



An
Bord
Pleanála

Inspector's Report ABP-305197-19

Development	Sub-division of existing site and construction of a two-storey dwelling house to rear of existing site including new shared vehicular access.
Location	1308 Kill West, Kill, County Kildare.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	19/623
Applicant(s)	Sinead Caulwell
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party V Decision
Appellant	Josephine Bryan
Observer(s)	None
Date of Site Inspection	19 th March 2020
Inspector	Fergal O'Bric

1.0 Site Location and Description

- 1.1. The appeal site is located within the town development boundary of Kill, approximately 0.4 Kilometres to the south-west of the town centre, and 1.2 Kilometres south-west of junction 7 on the M7 Motorway linking Dublin with the south-west of Ireland. It is accessed from a local road, known as Hartwell Road, which links Kill with Punchestown, which is approximately eleven kilometres south-west of Kill.
- 1.2. The appeal site is one of six semi-detached houses located along a short service road off the local county road at Kill West, which runs alongside and east of the Hartwell Road. The area is characterised by low density residential development.
- 1.3. Most houses include driveways to the front for parking. The houses in this vicinity include generous rear garden spaces.
- 1.4. The appeal site is stated as being 0.1182 hectares. It currently comprises a side vehicular access driveway and rear garden of a single storey semi-detached dwelling, number 1308 Kill West. The access driveway is hard surfaced and the rear garden area is grassed.
- 1.5. A dog-run is located in the north-western corner of the rear garden space. The northern and eastern boundary of the rear garden space comprise mature leylandii trees and the southern boundary comprises a post and wire fence and leylandii trees cut to a height of approximately 1.5 metres. To the west is the existing family home. The existing house and rear garden are at a similar level to the neighbouring properties.

2.0 Proposed Development

- 2.1. Permission is sought for the subdivision of the site and construction of a two-storey house to the rear of the existing single storey house at number 1308 Kill West.
- 2.2. The proposed dwelling would comprise 154 square metres in area and would be 7.8 metres to the maximum ridge level.
- 2.3. The proposed dwelling is of contemporary style, rising towards a central point which provides for first floor office space which is illuminated by high level clerestory

fenestration detail. The ground floor arrangement provides for a kitchen/living/dining area, study, two bedrooms, one ensuite and a shared bathroom.

- 2.4. The west elevation of the proposed house would be located approximately 9.1 metres from the rear elevation of the house at number 1308. The proposed house is located approximately 11.7 metres from the eastern boundary with the Glendara residential development, approximately 3.3 metres from the northern boundary with number 1309 and 1.3 metres from the southern boundary with number 1307.
- 2.5. First floor windows are proposed which would be located 3.1 metres above the first-floor finished floor level and would be for the purposes of illumination. The external finishes would comprise a monocouche render and blue/black slate roof.
- 2.6. The existing house would be provided with a stated 190 square metres of private open space and the proposed house with 383 square metres of public open space.
- 2.7. The vehicular access proposed is from the existing access lane from Hartwell Road which extends along the side of the existing house. Two car parking spaces are proposed to serve the proposed dwelling.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority granted planning permission subject to 16 standard conditions. The relevant conditions are considered to be:

Condition Number 1: Permission been granted in accordance with details submitted to the Planning Authority on the 31st May 2019.

Condition Number 2: External and roof finishes.

Condition Number 5: Landscaping in accordance with landscape plan submitted to the Planning Authority on the 31st May 2019.

Condition Number 6: Site Development working hours.

Condition Number 13; Surface Water outfall.

Condition Number 15: Connection agreement with Irish Water.

Condition Number 16: Development Contributions.

3.2. Planning Authority Reports

3.2.1. Planner's Reports

The Planner's Report is the basis for the Planning Authority decision. It includes:

- The dwelling is of contemporary design. It has a maximum ridge height of 7.78 metres. The parental home to the west of the site has a maximum ridge height of approximately 6 metres.
- The applicant is proposing to retain the existing fencing and tree boundaries along the eastern and southern boundaries. It is proposed to remove the trees along the northern boundary and replace with a new hedgerow.
- Two no. car parking spaces indicated at the front of the site, and two spaces for the existing dwelling are also provided for.
- The proposed residential use is permissible in principle under the existing infill residential zoning objective.
- Having regard to the urban and serviced location of the site, the residential character of the area, the scale of dwelling proposed and the separation distances achievable from the neighbouring residential properties and the quantity of private open space afforded to the existing and proposed dwelling on site, the proposed development would be considered to accord with the proper planning and sustainable development of the area..
- The open space provision with the existing and proposed dwellings would exceed Development Plan standards.

3.2.2. Other Technical Reports

- Water Services: No objection subject to conditions
- Roads Transportation and Public Safety: No objection subject to conditions
- Environment Section: No objection subject to conditions
- Roads Section: No objection subject to conditions.
- Area Engineer: No objection subject to conditions.

3.3. Prescribed Bodies

- Irish Water: No objection subject to conditions.

3.4. Third Party Submissions

Six submissions were received by the planning authority from neighbouring residents have been forwarded to the Board and are on file for its information. The issues raised are comparable to those raised in the observations to the appeal summarised in section 6 below.

4.0 Planning History

None

5.0 Policy Context

5.1. Development Plan

5.1.1. Kildare County Development Plan 2017-2023

Kill is designated as a 'Small town within the Development Plan. The role of these towns is to act as local employment centres providing employment opportunities for the local hinterland.

Chapter 4 sets out Housing policy

Section 4.11 refers to Urban Infill and Backland development. It states that '*the development of underutilised infill and backland sites in existing residential areas is generally encouraged. A balance is needed between the protection of amenities, privacy, the established character of the area and residential infill. The use of contemporary and innovative design solutions will be considered for infill and backland development and connections to the surrounding area and services should be identified and incorporated into proposals.*'

Section 4.4.3 refers to Infill Residential Development. It states that *'a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. Proposals for development involving the intensification of residential uses within existing residential areas such as side gardens will generally be permitted where it can be clearly demonstrated that the proposal respects the existing character of the area and would not harm the amenity value of adjoining properties.'*

Section 4.6.3 Backland Development

It states *'the development of backland sites in a coherent and well-designed manner can contribute to enhancing the vibrancy and character of an existing settlement while also contributing to the efficient use of serviced lands. The development of backland sites on an individual basis (i.e. rear garden areas/individual backlands with no frontage) can conflict with the established pattern and character of development in an area. Backland development will generally only be considered where the proposed development forms part of a comprehensive plan for development of the entire backland area.'*

HP19: 'To permit backland development generally only where development is carried out in a comprehensive redevelopment of the backland to secure a co-ordinated scheme. Each application will be considered on its own merits.'

SRO2: 'Consider backland development generally only where development is carried out in a planned and co-ordinated manner'.

Chapter 16 sets out Urban Design Guidelines.

Chapter 17 sets out Development Management Standards.

5.1.2. **Kill Town Plan 2017-2023**

The site is within an area zoned 'B – Existing /Infill Residential'. The objective for which is *'to protect and improve existing residential amenity, to provide for*

appropriate infill residential development and to provide for new and improved ancillary services. Dwellings are 'permitted in principle' under this zoning objective.

Specific objective KL1 outlines the following: **To** facilitate the development of residential developments for the lifetime of this Plan, largely within the town centre zone on areas designated as existing residential/ infill and on lands zoned new residential, in accordance with the principles of proper planning and sustainable development.

5.2. **Natural Heritage Designations**

None relevant.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

A third-party appeal against the decision to grant planning permission by the planning authority has been lodged by the adjoining neighbour immediately to the south of the appeal site (Number 1307 Kill West). The appeal may be synthesised as follows:

6.2. **House Design**

- In principle no objection to the construction of a single storey dwelling on site, similar in height to 1307 and 1308 Kill West.
- Two main concerns which were relayed to the applicant at pre-planning stage relate to the height of the proposed dwelling and the proximity of the proposed development to the southern party boundary.
- The proposals would establish a precedent for the development of two storey houses in the area.
- Potential for overlooking from proposed first floor of development exists.
- Planning report does not state the separation distance from the proposed development to the southern boundary.

- Ground floor windows are proposed 1.285 metres removed from the southern boundary, contrary to the provisions of Chapter 17 of the Kildare Development Plan 2017-2023.
- The windows on the southern elevation should be removed as per the policies of the Kildare Development Plan.
- The Planning report does not address the issue of proximity to the southern boundary.
- Pre-planning comments outlined the need to eliminate overlooking, overshadowing and have a minimal impact upon the privacy of existing dwellings.
- Should the Board decide to grant permission for the proposed development, it the proposed dwelling should be moved further away from the southern boundary.
- It would be appropriate for the applicant to provide adequate screening to protect the amenity of the residents in 1307 Kill West.
- The precedents for similar house designs are all set in rural locations around the country and abroad, a totally different context to the current proposal.
- The appellants refer to a single storey precedent permitted by Kildare County Council under Planning Authority reference number P15/911 at the Dublin Road, Naas.
- Querying the accuracy of the submitted drawings in relation to ground levels and therefore heights of existing and proposed dwellings on site.
- No provisions for screening along the southern boundary have been submitted.
- Concerned that the combined foul/storm sewer to which connection is proposed is at capacity.
- Concerns that the drawings submitted are not to the correct scale as set out within the Planning and Development Regulations, 2001, as amended.
- Other layout and design options are available to the applicant which would have a lesser impact upon the amenities of the residents of 1307 Kill West.

- The scale, bulk and proximity of the proposed development, if permitted, would adversely impact upon the open space and residential amenity currently afforded to the residents of 1307 Kill West.
- It could lead to a permanent diminution of the residential amenity currently enjoyed by residents of 1307 Kill West.
- The proposals would be contrary to the underlying land use zoning objective of the area.
- The proposals should be refused as they would not accord with the proper planning and sustainable development of the area.

6.3. Applicant Response

- First floor windows are proposed which will be 3.1 metres above the finished floor level, thereby preventing overlooking of neighbouring properties and protecting the privacy of the neighbours.
- There is mature dense planting on the northern, eastern and western boundaries provided by the existing conifer trees.
- The existing boundary hedge to the north is to be removed and new planting will be provided along that boundary.
- Irish Water raised no objection in terms of connections to the existing water services.
- The proposals accord with the policies and objectives as set out within the Kildare County Development Plan 2017-2023, most notably HP 19 and SR 02-in relation to backland development.
- The proposal is a contemporary interpretation of the dormer bungalow and the section drawings submitted illustrate the relationship of the proposals with its surrounding context.
- The maximum ridge height of the dwelling is 7.78 metres and drops away at a forty-degree angle to a height of 6.39 metres which is consistent with the building height of the dwellings to the west along Hartwell Road.
- The drawings submitted are drawn to the correct scale.

- The applicant contacted the appellants following the receipt of the notification of grant of planning permission from Kildare County Council in an attempt to satisfy their concerns and the offer was subsequently rejected by the appellants.

6.4. Planning Authority Response

The Planning Authority stated that it had no further observations to make.

7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Residential Amenity
- Open Space
- Surface Water Drainage
- Car Parking
- Appropriate Assessment

7.2. Principle of Development

7.2.1. As per the Kill Town Development Plan the site is within an area zoned B- existing residential, the objective of which is 'to protect and improve existing residential amenity, to provide for appropriate infill residential development and to provide for new and improved ancillary services'. In principle the proposal would accord with the underlying zoning objective.

7.2.2. The site already benefits from a vehicular side access to the rear garden.

7.2.3. The houses in this vicinity of Kill have generous rear garden spaces, approximately 32 metres in length. The subject site and the two adjoining plots to the north at 1309 and 1310 Kill West also benefit from wider plots than the houses to the south, which

gives greater scope for development. A number of adjacent houses do not have wide (vehicular) side accesses and as such limits the potential to provide for backland development.

- 7.2.4. I am satisfied, therefore, that given the urban, serviced nature of the site which is accessible to vehicles that the proposal would accord with the proper planning and sustainable development subject to issues in relation to design, layout, access, services and residential amenity being appropriately addressed.

7.3. Residential Amenity

- 7.3.1. Having regard to the Guidelines for Sustainable Residential Development and the provisions of the current development plan the acceptability or otherwise of the proposed development will be subject to the need to attain a balance between the reasonable protection of the amenities and privacy of adjoining property and the need to provide additional residential development at this location. I propose to address such matters in the following sections.
- 7.3.2. The design of the proposed dwelling would comprise a contemporary interpretation of a dormer bungalow. It backs onto the rear (eastern) boundary of the family dwelling and is set off the rear western, southern and northern side boundaries.
- 7.3.3. The applicant contends that the design and layout ensures that the privacy of adjoining properties is respected. I note that the proposed house is located approximately 9.1 metres removed from the nearest part of the family dwelling, approximately 11.6 metres from the eastern boundary, approximately 3.8 metres from the northern boundary and approximately 1.2 metres from the southern boundary.
- 7.3.4. I note that there are windows proposed to a ground floor bedroom located approximately 1.2m off the southern side boundary, adjacent to house number 1307 Kill West (the appellants dwelling). I also note the applicant's proposals to introduce soft landscaping along the southern party boundary and there are existing trees (though cut to 1.5 metres) along this northern (side) boundary of the 1307 property. I consider the location and proximity of these ground floor windows to the boundary, to be largely acceptable. However, given that there is illumination provided by fenestration on the eastern, western and southern elevations serving this bedroom, it is considered that the removal of one window on the eastern side of the southern

elevation could be omitted (by condition) to ensure the residential amenities of the neighbouring property at 1307 are fully respected. However, I am satisfied that the first-floor fenestration would not give rise to overlooking of the neighbouring properties and would provide for illumination purposes only.

- 7.3.5. I am satisfied that due to the satisfactory design and layout, existing and proposed boundary treatment, site levels and separation distances to site boundaries, the proposed dwelling would not give rise to undue overlooking of neighbouring properties, and would not be seriously injurious to the residential amenities of the adjoining houses.

7.4. Private Open Space

- 7.4.1. It is proposed to subdivide the existing site such that the existing house would have a private rear garden space of 190 square metres. The proposed house would be served by an open space area of 383 square metres. In this respect the provision of private open space exceeds the development management standards.

- 7.4.2. I also consider that the proposed layout provides a satisfactory approach to providing private open space in this backland development and should be considered favourably.

- 7.4.3. In summary, I consider the open space proposed to serve the existing and proposed house to be acceptable.

7.5. Site Servicing

- 7.5.1. The applicants are proposing to tap into the existing public watermains and foul sewer and surface water sewer. The Water Services Department nor Irish Water did not raise any objections to the proposed development subject to conditions,

- 7.5.2. I am satisfied that the site is serviceable within this urban location.

7.6. Car Parking

- 7.6.1. The existing house includes a vehicular access and driveway to the northern side of the site where there is adequate room for parking. It is proposed to provide two on-site car parking spaces inside the existing driveway entrance to serve the existing house and two on-site spaces to serve the proposed dwelling.

7.6.2. The Area Engineer and the Roads, Transportation and Public Safety Department of the Local Authority outlined no objections to the proposed development subject to conditions.

7.6.3. I am satisfied that the car parking arrangement is acceptable and that there is sufficient on-site car parking to serve the existing and proposed houses.

7.7. Appropriate Assessment

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. I recommend that planning permission be granted for the following reasons and considerations

9.0 Reasons and Considerations

Having regard to the location of the site on residentially zoned lands in the Kill Town Development Plan and to the compliance with the development management standards for backland development in the Kildare County Development Plan 2017-2023, to the acceptable scale and design of the dwelling, it is considered that subject to compliance with conditions set out below, the proposed development would not result in haphazard development or seriously injure the residential amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application to the Planning Authority on the 31st^h May 2019, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed extension shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. The dwelling shall be occupied as a single dwelling unit and shall not be sub-divided or used for any commercial purposes.

Reason: In the interest of residential amenity.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

5.
 - (a) All foul sewage and soiled water shall be discharged to the public foul sewer.
 - (b) Only clean, uncontaminated storm water shall be discharged to the surface water drainage system or soakpits.

Reason: In the interest of public health.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

Reason: In the interests of visual and residential amenity.

7. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details on intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developers or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

- 9 The proposed development shall be amended as follows:
 - (a) The western ground floor bedroom window on the southern elevation shall not be permitted
 - (b) Detailed plans of how the mature trees along the eastern and southern boundaries to the site would be protected during the construction and operational phases of the development shall be prepared.

Revised elevation and floor plan drawings showing compliance with the requirement within (a) above shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of road safety, visual amenity, and sustainability.

10 Prior to commencement of development details of a hard and soft landscaping plan for the site incorporating native/indigenous species shall be submitted to, and agreed in writing with the Planning Authority. A timeframe for the implementation of the landscaping proposals shall also be submitted.

Reason: In the interest of visual amenity.

11 Drainage arrangements, including the disposal and attenuation of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

12 The applicant shall enter into water and waste-water connection agreements with Irish Water, Prior to the commencement of development.

Reason: In the interest of public health.

13 Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

Fergal O'Bric
Planning Inspector

16th April 2020