



An
Bord
Pleanála

Inspector's Report PL.10.248698

Development	Extension and alterations to existing house, upgrading existing sewerage facilities and relocation of existing entrance with all associated works.
Location	Tomnahaw, Skeoughvosteen, County Kilkenny.
Planning Authority	Kilkenny County Council.
Planning Authority Reg. Ref.	17/60.
Applicant(s)	Breda Whelan.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party.
Appellant(s)	Mark O'Brien.
Observer(s)	None.
Date of Site Inspection	14 th September 2017.
Inspector	Susan McHugh

1.0 Site Location and Description

- 1.1. The site is located in the townland of Tomnahaw in a rural area in the east of County Kilkenny. The site is located approximately 1 kilometre to the east of the village of Skeoghvasteen, 4 kilometres south of Goresbridge and 5.7 kilometres north of Graiguenamanagh. The site has frontage onto local road L4204-11 which connects Goresbridge and the R705 to Graiguenamanagh.
- 1.2. The road defines the site's southern boundary and is delineated by mature hedgerows and trees. The western boundary is also defined by mature hedgerows and trees while the boundary to the north and east is defined by a stone wall and planting. The land falls in a south easterly direction towards the road.
- 1.3. The site which is roughly triangular in configuration has a stated area of 0.404 hectares. The existing house on the site is a traditional two up two down cottage with a stated floor area of area of 25.6sqm. At ground floor, the house consists of a sitting room and kitchen with a bedroom and bathroom at first floor.
- 1.4. It includes a flat roofed porch extension to the front and a shed to the rear. The property is unoccupied and in need of renovation. It is set back approx. 5m from the road.
- 1.5. There is an existing well located to the rear of the existing house.
- 1.6. There are two existing gates from the public road, one to the front of the house which is overgrown, and another agricultural entrance gate further to the east of the house.
- 1.7. The appellants' property is located opposite the appeal site to the south.

2.0 Proposed Development

- 2.1. The proposed development as submitted to the planning authority is for an extension and alterations to the existing dwelling. The overall area of the extension is 98.6 sqm.
- 2.2. It is proposed to provide a new porch to the front with a pitched roof, a single storey kitchen extension to the side with a lean-to roof and a two storey extension to the rear. Finishes include stone cladding and plaster.
- 2.3. The vehicular access is located in the eastern corner of the site.

- 2.4. The proposed source of water supply is from an existing bored well located to the rear of the house.
- 2.5. A new wastewater treatment system is proposed. A site suitability assessment was submitted and based on the results of the assessment the site was considered suitable for a packaged wastewater treatment system and polishing filter and percolation area.
- 2.6. Further information was submitted
- A revised site layout drawing indicating the provision of 90m sightlines in both directions.
 - A cross section drawing through the public road, verge and boundary area indicating the finished floor levels proposed and surface water drainage proposals.
 - Details of roadside drainage.
 - Details of existing wells within 100m of the proposed percolation area and revised location of the proposed percolation area.

3.0 Planning Authority Decision

3.1. Decision

The decision of the planning authority was to grant permission subject to 8 conditions. Among the conditions of note;

Condition No. 4 – Upgrading of the existing on-site wastewater system.

Condition No. 5 – On-site wastewater treatment system to be constructed in accordance with EPA Guidelines.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The 1st planning report dated 28/03/2017 is the basis for the planning authority's decision.

Includes:

- No objection to the design of the proposed extension.
- Site is located in an area of extreme vulnerability to a locally important Aquifer.
- Further information was recommended.

The 2nd planning report dated 22/05/2017 indicated that the proposal was acceptable and recommended planning permission.

3.2.2. **Other Technical Reports**

Environment Section: Report dated 21/03/2017 recommends further information in relation to the location of adjoining wells. Report dated 15/05/2017 had no objection subject to conditions.

Area Engineer: Report dated 16/03/2017 recommends further information in relation to achieving adequate sightlines to the west, details in relation to containing and disposing of surface water arising from the entrance and driveway areas to ensure no ponding on the roadway; details in relation to roadside drainage. Report dated 16/05/2017 had no objection subject to conditions.

3.3. **Third Party Observations**

A submission was lodged by the appellants in the current appeal raising similar issues to those raised in the grounds of appeal – see Section 6.1 below.

4.0 **Planning History**

No planning history in relation to the site.

5.0 Policy Context

5.1. Kilkenny County Development Plan 2014-2020

5.1.1. **Section 3.5** refers to rural settlement strategy and it is indicated that ‘the objective of the Council’s rural housing strategy is to provide for sustainable rural communities without compromising the physical, environmental, natural or heritage resources of the county’.

5.1.2. The County is divided into three broad categories:

1. Areas under Urban Influence
2. Stronger Rural Areas
3. Peripheral Areas of Population Decline

The site is located in an area defined as a ‘stronger rural area’.

5.1.3. **Section 3.5.2** refers to Rural Housing Policies.

5.1.4. **Section 3.5.2.5** refers to refurbishment and replacement dwellings in rural areas. It is a key objective of the Council *to 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.*

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).

5.1.5. **Section 3.5.3** of the plan refers to Rural House Design Guidance and that a rural design guide was produced in 2008 for County Kilkenny and acts as an instrument to develop best practice in the design and siting of one-off housing.

5.1.6. **Chapter 8** refers to heritage.

5.1.7. **Section 8.3.10** refers to the Vernacular Built Heritage and states that *'the vernacular built heritage consists of buildings and settlements historically created by local people from local materials and resources to meet local needs following local traditions. The response to the local environment gave rise to construction techniques which vary from region to region, often with great subtlety. This type of building is often undervalued because it does not represent 'great architecture' and because of associations with poverty and a perception that the buildings have become obsolete. The value of these buildings lies in the regional distinctiveness and identity that they confer on a place and their importance as an embodiment of the accumulated wisdom and cultural traditions of the people who built and lived in them.'*

Chapter 12 of the plan refers to requirements for developments and section 12.5.6 outlines guidance in relation to domestic extensions.

5.2. **Natural Heritage Designations**

The River Barrow and River Nore SAC (site code 002162) is located 1.3km to the north east.

6.0 The Appeal

6.1. Grounds of Appeal

The appeal is lodged by Mark O'Brien, the owner/occupier of the adjacent property to the south of the appeal site. The main grounds can be summarised as follows:

- There is no existing septic tank on the applicants' property and drainage arrangements comprise a soak hole.
- The percolation holes should have been 20-30ft apart but were 2 ft apart.
- The proposed waste water treatment system is to be located approx. 8m uphill of the existing well on his property.
- The appeal site is not flat and is located on a hillside sloping down to other properties; there is ponding in the back garden of the appellants' property; and there is a drainage ditch located 5m from the proposed septic tank.
- The proposed vehicular entrance is located at an accident blackspot.

6.2. Applicant Response

None received.

6.3. Planning Authority Response

No further comments

6.4. 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

- Effluent Disposal
- Traffic Safety
- Appropriate Assessment

7.2. Principle of Development

- 7.2.1. The existing house, which is a modest and traditional two up two down cottage, is in need of refurbishment. The design of the proposed extension to the side and rear with new porch to the front is significant in scale, however, I am satisfied that it respects and maintains the integrity and scale of the original building.
- 7.2.2. I am satisfied that the proposed development which seeks to retain, refurbish and reuse the existing cottage is in accordance with the Section 3.5.2.5 of the County Development Plan.
- 7.2.3. The proposed refurbishment of the existing house and extension is acceptable in principle.

7.3. Effluent Disposal

- 7.3.1. The drawings submitted with the application identify the location of the existing septic tank on the eastern side of the existing house with a private well located to the rear. The proposed development would place the new waste water treatment system in the same location as the existing septic tank. The percolation area was initially shown approximately 43m from the extended house on the eastern side of the site.
- 7.3.2. I note the appellants concerns in relation to the existence of the existing septic tank, and I can confirm that I was unable to determine from my site inspection the precise location of same as the site was quite overgrown. Notwithstanding, it is the location of the proposed waste water treatment system that is of more relevance in this case.
- 7.3.3. The Site Characterisation Form on file indicates a groundwater protection response of R2, i.e. acceptable subject to normal good practice. The T test result is 25, which is suitable for a septic tank but may also be suitable for a secondary treatment system with a polishing filter at the depth of the T-test hole. The soil type is silt and cobbles, with the water table not encountered at a depth of 2.1m below ground level.

On inspection of the site the trial hole tests were open and did not contain any water. Despite the concerns of the appellant in terms of the spacing of the trial holes on site I am satisfied from my inspection that there were a number of trial holes excavated which were sufficient in determining the drainage on site.

- 7.3.4. A packaged wastewater treatment system and polishing filter are proposed. Distances to site boundaries existing wells, etc, are in accordance with the recommendations provided in the EPA Code of Practice Wastewater Treatment and Disposal Systems serving Single Houses (EPA 2009).
- 7.3.5. Revised drawings submitted by way of further information indicated an alternative location for the percolation area such that it was located approx. 30m to the north east of the extended house. The revised drawing also indicates the location of the existing well inside the front boundary of the appellants' property. This was acceptable to the Environment Section of the planning authority.
- 7.3.6. While I note the percolation area proposed is located upslope of the existing well on the applicant's site and that of the appellants', I would note that the fall on the site is very gradual and in my opinion is overstated by the appellant.
- 7.3.7. I would concur with the appellant in that there were discrepancies on the Site Characterisation form with respect to proximity to existing wells, however, from my assessment of the drawings submitted by way of further information, the proposed waste water treatment system is to be located 42m uphill of the existing well on the appellant's property and not 8m as stated by the appellant. I also note that the proposed percolation area is located approximately 65m from the appellant's well. I am also satisfied that the proposed wastewater treatment system is located a sufficient distance from the existing ditch and that the overall site area is adequate.
- 7.3.8. I consider that, given the location of the proposed waste water treatment system and percolation area, existing wells serving the existing dwelling on site and the adjacent property to the south, the proposed development would not give rise to a proliferation of treatment systems and wells and would not be prejudicial to public health.
- 7.3.9. Having regard to the above, I am satisfied that the proposed waste water treatment system and percolation area are acceptable.

7.4. Traffic Safety

- 7.4.1. A revised proposal to relocate the existing ditch and plant new beach hedge while providing 90m sightlines in both directions from the proposed vehicular entrance was submitted by way of further information and was acceptable to the planning authority's Area Engineer. I note that the speed limit on this local road is 80kmph, and that traffic on the day of my site inspection was travelling at speed. I also note that there is a bend on the road further west. I note the appellant's concerns in relation to traffic safety, but on balance I am satisfied that the required sightlines of 90m can be achieved in both directions and that the proposed entrance will not give rise to a traffic hazard.
- 7.4.2. Having regard to the above, I am satisfied that the proposed vehicular entrance and sightlines are acceptable.

7.5. Appropriate Assessment

There are no designated European sites in the vicinity. The nearest watercourse is located 550m to the south. With regard to the nature and scale of the development, the intervening distances and to the lack of hydrological connections, 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 granted for the following reasons and considerations as set out below.

9.0 Reasons and Considerations

Having regard to the nature of the proposed development comprising extensions and alterations to an existing house; its location within a rural area, and the provisions of the current Kilkenny County Development Plan 2014-2020, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area, would be acceptable

in terms of traffic safety and convenience and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 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 plans and particulars submitted on the 27th of April 2017, 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 interests of clarity.

2. The roof colour of the proposed house shall be blue-black, black dark brown or dark-grey. The colour of the ridge tile shall be the same as the colour of the roof.

Reason: In the interest of visual amenity.

3. The external walls shall be finished in neutral colours such as grey or off-white.

Reason: In the interest of visual amenity.

4. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

5. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

(b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

Reason: In the interest of traffic safety and to prevent pollution.

6. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

7. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority, and in accordance with the requirements of the document entitled 'Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses (p.p. ≤ 10)' – Environmental Protection Agency 2009. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.
- (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwelling house and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of installation.
- (d) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in

accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

8. 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.

Susan McHugh
Planning Inspectorate

21st September 2017