



An
Bord
Pleanála

Inspector's Report

ABP-317111-23

Development	Construction of a two storey house
Location	13 Priory Chase, Saint Raphael's Manor, Celbridge, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	23162
Applicant(s)	Michael & Aoife Wallace
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Michael & Aoife Wallace
Observer(s)	None.
Date of Site Inspection	3 rd September 2023
Inspector	Ronan O'Connor

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1.0 Site Location and Description

- 1.1. The appeal site is located within an existing residential estate, Priory Chase, located approximately 1km west of Main Street Celbridge. It forms part of the existing front garden of a two storey dwelling, located at the end of a cul-de-sac, and extends adjacent to the existing turning area. It is bounded to the north-east by the rear gardens of properties on Priory Way and to the south-east by the rear garden of No. 12 Priory Chase.

2.0 Proposed Development

- 2.1. The application is for the construction of a two storey house

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for one no. reason as follows:

1. *Having regard to the pattern of development in the area, it is considered that the proposed development of a detached house in the front garden area of the existing dwelling represents over- development of a restricted site, would have an overbearing impact on the adjacent properties and would result in overshadowing of the neighbouring property's rear amenity open space. Accordingly, it is considered that the proposed development would be contrary to the zoning objective of the area and would depreciate the value of property in the vicinity and would therefore be contrary to the proper planning and sustainable development of the area. Furthermore, the proposed development would set an undesirable precedent for other similar developments, which would in themselves and cumulatively, be harmful to the residential amenities of the area and would be contrary to the proper planning and sustainable development of the area.*

Decision Date: 18/04/2023

3.2. Planning Authority Reports

- 3.2.1. Planning Report (dated 14th April 2023)

- Notes car parking provision complies with Development Plan
- Proposed development would result in overdevelopment of a restricted site
- Would impact on the amenity of future residents
- Having regard to the location and height, serious concerns the proposed development would result in overshadowing of the neighbouring property's rear amenity space (No. 12)
- Would have an overbearing impact
- Would contravene zoning objective to protect and enhance the amenity of the existing residential area

3.2.2. Other Technical Reports

Roads, Transportation and Public Safety – No objection subject to conditions

Environment – Recommends conditions

3.3. **Prescribed Bodies**

3.3.1. Irish Water – Standard observations

3.4. **Third Party Observations**

3.4.1. None.

4.0 **Planning History**

4.1.1. None.

5.0 **Policy Context**

5.1. **Development Plan**

Kildare County Development Plan 2023 -2029

The Kildare County Development Plan 2023 -2029 came into effect on 28th January 2023.

Chapter 3 Housing

Chapter 15 Development Standards

Section 15.2.2 Development Standards/15.2.3 Overshadowing

Table 15.2 Minimum Floor Space and Open Space Requirements for Houses

Celbridge Local Area Plan 2017-2023

The site is zoned B 'Existing Residential/Infill', the zoning objective of which is 'To protect and enhance the amenity of established residential communities and promote sustainable intensification'.

5.2. Natural Heritage Designations

- 5.2.1. c. 5km to the north of Rye Water Valley/Cartron SAC (site code 001398).

5.3. EIA Screening

- 5.3.1. Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, 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.

5.4. AA Screening

- 5.4.1. Having regard to the modest nature and scale of development, location in an urban area, connection to existing services and absence of connectivity to European sites, it is concluded 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.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. One no. first party appeal was submitted on 15th May 2023. I would draw the Board's attention to the **amended plans** enclosed with the appeal. The revised drawing

proposes to reduce the height of the development (PL01 REV A). The grounds of appeal are summarised as follows:

Principle of Development

- Principle of development of the site is not in question.
- Zoning of the site encourages this type of development.
- Clear from reading the Planner's report/Departmental reports that there is very general support for the development as proposed/no real material objections besides some very general comments from the planner
- Development complies with relevant standards
- Compliant with separation distances
- Only specific negative commentary is in relation to possible overshadowing of the rear of the amenity space of No. 12
- Site cannot be described as restrictive if it complies with relevant standards in the CDP

Overbearing

- Significant precedent for the development of two storey development in proximity to existing side and rear gardens in Kildare
- Applicant's existing dwelling is in close proximity to the rear boundary of the dwellings to the north along Priory Way
- Existing adjacent dwellings are approximately 7.6m in height/almost half a meter higher than the proposed development
- Have enclosed a revised drawing which proposes to reduce the height of the proposed development by over 0.85m to 6.35m in height
- Existing site is currently bounded by an existing block work boundary wall circa 2m in height
- It is contended the development is not in fact overbearing

Overshadowing

- Will not overshadow No. 12 Priory Chase as suggested by the Planner

- Rear garden of No. 12 is north facing/will obtain minimal sunlight in any event/the existing dwelling will overshadow garden/No. 12 has sheds and a side extension
- Actual level of overshadowing will be minimal and non-material
- Shadow diagrams submitted with the appeal
- Owners of No. 12 agree that there will be no impact and have submitted a letter of support (Attached as Appendix B of the appeal statement)

Conclusion

- Will comply with government policy of housing generation through densification of existing residential areas
- Main reason for refusal as cited by the Planning Authority is incorrect
- Development is not in a 'front garden' and will not establish a negative precedent
- Site is a piece of land that was left over following the completion of the housing development
- Site is unique
- As per government guidance, permission should only be refused where there are serious objections on important planning grounds.

6.2. **Planning Authority Response**

6.2.1. The Planning Authority confirms its decision (response received on 12th June 2023).

6.3. **Observations**

6.3.1. None.

6.4. **Further Responses**

6.5. None.

7.0 **Assessment**

7.1. The planning issues raised in this appeal are as follows:

- Principle of Development
- Impact on Surrounding Residential Amenity
- Design Issues and Residential Standards

Principle of Development

- 7.1.1. As per the Celbridge Local Area Plan 2017-2023, the site is zoned B ‘Existing Residential/Infill’ the zoning objective of which is ‘To protect and enhance the amenity of established residential communities and promote sustainable intensification’. As such, the principle of an additional dwelling house on this site is acceptable, subject to the considerations of proper planning and development.

Impact on Surrounding Residential Amenity

- 7.1.2. The Planning Authority’s one reason for refusal refers to an overbearing impact on adjacent properties and also refers to overshadowing of the neighbouring properties rear amenity space, and it is concluded that *inter alia* the proposal would be harmful to the residential amenities of the area.
- 7.1.3. The first party contends that the proposal will not be overbearing, and has stated that the Planning Authority has not set out sufficient reasoning for their objections in relation to same. Notwithstanding, the applicant has submitted **amended plans** for the Board’s consideration, which reduces the overall height of the dwelling by 0.85m to 6.35m in height. It is further contended that the proposal will have no material impact on the level of sunlight received to the neighbouring garden.
- 7.1.4. In relation to the issue of overbearingness or visual impact, I note the proposal, as originally submitted to the Planning Authority is some 13.4m in depth along the boundary with No. 12 Priory Chase (and 15.1m in depth when accounting for the single storey utility room at ground floor level). The overall height to the ridge is 7m. It is set in 1m from the boundary with No. 12. I concur with the view of the Planning Authority that the proposal would be overbearing when viewed from the garden of No. 12, and would set an undesirable precedent for development of this type, notwithstanding the comments of the first party appellant, and notwithstanding the submission from the occupiers of No. 12, expressing support for the application (Appendix B of the appeal submission).

- 7.1.5. In relation to the **Amended Plans** submitted with the appeal (Dwg No. PL 01 Rev A) I note that the proposed ridge height has been reduced to 6.35m. While this would serve to reduce the impact somewhat, I am not of the view that it would serve to overcome the negative visual impact or the sense of overbearing created by the proposed dwelling on the amenity area of No. 12.
- 7.1.6. In relation to the issue of loss of sunlight/overshadowing, I concur with view of the first party appellant that the loss of sunlight to the rear garden of No. 12 will be minimal, having regard to the orientation of the rear garden at No. 12 relative to the proposed dwelling house. I note the submission of a shadow diagram with the appeal that supports same. It may have been useful to submit a year round shadow assessment, that includes March/December shadowing effects, but I am not of the view that overshadowing of neighbouring gardens (including at No. 27 and 29 Priory Way, and at the appellant's property at No. 13 Priory Chase) would be so material as to warrant a refusal on these grounds.

Design Issues and Residential Standards

- 7.1.7. The Planning Authority's reason for refusal refers to 'overdevelopment of a restricted site' in the one reason for refusal.
- 7.1.8. The first party appellants contends that all development standards have been complied with and therefore the proposal could not be considered overdevelopment.
- 7.1.9. I concur that the Planning Authority have not cited explicitly any shortfall in development standards. The overall floor area (151.8 sq. m) and the garden area (64 sq. m) comply with those standards as set out in Table 15.2 of the Development Plan. As such I would not be of the view that the proposal represents overdevelopment *per se* but rather it is the location of the adjoining amenity space, and the extent of built form adjacent to this, that is not appropriate, in my view, as per the above discussion.
- 7.1.10. In relation to the visual appearance of the dwelling from the street, the Planning Authority has not cited any concerns in relation to same, and I also do not have any concerns as relates the appearance of the proposed dwelling (either the originally submitted plan nor the amended proposal as submitted at appeal stage) from the public street.

8.0 Recommendation

8.1. I recommend that permission be **REFUSED**, subject to the conditions below.

9.0 Reasons and Considerations

1. Having regard to the scale of the proposed dwelling house, and in particular, the depth and height of the proposed dwelling close to the boundary with No. 12 Priory Chase, it is considered that the proposed development (both the originally submitted plans and the amended plans as submitted at appeal stage) would adversely impact the residential amenity of neighbouring property at No. 12 Priory Chase, as a result of the overbearing visual impact of the proposed dwelling when viewed from the rear garden of same. The proposal would, therefore, be contrary to the proper planning and sustainable development of the area.

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 judgement in an improper or inappropriate way.

Ronan O'Connor
Senior Planning Inspector

4th September 2023