



An  
Bord  
Pleanála

## Inspector's Report

### ABP-308292-20

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<b>Development</b>	For first floor extension to existing single storey dwelling. The extension will comprise of stairwell, two bedrooms, one en-suite bathroom, study room and hotpress
<b>Location</b>	63 Newtown Park, Leixlip, Co. Kildare, W23 D9E4
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	20/747
<b>Applicant(s)</b>	Paul & Martha Hegarty
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Louise & Eamonn Kieran
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	12 <sup>th</sup> November 2020
<b>Inspector</b>	Stephen Ward

## 1.0 Site Location and Description

- 1.1. The site is located approximately 700 metres north of Leixlip village centre, within a cul-de-sac of 9 houses that forms part of the larger Newtown Park residential estate.
- 1.2. The existing dwelling comprises a detached gable-fronted 3-bedroom bungalow. There is an existing garden, vehicular entrance and parking area to the front (south) of the site. To the north of the dwelling is a rear yard, which has a restricted depth of c. 4.6 metres.
- 1.3. The site is bounded to the east, west and north by similar detached properties comprising a mix of single storey and dormer house types. Similar to the subject site, many properties have significant site coverage and limited private amenity space.

## 2.0 Proposed Development

- 2.1. It is proposed to remove the roof of the existing single storey dwelling and to construct a new higher-pitched roof with dormer accommodation consisting of two bedrooms, a study room and associated spaces.
- 2.2. The drawings indicate that the roof ridge height will be increased by c. 1.3 metres, from c. 5.8 metres to 7.1 metres. It is stated that the existing dwelling has a gross floor area of 115 sq.m., and that the dormer space will have a floor area of 76 sq.m.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1 By order dated 2<sup>nd</sup> September 2020, Kildare County Council (KCC) issued notification of the decision to grant permission for the proposed development.

3.1.2 Notable conditions of the decision include the following:

- Condition 2 requires that the glazing in the first-floor bedroom window on the rear elevation shall be opaque or frosted glass, and that the proposed 'velux' windows serving the 2 bedrooms be omitted (in the interest of residential amenities).

- Condition 5 requires that the development shall remain as a single housing unit (to regulate the use of the development).

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The planner's report can be summarised as follows:

- No objection to the development in principle
- No objection to the height, scale and character of the development
- The proposed first floor window in the north elevation and some of the 'velux' windows would raise concerns of overlooking. Alterations are recommended to mitigate the concerns (as per condition no. 2 of the decision)
- A grant of permission is recommended in accordance with the terms of the notification of the decision.

#### 3.2.2. Other Technical Reports

- Chief Fire Officer: No objections
- Roads, Transportation and Public safety: No objection subject to conditions
- Water services: No objections subject to conditions
- Area Engineer: No objections subject to conditions

### 3.3. Prescribed Bodies

- Irish Water: No objections subject to conditions

### 3.4. Third Party Observations

One submission was received on behalf of Eamonn & Louise Kieran of 66 Newtown Park. In summary, the submission raises concerns as follows:

- Overbearing, overlooking and overshadowing of their property
- Contravention of the Development Plan zoning and standards
- Overdevelopment of the site and inadequate private open space

- Inadequate description of the development in public notices
- Request that KCC refuse permission.

## 4.0 Planning History

Apart from an invalid application (P.A. Ref. 20/705) relating to a similar development, there would not appear to be any recent relevant planning history for the site.

## 5.0 Policy Context

### 5.1. Local Policy

5.1.1 The operative Development Plan for the area is the Kildare County Development Plan 2017-2023. In Chapter 4 (Housing), policy SRO 3 aims to facilitate extensions to dwellings in accordance with the standards set out in Chapter 17. The relevant guidance in chapter 17 can be summarised as follows:

- 17.2.4 – In general, a minimum distance of 22 metres between opposing above-ground floor windows is required for habitable rooms
- 17.2.5 – Daylight/shadow studies may be required for development of significant height
- 17.4.5 – Minimum private open space for a 4-bed dwelling is 75 sq.m.
- 17.4.5 – Generally windows in the gable / side walls of dwellings will not be permitted where the window would overlook the curtilage of adjoining dwellings.
- 17.4.8 - Extensions to dwellings should ensure the protection of visual and residential amenities.

5.1.2 In accordance with the Leixlip Local Area Plan 2020-2023, the subject site is within an area zoned as 'B: Existing Residential / Infill', where the land use zoning objective is '*To protect and enhance the amenity of established residential communities and promote sustainable intensification*'.

## 5.2. **Natural Heritage Designations**

The site is not located within a designated Natura 2000 site. The nearest Natura 2000 site is the Rye Valley / Carton SAC (Site code 000206), which is located approximately 400 metres southwest of the site. The Rye Valley / Carton site is also designated as a Proposed Natural Heritage Area, as is Royal Canal site located approximately 400 metres to the north.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

The decision of KCC to grant permission has been appealed by Louise & Eamonn Kieran, 66 Newtown Park. The grounds of appeal can be summarised as follows:

- Conflict with the Development Plan standards and guidance on overlooking
- The measures included in condition no. 2 are not appropriate
- Overshadowing concern has not been given due consideration / assessment
- The private amenity space is not sufficient to serve the development.

### 6.2. **Applicant Response**

The applicants' response to the grounds of appeal can be summarised as follows:

- The proposal is the best and only option to meet growing family needs
- The requirements of condition no. 2 are accepted and will be implemented
- Overshadowing impacts will not be significant
- Adequate private amenity space exists to the front, side and rear of the house

### 6.3. **Planning Authority Response**

The submission notes the contents of the appeal, refers to the planner's report, and requests that the board uphold the decision to grant permission.

## 6.4. Observations

None.

## 7.0 Assessment

7.1 Having examined the application details and all other documentation on file, including all the submissions received in relation to the appeal, and having inspected the site and considered the relevant policies and guidance, I consider that the main issues in this appeal are as follows:

- The principle of the development
- Visual amenity
- Residential amenity
- Appropriate Assessment

### 7.2 Principle of the development

7.2.1 Having regard to the established use and the 'existing residential' zoning of the site, it is considered that a proposal to alter and extend the existing house is acceptable in principle.

7.2.2 Consistent with the zoning objective for the site, the policies and guidance within the Development Plan outline that the suitability of any such proposal is dependent upon the impact of the proposed development on visual and residential amenity.

### 7.3 Visual Amenity

7.3.1 It is proposed to replace the existing roof with a higher pitch to achieve an increased ridge height of approximately 1.3 metres. Large windows are proposed in the front and rear gables to serve the two new dormer bedrooms. A total of six rooflights are proposed in the new roof plane, four to the east and two to the west.

7.3.2 Having inspected the site, I note that the surrounding area is characterised by a mixture of house types, including dormer dwellings. I consider that the proposed alterations to the height and design of the dwelling are in keeping with the character of the area and accordingly there are no objections in terms of visual amenity.

## **7.4 Residential amenity**

- 7.4.1 Dealing firstly with the issue of private open space, I note that the appellant contends that the increased size of the house would constitute overdevelopment of the site. I acknowledge that an additional bedroom is proposed to provide a total of four, which would require 75 sq.m. private open space as per Development Plan standards. The area to the rear of the house is 55+ sq.m., while the area to the east side of the house is 30+ sq.m. There is, therefore, at least 85 sq.m. private open space behind the front building line, which I consider acceptable having regard to Development Plan standards; the absence of additional site coverage; and the pattern of development in the area.
- 7.4.2 I also note the concerns raised by the appellant regarding overshadowing. However, given the relatively small increase proposed to the ridge height (c. 1.3 metres), I do not consider that significant overshadowing concerns arise that would warrant further examination.
- 7.4.3 I consider that the issue of overlooking is key in the assessment of this appeal. Dealing firstly with properties to the north of the site, I consider that the proposed dormer bedroom window on the rear (north) elevation is unacceptable. At less than five metres from the rear site boundary, this window would directly overlook the private amenity space of the properties to the north (No.'s 66 and 67). Furthermore, it would obliquely oppose the existing dormer window to the rear (south) elevation of No. 66 at a separation distance of c. 11 metres, which is significantly less than the 22-metre standard.
- 7.4.4 Two new rooflight windows are proposed on the western roof plane. Given that these will not serve habitable rooms and are effectively above 'eye-level', I do not consider that overlooking concerns arise for the properties to the west.
- 7.4.5 Four new windows are proposed within the eastern roof plane, two of which would serve bedrooms. I consider that the rear bedroom roof window would directly overlook the rear private amenity space of house no. 64. The front bedroom roof window would also obliquely oppose an existing box-dormer window on the side (west) elevation of No. 64 at a separation of c. 8 metres. On this basis I consider that overlooking impacts on the property to the east would also be unacceptable.

- 7.4.6 The assessment and decision of KCC acknowledges these overlooking concerns but considers that, through the requirements of condition no. 2, the privacy and amenity of the surrounding properties will be protected.
- 7.4.7 Condition no. 2(a) proposes the use of opaque / frosted glass in the rear bedroom window. However, I consider this solution to be wholly inadequate. The requirement for an opening sash in this window would compromise any mitigating effects of the use of obscured glazing. Furthermore, and notwithstanding the applicants' acceptance of the condition, I would have concerns about the use of obscured glazing in this north-facing window and the associated limitations on the availability of adequate light to this space.
- 7.4.8 As outlined in section 7.4.5, I would concur with the aim of condition no. 2 (b) which proposes the omission of the two bedroom windows on the eastern roof plane. Accordingly, neither the eastern nor northern window in the rear bedroom is acceptable, and I do not consider that there is a viable solution on the western roof plane as similar overlooking concerns would arise in relation to property no. 62. In conclusion I consider that the proposed design requires substantial reconsideration in order to address these overlooking concerns, whilst also complying with the requirements of the building regulations. I do not consider it feasible or appropriate to address the matter by condition.

## **7.5 Appropriate Assessment**

Having regard to the nature and scale of the proposed development, comprising alterations to a dwelling within a built-up and serviced urban area, and the location of the site at a distance of approximately 400 metres from the nearest Natura 2000 sites, I conclude that no Appropriate Assessment issues arise as the proposed development would not 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 It is not proposed to alter the existing water services arrangements for the dwelling. I note that KCC and Irish Water have no objections subject to conditions, and I consider that no significant issues arise in this regard.



7.6.2 Similarly, the existing vehicular entrance and parking arrangements will remain. Given the limited scale of the proposed works I do not consider that there will be any significant impacts on terms of the safety and free flow of traffic.

## 8.0 Recommendation

Having regard to the above, it is recommended that permission be refused based on the following reasons and considerations.

## 9.0 Reasons and Considerations

Having regard to the restricted nature of the site and the proximity of the dwelling to the site boundaries, it is considered that windows serving the proposed dormer rooms would result in direct overlooking of the adjoining properties to the east and north of the site, and that, based on the proposed design and layout, there are no suitable alternatives to provide appropriate means of escape, ventilation and light. The proposed development would, accordingly, be seriously injurious to the residential amenity of adjoining properties and would be contrary to the proper planning and sustainable development of the area.

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Stephen Ward  
Senior Planning Inspector

16<sup>th</sup> November 2020