



An
Bord
Pleanála

Inspector's Report ABP-300199-17

Development	Construct a new dwelling house with all necessary ancillary services
Location	Sunnyside Heights, Milltown Road, Kilkee, Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	17/652
Applicant(s)	Josephine O' Sullivan.
Type of Application	Permission.
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Josephine O' Sullivan.
Observer(s)	None.
Date of Site Inspection	07 th of February 2018.
Inspector	Karen Hamilton

1.0 Site Location and Description

1.1. The subject site is a small infill site, north west of a single storey semi-detached dwelling within Sunnyside Heights, Kilkee, Co Clare. The site is a side garden of one of 12 dwellings of the estate, all of which are small single storey dwellings with similar characteristics, an internal access road runs along the front boundary and there is an area of communal open space in the middle of the estate. There is a large undeveloped greenfield site to the rear of the site and the site is elevated over the town of Kilkee with views of the coastline.

2.0 Proposed Development

2.1. The proposed development would comprise of the following:

- Construction of a new dwelling house (69m²) and all necessary ancillary services.

3.0 Planning Authority Decision

3.1. Decision

Decision to refuse permission for one reason stated below;

The subject site is located on lands zoned as 'existing residential' in the Clare County Development Plan 2017-2023, the zoning objective is to conserve and enhance the quality and character of the area and to allow for development which is appropriate to the character and pattern of development in the immediate area.

Having regard to the established residential pattern of development and character of dwellings in the area it is considered that the proposed development would represent over development of a limited site area, and would be out of character with the existing established pattern and density of development. Furthermore, the proposal by reason of deficiencies in private open space provision would not provide for an appropriate standard of residential amenity for future occupiers of the dwelling. The proposal would therefore seriously injure the amenities and depreciate the value of property in the vicinity, would set an unacceptable precedent for future such

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

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The report of the area planner recommends a grant of permission based on the following:

- The infill nature of the site and the character of the surrounding dwellings,
- Compliance with the recommended density in the development plan (16 units per hectare),
- The provision of open space (90m²) for the proposed dwelling and (225m²) for the existing dwelling,
- The previous refusals on the site,
- The acceptable use of the site as a holiday home as per objective CDP-4-13 of the development plan.

The decision to grant permission was overturned by a deciding planner for reasons stated above.

3.2.2. Other Technical Reports

Road Design- No report.

3.3. **Prescribed Bodies**

Irish Water- No objection to proposal.

Transport Infrastructure Ireland- No objection to proposal.

3.4. **Third Party Observations**

A submission was received by from an adjoining resident, on behalf of Residents of Sunnyside Heights and the issues raised may be summarised as follows:

- Previous refusal on site,
- Sub-standard development with minimal front and rear garden spaces,

- Development would be too close to No 7 and No 8 Sunnyside Heights,
- The proposed development would be out of character with the pattern of properties in the vicinity.
- Approval would set an undesirable precedent for similar developments in the vicinity.

4.0 Planning History

Reg Ref 03/350

Permission refused for a single storey dwelling for reason as of the location in the side garden of an existing house, the limited size, overdevelopment of the site and the character of the area and the development would represent haphazard development, seriously injure the amenities of the area and depreciate the value of adjoining property.

Reg Ref 00/32

Permission refused for a bungalow for reason as of the location in the side garden of an existing house, the limited size, overdevelopment of the site and the character of the area and the development would represent haphazard development, seriously injure the amenities of the area and depreciate the value of adjoining property.

Reg Ref 98/1609 (PL03.111077)

Permission refused for a bungalow for reason the same as above in Reg Ref 00/32.

Adjoining Site (6 Sunnyside Heights)

Reg. Ref 16/401

Permission granted for the demolition of an existing conservatory and the construction of a new single storey extension to the side and rear of an existing house and all associated site works.

5.0 Policy Context

- 5.1. Sustainable Residential Development in Urban Areas 2009.
- 5.2. Quality Housing for Sustainable Communities, (Best Practice Guidance, 2007).

5.3. Clare County Development Plan 2017-2023

The subject is located on lands zoned as '*existing residential*' where it is an objective to;

- conserve and enhance the quality and character of the areas,
- protect residential amenities,
- allow for small scale infill development to allow for small scale infill development which is appropriate to the character and pattern of development in the immediate area,
- allow uses which enhance existing residential communities.

Objective CDP-4-13: Support holiday accommodation but in Kilkee only allow permanent occupancy only, due to the oversupply of holiday homes.

Appendix 1: Development Management Guidelines

Space around Buildings:

- Generally, a minimum distance of 2.4m for single storey and 3.7m for two-storey buildings will be required between the side walls of adjacent buildings or building blocks, each having a minimum of 1m per side.
- This standard may be relaxed where the building incorporates a single storey structure to the side.

Rear Garden Length:

- Normally, a rear garden depth of 11m will be required.
- In the case of high density, infill developments or for housing for the older people, shorter garden lengths may be permitted if there are no overlooking issues.

West Clare Municipal District

Kilkee is defined as a small town in the West Clare Municipal District which states that a significant issue is the vacancy level of 71%. Whilst unoccupied housing is to be expected in a tourist town, this level of vacancy needs to be addressed. During the lifetime of this Plan the focus shall be on the provision of housing for permanent occupancy on lands that are zoned for residential uses in the town of Kilkee.

5.4. **Natural Heritage Designations**

The site is located c. 600m from the edge of Kilkee Reefs SAC (002264).

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The grounds of appeal, submitted by the applicant are summarised as follows:

- The proposed development is in full compliance with the zoning on the site
- The proposal will enhance the quality and character of the area and is similar to the other dwellings in the vicinity.
- The footprint of the dwelling (69m²) represents only 25% of the site and therefore 75 is available for open space, therefore it is not overdevelopment.
- Objectives CDP4-3 of the Clare County Development Plan encourages new residential accommodation in towns.

6.2. **Applicant Response**

The applicant is the appellant.

6.3. **Planning Authority Response**

The response from the planning authority refers to the proposed holiday home, the pattern of development in the area, the limited site area, minimum private open space and previous refusals in the site for similar developments.

6.4. **Observations**

None.

7.0 **Assessment**

7.1. The main issues may be summarised

- Principle of development

- Impact on Residential and Visual Amenity
- Appropriate Assessment.

Principle of Development

- 7.2. The subject site is located within the side garden of small semi-detached dwelling (0.028ha) in a residential estate comprising of 10 semi-detached and 2 detached dwellings. The proposed development includes the construction of a detached single storey dwelling (69m²) on lands zoned residential in the development plan where it is an objective is to protect the residential amenities and allow small scale infill where it is in keeping with the character of the surrounding area. I note infill development in residential areas is encouraged in the national guidelines “*Sustainable Residential Development in Urban Areas 2009*” where there is a reasonable protection of the amenities and privacy of adjoining dwellings and the protection of established character.
- 7.3. The reason for refusal refers to the zoning on the site, the existing pattern and density of development and the deficiency in the provision of open space on the subject site. There are a number of previous refusal on the site, including a Board decision in 1998 (PL03.111077), for a similar proposal and refusal referred to the limited size of the site, as a side garden, which would lead to overdevelopment of the site and be haphazard development. The report of the area planner includes a breakdown of the overall density within the existing estate (14.77 dwellings per hectare) and with the proposed development (16.00 dwellings per hectare) and complies with Appendix 1 of the Development plan, which I consider reasonable. Further assessment of the impact on the existing residential amenity is provided below, although in relation to compliance with the zoning on the site, I consider the objective permits infill development.
- 7.4. The applicant proposes to occupy the dwelling as a holiday home and refers to Objective CDP-4-13 of the development plan in their appeal submission which states that holiday accommodation is supported in the county, it is of note that new residential accommodation in Kilkee is restricted for permanent occupancy due to the oversupply of holiday accommodation. In addition to this, the information contained in the West Clare Municipal District in relation to the housing in Kilkee, also refers to the need to concentrate on the permanent occupancy of dwellings in the town during

the lifespan of the development plan. I consider it reasonable to include a condition restricting the use of the dwelling for permanent occupancy.

- 7.5. Having regard to the reference in the zoning objective for “existing residential” which permits infill development I do not consider the proposed development is a material contravention of the development plan. In addition, considering the character and style of the proposed dwelling and the existing dwellings in the estate, I have no objection to the principle of the use site for a dwelling subject to complying with other planning requirements as addressed in the following sections.

Impact on Residential Amenity

- 7.6. The subject site has been separated from the existing semi-detached dwelling, to the south east, by a small 1.8m high block wall. The proposed single storey dwelling will be located to the north west of the existing dwelling (No 8) and 20m south of the adjoining dwelling to the north. The reason for refusal refers to the inadequate provision of open space for the proposed development.
- 7.7. Minimum Standards: Table 5.1 of the national guidance “Quality Housing for Sustainable Communities, (Best Practice Guidance, 2007)” includes the minimum room sizes for a 2 bed single storey dwelling , the actual size is included in brackets after, as total floor area 70m² (69m²), aggregate living space 30m² (34m²), aggregate bedroom space 20m² (22m²) and storage space 3m² (none). Aside from the provision of storage facilities, which I consider reasonable to include as a condition, the proposed room sizes comply with the minimum standards.
- 7.8. Open Space: The majority of the private open space (c. 80m²) is provided to the south of the site at the rear of the building line adjacent to the existing dwelling and I note the national guidelines “*Sustainable Residential Development in Urban Areas 2009*” refer to the provision of open space behind the building line. The reason for reason for refusal refers to the deficiencies on the provision of open space for the future occupants of the dwelling. Appendix 1 of the development plan requires a minimum length of the rear garden of 11m although in the case of infill development this requirement may be relaxed where there are no overlooking issues. Whilst it is noted the of the side garden is 7m, I consider the provision of c 100m² to the rear of the building line, around the dwelling, sufficient for a two bedroom infill development at this location.

- 7.9. Overlooking: The dwelling is single storey, faces north east onto the internal access road and the communal open space and the rear of the site faces onto unused greenfield lands and there are no windows along the side elevations of the dwelling.
- 7.10. Overbearing: The proposed dwelling is a single storey two bedroom dwelling, similar in size and design to the surrounding dwellings. The site is located c 20m from the dwelling to the north and c 5m from the existing dwelling to the south east. Guidance in Appendix 1 of the development plan refers to an appropriate distance of 2.4m separation distance for single dwellings, which I consider the proposal can comply with. The design of the dwelling is a modest single storey, two bed which is in keeping with the character of the surrounding area.
- 7.11. Visual Amenity: As stated above, the design of the proposed development is similar to those existing dwellings within Sunnyside Heights. A reason for refusal refers to the precedent for further similar developments and I note aside from the adjoining site, the side gardens of the remaining dwellings could not accommodate the minimum requirements for an infill dwelling. I note there are no views protected on the site and having regard to the size of the dwelling I do not consider the proposed development would have a significant negative impact on the surrounding area.
- 7.12. Conclusion: Having regard to the national guidance, the policies of the development plan and the design and layout of the proposed dwelling, I do not consider the proposed development would have a negative impact on the residential amenities of the existing or surrounding residents.

Appropriate Assessment

- 7.13. The site is located c. 600m from the edge of Kilkee Reefs SAC (002264) and within site which is serviced. Therefore, having regard to the nature and scale of the proposed development, the conservation objectives of and distance from the European sites, it is reasonable to conclude that 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 the conservation objectives of any European site.

8.0 Recommendation

- 8.1. I recommend that planning permission should be granted, subject to conditions, as set out below.

9.0 Reasons and Considerations

Having regard to the location and design of the proposed development, the zoning of the site for “existing residential” which permits infill development and the policies and objectives of the Clare County Development Plan 2017- 2023, and the pattern of development in the vicinity, it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the residential or visual amenities of the residents of those properties in the vicinity. 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 and by the further plans and particulars received by An Bord Pleanála, 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. The proposed dwelling shall be used for permanent residency only, and shall not be used for short-term tourist accommodation.

Reason: The occupation of the proposed dwelling on a permanent basis is require to prevent an oversupply of holiday homes in Kilkee.

3. The proposed development shall be amended as follows:

(a) An internal storage area at a minimum of 3m² shall be provided within the living/ dining or hall area.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of and residential amenity.

4. The rear garden shall be bounded with 2 metre high concrete block walls, suitably capped and rendered, on both sides.

Reason: In the interest of residential and visual amenity

5. 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

6. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours 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

7. 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.

Karen Hamilton
Planning Inspector

14th of February 2018.