



An
Bord
Pleanála

Inspector's Report

PL09.247281

Development	House at Madison, Church Road, Athy, Co. Kildare
Planning Authority	Kildare Co. Co.
Planning Authority Reg. Ref.	16/305
Applicant(s)	Denis Murphy
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Appellant(s)	Michelle Smith, Dick O'Brien, and Others
Observer(s)	None
Date of Site Inspection	16/12/2016
Inspector	Caryn Coogan

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The site is located in a residential of Athy town. Church Street is directly opposite the main Church in the town, and it hosts a number dwellings and short cul de sacs. The site is 0.0404Ha, and it is the side garden of a semi-detached dwelling. The existing dwelling is along the western boundary of the site, and there is a short cul de sac, Church Avenue to the east, and south, hosting 8No. dwellings.
- 1.2 There is a large speed ramp to front the site along Church Road. There are footpaths on both sides of the road. The site is a private garden area, which is very well maintained with a boundary wall and a mature hedge.

2.0 PROPOSED DEVELOPMENT

- 2.1 To erect a new two storey detached dwelling (166.32sq.m.) and all ancillary site works. The design and layout will have a negative impact on the entire estate.

3.0 PLANNING AUTHORITY DECISION

3.1 DECISION

Kildare Co. Co. granted permission for the proposed development subject to 20No. standard conditions.

3.2 TECHNICAL REPORTS

Town Engineer: No objections subject to conditions

Irish Water: No objections subject to conditions

Transportation: No objections subject to conditions

Water Services: No objections subject to conditions

Planning Report:

The first Planning Report recommended additional information: The flat roof projection to the front of the dwelling, reduced width of proposed dwelling, reduced window openings, a contiguous roadside elevation of the site looking west from the cul de sac including No. 6, boundary treatments. A response was received on 4th of August 2016 with all of the required amendments. Permission recommended.

3.3 THIRD PARTY SUBMISSIONS

There were objections from neighbours that the dwelling will be overlooking other properties, impose on privacy, extra cars, speed ramp been relocated to a different location.

4.0 PLANNING HISTORY

4.1 No relevant planning history.

5.0 POLICY CONTEXT

Athy Town Development Plan 2013-2019

The subject site is zoned **B Existing Residential and Infill** which is 'to protect and improve existing amenity, to provide for appropriate infill residential development and to provide for new and improved ancillary services.

6.0 THE APPEALS

6.1 Michelle Smith and Derek O'Brien has taken this appeal against the planning authority's decision to grant planning permission for the proposed dwelling. The following is a summary of their grounds of appeal:

- The proposed dwelling is totally out of line with the estate. The dwelling will be constructed within 1m of the site's boundary wall while all other properties on that side are set 9metres from boundary walls.
- Their privacy will be greatly affected in a negative way, by overlooking from side and rear windows.
- The close proximity of the new dwelling will greatly reduce their light into the front rooms and garden area, and this issue was not considered by the planning authority.
- There are safety concerns due to the change of the entrance.
- The visual amenity will be reduced by replacing a stone wall by a plastered wall
- The development will result in unnecessary upheaval.
- An additional dwelling in a garden should only be granted in exceptional circumstance.

6.6 RESPONSES

Planning Authority: It is considered the proposed development is acceptable on land zoned B Existing residents and Infill in Athy Town Development Plan 2012-2018.

Applicant:

- The design is substantially similar to the existing dwellings. The overall density of the area will be unaffected. The development has no impact on the protected structures.
- There is no overlooking associated with the dwelling, and the development complies with minimum separation distances
- There is no loss of sunlight associated with the development.
- There are works associated with the development that will improve public safety along the road.

7.0 ASSESSMENT

- 7.1 The proposed development is for the subdivision of the curtilage an existing residential property, a semi-detached dwelling, in the heart of Athy. The site area is a side garden area which is well maintained and includes a mature hedge and boundary wall along the northern eastern and southern boundaries. There is a dwelling immediately contiguous to the subject site at the rear, i.e. the southern site boundary. It is proposed to subdivide the property and to construct a new detached two storey dwelling in the side garden area of the existing house along Church Street.
- 7.2 The proposed dwelling has similar front and rear building lines to the existing dwellings addressing Church Street. Façade details were amended by way of further information received on the 4th of August 2016 following a request from the planning authority to carry out the revisions. In the Athy Town Development Plan 2013-2019, the site is zoned **B-Existing Residential and Infill** which is *'to protect and improve existing amenity, to provide for appropriate infill residential development and to provide for new and improved ancillary services'*. This policy is reasonable given the central urban location, and prime strategic location of the site. The proposed development complies with this policy in principle.
- 7.3 The proposed development is respectful of its neighbourhood. It will not detract from the existing streetscape. The general garden layout (front and rear) of the area will be maintained. The mass, proportions and facade articulation are in keeping with the neighbourhood.
- 7.4 The appellants are concerned about the 1metre setback from the side boundaries. There is a road to the east of the site serving 8No. dwellings from a short cul de sac. The setback of the proposed building relative to the existing 8No. dwellings within the cul de sac is acceptable. There are no opposing windows. There will be a certain amount of overlooking of front curtilages, however this is to be anticipated within urban areas. In

addition, the front curtilages are already overlooked by existing properties, the new dwellings will not materially alter the loss of privacy associated with the existing dwellings. The proposed rear building line is 13.4metres from the rear boundary wall, this is in line with the *Development Management Guidelines, Athy Town development Plan 2013-2019*.

- 7.5 Having regard to the northern orientation of the proposed dwelling, there is a south facing rear garden area. Consequently, there will be no material overshadowing of adjoining third party properties.
- 7.6 There is a large speed ramp to the front of the subject site along Church Road. This issue has been discussed between the applicant and the Town Engineer. The ramp and public lighting is to be relocated to the east of the site along Church Road. A new double entrance along Church Street is to be provided in accordance with drawing No. 01/01. There are two new carparking spaces proposed within the curtilage of the site, which is acceptable as there is no on street parking along Church Road which is evident from the double yellow lines along the street.
- 7.7 The existing boundary wall is a stone wall and in keeping with the architecture style of Church Road. Please refer to accompanying photograph's taken during my site inspection on 16th of December 2016. It is proposed to curve the front wall to improve sight visibility which will benefit the existing residential access road to the east. The curved access to the adjoining residential road is of no benefit to the proposed development, but would in fact improve access and visibility for the third party appellants opposing the development. The applicant has stated in response to the appeal, as the third parties are not happy with the finish to the proposed curved feature, that they will retain the existing wall along the road frontage following the provision of the double access to cater for the new dwelling. Aesthetically, it is preferable to retain the existing wall. It is a town centre location and I am satisfied the curved visibility splay is not necessary along this street. I believe the front boundary wall should be retained with its horizontal emphasis and stone finish.

8.0 RECOMMENDATION

I recommend the Board uphold the planning authority's decision to grant permission for the proposed development. I consider the grounds of appeal to be unsubstantiated and unfounded. I consider the subject site is an ideal location for a dwelling house and offers urban consolidation on a prime serviced site within walking distance of the town centre without undermining the existing residential amenities of the area.

REASONS AND CONSIDERATIONS

Having regard to the zoning objectives for the area and to the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure

the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety, public health and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further information submission on the 4th of August 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details 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. Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays inclusive, between the hours of 0800 and 1400 on Saturdays and not at all on Sundays, Bank or 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 residential amenities of property in the vicinity.

3. 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 and to ensure a proper standard of development.

4. All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay rubble or other debris on adjoining roads during the course of the works.

Reason: In the interest of residential amenity.

5. The front boundary wall and hedgerow shall be retained except to provide the recessed double entrance to the existing and proposed dwelling.

Reason: In the interests of traffic safety and visual amenity.

6. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting 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 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 developer 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.

Footnote:

Planning and Development Act 2000

34 (13) A person shall not be entitled solely by reason of a permission under this section to carry out any development

Caryn Coogan

Planning Inspector

19/12/2016

