in particular the requirement for the rooflight on the southwestern side elevation, would not be necessary.
- The appellant (No. 83) requests the Board remove the proposed roof light from the southwestern side elevation; and
- The appellant (No. 85) requests the Board condition the northeastern side elevation to be as indicated in the revised drawings submitted in the applicant's response, whereby the existing dormer window remains in place and is not relocated.

## 8.0 Assessment

I consider the main issue in determining this appeal is:

- Residential Amenity

### 8.1. Residential Amenity

- 8.1.1. The substantive issue cited in both of the third party appeals is the loss of residential amenity from their properties arising from the first floor alterations included in the proposed development. For No. 83, that is the overlooking of the existing rooflight window serving a bedroom, which is directly opposite and in quite close proximity to the proposed rooflight. For No. 85, that is the overlooking of the existing ground floor patio door and the rear garden space resulting from the proposed relocation of the existing dormer window.
- 8.1.2. I am of the opinion that the first floor alterations included in the proposed development and assessed by the Planning Authority would have a negative impact on and cause injury to the residential amenity currently enjoyed by the adjacent properties. As such, these alterations do not accord with the provisions of Objective SR03 in the *Kildare County Development Plan 2017-2023*.

- 8.1.3. In respect of No. 83, the insertion of a new rooflight is problematic due to it being generally opposite and in such close proximity to the existing rooflight that serves as the main window of a habitable bedroom space. I note that the revised plans for the southwestern side elevation submitted by the applicant indicate a slightly lower repositioned rooflight with obscure glazing however, I consider the insertion of any new rooflight generally at this position will unavoidably cause a loss of privacy of this habitable room and give rise to unacceptable overlooking opportunities. I consider the proposal to be an unsatisfactory arrangement both for the residents of the appeal site and those of No. 83. In the event of a grant of permission, I recommend that a condition be attached omitting a new rooflight in the southwestern side elevation.
- 8.1.4. In the revised plans submitted to the Board, the applicant proposes a new rooflight in the northeastern side elevation to serve Bedroom 1. I consider this alternative to be a satisfactory arrangement whereby the existing rooflight is straightforwardly replaced with a similar scaled rooflight in a similar position whereby Bedroom 1 continues to be served by a window which does not directly impact on any existing window or rooflight on the opposite side of No. 85.
- 8.1.5. In respect of No. 85, the relocation of the dormer window is similarly problematic due to it being positioned in closer proximity to and with views of the ground floor habitable accommodation and rear garden space. I note that the revised plans submitted by the applicant indicate a revised roof profile for the proposed side extension whereby the relocation of the dormer window is no longer necessary as an asymmetrical single-pitch roof is proposed. I consider the revised plans to be a satisfactory arrangement which addresses the basis for the loss of privacy and increased overlooking caused to No. 85.
- 8.1.6. While I note the suggested redesign of the proposed side extension included in the further response from the appellant (No. 83), I consider an additional reduction in the principal roof height of the side extension to not be wholly necessary or reasonable. The revised design allows the substantive elements of the proposed development to remain, including the ground floor side extension and the ground and first floor rear extension, whilst removing the necessity to impact unduly on the adjacent properties.

8.1.7. In summary, in the event of a grant of permission, I recommend a condition be attached requiring the proposed development be in accordance with the revised plans and particulars as lodged with the Board on the 26<sup>th</sup> August 2020 and a condition omitting the new rooflight in the southwestern side elevation serving Bedroom 1. I consider this to be an appropriate and reasonable solution safeguarding the residential amenities of the properties and the visual amenities of the area.

## 9.0 **Appropriate Assessment**

Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

## 10.0 **Recommendation**

I recommend that planning permission should be granted, subject to conditions as set out below.

## 11.0 **Reasons and Considerations**

Having regard to the nature, scale and design of the proposed development, to the general character and pattern of development in the area and to the provisions of the Kildare County Development Plan 2017-2023, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with Objective S03 of the Development Plan, would not seriously injure the residential or visual amenities of property in the vicinity and would not be out of character with the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 12.0 **Conditions**

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars received by An Bord Pleanála on the 26 <sup>th</sup> day of August
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	<p>2020 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2	<p>The proposed rooflight on the southwestern side elevation indicated as serving Bedroom 1 shall be omitted.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of the subject property and property in the vicinity.</p>
3	<p>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.</p> <p><b>Reason:</b> To restrict the use of the extension in the interest of residential amenity.</p>
4	<p>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.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
5	<p>Surface water drainage arrangements for the proposed development shall comply with the requirements of, and be agreed in writing prior to commencement with, the planning authority.</p> <p><b>Reason:</b> In the interest of public health.</p>
6	<p>The developer shall enter into water and/ or wastewater connection agreement(s) with Irish Water prior to commencement of development.</p> <p><b>Reason:</b> In the interest of public health.</p>
7	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, 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.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>

8	<p>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.</p> <p><b>Reason:</b> 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.</p>
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Phillippa Joyce  
Senior Planning Inspector

10<sup>th</sup> December 2020