



Planning and Development Acts 2000 to 2022

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 23136

APPEAL by PJ Norton care of Peter Thomson Planning Solutions of 4 Priory Grove, Kells, County Kilkenny against the decision made on the 20th day of July, 2023 by Kilkenny County Council to refuse permission.

Proposed Development: Indefinite retention of a single storey two-bedroom detached family flat to the rear of 43 Michael Street, Kilkenny. The development proposed for retention is located within the Michael Street/Wolfe Tone Street Architectural Conservation Area.

Decision

REFUSE permission for the above proposed development in accordance with the reasons and considerations set out below.

Reasons and Considerations

The development proposed for retention, as described by the applicant, is akin to a family flat or extension to the existing family unit. The structure, due to its size and scale relative to the existing house, is excessive and detracts from the amenity space associated with the main house, and would seriously injure the privacy and amenity of the adjoining property due to overlooking and overbearance given the extent of the structure located on the property boundary. The structure therefore does not accord with the zoning objective for the area to protect, provide and improve residential amenity. The development proposed for retention would be contrary to the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to grant permission, the Board did not concur with the Inspectors assessment that the structure for retention is an infill development. For the following reasons.

- (a) The applicant did not apply for an infill development. The application was for a detached flat. However, in their appeal submitted the applicant states the development for retention does not "strictly fall within the category of accommodation anticipated in the Kilkenny City and County Development Plan 2021-2027 guidance as family flat accommodation." It is stated that the use of the family flat is for the use of the family that operates the guest accommodation in the main house, and who retain a bedroom and living accommodation in the main house. The applicant states the accommodation is an extension of the existing family unit, not a separate unit.
- (b) The structure for retention does not accord with Section 13.5.1.1 of the Kilkenny City and County Development Plan 2021-2027, requirements for Infill Developments, as the application is not for permanent subdivision of the property, and the design and layout does not accord with the requirements set down for small single unit infill sites in the

development plan, for reasons including: proximity to the main house, the impact on the private amenity of adjoining property due to overlooking, the impact on the amenity of the main house subdividing it from its amenity space and the poor access arrangements.

The Board concurred with the planning authority that the development aligned more with that of a family flat in its nature and use than that of an infill development. The Board noted the layout of the site and the difficulty that arises for the provision of an extension of the main property due to the shared access dividing the garden area from the main house. Notwithstanding the difficulty this layout poses for the linking of the flat to the main house, the structure, due to its size and overlooking of the adjoining property, is considered to impact negatively on the amenity of both the main house and adjoining property. The structure for retention, at 94 square metres, is greater than 50% the size of the main house that is 160 square metres. This detracts from the amenity of the main house due to its bulk and scale in the rear garden of the main property. Also, the privacy and amenity of the adjoining property is seriously compromised by the location of windows to habitable rooms overlooking the adjoining property and the size of the structure extending for approximately 13 metres along the boundary with the adjoining garden, this does not accord with Section 13.15 of the Development Plan.




Mary Henchy

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this 30th day of April 2024.