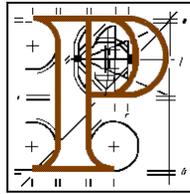


An Bord Pleanála



Inspector's Report

Development: 32 houses on lands at Jerpointwest,
Thomastown, Co. Kilkenny.

Planning Application

Planning Authority: Kilkenny County Council
Planning Authority Reg. Ref.: 06/1565
Applicant: Denis Kelly
Type of Application: Permission
Planning Authority Decision: Refuse

Planning Appeal

Appellant(s): Denis Kelly
Type of Appeal: First Party
Date of Site Inspection: 26/03/07
Inspector: Gillian Kane

SITE LOCATION AND DESCRIPTION

Site Location

The subject site is located on the southern side of Station Road, a narrow winding regional road (LS8203) leading from Thomastown to the Mount Juliet Estate. The road is approx. 5 m wide and intermittently between the subject site and Thomastown, has a footpath along the northern boundary. The footpath stops approx. 500m from the subject site. The surrounding area has witnessed considerable ribbon development of one-off housing with one one-off housing estate to the east of the subject site. The road terminates at the Mount Juliet entrance, which appears to be unused. The site is approx. 1.5km from the edge of the boundary of Thomastown.

The subject site is relatively flat at the northern boundary and has road frontage of approx. 25m. This boundary has a heavy and dense hedge. The site is undeveloped and does not appear to be used for agriculture or pasture. The site is bound to the north / west by a large detached one-off house, to the east, west and south by undeveloped green fields. Along the eastern road side is a row of four cottages. All site boundaries have hedgerows with shallow ditches. The site slopes gently from the road southwards.

Despite the proliferation of one-off housing, the area is predominantly rural in character. A large field across the road from the site was in use as a motorcycle track on the date of site inspection.

Closer to the town edge is a residential development site known as The Green. Some houses within the development have been constructed. The development involves realigning the road so that a sharp bend to the east of the subject site will be removed. It is noted that sight lines along the road are severely restricted at some points. The speed limit along the road is 80kph.

PROPOSED DEVELOPMENT

Permission was sought for 32 no. two storey detached dwellings on a site of 4.71 ha. The proposed dwellings range in size from 169sq.m. to 270sq.m. Although it is not mentioned in the application documentation, it would appear from drawing no. 378/PP/01 that each proposed dwelling has a corresponding detached garage / shed. Each dwelling has a large front, side and rear garden with an area of hard

landscaping surrounding the dwelling footprint. The proposed road network to serve the development curves through the site, with a number of cul-de-sacs and one roundabout. A central green area within the development site is proposed as a water feature in the written documentation but this is not noted on the accompanying drawings.

PLANNING AUTHORITY DECISION

A decision to refuse permission issued with 5 no. reasons for refusal which can be summarised as follows:

1. proposed development would materially contravene the County Development Plan as the unzoned land is outside the development boundary of Thomastown.
2. the proposed development would be contrary to Council policy which is to encourage housing in settlements which have been zoned for residential development. The proposed development would constitute an unplanned and haphazard form of development in this rural area.
3. the proposed development would cause conflict between vehicular and pedestrian traffic .
4. the proposed development would be premature having regard to the existing deficiency in water and wastewater treatment systems.
5. the proposed development would set an undesirable precedent.

Other Technical reports on file are as follows:

- Sanitary Services: the existing public water supply is unable to cater for the proposed development. The applicant shall have to provide a private water supply in order to service the development. No house can be occupied until the waste water treatment plant in Thomastown has been upgraded, commissioned and is fully operational.

PLANNING HISTORY

D05A/1083 – Planning permission for 73 dwellings in 2 no. blocks was withdrawn.

DEVELOPMENT PLAN

The Development Plan for the area is the Kilkenny County Development Plan 2002. Volume 1 of the plan covers the county-wide policies, objectives and development control standards. Volume 2 contains the Development Plans for a number of

scheduled towns, of which Thomastown is one. The subject site is not covered by a zoning objective in either Development Plan.

The following policies and objectives are of note:

County Development Plan:

7.8.1 “It will be the policy of the Council to encourage housing development to locate in designated towns and villages where infrastructural and social services exist or are planned to be provided.”

Thomastown Scheduled Town Plan

4.1 Urban Structure Objective 2: “to encourage the planned development of serviced lands within the town and to discourage road frontage development in areas zoned for development and on the approach roads to the town.”

4.1 Urban Structure Objective 10: “to retain the clear distinction between the town and surrounding areas by means of development control”

10.1 Housing Objective (d): “To reserve land so as to offer opportunities for locational choice for housing development within the Development Boundary and to seek to maintain a clear distinction between the town and the county” (Please note, it is assumed that this is a typographical error and should read “country”).

GROUNDS OF APPEAL

The main points of the grounds of the First Party appeal are outlined below:

- The rural character of the area has been compromised by a long established pattern of linear development. This has been consolidated since the adoption of the 2002 Development Plan
- The County Council have refused permission for in-depth development and grant one-off houses. This is in contravention of Council policies to protect areas from haphazard development.
- An Bord Pleanála has granted permission for a linear development of 7 houses to the north of the subject site, the Bord deemed the location ‘in close proximity to Thomastown’. This shows the acceptability of the area for in-depth urban development.

- The zoning pattern in the Development Plan is contradictory and inexplicable. A submission to zone the lands residential has been made.
- The Thomastown Development Plan is contradictory. Lands remote from the railway station have been zoned whilst lands in walking distance have not.
- The proposed development has a planned, orderly in-depth character. Residents of the development would have access on foot to the railway station and Thomastown.
- There is an objective in the Development Plan to facilitate the development of serviced lands within the town. It would be wasteful to allow the subject site to be used for one-off housing.
- The proposed development amounts to infill housing which complies with National and Local policy objectives.
- The Government's decentralisation programme involves the HSE moving to Thomastown. This will create housing demand.
- The dwellings within Mount Juliet are suburban in character and have permanently affected the integrity and coherence of this unique landscape. The objection from Mount Juliet is therefore unreasonable.
- The access road is a cul-de-sac with very low traffic volumes. Major improvements have been carried out. There is a continuous footpath along the road and continuous street lighting.
- The applicant will provide a potable water supply from a private well. The Sanitary Services department of the Council did not recommend refusal of the proposal.

OBSREVATIONS

An Observation has been received from Kieran O'Malley & Co. on behalf of Mount Juliet. The issues raised in the observation can be summarised as follows:

- None of the provisions of section 37 of the Planning and Development Act 2000 apply so the Bord is precluded from granting planning permission.
- The proposed development is an urban generated development in a rural location. It has no strategic or national importance.
- The policies of the Council are clearly stated.
- Permission should not be granted having regard to the pattern of development in the area.

- The site is un-zoned, un-serviced, a distance away from the town and contrary to the Council's rural housing policy. The site is outside the development boundary of Thomastown.
- All five reasons for refusal are valid and reasonable.
- The site is not surrounded by residential and commercial development.
- Whether or not existing zoned land is committed to development is irrelevant. When demand arises, this is a matter for the Council to address.
- The Governments decentralisation programme is irrelevant.
- Development within the Mount Juliet Estate takes place under an approved Action Area Plan.
- Notwithstanding future realignment of the road, it was never designed to carry extensive volumes of traffic.
- The appellant has not shown that a private well can serve the proposed development. In addition such a situation is unsatisfactory for 32 no. houses.
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RESPONSES

The response of the Planning Authority to the appeal can be summarised as follows:

- The Planning Authority is consistent in its application of Development Plan policies and objectives. A number of examples are given.
- Ribbon development in the area was assessed under the previous Development Plan.
- The land may not be suitable for Part V housing.
- Permission has been granted for large scale residential development within Thomastown.
- Two housing applications within Thomastown have been refused for reasons of prematurity of public services.

ASSESSMENT

It is considered that the principle factors in this appeal primarily relate to:

Principle of Development

As noted, the subject site is outside the development boundary of Thomastown and is unzoned.

The Appellant states that large scale ribbon development has occurred in the area and the subject site represents an opportunity to develop the site in an in-depth way which does not further ribbon development.

I do not accept this submission on a fundamental basis. It is agreed that the surrounding area has been subject to inappropriate ribbon development. However, I do not see this as an acceptable justification for furthering an unsustainable pattern of development. The proposed development, it is considered, represents urban generated housing, with a distinctly urban / suburban design in an unzoned rural area.

I do not accept that there is a pressing need for residential development in the Thomastown area, given that sufficient land has been zoned within the development boundary and also, that the town plan is currently under review. In terms of the compatibility of the subject site with national and local policy objectives, I am satisfied that such documents and guidelines refer to development within defined boundaries and not to development on unzoned / unserviced land. In addition I consider that there are a number of policies within national, regional and local planning policy which specifically seek to prevent development such as the nature proposed.

I am satisfied that the proposed development, if permitted would materially contravene the policies of the County Development Plan 2002 and the Thomastown Scheduled Town Plan 2002.

Conflicting Objectives in Development Plan

Urban Structure Objective 2 of the Thomastown Plan is “to encourage the planned development of serviced lands within the town and to discourage road frontage development in areas zoned for development and on the approach roads to the town.”

The Appellant states that the subject site is serviced and therefore should not be wasted on one-off housing as this would be contrary to the Development Plan policy Urban Structure Objective 2. I note that said Objective refers to serviced lands within the town. The subject site, although having access to a public sewer and water mains cannot claim to be serviced, as capacity is not available. In addition, the subject site is not within the town. Further, the quoted objective specifically seeks to discourage road frontage development on approach roads to the town. Despite the fact that the

subject site contains development deeper than the road frontage, it is nonetheless 'road frontage development'. I consider the proposed development to be entirely contrary to this policy. I do not accept that there are conflicts between the written objectives and the zoning policies of the Development Plan, despite the anomaly of spot zoning outside the development boundary.

Third Party Objection

The Appellant states that the third party objection from Mount Juliet Estates is unreasonable given that they have carried out unsympathetic residential development. As noted above, the precedent set in the area is of no bearing on the subject site. It is noted that an Action Area Plan for the Mount Juliet Estate has been adopted by the Council and development within the Estate has taken place within the remit of the AAP.

Footpath and Street Lighting

The Appellant states that there is a continuous footpath from the site to Thomastown. As can be seen from the attached photographs, this is incorrect. There is no footpath along the subject site road frontage or the northern part of the road. There is a footpath intermittently between Thomastown and approx. 500m east of the subject site. On the date of site inspection, traffic volume on the road was such that pedestrian passage along the road was unsafe. I am not satisfied that the realignment of the road would be sufficient to facilitate the additional traffic which would be generated by the proposed development. As noted above, I consider the proposal to be urban generated housing in a rural area. I am not satisfied that sufficient pedestrian links to the town are available which would encourage non-vehicle trip generation from the site.

CONCLUSION and RECOMMENDATION

I have read the submissions on file, visited the site, had due regard to the provisions of the Development Plan and all other matters arising. Having regard to the un-zoned, unserviced nature of the subject site, and the narrow local road it is considered that the proposed development is unsustainable and suburban in nature. The proposal is not in accordance with the Kilkenny County Development Plan and therefore not in accordance with the proper planning and sustainable development of the area. I recommend permission be refused.

REASONS and CONSIDERATIONS:

1. The proposed development which would be located in an unzoned, unserviced rural area, outside the development boundary of Thomastown is contrary to the policies of the Kilkenny County Development Plan and the Thomastown Scheduled Town Plan. The proposed development of unsustainable urban generated housing in a rural area constitutes a haphazard and unplanned form of development which would further the pattern of urban sprawl already evident in the surrounding area. The proposed development if permitted, would represent an undesirable precedent for development in the surrounding area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. Taken in conjunction with existing (and permitted) development in the vicinity, the proposed development would give rise to an excessive density of suburban type development in a rural area and would contravene the policy of the planning authority, as expressed in the current Kilkenny Development Plan, to direct residential development to established centres (which policy is considered to be reasonable).
3. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a narrow substandard road at a point where sightlines are restricted. The proposed development would therefore endanger public safety by reason of traffic hazard. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Gillian Kane
Planning Inspector
29/03/07