



An
Bord
Pleanála

Inspector's Report

ABP-308555-20

Development	Retention of window in the side wall of the house
Location	18 Castletown Lawn, Celbridge, Co. Kildare, W23 Y927
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	20904
Applicant(s)	Colm Egan
Type of Application	Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party
Appellant(s)	Sheila Lambe
Observer(s)	None
Date of Site Inspection	17 th December 2020
Inspector	Caryn Coogan

1.0 Site Location and Description

- 1.1. The site contains a detached dwelling, No. 18 Castletown Lawn, within a long estates residential estate in Celbridge. The building line of the dwellings within the Castletown Lawn is stepped which is relevant to the appeal.

2.0 Proposed Development

- 2.1. Retention for a ground floor side gable window in a detached dwelling. The window is 1450mm x1000mm.

3.0 Planning Authority Decision

3.1. Decision

Kildare Co. Co. granted permission for retention of the window subject to 2No. standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

It is not agreed the window causes undue impact on the residential amenity of the adjoining dwelling. It is not considered the window overlooks the adjoining property.

3.2.2. Other Technical Reports

No objections to the development from other departments

3.3. Third Party Observations

The neighbour (appellant) objected to the development on the grounds of loss of residential amenity, inaccurate drawings, reduction in development potential, devaluation, and unacceptable precedent.

4.0 Planning History

None

5.0 Policy Context

5.1. Development Plan

Celbridge Local Area Plan 2017-2023

The site and are is zoned B – Existing Residential/ Infill.

Kildare County development Plan 2017-2023

Chapter 4 – Housing

Chapter 17 – Development Management Standards

Natural Heritage Designations

The subject site is within a built-up part of Celbridge and there are no Natura 2000 sites within 10km.

EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, 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

It is unacceptable the planning authority can conclude that forming a window opening in a boundary wall of a dwelling which also comprises of a legal boundary to an adjoining property is acceptable. Kildare Co. Co. had little regard to the letter of objection submitted by the appellant. If the Board uphold the decision, the third party will have to consider alternatives to protect her privacy, amenity and potential devaluation of her property.

- **Loss of Residential Amenity**

The passage between No.s 18 and No. 19 is in the sole ownership of House No. 19 and the inclusion of a window represents an unwarranted intrusion on the residential amenity of Ms. Lambe. There has been a film applied to the glass of the window which has only marginally reduced the overlooking. It has not removed the feeling of being overlooked. Ms Lambe considers she has to be cautious when accessing her car, and unloading her car because of the window.

- **Inaccuracy of the submitted Drawings**

Houses 18 and 19 are two storeys in height. The floor plans submitted omits the staircase in both drawings. When Ms Lambe circulates in her house, she feels self-conscious over the potential of overlooking due to the opposing windows.

- **Reduction in Development Potential**

The location of the window will severely restrict the appellant's ability to extend her dwelling into the passage.

- Unacceptable planning precedent
- Devaluation of No. 19
- The window does not comply with Building Regulations.

6.2. Applicant Response

- **Loss of Residential Amenity**

The window is filled with opaque film to ensure no loss of privacy occurs. The window is located in the dining room of No. 18 where the occupants eat. They cannot see out through the window at any time and it does not overlook adjoining property. The window has been in place for years.

- **Inaccuracy of the drawings**

The stairs were intentionally omitted from the plan as they have no impact on the window. Ms Lambe cannot see into No. 18 through the window. There is no loss of privacy.

The future extension of her dwelling onto the passageway in her ownership is hypothetical and not need be addressed at this juncture.

It is not for the appellant to decide if the window is or is not an unacceptable precedent

Two auctioneers have indicated the window would not impact on the value of the appellant's property.

The applicant was unaware that the window was contrary to the planning acts at the time of installation a number of years ago, and set about correcting it when the irregularity was discovered.

6.3. Planning Authority Response

The planning authority had regard to the relevant policies and standards of the Kildare County Development Plan (2017-2023); the planning history of the site, the internal reports on file and the sustainable planning of the area.

7.0 Assessment

Castletown Lawn has an unusual layout with the dwellings detached and the gable fronted elevations. The relevant dwellings, No.s 18 and 19 Castletown Lawn have side passageways along their eastern elevations. This is relevant to the appeal, as the window which is the subject of this appeal has been inserted into the western elevation of No. 18 Castletown Lawn at ground level.

I viewed the subject window, internally and externally during my inspection. I noted the frosted film on the glass which protects the privacy of both parties. However, my concern is the perception of loss of privacy associated with the window. The window is position opposite an existing opposing window of No. 19 Castletown Lawn (appellant's dwelling) and this window is a hallway window. Additionally, the subject window overlooks, at eye level, the private curtilage of the appellant's passageway to the side of the dwelling.

Notwithstanding the provision of frosted glass, I consider the position of the subject window relative to the neighbouring property to be seriously injurious to the privacy and residential amenities of No. 19 Castletown Lawn. I consider the positioning of the window to be unnecessarily invasive and the frosted glass provides very little comfort to the perceived loss of privacy attributed to the appellant.

I concur with the appellants appeal statements that the window could compromise the future extension of her property and impact negatively on the devalue of same property as a result of the visual intrusion caused by the development.

I noted on the eastern elevation of No. 18 Castletown Lawn (the subject site) there is a doorway and windows onto the side curtilage which is owned by the applicant. This provides sufficient light into the subject room.

Appropriate Assessment

Having regard to the nature and scale of the proposed development, nature of the receiving environment and distances to the nearest European sites, I am satisfied that 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.

8.0 Recommendation

- 8.1. The planning authority's decision to grant planning permission for retention of the window should be overturned and refused for the following reason.

9.0 Reasons and Considerations

Having regard to the pattern of development in the area and the close proximity of the development relative to the neighbouring property, it is considered that the window, by reason of its location, design and proximity to the neighbouring house, would seriously injure the residential amenities and depreciate the value of adjoining properties by reason of visual obtrusion and loss of privacy. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Caryn Coogan
Planning Inspector

22/12/2020