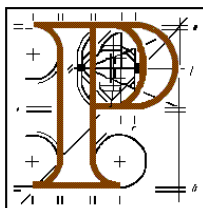


An Bord Pleanála



Inspector's Report

DEVELOPMENT: Permission for the construction of a two storey dwelling, detached garage, new entrance and all associated site development works.

LOCATION: Dunmore, Castlecomer Road, Kilkenny.

PLANNING APPLICATION

Planning Authority: Kilkenny County Council.

Planning Authority Reg. No: 15/189

Applicant: Brendan and Noirín Sheahan

Application Type: Permission.

Planning Authority Decision: Grant Permission subject to conditions.

APPEAL

Appellant: Brian & Mary Harrington, Liam & Anne Dooley & Dunmore Residents Association.

Type of Appeal: Third Party v Permission

Observers: None

DATE OF SITE INSPECTION: 20th August 2015

INSPECTOR: Bríd Maxwell

1.0 SITE LOCATION AND DESCRIPTION

1.1 The appeal site which has a stated area of .1275 hectares located within a mature residential area on the northern side of Kilkenny City. The site to the west of the Castlecomer Road R212 and is bounded by established dwellings, a detached bungalow to the north and a pair of semi-detached two-storey dwellings to the south. The appeal site is partially overgrown and site boundaries are defined by mature hedging and trees to the north, a post and rail fence and a 2m high block wall to the south. The eastern boundary is defined by an area of hedging and trees which in turn adjoins the entrance area to the dwelling to the north and the access forecourt to the Castlecomer Road which is shared by four other residences. The western boundary is defined by a mature hedgerow to the Weir View Housing estate. The site is generally flat with a gently rise along the access and rising to high point at northwest corner.

2.0 PROPOSED DEVELOPMENT

2.1 The proposed development seeks permission for the construction of a two storey dwelling, detached garage, new entrance and all associated site development works. The proposed dwelling is contemporary in design with a floor area of 224sq.m and ridge height of 8.6m and comprises a central two storey pitched roofed block and single storey flat roofed front and rear annex. External finish includes select render and cladding with slate finish to pitched roof. The proposed garage has a stated area of 15.7m² is a pitched roof single storey structure the design of which is in keeping with that of the dwelling.

2.2 In response to the appeal and following the discovery of the existence of an existing septic tank and percolation area serving the adjacent semi detached dwelling to the south east which is located on the

appeal site, the proposal was revised to incorporate the decommissioning of the existing septic tank and provision of a proprietary sewage transfer station to serve the existing and proposed dwelling to be maintained indefinitely by the first party or their successors.

3.0 PLANNING HISTORY

- 08/495 Incomplete application for construction of 1 no two storey apartment block, consisting of 4 no two bedroom self-contained units with private open space and on site parking, and all associated site works connecting into existing public services,
- 13/607 Withdrawn. Application for permission to construct a dormer dwelling with detached garage and all associated site works.

4.0 PLANNING AUTHORITY'S DELIBERATIONS AND DECISION.

4.1 Submissions

- Third party submissions from a number of residents in the vicinity raise issues of concern in relation to water pressure, traffic safety, loss of existing trees, flooding, backland development, overlooking, impact of construction traffic.

4.2 Planning Authority Reports.

- Area Engineer's report indicates no objection.
- Planner's report recommends permission subject to conditions.

4.3 Planning Authority's Decision

The Planning Authority decided to grant permission subject to 11 conditions which included the following of particular note:

Condition 2 Financial contribution of €5,625.

Condition 5 External finishes.

Condition 6 Construction hours & construction management plan.

Condition 7 Waste minimisation.

Condition 8 Bunding of tank and drum areas.

Condition 9 Garage to be used for purposes ancillary to the enjoyment of the house.

Condition 10 Attic not to be used for habitable purposes without the benefit of permission.

Condition 11 No discharge of surface water to the public road or public sewer. Surface water to be attenuated and disposed of on site.

5.0 APPEAL SUBMISSIONS

5.1 The third party appeal is submitted by Brian and Mary Harrington also on behalf of Dunmore Road Residents Association and Liam and Ann Dooley. Grounds of appeal are summarised as follows:

- Note that the applicant is an Engineer with the Environment Section.
- Two previous applications on site 08/495 and 13/607 were withdrawn.
- Owners of the adjacent residence built a sizeable extension and sold parking facilities with the site and are now forced to reverse out of their property. Parking on the footpath obscures vision for other motorists.
- Concerns regarding access were not addressed. No referral to Roads section or NRA.
- Proposal will be detrimental to residential amenities of the area as it constitutes backland development, will inconvenience established residents and devalue adjoining properties.
- Overlooking from upper floor window on the western elevation. Skylights provide for three storey building.
- Inappropriate location of the garage relative to neighbouring dwellings.
- Development will exacerbate existing problems with water pressure in the area.
- Drawings do not show existing septic tanks percolation areas.
- Existing trees provide significant screening to established dwellings and ensure privacy. Despite submission regarding wildlife species there was no referral to wildlife / natural heritage.

- Post and rail fence – no permission to remove.
- Issue of flooding at the access has not been addressed.
- Inconsistency, error and oversight in the processing of the application.
- Construction management plan should have been requested as further information.
- No reference to noise disturbance.
- Details in relation to construction materials are vague.

5.2 Response of Planning Authority to Grounds of Appeal

5.2.1 The response asserts that the Planning Authority has no further observations.

5.3 First Party Response to the Appeal

5.3.1 The First Party Response to the appeal is submitted by Martin Peters Associates, Consulting Engineers.

- Question the validity of the appeal.
- Site is an urban infill site, residentially zoned, and located within a mature residential area.
- Applicant is an employee of the council and is seeking housing as family home.
- Applicants engaged with adjacent residents at pre planning stage.
- Reversed manoeuvring by adjacent property is onto a non- trafficked shared forecourt area and there is no history of accidents or issues.
- Proposed dwelling will not alter existing parking arrangements for surrounding dwellings.
- Entrance has been designed to maintain trees and provide safe intervisibility between accesses entering onto the shared forecourt. Access is designed in accordance with the design manual for urban roads and streets.

- Concerns in relation to backland development are not relevant given the urban infill nature of the site. The high quality house design will add to the character of the area.
- The design is sensitive to the surrounding dwellings and is neither overlooked nor overlooking. A 1.8m high fence as agreed with the neighbours to the south provides privacy at ground level.
- Attic space is proposed as storage and it is not intended to develop this space for habitable purposes.
- Proposed garage location to the front of the site where it will provide additional screening to the bungalow to the north.
- Issue of water pressure arises as a result of the dead end nature of the mains and is not a water supply issue. There will be no noticeable reduction in water pressure as a result of 1 additional dwelling.
- Revised drawings attached to appeal response show location of all existing septic tanks and percolation areas. Investigations confirm location of an existing septic tank on the site which will be decommissioned and a proprietary pumping station provided to serve the two dwellings and maintained indefinitely by the first party.
- There is adequate separation distance between the existing systems which are to remain in place and the removal of a septic tank represents an environmental benefit for the area.
- Existing leylandii trees to be trimmed and retained. Additional planting of indigenous species will be of environmental benefit.
- In the absence of agreement on its replacement, the applicant is willing to construct a concrete post and timber panel fence immediately adjacent to the existing fence along the northern boundary.
- There is occasional localised ponding to the front of the site due to deficiencies in existing surface water drainage system. This issue is intermittent and not significant.
- Proposal incorporates SUDS measures and all surface water generated on site will be discharged to ground via permeable surfacing and soakways within the site.

- Detailed construction management plan will address issues of supervision, waste management noise management, traffic management and health and safety.
- Ample space on site to accommodate all construction vehicles.

5.3.2 Third Party Appellant's Response to First Party Response to the Appeal

- Issues raised in the appeal are valid.
- Concern that the applicant's intend to sell the site and therefore any commitments or guarantees cannot be relied upon.
- Owner of the site is a developer.
- Intervisibility between the proposed access and Harringtons access onto the shared forecourt will not be safe. Suggestion that intervisibility from a point 2m back along the access with the retention of boundary evergreen trees is ludicrous.
- Note that Area Engineer's report of 11th May was not on the public file when the file was reviewed in planning office.
- Location of the dwelling to the rear of the established dwellings will result in overlooking.
- Unusual that the septic tanks were not identified at an earlier stage of the application.
- No evidence of consultation with residents of Auburn Drive regarding proposed foul sewerage system.
- Wildlife in the area includes bats, hedgehogs doves and badgers. Trees and hedgerows should be preserved.
- Do not agree to removal of fence and note that the fence will need to be maintained.
- Photo C in submission to an Bord Pleanála indicates flooding which is a regular occurrence. Flooding is a major inconvenience to local residents and users of the footpath.

- Concern that issues raised to water pressure, foul sewer, tree and hedgerow preservation, post and rail fence, flooding, timber panel fence construction, and construction noise were not included in the Local Authority's assessment. Do not consent to removal of fence.
- No details in relation to supervision of construction management plan.
- A number of omissions, inconsistencies, errors and oversights in the processing of this application which should not have been granted and the changes now proposed by the applicant to address these issues.

6.0 PLANNING POLICY

6.1 NATIONAL POLICY

6.1.1 Sustainable Residential Development in Urban Areas May 2009

6.1.2 These Guidelines encourage high quality sustainable residential development, urban form and design and are concerned to promote a sequential approach to development and to create an overall design framework with linkages to the existing developed area. They support Local Area Plans and the phasing of development, also having regard to the availability of infrastructure. Regard is had to the availability of community facilities, public transport and the quality of open space. Chapter 3 concerns the role of design. Chapter 4 provides for planning for sustainable neighbourhoods. Chapter 6 refers to growth in small towns and villages, which it defines as 400 to 5,000 persons and provides that higher densities are appropriate in certain locations. Chapter 7 deals with the home and its setting and discusses issues such as daylight, sunlight, privacy, open space and communal facilities.

6.1.3 Regard is had to the accompanying DOEHLG 'Urban Design Manual-A best practice guide 2009' and to the 12 criteria to promote quality sustainable urban design discussed in this document. Regard is also had to the application of these criteria, which are divided into three sections: Neighbourhood, Housing Site and Home.

6.2 DEVELOPMENT PLAN

6.2.1 The Kilkenny City and Environs Development Plan 2010-2016 is the statutory development plan for the area. The site is within an area zoned "Residential" the objective is to protect, provide and improve residential amenities.

Chapter 11: Requirements for Developments notes in relation to infill development 11.8.9 "In the wider city and suburban areas infill and backland development will also have to pay particular attention to the local character of the area in terms of blocks, plots and buildings.

Development will only be considered if it:

- Will not detract from the character of the area
- Will not be detrimental to the residential amenities of the area,
- Will not be prejudicial to the proper planning and sustainable development of the area."

7.0 ASSESSMENT

7.1 The First Party has questioned the validity of the appeal on the basis of its multiparty nature and fee submitted. In my view the appellants have a right to appeal the decision and have clearly stated the relevant planning grounds. The third party appellants refer to the occupation of the first party as an employee of Kilkenny County Council and imply that this fact in some way influenced the processing of the application by the local authority. The third party appellants assert that there were inconsistencies in terms of comparative processing of previous applications on the site. I note that the Planning Authority outline that the application was assessed on its merit. I consider that there is no evidence to the contrary and the occupation of the first party is not relevant to the consideration of the appeal. The Third Party appellants

question the validity of any commitments by the applicant in relation to future intentions in respect of occupancy of the dwelling. I note that the application is made on the basis that it is intended to be occupied by the first party as a family home. In any event I consider that the proposed development as set out can be considered on its own planning merit.

7.2 Following my inspection of the site and consideration of the documentation on file, the prevailing local and national policies and plans, I propose to consider the appeal under the following broad headings:

- Principle of development.
- Quality of design and layout. Impact on established residential amenity.
- Traffic and Access
- Servicing and Flooding
- Environmental Impact and Appropriate Assessment

7.3 Principle of development

7.3.1 As regards the principle of development, the site is zoned existing residential the relevant objective is to protect, provide and improve residential amenities. The development plan provides for infill and backland development where it will not detract from the character of the area, will not be detrimental to the residential amenities of the area and will not be prejudicial to the proper planning and development of the area. The proposal is in accordance with the general policy desirability to increase densities within serviced urban areas in the interest of efficient land use resources and economies of scale. I conclude therefore that the principle of development of this site for residential purposes is welcome and the focus for assessment is on the detailed nature of the development.

7.4 Design and Layout & Impact on Established Residential Amenity.

7.4.1 As regards the design of the dwelling, I consider the proposal to be of a good standard of contemporary design. I do not consider that the proposed development would have any significantly detrimental impact on the established form and character of the area. As regards the amenity levels achieved for the proposed house itself I consider that these are reasonable. Rear garden is capable of providing for a satisfactory level of privacy and amenity. In terms of the impacts on amenity levels of adjacent properties I do not consider that these would be detrimental to warrant a refusal. Whilst the proposed dwelling is to the rear of the established adjacent dwellings the siting and design proposed is such as to mitigate potential for overlooking and overbearing impact. The first floor windows to the northern elevation of the dwelling serves a bathroom. I would consider it reasonable in the interest of residential amenities that should the Board favour granting permission that a condition is attached requiring opaque / obscure glazing to address any potential or perceived overlooking. Whilst the siting of the dwelling will change the outlook of the existing adjacent dwellings I consider that the design combined with the landscaping and boundary treatment can mitigate negative impact. I would concur that the siting of the proposed garage will provide an appropriate buffer between the properties.

7.4.2 I consider that in its context the proposed dwelling does not present an undue loss of amenity. I note that regard should be given to the suburban location of the site and residential zoning. On the basis of this context I consider that it would be unreasonable to expect a completely open aspect to remain and the appropriate balance needs to be achieved between protecting established residential amenity and providing sustainable residential development. The retention and reinforcement of landscaping to site boundaries will maintain the residential privacy of the area. I consider that there will be no

diminution of the residential amenity of the appellant due to the scale, height and design of the dwelling.

7.5 Traffic and Access.

7.5.1 The proposed access to the site is immediately adjacent to the established entrance to the semi-detached dwelling to the south and accessing onto the shared forecourt area. I consider that given the extent of traffic arising from a single dwelling the proposed access is acceptable and I consider that the proposed development would not endanger public safety by reason of traffic hazard.

7.5.2 As regards parking the proposal provides for 3 car spaces on the site which is adequate. Whilst the third party appellants raise issues of existing patterns of parking in the vicinity of the site, I would concur that the proposal will not exacerbate this issue. On the basis of the foregoing I consider that the issue of access and traffic is not an impediment to development of the site. On the issue of construction impacts I consider that such matters are appropriately addressed by way of a construction management plan.

7.6 Servicing

7.6.1 The application proposes connection to public water supply and public foul sewer. The details on the appeal file acknowledge an existing issue of water pressure given the dead end nature of the mains. I would accept that an additional single dwelling will not have a significant impact on same. I note Irish Water submission indicates no objection to the proposal.

7.6.2 Photographs submitted with the appeal demonstrate ponding on the public road adjacent to the site, I note that the site is not within a flood risk and the argument of the first party that such flooding is intermittent and arises as a result of poor surface water drainage infrastructure is

reasonable. I note that the proposed development incorporates SUDS proposals and therefore the proposal will not exacerbate this issue and will address run off from the appeal site.

7.6.3 On the issue of wastewater treatment, as noted above in response to the appeal the applicant investigated the question of existing septic tanks in the vicinity and discovered an existing septic tank on the site serving the adjacent dwelling to the southeast (Stakelum's). It is proposed that this septic tank will be decommissioned as part of the development of the appeal site and both dwellings will connect to the public sewer by way of a proprietary pumping station. I note that agreement with the affected homeowner to this proposal has not been provided and I would recommend that evidence of such an agreement should be requested by the Board prior to a decision. I note that the removal of an existing septic tank to be an environmental benefit.

7.7 Environmental Impact and Appropriate Assessment Screening

7.7.1 I consider that the impact on local wildlife and ecology can be appropriately mitigated and provision for additional landscaping by native species will be of benefit. Having regard to the nature and scale of the proposed development on a serviced urban site, zoned for development, and to the nature of the receiving environment and distance to the nearest European site no Appropriate Assessment issues arise and 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 CONCLUSIONS AND RECOMMENDATION

8.1 I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. The proposed

development is considered to be acceptable having regard to the land use zoning objective of the appeal site. The proposed design will have limited visual impact. The proposed development is not unduly injurious to the existing residential amenities of the area. The proposed development would not give rise to a traffic hazard and is considered to be in keeping with the proper planning and sustainable development of the area. The proposed development would not be likely to have a significant effect either individually or in combination with other plans or projects on a European Site. Having regard to the proposals in respect of the decommissioning of the existing septic tank serving it is recommended that the first party be requested to address the issue of legal entitlement in respect of such works and detailed proposals in respect of future maintenance of the proposed proprietary pumping station.

- 8.2 Having considered the file and all submissions and having visited the site, I recommend that the Board invite the applicant to address the following:

It is noted that, as outlined within the response to the appeal submitted to An Bord Pleanála on 20th July 2014, that it is proposed to decommission the existing septic tank on the site serving the established adjacent dwelling to the south east (Stakelum's) and to provide a proprietary pumping station to serve the two dwellings, which involves works outside the boundaries of the appeal site. The Legal Entitlement in respect of the carrying out of these works has not been outlined. Additionally details of future maintenance proposals for the proposed pumping station have not been outlined. The applicant is invited to address these matters to include an outline of legal entitlements in respect of all proposed works.

Bríd Maxwell,

+Planning Inspector

September 2015