



An  
Bord  
Pleanála

## Inspector's Report

### ABP-319838-24

<b>Development</b>	Extension to rear of house and associated site works.
<b>Location</b>	No. 33 Liffey Lawns, Clane, Co. Kildare
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	2460240
<b>Applicant(s)</b>	Thomas Rooney & Carol Butler
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Laurence & Margaret Connolly
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	20 <sup>th</sup> August 2024
<b>Inspector</b>	Matthew O'Connor

## **1.0 Site Location and Description**

- 1.1. The appeal site has a stated area of 0.047 ha and comprises a detached single storey dwelling in the Liffey Lawns housing estate which is accessed from the northern side of Prosperous Road to the west of the Main Street in Clane. The appeal site is the second house from the end of a residential row and fronts onto an area of public open space. All residential units in Liffey Lawns have a generally similar style and design with red brick finishes, brown roof tiles, front garden areas with on-curtilage carparking and gardens to the rear.

## **2.0 Proposed Development**

- 2.1. The proposed development seeks:
- Construction of new single storey extension to the rear (west) of dwelling approx. 7sq.m (1.8m X 4.31m) with a height of 3.5 metres.
  - Replacement of pitched roof over the former garage space (converted to dining area) on the northern (side) elevation of dwelling with a new mono-pitched roof.
  - Raising height of northern (side) existing party boundary from approx. 2.2 metres to 3.5 metres.
  - External cladding of extended areas with timber.
  - Minor internal reconfiguration of existing floor layout to modify several rooms and provide 2 no. en-suites.
  - External alteration also include 2 no. windows on side (north and south) elevations to serve new en-suite bathrooms and a rooflight on the rear (west) roofslope.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

- 3.1.1. Decision to grant permission for the subject development, subject to 8 no. conditions.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

- Planner's Report dated 07/05/2024 forms the basis for the decision to grant permission.
- The report provides a description of the site, relevant planning history and associated policy context from the Kildare County Development Plan 2023-2029.
- It outlines the primary elements of the subject proposal and considers the development is acceptable and would not significantly impact on the amenities of the surrounding area.
- No issues raised with respect to AA or EIA.

#### **3.2.2. Other Technical Reports**

- MD Engineer – No objection, subject to conditions
- Water Services – No report at time of assessment
- Roads Department – No objection, subject to conditions

### **3.3. Prescribed Bodies**

- Uisce Éireann - No report at time of assessment.

### **3.4. Third Party Observations**

3.4.1 The Planning Authority received 1 no. third party submission whose objection indicated the following:

- Concerns regarding negative impacts on available sunlight and the enjoyment of their property.
- Concerns regarding works on the shared party boundary and its potential impact of rainwater goods.
- Inaccuracy of planning drawings as they do not detail extension erected at their residence.

- Increased height of northern boundary wall will impact on residential amenity and contravene Development Plan policies/objectives regarding protection of residential amenity and development for older persons.
- Outlined of potential redesign options.

## 4.0 Planning History

### 4.1. On the Appeal Site

None.

### 4.2. Neighbouring Property (North of Appeal Site)

**Reg. Ref. 15106** - Permission GRANTED for a rear extension to the existing dwelling, part conversion of the existing garage, construction of a new garage and associated site works.

## 5.0 Policy Context

### 5.1. Kildare County Development Plan 2023-2029

5.1.1. The Kildare County Development Plan 2023-2029 is the relevant Development Plan.

5.1.2. Section 15.4.12 relates to Extensions to Dwellings and sets out a number of basic principles. The following parameters are considered most applicable to the subject development:

- 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.
- 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.

#### **5.1.3. Clane Local Area Plan (LAP) 2017-2023**

5.1.4. The Clane Local Area Plan 2017- 2023 is also considered to be relevant as Kildare County Council continue to have regard to the adopted Local Area Plans until it is reviewed or another plan made. The site is zoned 'B' – 'Existing Residential' with an objective '*To protect and enhance the amenity of established residential communities and promote sustainable intensification*'.

### **5.2. Natural Heritage Designations**

5.2.1. The appeal site is not located on or within proximity to any designated Natura 2000 sites, with the nearest designated site being the Ballynafagh Bog Special Area of Conservation (Site Code: 000391) which is located approximately 5.15km to the west of the site and is also indicated as a proposed Natural Heritage Area. The Grand Canal pNHA (Code: 002104) is located approximately 3.72km to the south of the site and the Donadea Wood pNHA (Code: 001391) is located approximately 5.5km to the northwest of the site.

### **5.3. EIA Screening**

5.3.1. Having regard to the nature and scale of the development, which is for the extension of a residential property in an established built-up urban area, it is not considered that it falls within the classes listed in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations 2001 (as amended), and as such preliminary examination or an Environmental Impact Assessment is not required. See Appendix 1.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. The third party appeal was lodged on behalf of individuals who reside in the neighbouring dwelling to the north of the application site. The grounds of appeal are summarised as follows:

- The proposed development will impact on the living space provided for an elderly family member residing in their house.
- Concerns in relation to negative impacts arising from the raising of the boundary wall on sunlight/daylight to the living space of their property.
- Concerns in relation to negative impacts on their property by virtue of overshadowing from the increased roof height.
- The applicants have no permission/owner consent to increase the height of the party wall and apply timber cladding on the northern boundary as is it not within their full control.
- Concern with regard to the issues overhanging/oversailing of party boundary from the proposed development.
- The submitted planning drawings do not accurately demonstrate the relationship between the subject property and adjacent properties, namely the existing extension at their residence.
- The proposed works will require modification to the roof of the appellants dwelling if they are to be implemented as per submitted drawings.
- The proposal is not consistent with policies/objectives of the Kildare County Development Plan 2023-2029 with respect to residential amenity and older person accommodation.

### **6.2. Applicant Response**

6.2.1. No response received.

### **6.3. Planning Authority Response**

- 6.3.1. A response from the Planning Authority has been received on file and states that ‘the Planning Authority confirms its decision and asks that you please refer to the Planning Reports, internal department reports and prescribed bodies reports in relation to the assessment of this planning application’.

### **6.4. Observations**

- 6.4.1. There are no observations.

## **7.0 Assessment**

- 7.1. Having examined the application details and other associated documentation on file, the third party appeal, having conducted an inspection of the site, and having reviewed relevant local policies and guidance; I consider the main issues in this third party appeal can be addressed under the following headings:

- Principle of Development.
- Impact on Residential and Visual Amenity.
- Boundary Wall
- Accuracy of Planning Drawings.
- Appropriate Assessment (Screening).

### **7.2. Principle of Development**

- 7.2.1. The site is zoned ‘Objective B’ in the Clane Local Area Plan 2017-2023 which seeks to *‘protect and enhance the amenity of established residential communities and promote sustainable intensification’*. Residential development is permissible in the land use zone. I consider that the proposed extensions to the subject dwelling would be acceptable in principle – subject to compliance with the parameters set out in the Kildare County Development Plan 2023-2029 for domestic extensions.

### **7.3. Impact on Residential Amenity**

7.3.1. The appellants are concerned about loss of daylight, loss of sunlight and overshadowing to their property from the proposed development. I am satisfied that the grounds of appeal relate almost exclusively to the raising of the party boundary with the appeal site by some 1.3 - 1.4 metres to alter the dining room (previously converted garage) and my assessment will therefore concentrate on this particular item of the proposal under the following sub-headings:

#### *Daylight and Sunlight*

7.3.2. It is the contention of the appellants that the raising of the boundary wall to alter the converted dining room area will affect direct sunlight and daylight to a bay window serving the living/dining area of accommodation space for an elderly family member. I note that the Planning Authority did not raise any concerns on this matter in their assessment and the appeal has not included any sunlight/daylight studies or models demonstrating undue impacts arising from the proposed development.

7.3.3. In the absence of information or studies on daylight/sunlight impacts, I must form my assessment based on the information available on the appeal file. It is my opinion that there would evidently be some changes in daylight and sunlight along the south-facing (side) elevation of the appellants' property given the increased height proposed at the party boundary and the existing 2.2 metres separation distance between the subject development and the appellants' dwelling. However, I do not accept that daylight and/or sunlight to the appellants' property will be eliminated as indicated by the appellants. It is my view, on account of the modest height increase to the party boundary (c. 1.3 to 1.4 metres) and the fact that the existing 3.7 metre high pitched roof will be replaced with a new 3.5 metre flat roof (remaining single storey only) that the proposed development would still allow for natural daylight and sunlight to penetrate the appellants' property.

7.3.4. I am also satisfied that the appellant's property is not solely reliant on the south-facing bay window on the side elevation for daylight and sunlight. This window relates to an area of ancillary accommodation for a family member and therefore is not the primary residential space serving the appellants' dwelling.

7.3.5. It is my consideration that any potential impacts on the appellants' property and its occupants from the proposed works would not be significantly adverse or detrimental



and that any such impacts regarding daylight or sunlight would be reasonably in line with what might be expected for a single storey residential extension/modification to the side of an existing dwelling in an established urban area.

#### Overshadowing

- 7.3.6. The appellants consider that the proposed works to the previously converted garage space on the northern (side) elevation of appeal site will result in negative impacts on their property from overshadowing. The appellants claim the proposed development contravenes the policy framework set out in Section 15.2 (General Development Standards) of the Kildare County Development Plan 2023-2029. No shadow assessment was submitted as part of the planning application, the Planning Authority did not raise any concerns on this matter and the appellants have not included any supporting studies to demonstrate that there will be overshadowing impacts.
- 7.3.7. I consider that increase in height of the existing boundary wall will alter current shadowing/shading from the subject dwelling to the appellants' property. That said, having regard to the proposed alterations to the dining room (converted garage), I am satisfied that there would be no overshadowing impacts which would be significantly harmful or detrimental to the amenities of adjacent occupiers. I have formed this view based on the limited single storey scale of works to the side of the dwelling; the proposed works would not alter the footprint or floor area of this part of the dwelling; and, that the increased height of the boundary wall to a 3.5 metres high flat roof would remain below the existing 3.7 metres hipped roof height of converted garage space.
- 7.3.8. Additionally, I also note that given the siting of the appellants' property to the immediate north of the subject site, that the main roof, which stands at a height of approximately 6.4 metres, currently casts a shadow over the appellants' property for a considerable portion of the year due to the orientation of the subject properties. Furthermore, the single storey proposal on the northern side of the dwelling would also remain subservient to the main roof profile of the dwelling. As such, I consider that any potential changes in shadowing would be minimal and confined to the side curtilage of the neighbouring property to the north. I consider any changes in the shadow effect to be reasonable as the proposed extensions are modest and proportional to the existing dwelling on the site in an urban area. On this basis, I consider that the proposal to extend to the existing dwelling is acceptable.

### Concluding Remarks on Residential Amenity

7.3.9. Overall, in relation to the perceived impacts on residential amenity on the neighbouring property to the immediate north of the appeal site, I am of the view that any such impacts would not be of such significance so as to warrant alterations to the proposed design or indeed a refusal of permission. The subject development is considered to constitute relatively minor single storey extensions and modifications to the side/rear of an existing residential property in an established residential area, where extensions to modify and improve houses are common. I am satisfied with the contemporary design approach and selected materials for the proposed development and I consider that the subject site has the capacity to absorb a development of the nature and scale proposed, without detrimental impacts to the residential amenities of the area.

#### **7.4. Boundary Wall**

7.4.1. The appellants are concerned with the proposed raising in height of the party wall along the appeal site by approximately 1.3 metres - 1.4 metres to a total height of 3.5 metres and affixing timber cladding to same as these elements are not in the complete ownership of the applicants. The appellants also note issues of overhanging/oversailing that would arise from the proposed development. It is further claimed by the appellants that the proposed works will require modifications to the roof of their own dwelling if the subject development is approved as part of their existing extension oversails the appeal site.

7.4.2. Having inspected other properties in the Liffey Lawns housing scheme, I note the presence of boundary walls with ancillary development largely contained within the curtilage of existing sites. However, on the appeal site, the side wall of the converted garage forms a section of the party boundary with the neighbouring property to the north. I note that part of the ancillary family accommodation of the appellants' property forms part of the boundary with the appeal site. In my view, the existing and current boundary appears to be an established arrangement where the former boundary wall between the properties has been replaced with developments by the occupants of both properties. Given this built status, I do not consider it unreasonable from design or development perspective, that an existing gable wall forming the boundary of two properties would be precluded from being raised or altered to accommodate the extension/modification to a residence.

7.4.3. Nevertheless, I note that matters raised in relation to boundary issues or disputes are considered to be a civil matter covered under separate legislation and outside of the remit for consideration by the Board. I refer specifically to Section 5.13 of the Development Management Guidelines for Planning Authorities (2007) which indicates that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land. Therefore, An Bord Pleanála cannot adjudicate on the concerns raised in this appeal regarding ownership and rights over land.

7.4.4. That said, I recommend the inclusion of an Advisory Note to be attached to any grant of permission informing the applicants of Section 34(13) of the Planning and Development Act 2000 (as amended) which states that a person shall not be entitled solely by reason of a permission to carry out any development. In addition, a suitably worded condition can be attached requiring that no part of the development (inclusive of any fascia boards, gutters, drainpipes or other such rainwater goods) shall overhang or encroach onto the neighbouring property.

#### **7.5. Accuracy of Planning Drawings**

7.5.1. I note the grounds raised by the appellants claiming that the submitted planning drawings are incorrect as they do not accurately demonstrate the relationship between the appeal site and the appellants' property to the north. The assessment of the Planning Authority raised no issues in respect of the accuracy of the drawings. It is my view that the applicant has accurately detailed the extent of proposed works insofar as they relate to the appeal site. Whilst I do acknowledge that the extension of the ancillary accommodation of the neighbouring has not been fully detailed, I do not consider that the omission of the single storey extension(s) at the appellants' property from the submitted particulars significantly inhibited the assessment of the subject proposal on the appeal site given the limited scale and nature of the proposed development.

### **8.0 Appropriate Assessment (Screening)**

8.1. Having regard to the scale and nature of the proposed works and the existing services network serving the established urban area, it is concluded that no Appropriate Assessment issues arise as the subject development would not be likely to have a

significant effect individually or in combination with other plans or projects on a European site.

## **9.0 Recommendation**

9.1. I recommend permission be GRANTED subject to the conditions set out in the following reasons and considerations.

## **10.0 Reasons and Considerations**

10.1. Having regard to the Existing Residential zoning objective of the area under the Clane Local Area Plan 2017-2023; the policies of the Kildare County Development Plan 2023-2029 in terms of residential extensions; and, the design, layout and scale of the proposed development, it is considered that, subject to compliance with conditions below, the proposed development would be wholly in keeping with the pattern of development in the area, would not seriously injure the visual amenities or residential amenities of properties in the vicinity and be in accordance with the proper planning and sustainable development of the area.

## **11.0 Conditions**

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on 20/03/2024 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 interests of clarity.

2. The existing dwelling and proposed extension(s) shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

**Reason:** In the interests of clarity and development control.

3. (a) All foul sewage and soiled water shall be discharged to the public foul sewer.

(b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system [or soakpits].

**Reason:** In the interest of public health

4. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

**Reason:** To prevent flooding and in the interests of sustainable drainage.

5. Site development and building works shall be carried out between the hours of 07:00 to 18:00 Mondays to Fridays inclusive, between 08:00 to 14:00 on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

**Reason:** To safeguard the amenity of property in the vicinity.

6. No part of the proposed development including any fascia boards, gutters, drainpipes or other rainwater goods shall overhang or encroach onto any neighbouring properties.

**Reason:** In the interest of the proper planning and sustainable development of the area.

8. The developer shall pay to Kildare County Council a financial contribution of €434.00 (four hundred and thirty-four euro) 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.

**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.

**Advisory Note 1:** The applicants are advised to note section 34(13) of the Planning and Development Act, 2000 (as amended) which states that a person shall not be entitled solely by reason of a permission to carry out any development.

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.

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Matthew O Connor  
Planning Inspector

16<sup>th</sup> September 2024

## Appendix 1 - Form 1

### EIA Pre-Screening [EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	ABP-319838-24		
<b>Proposed Development Summary</b>	Extension to rear of house and associated site works.		
<b>Development Address</b>	No. 33 Liffey Lawns, Clane, Co. Kildare		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)		<b>Yes</b>          <b>No</b>	<b>X</b>          No further action required
<b>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?</b>			
<b>Yes</b>			EIA Mandatory EIAR required
<b>No</b>	<b>X</b>		Proceed to Q.3
<b>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]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
<b>No</b>	<b>X</b>	N/A	No EIAR or Preliminary Examination required
<b>Yes</b>			Proceed to Q.4
<b>4. Has Schedule 7A information been submitted?</b>			
<b>No</b>		Preliminary Examination required	
<b>Yes</b>		Screening Determination required	

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_