



An  
Coimisiún  
Pleanála

## Inspector's Report ABP-322470-25

<b>Development</b>	Construction of extension with associated works.
<b>Location</b>	8 Castlesize Court, Castlesize, Sallins, Co. Kildare
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	2560017
<b>Applicant(s)</b>	Alain Peuble
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	
<b>Type of Appeal</b>	First Party vs Condition
<b>Appellant(s)</b>	Alain Peuble
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	31 <sup>st</sup> July 2025
<b>Inspector</b>	David Freeland

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located within Castlesize, an established residential area which is accessed off the Clane Road, c. 650m to the north-west of Canal View in the centre of Sallins. Castlesize predominantly consists of two-storey semi-detached dwellings with a small number of detached single and two-storey dwellings throughout.
- 1.2. The subject site comprises a two-storey semi-detached dwelling located within a T-shaped cul-de sac. The subject dwelling is located to the western end of the cul-de sac resulting in the orientation of the dwelling being angled to the street with the front of the dwelling primarily facing the side gable wall and side boundary to no. 9 Castlesize Court to the South. The subject dwelling has an existing side single storey converted garage with hipped roof to the side and an existing rear single storey extension.
- 1.3. The subject and neighbouring dwellings are characterised by a brick finish to ground floor with render above which are separated by a canopy feature which extends across the full frontage of the dwellings.
- 1.4. The existing single storey converted garage to the side is at its closest point, c. 5.3m to the south boundary with no. 9 Castlesize Court and c.10.2m to the north-western corner of the house at no. 9. The shared boundary with no. 9 comprises a concrete post with timber panelling fence.
- 1.5. A neighbouring dwelling to the eastern side of the cul-de sac, no. 3 Castlesize Court shares a similar arrangement and layout as the subject site with the front elevation overlooking the side wall of no. 2 Castlesize Court to the south. This dwelling has undertaken a first-floor level extension over the side garage which aligns with the primary front building line and contains a window opening to the front.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises (i) a ground floor level extension to the rear of the existing converted garage to the side to accommodate a utility room and (ii) a first-floor level extension to the side to accommodate an additional bedroom with ensuite.

- 2.2. The extension at ground and first floor level will align with the primary front and rear building line of the dwelling and the side wall of the converted garage. The first-floor level extension will incorporate two windows, one to the front (south) elevation and one to rear (north) elevation. The proposal incorporates a brick finish to ground floor and render to the upper floor level.
- 2.3. Following a request for Further Information, no amendments were made to the proposed development as submitted as part of the original application.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Following receipt of Further Information, Kildare County Council decided to grant planning permission for the development subject to 10no. conditions.

Condition 2 only is being appealed which is as follows:

*2. (a) The front first floor bedroom window (southern front elevation) shall be omitted.*

*(b) A first floor window opening shall be created in the side/gable (western elevation at first floor level) to provide light to the first floor bedroom.*

*(c) Prior to the commencement of development revised floor plans and elevational plans which illustrate the required modifications outlined in Items 2(a) and 2(b) shall be submitted for the written agreement of the Planning Authority.*

*Reason: In the interests of protecting existing private amenity and in the interests of proper planning and sustainable development.*

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

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

There are two planning reports on file.

The first planning report on file dated 06/03/2025 is summarised as follows:

- The planning authority considered that the principle of development was generally acceptable and that the proposal was visually acceptable and in-keeping with the existing dwelling in terms of building lines and roof height.

- The planning authority expressed concerns that the proposed first floor level window to the front (being less than 11m from rear garden to no. 9 Castlesize Court) would have a negative impact upon the residential amenities of the adjacent property by way of overlooking.
- The planning authority requested for further information to include design proposals which mitigated the impacts of the development.

### 3.2.2. Other Technical Reports

- Environment Section: No objection subject to conditions.
- Water Services: no objection subject to conditions.

### 3.2.3. Further Information

Further Information was received on 21/03/2025 and included the following:

- Cover letter prepared by the agent for the applicant which included a response to the request for further information.

The FI response did not include any amendments to the proposed development as submitted with the original application. The response provided justification for the original proposed development.

The second planning report on file is dated 14/04/2025 is summarised as follows:

- The planning authority noted the cited precedent to no. 3 Castlesize Court although considered each application must be considered on its own merits and the current 2023-2029 Development Plan.
- The planning authority noted a contrast between the development at no. 3 and the subject site, no. 8, specifically that the angle of no. 3 was such that avoided overlooking to no. 2 as it directly faced the gable wall of that dwelling.
- It was noted that the proposed first floor window on the subject site would be angled to directly overlook the private rear amenity of the neighbouring dwelling, no. 9 resulting in undue overlooking negatively impacting the residential amenities.
- The planning authority made a recommendation to omit the proposed front first floor level window and provide for a window to the western elevation

which would be a distance in excess of 20m from windows to opposing dwellings which would not result in undue overlooking.

- The planning authority considered this would adhere to section 15.2.2 and 15.4.12 of the Development Plan.

There was no further technical reports or prescribed body reports following receipt of further information.

### **3.3. Prescribed Bodies**

Uisce Éireann: no report received.

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

None

## **4.0 Planning History**

None relating to the subject site on file.

Relevant Applications to Nearby Properties include the following:

Reg. Ref. 14770: Permission Granted for a development which included conversion of garage with a first-floor level extension above and rear single storey extension.

Reg. Ref. 071120: Permission Granted for a development comprising conversion of attached garage and construction of a first-floor level extension above.

## **5.0 Policy Context**

### **5.1. National Guidance**

Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024)

Under SPPR 1, the Guidelines introduced new minimum separation distances of 16m between opposing windows serving habitable rooms at the rear or side of houses in place of the traditional 22m separation distance.

## 5.2. Development Plan

The relevant local planning policy documents are

Kildare County Development Plan 2023 – 2029

### Section Overlooking / Separation Distances

This section outlines the planning authority's approach to ensuring that there is adequate separation distance between dwellings and opposing first floor level windows.

### Section 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*

#### Sallins Local Area Plan 2016-2022

The site is located within lands that are zoned B 'Existing Residential and Infill' Land zoned B is where it is an objective is to protect and enhance the amenity of established residential communities and promote sustainable intensification of the land.

### **5.3. Natural Heritage Designations**

None

### **5.4. 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 (or Part V of the 1994 Roads Regulations). 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.



## **5.5. Water Framework Directive**

The subject site is located in an established residential area which adjoins the River Liffey Waterbody IE\_EA\_09L011500. The subject site is positioned centrally within the Castlesize estate, c. 343m from the River Waterbody.

The proposed development comprises a ground floor level and first floor level extension to the side of an existing two-storey semi-detached dwelling.

No water deterioration concerns were raised in the planning appeal.

I have assessed the proposed extension of the existing dwelling and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. 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 surface and/or groundwater water bodies either qualitatively or quantitatively.

The reason for this conclusion is as follows:

- Nature of works e.g. small scale and nature of the development

### **Conclusion**

I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

## **6.0 The Appeal**

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

A first party appeal has been submitted of which the main grounds of appeal relate to condition 2 only. The grounds of appeal can be summarised as follows:

- It is requested that condition 2 is removed which would retain the window as originally proposed with the application.
- It is contended that the proposed window aligns with the established pattern of development within the Castlesize estate where first floor level windows overlooking rear gardens form part of the original layout. An existing first floor level front window at no. 8, the subject site is already less than 11m from no. 9's rear garden and the proposal would not create new or intensified overlooking.
- It is contended that multiple dwellings in the estate have similar window arrangements with no demonstratable loss of amenity. Reference is made to a permission granted in 2007 for no. 3 Castlesize Court for a comparable extension with a first-floor level window facing, no. 2, which the appellant argues is virtually identical in distance and orientation to the relationship between no. 8 and no. 9. Further examples provided include no. 6 and no.7 Castlesize Way, where side extensions facing each other at less than 4m apart, creating more direct overlooking than the proposed development.
- The appellant maintains that the development complies with Sections 15.2.2 and 15.4.12 of the Development Plan. Reference is also made to the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009) and National Policy Objective 35 of the NPF which broadly support higher-density, well designed residential development and efficient use of serviced land. It is argued that ridged application of privacy standards in suburban infill context can lead to suboptimal layout and poor internal amenity. It is suggested that the window in question is essential for daylight, surveillance and ensuring quality of life for future occupants, all of which are promoted within national policy.

## 6.2. Planning Authority Response

Kildare County Council made a submission to the Commission regarding the issues raised in the First Party appeal. A summary of the submission is as follows:

- The planning authority draw attention to the first-floor elevation of the domestic extension which will face directly into the rear amenity of the neighbouring property at no. 9 which will give rise to undue overlooking.
- The planning authority provided comment with respect to the example precedent provided by the appellant. The planning authority noted that the example differed to the subject site as the angle of the dwelling was such that there was no significant overlooking of the neighbouring property unlike the subject site.

### 6.3. Further Responses

1no. observation has been received from the appellant in response to the planning authority's comments.

- The appellant states that a comprehensive response was submitted to the request for further information, including a planning rationale, relevant precedent, photographic evidence and relevant site plans from a permitted scheme to no. 3 Castlesize Court. They contend this contradicts the planning authority's suggestion that the FI request was not addressed.
- In response to the planning authority's assertion that the cited precedent (no. 3 Castlesize Court) is not comparable due to different orientation and levels of overlooking, the appellant argues that the first-floor window at no. 3 directly faces the rear garden of no. 2 at a similar distance and angle to the relationship between the subject site, no. 8 and no.9.
- It is contended that the first-floor level windows facing rear gardens are an established feature of the Castlesize estate due to its non-uniform layout. The proposed window would not give rise to new or intensified overlooking and is in keeping with the pattern of development.
- The appellant considers Condition 2 to be disproportionate given the minor domestic scale of the development and is inconsistent with the precedent at no. 3 Castlesize Court. It is further contended that the relocation of the window to the west elevation could have the unintended effect of creating more direct views over multiple rear gardens in Castlesize Way.

## **7.0 Assessment**

- 7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the proposed development is acceptable in principle. I therefore consider it appropriate to treat the appeal under S139 of the Planning and Development Act 2000 (as amended), as an appeal against a condition. The substantive issue is whether Condition 2 requiring the omission of the proposed first floor level front window to the front and its relocation to the western side elevation is warranted in this instance.
- 7.2. The proposed extension at ground and first floor level aligns with the primary front and rear building line and the side wall of the converted garage. The proposed front first-floor level window will be c. 5.3m to the south boundary with no. 9 Castlesize Court.
- 7.3. The design and scale of the proposed development is consistent with the character of the existing dwelling and the pattern of development in the area, and I am satisfied that it will not result in undue impacts on neighbouring residential amenity by way of loss of daylight and sunlight or have an overbearing appearance.
- 7.4. The appellant has relied heavily on precedent, particularly the extension to the side of no. 3 Castlesize Court which they contend is directly comparable. I acknowledge the similarities in the general layout between no. 3 and the subject site. However, I concur with the planning authority that each case must be assessed on its own merits.
- 7.5. Having undertaken a site visit and review of the planning history including associated plans at no.3 Castlesize Court, I am satisfied that the front first-floor level window to the side extension of no. 3, primarily overlooks the side gable wall of no. 2 located to the south with no significant direct views overlooking the rear private open space. In contrast, the layout of the subject site differs such that the proposed first floor level window would directly overlook the private open space to the rear of no. 9 Castlesize Court located to the south.

- 7.6. I consider that the angle and separation distance will result in direct overlooking of the area of private open space to the immediate rear wall of no. 9. This area, typically accessed from the kitchen/dining room is often the most intensively used part of a rear garden and in my view warrants a high level of privacy and increased separation distance from neighbouring upper floor level windows. In my view, the level of overlooking from the proposed window will be injurious to the residential amenity of the occupants of no. 9.
- 7.7. I note the other examples referenced by the appellant, including extensions to no.'s 6 and 7 Castlesize Way are not directly comparable due to differing layout and window orientations which do not give rise to the same degree of potential overlooking of private open space as they principally overlook front gardens and streetscape.
- 7.8. While the appellant refers to relevant Development Plan provisions in support of retaining the window to the front, I am satisfied that the relocation of the window to the west elevation, as required by condition 2, would not reduce the internal amenity of the proposed bedroom and would allow adequate levels of daylight and sunlight.
- 7.9. The inclusion of condition 2 requiring omission of the first-floor level window could result in a large area of blank façade on the front elevation of the side extension with potential visual impact. However, considering the angled configuration of the subject property and set-back of the front building line from the street, I do not consider that the omission of the first-floor level window will have substantial or adverse impact on the character of the dwelling or the streetscape.
- 7.10. The relocation of the window to the western elevation will face towards the rear of dwellings on Castlesize Way, notably no.'s 2 & 3. The side wall of the proposed extension will be set-back a minimum of 5.2m from the rear boundary of no.3 and 9.2m from the rear boundary with no. 2, with a separation distance of approximately 20m to 25m to the rear walls of both properties. Having regard to these separation distances and depth of the rear gardens, I am satisfied that the relocated window will not result in excessive overlooking or undue impacts upon the privacy of the dwellings at no.'s 2 and 3 Castlesize Way.
- 7.11. I therefore consider that the omission of the front first floor level window to be a proportionate measure to protect the privacy of adjoining residents.

7.11.1. Accordingly, I recommend that Condition 2 be maintained and that the Commission uphold the requirement for the first-floor level front window be omitted.

## **8.0 AA Screening**

The proposed development comprises a domestic extension to an existing semi-detached dwelling. No nature conservation concerns were raised in the planning appeal.

Having considered the nature, small scale and location of the project, and taking account of the screening determination of the planning authority, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site.

I conclude, 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. Appropriate Assessment, therefore, is not required.

## **9.0 Recommendation**

Having regard to the nature of the conditions that are the subject of the appeal, I am satisfied that the determination by the Commission, of the relevant application as if it had been made to it in the first instance, with attachment of said conditions, would not be warranted.

Based on the reasons and considerations set out below, I recommend that the Commission direct the Planning Authority under subsection (1) of section 139 of the Planning and Development Act, 2000, as amended, to retain condition 2 in full with no modifications.

## **10.0 Reasons and Considerations**

Having regard to the configuration of the subject site, the relationship between the subject dwelling and the adjoining properties and the need to protect the residential amenity of the neighbouring dwellings, it is considered that the requirements under Condition 2 are reasonable and necessary to avoid excessive overlooking of the

adjoining private open space of no. 9 Castlesize Court. Subject to compliance with the conditions attached to the permission, the proposed development, would not seriously injure the amenities of the area and would be in accordance with 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.

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David Freeland  
Planning Inspector

12/08/2025

### Form 1 - EIA Pre-Screening

<b>Case Reference</b>			
<b>Proposed Development Summary</b>	Construction of extension with associated works.		
<b>Development Address</b>	8 Castlesize Court, Castlesize, Sallins, Co. Kildare		
			<b>In all cases check box blank</b>
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)			<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
			<input type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>			
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>			State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3			
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>			
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.  <b>No Screening required.</b>			
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.  <b>EIA is Mandatory. No Screening Required</b>			<b>State the Class and state the relevant threshold</b>



<input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.  <b>Preliminary examination required. (Form 2)</b>  <b>OR</b>  <b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b>	<b>State the Class and state the relevant threshold</b>
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<b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b>	
<b>Yes</b> <input type="checkbox"/>	<b>Screening Determination required (Complete Form 3)</b>
<b>No</b> <input checked="" type="checkbox"/>	<b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b>

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