Mark Lawlor
An Bord Pleanála
64 Marlborough Street
Dublin 1
D01 V902

Dermot & Imelda Gildea 16 The Park St. Wolstan's Abbey Celbridge Co. Kildare W23 W421

Case Number: ABP-316325-23

Planning Authority Reference Number: ED/1004

16 The Park, St. Wolstan's Abbey, Celbridge, Co. Kildare

Dear Sir / Madam,

Please find enclosed our submission and observations in accordance with section 129 of the Planning and Development Act, 2000, (as amended).

I would like to outline from the start that during all the planning and building process for the new extension at the property, it was never the intent to cause any acrimony or disagreement with any of the neighbours, on the contrary we tried endlessly to keep the neighbours informed with all the developments during the process.

I'm truly sorry that it has come to An Bord Pleanála to rule on this case and I believe it was totally unnecessary, if only the other party appealing would have engaged with us in the out set of the planning process.

Thank you and we await the inspector's decision in due course.

Your Faithfully

Dermot Gildea

MSc. B.Eng. (Hons) M.I.E.I

servet Gilden

AN BORD PLEANÁLA

LDGABP
1 4 JUN 2023

Fee: € Type: ____

Time: _____ By: __past____

1.0 Introduction

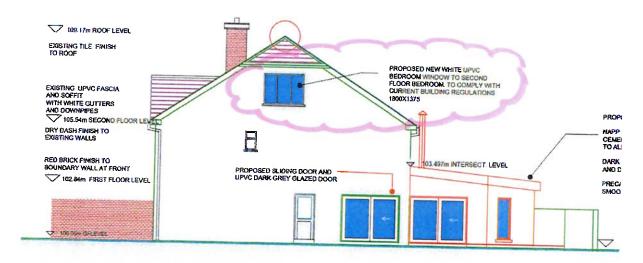
My wife and I applied for planning permission for (a) proposed single story extensions of 52sqm to the rear of the existing dwelling comprising of kitchen, dining and living areas, rooflights to the proposed extension (b) permission for alternations to existing elevations with internal alternations, proposed new bedroom window to the south east facing side elevation (c) retention permission is sought for as constructed attic conversion comprising of 1no. bedroom, bathroom, landing and stairs (d) retention for as constructed widening of entrance to driveway accommodating two cars (e) and all associated works to Kildare County Council on 12th November 2018, under planning register number 18/1356.

The reason for the extension was to cater for the five (5) growing children in the family and to accommodate the older adults to stay at home and attend university as they would not be able to seek appropriate living accommodation going to university due to the lack of available appropriate student housing at the time.

2.0 Planning Application

Before the application was submitted, we invited all neighbours around to discuss the planned development. The disputing party attended, and we discussed the development to ensure all our neighbours where well informed. The plans at that time included the disputed bedroom window, which was of a larger size (1800mm x 1375mm), exact same size as all the other windows in the existing house and in the existing neighbourhood development, although it was subsequently reduced in frame size to (1500mm x 1000mm) to comply with the planning authority's requirements.

The time to raise any queries was then, and the disputing party did not raise any concerns or objections to any aspect of the intended development at that time.



PROPOSED SOUTH EAST FACING SIDE ELEVATION SCALE 1:100

Figure 1. section of drawing at planning application stage

Drawing PL-103 Appendix A submitted for planning approval on 12th November 2018 with widow size of 1800mm x 1375mm (2.475sqm) exact same as all other existing windows in the house and in the wider hosing development as shown in the picture below.





Two pain attic window does not seem out of place in the environment as stated by the neighbour's Architect's report.

3.0 Planning permission Granted

Planning was granted on the $7^{\text{th of}}$ January 2019, planning reference 18/1356 - see attached Appendix B.

Of particular concern to the disputing party was condition 3.

"3. The proposed bedroom window at attic level shall be reduced in size to the minimum acceptable under the Building Regulations and shall be permanently fixed and maintained with obscured glazing only".

The window in question at planning application was 1800mm x 1375mm (2.475sqm), with three panes of glazing, exact same as all other windows in the existing dwelling. This was to keep all windows aesthetically pleasing at planning stage.

In referring the Building Regulations (2019) Part F – Ventilation - Technical Guidance Documents, section 1.2.4.6 – Purge Ventilation Windows (habitable rooms), the room in question being granted permission as a bedroom. See Appendix C.

1.2.4.6. "For a hinged or pivot window that opens 30° or more, or for sliding sash windows, the height multiplied by the width of the opening part should be at <u>least</u> 1/20th of the floor area of the room"

"For a hinged or pivot window that opens between 15° and 30°, the height multiplied by with of the opening part should be at <u>least</u> 1/10th of the floor area of the room"

"If the room contains more than one openable window the area of all the opening parts may be added to achieve the required proportion of the floor area. The required proportion of the floor area is determined by the opening angle of the largest window in the room".

"Refer to Part B TGD B of the Regulations for minimum opening sizes required for escape."

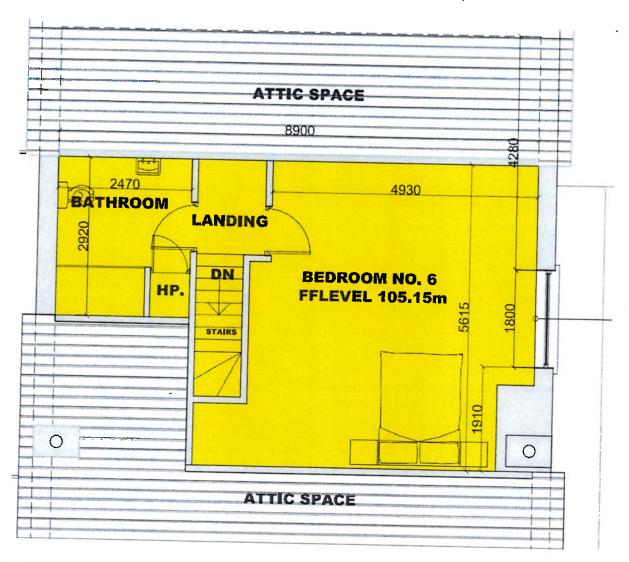


Figure 2. Section of drawing PL-103, submitted for planning approval

The bedroom which was granted planning permission has a total size of 29.45sqm.

NOTES ON DIMENSIONS

These are actual dimension taken within the bedroom

 $5.573 \times 4.810 = 26.80 \text{m}^2$

3.673 X 0.426 = 1.564m²

1.148 X 1.035 = 1.088m²

29.45m² Total Room Size

With two hinged Velux windows in the bedroom (not three as stated in one of the reports by the disputer Architect) that can open between 15° and 30°, all areas of the opening parts may be added to achive the required proportion of the floor area.

Therefore with openable area of 0.65sqm for each Velux window and with the opening section of the new disputed window (660mm x 943mm) of 0.62sqm, the total openable area is 1.92sqm greater than 1/20th of the floor area of 1.47sqm.

<u>Hence complicance with Part F of the Building Regulations – Ventialation is achieved.</u>

In referring the Building Regulations (2017) Part B – Fire Safety - Technical Guidance Documents, section 1.5.6. – Windows for Escape or Rescue. See Appendix D

This, most important part of the Building Regulations, where means of escape or for rescue purposes must be adhered too. Since the planning permission granted for use of a bedroom, means of escape must be complied with.

Section 1.5.6 9(a) "the window should have an openable section which can provide an unobstructed clear open area of at least 0.33sqm with a minimum width and height of 450mm. The opening section should be capable of remaining in the position which provides this minimum clear open area"

Section 1.5.6 (b)" The bottom of the window opening should be not more than 1100mm and not less than 800mm above the floor, immediately inside or beneath the window"

Section 1.5.6 (d) "The area beneath the window externally should be such as to make escape or rescue practicable (i) where there is a clear drop from the window in an upper storey or attic conversion, the ground beneath the window should be suitable for supporting a ladder safely and be accessible for rescue by the fire services or others"

Section 1.5.6 (e) "The opening section of the window should be secured by means of fastings which are readily openable from the inside and should be fitted with safety restrictors. Safety restrictors can be either an integral part of the window operating gear or separate items of hardware with can be fitted to the window at time of manufacturer or at installation. Restictors should operate so that they limit the intial mvement of an opening section to no more than 100mm. lockable handles or restrictors, which can only be released by removeable keys or other tools, should not be fitted to window opening sections."

Additionally section 1.5.7.6 "Escape windows – the room (or rooms) in the new storey should each have an openable window or rooflight for escape or rescue purposes which meets the relevant provisions in 1.5.6"

All of the above was taken into consideration for the new attic bedroom window and substantially reduced on pursuit of condition 3 planning conditions prior to construction to 1500mm x 1000mm outer frame dimension (1.50sqm), with two panes of glazing, allowing for daylight with a opening section of 660mm by 943mm for fire escape purposes, as can be seen in the construction drawings section & pictures below.



PROPOSED SOUTH EAST FACING SIDE ELEVATION SCALE 1:100



External view of the attic window from ground level which complies with the Building Regulations section 1.5.6 (d)

Therefore the window inquestion is compliant with the building regulations contained in Part B of the Building Regulations.

The following sections 4.0 to 13.0 establishes the timeline in date order of correspondence and actions that happened... in trying to agree a solution with the neighbour.

4.0 Munster Joinery – Window Data Sheet – dated 3rd July 2020

Please find attached Appendix E – proof of the size of the window in the Munster Joinery cut sheet demonstrating the actual size of the outer frame window (1500mm x 1000mm) in question. The new window was purchased on the 3^{rd of} July 2020 as outlined on the data sheet from Munster Joinery well in advance of any dispute.

5.0 Warning Letter UD 7603 - dated 9th Sept 2020

A warning letter reference **UD 7603** was received by registered post on and about the 9th September 2020 from Kildare County Council, given up to four weeks from the date of service of the warning letter to make submissions or observations in writing. See Appendix F.

6.0 Submission / Observation to Kildare Co. Council – UD 7603 – dated 22nd Sept 2020

We called in Whyte Planning Consultant to give advice, who was overseeing the construction process from the compliance perspective with the Builder. Please find attached Appendix G – Whyte Planning Consultants submission dated 22nd September 2020 referencing letter Ref: UD 7603 outlining observation & compliance with condition 3 of the planning application. Note also that the window can be inspected by the local planning request.

7.0 UD7603 – Case Closed Correspondence – dated 15th Feb 2021

Please find attached Appendix H – Planning Department Kildare County Council, Planning Control Section dated 15th February 2021 referring to the window in question and complies with the requirements of planning reference 18/1356, "the Planning Authority will not be taking any further action in respect of UD file 7603 and has closed the case"

8.0 Solicitors Letter - Hughes & Associates - dated 10 June 2022

We received completely out of the blue a registered letter from Hughes & Associates Solicitors Appendix I dated 10th June 2022, two year to the month after the construction commenced threating Circuit Court Proceeding within 14 days. This as you can believe caused undue stress & anxiety on my family, since we had all the relevant approvals from Kildare County Council in advance. The letter goes on threating legal costs and litigation against us, therefore we had to get legal advice to respond to this threat.

9.0 Returned Solicitors Letter – dated 24th June 2022

We engaged a legal firm of our other neighbour, O' Hanrahan & Company and responded on 24^{th} June 2022 to the previous legal threat of ligation – See Appendix J

10.0 Without Prejudice Solicitors Letter - dated 24th June 2022

I instructed our solicitor to write to Hughes & Associates an "Without Prejudice Letter" on 24th June 2022, see Appendix K emphasizing of great importance of goodwill and friendship with all our neighbours and it was a matter of regret to us that our neighbours where upset. In a good will gesture, we tried to reach out for a solution but ultimately because the planning permission was granted as a bedroom, in order to comply with the fire regulations, Part B Building Regulations, it is imperative that the window be accessible by the emergency services in the event of an emergency and therefore we cannot concede any restrictions to the capacity to open the window.

11.0 Response to the without Prejudice Solicitors Letter – dated 12th August.

Attached in Appendix L is the response from the neighbour solicitor's Hughes & Associates dated 12th August 2022. The solicitors letter stated that the factory fitted opaque window does not go far enough and the neighbour requested to be permanently fixed and that a formal undertaking would have to be entered into never to materially change the window at any stage into the future by any party, even if we

sold the house. This could not be agreed too as it was improper for a neighbour to dedicate such a condition on a property that was not owned by them.

12.0 Professional Advice – Whyte Planning Consultant Ltd – dated 1st Sept 2022

Attached in Appendix M was professional advice received on 1st Sept 2022, after which consultant inspected the installation and took measurements confirming the Velux windows cannot be used for fire escape purposes as they do not comply with the regulations, and that the new gable window dimensions are fully comply with the Building Regulations. Also stated that Kildare County Council have no issue with the current arrangement, and that no obligation to amend the window as the UD file had been closed.

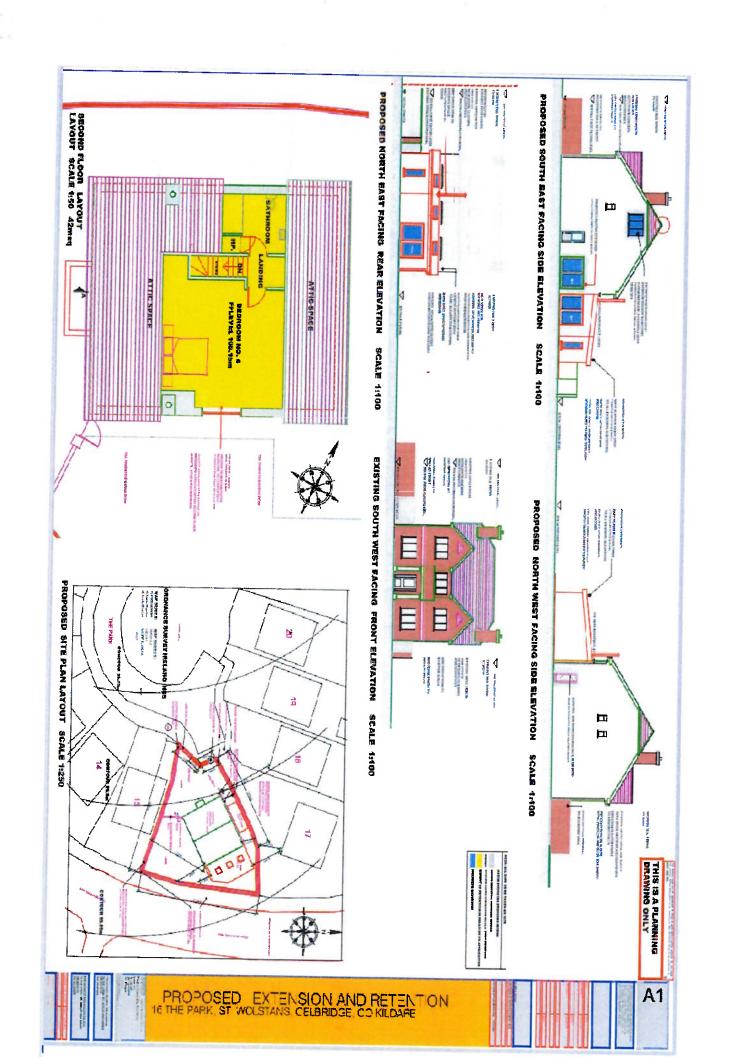
13.0 O' Hanrahan & Company Solicitor response – dated 21st Sept 2022

Appendix N shows correspondence back to Hughes & Associates that we considered professional advice and that we are satisfied that we are fully compliant with planning permission and building regulations. This was enforced with the positive decision from Kildare County Council as demonstrated in this attachment.

No further correspondence was conveyed until we received a letter from An Bord Pleanála on 23rd May 2023, which why we are making this submission and observations, to support our case.

Thank you for reading and considering our submission and observations and we look forward to your decision in due course.

Appendix A – Drawing PL-103 Submitted at Planning Application dated 12th Nov. 2018



Appendix B – Planning Permission Granted dated 7th Jan 2019



Date: Pl. Ref.: 07/01/2019 18/1356

REGISTERED POST

Dermot and Imelda Gildea. c/o Pauline Stynes, Esker Hill, Kildangan, Monasterevin, Co.Kildare

Notification of a decision under Section 34 of the Planning & Development Act 2000 (as amended)

Planning Register Number:

18/1356

Application Received Date:

12/11/2018

Further Information Received Date:

In pursuance of the powers conferred upon them by the above-mentioned Acts, Kildare County Council have by Order dated 07/01/2019 decided to GRANT PERMISSION to the above named for the development of land in accordance with the documents submitted namely:- (a) Permission for proposed single storey extension of 52sqm to rear of existing dwelling comprising of kitchen, dining and living area, 2 No. rooflights to proposed flat roof extension. (b) Permission for alterations to existing elevations with internal alterations, proposed new bedroom window to south east facing side elevation. (c) Retention permission is sought for as constructed attic conversion comprising of 1 No. bedroom, bathroom, landing and stairs. (d) Retention for as constructed widening of entrance to driveway accommodating two cars. (e) And all associated site works at 16 The Park, St. Wolstan's Abbey, Celbridge, Co. Kildare, W23 W42 subject to 10 conditions set out in the schedule attached.

The reason for the imposition of the said conditions are also included. The Planning Authority have had regard to any submissions or representations made on this file. If there is no appeal against the said decision a grant of permission in accordance with the decision will be issued after the expiration of the period within which an appeal may be made to An Bord Pleanala (see footnote). It should be noted that until a grant of permission has been issued the development in question is NOT AUTHORISED and work should not commence.

Date: 07/01/2019

Senior Executive Officer, Planning Kildare County Council

PLEASE ARRANGE TO REMOVE SITE NOTICE

Any appeal against the decision of a Planning Authority under Section 37 of the Planning & Development Act 2000 as amended) may be made to An Bord Pleanala, 64 Marlborough Street, Dublin 1. First and third party objections must be received by the Bord within 4 weeks beginning on the day of making the decision by the Planning Authority. The appeal must be fully complete from the start - you are not permitted to submit any part of it later, even within the time limit.

Any appeal made within the statutory appeal period to An Bord Pleanala will be invalid unless accompanied by Confirmation of submission to Planning Authority

2

The correct statutory fee, (Fees payable to the Bord on or after 5th September, 2011)

Appeal by 1st party relating to commercial development where the application included the retention of development - €4,500 or €9,000 if an EIAR or NIS involved. ii.

Appeal by 1st party relating to commercial development (no retention element in application) - €1,500 or €3,000 if an EIAR or NIS involved.

Appeal by 1st party non-commercial development where the application included the retention of iii. development - €660

Appeal by 1st Party solely against contribution condition(s) – (2000 Act and amendments Section 48 or iv. 49) - €220

Appeal following grant of leave to appeal

An Appeal other than referred to in (i) to (v) above - €220

This guide does not purport to be a legal interpretation of the fees payable to the Bord. Please contact the Bord for further information.

Alanning Permission is sought for a) Permission for proposed single storey extension of 52sqm to rear of existing dwelling comprising of kitchen, dining and living area, 2 No. rooflights to proposed flat roof extension. (b) Permission for alterations to existing elevations with internal alterations, proposed new bedroom window to south east facing side elevation. (c) Retention permission is sought for as constructed attic conversion comprising of 1 No. bedroom, bathroom, landing and stairs. (d) Retention for as constructed widening of entrance to driveway accommodating two cars. (e) And all associated site works at 16 The Park, St. Wolstan's Abbey, Celbridge, Co. Kildare, W23 W421- Dermot and Imelda Gildea-18/1356

Schedule 1 – Considerations and reasons on which this decision is based as required by Article 31 of the Planning and Development Regulations 2001, as amended. Having regard to the nature and design of the development, the character of adjoining development, the reports received from the Council's internal Departments, the provisions of the Kildare County Development Plan 2017-2023 and the zoning ('B, 'existing residential/infill') under the Celbridge Local Area Plan 2017-2023, it is considered that, subject to compliance with the conditions attached, the development would not seriously injure the amenities of the area or of property in the vicinity, and would be in accordance with the proper planning and sustainable development of the area.

Schedule 2-Conditions

1. The development shall be carried out and retained in accordance with the site layout plan, plans, elevations and documentation received by the planning authority on 12/11/2018 except as amended by the conditions of this permission.

Reason: To ensure that the development shall be in accordance with the permission and that effective control be maintained.

2. The existing dwelling and the proposed extension shall be jointly occupied as a single housing unit. The extension shall not be subdivided from the remainder of the dwelling and sold or let as a separate dwelling unit. The overall dwelling shall be used for domestic-related purposes only, and not for any commercial, workshop, or other non-domestic use.

Reason: In the interest of clarity and to regulate the use of the development in the interest of the proper planning and sustainable development of the area.

3. The proposed bedroom window at attic level shall be reduced in size to the minimum acceptable under the Building Regulations and shall be permanently fixed and maintained with obscured glazing only.

Reason: In the interest of visual and residential amenity.

4. The finishes shall be as per details submitted on the 12/11/2018 unless otherwise agreed in writing with the Planning Authority.

Reason: In the interest of visual amenity.

5. Site development works shall be confined to the hours of 8.00am to 6.00pm Monday to Friday and 8.00am to 1.00pm Saturdays. No site development works shall take place outside of these hours.

Reason: To safeguard the environment and living conditions of the residents and businesses of the surrounding area.

6. All service lines and cables servicing the proposed development shall be located underground except where otherwise agreed in writing with the Planning Authority. **Reason:** In the interest of orderly development and visual amenities.

- 7. (a)Only clean uncontaminated surface water from the development shall be discharged to the surface water system.
- (b)Only foul sewage and soiled water from the development shall be discharged to the foul system.

Reason: In the interest of public health, to avoid pollution and to ensure proper development.

8. All surface water shall be collected and disposed of to soakaways or the surface water system designed and constructed in accordance with B.S. 8301:1985 and BRE Digest 365 and provided with inspection manhole covers. No surface water shall be discharged to the foul system or 'combined drain' or onto the public road

Reason: In the interest of sustainable drainage of the catchment.

- 9. (a) No surface water run-off from the site shall be discharged onto the public road.
- (b) Existing land and roadside drainage shall not be impaired with and the revised entrance shall be retained to ensure the uninterrupted flow of the exiting roadside drainage.

Reason: So as to ensure that the developer keeps the public areas adjacent the development in a suitably clean state of repair during construction works.

10.The applicant/developer to pay to Kildare County Council the sum of €2,700 being the appropriate contribution to be applied to this development in accordance with the Development Contribution Scheme adopted by Kildare County Council on 5th November 2015 in accordance with Section 48 of the Planning and Development Act 2000 as amended. Payments of contributions are strictly in accordance with Section 13 of Development Contribution Scheme adopted by Kildare County Council on 5th November 2015.

Note: Please note water and wastewater development contribution charges now form part of the water connection agreement, if applicable, with Irish Water.

Reason: It is considered reasonable that the developer should make a contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority.

ADVICE NOTE TO APPLICANTS All applicants are advised to make themselves aware of the requirements of the Building Control (Amendment) Regulations (S.I. No 9) 2014 which comes into effect on 1/3/2014 and the Construction Products Regulations (CPR) (Regulation (EU) no. 305/2011) which came into effect on 1/7/2013. Information leaflets can be viewed or downloaded on the council's website http://kildare.ie/CountyCouncil/Planning/BuildingControlDepartment/ or the Department of the Environment Community and Local Government website http://www.environ.ie/en/

Appendix C — Building Regulations (2019) Part F — Ventilation - Technical Guidance Documents

PART F - VENTILATION - Building Regulations 2019 (1 of 1) - Technical Guidance Document

I.S. EN 13141-1:2004 and installed to manufacturers' instructions.

1.2.4.5 Manually controlled background ventilators may be used. Background ventilators that respond to pressure differential across the ventilator and automatically reduce opening area to adjust ventilation flowrate may also be used.

Purge Ventilation

Windows (habitable rooms)

1.2.4.6 For a hinged or pivot window that opens 30° or more, or for sliding sash windows, the height multiplied by the width of the opening part should be at least 1/20th of the floor area of the room.

For a hinged or pivot window that opens between 15° and 30°, the height multiplied by width of the opening part should be at least 1/10th of the floor area of the room.

If the room contains more than one openable window, the areas of all the opening parts may be added to achieve the required proportion of the floor area. The required proportion of the floor area is determined by the opening angle of the largest window in the room. Refer to Part B /TGD B of the Regulations for minimum opening sizes required for escape.

Where a risk of overheating is identified, a greater proportion of opening areas may be required: see TGD L 2019 paragraph 1.3.5.2 (d).

External doors (including patio doors) (habitable rooms)

For an external door, the height x width of the opening part should be at least 1/20th of the floor area of the room.

If the room contains more than one external door, the areas of all the opening parts may be added to achieve at least 1/20th of the floor area of the room.

If the room contains a combination of at least one external door and at least one openable window, the areas of all the opening parts may be added to achieve at least 1/20th of the floor area of the room.

Mechanical Extract Fans

1.2.4.7 Mechanical extract fans should be chosen to achieve the specified airflow rate having regard to location, length and type of ducting and size and type of discharge grille. Axial fans are normally only suitable for use with short length of through-the-wall ducting of the same size as the fan outlet. For bathrooms, axial fans may be acceptable for use with flexible ducting up to 1.5 m long and two 90° bends. Centrifugal fans can generally be used with flexible ducting of up to 3m and one 90° bend for extract rates of 60l/s (e.g. from kitchen) and up to 6m for extract rates of 15 l/s with two 90° bends (e.g. from bathrooms).

1.2.4.8 The appropriateness of a particular fan for a particular use should be verified by reference to manufacturer's data. The aerodynamic performance of extract fans should be established using the test methods specified in I.S. EN 13141-4:2011. For cooker hoods the test methods are specified in I.S. EN 13141-5:2004.

Appendix D – Building Regulations (2017) Part B – Fire Safety - Technical Guidance Documents

PARTB - FIRE SAFETY - Building Legulations 2006 - Technical Guidance Document (10f3) - Reprinted in 2020.

a fire might start, other than toilets, bathrooms and shower rooms.

An LD2 system incorporates suitably located and interconnected detectors in all circulation areas that form part of the escape route and in all rooms or areas, such as kitchens and living rooms, that present a high fire risk.

Heat detectors should be provided in kitchens.

Dwelling houses with up to three storeys above ground level should have at least an LD2 system. Dwelling houses with more than three storeys, large houses, or where the fire risk so warrants, should be provided with LD1 systems as appropriate, which will provide a higher level of life safety. Guidance on system types for different situations is contained in BS 5839: Part 6: 2004.

1.5.5.3 Installation of smoke and heat alarms

- Two types of self-contained smoke alarm, an optical type and an ionisation type, which have differing smoke response characteristics, are available. A mixture of both types is recommended and in the case of a typical two storey dwelling house, an optical type on the ground floor storey and an ionisation type on the upper floor is the most appropriate.

The number and location of smoke alarms and heat alarms will be determined by the system type (see 1.5.5.2). In circulation areas, no door to a habitable room should be further than 7.5 m from the nearest smoke alarm. The location of smoke alarms, particularly in relation to doorways to bedrooms and the spacing of units, should be such as to ensure that the audibility requirements specified in BS 5839: Part 6: 2004 will be achieved.

Smoke and heat alarms should preferably be fixed to the ceiling, at least 300 mm from any wall or light fitting. The method of fixing and location/spacing should take into account instructions provided by the manufacturer of the alarms.

It should be possible to reach all smoke and heat alarms to carry out, easily and safely, routine maintenance such as testing and cleaning. Instructions on maintenance requirements should be provided with all smoke alarm systems.

Windows for Escape or Rescue

- 1.5.6 Windows may provide an alternative means of escape or may be used for rescue purposes in dwelling houses of limited height. As an alternative, a door which gives direct access to a balcony or roof, which is suitable for rescue by ladder or for escape may be used. Where provision is made in this subsection for windows for these purposes (see paragraphs 1.5.2, 1.5.3, 1.5.7.6 and 1.5.8.2), such windows should comply with the following:
- (a) The window should have an openable section which can provide an unobstructed clear open area of at least 0.33 m² with a minimum width and height of 450 mm (the route through the window may be at an angle rather than straight through). The opening section should be capable of remaining in the position which provides this minimum clear open area.
- (b) The bottom of the window opening should be not more than 1100 mm and not less than 800 mm (600 mm in the case of a rooflight) above the floor, immediately inside or beneath the window or rooflight. As an exception to the general guidance in TGD K (Stairways, Ladders, Ramps and Guards) that guarding be provided for any window, the cill of which is less than 800 mm in height above floor level, guarding should not be provided to a rooflight opening provided in compliance with this paragraph.
- (c) In the case of a dormer window or rooflight, the distance from the eaves to the bottom of the opening section of the rooflight, or, where the window is vertical, the vertical plane of the window, should not exceed 1.7 m measured along the slope of the roof.
- (d) The area beneath the window externally should be such as to make escape or rescue practicable. For example,
 - (i) where there is a clear drop from a window in an upper storey or attic conversion, the ground beneath the window should be suitable for supporting a ladder safely and be accessible for rescue by the fire services or others.

PARTB-FIRE SAFETY - Building Regulations 2006. - Technical Guidance Documents (2 of 3) - Reprinted in 2020

- (ii) Where there is a roof, balcony or canopy below a window, it should be structurally adequate to support those using the window for escape or rescue.
- (e) The opening section of the window should be secured by means of fastenings which are readily openable from the inside and should be fitted with safety restrictors. Safety restrictors can be either an integral part of the window operating gear or separate items of hardware which can be fitted to a window at the time of manufacture or at installation. Restrictors should operate so that they limit the initial movement of an opening section to not more than 100 mm. Lockable handles or restrictors, which can only be released by removable keys or other tools, should not be fitted to window opening sections.

Loft Conversions

- 1.5.7 In the case of an existing two storey dwelling house to which a storey is to be added by converting the existing roof space into habitable accommodation, the following provisions (1.5.7.1 to 1.5.7.7 inclusive) can be applied as an alternative to those in 1.5.3. However, these alternative provisions are not applicable if:
- (a) the conversion involves raising the roof-line above the existing ridge, or
- (b) the new second storey accommodation exceeds 50 m² in area; or
- (c) the new second storey is to contain more than two habitable rooms.

In the case of an existing single storey dwelling house to which a storey is to be added by converting the existing roof space into habitable accommodation, the converted dwelling house should comply with the provisions of 1.5.2 above.

- **1.5.7.1** Enclosure of existing stairway The stairway in the ground and first storeys should be enclosed with walls and/or partitions which are fireresisting, and the enclosure should either:
- (a) extend to a final exit (Diagram 9(a)); or

- (b) give access to at least two escape routes at ground level, each delivering to final exits and separated from each other by fire-resisting construction and self-closing fire doors (Diagram 9(b)).
- 1.5.7.2 New stairways The new storey should be served by a stairway meeting the provisions in Technical Guidance Document K (Stairways, Ladders, Ramps and Guards). The new stairway should be contained within an enclosure which is formed by extending the existing enclosure in fire resisting construction so that the new accommodation is separated from the existing stairway. Two alternative approaches are given in (a) and (b) below:
- (a) The new stairway may rise over the existing stairway and within the same enclosure, in which case the stairway should be separated from the new room(s) by a self-closing fire door set in fire-resisting construction.
- (b) The new stairway may alternatively rise from the existing room, in which case the new stairway should be separated from the existing room and the rest of the dwelling house by fire-resisting construction with a self-closing door at the top or bottom of the new stairway.
- 1.5.7.3 Doorways All doorways within the stairway enclosure should be fitted with a door, which in the case of an existing door to a habitable room or kitchen should be fitted with an appropriate self-closing device. Any new door to a habitable room should be a self-closing fire door (see Appendix B).
- **1.5.7.4 Glazing** Any glazing in the enclosure to the existing stairway, including glazing in doors (whether or not they need to be fire doors), should be fire-resisting. There should be no openable glazed sections or other ventilation openings in the enclosure to the stairway.
- **1.5.7.5** Fire Separation of new storey The new storey should be separated from the rest of the house by fire-resisting construction (see B3, Section 3.1.6). To maintain this separation, measures should be taken to prevent smoke and fire in the stairway from entering the new storey.

PART B - FIRE SAFETY - Building Regulation 2006 - Technical Guidance Document (3 of 3) - Reprinted in 2020.

1.5.7.6 Escape windows - The room (or rooms) in the new storey should each have an openable window or roof-light for escape or rescue purposes which meets the relevant provisions in 1.5.6 above.

1.5.7.7 Fire detection and alarm systems - Automatic smoke detection and alarms should be provided throughout the dwelling house in accordance with 1.5.5 above.

General Provisions for Dwelling Houses

1.5.8 The following general provisions apply to dwelling houses.

1.5.8.1 Inner rooms - An inner room is where the access to that room is through another room. A habitable room should not be an inner room unless it is located at basement, ground or first storey and is provided with a window or door suitable for escape or rescue in accordance with the provisions of 1.5.6.

1.5.8.2 Windows for escape or rescue - Windows may provide an alternative means of escape or may be used for rescue purposes in dwelling houses. Guidance in relation to such windows is given in Paragraph 1.5.6. There are specific situations, e.g. as described in Paragraphs 1.5.2, 1.5.3 and 1.5.7.6, where windows in dwelling houses should comply with the guidance given in Paragraph 1.5.6 in this regard.

As a general provision, in addition to the specific situations referred to above, all bedrooms in dwelling houses, other than bedrooms with doors that give direct access to the outside at ground level, should comply with the provisions outlined in Paragraph 1.5.6.

Where windows are being **replaced** in existing dwelling houses, it is recommended that bedroom windows should meet, in as far as is practicable, the provisions outlined at 1.5.6. In the case of other habitable rooms, opening sections should not be reduced or altered to an extent that reduces their potential for escape or rescue.

1.5.8.3 Heat producing appliances - Heat Producing appliances include cookers, boilers and open fires which are designed to burn oil, gas or solid fuel. These appliances are a potential source of ignition for fires and it is important that they are

correctly installed in dwelling houses. In this regard, critical items include:

- location of the appliance, particularly in relation to escape routes;
- suitable and adequate flues, chimneys, fireplaces and hearths as appropriate;
- suitable and adequate ventilation;
- fuel supplies.

Part J of the Second Schedule to the Building Regulations contain requirements in relation to heat producing appliances. Technical Guidance Document J - (Heat Producing Appliances), provides guidance on the above items and on how to comply with Part I.

Where a ducted warm air heating system is provided in a dwelling house, precautions should be taken to ensure that it will not contribute to fire spread or endanger the enclosure to any stairway. BS 5588: Part 1: 1990 (Section 6) contains appropriate guidance on these measures.

1.5.8.4 Electrical installations - The electrical installation, comprising wiring, sockets, switches, fuses, distribution board, circuit breakers, earthing, etc., should comply with the National Rules for Electrical Installations produced by the Electro-Technical Council of Ireland.

1.5.8.5 Basements - Basements, where provided in dwelling houses, should be separated from the ground floor storey by means of fire-resisting construction. A stairway serving an upper storey should not extend down to the basement storey.

Any basement habitable room which is an inner room or basement bedroom should be provided with an alternative means of escape.

The fire detection and alarm system (see 1.5.5) should be extended to include any basement areas.

Appendix E – Munster Joinery – Window Data Sheet dated 3rd July 2020

MUNSTER JOINERY









H	EAD C	FFICE: BALLY	DESMOND,	CO. CORK.	Tel 064-775		Fax 064-				nsterjoiner	7.1 0
Des.	Qiy.	Product Range	Colour Outside	Colour Inside	Material	Timber Fra		ickle Vents A	Perm FL to DPC	e Vents NC	No. to Bk. A	
Wds.	1	hatereproof	White	White	PUC		No. Obs. Wds	s, /VO _ Size Pol		Round	Square	
Wds.	1	Aludad	Grey	White	Aluclod	Wrp	No. Steel				TERIAL & CO	ABI
F. Door						4PT			Dr.	Material		
B. Door	. }	Auclad	Grey	White	Aluctoil	4PT	Product Range		Wd	, indicates		,
D. Door				1	 	4PT	Comments	Firely	FIE			
Boiler			1	1	 	4PT No. Doors		10 20		ested	by Bu	lde
Garage		Ot its	Q 00.	White	Aluctack						0	
Patios	3_	Aluchad	- SHOW GILL TYP	1	HANDLES	VENTS	GLASS TY	PE Contract	No.	~~~	Production No	3.
	1 PF	SHOW F/F OF U/A ODUCT / MATERIAL	TYPE PER PAGE -	WRITE CLEARLY	(Colour & Type)				689	633		
	1	- D. G	1		OPEN IN / OUT			Name	E	met	action	
	L	Jarly Fi			,		Manage of the Control	i		برديد		W
	Di	7 10 Kg	4					Addre	ess Al	len		ga and as here - 4-
	VI	quested	11 21	1000				grander and a			1.0	gazzañ 7- MPP du
	Ro	re unted	by su	110024	-		1		1/0	ueas	Andrew Control of the Party of	Physics as Memory
	3						1	a. History or me	Ce	, Kul	done	
	60	o: Sales	•			Ì				-		Em
	rm	tify by	1. 1.	. DeL					MEG	White V		Tel. N
	NE	tiles by	1 7exc 1	1031				Cito	Addroco	· 16	The Pa	4
		10	_					Site	1001835	blsta	s Abb	en
	Can	o: Acce	uts						Cel	brid	10	-
	L. F.	J,=			1				Co K	elde	2	-
	Je	b No:						Hous	e No:-			
		•						<u> </u>			12.	
					Cover			(N):	<u>ک</u> م	_m' <u>%</u>		Sat N
					oloss			(W):	ø 6	<u>m' 31</u>	.899	Sat N
		inte fute	-20-01	Pir	0		1			/	4-	
	W	hite full	refres	, 00			1	Dire	ctions to	site /-	7 . 7	nago ya siilaa ar sa
						1	}	1 0	lond	Je 16) its	I.
		1500			Presty Write	0				4	follow	79.
				601		X			e q	pht	to No	16
1			1000	FEU	Hute	1			an description of		makes the strong taken or strong to be a	e total e t e
1			+		11/16	•			removed the properties of the Britain	and with the second second seconds is a	one and the second of the second	ga we stated 1 is to be
Ì					Harelle	2)					8	
									JB TOTA IIS MAT		€	
		1							BEFORE			
								ONLY			-	
							and the state of t	~	al Amou	nt €		
							and the same of th	5 Plu	s V.A.T.	€		
								<u> </u>	ind Tota	. €		
									oosit	. €		
. 1								₹	posit Da			200
							1 1	Ball Ba	ance	€		
								Ba Ba	ance Da			
							Pag	2			ブー フ	
1								S Dat	e nature of	<u>5</u> -	7-2.	2
1000000			The same states	u	Boon proces	sed			iaidie Ul	Et.	. Lace	11

Appendix F – Kildare County Council Waring Letter UD 7603 dated 9th Sept 2020



WARNING LETTER

Ref No UD 7603

REGISTERED POST

Mr. Dermot Guildea, 16 The Park, St. Wolstans Abbey, Celbridge, Co. Kildare, W23 W421.

Dear Sir,

It has come to the attention of the Planning Authority that unauthorised development is being or may be carried out as follows;

Non-compliance with Condition No. 3 of Planning permission register reference 18/1356, namely;

"The proposed bedroom window at attic level shall be reduced in size to the minimum acceptable under the Building Regulations and shall be permanently fixed and maintained with obscure glazing only.

Reason: In the interests of visual and residential amenity".

On land at the following address: 16 The Park, St. Wolstans Abbey, Celbridge, Co. Kildare, W23 W421.

Following a recent inspection, it was noted that whilst the as-constructed window ope appears smaller than that originally proposed; the casement window has been installed with clear glass and not obscure/opaque glass, as conditioned by the aforementioned permission.

The Planning Authority's investigation to date indicates that the development as detailed above would appear to be unauthorised.

Under Section 152(4)(b) of the Planning and development Acts 2000 (as amended) you are entitled to make submissions or observations in writing to Kildare County Council (Planning Enforcement Section, Planning Department) in this regard not later than four weeks from the date of service of this warning letter. Please clearly state that reference number in any correspondence to the Council.



Where the Planning Authority considered that unauthorised development may have been, is being or may be carried out, an Enforcement Notice, pursuant to Section 154 of the Act, may be issued.

The Planning Authority's Officials or its authorised agents(s), may at all reasonable times enter onto the land for the purposes of inspection.

Section 151 of the Planning and Development Acts 2000 (as amended) provides that any person who has carried out or is carrying out unauthorised development shall be guilty of an offence. Section 154(8) of the Planning and Development Acts 2000 (as amended) provides that any person on whom an enforcement notice is served who fails to comply with the requirements of the notice within the specified period or within such extended time as the Planning Authority may allow, not exceeding 6 months, shall be guilty of an offence. A person who is guilty of an offence under Section 151 and/or 154 shall be liable to a fine or term of imprisonment or both.

The possible penalties involved where there is an offence are as follows:

Fines of up to €12,697,380.00 on indictment, or 2 years imprisonment, or both, Or Up to €5,000.00 on summary conviction or 6 months imprisonment, or both.

Under Section 154(7) of the Planning & Development Act 2000 (as amended) any costs incurred by the Planning Authority in relation to enforcement proceedings may be recovered from a person on whom enforcement notice is served or where a court action is taken.

Your attention is drawn to the provisions of Section 156(6) of the Planning & Development Acts 2000 (as amended) which places the onus on a developer to prove that a development is exempt development and it is to be assumed that it constitutes development until the contrary is shown by the Developer. Note also, that the onus of proof as to the existence of any planning permission lies with the developer.

Your attention is further drawn to the provisions of Section 162(3) of the Planning and development Acts 2000 (as amended), which states that enforcement action shall not be stayed or withdrawn (including for an application under Section 160) by reason of an application for permission for retention of a development under Section 34(12) or the grant of any such permission.

Signed:

KildareCountyCouncil

@KildareCoCo

Senior Executive Officer Planning Department Date: 091 09 1202

Appendix G - Submission / Observation to Kildare Co. Council – UD 7603 - Whyte Planning Consultants submission dated 22nd September 2020



Attn: Kildare County Council, Planning Department.

Re: Dermot and Imelda Gildea, 16 The Park, St. Wolstans Abbey, Celbridge, Co. Kildare.

Warning Letter Ref: UD7603

Date: 22nd September 2020.

Dear Sir/Madam.

I act on behalf of Dermot Gildea, as above, and in relation to Condition No. 3 of planning application 18/1356, I submit that the window on the attic bedroom is the minimum size allowable under the building regulations Part F. I am satisfied that the window cannot be reduced any further.

I also note that permission was granted for use as a bedroom and therefore would respectfully suggest that the condition to permanently fix the window is not appropriate in this instance. (Part B)

I also attach photograph showing that the internal pane of the window is obscured as per condition 3.





The above window can be inspected at the planning authority's request.

Pench white

Derek Whyte

Cert Tech Eng. BEng, MSc Spatial Planning., Dip. Law, Dip. Planning and Environmental Law, M.I.E.I, M.I.P.I.

Appendix H- Planning Department Kildare County Council, Planning Control Section dated 15th February 2021 - UD7603 – Case Closed Correspondence



Planning Department
PLANNING CONTROL SECTION
045-980839

Our Ref: UD7603 (Please quote this reference in future correspondence).

15th February 2021

By Email – Dermot & Imelda Guildea c/o Whyte PlanningConsultants Ltd. Great Connell Newbridge Co. Kildare

RE: Development at 16 The Park, Wolstans Abbey, Celbridge, Co. Kildare

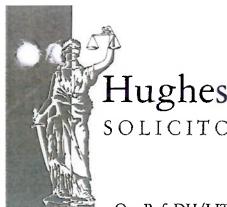
Dear Mr. & Mrs Guildea,

I refer to previous correspondence in respect of the above matter.

The window in question is now appropriately glazed with opaque glass (or laminate sheet applied internally) and complies with the requirements of planning reference 18/1356. Accordingly, the Planning Authority will not be taking any further action in respect of UD file 7603 and has closed the case.

Yours sincerely,

Senior Executive Officer Planning Department Appendix I - Registered letter from Hughes & Associates Solicitors dated 10th June 2022



Hughes & Associates SOLICITORS

Tel: + 353 1 8910020 Fax: + 353-1 8910021

www.hughessolicitors.ie info@hughessolicitors.ie

13 Eustace Street Temple Bar Dublin 2 D02 T853 10 June 2022

Received
13th June 2022

Our Ref: DH/LIT/559

Your Ref:

Private & Confidential

The Owners/Occupiers 16 The Park St. Wolstan's Abbey Celbridge Co. Kildare Certified Post & Registered Post

URGENT

Re:

Our Clients:

Robert McDonald & Maryann McDonald

Matter:

Owners of 15 The Park, St. Wolstan's Abbey,

Celbridge, Co. Kildare

Legal Issue:

Adjoining Property 16 The Park, St. Wolstan's Abbey,

Celbridge, Co. Kildare

Dear Sirs,

We refer to the above matter.

We refer you in specific to Planning Permission Reference 18/1356 and our clients' have been in previous and direct contact with the local Authority for this breach of Planning.

It is clear to our offices and to our clients' Architect as engaged in this matter that there is a clear and flagrant breach of the planning permission in question. It is clear that you have a window on the attic level of your building/property that is not in compliance with planning permission and is causing a direct privacy issue to our clients' as you are previously fully aware of. We now attach herein for ease of reference:

Architects Report of Patrick M. Kerr (Architect)(dated the 1st October 2021)

This report includes a copy of the relevant planning permission and we would be obliged if you could confirm within a period of 14 days from the date hereof that you will confirm to our offices in writing that you will immediately implement progressing the full compliance with the relevant planning permission without further notice.

This would resolve the matter once and for all as and between the parties without protracted litigation and legal costs on this net issue of dispute. Our clients' are fully entitled to their privacy in their own property/garden without been overlooked. If there was actual compliance with the planning permission in question this legal letter would not be necessitated or warranted.

Principal:

Notary Public

Daniel Hughes, B.Comm (Hons) NUIG Nat. Dip. Commercial Litigation Nat. Dip. Commercial Property Commercial Mediator

Consultants:

Tony Hughes, Solicitor, BSC (Hons)

Please note should we fail to hear from you within a period of 14 days from the date hereof with confirmation that you will do the necessary works to the window to have it in compliance with planning that we will be engaging a Barrister with a view to issuing Circuit Court Proceedings in this matter.

Please further note that this approach is not the desirous approach by our clients, but they have been more than reasonable in trying to progress this matter and we put forward a period of 14 days for you to confirm with our offices that you will take the appropriate steps to get the window in full compliance with your existing planning permission.

We respectfully submit that you place this letter with your legal representatives, and should we fail to hear from you within a period of 14 days that we will be briefing a Barrister with a view to issuing Circuit Court Proceedings without further notice.

We will seek to reply upon this letter in seeking all costs as incurred by our offices and Barrister in progressing this matter through the Courts and we put you on full and unequivocal notice of same from the very outset of any litigation.

In conclusion, our clients' merely wants you to comply with your own pre-existing planning permission and failure to which we have no choice to proceed with litigation to compel compliance with the relevant planning permission pursuant to Section 160 of The Planning and Development Act 2000.

Yours faithfully

Hughes & Associates Solicitors

Encl.

patrick kerr architecture m.

DIP.ARCH B.ARCH.SC. DIP.CONST.LAW MCIArb MRIAI Conservation Grade 111 39A MAYNOOTH ROAD CELBRIDGE CO.KILDARE Received 2022
13th June 2022 W23 K196

+353 | 253 4800 +353 87 226 5786 patrickkerr@me.com

IRELAND

21-20/2g

Friday | October 2021

Report on Development at No. 16 The Park, Wolstan's Abbey, Celbridge, Co. Kildare

This report was commissioned by Mr. Robert McDonald of No. 15 The Park, Wolstan's Abbey, Celbridge, Co. Kildare in connection with planning matters & concerns arising from development at adjacent dwelling house at No. 16 The Park, Wolstan's Abbey, Celbridge, Co. Kildare. This report is based on a visual walk through survey only. No opening up of any kind was undertaken, nor were any measurements on site taken, nor were any covered areas exposed. This report is issued solely for the purpose of providing advice in respect of matters that may affect Mr. McDonald's property and/or property rights. Except insofar as it relates to such advice it is not a report on the condition or structure of the property. This report may not be used by any other person and/or for any other purposes.

1.0 Introduction:

Following instructions from Mr. Robert McDonald (our Client) we inspected his property No. 15 The Park, Wolstan's Abbey (No. 15) and the adjacent property located at No. 16 The Park, Wolstan's Abbey (No. 16) to review and assess certain planning matters arising from development at No. 16, their impact on No. 15 and any planning compliance matters. In addition, we inspected certain documentation as provided by our Client and also what was available on Kildare County Council's public planning file.

In particular the matters arising relate to the insertion of a new 2nd floor window located within the gable of the attic conversion at No.16 which, it is contended has not been inserted in accordance with the permitted development, and is therefore an un authorized development.

Original Planning Application:

On 12th November 2018 a planning application file ref. no. 18/1356 was submitted for development at No. 16 described in the public notices as:

"(a) Permission for proposed single storey extension of 52sqm to rear of existing dwelling comprising of kitchen, dining and living area, 2 No. roof-lights to proposed flat roof extension. (b) Permission for alterations to existing elevations with internal alterations, proposed new bedroom window to south east facing side elevation. (c) Retention permission is sought for as constructed attic conversion comprising of I No. bedroom, bathroom, landing and stairs. (d) Retention for as constructed widening of entrance to driveway accommodating two cars. (e) And all associated site works"

On 7th January 2019 a notification of decision to grant permission subject to 10 conditions was

issued and the final grant of planning permission was issued on 18th February 2019.

A copy of the schedule of conditions is attached at Appendix A, and it is noted that generally the conditions attached are typical of such a permission being quite standard. Of particular note however is condition no. 3 outlined below:

The proposed bedroom window at attic level shall be reduced in size to the minimum acceptable under the Building Regulations and shall be permanently fixed and maintained with obscured glazing only.

Reason: In the interest of visual and residential amenity.

On examination of the Planners Report accompanying the decision to the application, as available from the Local Authority online web portal, and outlined below:

Residential Amenity:

Overlooking

Section 17.2.4 of the Development Plan states the following:

'In general, a minimum distance of 22 metres between appasing above-ground floor level windows is required for habitable rooms. In cases of innovative design where overlooking into habitable rooms does not occur, this figure may be reduced.

A separation distance of 35 metres will normally be required in the case of overlooking living room windows and balconies at upper floors.'

Section 17.4.8 part of which states the following:

'-The extension should not provide for new overlooking of the private area of an adjacent residence where no such overlooking previously existing.

In an existing developed area, where a degree of overlocking is already present, the new extension must not significantly increase overlooking possibilities."

The proposed window at attic level in the side (southeast) elevation is noted with regard to potential for overlooking, however given the orientation of the dwelling in relation to Number 15, and a condition obscuring the glazing and reducing the window to the minimum required for it to comply with Building Regulations, it is considered these mitigating factors will offset the potential for undue overlooking.

Having regard to the single storey nature of the proposed development extension, it is considered this part of the proposed development will not result in any undue overlooking.

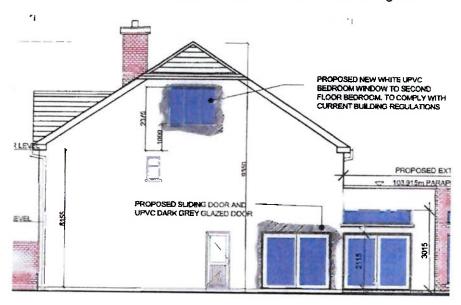
Clearly the Planners has acknowledged the policies and objectives of the County Development Plan to mitigate overlooking and the resultant protection of amenities of neighbouring properties, with particularity regard to windows in close proximity to neighboring properties. In this particular case, the application proposed the insertion of a new gable window to the southeast elevation which directly overlooks the rear garden of our client's property at No. 15. It is also abundantly clear that the stated intention of the insertion of Condition No. 3 was to mitigate and offset the potential for undue overlooking, by requiring that the window be reduced to the minimum required under the Building Regulations, by the insertion of obscure glazing and by **permanently** fixing the window so that it could not open.

3.0 Completed Development:

RIAI Procing Member 2021 RIAI Represent Architect Accordance of Construction Construct

In or around late 2019, early 2020 the Applicants for No. 16 commenced the construction of their permitted development. Some time later, it became clear to our client that the development was not being constructed in accordance with the permitted drawings, as required under Condition No. 1 of the Final Grant of Permission, and in particular with regard to the requirements arising from Condition No. 3.

On careful examination of the drawings submitted as part of the planning application under file 18/1356 and as subsequently granted permission the window in question was shown on drawings no. Pl – 103 and as stated on the second floor plan on same drawing the window was intended to have a width of 1800mm and a height (as extrapolated from the stated dimensions) of 1375 which by any measure can be considered as a large opening of almost 2.5m2. This window appears to have been divided into 3 equal sections as per the extract from the drawing below.



Correctly, the Planners in their decision sought to reduce the side of this opening to "the minimum required for it to comply with Building Regulations" ref. Planners report as above.

While what was constructed did to some degree reduce the size of the above opening, it was only marginally reduced and certainly not reduced to the minimum required to comply with the Building Regulations. On examination of the side gable, as evidenced by the two images below, the window still arrears to be a significant size, and while we were not in a position to accurately measures the opening as constructed, we estimate that the size of the window is somewhere in the region of at least 1200mm to 1500mm wide and 1100mm tall, based on a visual and proportional study. Regardless, the window is still significant in size and does not full fill either the express requirement of Condition No. 3 nor the implied requirement of the condition.

In addition, Condition No. 3 clearly requires that the window be "permanently fixed" and also "maintained with obscured glazing only". This is a typical requirement for such windows on side walls that overlook adjacent properties, as set out, and the clear unambiguous requirement is that the windows be factory fitted with obscure glazing.

In this case, neither the window has been constructed as being "permanently fixed" nor has obscure glazing been utilized, as evidenced from the images below. In fact, when the window was initially constructed it was fitted with clear glazing. Following previous representation from our

RIAI Practice Methods: RIAI Begin three Architect According to Concernation Concernation Concernation Page 2021 G3 P

clients, the applicant has since applied an opaque film of some kind to the glazing, which, it is contended in the strongest possible terms is NOT in compliance with the requirements of

Condition No. 3.



Image taken during construction

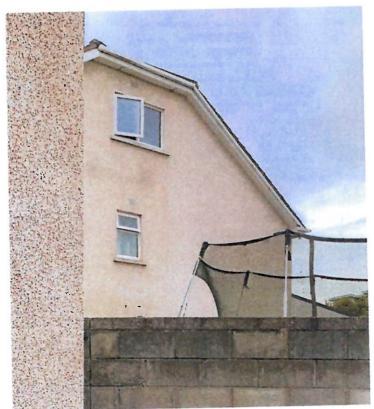


Image of Completed Gable

Clearly the above images demonstrate that the works are not in accordance or compliance with Condition No. 3

Principle Pat Kerr DIP.ARCH B.ARCH.SC. DIP.CONST.LAW MCIArb MRIAł Vat no. 7431151M





4.0 Legitimate Concerns arising:

Our client has a number of concerns as follows arising from this clear and flagrant breech of the development as implemented, and in particular arising from non compliance with Condition No. 3, as set out below:

- 1. The window is too large and must be reduced in size
- 2. The window mush be replaced with a permanently fixed unit
- 3. The window must be fitted with factory finished obscured glazing
- 4. Other concerns and observations

1. Window Size:

Condition No. 3 requires that the window be reduced in size to "the minimum required for it to comply with Building Regulations". Unfortunately, this is somewhat vague and not at all clear, and goes against the well established principle that planning conditions be clear and unambiguous. When considering the obligations arising from this condition one must, in the absence of more details in the condition, examine the wording of both the condition & the Planners reasoning. Clearly the objective here is to mitigate the potential of overlooking, by reducing the window to the minimum required to comply with Building Regulations. Therefore to establish the appropriate side of the opening, one must examine the relevant Building Regulations applicable.

It is contended that there are two areas in which minimum sizes are applicable for windows, one relating to the ventilation of habitable rooms, arising from Part F of the Building Regulations, and the other relating to means of escape in the event of a fire arising from Part B of the Regulations.

Part F - Ventilation:

With regard to ventilation, we note that F.I. requires that "Adequate means of ventilation shall be provided for people in buildings". With reference to the Building Regulations Technical Guidance Documents, Part F 2009, and Section 1.2.2.6. there is a requirement that habitable rooms have a minimum of 1/20th of the floor area of the room available (or 1/10th of the area for certain restricted openings) for purge ventilation in the form of an openable window. The 2nd floor attic room, based on the drawings as submitted, appears to be circa 28m2 or thereabouts, which would generate a requirement for an opening of circa 1.4m2 or 1.18m square. However, it is noted that the room also has three velux style rooflights, which based on visual inspection appear to be openable. Assuming that the 3no. rooflights are standard size (and they appear to be) then each rooflight would typically provide circa 0.59m2 of openable window space, thereby generating 1.77m2 of openable ventilation area, well in excess of the requirement of the Building Regulations. Therefore, when considering Part F and Ventilation, it is clear that the room as constructed does not, arising from Building Regulation requirements, need any additional or new window openings for the purpose of ventilation.



View of 3no. Existing rooflights to rear of No. 16 showing openable sections

-	-	ALC: NO THE REAL PROPERTY AND ADDRESS OF THE PERTY ADDRE	
RIAI	Registered Architect	Architect Accrephed to Conservation	PSOP Accreditation
	2021	G3	Р

Therefore, by logical extension, as the minimum size required by the Building Regulations is zero, then **no window** is allowable!

Part B - Fire Safety:

With regard to Fire Safety, the only regulation relating to window size is contained in Section 1.3.7 of Technical Guidance Document Part B, Volume Two Dwelling Houses 2017, which requires that each bedroom be provided with an openable window with a minimum clear area as set out below in section 1.3.7.1. (a):

The window should have an openable section which provides an unobstructed clear open area of at least $0.33\ m$.

The height should be not less than 450 mm. The width should be not less than 450 mm. The opening section should be capable of remaining in the position which provides this minimum clear open area

Therefore assuming that the window is required for escape purposes, then the minimum size would be in the region of 600mm width by circa 900mm in height allowing for the clear minimum areas and adding a surrounding frame structure, which is less than half of what is currently in place. However, as with the regulations concerning ventilation, the 3no. existing rooflights, with reference to Section 1.3.7.1 (d) of Technical Guidance Document Part B, Volume Two Dwelling Houses 2017, these same rooflights can also be utilized as a means of escape as well. Therefore, as the Building Regulations do not in this case require any additional windows for escape purposes, then again by logical extension, the minimum size as required by the Building Regulations is zero, and **no window** is allowable!

Clearly the window as installed is not in compliance with Condition No. 3, and is therefore an unauthorised development.

2. Window to be permanently fixed:

As outlined above, Condition No. 3 requires that the new window be permanently fixed. As is evident from the image below and elsewhere this window is not fixed, and is openable, thereby facilitating overlooking. Again, it is clearly not in compliance with Condition No. 3, and is therefore an unauthorised development. Furthermore, any window in this location, having to be fixed, is therefore not available for use as a means of escape or indeed for ventilation purposes, and as outlined above is not required in any event, should not be present.



Image showing side window openable

Obscure Glazing: 3.

Also as outlined above, when the window was initially installed, it was fitted with clear glazing, and following representation from our client, an obscure film was then fitted. This is unacceptable as it does not comply with Condition No. 3 and the film can easily be removed by the current applicant/occupant or indeed any future occupants. The entire reason d'être of this condition is to ensure that the window is and always will be obscure, hence the requirement for obscure glass, not an easily removable film.

Regarding the three points above, it is clear that the window, as installed, fails any objective test on all three points when assessed as being compliant with Condition No. 3 and is not compliant with the express and implied terms of same condition. Therefore, it is encumbrant on the Local Authority to immediately require the applicants to rectify the matter, by way of the issuance of enforcement proceedings under Section 154 of the Planning & Development Act 2000 as amended.

To be clear, it is the preference of our client that this window be removed in its entirety as is clearly supported by the wording of the condition, but in the absence of same, then it should be replaced with a fixed window, no greater than 600mm wide by 900mm high, fitted with factory obscure glazing, and without any opening sections.

Other considerations:

While not directly related to the points above, it is noted that other elements of the development, in addition to the side window, have not been constructed in accordance with the design as permitted, including the provision of additional roof windows to the single storey extension. While not having any material impact on our clients property, this is indicative of what could be described as a somewhat caviler attitude by the applicants to planning, and compliance with same. It is further noted that elements of the original planning application included the retention of certain works, again indicative of a "relaxed" attitude and approach.

5.0 Conclusion:

When first becoming aware of these clear breeches of the permitted planning permission, our clients immediately contacted the Enforcement Section of Kildare County Council to alert them to this unauthorised development, assuming reasonably that the Local Authority would fulfill their statutory obligations, and investigate and seek to have the unauthorized matters regularized.

Unfortunately this has not been the case, for what ever reason, and the Local Authority, having allowed the applicants to merely apply an opaque film to an unauthorised window, have not fulfilled their duties in this regard. We refer in particular to file reference UD7603 where a warning letter dated 9th September 2020 was issued under section 152 of the 2000 Act. With reference to Kildare Co. Co. correspondence dated 15th February 2021 the Planning Authority have considered the matter closed, and as stated in same correspondence for what appears to be the stated reason that:

"the window in question is now appropriately glazed with opaque (or laminate sheet applied internally) and complies with the requirements of planning reference 18/1356".

As outlined comprehensively above, Condition No. 3 requires three elements, a reduction in size to MINIMUM BUILDING REGULATIONS SIZE (argued above as zero), that the window be permanently fixed, and that it comprise of opaque glazing, and not some easily removable laminate sheet fixed after the fact.

Clearing, the window as now installed does not in any way comply wth the requirements of

Condition No. 3, remains an unauthorised development, and continues to cause an obtrusion on our clients property with resultant overlooking, as evidenced by the images above.

Taking all of these facts into consideration, on behalf of our clients we must respectively insist that the Planning Authority immediately reopen the enforcement file, and issue an enforcement notice to the applicants requiring them to comply with the planning permission as granted.

Our clients have been advised that failure of the Local Authority to do so may result in them having to take matters into their own hands and instigating proceedings in a private capacity, with resulting costs accruing being passed onto the applicants and/or the Local Authority as would be appropriate. However, we trust that it will not come to this.

We await your prompt response,

Yours faithfully,

Patrick M. Kerr

Dip.Con.Law B.Arch.Sc. MRIAI MCIArb Principle, Patrick M. Kerr Architecture

Appendix A:

Copy of planning permission conditions attached to 18/1356

RIAI Praction Member RIAI Bagament Activities Accurated of Accurate of Conservation 2021 G3 P

Comhairle Contae Chill Dara Kildare County Council

Chates:

18/02/2019 18/1356

PL Ref:

Dermot and Irrelda Gildea, Glo Pauline Stynes Esker Hitl Kildangan Monasterevin Co Kildare

Planning Register Number: Application Receipt Date: 18/1356 12/11/2018

PERMISSION (a) Permission for proposed single storey extension of 52sqm to train of existing deceiling comprising of kitchen, desing and living area, 2 No. roofights to proposed flat roof extension. (b) Permission for alterations to existing elevations with internal alterations, proposed new bedroom window to south east facing side elevation. (c) Retention permission is sought for as constructed attic conversion comprising of 1 No. bedroom, bathroom, landing and stairs. (d) Retention for as constructed widening of entrance to driveway accommodating two cars. (e) And all associated site works AT 16 The Park St. Wolstan's Abbey Celbridge Co. Klidare, W23 W421 IN ACCORDANCE WITH THE PLANS SUBMITTED WITH THE APPLICATION.

In pursuance of the powers conferred upon them by the Planning & Development Act 2000 (as amended), Kildare County Council have by Order dated 07/01/2019 GRANTED PERMISSION to the above named, for the above development subject to 18 conditions set out in the stacked schedule.

Date: 18/02/2019

sed:

Senior Executive Officer, Planning

Kastere County Council

NOTE:

The permission herein granted shall, on the expiration of the <u>period</u> of 5 years beginning on the date of the granting of permission, onase to force effect as regards:

(1) In case the development to which the permission relates is not commenced during the period, the entire development, and

(2) In case such development is so commenced, so much thereof as is not completed within that period

If should be noted that curine permission will obine to have effect after a period of 3 greats and also that such permission to subject to the subsequent grant of permission consequent on the grant of permission by the Planning Authority and that unit such permission tigs been obtained to detailed plans of the development grocesed. The development is NOT AUTHORISED.



Planning Permission is sought for a) Permission for proposed single storey extension of 52sqm to rear of existing dwelling comprising of kitchen, dining and living area, 2 No. rooflights to proposed flat roof extension. (b) Permission for afterations to existing elevations with internal alterations, proposed new bedroom window to south east facing side elevation. (c) Retention permission is sought for as constructed attic conversion comprising of 1 No. bedroom, bathroom, landing and stairs. (d) Retention for as constructed widening of entrance to driveway accommodating two cars. (e) And all associated site works at 16 The Park, St. Wolstan's Abbey, Celbridge, Co. Kildare, W23 W421- Dermot and Imelda Gildea-18/1356

Schools 1 - Commissions and reasons on which this decision is based as required by Article 31 of the Planning and Development Regulation 2001, as asserted.

Its the rate and design of the resonance of the reson

Schedule 2-Conditions

 The development shall be carried out and retained in accordance with the site layout plan, plans, elevations and documentation received by the planning authority on 12/15/2018 except as amended by the conditions of this permission.

Reason: To ensure that the development shall be in accordance with the permission and that effective control be maintained.

2. The existing dwelling and the proposed extension shall be jointly occupied as a single housing unit. The extension shall not be subdivided from the remainder of the dwelling and sold or let as a separate dwelling unit. The overall dwelling shall be used for domestic related purposes only, and not for any commercial, workshop, or other non-domestic liets.

Reason; In the interest of clarity and to regulate the use of the development in the interest of the proper planning and suclaimable development of the units.

 The proposed bedroom window at attic level shall be reduced in size to the minimum acceptable seider the Budding Regulations and shall be permanently fixed and maintained with obscured glazing only.

Reason: In the interest of visual and residential amenity

 The finishes shall be as per details submitted on the 12/11/2018 unlines distances agreed to writing with the Planning Authority

Reason in the interest of visual privarily

Site development works shall be confined to the hours of 8.00am to 6.00pm Monday to Friday and 8.00am to 1.00pm Saturdays. No site development works shall take place outside of these hours.

Reason: To safeguard the environment and living conditions of the residents and businesses of the surrounding area.

6. All service lines and cables servicing the proposed development shall be located underground except where otherwise agreed in writing with the Planning Authority.
Reason: In the interest of orderly development and visual amenities.

(a)Only clean uncontaminated surface water from the development shall be discharged to the surface water system.

(b)Only four sewage and soiled water from the development shall be discharged to the four system.

Reason: In the interest of public health, to avoid pollution and to ensure proper development.

8. All surface water shall be collected and disposed of to scakaways or the surface water system designed and constructed in accordance with B.S. 8301:1985 and BRE Digest 365 and provided with inspection manhole covers. No surface water shall be discharged to the foul system or 'combined drain' or onto the public road.

Reason: In the interest of sustainable drainage of the catchment.

9. (a) No surface water run-off from the site shall be discharged onto the public road.

(b) Existing land and roadside drainage shall not be impaired with and the revised entrance shall be retained to ensure the uninterrupted flow of the exiting roadside drainage.

Reason: So as to ensure that the developer keeps the public areas adjacent the development in a suitably clean state of repair during construction works.

10.The applicant developer to pay to Kildare County Council the sum of €2,700 being the appropriate contribution to be applied to this development in accordance with the Development Contribution Scheme adopted by Kildare County Council on 5th November 2015 in accordance with Section 48 of the Planning and Development Act 2000 as amended. Payments of contributions are strictly in accordance with Section 13 of Development Contribution Scheme adopted by Kildare County Council on 5th November 2015

Note: Please note water and wastewater development contribution charges now form part of the water connection agreement, if applicable, with Irish Water.

Reason: It is considered reasonable that the developer should make a contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority.

ADVICE NOTE TO APPLICANTS All applicants are advised to make themselves aware of the requirements of the Building Control (Amendment) Regulations (S.I. No.9) 2014 which comes into effect on 1/3/2014 and the Construction Products Regulations (CPR) (Regulation (EU) no. 305/2011) which came into effect on 1/7/2013. Information leaflets can be viewed or downloaded on the council's website http://www.environ.ie/en/

Appendix J - O' Hanrahan & Company Solicitors response on 24th June 2022



Lexington House • 71 Ballybough Rd • Fairview • Dublin 3 • D03 TF68 Phone: 01 855 6603 • Fax: 01 836 3990 • DX: 223002 Email: legal@ohanrahan.com • www.ohanrahan.com

Our Reference:

When calling please ask for:

TOH/JB/D Gildea/BL2516

Tim O'Hanrahan

24th June 2022

Hughes and Associates Solicitors 13 Eustace Street Temple Bar Dublin 2 D02 T853

By Fax:

RE: Dermot and Imelda Gildea

Your Clients, Robert McDonald and Maryann McDonald Property at 16 The Park, St. Wolstan's Avenue Abbey, Celbridge, Co. Kildare

Dear Sir/Madam,

We refer to your correspondence addressed to our above clients dated 10th June 2022.

At the outset our client's wish to emphasise that they have every desire to have a good relationship with all of their neighbours and it is a matter of great upset and distress to them to receive your correspondence.

Our clients wish to note that at the outset of the planning application process they invited their neighbours to attend at their property to discuss their planned development. Your clients attended at our clients' premises in or around December 2018 and were invited to view the plans and were informed of the intended application for an extension and bedroom conversion. The plans at that time included the disputed bedroom window, which was of a larger size at that time and was subsequently reduced to comply with the planning authority's requirements. Your clients did not raise any concerns or objection to any aspect of the intended development at that time. The disputed development has been in situ since approximately July 2020.

We note that on foot of your clients previous complaints to the enforcement officer of Kildare County Council, our clients consulted their architect and in circumstances where permission was granted for use of the attic as a bedroom and on the submission that the window in the attic bedroom is the minimum size allowable per building regulations, part F, and the basis that the internal pane of the window is obscured as per condition 3, it was ultimately accepted that the window in question complies with the requirements of planning reference 18/1356.





Lexington House • 71 Ballybough Rd • Fairview • Dublin 3 • D03 TF68
Phone: 01 855 6603 • Fax: 01 836 3990 • DX: 223002
Email: legal@ohanrahan.com • www.ohanrahan.com

On that basis the planning authority concluded that it would not be taking any further action and closed its case.

We note the comments of Mr Kerr that other elements of the development indicate a 'cavalier attitude' by the applicants to planning. It is abundantly apparent that the local authority is satisfied that the works in question are compliant and do not share Mr Kerr's view. It is also a matter of upset to our clients that Mr Kerr has proceeded to include a photograph of our clients' son in his report, which is ironically an invasion of our clients' privacy.

Your clients should be assured that there is no risk to your clients' privacy concerns and our clients are fully compliant with their planning permission.

We wish to respectfully bring to your clients' attention that in the event that legal proceedings are issued in this matter they will be fully defended and our client will be seeking an order for costs against your clients' on conclusion of same.

In the meantime, please note that this office has authority to accept service of proceedings on behalf of our clients.

We await hearing from you.

Yours faithfully,

O'HANRAHAN & COMPANY



Appendix K - Without Prejudice Solicitors Letter dated 24th June 2022



Lexington House • 71 Ballybough Rd • Fairview • Dublin 3 • D03 TF68 Phone: 01 855 6603 • Fax: 01 836 3990 • DX: 223002 Email: legal@ohanrahan.com • www.ohanrahan.com

Our Reference:

When calling please ask for:

TOH/JB/D Gildea/BL2516

Tim O'Hanrahan

24th June 2022

Hughes and Associates Solicitors 13 Eustace Street Temple Bar Dublin 2 D02 T853

By Fax:

WITHOUT PREJUDICE

RE: Our Clients: Dermot and Imelda Gildea

Your Clients: Robert McDonald and Maryann McDonald

Property at 16 The Park, St. Wolstan's Avenue Abbey, Celbridge, Co. Kildare

Dear Sir/Madam,

We refer to the above matter and to your correspondence dated 10th June 2022. We refer to our "open" letter of today's date.

Our clients have asked us to emphasize that it is a matter of great importance to them that they have a good relationship with all of their neighbours and it is a matter of regret to them that your clients are upset by the development in question.

In an effort to address your clients' grievances, our clients are offering to install a factory fitted opaque window, which would clearly address your clients' privacy concerns.

As the room in question is being used as an attic converted bedroom, in order to comply with fire regulations, it is absolutely imperative that the window be accessible by the emergency services in the event of an emergency and therefore our clients cannot concede any restrictions to the capacity to open the window.

Our clients have asked us to write this letter to you in a spirit of goodwill and friendship, but obviously our client's do not accept that there has been any infringement on their part.

We await hearing from you.

Yours faithfully,





Lexington House • 71 Ballybough Rd • Fairview • Dublin 3 • D03 TF68 Phone: 01 855 6603 • Fax: 01 836 3990 • DX: 223002 Email: legal@ohanrahan.com • www.ohanrahan.com

O'HANRAHAN & COMPANY



Appendix L - Response to the without Prejudice Solicitors Letter – dated 12th August 2022.



Tel: + 353 1 8910020 Fax: + 353 1 8910021

www.hughessolicitors.ie info(a hughessolicitors.ie

> 13 Eustace Street Temple Bar Dublin 2 D02 T853

Our Ref: DH/LIT/559

Your Ref: TOH/JB/D Gildea/BL2516

12 August 2022

Private & Confidential

O'Hanrahan & Company Solicitors Lexington House 71 Ballybough Road Fairview Dublin 3 By Email Only

WITHOUT PREJUDICE/SAVE AS TO COSTS

Re:

Our Clients:

Robert McDonald & Maryann McDonald

Matter:

Owners of 15 The Park, St. Wolstan's Abbey,

Celbridge, Co. Kildare

Legal Issue:

Adjoining Property 16 The Park, St. Wolstan's

Abbey, Celbridge, Co. Kildare

Dear Sirs,

We refer to the above matter and to your letter dated 24th June 2022.

We note your offer as outlined in your without prejudice letter of the 24th June 2022 to install "a factory fitted opaque window" to address our clients concerns.

While we acknowledge and recognise this as an attempt to alleviate our clients' concerns, this does not go far enough, nor is it in anyway in compliance with condition no. 3 which requires a "permanently fixed" window. The fact is that any opening section in this window renders any opaque element null and void when open allowing an invasion of our clients' privacy, which is the fundamental reason for condition no.3

We note that our clients may be agreeable to the existing window being removed and replaced with a factory fitted opaque window with no opening sections whatsoever, and that this may comply in part (but not in full) with condition no.3.

In addition, the details of this window would have to be met with the prior approval of our Clients Architect and a formal undertaking would have to be entered into by your clients that same window would not be materially changed at any stage in the future by any party which would alter the permanently fixed and opaque nature of the window.

Principal:

Daniel Hughes, B.Comm (Hons) NUIG Nat. Dip. Commercial Litigation Nat. Dip. Commercial Property Commercial Mediator Notary Public

Tony Hughes, Solicitor, BSC (Hons)

We note that it is our considered opinion that condition no. 3 requires the opening to be reduced in size further to that currently in existence. Notwithstanding, should you agree to the above, our clients have indicated that they would not pursue the matter of a further reduction of the window opening size.

Should this not be agreed within 14 days from the date hereof then our clients reserve their legal right to proceed in the normal litigation manner.

In addition, our clients have advised that if your clients do not agree to the above, then in addition to proceeding with legal action they intend to apply to Kildare County Council for a declaration under Section 5 of the Planning & Development Act 2000 (as amended), declaring that the window as currently constructed does not in fact comply with Condition no.3 of the permitted development, is considered development and in turn unauthorised development, and they are confident that the Local Authority, and An Bord Pleanala will declare same.

Please note that this is letter is sent on a Without Prejudice/Save as to Costs basis and please note that our client's fully reserve their legal right to present this legal letter at the conclusion of any litigation to the relevant Judge/Court in recovering all legal fees as incurred by our clients by way of engaging Solicitors/Barrister and Architect.

We await hearing from you.

Yours faithfully

Hughes & Associates

Solicitors

Appendix M – Professional Advice - Whyte Planning Consultant Ltd. – dated 1st Sept 2022



Attn: Dermot and Imelda Gildea, 16 St. Wolstans Abbey, Celbridge, Co. Kildare. Re: Attic Window in existing side gable of No. 16 St. Wolstans Abbey, Celbridge, Co. Kildare.

Dear Dermot and Imelda,

I have inspected the attic bedroom and side gable window which is the subject of concern of your neighbours at No. 15 St. Wolstans Abbey, Celbridge, Co. Kildare. My findings are as follows:

- Planning Permission for the development and window were granted under planning reference 18/1356. Condition 3 of this application stated, "The proposed bedroom window at attic level shall be reduced in size to the minimum acceptable under the building regulations and shall be permanently fixed and maintained with obscured glazing only". The principle of a gable end window is firmly established in the area and through planning application 18/1356.
- A warning letter was issued by Kildare County Council under UD7603 in relation to the existing window
 you have installed which has been deemed acceptable to Kildare County Council under UD7603 and we
 understand that the UD file is now closed.
- The attic room consists of 2 Velux windows (not 3 as stated), of which the glazing area is 560mm by 1161mm. The Velux roof lights have a cill height in excess of 1100mm from the finished floor level and are centre hung so therefore are not complaint with Part B of the Building Regulations for Fire Escape. These Velux roof lights cannot be used for fire escape purposes. Please note that if you removed these windows, you would be entitled under the condition No. 3 to increase the size of the window in the gable end, and perhaps this is a course of action that you should consider.
- The existing gable window is 1445mm by 943mm. The opening section of the window is 660mm by 943mm. The minimum size of window opening for fire escape purposes under Part B is 450mm by 450mm but must be 0.33m2. Therefore the minimum opening section of the window must be at least 500mm by 600mm. We note that the existing window is compliant with the building regulations contained in Part B of the Building Regulations 2017.



- We note that the applicant's responsibility is to comply with the stated planning permission and its
 conditions, and we note that Kildare County Council have no issue with the current arrangement.
 Therefore, you have no obligation to make any amendments to the existing window.
- Should your neighbour wish for you to amend the window, you have no obligation to do so as you are
 planning complaint and any perceived deviation would be deemed de-minimus, hence why the UD file has
 been closed.
 - Finally, my advice to you is that you should perhaps try and discuss the content of the above with your neighbour and if an understanding cannot be agreed to the existing window you should consider one of the following options:
 - 1. Remove the two Velux windows and increase the gable end window to a window of 1.5 sq.m (1/20th)
 - 2.9sq.m in area (1/10 of the floor area of the room) or 1
 - 2. Leave all as it stands.

Verek white

Kind regard's

Derek Whyte

Cert Tech Eng. BEng, MSc Spatial Planning., Dip. Law, Dip. Planning and Environmental Law, M.I.E.I, M.I.P.I. Dated the: 1st September 2022.

¹ Installation of Velux rooflights on a rear window plane, once not inconsistent with pattern of development in the vicinity of the development, is exempt from planning so the existence of the Velux rooflights is immaterial to the planning application and could be discounted in relation to building regulations.

Appendix N – O 'Hanrahan & Company Solicitors Response – dated 21^{st} Sept 2022



Lexington House • 71 Ballybough Rd • Fairview • Dublin 3 • D03 TF68 Phone: 01 855 6603 • Fax: 01 836 3990 • DX: 223002 Email: legal@ohanrahan.com • www.ohanrahan.com

When calling please ask for:

Our Reference:

TOH/JC/D Gildea/BL2516

Tim O'Hanrahan

21st September 2022

Hughes & Associates Solicitors 13 Eustace Street Temple Bar Dublin 2 D02 T853

RE: Our Clients: Dermot and Imelda Gildea

Your Clients: Robert McDonald and Maryann McDonald

Property at 16 The Park, St. Wolstan's Avenue Abbey, Celbridge, Co.

Kildare

Dear Sir/Madam,

Thank you for your correspondence dated 12th August 2022.

Our clients have carefully considered same and have taken professional advice regarding same.

Ultimately our clients are satisfied that they are fully compliant with planning permission and building regulations and whilst they repeat that they do not want any acrimony or disagreement with any neighbour, they will obviously have to fully defend any legal action that your client's elect to pursue.

Our clients assure your clients of their continued goodwill.

Yours faithfully,

O'HANRAHAN & COMPANY



Appendix O - Relevant Photographs for Context

Attached are several photographs showing the angle of the buildings next to one another and also showing the urban neighbourhood in which, we reside in.

Points to note that we live in a residential urban neighbour where bus stops at outside our back gardens, other neighbours have extensions and that we have a three-story development straight across the road from our house. Total privacy is not a guarantee...... I appreciate if this is taken into consideration during the ruling.

Thank you.

