



An
Bord
Pleanála

Inspector's Report PL01.247230

Development	3 house and associated site works with access from Kilkenny Road.
Location	Barrowville, Kilkenny Road, Carlow.
Planning Authority	Carlow County Council.
Planning Authority Reg. Ref.	16/195
Applicant(s)	Nesselside Builders Ltd
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First-v-Refusal
Appellant(s)	Nesselside Builders Ltd
Observer(s)	None
Date of Site Inspection	10 th November 2016
Inspector	Colin McBride

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.104 hectares is located just south of Carlow Town centre and immediately east of the Barrow River. The appeal site is located within the existing housing development of Barrowville, which is accessed off the R448 (Kilkenny Road). The housing development is characterised by two-storey dwellings. The appeal site is currently an area of public open space, which has been landscaped as such, but is currently cordoned off using temporary metal hoarding. The site is in a part of the housing development that is under construction with a number of completed and partially completed houses overlooking the site. To the west of the site and to the west of the wider housing scheme is an area of open space that runs along the eastern bank of the Barrow River. The site is defined by an existing block wall along its southern perimeter and an existing service road along its north eastern boundary. To the west it links into existing open space along the Barrow River, however there is temporary hoarding place restricting access to the site.

2.0 Proposed Development

2.1. Permission is sought for the construction of 3 no. two-storey detached dwellings and all associated site works. Two different house types are proposed...

1 no. House Type B1, 186sqm, 4 bed with a ridge height of 8.94m.

2 no. House Type C, 118.8sqm, 3 bed with a ridge height of 8.94m.

The dwellings are to be constructed within an existing housing development on a part of the site previously demarcated as public open space.

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on one reason...

1. The proposed residential development is located on an area designated as public open space under previous permissions and within a partially constructed residential scheme. To permit the dwellings would result in a substandard form of development resulting in the removal of centrally located area of open space which is functional, accessible, overlooked and provides linkages both visually and physically to the larger area of open space along the River Barrow. The proposed development would be contrary to policies REC P23 and REC P25 of the Joint Spatial Plan for the Greater Carlow Graigcullen Urban Area 2012-2018, would be contrary to the provisions of the Residential Density Guidelines (DoEHLG 1999) and Sustainable Residential Development in Urban Areas Guidelines (DoEHLG) and would otherwise be contrary to the proper planning and sustainable development of the area.

3.2. Local Authority and External reports

- 3.2.1. Transportation (06/07/16): No objection.
- 3.2.2. Roads (12/07/16): No objection.
- 3.2.3. Water Services (12/07/16): No objection.
- 3.2.4. Irish Water (21/07/16): No objection.
- 3.2.5. Environment (19/07/16: Further information required including a flood risk assessment in light of the location of the site and a habitats directive screening report.
- 3.2.6. Planning Report (11/08/16): It was noted that the area was designated as public open space under a previous permission and is set out as such on site. It is note that proposal would be contrary Development Plan policy, and National Planning guidelines in regards to Residential Density and Sustainable Residential Development in Urban Areas. Refusal was recommended based on the reasons outlined above.

4.0 Planning History

- 4.1 PL15/188: Extension of duration granted of PL10/6351.

- 4.2 PL10/6351: Permission granted for the construction of 13 no. two-storey detached dwellings.
- 4.3 PD87/3497: Permission granted for 74 dwellings.
- 4.4 PD08/96117: Permission granted for extension of duration of permission for 36 dwellings.
- 4.5 PD03/5170: Permission granted for 19 townhouses.

5.0 Policy Context

5.1. Development Plan

- 5.1.1 The relevant Development Plan is Joint Spatial Plan for the Greater Carlow Graigecullen Urban Area 2012-2018 comprising the Carlow Town Development Plan 2012-2018.

The site is zoned Town Centre with a stated objective 'to protect the vitality and vibrancy of the town centre and provide for town centre activities'.

5.1.2 REC P234

Ensure amenity space (public and private) is designed to accord with the following principles:

- a. Amenity space is of a practicable and usable configuration, designed as an integral part of a development and relates well to the design and character of the areas.
- b. The provision of amenity space results in an acceptable relationship between buildings and improves the appearance of surrounding buildings and the public realm generally.
- c. Existing on-site features such as topography, mature trees, streams, ponds, hedgerows inform the design of amenity space.
- d. Landscaping schemes are coherent and appropriate to the type and design of development, including adequate space for planting belts and screening sufficient amount and range of species, with preference to indigenous species.

- e. Planting does not create opportunities for crime by obscuring entrances to buildings or failing to provide passive surveillance of public open spaces.
- f. A clear demarcation between public open space and any private open space.

5.1.3 REC P25

Ensure communal open space proposed in association with residential development is designed to accord with the following principles:

- i. Open spaces are overlooked to promote usability and reduce the fear of crimes.
- ii. Open spaces are functionally accessible to the maximum number of dwellings with the residential area.
- iii. A hierarchy of public open spaces types are provided in larger developments that are fit-for-purpose, interlinked, benefit from adequate sunlight and daylight, incorporate hard landscaping as well as soft landscaping to increase usability.
- iv. Open spaces are multi-functional, where practicable.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A first party appeal has been lodged by Brock McClure Planning & Development Consultants on behalf of Nesselside Builders Ltd. The grounds of appeal are as follows...

- With the provision of the three additional dwellings there is still more than sufficient levels of public open space (still 18% of the site area) and such is well in excess of the required level under Development Control standards. The Planning Authority is seeking the equivalent of 22% of open space at this site which is unreasonable.

- The lands in question have never functioned as open space and the residents have not had access to the lands in question.
- The proposal for 3 additional units should be assessed on its merits and is a revision to a permitted site layout that has not been fully constructed.
- The proposal is for appropriate infill development at a town centre location and makes good use of land resources.
- It is noted that some sort of flexibility should be applied in the case given the amount of the applicant's lands sterilised from development for the laying of storm and foul sewer pipes. The current proposal is the last opportunity to increase density on site.
- The proposal is compliant with Development Plan zoning.
- The recreational amenity of the open space along the River Barrow should be given consideration in this case.
- The Planning Authority have not justified how the proposal is contrary to the national guidance on residential density.
- The proposal provides for additional family houses on lands zoned town centre with good levels of residential amenity.

6.2. Planning Authority Response

6.2.1 Response by Carlow County Council

- It is noted that the site has been designated as public open space since the original application granted in 1998 (PD97/3497). A number of dwellings overlook this area of public open space. It is noted that the site is currently landscaped as a public open and is centrally located and a good quality amenity space. It is noted that the proposal does not comply with Development plan policy.
- It is noted that the PA is not looking for 22% of the site as open space and that the location of the existing lands within a flood zone along the River Barrow impacts upon the design and layout of the proposed development. The omission of this area of public open space would remove a centrally located open space, removes

a hierarchy of open space and would impact adversely on the existing amenities of the permitted housing scheme.

- In the event of a grant of permission being considered the PA refer to Development Policy in regards to flood risk noting the site is located with flood zone B.

7.0 **Assessment**

7.1 Having inspected the site and examined the associated documentation, the following are the relevant issues in this appeal.

Principle of the proposed development

Density/design, scale, residential amenity, open space

Flood risk

Other Issues

7.2 **Principle of the proposed development:**

7.2.1 The relevant Development Plan is Joint Spatial Plan for the Greater Carlow Graigecullen Urban Area 2012-2018 comprising the Carlow Town Development Plan 2012-2018. The site is zoned Town Centre with a stated objective 'to protect the vitality and vibrancy of the town centre and provide for town centre activities'. The proposal is for three additional dwellings within this zoning and within an established residential development. Under the Development Plan zoning matrix residential is identified as 'will normally be acceptable within this zoning'. The proposal site is part of an existing housing development so complied with the established wider land use at this location. I would consider that the principle of the proposal is acceptable subject to the proposal being satisfactory in regards to residential amenity, all relevant development control and guidance standards and acceptable in regards to flood risk. These aspects of the proposal are to be examined in the following sections of this report.

7.3 Density/design, scale, residential amenity, open space:

- 7.3.1 The proposal is for three no. detached two-storey dwellings within an existing housing development, which is at a later stage of construction. The permitted and constructed dwellings are two-storey dwellings and the proposed dwellings are similar in character and scale to the permitted/constructed dwellings. In this regard the proposed dwellings would be in keeping with the prevailing character and scale of development. In regards to impact on residential amenity, the orientation, scale and level of separation between the proposed and existing/permitted dwellings is satisfactory. The design of the proposal would also be satisfactory in regards to development objectives such as provision of private open space and off-street car parking.
- 7.3.2 One of the mains issues concerning this appeal relates to the fact that the appeal site is identified under previous permissions as an area of public open space. At the time of the site inspection the site is fully landscaped and set out as public open space, but is cordoned off using metal fencing. It would appear that the landscaping works have been recently completed and according to the applicants the area has never been accessible to residents as public open space. The applicants/appellants note that the density of the existing development of the permitted housing development is already low at 15 units per hectare and that the proposal increases this to what is still a low density of 16.5 hectares. The appellants note that the overall housing development within which the site is located including the appeal site has 22% of the overall housing scheme in open space and the proposal will reduce it to 18%, which is still well in excess of the 10% requirement. It is also noted that site is a town centre site and the proposal makes better use of land use resources.
- 7.3.3 In relation to density I would consider that the density of the proposed development to be acceptable having regards to the location of the site in close proximity to the town centre and would note that the density of development proposed would still be relatively low. In relation to public open space I would note that the level of public open space within the housing development is high and in excess of that required even when taking the site out of this calculation. The level and design of public open space would appear to have been dictated by the need to keep the area immediately

adjacent the Barrow River free of development. The current area of public open space that is the site is the only open space area that is well integrated into the existing scheme in that it directly overlooked by the dwellings on site. The remainder of public open space is peripheral and not directly overlooked and such is due in some part to the fact the River Barrow adjoins the western boundary of the site.

7.3.4 Development Plan policy requires that public open space be provided in a manner that is well integrated and overlooked by dwellings within a scheme. The loss of the area of open space, which was permitted as such and is now fully completed as such would be detrimental to residential amenities of existing dwellings. This would be due to the fact that the construction of the proposed development would mean no open space located in an accessible or well integrated manner, with no dwellings directly overlooking any amenity space. Although the density of the existing housing development is low and is still low with the additional dwellings, to a degree the prevailing pattern of development has been established and the loss of the public opens space would be contrary Development Plan objectives regarding public open space and would result in diminished residential amenity for existing residents of the housing development in which the site is located.

7.3.5 The Urban Design Manual: A Best Practice Guide advocates the provision of public open space that is well integrated into the design of a development and is overlooked by surrounding homes. Permitting the proposed development would remove the only public open space area that conforms to such recommendations. In this regard the proposal would be contrary the recommendations of Urban Design Manual: A Best Practice Guide and would set precedent for loss of open space areas and the provision of piecemeal, haphazard development that would be detrimental to the amenities of existing dwellings. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

7.4 Flood Risk:

7.4.1 According to the Land Use zoning map under the Joint Spatial Plan for the Greater Carlow Graigecullen Urban Area 2012-2018 the site is in Flood Zone A (1 per cent (1

in 100) or greater chance of flooding each year). The appellants note that the site is within Flood Zone B (0.1% AEP) and that such is confirmed on the final CFRAM maps. It is noted that such is due to the Carlow Town Main Drainage with the site adequately protected from flood risk. The appellants also note that the Council consistently permitted residential development at this location since 1999 demonstrating that they have no concern regarding flood risk. It is also noted that a Strategic Flood Risk Assessment was carried out as part of the adoption of the County Development Plan 2015-2021. It is noted that the site has been assessed for flood risk as part of this study and the Strategic Flood Risk Assessment as part of the Joint Spatial Plan for the Greater Carlow Graigecullen Urban Area 2012-2018. In this regard a site specific flood risk assessment is not required.

7.4.2 The national guidelines in the form of The Planning System and Flood Risk Management advocate a sequential approach to assessing development/zoning in regards to flood risk. In the case of Flood Zone B (moderate probability of flooding) it is noted that development classified as highly vulnerable development would be inappropriate in this zone unless the justification test can be met. The current proposal is for residential development, which would be type of development classified as being highly vulnerable under the national guidelines. In this case the justification test applies and the information required from applicant in this regard is set out under Box 5.1 of the guidelines. In this case no specific flood risk assessment has been submitted with the appellants noting in their submission that there is sufficient information (as outlined above) to demonstrate that flood risk is not an issue at this location. Notwithstanding the applicants'/appellants arguments the appeal site is located in Flood Zone B and the relevant guidelines (The Planning System and Flood Risk Management) note that residential development is highly vulnerable category of development with such areas and requires application of the sequential approach including a justification test. The applicant has failed to provide sufficient information in the form of a flood risk assessment to demonstrate that the proposal is not at risk from flood events or would not exacerbate the risk of flood events in the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

7.5 **Other Issues:**

7.5.1 Having regard to the nature and scale of the proposed development and its proximity 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 individually or in combination with other plans or projects on a European site.

8.0 Recommendation

8.1. I recommend a refusal of permission based on the following reasons.

9.0 Reasons and Considerations

1. The proposed residential development is located on an area previously permitted as public open space serving the existing dwellings and has been landscaped and completed as such. To permit the dwellings would result in a substandard form of development resulting in the removal of centrally located area of open space which is functional, accessible, overlooked and provides linkages both visually and physically to the larger area of open space along the River Barrow. The proposed development would be contrary to policies REC P23 and REC P25 of the Joint Spatial Plan for the Greater Carlow Graigcullen Urban Area 2012-2018, and would be contrary to the recommendations of the Urban Design Manual: A Best Practice Guide. The proposal would result would set precedent for loss of open space areas and the provision of piecemeal, haphazard development that would result in diminished residential amenity at this location and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development entails the construction of residential development in an area identified as Flood Zone B. the nature of the development proposed is classified as highly vulnerable under the Planning System and Flood Risk Management: Guideline for Planning Authorities with a requirement to apply the sequential approach including a justification test regarding this type of development. The applicant has failed to provide sufficient information in the form of a flood risk assessment to demonstrate that the proposal is not at risk from flood events or would not exacerbate the risk of flood events in the area. The proposed development

would, therefore, be contrary to the proper planning and sustainable development of the area.

Colin McBride
Planning Inspector

13th December 2016