



An
Bord
Pleanála

Inspector's Report PL10.249366

Development

Retention permission for demolition of existing extension and for laying of foundation & construction of blockwork. Permission to build & complete extension to the rear of existing dwellinghouse & all associated site development works.

Location

40 Michael Street, Kilkenny.

Planning Authority

Kilkenny County Council.

Planning Authority Reg. Ref.

17/160

Applicant(s)

Edward Lennon

Type of Application

Retention Permission.

Planning Authority Decision

Grant Permission subject to conditions.

Type of Appeal

Third Party

Appellant(s)

Brian & Dawn Fahey.

Observer(s)

None.

Date of Site Inspection

3rd January 2018.

Inspector

Bríd Maxwell

1.0 Site Location and Description

- 1.1. The appeal site (0.033hectares) refers to an established dwelling site located at 40 Michael Street on the eastern side of River Nore within the centre of Kilkenny City. The house is within a row of terraced dwellings, St Malla's terrace, which front onto Michael Street and which have elongated rear garden areas separated from the dwellinghouse by way of common laneway. The appeal dwelling is currently unoccupied as it is under renovation. Dwellings in the vicinity have a mix of varied extensions and additions to rear. Garden areas similarly have a mix of garages and sheds of varied age style and design.

2.0 Proposed Development

- 2.1. The proposal involves retention permission for the demolition of two storey flat roofed rear extension, retention permission for laying of foundation and construction of blockwork and permission to complete the building of a two storey extension to the rear. The proposed extension is intended to provide for kitchen at ground floor level with two bedrooms at first floor level. The proposed extension replaces a 3.2m deep flat roofed two storey extension with a 5.2m deep extension.

3.0 Planning Authority Decision

3.1. Decision

Following requests for additional information and clarification of additional information, the Planning Authority by order dated 11th September 2017 decided to grant permission subject to 8 conditions which included the following of particular note.

Condition 2. Financial contribution of €1,500 in accordance with the Council's Development Contribution Scheme.

Condition 6. Construction hours.

Condition 8. No traffic or materials to be stored on public road or footpaths and no blocking of laneway or rear access to adjoining properties or rear gardens.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Planning report sought additional information regarding intersite boundary details and clarification of setback. Concerns were expressed regarding the height and depth of the extension and the potential for it to block light from adjacent properties. Also requested were details of guttering and eaves and assurance of no overhang / encroachment of adjoining properties.

Final planning report notes that while the extension is higher than the neighbouring extension to the south impact on light will not be significant.

3.2.2. Other Technical Reports

Irish Water submission indicates no objection subject to conditions.

3.3. Third Party Observations

Submission of the appellants who reside in adjoining 41 Michael Street to the north object to the development on grounds of impact on light particularly to recently renovated kitchen and bathroom. Concerns regarding overhanging guttering.

Submission from Gabriel and Mary Noonan, who reside in adjoining dwelling 39 Michael Street to the south, object to the height of the wall at the rear of the building which will darken the wet room and back hall of their house which is lit by skylights. Guttering of No 39 has been removed. Houses over 100 years old and road at the back is not owned by the applicant. Chimney is shared.

4.0 Planning History

No planning history on appeal site.

06/990011 Stephen Fahy Permission for two storey dwelling to rear of No 41 Michael Street.

5.0 Policy Context

5.1. Development Plan

The Kilkenny City and Environs Plan 2014-2020 refers. The site falls within an area zoned existing residential. The objective is to provide, protect and improve existing residential amenities.

The site falls within the Michael Street /Wolfe Tone Street Architectural Conservation Area ACA.

5.2. Natural Heritage Designations

The site is within 50metres of the River Nore SAC.

6.0 The Appeal

6.1. Grounds of Appeal

The appeal is submitted by Brian and Dawn Fahey, 41 Michael Street. Grounds of appeal are summarised as follows:

- Concern regarding impact on natural light.
- Loss of light in late evening when rooms to the rear of the house would be occupied.
- Scale, height and depth of extension is out of character.
- Applicant's intention to rent out the dwelling is noted.
- Proposal does not conform to Council's guidance in terms of scale and daylight and sunlight.
- Application for retention should not be rewarded for development that is unacceptable.

6.2. Applicant Response

Response by Ivor O'Brien Associates on behalf of the applicant:

- In regard to the light to the rear garden of 41 Michael Street it is not affected at any point as shown on shadow study.
- Proposed extension does not extend as far back as the extension at 41 Michael Street. Height of the extension is in line with the house.
- Pre-existing two storey extension on appeal site was poorly constructed and in poor condition therefore needed to be demolished.
- Applicant is a first time buyer currently working in Dublin and hopes to return to Kilkenny to work and live.
- Kilkenny County Council considered favourably the development which intends to renovate and modernise an existing dwelling to provide for a fully functioning modern family home.
- With regard to the objector's comments regarding the use of the garden in late afternoon a self-contained apartment type building has been constructed in the rear garden which does not have permission and their own extension does not comply with conditions 1, 2 and 5 of 06/011

6.3. **Planning Authority Response**

The Planning Authority chose not to respond to the grounds of appeal.

7.0 **Assessment**

7.1 Having examined the file, considered the prevailing local and national policies, inspected the site and assessed the proposal and all submissions, I consider that the key issues arising in this appeal can be considered under the following broad headings.

- Principle of development Quality of design and layout, residential amenity.
- Other matters.

7.2 Principle of development Quality of Design and Layout – Residential amenity.

7.2.1 As regards the principle of development, the site is zoned Existing Residential the objective is “*to protect and/or improve residential amenity*” and a proposal to improve or enhance the residential accommodation on the site is acceptable in principle and is appropriate in terms of the zoning objective.

7.2.2 On the matter of the quality of the design and layout, I note that there a varied precedent within the row of adjacent dwellings for alterations and extensions. I consider that the overall design reflects the established features of the established dwelling and I consider the impact on the streetscape to be consistent with the visual amenities of the area.

7.2.3 As regards the issue of the residential amenity of the proposed dwelling, I consider that the proposed layout provides for an improved standard of residential amenity and modern standard of accommodation. As regards the impact on the established amenities of adjacent dwellings, I note that on the issue of overshadowing and light impact the proposal will have a marginal impact given that the adjacent dwellings rely on rooflights to serve some of their rear rooms. However, having regard to the submitted details, I consider that the impact in respect of overshadowing and outlook is acceptable in the site context and the proposed development will not give rise to undue negative impact on established residential amenity. I note that the proposed extension does not extend as far as that on No 41 and in my view the proposed development achieves an appropriate balance between the improvement of the standard of accommodation on the appeal site with the protection of established adjacent residential amenity.

7.3 Other Matters

7.3.1 As regards servicing, technical reports on file raised no specific concerns in terms of public sewer capacity and public water supply. As regards issues raised within the first party response to the appeal regarding question of compliance with terms of previous permissions and authorisation for adjacent development, I note that the

Board has no role in such matters which are not relevant to the consideration of the planning permits of the appeal case in hand.

7.3.2 As regards the issue of Appropriate Assessment, having regard to nature of the proposed development and the serviced nature of the site together with the separation from any designated European Site and having regard to the source pathway receptor model, it is not considered that the proposed development is likely to have significant effect either individually or in combination with other plans or projects on a European Site. It is therefore considered that appropriate assessment under the Habitats Directive (92\43\EEC) is not relevant in this case.

7.4 **RECOMMENDATION**

7.4.1 I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. I recommend that the Board uphold the decision of Kilkenny County Council to grant permission subject to the following conditions.

8.0 **REASONS AND CONSIDERATIONS**

Having regard to the Kilkenny City Development Plan 2014 – 2020 and the Best Practice Guidelines, entitled Quality Housing for Sustainable Communities the proposal would be compatible with the visual and residential amenities of the area would not impact unduly on the residential amenities of adjacent dwellings and would afford a satisfactory standard of amenity to future occupiers. No Appropriate Assessment issues would arise. The proposal would thus accord with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be retained and completed in accordance with the

plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 22 June 2017 and 16 August 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 interest of clarity.

2. Details of the materials, colours and textures of all the external finishes shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. Water supply and drainage arrangements, including the attenuation and 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.

4. Site development and building works shall be carried only out between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays and 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.

5. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

6. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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 – 2015. The contribution shall be paid prior to the 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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

Reason: It is a requirement of the Planning and Development Act 2000 – 2015 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.

Bríd Maxwell
Planning Inspector

4th January 2018