



An
Bord
Pleanála

Inspector's Report ABP 315265-22

Development	A detached single storey dwelling in the rear garden of the existing house.
Location	394 Ballyoulster Park, Celbridge, County Kildare.
Planning Authority	Grant Permission with Conditions.
Planning Authority Reg. Ref.	221173
Applicant(s)	Claire and Liam McDonnell
Type of Application	Permission
Planning Authority Decision	Grant permission with Conditions.
Type of Appeal	Third Party vs Permission
Appellant(s)	James and Kathleen Ryan
Observer(s)	None
Date of Site Inspection	27 th of April 2023
Inspector	Vanessa Langheld

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1.0 Site Location and Description

- 1.1. The site is located within the established residential crescent of Ballyoulster Park in Celbridge. It is located approximately 2 km north of the centre of Celbridge town and on the approach to Celbridge from the N4. Ballyoulster Park is a crescent of large semi-detached bungalows located around a large central green. The bungalows are located on large sites, and many have been added to and altered over the years. There is also a pattern of backland development on some of the houses in the area. The overall site area of No. 394 is not stated.
- 1.2. There is an existing building (48 sq m) to the rear of the main house, which has until recently been in use as a creche. This was operated by the owner of the main house, and she has recently retired. It is proposed to demolish this building as part of the current development.
- 1.3. The new house is intended for the Applicant's son and his family and is proposed at the back of the existing garden. The Site Layout Plan (2566-PL01) delineates the overall site in red and blue lines. It is noted that part of the creche building to be demolished is shown within the residual blue boundary of No. 394 rather than the adjoining Planning Application area boundary.

2.0 Proposed Development

- 2.1. Permission is sought for a detached single storey dwelling (133 sq m) in the rear garden of No 394. The development provides for a new access to the property and for the removal of an existing building (48 sq m) in the back garden, which has until recently been in use as a creche.
- 2.2. The appeal site is bounded by similar large semi-detached bungalows on either side and by a large, detached houses to the rear.

3.0 Planning Authority Decision

- 3.1. Decision

3.2. Permission was granted by Kildare County Council subject to 14 Conditions.

3.3. **Planning Authority Reports**

3.4. **Planning Report**

3.5. The Planning Report considers the application in relation to the Kildare County Development Plan, 2017-2023 policy and the Celbridge Local Area Plan, 2017-2023, as follows:

- Infill, backland and subdivision of sites in established urban areas;
- Urban design and development management standards, and
- The zoning of the site as B (Existing Residential / Infill).

3.6. The zoning is to protect and enhance the amenity of established residential communities and promote sustainable intensification. Dwellings will be permitted in principle under this zoning as outlined in the Celbridge Local Area Plan 2017-23. Having regard to the above, the proposed dwelling is acceptable in principle.

3.7. The proposed dwelling is 133 sq m with a ridge height of 5m. The development meets the Development Plan criteria in terms of size of the house, internal layout, external finishes and architectural treatment and proportions of the dwelling. Private open space for the new and existing dwellings exceeds requirements. In addition, 2 no. parking spaces are provided for the new dwelling, with 2 no. already provided for the original dwelling.

3.8. There were a number of third-party observations. These were principally relating to the effect on residential amenity and the proximity to the boundary to the rear (north).

3.9. As regards the objections by neighbours, it is considered that the development will not impact on their residential amenity by virtue of the size, location and height of the dwelling relative to the surrounding houses.

3.10. It is also noted that the creche use, which was on site until recently, would have a greater impact on residential amenity than the proposed new house.

3.11. **Other Technical Reports**

3.12. There are no objections from the internal Departments of Kildare County Council regarding traffic, water and wastewater. The Water Services Section states that permission should be granted subject to a Condition relating to the location of the sewer line in the driveway.

4.0 Planning History

- 05/1340 – permission granted to the current applicant for conversion of the domestic garage for use as a playschool.
- ABP – 301732 /18254 – Permission granted for retention of and alterations to 386 Ballyoulster Park - to provide for retention of existing detached timber structure and extension (or link) to detached timber structure.
- 184/18 – a fully serviced dwelling house and domestic garage and associated site works using the existing entrance on to the Loughlinstown road at the rear of 398 Ballyoulster Park – granted permission by Kildare County Council.

4.1. The site location map attaching to the application shows a pattern of infill / backland development in the area. This was also noted during the site visit.

5.0 Policy and Context

5.1. Development Plan

5.2. The site is zoned B (Existing Residential / Infill) in the Celbridge 2017-2023 Local Area Plan – with a stated objective to ‘protect and enhance the amenity of established residential communities and promote sustainable intensification’.

5.3. I note that the 2023-2029 Kildare County Development Plan was adopted in January 2023 and now pertains to the site although the Application was determined under the former 2017-2023 Kildare County Development Plan. Accordingly, I am assessing the proposal with reference to the recently adopted plan.

5.4. Section 3.1 of the Kildare County Development Plan relates to Regeneration, Compact Growth and Densification and states that a key objective is to *‘increase density of development in all built up areas’*.

Objective HO O5 provides for *'increased densities that contribute to the enhancement of a town or village by reinforcing street patterns or assisting in redevelopment of backlands and centrally located brownfield sites'*.

Objective HO O6 states that it is the policy of the Council *'to promote and support residential consolidation and sustainable intensification and regeneration through the consideration of applications for infill development, backland development, re-use/adaptation of existing housing stock and the use of upper floor, subject to the provision of good quality accommodation'*.

5.5. Natural Heritage Designations

None in the vicinity.

5.6. EIA Screening

Having regard to the modest scale of the development and its location in an established urban area where public piped services are available, the requirement for submission of an EIAR and carrying out of EIA can be ruled out at a preliminary stage.

6.0 The Appeal

6.1. The grounds of appeal are summarised as follows:

- This proposal is similar to that previously refused by the Board (PL09128445 /01/895 and 07/749). The reasons attaching to those refusals remain valid.
- Undesirable backland development.
- Substandard access.
- Too close to adjoining properties, in particular the Appellants' property.
- Resultant devaluation and precedent.

- The appeal house will be located over an existing foul sewer, and this has not been properly addressed. Two different sewer connections are affected as follows: a common sewer addressed by Condition and a separate foul sewer connecting the Appellants' property and running under the creche building. This has not been shown on drawings and the appeal house is to be constructed over this sewer. This may adversely affect the Appellants' property during construction and for future maintenance. There is no Condition attached to the permission to protect this sewer.
- Creche building is not in accordance with its permission.

6.2. Applicant Response

6.3. The Third Party appeal can be summarised as follows:

- Planning refusals in the area are not relevant to the current appeal as the documentation was inadequate in the first application and the second refusal was for a much larger house, close to boundaries etc.
- The proposed development complies with the Celbridge Local Area Plan zoning (Existing Residential / Infill) and will not adversely affect adjoining properties.
- The proposed development complies with the Kildare County Council policy on suburban infill sites, backland areas /development.
- The height of 5m is consistent with surrounding houses.
- The appeal site is very large and the total site coverage and plot ratios for the appeal site and the main house site are considerably lower than the minimum requirements.
- The house and open space meet the minimum standards.
- The matter of the second (private) sewer, which connect to the appellants' property is possibly not an issue for the Board to adjudicate upon? However, the Applicants acknowledge a duty of care in this regard.

- The removal of the creche building will significantly reduce traffic movements in and out of the area.

6.4. **Observations**

None.

6.5. **Planning Authority Response**

6.6. The Planning Authority commented as follows:

6.7. Kildare County Council Water Services Department has examined the Third Party appeal grounds as they relate to the sewer. It is noted that the wastewater connection to the Appellants' property is not noted on Council records nor is it indicated on the Application drawings. The Council response of 6 January 2023 states that the KCC Water Services Department have therefore suggested an additional Condition relating to this issue. This suggested Conditions states that the proposed dwelling may not be built over an existing wastewater / drain / sewer / connection, and that if one exists no works shall take place prior to the written agreement of suitable works to protect, divert, design said sewer etc.

6.8. The Planning Authority have no further comments to make.

7.0 **Assessment**

7.1. I have read the documentation attached to this file including the Appeal, the report of the Planning Authority and further response received. In addition, I have visited the site. (The appellants house is located behind the proposed house i.e. to the east of the site.)

7.2. The appeal site is part of the existing site of No. 394 Ballyoulster Park. The existing site is currently occupied by a single storey semi-detached house and an outbuilding, the latter which was until recently used as creche. The existing house has a very sizable back garden, and the appeal site forms part of this garden. It comprises a section of driveway at the front of the existing house and part of its back garden.

The existing house and subdivided garden are shown in blue on the application drawings.

- 7.3. The proposal is compliant with the zoning (Existing Residential / Infill) in the Celbridge Local Area Plan, and with the policy of the Development Plan (Kildare County Development Plan 2023-2029). This policy provides for the consolidation of residential areas and, where appropriate, allows for backland development.
- 7.4. The proposal provides for the demolition of the creche building and the construction of a detached dwelling further back on the site. The new dwelling is single storey and compatible with the frontal house. Both houses will have sufficient private open space; 128 sq m for the existing house and 346 sq m proposed new dwelling. In my opinion the scale and position of the house relative to the adjoining back gardens is not excessive and does not impact visually or in terms of privacy of the adjoining properties.
- 7.5. Access to the new dwelling will be shared with the existing house and internally split to provide a new driveway, which will run along the side of the existing dwelling. The application provides parking for two spaces to the front of the new dwelling and the existing house will retain its parking to the front.
- 7.6. There is a pattern of permitted backland development in surrounding properties in this estate, and a pattern of alteration and extension of the existing dwellings. The proposal is therefore in keeping with the pattern of development in Ballyoulster Park and therefore will not negatively affect the residential amenity of the adjoining properties.
- 7.7. The existing building to the rear of the main house has until recently operated as a creche and is to be demolished as part of this application. A single house will have less traffic associated with it than a creche so therefore represents an improvement in residential amenity for adjoining houses.
- 7.8. The issue of the foul sewer has been raised by the Appellants as a significant concern. It is not shown on the application drawings and Kildare County Council have suggested a Condition attaching to a permission to prevent the construction of the house over an existing foul sewer if such is identified. The Condition requires the Applicant to retain an engineer to investigate the potential location of a sewer, and in the event of one being located to provide for its relocation to be agreed with the

Council prior to commencement of development. I consider that this addresses the Appellants' concern in this regard.

8.0 Recommendation

8.1. I recommend a grant of permission, subject to the following Conditions.

9.0 Reasons and Considerations

9.1. Having regard the zoning objective of the area, set out in the Celbridge 2017-2023 Local Area Plan, the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure visual amenities, established character or appearance of the area and would therefore be in accordance with the proper planning and sustainable development of the area.

10.0 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	Site development and building works shall be carried out only between the hours of 0700 and 1800 Mondays to Fridays inclusive, between 0800 to 1300 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional

	<p>circumstances where prior written approval has been received from the planning authority.</p> <p>Reason: In order to safeguard the amenities of properties in the vicinity.</p>
3.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health and surface water management.</p>
4.	<p>Prior to commencement of development, the developer shall enter into a water and wastewater connection agreement with Uisce Eireann (formerly Irish Water).</p> <p>Reason: in the interests of public health.</p>
5.	<p>That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble, or other debris on adjoining roads during the course of the works.</p> <p>Reason: To protect the amenities of the area.</p>
6.	<p>The applicant is required to carry out a site survey and / or investigation works in order to clarify the exact location, layout and cover / invert levels etc. of the existing wastewater connection / drain / sewer. It is not permitted to build the dwelling over an existing wastewater / drain / sewer connection. Therefore the applicant is to engage with a suitably qualified Engineer in order to survey, design and supervise and clarify the works required to divert / pump and protect the existing waste water connection from the adjoining property, Dunamase, Loughlinstown Road, Celbridge, County Kildare. No works shall commence until written agreement is in place regarding this issue with Kildare County Council Water Services Department.</p> <p>Reason: In the interests of public health and to avoid pollution and to ensure proper servicing of the development.</p>
7.	<p>The applicant shall provide electrical charge points at the driveway of the new dwelling, to be compatible with the Sustainable Energy Authority of Irelands Triple E Register.</p>

	<p>Reason: The promote the use of night-time renewable energy.</p>
8.	<p>Prior to commencement of development, the developer shall prepare and submit for the agreement of the planning authority a construction and demolition resource waste management plan in accordance with the EPA best practice guidelines.</p> <p>Reason: in the interests of proper planning and sustainable development.</p>
9.	<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, 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>

Vanessa Langheld
 Planning Inspector

8 May 2023