



An  
Bord  
Pleanála

## Inspector's Report

### ABP-306406-20

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|-------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Development</b>                  | The reinstatement to residential use of existing derelict single storey cottage, together with the construction of a single storey extension to the side and rear. |
| <b>Location</b>                     | Kilmacow Lower, Junction of Main Street and the L7431, Co. Kilkenny.                                                                                               |
| <b>Planning Authority</b>           | Kilkenny County Council                                                                                                                                            |
| <b>Planning Authority Reg. Ref.</b> | 19/211                                                                                                                                                             |
| <b>Applicant(s)</b>                 | Eoin Bassett.                                                                                                                                                      |
| <b>Type of Application</b>          | Permission.                                                                                                                                                        |
| <b>Planning Authority Decision</b>  | Refuse Permission.                                                                                                                                                 |
| <b>Type of Appeal</b>               | First Party V. Refusal.                                                                                                                                            |
| <b>Appellant</b>                    | Eoin Basset.                                                                                                                                                       |
| <b>Observer(s)</b>                  | None.                                                                                                                                                              |
| <b>Date of Site Inspection</b>      | 25 <sup>th</sup> March 2020.                                                                                                                                       |
| <b>Inspector</b>                    | Susan McHugh                                                                                                                                                       |

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## 1.0 Site Location and Description

- 1.1. The appeal site is located just outside the village of Kilmacow, which is in the south of County Kilkenny and c. 6.5km to the north west of Waterford City.
- 1.2. Kilmacow village is unusual in that it comprises two distinct areas, Kilmacow Upper and Lower which are separated by c. 1km. The proposed development is located in Kilmacow Lower which is the smaller of the areas and which is characterised by a small number of houses, public house and graveyard. A stream runs approx. 13m to the east of the site before joining the River Blackwater approx. 250m further to the east.
- 1.3. The site is located at a T junction with the eastern boundary along the main street Local Primary Road L3401, and southern boundary along the Local Secondary Road L7431.
- 1.4. There is an existing derelict single storey cottage on site, and the rear garden is overgrown. A pedestrian access gate opens directly onto the L3401, along which there is a solid white line and no footpaths.
- 1.5. The existing/former entrance gate to the site is along the southern boundary from the L7431, at which is an existing road stop sign, before the T junction. In advance of this stop sign a maximum speed limit of 50km/hr applies. The site is bounded by an existing low stone boundary wall mature trees and hedgerow.
- 1.6. The stated area of the appeal site is 0.0175ha.

## 2.0 Proposed Development

- 2.1. Permission is sought for the reinstatement to residential use of the existing derelict single storey cottage.
- 2.2. Works comprise of the construction of a single storey extension to the side and rear of the existing house, with a stated floor area of 37sqm. The new two bedroom single storey dwelling will have a total floor area of 62sqm.
- 2.3. In terms of services it is proposed to connect to the public watermain and public sewer.

2.4. In response to the request further information the applicant submitted revised dimensioned drawings in respect of sightlines, proposals for the closure of a pedestrian gate, and tree report which recommended tree removal.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

The planning authority decided to **refuse** permission for 1 no. reason as follows:

1. 'The proposed development would endanger public safety by reason of traffic hazard because required minimum sightlines have not been demonstrated in accordance with National Roads Authority – Design Manual for Roads and Bridges standards for this local county road and is therefore contrary to the provisions of the Kilkenny County Development Plan 2014-2020.'

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

##### 3.2.1. **Planning Reports (dated 23/05/2019 and 17/12/2019)**

The **1<sup>st</sup> Planners Report** is the basis for the planning authority decision. It includes;

- Site is zoned 'Existing Residential' in the Kilkenny County Development Plan 2014-2020, with an objective 'To protect and improve residential amenities and to provide for new residential development appropriate to the scale and character of the settlement.'
- Last occupation of cottage dates back to the 1950's.
- The cottage is not a Protected Structure or recorded on the NIAH.
- Proposed design and external finishes are compatible with section 3.5.2.5 Refurbishment and Replacement Dwellings in rural areas of the County Development Plan.
- Private open space falls below 48sqm requirement for a 2 bed dwelling the site is located in a village and in close proximity to public open space amenities.
- Sufficient space for car parking on site.

- Proposed development would not seriously injure the amenities of the area or of property in the vicinity and is compatible with the zoning objective for the area.
- There are public water and wastewater services capacity in the village.
- Sightlines submitted do not comply with minimum standards and Area Engineer is seeking further information.
- Recommends further information in relation to sightlines and in relation to the protection of existing trees/hedgerow during construction having regard to Section 12.11.17 Tree and Hedgerow Preservation of the Kilkenny County Development Plan.

The **2<sup>nd</sup> Planners Report** includes;

- Tree Report prepared by an agricultural landscape professional indicates that there are no trees on site of any unique or landscape importance and recommendation that the trees be removed given their close proximity to the proposed development, the public road and BS 5837:2005 guidelines.
- Sightlines submitted fall short of required 70m sightlines standards to comply with National Roads and Bridge Manual Handbook for this location and are not accurately surveyed.
- P.A. do not have adequate time to request clarification of information as recommended by the Area Engineer as the six month period has passed.
- In order to achieve the minimum sightlines requires further set back of third party lands to the south west which requires consent from adjoining landowners not enclosed with the further information submitted and cannot be conditioned.
- Recommends permission be refused.

### 3.2.2. Other Technical Reports

**Area Engineer:** 1<sup>st</sup> Report dated 20/05/2019 recommends further information in relation to; sightlines of 70m in both directions measured along the nearside road edge from a setback distance of 2.4m.; visibility splays to be kept clear of all

obstructions and lengths of boundary setback required to be shown and dimensioned; visibility of 70m to the front and rear of a right turning vehicle to be measured from the point where the centre line of the access intersects the centre line of the road; the pedestrian access directly onto local primary road L3401 shall be closed by extending the boundary wall across it.

**2<sup>nd</sup> Report** dated 16/12/2019 recommends clarification of further information in relation to; details of boundary setback and sightlines of 70m to the south west to be accurately shown and dimensioned, with landowner consent to be included; and revised 70m sightlines to the nearside road edge rather than to the centre of the carriageway.

### 3.3. **Prescribed Bodies**

**Irish Water:** No objection subject to condition.

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

None.

## 4.0 **Planning History**

There is no record of any planning history relating to the appeal site.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

The relevant development plan is the *Kilkenny County Development Plan, 2014-2020*. Under this plan the site is zoned 'Existing Residential' in the County Development Plan. The stated objective for this zoning is:

*'To protect and improve residential amenities and to provide for new residential development appropriate to the scale and character of the settlement.'*

Section 3.5.2.5 refers to Refurbishment and Replacement Dwellings in rural areas.

'The Council will encourage and facilitate the appropriate refurbishment of existing housing stock and other structures in rural areas and in certain limited cases the replacement of existing dwellings subject to the criteria outlined below.

Development management standards

- The emphasis should be on the retention, refurbishment and reuse of the structure as part of the development proposal.
- The scale and architectural treatment of proposed works should be sympathetic to the character of the original structure and the surrounding area including adjoining or nearby development.
- In the case of replacement dwellings, to require proof that the original structure was last used as a dwelling and was habitable so as not to invoke the policies under section 3.5.2 that applies to new dwellings (Replacement dwellings will be subject to all usual development management criteria also).
- In cases where retention or reuse of the existing dwelling is not technically feasible, the size and scale of any replacement dwelling should reflect the site's characteristics and context and shall accord with best practice in rural house design.

Where an original structure was not habitable, if an applicant can demonstrate that their proposals will ensure the sensitive restoration of vernacular and traditional buildings in the rural area, thereby respecting and maintaining the integrity and scale of the original building, and does not compromise any other development management considerations, such proposals shall not be subject to the policies in Section 3.5.2 that applies to new dwellings (see Section 8.3.10 Vernacular built heritage).'

Section 12.11.17 refers to Tree and Hedgerow Preservation.

## 5.2. Natural Heritage Designations

The appeal site is not located within any European site. The closest such site is the Lower River Suir SAC (site code 002137) which is located c.2.5km to the south of the appeal site at the closest point.

### **5.3. EIA Screening**

- 5.3.1. Having regard to the limited site size, the separation of the site from European and other designated sites, the proposed connection of the development to public water and foul drainage connections, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can therefore be excluded at preliminary examination and a screening determination is not required.

## **6.0 The Appeal**

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

The Third Party appeal was lodged by the applicant and can be summarised as follows;

- Residential zone, at the heart of the village.
- Traffic approaching the entrance from main street must stop before turning. Traffic approaching the entrance from the L7431 must slow down and prepare to stop at the stop sign before proceeding onto main street.
- There is an existing entrance to the property which was in use in living memory of the neighbours. The existing entrance is closer to the junction than the proposed entrance.
- The neighbouring owner has an entrance directly next to the proposed entrance which is used regularly and safely.
- Contend that they have the agreement of the neighbour for the removal of hedging between the properties and along the front of his property to allow for a clear view for 70m along the L7431 in keeping with the required minimum guidelines for county roads.

## 6.2. Planning Authority Response

The Planning Authority response to the First Party appeal can be summarised as follows;

- Does not appear that the drawing of the boundary setback required to achieve a 70m sightline has been produced, nor evidence of the landowner consent to this set back.
- Requirements remain as set out in the Area Engineer response dated 18/12/2019.

## 6.3. Observations

None received.

## 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. Appropriate Assessment also needs to be considered. The issues are addressed under the following headings:

- Principle of Development
- Access and Road Safety
- Other Matters
- Appropriate Assessment

### 7.2. Principle of Development

7.2.1. The appeal site is located on existing residential zoned land within the development boundary of the village of Kilmacow, as set out in the Kilkenny County Development Plan 2014-2020.

7.2.2. The scale of the proposed extension to the existing single storey derelict cottage is very modest. The design and refurbishment proposals are in keeping with the

character of the settlement and will enhance the visual amenity of the area. I am satisfied that the proposed development is in accordance with development plan policy in relation to refurbishment and replacement dwellings in rural areas as set out in Section 3.5.2.5 of the Kilkenny County Development Plan.

- 7.2.3. I consider the refurbishment of the cottage at this prominent location to be a planning gain, however the very restricted site area and consequent insufficient area of open space is a concern. I would also note that the site is serviced and forms part of a larger area zoned for residential development.
- 7.2.4. In my opinion, the future development of this site would benefit from an increased site area, and also potentially address access issues outlined in the reason for refusal and outlined below.
- 7.2.5. I am satisfied therefore that the proposed development is acceptable in principle.

### **7.3. Access and Road Safety**

- 7.3.1. Reason for refusal No. 1 refers to the proposed development giving rise to a traffic hazard.
- 7.3.2. The vehicular access to the site is via an existing entry/exit point from the Local Secondary Road L7431, which is located along the southern boundary. It is close to the T junction with Local Primary Road L3401.
- 7.3.3. The proposed entrance is located further to the western boundary of the site. In addition, visibility to the south west along the L7431 is restricted primarily by vegetation on adjoining lands.
- 7.3.4. With regard to sightlines and traffic speed at the entrance, the proposed vehicular entrance is located within the 50km/hr speed limit zone.
- 7.3.5. The applicant refers to the existing entrance next to the appeal site which is in regular use with no difficulties. I would note however, that this entrance is splayed and from my site inspection allows for greater sightlines in both directions.
- 7.3.6. The appellants contend that they have the agreement of the neighbour for the removal of hedging between the properties and along the front of his property to

allow for a clear view for 70m along the L7431 in keeping with the required minimum guidelines for county roads.

- 7.3.7. Having considered the applicants case I accept that there is an existing entrance and that there is no alternative access arrangement available within the site area.
- 7.3.8. I note the relevant guidance documents are the Kilkenny County Development Plan 2014-2020 and the Design Manual for Roads and Bridges (DMRB). It is noted that the (DMRB) is primarily a guidance document dealing with the geometric design of new major/minor priority junctions rather than existing access arrangements. The guidance notes that the desirable distance back (referred to as the 'x' distance) from a direct access from a simple junction is 2.4 to 3 metres.
- 7.3.9. The guidance sets out the minimum sightline distances ('y' distance) that will be required to be able to see clearly points to the left and right.
- 7.3.10. The required sight distance associated with the various design speeds as set out in Table 7/1 of the NRA Design Manual for Roads and Bridges (DMRB) are as follows:

| Design Speed of Major Road<br>(kph) | 'y' Sight Distance / Sight Line<br>(m) |
|-------------------------------------|----------------------------------------|
| 50                                  | 70                                     |
| 60                                  | 90                                     |
| 70                                  | 120                                    |

- 7.3.11. If the required sightlines cannot be achieved there are some measures that can be taken. For example, if the applicant has control over the boundary ditches or heavy vegetation which restrict visibility, these can be removed. If this is not possible or does not significantly increase the sightlines, then the possibility of reducing actual sightlines required must be explored. The required sightline or sight distances can be reduced by proving that 85% of the vehicles passing the proposed site, travel slower than the legal speed limit. In order to demonstrate this and implement a reduced sightline, then a speed survey needs to be carried out.

- 7.3.12. In this regard, the applicant was requested at further information stage to demonstrate that sightlines of 70m in either direction could be achieved. It was also noted by the Area Engineer of the planning authority that sightlines indicated were not dimensioned on drawings submitted, and that visibility splays were over boundary walls and should be kept clear of all obstructions.
- 7.3.13. The applicant submitted a revised site layout plan Drawing No. EB19/101 and EB19/102 which as noted by the Area Engineer indicates the setting back of the existing stone boundary wall, and even with the boundary set back the achievable visibility is only 30m. Therefore, a second length of boundary set back is required to achieve the 70m visibility in this direction.
- 7.3.14. The Area Engineer recommended that revised drawings be submitted to accurately demonstrate 70m visibility to the south west, including the lengths of boundary set back required to be accurately shown and dimensioned, and that landowner consent be included.
- 7.3.15. The Planners report notes the report of the Area Engineer and recommendation to seek further details by way of clarification of further information but recommends that permission be refused on the basis that as the six month period has passed that there was insufficient time to seek clarification. It is also noted that the consent from adjoining landowners for the set back of third party lands to the south west direction was not enclosed and could not be conditioned.
- 7.3.16. It is noted that the agreement of the neighbour for the removal of hedging between the properties and along the front of his property to allow for a clear view for 70m along the L7431 in keeping with the required minimum guidelines for county roads has not been obtained.
- 7.3.17. The applicant has submitted on appeal that traffic speeds are low given the proximity of the site to the junction.
- 7.3.18. The appellants submit that traffic approaching the entrance to the appeal site from the Local Secondary Road L7431 must slow down and prepare to stop, at the stop sign, before proceeding onto main street Local Primary Road L3401. It is also submitted that traffic approaching the entrance to the appeal site from main street Local Primary Road L3401, must also stop before turning right.

- 7.3.19. In this regard, I would note that no traffic survey was carried out to measure traffic volumes and speeds in support of this assertion. I would, however, concur with the applicant that for a local secondary road the L7431 has a low design speed given its proximity to this T junction. I can also confirm from my site visit that traffic volumes on the day of my inspection were very light and vehicles were not travelling at excessive speed.
- 7.3.20. However, it is still clear that the applicant has failed to demonstrate that existing and proposed sightlines in a south westerly direction from the proposed entrance meet the relevant standards. It is also clear that the applicant has not submitted any further proposals to improve sightlines and has not provided any documentary evidence of any legal agreement with the adjoining landowner with regard to the required works in order to achieve sightlines.
- 7.3.21. Having regard to the above, I am not satisfied that the proposed access arrangements would give rise to a traffic hazard or endanger the safety of other road users.
- 7.3.22. I am satisfied therefore, in this instance, that reason for refusal no.1 should be upheld.

#### **7.4. Appropriate Assessment**

- 7.4.1. The appeal site is not located within any European site. The closest such site is the Lower River Suir SAC (site code 002137) which is located c.2.6km to the south of the appeal site at the closest point. The development is proposed to be connected to the public water supply and drainage system and the site is not considered to be at risk of flooding.
- 7.4.2. Having regard to these factors, to the nature and scale of development proposed and to the nature of the receiving environment, the intervening distances and to the lack of a hydrological connection, it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

- 8.1. I recommend that planning permission be **refused** for the following reasons and considerations.

## 9.0 Reasons and Considerations

1. It is considered that the proposed development would endanger public safety by reason of traffic hazard because sightlines from the proposed access onto the L7431 Local Secondary Road are seriously substandard and no proposals for the provision of adequate sightlines in accordance with current standards have been submitted.

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Susan McHugh  
Senior Planning Inspector

15<sup>th</sup> April 2020