



An
Bord
Pleanála

Inspector's Report

ABP-308899-20

Development	Retention of dormer roof window.
Location	39 The Avenue ,Newtown Manor, Kill, Co. Kildare, W91 Y672.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	201150
Applicant(s)	Mark and Deborah Wallace
Type of Application	Retention
Planning Authority Decision	Grant Retention
Type of Appeal	Third Party
Appellant(s)	Paul Brady
Observer(s)	None
Date of Site Inspection	22ns February, 2021
Inspector	Stephen Kay

1.0 Site Location and Description

- 1.1. The appeal site is located in an established residential development in the Newtown area of Kill, c.500 metres to the south of the centre of Kill village. The site is accessed via the local road that runs south from the village centre.
- 1.2. The residential development within which the appeal site is located is of relatively recent construction and the unit which comprises the appeal site is a mid-terrace two storey unit. To the rear (east) the terrace in which the appeal site is situated is bounded by the gardens of three detached houses on large sites. These properties front the local road to the east.
- 1.3. The stated area of the appeal site is 0.019 ha. and the stated floor area of the existing house on the site is 107 sq. metres.

2.0 Proposed Development

- 2.1. The development which is the subject of appeal comprises works undertaken at roof / attic level to the mid terraced house on the appeal site. The application seeks the retention of development which is described in the public notices as '*dormer roof window in rear slope of roof at attic level and 3.2 sq. metre of attic floor area.*' From the submitted drawings, it is apparent that the 3.2 sq. metres of floor area is based on the extent of additional attic accommodation created on foot of the dormer window being constructed in the roof slope. Based on the submitted drawings, the floor area of the accommodation at attic level on the appeal site is c.25.5 sq. metres and access to this accommodation is via a staircase.
- 2.2. The dormer window as constructed runs from a level just below the roof apex height and extends approximately 3.6 metres to the rear. The roof of the dormer has a very slight fall with a gutter and downpipe on the rear side. Externally, the dormer has a width of 3.5 metres, and it is set back from the boundary with the adjoining properties on either side by c.1.0 metre. The window has a width of c.1.5 metres in width by 1.15 metres in height.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Grant retention permission subject to 5 no. conditions, the most significant of which are considered to be as follows:

- Condition No.2 requires that the attic accommodation served by the dormer window shall be used for storage purposes only and shall not be used for any human habitation.
- Condition No.3 requires that the attic space and the existing house shall be occupied as a single housing unit.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer notes the nature of the development for which retention is sought, the objection on file and the internal reports received. Concluded that the separation distance between the dormer as constructed and the adjoining properties to the south is such that no significant loss of amenity would arise subject to the accommodation being used solely for non habitable accommodation. A grant of permission consistent with the notification of decision which issued is recommended.

3.2.2. Other Technical Reports

Water Services – No objection subject to conditions.

Roads and Transportation – No objection.

3.3. Prescribed Bodies

Irish Water – No objections.

3.4. Third Party Observations

Objection received by the planning authority from party who has lodged third party appeal with the Board. Main issues raised can be summarised as:

- Overlooking and loss of amenity,
- Fact that there are seven other properties in the same terrace that could undertake the same form of development if a precedent is established by this proposal.

4.0 Planning History

The following planning history that incorporate changes to roof profile / attic conversions to houses in the vicinity of the appeal site is referenced in the report of the Planning Officer:

- Kildare County Council Ref. 10/1199 – Permission granted at No.3 and 4 the View (to the south west of the appeal site within the same overall development) for development including the change of roof profile from hipped to gable ended and for non habitable accommodation / extensions to the roof.
- Kildare County Council Ref. 17/623 – Permission granted by the planning authority at No.10 the View (to the south west of the appeal site within the same overall development) for the conversion of existing attic space to office / playroom / storage accommodation with change in roof profile from hipped to gable and new dormer window to the rear.
- Kildare County Council Ref.17/1229 - Permission granted by the planning authority at No.27 the View (to the south west of the appeal site within the same overall development) for the conversion of existing attic space to office / playroom / storage accommodation with change in roof profile from hipped to gable and new dormer window to the rear.
- Kildare County Council Ref. 18/802 - Permission granted by the planning authority at No.41 the View (to the south west of the appeal site within the same overall development) for the conversion of existing attic space to office /

playroom / storage accommodation with change in roof profile from hipped to gable and new dormer window to the rear.

The following applications relating to the property of the third party appellant to the immediate east of the appeal site are noted:

- Kildare County Council Ref. 12/717 – Permission granted by the Planning authority for the construction of a double domestic garage with attic/loft storage area to replace the existing flat roof sheds located in the rear garden, along with all associated site development and facilitating works. The position of this structure is approximately as per the structure to the rear of the appellants house as indicated on the OS maps. Condition No.2 attached to this permission requires that the overall site shall be used as domestic related purposes only and that the garage '*shall not be used as habitable accommodation or as a family flat*'. Condition No.3 required the submission of revised proposals reducing the garage to a single storey structure not exceeding 5 metres in height.
- Kildare County Council Ref. 14/811 – Permission granted by the Planning authority for a new single storey kitchen and bedroom extension to side and rear of an existing single storey house, and minor changes to the existing elevations, including re-roofing in slate.

The following relates to the house immediately to the north of the third party appellants property:

- An Bord Pleanála Ref. ABP-303807-19 – Declaration issued that works to an existing turf shed which is located to the rear comprising the physical alteration of its three external walls, the erection of one internal wall and the installation of a garage door and surrounding apron at "The Bungalow", Newtown, Kill, County Kildare is development and is not exempted development.

5.0 Policy Context

5.1. Development Plan

The appeal site is located on lands that are zoned Objective B (Existing Residential) under the provisions of the Kill Development Plan with the stated objective '*to protect and improve existing residential amenity, to provide for appropriate infill residential development and to provide for new and improved ancillary services*'.

Paragraph 17.4.8 of the Kildare County development Plan, 2017-2023 relates to extensions to dwellings and sets out a number of principles that are to be applied in the assessment of proposals for such developments. These include the following:

- *The extension should not provide for new overlooking of 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.*

5.2. Natural Heritage Designations

The site is not located within or close to any European site.

5.3. EIA Screening

Having regard to the nature and limited scale of the development 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

The following is a summary of the main issues raised in the third party grounds of appeal:

- That the dormer results in a loss of privacy to the appellants property to the east of the appeal site.
- That the appellant planted a hedge at the rear of his garden to screen the two storey houses in the terrace containing the appeal site but that this dormer is above the level of the screen planting and overlooks his garden.
- If permitted, the development would lead to the overlooking of the garden of his property.
- That there is a concern regarding precedent created by permitting this development as there are two terraces of 4 no. houses that back onto the appellants property. These houses could undertake the same form of development.
- That the dormer is fitted with clear glass which is not necessary for a storage area and it is considered that a rooflight would have been adequate to serve a storage area.
- That the appellant has renovated his property in recent years and complied with all planning requirements.

6.2. Applicant Response

There is no record of any response from the first party to the grounds of appeal.

6.3. Planning Authority Response

Response received from the Planning Authority stating that it has no further comment or observations to make.

7.0 Assessment

7.1. The following are considered to be the main issue in the assessment of this appeal:

- Principle of Development and Zoning
- Impact on Amenity
- Other Issues
- Appropriate Assessment

7.2. Principle of Development and Zoning

7.2.1. The appeal site is located on lands that are zoned Objective B (Existing Residential) under the provisions of the Kill Development Plan with the stated objective '*to protect and improve existing residential amenity, to provide for appropriate infill residential development and to provide for new and improved ancillary services*'. The house on the appeal site is existing and any extension would be consistent with the zoning objective provided that it does not have a significant negative impact on the residential amenity of properties in the vicinity.

7.3. Impact on Amenity

7.3.1. The third party appellant contends that the dormer window as constructed has the effect of overlooking his property which is located to the rear (east) of the appeal site. The need for the dormer is questioned given the fact that it serves storage rather than habitable space, and the precedent that would be created by a grant of permission is highlighted.

7.3.2. Firstly, the fact that the attic accommodation is stated to be for storage purposes only is noted and it could be questioned why the dormer is required for this purpose. In the circumstances of this case where the application is for the retention of the dormer as constructed, the primary issue is the impact that the structure as constructed has on the residential amenities of surrounding properties and on the visual amenity of the area.

- 7.3.3. By virtue of the fact that the dormer as constructed does not extend above the ridge line of the roof, there is no impact on the appearance of the house on the appeal site when viewed from the street to the west. A set back of c.1 metres between the dormer and the the boundary with adjoining properties in the terrace has been provided which I consider adequate to protect the amenity of the adjoining properties.
- 7.3.4. When viewed from the rear, the dormer is not especially large in scale measuring c.3.5 metres externally in width and having a window that measures c.1.5 metres in width by c.1.2 metres in height. While the dormer as constructed is visible above the hedge line that has been planted at the rear of the appellants property, I do not consider that the form, design or scale of the dormer as constructed is such that it is significantly visually incongruous when viewed from the properties to the east, and specifically from the appellant's property.
- 7.3.5. With regard to overlooking, the appellant contends that the dormer as constructed results in significant overlooking of his property and a loss of amenity. I note the fact that the planting at the rear of the appellant's property where it bounds the appeal site is such that the first floor windows of the terrace of which the appeal site forms part do not overlook his property. The dormer as constructed changes this situation, is clearly visible from within the rear garden of the appellant's property and is therefore such that it could be considered to have a material impact on residential amenity.
- 7.3.6. However, there are in my opinion a number of factors which mitigate the impact of the dormer as constructed on the residential amenity of the appellant and the residents of other adjoining properties to the east of the appeal site. Firstly, the dormer serves an area that is proposed and permitted for storage use only and not for habitable accommodation. The impact of the development is assessed on this basis and therefore, in the event of a grant of permission, it is recommended that a condition limiting the use of the attic accommodation served by the dormer to non habitable accommodation would be attached. Given this permitted use of the attic accommodation, the Board may also wish to consider a condition that requires that the glazing to the dormer would be fitted with obscure glazing.

- 7.3.7. It is also noted that the separation distances between the constructed dormer and the rear of the house on the appellant's property is significant at c.75 metres and such that no significant issues of overlooking of the appellant's dwelling are considered to arise. The rear garden area on the appellants property is characterised by a single storey building which was permitted under Kildare County Council ref. 12/717 as a shed / garage. The presence of this structure has the effect of screening part of the rear garden from any views that may be available from the dormer.
- 7.3.8. Overall, having regard to the storage use of the attic accommodation which is served by the dormer, to the significant separation distance between the constructed dormer and the properties to the east including that of the appellant, and to the large gardens serving these properties I consider that the dormer as constructed is consistent with the requirements of Paragraph 17.4.8 of the *Kildare County Development Plan, 2017-2023* as it relates to extensions and the protection of residential amenity and such that it is consistent with the existing residential zoning of the site.

7.4. **Other Issues**

- 7.4.1. I note the reference made by the appellant to the potential for the dormer the subject of this appeal to create a precedent for other similar forms of development in the terraces to the rear (west). Any such proposals for future development would have to be assessed on their individual merits having regard to their particular relationship with surrounding properties, design, and scale.

7.5. **Appropriate Assessment**

- 7.5.1. 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.

8.0 Recommendation

8.1. Having regard to the above, it is recommended that permission be granted based on the following reasons and considerations and subject to the attached conditions.

8.2.

9.0 Reasons and Considerations

Having regard to the residential zoning objective for the area and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the development for which retention permission is sought would not seriously injure the visual or residential amenities of the area or of property in the vicinity. The development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be retained 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. (a) The attic accommodation served by the permitted dormer extension shall be used for storage purposes only and shall not be used as habitable accommodation save with a prior grant of planning permission.

(a) The window in the permitted dormer shall be glazed with obscure glass.

Reason: In the interests of clarity and to protect the residential amenities of surrounding properties.

3. Water supply and drainage arrangements, including the 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 developer shall pay to the planning authority a financial contribution of €160 (one hundred and sixty euro) 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. The application of any indexation required by this condition 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.

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.

Stephen Kay
Planning Inspector

2nd March 2021