



An  
Bord  
Pleanála

## Inspector's Report

**ABP-315014-22**

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<b>Development</b>	Demolition of rear extension and construction of new extensions to front and rear
<b>Location</b>	Sorrento, Green Lane, Leixlip, Co. Kildare
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	22746
<b>Applicant(s)</b>	Jean and Graham McAuley
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to 12 no. conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Paul and Rose Soden
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	24 <sup>th</sup> May 2023
<b>Inspector</b>	Bernard Dee

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## 1.0 Site Location and Description

- 1.1. The appeal site is located on Green Lane which is located on the western fringe of Leixlip approximately 2km west of the town centre. The estate within which the appeal site is located lies north of the M4 and south of the Intel Plant at Collinstown. Sorrento is located in a large suburban estate comprised mainly of standard house types. Sorrento appears to have been individually designed and built as it is not similar to surrounding house types.
- 1.2. The dwelling to which this appeal relates is a two storey dwelling with a single story sun room extension to the rear (north). Sorrento is of contemporary design. The third party appellants live at 'Aisling' which is located directly east of the appeal site.
- 1.3. It was not possible to access the rear garden area of the appeal site during the site visit.

## 2.0 Proposed Development

- 2.1. The development will consist of the demolition of the existing one storey sun room to the rear and construct a single story kitchen room in its place and a two storey bedroom block across the rear of the house which is to be thus remodelled.
- 2.2. A two storey glazed structure to the front (south) of the house to accommodate the stairwell relocated from within the central area of the house.
- 2.3. From the drawings submitted to the Planning Authority the replacement structures are in a contemporary design.

## 3.0 Planning Authority Decision

### 3.1. Decision

Permission for the proposed development was granted on 7<sup>th</sup> October 2022 subject to 12 no. conditions. The application had been the subject of a request for Further Information relating to: clarification of the applicant's landholding; an east-west section; reduction of the scale of the front extension; and address the concerns of the observer in this case.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The Planner's Report on file noted residential use is permitted in principle under the B zoning objective and that generally the extension of an existing dwelling is acceptable subject to Development Plan provisions. The planner also noted that the site was not in a flood risk zone or heritage area and that an NIS was not required in this instance.

### 3.2.2. Other Technical Reports

The Drainage Department, Environment Department, Transportation Department and Engineering Department had no objections to the proposed development subject to conditions.

### 3.2.3. Prescribed Bodies

Irish Water had no objections to the proposed development subject to conditions.

### 3.2.4. Observations

One observation was made by the current Third Party appellants raising the same issues as in this current appeal.

## 4.0 **Planning History**

### 4.1. On the Appeal Site

There is no planning history associated with the appeal site.

### 4.2. In the Vicinity of the Site

No planning history proximate to the appeal site and relevant to the issues raised in the appeal.

## 5.0 **Policy and Context**

### 5.1. Development Plan

The Kildare County Development Plan 2023 - 2029 took effect on 28th January 2023 is now the statutory plan for the area so references to the Kildare County Development Plan 2017-2023 can be disregarded.

The site is zoned Objective B Existing Residential and Infill for which the objective is to “To protect and enhance the amenity of established residential communities and promote sustainable intensification”.

Section 15.4.12 of the Development Plan deals with Extensions to Dwellings and of relevance to this appeal is the requirement that “the extension should not provide for new overlooking or loss of privacy below reasonable levels to the private area of an adjacent residence”.

## 5.2. Natural Heritage Designations

The following natural Heritage designations are located in the vicinity of the appeal site:

- Special Area of Conservation: Rye Water Valley/Carton SAC (001398)
- Proposed Natural Heritage Area: Rye Water Valley/Carton (001398)
- Proposed Natural Heritage Area: Royal Canal (002103)

## 5.3. 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/ the absence of any connectivity to any sensitive location, 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 grounds of the Third Party appeal submitted by Collins Maher Martin are, in summary, as follows:

- The glazed stairway by virtue of its proximity to the appellants private open space, which is not currently overlooked, will present an opportunity for overlooking and will therefore result in a loss of privacy.

- This new overlooking permitted by the Planning Authority is in breach of the Development Plan which seeks to prevent excessive overlooking of the private open space of neighbouring properties.
- The distances between the properties is less than that stated in The Planners Report and therefore the effect of the overlooking will be more significant than assessed by the Planning Authority.
- Notwithstanding the reduction in scale of the stairwell through the Further Information process, the issue of overlooking was not addressed.
- A redesign by way of condition to have solid side walls to the stairwell would remove the overlooking problem and still leave a well lit stairwell.

## 6.2. Planning Authority Response

The Planning Authority response has no further comment on the case.

## 6.3. Applicant Response

The First Party response prepared by Patrycja Rogala Architect makes the following points:

- This stairwell has been designed to be architecturally attractive and visually light.
- The front of the house is public facing and therefore part of the public realm. To suggest overlooking in this context is not correct.
- The existing windows already overlook the space in question.
- The stairwell has been specifically designed to be functional and aesthetically pleasing.

## 7.0 **Assessment**

- 7.1. Having examined all the application and appeal documentation on file, and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise.

- 7.2. The primary planning issue therefore is whether or not the glazed stairwell overlooks the private open space of 'Aisling' to an extent that there is an unacceptable loss of privacy which would be contrary to Development Plan Policy contained in Section 15.4.12. The issue of AA Screening is also addressed in this assessment.
- 7.3. Overlooking/Loss of Privacy
- 7.3.1. Currently the windows in Sorrento face due south so there is no opportunity for casual overlooking. The proposed glazed stairwell will offer ample opportunity for casual overlooking while the occupants of Sorrento go about their daily lives. The close proximity between the properties will exacerbate this overlooking and increase the significance of said overlooking.
- 7.3.2. Section 15.4.12 of the Development Plan requires that "the extension should not provide for new overlooking or loss of privacy below reasonable levels to the private area of an adjacent residence". The glazed stairwell is a new source of overlooking and I believe that the loss of privacy within the private open space of 'Aisling' would be significant.
- 7.3.3. Having regard to the previous paragraph I am of the opinion that the glazed stairwell as presently designed is contrary to Development Plan policy and should not be permitted to proceed in its present form
- 7.3.4. Should the Board be minded to grant permission in this instance I have drafted a condition requiring the sides of the stairwell to be either of opaque glass which will provide a permanent screen to the side of the stairwell and permit only views to the south.

7.4. **AA Screening**

Having regard to the relatively minor development proposed within an existing housing estate and the distance from the nearest European site being approximately 2km, 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

I recommend that planning permission be granted for the reasons and considerations set out below and subject to the following conditions.

## 9.0 Reasons and Considerations

Having regard to the provisions of the Kildare Development Plan 2023-2029, including the zoning objective for the site ('B – Existing Residential and Infill'), which seeks to enhance the current residential amenity and promote sustainable intensification; it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area, or of property in the vicinity, would provide an acceptable standard of amenity for future residents, and not, by virtue of overlooking lead to loss of privacy in neighbouring properties. The proposed development would, therefore, be 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 17<sup>th</sup> June 2022 and as amended by plans and particulars received on 28<sup>th</sup> September 2022, 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>Details of the materials, colours and textures of all the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p>



	Reason: In the interest of visual amenity.
3.	<p>Details regarding the use of opaque glass to the sides of the stairwell, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity and the protection of privacy.</p>
4.	<p>Surface water from the site shall not be permitted to drain onto the adjoining public road.</p> <p>Reason: In the interest of traffic safety.</p>
5.	<p>Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between 0800 and 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
6.	<p>The developer shall pay to the planning authority a financial contribution of 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.</p> <p>Reason: It is a requirement of the Planning and Development Act 2000,</p>

	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.
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**Bernard Dee**  
**Planning Inspector**

**24<sup>th</sup> May 2023**