



An
Bord
Pleanála

Inspector's Report

ABP-320602-24

Development	Retention permission for alterations to granted planning file 23/448		
Location	19 Lowtown Manor, Robertstown Naas, Co. Kildare		
Planning Authority Ref.	2460525		
Applicant(s)	Enda McCallig		
Type of Application	Retention	PA Decision	Grant Retention with Conditions.
Type of Appeal	Third	Appellant	Catherine Crofton
Observer(s)	None		
Date of Site Inspection	11/12/2024	Inspector	Andrew Hersey

Context

1. Site Location/ and Description. The site is located at 19 Lowtown Manor, Robertstown Naas, Co. Kildare being a suburb located to the east of Robertstown in north Co. Kildare There is a single storey hipped roof bungalow on site with front and rear attendant gardens. There is a pedestrian access to the west of the bungalow to the rear garden.

The estate comprises of a series of similar bungalows all facing onto a central green amenity space.

The site is divided from the property to the east my way of a timber fence.

2. Description of development. *The proposed development comprises of*

- *(Retention of) alterations to Planning Reg. Ref. 23/448 which include for the following*
 - (a) Revised roof type to front, north elevation and site east elevation to not exceed existing roof ridge height
 - (b) Addition of one window to front, north elevation to the side of west flat roof extension and
 - (c) Attic space for storage purposes and
 - (d) Omission of window to side, east elevation and
 - (e) Associated site works
- The proposed development site comprises of 0.080ha. The retention aspect of the proposal is for 45sq.m. on top of an existing floorspace before works were carried out of 124sq.m..

3. Planning History.

- Planning Reg. Ref. 23/448 granted retention permission and permission to Enda & Roseanne McCallig for a) Retention Permission for first floor attic conversion with 3 no. roof lights to rear (south) elevation. (b) Planning Permission for the installation of 2 no. means of escape roof lights to the existing first floor rooms. (c) Planning permission for a single storey pitch roof extension to side (east) elevation and rear (south) elevation of existing detached house and (d) Planning Permission for a single storey flat roof extension to side (west) elevation and rear (south) elevation of existing detached house with minor internal alterations within the existing house and insertion of new sliding patio door to rear (south) elevation.

4. National/Regional/Local Planning Policy

- Kildare County Development Plan 2023-2029 is the statutory development plan in the area where the proposed development site is located.
- Within the plan the site is subject to zoning objective 'R2' – To protect and improve existing residential amenity, to provide for appropriate infill residential development

- Development management standards are set out in Chapter 15 of the Plan Section 15.4.12 Extensions to Dwellings seeks to: *‘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.*

5. Natural Heritage Designations

The nearest designated site is

- The Grand Canal pNHA 002104 is located 220metres to the north of the site
- The Ballynafagh Lake Special Area of Conservation (SAC) (Site Code: 001387) is located c. 1.3km to the north east of the site.
- The Ballynafagh Bog Special Area of Conservation (SAC) (Site Code: 000391) is located c. 3.4 km to the north east of the site.
- Mounds Bog Special Area of Conservation (SAC) (Site Code: 002231) is located c. 5.9 km to the south of the site.

Development, Decision and Grounds of Appeal

6. PA Decision. Permission was granted on the 25th July 2024 subject to 7 conditions. Conditions of note include for:

- Condition No, 2: The existing dwelling and extensions shall be occupied as a single housing unit and shall not be sold, let or otherwise transferred or conveyed save as part of the overall dwelling. The overall dwelling shall be used for

domestic-related purposes only, and not for any commercial, workshop, or other non-domestic use.

- Condition No. 3 relates to a stipulation that the attic not be used for habitable space

- Condition No 5 relates to a stipulation that 'No part of the development including fascia boards, gutters, drainpipes or other rainwater goods shall overhang or encroach onto the neighbouring property'

– Condition No. 7 relates to a Section 48 Development Contribution

7. Submissions

There are three submissions on file as follows;

Kate Crofton of 18 Lowertown Manor (adjacent house to west) dated 18th June 2024 whom raises the following issues:

- That the new roof results in an overhang into her property and means that she cannot now replace the fence along the boundary – this is not shown the in the submitted plans
- Loss of light to her kitchen as a consequence of the proposed extension.
- That a new window on the opposing elevation will overlook her kitchen
- Loss of views from her garden
- That the attic rooms are being used as habitable spaces and not storage as stated in the plans.
- That the plans submitted are not accurate specifically with respect to the space between her dwelling and the proposed development

Tina Haughton of 20 Lowertown Manor (adjacent house to east) dated 11th July 2024 whom raises the following issues:

- That the flat roofed extension as viewed from her property is imposing
- That the applicants can now see into her property from the new door on the flat roofed extension
- That the applicants are seeking retention for two roof windows but there are three present.
- That these rooms are functioning as living spaces and not storage

Jason P Mooney (on behalf of the applicant) dated 12th July 2024 whom raises the following issues

- That one of the roof windows was installed previously as exempted development and provides light to the downstairs hall
- That the attic space is also exempted development when its purpose is for non-habitable space. This is not a heated room.
- That the roof as granted under Planning Reg. Ref. 23/448 could not be made compliant with building regulations and hence the roof had to be raised.
- That the roof overhang projection terminates within the boundaries of the site

8. Internal Reports

- Water Services (dated 25th July 2024) - no objection
- Transport Mobility and Open Spaces Department (dated 19th June 2024) - no objection
- Environmental Planning (dated 18th June 2024) – no objection
- Maynooth Area Office (12th July 2024) - no objection

9. Third Party Appeal.

A third party appeal was lodged by Kate Crofton on the 16th August 2024. The appellant raises the following issues:

- That the roof of the proposed development overhangs her property and that a gutter has been removed which means that rainwater now flows onto her property.
- The boundary fence cannot be replaced or increased in height as it is located beneath the roof of the proposed development.
- That the first floor rooms are being used for habitable accommodation
- That a window on the east elevation overlooks her property- it is not clear if this will be removed or not.
- Loss of light to her property and in particular her kitchen

11. Planning Authorities Response

- A response from the Planning Authority was received on the 2nd September 2024. The response in summary states that the Planning Authority confirms its decision and that the Board is referred to the planning report, internal document reports and prescribed bodies in relation to the assessment of this planning application.

12. First Party Response

A first party response to the appeal was lodged by Enda and Roseanne McCallig (the applicants) on the 9th September 2024. The response in summary states:

- That the roof design was changed upon advice given by the builder with respect to the same.
- That the applicants would have built the roof as per the plans submitted under Planning Reg. Ref. 23/448 if the same was possible;
- That the size of the floor area has not increased as a consequence of the changes to the roof.
- That the upstairs rooms are not habitable as the ridge height is not sufficient within the same to enable them to be habitable as per the building regulations.
- That one of the roof windows lights a ground floor hall.
- That the gutter on the north east corner of the extension was removed upon the grant of permission from Kildare County Council - this can be replaced if necessary

Environmental Screening

13. EIA Screening

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

13. AA Screening

I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located within the vicinity of the following Natura 2000 sites;

- The Ballynafagh Lake Special Area of Conservation (SAC) (Site Code: 001387) is located c. 1.3km to the north east of the site.

- The Ballynafagh Bog Special Area of Conservation (SAC) (Site Code: 000391) is located c. 3.4 km to the north east of the site.
- Mounds Bog Special Area of Conservation (SAC) (Site Code: 002231) is located c. 5.9 km to the south of the site.

The proposed development comprises of domestic alterations to an existing private residential property in a suburban area. No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- The minor nature of the works proposed
- The distances to the nearest Natura 2000 site and the absence of any hydrological connect from the site to the same and
- Having regard to the screening report/determination carried out by the Planning Authority

I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

2.0 Assessment

2.1. Introduction

- 2.1.1. I have examined the application details and all other documentation on file and I have inspected the site and have had regard to relevant local development plan policies and guidance.
- 2.1.2. I am satisfied the substantive issues arising from the grounds of this third party appeal relate to the following matters-
 - Principle of Development

- Visual Amenities
- Residential Amenities
- Other Issues

2.2. Principle of Development

- 2.2.1. The proposed development site is located within an area designated with zoning objective R2, in the Kildare County Development Plan 2022-2028. Zoning objective R2 seeks *‘To protect and improve existing residential amenity, to provide for appropriate infill residential development’*
- 2.2.2. Section 15.4.12 of the Plan relates to ‘Extensions to Dwellings’ and seeks to favourably accommodate extensions subject to a number of provisos which in summary relate to design and the protection of residential amenities which will be discussed later in this report.
- 2.2.3. Having regard to the above and having regard to the zoning objective for the site as set out in the Kildare County Development Plan 2022-2028, and having regard to the existing permission on site for an extension, I consider that the principle of the proposed residential extension for which retention permission is being sought at this location is acceptable.

2.3. Visual Amenities

- 2.3.1. It is noted from the planners report that the case planner was satisfied with the proposed development from a visual amenity perspective. I concur with the same and I note that the only significant departure from the permission granted under Planning Reg. Ref. 23/448 relates to the roof. While, the concerns of the appellant are noted, I do not consider that the scale of the said roof which is no higher than the roof of the existing house on site is out of context with adjacent properties or other properties in the immediate environs of the site.
- 2.3.2. I also refer to Section 15.4.12 Extensions to Dwellings and in particular the provisions within this section which relate to design. In general I consider that the proposal complies with the provisions of this section insofar as they relate to design elements.

2.4. Residential Amenities

- 2.4.1. This is the fundamental concern raised by the appellant whom resides in the adjoining residential unit to the east of the proposed development site.
- 2.4.2. The appellant raises issues with respect to the proposed roof which she states blocks light into her kitchen window and blocks views from her rear garden.
- 2.4.3. While the former deserves some consideration, the latter, views from her garden are I consider immaterial as any development will result in a change of views from adjacent premises.
- 2.4.4. Section 15.4.12 of the Plan relates to 'Extensions to Dwellings' which in part seeks that *'New extensions should not overshadow adjacent dwellings to the degree that there is a significant decrease in daylight or sunlight entering into the house'*
- 2.4.5. The question arises is as to whether the now constructed roof proposed for retention results in *'a significant decrease in daylight and sunlight entering the house'*
- 2.4.6. Photographs in submissions to the appeal show for some degree of shadowing on the appellants opposing west elevation on windows which she states serve her kitchen.
- 2.4.7. I note in this respect that the appellants opposing elevation is west facing and therefore it is expected that there will be some degree of loss of evening sun. However, I consider that this loss of light is not significant enough to warrant a refusal of permission. Development in urban and suburban areas will always result in some loss of sunlight to adjacent properties.
- 2.4.8. I am of the opinion that the pertinent issue relating to this case is with respect to the portion of the roof which clearly overhangs the party boundary as it exists on the ground.
- 2.4.9. It is not clear from submissions on the file as to whether the drawings accurately show existing boundaries or legal ownership boundaries, and in this respect, the latter may not match the former.
- 2.4.10. Clearly, good planning would dictate that eaves and gutters do not overhang adjacent properties. I note in this respect, Condition 5 as set out in the schedule of conditions attached with the decision which states that *'No part of the development including*

fascia boards, gutters, drainpipes or other rainwater goods shall overhang or encroach onto the neighbouring property'

- 2.4.11. There is clearly encroachment at present over the boundary as it exists on the ground but the site layout plan does not show this.
- 2.4.12. I consider however that this issue can be resolved by way of condition and it is suggested in this case that the applicant needs to submit revised proposals to resolve this issue by way of proof that the overhang is within his boundary or if not measures are required to amend the roof to prevent overhanging.
- 2.4.13. I refer to the issues of the first floor accommodation and the said roof windows which serve the same.
- 2.4.14. I am satisfied that the windows will not cause any residential amenity impacts to adjacent properties.
- 2.4.15. I am also satisfied that the use of the first floor can be conditioned as 'non habitable' as set out in condition 3.

2.5. Other Issues

- 2.5.1. The appellant also raises issues with respect to a window on the eastern elevation of the proposed development which I note is not present and I note that retention permission has been sought for the same. This relates to a floor to ceiling window on the eastern elevation granted under Planning Reg. Ref. 23/448 and which was to light a hall.

3.0 Recommendation

- 3.1. I recommend that permission for the development be granted permission.

4.0 Reasons & Considerations

- 4.1. Having regard to the information submitted with the application and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would comply with the zoning objective for the site and the policies with respect of residential extensions as set out

in the Kildare County Development Plan 2023 – 2029, would not be injurious to the visual or residential amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

5.0 Conditions

1.	<p>The development shall be retained and 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 10th day of June 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>No part of the development including fascia boards, gutters, drainpipes or other rainwater goods shall overhang or encroach onto the neighbouring property. Details with respect to the same, including construction drawings showing amendments to the roof to prevent overhanging, if required, shall be submitted to the planning authority for agreement prior to any amendments being made to the roof. Such works or measures shall be agreed within 3 months of the date of this order. Any such works agreed with the Planning Authority as required to prevent overhanging to the adjacent property shall be carried out within 6 months of the agreement with the Planning Authority</p> <p>Reason: To prevent impact to the residential amenities of adjacent properties</p>
3.	<p>The attic shall not be used for human habitation unless it complies with current building regulations</p> <p>Reason: In the interests of orderly development</p>

4.	<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</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, 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. Details of the 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 An Bord Pleanála 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, 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>

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.

Andrew Hersey

Planning Inspector

28th December 2024