



An
Bord
Pleanála

Inspector's Report ABP-311931-21

Development	Extension to living room, Retention of part constructed roofed structure and permission to finish structure, Retention of foundation for shed and permission to complete shed. Associated site works.
Location	99 Beatty Grove, Celbridge, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	211228
Applicant(s)	Juzer Lotya
Type of Application	Planning Permission and Permission for Retention.
Planning Authority Decision	Grant Permission and Retention
Type of Appeal	Third Party
Appellant(s)	John Murphy
Observer(s)	James & Kathleen Wright
Date of Site Inspection	13/04/2022
Inspector	J. Green

1.0 Site Location and Description

1.1. The site of the appeal (subject site) is located at 99 Beatty Grove, Celbridge Co. Kildare. The subject site has a stated area of 0.056ha, is located within Beatty Grove which is a mature and established residential development and is currently occupied by a two-storey detached dwelling house. The subject site occupies a corner location within the existing residential development and the sites boundaries consist of tall mature planting throughout with some fencing. No. 99 (the subject site) is south facing and addresses the vehicular access road and a large communal area of open space. Development in the immediate vicinity constitutes the following:

- The neighbouring residential property to the west (no.98) is orientated towards the southwest, sharing its rear boundary with the western side boundary of the subject site.
- The neighboring property to the north (no. 100 – the third-party appellant) is oriented towards the Northeast, sharing its southern (side) boundary with the rear boundary of the subject site.
- To the immediate west of the subject site there is a cul-de-sac road running north/south and associated footpath etc., which services a further 9 properties.
- The nearest residential units to the east (no's 107 - an observer in the current appeal - and 108) are located on the opposite side of this cul-de-sac road and are oriented towards the subject site, so that their front elevations are facing its western boundary.

The setting of the site is within a large mature residential housing scheme within the suburbs of Celbridge, Co. Kildare. The predominant landuse in the vicinity is residential in nature with all dwellings sharing broadly similar design characteristics and features.

2.0 Proposed Development

2.1. The subject development and appeal relate to the following three elements:

- Planning Permission for the retention of a single storey living room extension, to the rear of the detached dwelling. This extension is single storey, is located c. 1.28m from the subject sites western side boundary (shared with no. 98) at its closest point, and just under 3m from the subject sites rear boundary (shared with no. 100). The external finishes of this extension are consistent with those of the existing dwelling.
- Retention is also sought of a part constructed single storey roofed structure to the side of the existing dwelling and permission to complete the structure. This feature is an open-sided apex roofed structure suspended on steel columns which is intended to provide a sheltered walkway, planters and seating area within the garden. The suspended roof feature has a stated ridge level of 2.9m.
- Retention is also sought for the foundations of a new shed to the rear of the subject site. This shed is located in the north-eastern corner of the subject site, in close proximity to the rear boundary which is held in common with the side-site boundary of no. 100. The extant foundations run up to the parity boundary fenceline at this location. The shed in question once complete is proposed to be flat-roofed, with an overall height of 3.2m. The shed is proposed to be externally finished in timber cladding, and the site boundaries at this location consist of mature planting at an approximate height of c. 2.8m on the property of no. 100 Beatty grove and a rear boundary fence of 1.8m from the subject site.

3.0 Planning Authority Decision

3.1. Decision

- The Planning Authority issued a notification of decision to grant retention and permission for the subject development on the 19th of October 2021. This decision was made without recourse to a further information request and was subject to 7 no. conditions, which were all standard for such cases and included: Condition 2 - Requiring the external finishes to be in accordance

with the particulars on file and that the roofed structure shall remain open on all sides and not be enclosed.

- Condition 3 - The overall site is only to be used for domestic purposes and no subdivision.
- Condition 7 – development contribution.

3.2. Planning Authority Reports

3.2.1. Planning Report

The planning recommendation/report is dated 18th October 2021 and notes the nature and location of the subject development, the internal reports received and submission from Irish Water (all of which raise no objections). The report goes on to state that there are no protected structures, or features of archaeological interest recorded in the vicinity, considers that there are no relevant planning history files, and lists the relevant County Development plan policies namely sections 17.2.4, 17.2.5 and 17.4.8 of the plan which refer to overlooking, overshadowing, and extension to dwellings respectively). The Planning Report notes that the single storey roofed structure to the side of the existing dwelling is a decorative installation in the garden providing a covered walkway and seating area. The planners report also notes that the shed for which retention of foundations and permission to complete is sought is located to the rear of the site and is modest in scale (c.7m). Prior to recommending that permission be granted the planners report states the following:

- *“Although the houses in the estate have tiled roofs, this structure [the covered walkway] has been roofed with dark slate. It is considered that the colours are similar and the structure does not detract from its surroundings”,*

The Planning Report concludes by stating that the subject development is compliant with the provisions of the County Development Plan and:

“... the extension has been sensitive to the existing dwelling in its form scale and appearance and does not adversely distort the scale or mass of the structure or adjoining properties. It is considered that the roofed structure and

shed will not result in a negative impact on neighbouring residential amenity in terms of overlooking or overshadowing.”

3.2.2. Other Technical Reports

The following technical reports were placed on the file:

- Municipal District Engineer report dated 13th Sept. 2021, noting no objection subject to inclusion of standard conditions.
- Water Services report dated 29th September 2021, raised no objection and sought for the inclusion of a single condition requiring standard drainage requirements to be provided.
- Roads, Transportation and Public Safety Department report dated October 1st, 2021, raised no objection to the development as proposed.

3.3. Prescribed Bodies

Irish Water submitted a report dated 30th September 2021, noting no objection to the subject development and requesting standard Irish Water connection requirements to be conditioned.

3.4. Third Party Observations

Two third-party submissions were lodged on the planning application the main points raised included:

- The subject development was not in line with current planning laws, and does not consider resident's concerns
- Potential devaluation of property in the area.
- The nature of the site notice,
- Inappropriate use of materials,
- Adverse impact on views,
- The development being out of character and too proximate to road/path.

4.0 Planning History

Pl. Ref. 21/887 – Incomplete application on the subject site for a single storey living room extension to the rear of detached dwelling as well as retention of a part constructed single storey roofed structure to the side of existing dwelling and permission for new shed to the rear and all associated site works. This application was invalidated by the Planning Authority as following site inspection it was noted that the foundations of the shed were already in place and accordingly the development descriptions set out in the notices were incorrect as retention should have been sought for that element. This issue has been addressed in the current application.

5.0 Policy Context

5.1. Development Plan

The relevant Planning Policy documents in relation to the subject development is the Kildare County Development plan 2017-2023 (CDP) and the Celbridge Local Area Plan 2020 – 2023 (LAP). Under the provisions of the LAP the site is designated as “B – Existing Residential Infill”, the zoning objective for this area is *“To protect and enhance the amenity of established residential communities and promote sustainable intensification”*.

The Celbridge LAP notes that while it outlines specific policies and objectives of the Planning Authority in relation to the development of Celbridge, *“The overarching policies and objectives of the Kildare County Development Plan also apply, specifically the Development Management Standards set out on Chapter 17.”*

Chapter 17 of the CDP includes policies on overlooking (17.2.4) and overshadowing (17.2.5) and presents the following development management standards in relation to extensions at 17.4.8 relevant to the subject development:

“Primarily, the design and layout of extensions should have regard to the character of the existing dwelling, the nature of the surrounding area and the amenities of adjoining properties, particularly as regards sunlight, daylight and privacy. The following basic principles shall be applied:

- 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.*
- In rural areas, the design of extensions should have regard to the Key Principles set out in Chapter 16 Rural Design Guide.*
- The extension should not provide for new overlooking of the 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.*
- New extensions should not overshadow adjacent dwellings to the degree that there is a significant decrease in daylight or sunlight entering into the house.*
- The physical extensions to the floor area of a dwelling should not erode its other amenities. In all cases a minimum private rear garden area must be retained.”*

5.2. Natural Heritage Designations

The site of the proposed development is located within an established suburban area with the nearest designated sites in the vicinity being:

- The Rye Water Valley/Carlton SAC located c.3.2km (all distances quoted in this section are straight line) to the north of the subject site.
- The Royal Canal proposed Natural Heritage Area (pNHA) located c. 3km (straight line direction) to the northeast.
- The Grand Canal pNHA located c.3.7 kilometres to the southeast

The subject site is remote from the designated sites and does not interact with any of these European or National designations.

5.3. EIA Screening

A pre-screening exercise has been carried out. The proposed development is not of a class set out in Schedule 5, Part 1 or 2 of the Planning Development Regulations, 2001 (as amended). Accordingly, the need for environmental impact assessment can be excluded at preliminary examination and a screening determination is not required. No Environmental Impact Assessment Report is required.

6.0 The Appeal

The appeal has been lodged by John Murphy who is resident at 100 Beatty Grove Celbridge, County Kildare. The appellants dwelling immediately neighbours the subject site as its southern (side) site boundary is held in common with the rear boundary of the subject site. The appellant's property is orientated towards the east, and the dwelling on the subject site faces south. Both dwellings are large two-storey dwellings set within their own sites within established mature boundaries.

6.1. Grounds of Appeal

The Grounds of Appeal raised by the third-party appellant are set out below:

- Construction of Domestic Shed.

The appellant raises concern in relation to the proposed retention of foundations and construction of a new domestic shed at the rear of the subject site. Concerns are raised that the proposed shed is too proximate to the common boundary, is too high, and will create overshadowing of the appellant's front garden. In this regard the appellant states that there will be a loss of privacy and overshadowing which will adversely impact his residential amenity.

- Covered Walkway

The appellant states that the covered walkway feature is not in keeping with the other domestic dwellings within the established residential development of

Beatty Park and has a detrimental impact on the character of the area. Furthermore, it is stated that the covered walkway is overbearing, out of scale, visually inappropriate, could potentially lead to devaluation of property and adversely affect residential amenities in the vicinity.

- Communication

Appellant also raises concern that the applicant did not engage or advise neighbours of construction works and that resident's concerns could therefore not be taken into account. The appellant has also stated that construction activities have been carried out over a long duration and on an ad hoc basis which has been a further concern and impact for neighbours of the development.

- Extension to West and Rear of Dwelling

The Appellant raises concern that this element was carried out in a stop-start manner, over a number of years and without any communication and no detail of when the works will be completed. The appellant is also concerned that further unspecified works may be carried out along the site boundaries and notes that the view from his upstairs window is directly into the subject site. The appellant is concerned that the works were carried out without planning permission being granted in advance and that retrospective permission cannot guarantee the quality of the works.

6.2. **Applicant Response**

The applicant's response notes that the issues raised in the appeal are consistent with those raised with the planning authority during their consideration of the application, and states that several extensions to the rear and side of residences have been constructed in the vicinity, of which the appellant has not raised any concerns.

The applicant goes on to note that the views from the upstairs bedrooms of the appellants property into the subject site are not impacted nor do any of the subject works adversely impact on the appellants residential amenity.

In relation to construction activities the applicant states that works on the extension were completed in 2016 to 2017 with no further construction activity on site until 2020 due to interruption by the COVID pandemic.

The applicant also quotes the report from the planning authority which noted that the extension to the rear of the property was well below the 40 square metres which is allowed without seeking planning permission and that the extension has been sensitive to the existing dwelling in its form scale and appearance. In relation to the allegations that further work will be carried outside the scope of the application documentation the applicant clarifies that the subject works will be legally constrained by the consent and the application violating any conditions that are set out in the event of favourable consideration.

In relation to the roofed structure the applicant clarifies that it forms part of an ornamental garden design which is completely contained within the boundaries of the site with appropriate finishes selected throughout.

In relation to the shed the Applicant states that its provision will not result in a loss of privacy or overshadowing of the appellants property largely due to the fact that there is extensive mature planting already provided by the appellant along this common boundary to the front of the appellants building line which will effectively screen this element of the subjects works.

6.3. Planning Authority Response

The Planning Authority, Kildare County Council, have issued correspondence dated 22nd November 2021 noting that the grounds of appeal lodged “... *is largely the same as the submission made to the planning application by the same third party. Kildare County Council has already had regard to these issues in the assessment of the application and the decision subsequently reached.*” The Planning Authority does not make any further comment or observation beyond requesting the Board to uphold their decision to grant permission for the proposed development.

6.4. Observations

There has been one observation lodged in relation to the subject development by James & Kathleen Wright who are residents of no. 107 Beatty Grove, a dwelling to

the east of and orientated towards the subject site on the opposite site of the cul-de-sac road which runs in a north/south direction between the two properties. This observation raises objection to each of the three elements within the subject appeal as set out below.

- Rear extension, observer raises concern that this feature now requires permission as combined with the other elements the exempted development provisions are now exceeded.
- Roofed garden feature structure is considered to be out of keeping and the roof finishes are not compatible with the existing dwelling or dwellings in the vicinity. The observers are also concerned that the applicant may open a new entrance onto the public footpath along the eastern boundary of the subject site and that the extant works are unsightly and darkens views from their home.
- In relation to the domestic shed the observers are concerned that it would be to the rear wall of the subject site and would be unsightly and visible from the roadway.

7.0 Assessment

It is considered that the main issues arising in relation to the subject works can be fully discussed under the headings of Principle, Design, Character, Residential Amenity, and Other Issues, as set out below.

7.1. Principle:

- 7.1.1. The site of the subject development is within an area that has been zoned as “*B-Existing Residential Infill*” under the current LAP, the zoning objective for this area is “*To protect and enhance the amenity of established residential communities and promote sustainable intensification*”. The principle of the subject development which constitutes (1) an extension to the rear and side of an existing detached dwelling set within its own large corner site within an established mature residential estate, and (2) the provision of a covered walkway, planters, and domestic shed within an established private garden, is appropriate and consistent with the requirements of the relevant county development, and local area plans. In principle I consider that the

subject works are entirely appropriate at this location and consistent with the relevant planning policy and Existing Residential Infill zoning objective for the area.

7.2. Design:

- 7.2.1. The rear extension requires planning consent due to the fact that its building line extends beyond the established side building line of the existing dwelling, however, I consider that its overall design and external finishes are respectful of the amenities of adjoining property and match the character of the existing dwelling and the established built environment. As the extension is single storey and there are no windows addressing the side-site boundary. The rooflights do not afford any overlooking views towards neighbouring gardens or private areas, and views from windows and the patio doors at ground level are into the subject sites own private garden only.
- 7.2.2. The covered walkway element is more of a unique feature within the wider area, but it does not, in my opinion, constitute an incongruous feature and is set entirely within a private garden without adverse impacts arising on views into or out of the subject site, nor again are any adverse impacts arising on properties in the vicinity. It is fully acknowledged that this feature is not common in the vicinity, however, insofar as is practicable external features have been used which mimic or closely follow the relevant features of the existing dwelling, the roof is black (regardless of materials used) and apex in form, and it cannot be reasonably considered that the covered walkway has an adverse impact or effect on the established character of the area, nor impact on residential amenities of any properties in the vicinity.
- 7.2.3. The domestic shed is small in scale and has a flat roof. No overlooking can arise from this structure as no windows or openings address any common boundaries directly. The external finish proposed on the shed (timber cladding) is typical for domestic sheds of this size and, in my opinion, is considered entirely appropriate. There is a potential concern in relation to the location of the shed element, however, and this is discussed further below under “Residential Amenity”

7.3. Character:

- 7.3.1. As set out above the various elements of the subject works do not individually give rise to an adverse impact on the character of the area. Similarly, their cumulative effects are consistent with the extant development on site and the established built

environment in the vicinity. The rear extension and covered walkway do not have a significant adverse impact on the area, nor do they detract from the established character. The domestic shed and its associated works while appropriate in principle, do have the possibility of adverse impacts arising, this is discussed further below under “Residential Amenity”.

7.4. Residential Amenity:

- 7.4.1. The subject works are all set within the established mature site boundaries and do not generally give rise to adverse impacts on residential amenity. The rear extension protrudes beyond the established side building line; however, it is single story and is in excess of 1.2 meters distant from the side site boundary at its closest point. There are no windows or openings addressing this side site boundary. The rear extension is 3 meters distant from the rear site boundary at its closest point and while there are windows on the rear elevation these are at ground floor level and do not adversely affect any adjoining residential amenities.
- 7.4.2. The suspended roof/covered walkway feature is set entirely and comfortably within the garden of the subject site, and I do not consider that any adverse impact on adjoining residential amenities arise. The structure is single story in nature and while constructed of more modern and lightweight materials than the dwelling on site the finishes used assimilate effectively within the built environment. Due to separation distances to other residential sites no overshadowing, overlooking or adverse impacts can be said to arise from this feature. The most proximate common residential site boundary lies 8 metres from this structure.
- 7.4.3. The domestic shed which is proposed at the rear of the subject site is small scale in nature, the structure is 3.2m in height and has a flat roof. The structure is located at the rear of the subject site against the rear boundary (extant foundations run up to the rear fence) however this location means that it is also located in close proximity to the front building line of number 100 Beatty Grove.
- 7.4.4. The foundations in place run up to the rear fence line. Drawing no. P07 “Plans & Elevation of Proposed Shed” submitted with the planning application contains a drawing note which states “Existing Wall 215 x 1800 Build up to Roof Level of Shed”. While the full extent of this raised boundary wall is not clearly indicated on the drawings there is a solid line shown on the drawing for approximately 7.5m from the

eastern boundary of the subject site along this rear/common residential boundary. I consider that this proximity could potentially lead to the provision of a 3.2m high wall along this rear boundary which lies to the immediate south of the appellants front building line, and which currently has a fence with a stated height of 1.8m.

7.4.5. I acknowledge that there is significant mature planting at this location along this boundary when viewed from no. 100 Beatty's Grove, which extends to a height of predominantly c. 2.8m however, this has been established at the discretion of the appellant and is therefore under the control of the appellant in terms of ensuring his enjoyment of residential amenity. The provision of a permanent structure at the height and location proposed along this boundary which is to the front building line and in close proximity to the front elevation of the neighbouring property immediately to the north does, in my opinion, have the potential to have an adverse impact on residential amenity arising from overshadowing as well as impacting on the character of the established building line. While there can be no objection to the provision of a domestic shed of the dimensions proposed within the site, I consider that it should be relocated slightly to ensure protection of residential amenities and reduce any adverse impact arising from overshadowing and the established building line/character of the built environment at this location.

7.4.6. Accordingly, in the event of the Board considering granting permission in this instance, I recommend that it be made clear that the permission does not grant any form of consent for any works to the rear boundary of the subject site. Furthermore, to avoid overshadowing, adverse impact on the building line/established character and to protect residential amenity I recommend that that the domestic shed be relocated slightly on site to ensure a 0.5m separation between its rear wall and the rear site boundary, (this being approximately consistent with the existing separation distance between the existing established pitched roof shed and the rear site boundary).

7.5. Other issues

7.5.1. The appeal states that the construction activities on site have been ad-hoc in nature and subject to periods of inactivity. In the context of the stop-start nature of the construction industry over the last number of years this situation could not in reality

be avoided. Any grant of permission issuing will be made subject to standard construction activity limits and timing controls.

- 7.5.2. Concerns have been raised in relation to potential additional works being carried out on site. On review it appears that the concern raised in the appeal that additional unspecified works are to be carried out to the site boundaries is founded on a poor-quality scanned layout drawing which the appellant has reproduced in Appendix 6 of the appeal document. On the scanned version of the layout drawing included in Appendix 6 of the Appeal (Drawing P01) the colouring suggests a yellow shading around the southern and eastern boundaries of the subject site which is similar to the yellow used to denote the “proposed works” for the domestic shed. On inspection of the actual drawing, it is my view that this shading is in fact a light green denotation of the existing hedgerow/planting used by the agent on their CAD drawings to show the location of the existing established hedgerow rather than any other unspecified works. The submitted observation raises concern that an additional entrance may be opened within the existing hedging, however, no such works are shown on the drawings or included within the application subject of this appeal.

7.6. Appropriate Assessment.

- 7.6.1. Having regard to the nature and scale of the subject works which essentially constitutes extension and amendments to an existing dwelling house and provision of a domestic shed located within a well-established, built-up, fully serviced suburban area, and having regard to the location of the development c. 3.2km from the nearest European site, 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.

8.0 Recommendation

- 8.1. It is recommended that planning permission and permission for retention be granted in relation to the subject development subject to the conditions set out below.

9.0 Reasons and Considerations

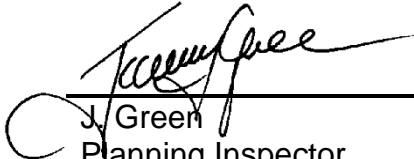
Having regard to the location of the subject development within an existing residential area and the infill residential zoning objective for the area, the existing buildings on site and the pattern of development in the area, it is considered that, subject to compliance with the conditions below the subject development would not seriously injure the residential amenities of the area or of property in the vicinity and would be in keeping with the established character of the area. The subject development is therefore, in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on the 26th of August 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>(a) This permission shall not be construed as any form of consent to carry out works to any of the established site boundaries.</p> <p>(b) The location of the domestic shed here consented shall be relocated on site so that no above-ground or above-foundation elements of the shed shall be located within 0.5m of the northern (rear) boundary of the site, nor 1.3m of the eastern (side) boundary of the site. A revised layout plan showing this altered location shall be submitted for the written agreement of the Planning Authority prior to the re-commencement of any further works on site.</p>

	<p>Reason: In the interest of clarity and to ensure the protection of residential amenities.</p>
3.	<p>The disposal of surface water shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health and to ensure a proper standard of development.</p>
4.	<p>The external finishes of the extension and covered walkway shall be the same as those of the existing dwelling in respect of colour and texture. The shed shall be finished in accordance with details submitted.</p> <p>Reason: In the interests of visual amenity.</p>
5.	<p>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.</p> <p>Reason: In order to safeguard the amenities of property in the vicinity.</p>
6.	<p>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</p>

	<p>matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>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</p>
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J. Green
Planning Inspector
14th April 2022