



An
Bord
Pleanála

Inspector's Report

ABP-310596-21

Development	First floor extension to single storey dwelling.
Location	63 Newtown Park, Leixlip, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	21128
Applicant(s)	Paul & Martha Hegarty
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Louise & Eamonn Kieran
Observer(s)	None
Date of Site Inspection	31st August 2021
Inspector	Fergal Ó Bric.

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 houses that forms part of the larger Newtown Park residential development.
- 1.2. The existing dwelling within the appeal site comprises a detached gable-fronted 3-bedroom bungalow. There is a garden, vehicular entrance, and parking area to the front (south) of the site. To the north (rear) of the dwelling is a yard area comprising a garden shed, decking area and hard surface area with a restricted depth of approximately 4.6 metres.
- 1.3. The site is bound to the east, west and north by detached properties comprising a mix of single storey and dormer house types. To the south of the appeal site is the internal service road. Many of the properties within Newtown Park 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 a bedroom, bathroom, a study room, hot-press and storage area.
- 2.2. The drawings indicate that the roof ridge height will be increased by approximately 2 metres, from 5.1 metres to 7.16 metres. It is stated that the existing dwelling has a gross floor area of 115 square metres (sq. m.) and that the dormer space will provide for a floor area of 76 sq. m.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1 By order dated 27th day of May 2021, 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 3 requires that the development shall remain as a single housing unit (to regulate the use of the development).
- Condition 6: That no plant or building materials are used or stored on the public road.

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
- Further information was submitted in relation to clarifying the ridge height of the existing dwelling on the appeal site and the submission of a sunlight/daylight/shadow assessment
- The first-floor window in the north (rear) elevation proposed under Board reference number 308292 has been omitted under the current proposals. Therefore, overlooking of the appellants property to the north of the appeal site no longer arises.
- A grant of permission is recommended in accordance with the terms of the notification of the decision.

3.2.2. Other Technical Reports

- Roads Department: 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 observation was received on behalf of Eamonn & Louise Kieran of 66 Newtown Park, located immediately north of the appeal site. The issues raised within the observation are similar to those raised within the third-party appeal submission.

4.0 **Planning History**

Planning Authority reference number 20/747, in 2020 planning permission was granted by Kildare County Council (KCC) for a first-floor extension to the dwelling comprising two bedrooms, a bathroom, study and hot-press. In 2020, this decision was overturned by An Bord Pleanála under reference number 308292-20 in 2020 for one reason as follows:

Reason: 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. 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.

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 development management 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 amenity 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:

- Development would present an overbearing aspect in close proximity to the party boundary.
- Proposals would be contrary to Sections 17.2.1 regarding building height and Section 17.4.8 regarding protecting visual and residential amenities of the Development Plan.
- The rear garden amenity space of the appellants would be adversely impacted upon by reason of over shadowing and overbearance.
- Alternative design solutions, including hiping of the rear elevation would reduce the impact upon the appellants property.

6.2. Applicant Response

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

- The decision of the Planning Authority was based on the revised amended drawings showing the correct ridge height of the existing dwelling.
- The ridge height incorporating the first-floor proposals remains at 7.15 metres, the same as previously proposed under Board reference number 308292. Within that planning decision, the Planning Inspector stated that the design and height of the dwelling was in keeping with the character of the area and accordingly there were no objections in terms of visual amenity.
- The area of the rear gable will not double as stated by the appellants. The design accords with Development Plan standards and is consistent with the design of neighbouring properties in the area.
- The current proposals have been prepared taking on board the issues raised under Board reference number 308292-20 in terms of overlooking.
- The current proposal is the best and only option available to meet the applicants' growing family needs.
- No increase in footprint is proposed, the development would not be located any closer to the site boundaries than the existing dwelling on site.
- The height proposed is consistent with the design and height of neighbouring dwellings.
- Overshadowing impacts will not be significant as demonstrated within the shadow/daylight and sunlight assessment submitted as part of the planning documentation.
- 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 Planning Authority decision to grant planning permission.

6.4. **Observations**

None.

7.0 **Assessment**

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

- Principle of development
- Design and Layout
- Residential Amenity
- Other Issues
- Appropriate Assessment

7.2 **Principle of development**

7.2.1 Having regard to the established use on site 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 **Design and Layout**

7.3.1 It is proposed to replace the existing roof with a higher pitch roof to achieve an increased ridge height of approximately two metres. A large window is proposed in the front gable to serve a new first floor bedroom facing onto the internal cul-de-sac road. A total of five rooflights are proposed in the new roof plane, two to the east and

three to the west. The rooflights would provide illumination of ensuite/bathroom areas, a study, landing and stairwell areas, all non-habitable spaces.

7.3.2 The design of the current proposal has been modified in order to address the issues raised by the Board in its decision under reference number 308292-20. The first-floor rear gable end window has been removed and the bedroom space to the rear at first floor level omitted in order to address the issue of overlooking of neighbouring residential properties to the north and east.

7.3.3 In the current proposals, there is one first floor bedroom proposed with a first-floor gable end window facing south overlooking the internal service road. There remains five rooflights within the side roof pitches, all serving non-habitable spaces. The revised design and internal first floor layout represents a design improvement in terms of addressing the Boards previous reason for refusal regarding adversely impacting upon neighbouring residential amenities by reason of overlooking. However, this specific matter will be addressed in greater detail in Section 7.4 below.

7.3.4 Having regard to the contiguous elevations submitted as part of the planning documentation and from my site inspection, 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 its design and layout.

7.4 Residential Amenity

7.4.1 In terms of private open space, I note that the appellants contend 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 bedrooms, which would require 75 sq. m. of private open space as per Development Plan standards. The area to the rear of the house is approximately 55 square metres (sq. m.), while the area to the east side of the house is approximately 30 sq. m. Therefore, there is at least 85 sq. m of private open space behind the front building line, which I consider acceptable having regard to Development Plan standards; The proposed first floor extension would not reduce this area of private open space, as the footprint of the dwelling will not increase under the current proposals.

- 7.4.2 Section 17.2.5 of the Kildare Development Plan sets out the following in relation to overshadowing. “Where development of a significant height is located close to existing development, the planning authority may require daylight and shadow projection diagrams to be submitted. The recommendations of *Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice* (BRE 1991) or *Lighting for Buildings Part 2 1992: Code of Practice for Day Lighting* B.S. 8206 and any updates to these documents should be followed as a minimum in this regard”.
- 7.4.3 A shadow/sunlight/daylight assessment was submitted as part of the planning documentation. It concluded that the development would not adversely impact upon the daylight/sunlight received within the property immediately north of the appeal site and that the proposals would accord with the standards set out within BRE 209 and BS8206 in terms of a minimum of 2 hours of sunlight/daylight would be received in the rear amenity spaces of the neighbouring residential properties to the north of the appeal site on the 21st day of March and therefore comply with the requirements of the BRE Guidelines. I would concur with the findings of the sunlight/daylight assessment.
- 7.4.4 Given the relatively modest increase proposed to the ridge height (c. 2 metres), and the fact that the roof is pitched, I do not consider that significant overshadowing concerns arise that would warrant a reason for refusal. I am satisfied that due to separation distance of approximately 11 metres between the nearest part of the proposed development and the rear building line of the appellants property to the north of the appeal site, that the proposed development would not have an excessive overshadowing impact upon neighbouring residential properties or their associated amenity spaces. Therefore, I consider the potential impact to be acceptable. I am satisfied that the residential property to the rear (north) of the site would not be adversely impacted upon by reason of overshadowing.
- 7.4.5 I consider that the issue of overlooking is important in the assessment of this appeal. Dealing firstly with properties to the north of the site. Under the current proposals the first-floor rear gable window has been omitted. I am therefore, satisfied that with the current design proposals, there would be no direct overlooking of the appellants’ property to the north of the appeal site.

7.4.6 Five new rooflights are proposed within the roof planes. Given that these rooflights will not serve habitable rooms and are effectively above 'eye-level', I do not consider that overlooking of neighbouring properties arises.

7.4.7 In conclusion, I consider that the current design addresses the previous reason for refusal issued by the Board under 308292, in terms of overlooking of the neighbouring residential properties to the north and east with the omission of the first-floor rear gable window and given the rooflights would serve non habitable spaces. I am satisfied that the residential amenity of the neighbouring properties would not be adversely impacted upon with the development of the current proposals and would accord with the underlying residential zoning objective, the policies and objectives of the Development Plan and with the proper planning and sustainable development of the area.

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

Depreciation of Property Values:

7.6.1 This issue was also raised in the appeal observations. The appellant contends that depreciation of property values is not a material planning consideration and that there is no evidence that attic conversions would result in a loss in neighboring property values.

7.6.2 In the absence of any substantive evidence to the contrary presented in this case, I do not consider that this ground of appeal should be upheld.

8.0 Recommendation

It is recommended that planning permission be granted.

9.0 Reasons and Considerations

9.1. Having regard to the design, scale and height of the development, the existing building on site and the pattern of development within the area, it is considered that the development would not adversely impact on the residential amenities of neighbouring properties by reason of adverse overlooking or overshadowing. The development proposals are in accordance with the underlying land use zoning objective pertaining to the site and with the policies and objectives of the current Kildare County Development Plan in relation to extensions and alterations. The development is therefore, in accordance with the proper planning and sustainable development of the area.

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 8th day of February 2021 as amended by the further plans and particulars submitted to the Planning Authority on the 20th day of April 2021, 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 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 and to ensure a proper standard of development.

- 3 Construction and demolition waste shall be managed in accordance with a construction traffic, waste, and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management

Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

- 4 Site development and building works shall be carried out only between the hours of 0700 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.

Noise levels during construction shall not exceed 65 dB (A), Leq. 30 minutes and the peak noise shall not exceed 75dB (A), when measured at any point off site.

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

- 5 Prior to the commencement of development, precise details of the external finishes of the proposed extension shall be agreed in writing with the Planning Authority.

Reason: In the interest of visual amenity.

- 6 The converted attic space, except for the front (south) facing bedroom shall be used for storage purposes only and shall not be used for human habitation, or any other purpose without the benefit of planning permission. as non-habitable

Reason: In order to safeguard the amenities of property in the vicinity and in the interest of proper planning and sustainable development.

- 7 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.

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

Fergal Ó Bric
Planning Inspectorate

10th September 2021