



An
Bord
Pleanála

Inspector's Report ABP-316601-23

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| Development | Retention of a storage building to the rear of the existing building. |
| Location | Glencraig, Killeenlea, Celbridge, Co Kildare |
| Planning Authority | Kildare County Council |
| Planning Authority Reg. Ref. | 23/119 |
| Applicant(s) | Margaret Loughman and Pat Murphy |
| Type of Application | Retention |
| Planning Authority Decision | Grant Retention |
| Type of Appeal | Third |
| Appellant(s) | Siobhan O'Leary and David Fottrell |
| Observer(s) | None |
| Date of Site Inspection | 24 th November 2023 |
| Inspector | Louise Medland |

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1.0 Site Location and Description

- 1.1. The site is located at Glencraig, Killeenlea, Celbridge, Co Kildare. The site is occupied by an existing detached dwelling, with front and rear gardens and incurtilage parking. Within the rear garden is an existing single storey detached shed, the subject of this appeal. The immediate area is characterised by detached single storey, storey and a half and two storey dwellings, with front and rear gardens. The dwelling is located within a ribbon of development on the southwestern side of the road.
- 1.2. The northern section of the southeastern boundary treatment is defined by a fence approximately 1.8m in height and is of composite construction. The remainder of the boundary is a mix of construction fencing and hedging and with the southwestern and north western boundaries defined by timber fencing and hedging.
- 1.3. The storage building to be retained sits parallel to the southeastern boundary adjacent to the 3rd party objectors property at 228A Killeenlea.

2.0 Proposed Development

- 2.1. The proposal is for the retention of storage building to rear of the existing building.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 3rd April 2023 Kildare County Council issued a notification of a decision to grant permission for the retention of the development for the below reason.
 - Having regard to the policies and objectives of the Kildare County Development Plan 2023-2029, and the location and design of the proposed development, it is considered that the proposed development would not seriously injure the amenities of the area and if constructed in accordance with the attached conditions the proposed development would accord with the proper planning and sustainable development of the area.

The retention permission was granted subject to the following five conditions

1. The development shall be retained in its entirety in accordance with the plans, particulars, specifications and information lodged within the application received on 10/02/2023 except as amended by the conditions of this permission.

Reason: To ensure that the development shall be in accordance with the permission and that effective control be maintained.

2. The storage structure hereby permitted shall be used for domestic purposes only and shall remain ancillary to the dwelling. It shall not be used for human habitation, for any commercial use or for the carrying out of any trade. The storage structure shall not be let or sold separately to the dwelling.

Reason: In the interests of clarity and to regulate the use of the development in the interest of the proper planning and sustainable development of the area.

3. (a) Only clean, uncontaminated surface water from the development shall discharge to the surface water system. Only foul sewage and soiled water from the development shall be discharged to the foul treatment system. All surface water shall be collected and disposed of to rainwater harvesting, soakaways or surface water system designed and constructed in accordance with B.S. 8301:1985 and BRE Digest 365 and provided with inspection manhole covers.
(b) No surface water run-off from the site shall be discharged to adjacent properties.

Reason: In the interest of public health.

4. No part of the proposed development including rainwater goods shall encroach or overhang onto neighbouring sites.

Reason: In the interest of residential amenity.

5. The applicant/developer to pay to Kildare County Council the sum of €3,720.00 being the appropriate contribution to be applied to this development in accordance with the Development Contribution Scheme adopted by Kildare County Council on 19th December 2022 in accordance with Section 48 of the Planning and Development Act 2000 as amended. Payments of contributions are strictly in accordance with Section 34 of the Development Contribution Scheme adopted by Kildare County Council on 19th December 2022.

Note: Please note water and wastewater development contribution charges now form part of the water connection agreement, if applicable, with Irish Water.

Reason: It is considered reasonable that the developer should make a contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority.

3.2 External Reports

Irish Water – No Objection

3.3 Internal Reports

Water Services – No objection subject to conditions

Environment Department – No objection

Roads Department – No objection

MD Engineer – No response

3.4 Third Party Observations

One observation was received from Siobhan O'Leary and David Fottrell of 228A Killeenlea, Celbridge.

- Impact on amenity due to the height, length, proximity, visually and shadow.
- No other storage sheds of similar size, length and height in such close proximity to neighbouring properties in the immediate locality.

- Concern regarding use. Applicants allegedly advised the use was for leisure and now only storage is referred to.
- Concern for future use, that a material change of use may occur to a habitable dwelling and may adversely impact on their residential amenity.
- It is their opinion that this is the reason for the storage unit being in close proximity to the main dwelling, being extended in area, width and height, inclusion of velux windows, connection to domestic water supply and connection to septic tank.
- Works implemented without the benefit of planning permission.
- Previous collection of sheds were less visible.
- Long black roof is unsightly and sunshine causing glint and glare from roof which did not result from previous mono-pitch roof.
- Alternative locations within curtilage for storage to be constructed.
- Previous storage structure which exceeded 25m sq. did not impact on neighbouring property.
- Scale of storage unit is excessive for residential use.
- Concern regarding precedent if permission granted.
- Area of 60 m sq – unsure of accuracy.
- Boundary map does not reflect what is on the ground.
- Structure enlarges boundary and widens entrance from the public road.
- Boundary map is same as that provided in 2015 which indicates the land on which the structure is built is outside the red line.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Kildare County Council Planning Report forms the basis for the decision. The report provides a description of the site and subject proposal, it sets out the planning

history of the site and surrounds, summaries the observation on the planning file and sets out the policy that is relevant to the development proposal.

3.2.2. Other Technical Reports

None

4.0 Planning History

- 15/1151 – For an existing single storey rear extension 37sqm floor area and the extension of bedrooms by 11sqm to the front under the existing roof overhang (retention) and seek planning permission to replace part of the existing roof with a steeper pitch to allow habitable rooms to be created at first floor with rooflights together with the increase in height of the chimney and the alteration of two windows to the front elevation – Granted 13/09/2016

5.0 Policy and Context

5.1. Development Plan

5.2. Kildare County Development Plan 2023 - 2029

- Chapter 15 Development Standards

5.3. National Policy/Guidance

- Development Management: Guidelines for Planning Authorities (DoEHLG 2007)

5.4. Natural Heritage Designations

5.5. There are no designated natural heritage sites in the vicinity.

5.6. EIA Screening

- 5.7. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

A 3rd party appeal was lodged on behalf of the objectors Siobhan O’Leary and David Fottrell of 228A Killeenlea, Celbridge on the 27th April 2023. The points of concern extended beyond the points of concern and objections raised by their original observation to include the following;

- Concern that Kildare County Council’s decision to permission for an ancillary building of the same length, purpose, size and height in such close proximity to an adjoining dwelling as extremely unusual.
- Wall highlighted in original objection as being unmarked on the applicants site boundary map and not having planning permission not addressed by Kildare County Council.
- Issue of consistency of handling applications by Kildare County Council.
- Do not believe the objections and concerns raised were given fair and objective consideration.
- Impact on amenity – overshadowing
- Request for Planning Inspector to site visit and view from their property. When site visiting, I was unable to gain access to the third party objectors property.

6.2. Planning Authority Response

- The planning authority confirmed its decision and considered the issues raised by the appellant have been considered in the Planners Report.

6.3. Observations

- None

6.4. Further Responses

- None.

7.0 Assessment

7.1. Principle of the Development

7.2. From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues raised by the appeal are:

- The principle of the development seeking to be retained
- Scale, height, massing, design and location of the development
- Impact on residential amenity by way of overshadowing and loss of light.

7.3. In terms of the impact on the third parties view, this is not a material planning consideration.

7.4. The storage building subject of this appeal is consider on the basis of the information provided. Whilst the third party has raised concerns regarding the sole use as storage and not leisure facilities, the building falls within the same grouping as a domestic garage, home-work pod or garden room. Chapter 15.4.13 of Kildare County Development plan states, *'The development of a domestic garage/store/home-work pod/garden room for use ancillary to the enjoyment of a dwelling house...The unit shall only be used for purposes ancillary to the enjoyment of the dwelling house and not for human habitation'*.

7.5. Concern re the excessive size of the storage building for domestic purposes was raised. Upon site inspection, I internally inspected the building and found a general tool and log store, a gym room of a domestic/personal use scale and further storage, a cupboard which is noted as a drying room on the plans being used as storage. I did not find evidence of any other use, other than ancillary use to the existing dwelling at the time of inspection.

- 7.6. Speculation as to future possible use as a dwelling house has been raised by the third party objector, however this is speculative. The proposal before the Board is for the *'Retention of a storage building to the rear of the existing building'* and it must be considered and determined on this basis. In the event of future alternative uses being implemented, if this appeal upholds the decision of the Planning Authority, then it would be a matter for the Planning Authority to pursue any breaches of conditions/unauthorised uses through the Authorities Enforcement team and relevant enforcement legislation.
- 7.7. Concern regarding a precedent being set, I do not consider this a reason for refusal. Point 6 of the policy in chapter 15.4.13 that the *'Planning Authority may consider exceptions to the criteria above having regard to the need for the development and the location and characteristics of the subject site'*. Each planning application is considered on its own merits and therefore the policy provides flexibility for the Planning Authority to consider each application on its own merits.
- 7.8. The building extends to 15m in length, 4.2m in width with a ridge height of 3.6m from finished floor level, providing a footprint of approximately 61.76m sq. Accuracy of the plans has been raised, however no evidence to demonstrate this has been provided by the third party objector to sustain this claim.
- 7.9. Objection to the location of the building adjacent to the third party's property has been raised. In consideration of the location, the previous storage building occupied the same locale adjacent to the neighbouring albeit in a different form and a lesser scale. The siting of the storage building is considered to be acceptable, in keeping with the locale of the previous storage building which occupied the site for a significant period of time.
- 7.10. As discussed above the Planning Authority can depart from this. The ridge height of the roof does not exceed 5m, therefore the concern re the roof is in regard to the asymmetric form and not the previous mono-pitch form. The policy does not state the form of the roof simply the ridge height, which the proposal is below. It is accepted that the asymmetric roof form means a greater view of the southeastern pitch is available to the adjoining neighbours, the policy is not a visibility test and as such the increase of the visual of the roof is not considered to adversely affect the residential amenity of neighbouring properties.

- 7.11. The black roof whilst of painted metal sheet finish, is not considered to be an offensive finish, and whilst some glint and glare may result at certain times of the year, I am not persuaded that this would be to such a degree to injure the residential amenity of neighbouring properties.
- 7.12. The third parties' dwelling sits northeast of the storage building. Considering this and the sun path from, rising in the east and setting in the west, I do not consider an unacceptable degree of overshadowing to result from the storage structure to objectors dwelling. A portion of the garden may be overshadowed from mid- afternoon, however I am not persuaded that this would be to a unacceptable degree to result in significant adverse impact to the residential amenity of 228A Killeenlea.
- 7.13. In terms of concern regarding the works being undertaken prior to permission being obtained, this is noted and addressed in the proposal description.
- 7.14. In respect of the concern regarding the entrance wall, the Roads Department were consulted on the proposal and raised no objection. Secondly, whilst the alteration to the wall may be unauthorised it may be immune through the passage of time. Finally ,the appeal is specific to the proposal before the Board in respect of the storage building. Alterations to the entrance do not form part of this appeal. Concerns regarding the entrance wall should be brought to the attention of the Planning Authorities Enforcement Team through the relevant enforcement legislation.
- 7.15. I am satisfied that the conditions attached to the Local Authority's approval are sufficient to ensure that, in the event of the proposal not being in accordance with the grant of permission, that the Local Authority could enforce and protect the residential amenity. I am also satisfied that the conditions attached demonstrate the consideration of the concerns raised by the objector and provide comfort to ensure any deviation from the planning permission can be dealt with by the local authority to protect the residential amenity of the third party, in the event of unauthorised use.
- 7.16. In respect of concern for the consistency of the handling of planning applications by Kildare County Council and the opinion that the application subject to this appeal was an unusual decision, this is outside the remit of An Bord Pleanála and the planning appeal process is not the vehicle to deal with such concerns.
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7.17. **Appropriate Assessment Screening**

7.18. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom/to the absence of emissions therefrom, the nature of receiving environment as a built up urban area and the distance from any European site/the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

8.0 Recommendation

8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the retention of the development for the reasons and considerations set out below. I recommend the following conditions:

9.0 Reasons and Considerations

- I consider that the storage building proposed to be retained is for storage purposes ancillary to the existing dwelling house.
- The storage building proposed to be retained, will not seriously injure the residential amenity of the third party objectors to a significant degree.
- The attachment of suitable conditions can alleviate concerns in respect of speculation of future use of the building.

10.0 Conditions

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| 1. | The development shall be carried out and completed in accordance with the plans and particulars lodged with the application [as amended by the further plans and particulars submitted on the 10 th day of February 2023 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 |
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| | <p>development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p> |
| 2. | <p>The structure hereby permitted shall be used for domestic purposes only and shall remain ancillary to the dwelling. It shall not be used for human habitation, for any commercial use or for the carrying out of any trade. The structure shall not be let or sold separately to the dwelling.</p> <p>Reason: In the interests of clarity and to regulate the use of the development in the interest of the proper planning and sustainable development of the area.</p> |
| 3. | <p>(a) Only clean, uncontaminated surface water from the development shall discharge to the surface water system. Only foul sewage and soiled water from the development shall be discharged to the foul treatment system. All surface water shall be collected and disposed of to rainwater harvesting, soakaways or surface water system designed and constructed in accordance with B.S. 8301:1985 and BRE Digest 365 and provided with inspection manhole covers. (b) No surface water run-off from the site shall be discharged to adjacent properties.</p> <p>Reason: In the interest of public health.</p> |
| 4. | <p>No part of the proposed development including rainwater goods shall encroach or overhang onto neighbouring sites.</p> <p>Reason: In the interest of residential amenity.</p> |
| 5. | <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. The contribution shall be paid prior to the 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</p> |

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| | <p>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 the Board 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 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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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgment in an improper or inappropriate way.

Louise Medland
Planning Inspector

15th January 2024

Appendix 1 - Form 1
EIA Pre-Screening
[EIAR not submitted]

| | | | |
|---|---|------------|--------------------------------|
| An Bord Pleanála Case Reference | 316601-23 | | |
| Proposed Development Summary | Retention of a storage building to the rear of the existing building. | | |
| Development Address | Glencraig, Killeenlea, Celbridge, Co Kildare | | |
| 1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings) | | Yes | |
| | | No | No further action required |
| 2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class? | | | |
| Yes | | | EIA Mandatory EIAR required |
| No | X | | Proceed to Q.3 |
| 3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]? | | | |

| | | Threshold | Comment (if relevant) | Conclusion |
|-----|---|-----------|--------------------------|---|
| No | X | N/A | | No EIAR or Preliminary Examination required |
| Yes | | | | Proceed to Q.4 |

| 4. Has Schedule 7A information been submitted? | | |
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| No | X | Preliminary Examination required |
| Yes | | Screening Determination required |

Inspector: _____ Date: 15th January 2024