



An
Bord
Pleanála

Inspector's Report

ABP-317887-23

Development	Relocation of existing timber cabin to rear of house
Location	715 Courtown Road, Kilcock, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	23642
Applicant(s)	Nuala Donagher
Type of Application	Retention Permission & Planning Permission
Planning Authority Decision	Refusal for one reason
Type of Appeal	First Party
Appellant(s)	Nuala Donagher
Observer(s)	None
Date of Site Inspection	13 th October 2003
Inspector	Bernard Dee

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
4.0 Planning History.....	5
5.0 Policy and Context.....	8
6.0 The Appeal	11
7.0 Assessment.....	12
8.0 Recommendation.....	14
9.0 Reasons and Considerations.....	14

1.0 Site Location and Description

- 1.1. The appeal site is located at 715 Courtown Road in Kilcock, an established residential area to the southwest of the town centre. The host property is a mid-terrace two storey dwelling, to the rear of which is a garden area comprising a detached block build domestic shed, a timber cabin structure and private open space.
- 1.2. The appeal site is long and narrow, extending in a northerly direction from the terrace row of houses fronting onto Courtown Road. Vehicular access is to the rear of the site via a laneway which runs along the back of the row of houses.
- 1.3. The red line boundary of the site encompasses the rear garden area where the timber cabin is sited, an existing block built domestic shed that is ancillary to the host property and an area of rear amenity space and No. 715 Courtown Road as well as the front garden area. The area of the appeal site is stated as being 0.03505 hectares.

2.0 Proposed Development

- 2.1. Retention permission is sought for the retention of a detached single storey one bedroom dwelling house within a timber cabin structure. Permission is sought for the relocation of the timber cabin to the rear of No. 715 and the construction of a link between No. 715 and the relocated cabin. The relocation of the timber cabin would involve the demolition of the existing block built shed on site. Alterations to existing drainage connections and all other associated site works including private car parking space are also proposed.
- 2.2. From the drawings submitted to the Planning Authority the cabin has a footprint of 10m x 4.5m and a GFS of 32m² and the proposed link structure between the relocated cabin and the house measures 7.3m² giving a combined GFS of 39.3m². The cabin has a ridge height of 3.308m.
- 2.3. The cabin will accommodate a living room, bathroom and TV room and a new kitchen will be located in the link structure.

3.0 Planning Authority Decision

3.1. Decision

Permission for the development to be retained was refused on 1st August 2023 for one reason:

1. The development to be retained and the proposed extension is not in keeping with the design or pattern of development in the area. Furthermore, it is considered that the proposed timber cabin form of construction, if permitted would set an undesirable precedent for the construction and proliferation of such developments, would be injurious to the residential and visual amenities of the areas and would therefore be contrary to the zoning objective of the site in the Kilcock Local Area Plan 2015-2021, Objective B 'Existing/Permitted Residential' which seeks *"To protect and improve existing residential amenity; to provide for appropriate infill residential development; to provide for new and improved ancillary services."* Accordingly, the proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Planner's Report on file notes the extensive enforcement and planning history of the appeal sit with regard to two previous refusals for the retention of the timber cabin on appeal to the Board.
- The Planner's Report notes that the principle of an extension to the rear of No. 715 is acceptable, but that the form of the extension in the nature of a timber cabin would not be acceptable in practice due to the design and materials used.
- The use of timber for the extension was not considered a durable material by the Planner and the extension would be incongruous in its context and create a bad precedent if granted permission.
- The zoning objective seeks to protect and improve residential amenity but the proposed extension would detract from the visual and residential amenity of the area.
- Neither EIA nor AA is required in relation to the development for which retention is sought.

3.2.2. Other Technical Reports

- Water Services - no objections subject to conditions.
- Transportation - no objections subject to conditions.

3.2.3. Prescribed Bodies

- No responses received.

3.2.4. Observations

- No submissions received.

4.0 **Planning History**

4.1. On the Appeal Site

PA Ref. 21/768, on 8th April 2022, the current applicant was refused retention planning permission under Board reference number 311107-21 for permission and for retention permission for development on this site consisting of (a) retention permission for detached single storey one bedroom dwelling house comprising a timber cabin & alterations to existing drainage connections, and all other associated works, including private car parking space etc.. And (b) planning permission for extension to rear of timber cabin to increase floor area & for internal alterations, provision of new external finishes to dwelling house, demolition of part of existing shed to rear of existing house, relocation of ex. car space to rear & revision of entrance to rear car parking space off laneway & all associated alterations to boundary treatment, all located in the rear garden with access of rear mews laneway. The two reasons for refusal were:

1. The dwelling proposed for permission and retention fails to meet the minimum standards for one-bedroom dwellings stipulated in the Kildare County Development Plan 2017-2023. As such, the development proposed for permission and retention constitutes a substandard form of residential development, is contrary to Policy SR1 and Objective SRO1 of the Kildare County Development Plan 2017-2023, would set an undesirable precedent for similar forms of substandard development, and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The development proposed for permission and retention, by reason of the restricted nature of the site, the limited separation distances to site boundaries, the constrained options for positioning the dwelling within the site, and its siting adjacent to the private amenity space of adjacent properties, is not an appropriate form of infill residential development. The development proposed for permission and retention would be contrary to Zoning Objective 'B: Existing/Permitted Residential' of the Kilcock Local Area Plan 2015-2021, to Objective SRO2 of the Kildare County Development Plan 2017-2023, and would, therefore, be contrary to the proper planning and sustainable development of the area.

PA Ref. 20/507, in 2020, the current applicant was refused retention planning permission for a detached single storey one bedroom dwelling house comprising a timber cabin, alterations to existing drainage connections, alterations to boundary treatment and all other associated site works, private car parking space etc., all located in the rear garden of no. 715 Courtown Road. Under Board reference number 307858-20 this decision was upheld for two reasons as follows:

- 1 *The dwelling to be retained fails to meet the minimum standards for one-bedroom dwellings stipulated in the Quality Housing for Sustainable Communities: Best Practice Guidelines 2007 and in the Kildare County Development Plan 2017-2023. As such, the proposed development constitutes a substandard form of residential development, is contrary to Policy SR1 and Objective SRO1 of the Kildare County Development Plan 2017-2023, would set an undesirable precedent for similar forms of substandard development, and therefore, would be contrary to the proper planning and sustainable development of the area.*

- 2 *The proposed development, by reason of the restricted nature of the site, the limited separation distances to site boundaries, the constrained options for positioning the dwelling within the site, and its siting adjacent to the private amenity space of adjacent properties, is not an appropriate form of infill residential development. The proposed development would be contrary to Zoning Objective 'B: Existing/ Permitted Residential' of the Kilcock Local Area Plan 2015-2021, to Objective SRO2 of the Kildare County Development Plan 2017-2023, and would, therefore, be contrary to the proper planning and sustainable development of the area.*

Ref. UD7449 – this relates to a warning letter issued to the applicant regarding the unauthorised timber cabin which is the subject of this appeal. An enforcement notice has been issued and the case is now at legal stage.

4.2. In the Vicinity of the Site

PA Ref. 01/2112 – Planning Authority granted permission on 7th August 2003 for a dormer bungalow at the rear of 714 Courtown Road which is west of and adjacent to the appeal site. This permission has been implemented.

5.0 Policy and Context

5.1. Development Plan

The Kildare County Development Plan 2023 - 2029 is the statutory plan for the area.

Chapter 15 - Development Management Standards.

15.4.12 Extensions to Dwellings

Adapting residential units through extensions can sustainably accommodate the changing needs of occupants subject to the protection of residential and visual amenities. A well-designed extension can provide extra space, personalise and enhance the appearance of a dwelling. It would not be practical to set out a prescriptive approach to the design of extensions that would cover every situation, nor is it desirable to inhibit innovation or individuality. The following basic principles shall be applied:

- The extension should be sensitive to the appearance and character of the house and the local area (urban or rural).
- The extension shall have regard to the form and scale of the existing dwelling and should not adversely distort the scale or mass of the structure.
- The design and scale should have regard to adjoining properties.
- A flexible approach will be taken to the assessment of alternative design concepts and high-quality contemporary designs will be encouraged. A different approach may apply in the case of a Protected Structure, structures with significant heritage or within an Architectural Conservation Area.
- In rural areas, the design of extensions should have regard to the Key Principles set out in Appendix 4 Rural House Design Guide.
- The extension should not provide for new overlooking or loss of privacy below reasonable levels to the private area of an adjacent residence.
- The cumulative impact of the existing extent of overlooking and the overlooking that would arise as a result of any proposed extension need to be considered.

- The extension should not have an overbearing impact on neighbouring properties. Large extensions, particularly if higher than one storey, should be moved away from neighbouring property boundaries.
- New extensions should not overshadow adjacent dwellings to the degree that there is a significant decrease in daylight or sunlight entering into the house.
- An adequate area of private open space, relative to the size of the dwelling should be retained, generally not less than 25sq.m.
- Where required, it will be necessary to demonstrate that the existing on-site wastewater treatment system serving the main dwelling can facilitate the additional loading from the proposed extension. Where this cannot be demonstrated, it will be necessary for the on-site wastewater treatment system to be upgraded as part of the development proposal.

15.4.14 Family Flat Family flats (often known as granny flats) refer to a temporary subdivision or extension of an existing dwelling unit. They are a way of providing additional accommodation with a level of semi-independence for an immediate family member (dependent on the main occupants of the dwelling). Applications for a family flat shall have regard to the following requirements:

- The applicant shall be required to demonstrate that there is a genuine need for the family flat.
- An occupancy condition may be applied.
- The proposed unit should be linked directly to the main dwelling by a connecting door.
- Accommodation must be subsidiary to the main dwelling in scale and only in exceptional cases will more than one bedroom be permitted where a need has been demonstrated.
- The design standards for house extensions shall be applied to the family flat.
- Any external doors permitted (to provide access to private / shared open space or for escape from fire) shall be limited to the side or rear of the house.
- Where required, it will be necessary to demonstrate that the existing on-site wastewater treatment system serving the main dwelling can facilitate the

additional loading from the family flat. Where this cannot be demonstrated, it will be necessary for the on-site wastewater treatment system to be upgraded as part of the development proposal.

It is normal procedure to include conditions in any grant of permission that the family flat cannot be sold, conveyed or leased separately from the main residence, and that when the need for the family flat no longer exists the dwelling must be returned to a single dwelling unit.

Kilcock LAP 2015-2021 (as extended)

The appeal site falls within zoning objective B - Existing/Permitted Residential - To protect and improve existing residential amenity; to provide for appropriate infill residential development; to provide for new and improved ancillary services. This zoning principally covers existing residential areas. The zoning provides for infill development within these existing residential areas. The primary aims of this zoning objective are to preserve and improve residential amenity and to provide for further infill residential development at a density that is considered suitable to the area and to the needs of the population. Such areas, particularly where bordering the commercial centre, will be protected from the pressure of development of higher order uses such as retail and offices.

A dwelling is deemed 'Permitted in Principle' within zoning objective B areas. See Map 14: Land Use Zoning Objectives Map.

5.2. Natural Heritage Designations

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

- Rye Water Valley/Carton SAC (001398) is located approximately 6.5km to the east of the appeal site.
- Royal Canal pNHA (001398) is located approximately 700m to the NE of the appeal site.

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 First Party appeal in summary puts forward the following relevant planning grounds of appeal:

- The application is for the relocation of an existing timber cabin to act as an extension to No. 715 Courtown Road and is not for the retention of a stand-alone cabin which was the subject of enforcement action.
- The proposed extension is in compliance with the zoning objective for the area which permits in principle infill residential development.
- A house extension such as that proposed would normally constitute exempted development as it meets all the criteria set down in Part 1, Schedule 2 of the Planning and Development Regulation 2001 (as amended).
- Due to enforcement proceedings this normally exempt house extension is de-exempted due to the provisions of Article 9(I)(viii) of the Planning Regulations.
- The fact that the extension is a timber structure, which the Planning Authority disapproves of, is not a material consideration as the criteria for exempted development for house extensions does not make any reference to the type of building materials to be employed.
- For the Planning Authority to state that the timber cabin extension is not durable and is out of character with the established pattern of the development in the area is biased and unreasonable.

- Precedent exists for the Board granting permission for a timber cabin extension to 386 Ballyoulster, Celbridge Co. Kildare – ABP Ref.301732-18 (KCC Ref. 18/254).
- The extension is necessary as the applicant is a full-time carer for her blind mother and if permission is refused then considerable social and financial damage will be caused.
- The ‘Development Management Guidelines’ (2007) state that “*permission should be refused only where there are serious objections on important planning grounds*” which is not the case in the current instance. [Note to Board: I could not find this quote in the Development Management Guidelines’ as revised in 2020 but this phrase may have been contained in the 2007 version of the Guidelines which are no longer available].

6.2. Planning Authority Response

- The Planning Authority refer the Board to the original Planner’s Report and state that the granting of permission for the proposed relocation of the timber cabin would set a bad precedent for similar type developments in established residential areas.

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 the issue of whether or not the use of a relocated timber cabin for use as a house extension constitutes proper planning and sustainable development. The issue of AA Screening is also addressed in this assessment.

7.3. Timber Cabin House Extension

- 7.3.1. It is the appellant's case that the timber cabin house extension is entirely appropriate in terms of design and construction material and that the extension would not be out of character with the existing pattern of development in the area. The Planning Authority have taken the opposite view and express concern around the issue of bad precedent should the timber cabin extension be approved by the Board.
- 7.3.2. The appellant argues that were it not for the enforcement proceeding taken against the timber cabin, the structure would be eligible to be considered as exempted development and could be removed from the site and then placed on site as an extension to the house without the need for planning permission.
- 7.3.3. This case has the added complication in that should the Board be minded to refuse permission for retention and relocation of the timber cabin to act as an extension to the house on site, considerable personal and financial upset will be caused to the appellant and her immediate family.
- 7.3.4. However, I find that I must concur with the Planning Authority view in this instance and I am of the view that the use of the timber cabin as a house extension would not be in the interest of proper planning and sustainable development and that to grant permission for the proposed house extension would create an undesirable precedent for other house extensions (exempted extensions or those requiring planning permission) in the area.
- 7.3.5. My reasoning is that leaving aside the enforcement issues against the unauthorised placing of a timber cabin in the rear garden of No. 715, if a *de novo* application was made to the Planning Authority and the Board on appeal for a timber extension to a block rendered house, the likelihood of permission being granted would be slim given that the design and materials are completely out of context with the pattern and character of development in the area.
- 7.3.6. Notwithstanding the appellant's claim that the design of the timber cabin is appropriate to its context and that timber cabins are constructed of sustainable and durable material, I am of the opinion that the durability of a timber cabin is doubtful and may lead to deterioration prior to the house itself deteriorating and would hence constitute a substandard form of development.

7.3.7. Were an application to be made for an extension to the house in similar style and building materials to the house, I would have no hesitation in recommending a grant of permission to the Board. However, the present proposal to reuse the timber cabin on site as a house extension would lead to a development that is out of character with the established pattern of development in the area and would result in an extension of uncertain durability and amenity for any occupants.

7.4. AA Screening

7.4.1. Having regard to the relatively minor development proposed within an existing housing estate and the distance from the nearest European site, 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 retention permission be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Kildare Development Plan 2023-2029 and the Kilcock LAP 2015-2021, it is considered that the development for which retention permission and permission for relocation as a house extension is sought constitutes a substandard form of residential development that would, by virtue of its design and construction materials, be out of character with the established character of the area, and would set an undesirable precedent for similar forms of substandard development, and therefore, would 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.

Bernard Dee
Planning Inspector

18th October 2023