



An
Bord
Pleanála

Inspector's Report ABP-309482-21.

Development	Single storey side extension to dwelling for use as domestic store.
Location	9 Willow View, Primrose Gate, Celbridge, Co. Kildare.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	201419.
Applicant(s)	Conor O Gorman.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant(s)	Donal Buckley.
Observer(s)	None.
Date of Site Inspection	7 th May 2021.
Inspector	Karen Kenny.

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	3
3.3. Other Technical Reports	3
3.4. Prescribed Bodies	4
3.5. Third Party Observations	4
4.0 Planning History.....	4
5.0 Policy Context.....	4
5.1. Natural Heritage Designations	4
6.0 The Appeal	5
6.1. Grounds of Appeal	5
7.0 Planning Authority Response.....	6
8.0 Observations.....	6
9.0 Assessment.....	6
10.0 Appropriate Assessment	8
11.0 EIA Screening	4
12.0 Recommendation	9
13.0 Reasons and Considerations	9
14.0 Conditions	9

1.0 Site Location and Description

- 1.1. The appeal site is located in Willow View, Primrose Gate, Celbridge, Co. Kildare. The housing estate was constructed in the mid 2000's and contains a mix of detached, semi-detached and terrace houses and duplex / apartment blocks. The appeal site (0.035 ha) contains a detached 'L' shaped two storey corner house. There are open car parking spaces to the north and west of the dwelling.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a single storey extension on the western side of the existing dwelling. The proposed development has a stated floor area of 12 sq.m and the stated use is as a domestic store. The extension would be accessed from the front and rear gardens of the property. The extension has a lean-to roof that slopes down toward the western property boundary and double doors to the front.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Grant Permission subject to 9 no. conditions. The conditions a standard in nature.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer's Report considers issues relating to the principle of development, layout and design, residential amenity, overshadowing, private open space, car parking and water services.

3.3. Other Technical Reports

Transport Section: Further information requested in relation to car parking.

Area Engineer: No objection.

Water Services: No objection.

3.4. **Prescribed Bodies**

Irish Water: No objection.

3.5. **Third Party Observations**

A submission was received from one third party. The issues outlined relate to the impact on parking and precedent.

4.0 **Planning History**

4.1.1. None.

5.0 **Policy Context**

The Kildare County Development Plan 2017-2023 and the Celbridge Local Area Plan 2017-2023 are the relevant statutory plans. The site is zoned B 'existing residential/infill' with an objective 'to protect and enhance the amenity of established residential communities and promote sustainable intensification'. Section 17.4.8 of the CDP states the following in respect of extensions to dwellings:

- 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.

5.1. **Natural Heritage Designations**

None.

5.2. **EIA Screening**

Having regard to the nature and scale of the proposed development of housing on zoned and serviced land and the nature of the receiving environment, 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

A third party appeal has been received from the owner and occupier of an adjoining property that abuts the site in respect of the decision of the Planning Authority to grant permission. The grounds of appeal can be summarised as follows:

- Boundary shown on the planning drawings is disputed. Areas to the front of dwellings have concrete driveways. A line of stone set into the ground is generally understood to mark the boundaries.
- Submitted photograph shows the stone marker to the west of the applicant's side gate. The line of stones is offset from the centre line of the boundary wall between the back gardens of 9 Willow View (appeal site) and 9 Willow Drive (appeallants property).
- There is a wide driveway to the side of the appeallants property. The drive is wide enough for one car and is not intended to form a driveway for the applicant's house. The driveway serving the applicants house is accessed off Willow View not Willow Drive and accommodates two cars.
- Points made by applicant regarding the registration of the property are noted. It is not accepted that the property line as registered sets out the boundaries to the property. The registration was unilateral.
- Establishing the correct property line is a legal matter rather than a planning or architectural matter but is a critical matter that requires clarification to the satisfaction of both property owners before construction work in the disputed area.
- The proposed development will reduce the width of the appellants driveway from 4.37 m to 3.2 m. This space has been used continuously and exclusively since 1st July 2005.

- The increased enclosure of the parking area by the proposed extension and reduced width raises concerns for the appellant. Driveway is wide enough to allow for access to the back garden with a car parked, for safe manoeuvring of a vehicle and potential use as a wheelchair accessible space.
- It is understood that should the appellants understanding of the boundary line be proven to be incorrect the associated driveway is likely to be reduced and the boundary treatment altered. In this case the appellants preference is for the retention of open space to the side of his driveway. Open space between the two houses would complement both properties and the overall streetscape while maintaining good sightlines from the appellants driveway.
- The applicant is concerned in relation to possible errors in setting out the boundary and suggests that this could be addressed by a condition requiring a written boundary agreement between the owners before commencement of construction.
- Reference to Section 34(13) of the Planning and Development Act and to the fact that a person shall not be entitled solely by reason of a permission under this section of the Act to carry out any development.

7.0 Planning Authority Response

The PA is of the opinion that the issue of land ownership is not a planning issue. The planning application process is not the correct forum to establish ownership.

8.0 Observations

None.

9.0 Assessment

- 9.1.1. The subject appeal relates to a single storey extension of 12 sq.m on the western side of a detached dwelling. The proposed extension is rectangular in shape with lean-to roof over. It is accessed from the front of the house and from the rear garden and would have no internal connection to the main house. The stated use of the

extension is as a domestic store. The main issues raised in the third party appeal relate to ownership, loss of amenity and impact on a car parking space.

9.1.2. Ownership

The appellant disputes the ownership of a section of the site at the front stating that this is part of a driveway associated with his property. Correspondence on the file from the applicants agent states that the site boundary is in line with the registered boundary of the property. The appellant notes that the area in question is within the registered property of no. 9 Willow View but disputes the property line registered stating that it was registered without notice to him. The appellant states that he has been using the driveway to the west of the french drain, detailed in a photograph submitted with the appeal, as a parking area for 16 years. I am satisfied that the applicant has demonstrated sufficient legal interest for the purposes of making a planning application and that the matters raised by the appellant are legal matters and not a matter for the Board to determine. The Development Management Guidelines (Section 5.13) state that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land and that these are ultimately matters for resolution in the Courts. In this regard, I would note that section 34(13) of the Planning Act states that a person is not entitled solely by reason of a permission to carry out any development. The guidelines recommend that where appropriate an advisory note to this effect should be added at the end of the planning decision. I would recommend in the event that permission is granted that a note to this effect is included in the decision in the interest of clarity.

9.2. Loss of Amenity

The grounds of appeal state that it is the appellants preference is for the retention of open space to the side of his driveway arguing that this would complement both properties and the overall streetscape. The proposal to extend an existing dwelling is supported under Section 17.4.8 of the County Development Plan subject to certain criteria being met. The proposed development by reason of its modest scale and design is in keeping with the character of the existing dwelling and meets the requirements for extensions detailed in Section 17.4.8 of the Kildare County Development Plan. This includes a requirement to be sensitive to the existing dwelling in its form, scale and appearance and a requirement to complement the

area and to have regard to adjoining properties. I am also satisfied having regard to the single storey nature of the proposed extension that it would not have undue impacts on the amenity of adjacent properties by reason of overlooking or overshadowing. On this basis I consider that the proposal to extend to the west of the existing dwelling is acceptable.

9.3. Car Parking

The appellant notes that he has a single car parking space to the side of his dwelling and raises concerns in relation to the impact of the proposed extension on that car space due to its reduced width and reduced sightlines. The Report of the PA's Transport Section also sought further information in relation to the loss of car parking. There are 2 no. existing car parking spaces serving no. 9 Willow View and 1 no. space serving no. 9 Willow Drive. These are to be retained so there is no loss of car parking. An area of 3.2 metres in width is to be retained to the side of no. 9 Willow Drive the appellants property. This space meets and exceeds the minimum car parking space width of 2.5 metres detailed in the Development Plan and in DMURS. In relation to sight lines, the proposed extension is set behind the building line of the main dwelling and there is a planting verge between the driveways and the public footpath which provides a buffer between cars and pedestrians. I am satisfied, therefore, that sightlines would not be significantly altered as a result of the proposed development.

9.3.1. Other

I am satisfied that the development standards of the Development Plan with regard to open space are met and exceeded.

10.0 **Appropriate Assessment**

10.1.1. Having regard to the nature and scale of development proposed and to the nature of the receiving environment, in particular its location in a serviced urban area, 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.

11.0 Recommendation

11.1. I recommend that permission is granted subject to the conditions set out below.

12.0 Reasons and Considerations

12.1.1. Having regard to the pattern of existing development in the area, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity and would not conflict with the objectives of the Kildare County Development Plan or the Celbridge Local Area Plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

13.0 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. The external finishes of the proposed extension shall be the same as those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity.

3. 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.

Reason. To restrict the use of the extension in the interest of residential amenity.

4. 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.

5. 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.

Reason: In order to safeguard the residential amenities of property in the vicinity.

6. All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of works.

Reason: To protect the amenities of the area.

Note: The applicant is advised that Section 34(13) of the Planning and Development Act 2000 (as amended) states that 'a person shall not be entitled solely by reason of a permission under this section to carry out any development'.

Karen Kenny,
Senior Planning Inspector

9th May 2021