



An
Bord
Pleanála

Inspector's Report ABP-301259-18

Development	Construction of a one bedroomed house
Location	Oldcourt, Inistioge, Co. Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	18/33
Applicant(s)	Susan Proud
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Susan Proud
Date of Site Inspection	28 th June 2018
Inspector	Colin McBride

1.0 Site Location and Description

1.1. The appeal site, which has a stated area of 0.32 hectares, is located 2km south east of Inistioge village, Co. Kilkenny. The appeal site is located off the L8283. The appeal site is part of the curtilage of an existing dwelling. The existing dwelling on site is located along the road frontage of the site, which is split into two separate pieces linked by a laneway along the western boundary. The portion of the site the proposed dwelling is located on is defined by existing trees and hedgerows and levels on site fall away from the public road (south westerly direction). The nearest dwelling is a neighbouring dwelling to the east of the site, which also has farm buildings. To the west and south are agricultural lands. There is an existing vehicular entrance on the western side of the existing dwelling on site that provides access to the rear portion of the site. There is also an existing vehicular access on the eastern side of the existing dwelling on site.

2.0 Proposed Development

2.1. Permission is sought for a dormer type dwelling, wastewater treatment system and associated site works. The proposed dwelling has a floor area of 58sqm and a ridge height of 5.9m. The dwelling features a pitched roof with external finishes consisting of timber walls and frame and a metal profiled roof. The dwelling is located behind an existing dwelling (the site is part of existing lands associated with the existing dwelling). The site is accessed through a vehicular entrance from the public road and a laneway that runs to the side of the existing dwelling and its curtilage. It is proposed to install a new wastewater treatment system to serve the dwelling and water supply is to be from public mains.

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on two reasons, which are as follows...

1. Having regard to the location of the proposed development to the rear of an existing house, it is considered that the proposed development constitutes haphazard backland development that would result in a disorderly form of development which would seriously injure the rural character of this area. It is also considered that the precedent that a grant of permission for the proposed development would create for other similar developments in the vicinity would be contrary to the proper planning and sustainable development of the area.
2. Taken in conjunction with existing development in this highly scenic area, the proposed development would give rise to an excessive concentration of houses in a rural area without public services, would erode the rural character of the landscape and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. Environment Section (21/02/18): No objection subject to condition.
- 3.2.2. Area Engineer (22/02/18): Clarification required regarding status of vehicular entrances and sightlines at proposed entrance acceptable.
- 3.2.3. Planning report (05/03/18): The proposal was considered acceptable in regards to rural housing policy however proposal was considered to be haphazard development and give rise to an excessive concentration of houses at this location. Refusal was recommended based on the reasons outlined above.

3.3. Third Party Observations

None

4.0 Planning History

99/1052: Permission refused for a dwelling house on the site.

95/731: Permission granted for extension to the existing house.

12/292: Permission granted for extension to the existing house.

5.0 Policy Context

5.1. Development Plan

The relevant Development Plan is the Kilkenny County Development Plan 2014-2020.

The site is located in an area of urban influence.

Section 3.5.2.1 Areas under Urban Influence

Areas classified as under pressure are located close to the immediate environs or commuting catchment of cities and towns or to major transport corridors with ready access to urban areas. They are characterised by rapidly rising populations and/or considered pressure for housing development. It is the Council's objective for areas of urban influence to facilitate the rural generated housing requirements of the local rural community (as identified in this section) while on the other hand directing urban generated rural housing to areas zoned for new housing development in the city, town and villages.

Areas under urban influence display the greatest pressures for developments due to:

- Close commuting catchments of larger cities and towns,
- Population increases well above the average for the aggregate rural areas of the county.
- Ready access to a good road network with ready access to the larger urban areas.

Section 3.5.2.3 Rural Generated Housing Need

In areas under urban influence and in stronger rural areas the Council will permit (subject to other planning criteria) single houses for persons where the following stipulations are met:

1. Persons who are employed full-time in rural-based activity such as farming, horticulture, forestry, bloodstock or other rural related activity in the area in which they wish to build or whose employment is intrinsically linked to the rural area in which they wish to build such teachers in rural schools or other persons by the

nature of the their work have a functional need to reside permanent in the rural area close to their place of work.

2. A fulltime farm owner or an immediate family member (son, daughter, mother, father, sister brother, heir) wishing to build a permanent home for their own use on family lands.

3. Persons who have no family lands but who wish to build their first home, on a site within 10km radius of their original family home, (the local rural area) in which they have spent a substantial and continuous part of their lives (minimum 5 years).

4. Persons who were born and lived for substantial parts of their lives (minimum 3 years) in the local area and wish to return to live in the local area (returning migrants).

5. A landowner who owned property prior to 14th June 2013 wish to build a permanent home for his/her own use or a son or daughter.

3.5.2 Backland Development

Backland development is defined as “where a development (most commonly associated with but not restricted to one-off housing) is positioned loosely to the rear of another so as to create a piecemeal and disorderly form of development, which could potentially impact neighbouring residential amenities, and give rise to negative environmental or traffic issues, such development will be classed as backland development and in general will be considered contrary to the proper planning and sustainable development of the area”.

5.2. **Natural Heritage Designations**

None in the vicinity.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

A first party appeal has been lodged by Susan Proud, Old Court, Inistioge, Co. Kilkenny.

- The appellant notes the dwelling is for her daughter who currently lives in the family home adjoining the site, who has a need for an independent dwelling unit.
- It is noted the proposed dwelling is not behind the existing dwelling but in front of it (existing dwelling faces away from the public road) and is located on a site of a former separate dwelling now in ruins. The proposal would not be haphazard development having regard to the previous residential use on the site and the fact that the proposed dwelling would not be highly visible due to its position on the hillside and the proposal to integrate the new dwelling into the site (landscaping, dry stone walls etc, biodiversity measures). The design of the dwelling has regard to its rural setting and would unobtrusive at this location.
- It is considered the second reason is not a valid reason as it does not take account of sensitive nature of the design proposed. It is noted that there are adequate public services in the areas. The appellant reiterates the fact that there was previously a dwelling on the site and notes that the low-key nature of the proposal and the effort to ensure the proposal would sensitive to its rural location.

6.2. Planning Authority Response

Response from Kilkenny County Council.

- No further comment to make.

7.0 Assessment

- 7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Development Plan policy

Design/visual impact/pattern of development

Traffic impact

Wastewater treatment

Appropriate assessment

7.2 Development Plan policy:

7.2.1 The proposal consist of a subdivision of the curtilage of an existing dwelling with the provision of a new dwelling on a portion of the site to the rear. The applicant/appellant is the owner and resident of the existing dwelling on site with it noted the new dwelling is for her daughter who currently lives in the family home. Under Development Plan policy the site is located in an area classified as an area under urban influence. In such areas rural housing will be under certain stipulations, which are outlined above. The applicant in this case is the owner of the existing dwelling, within whose existing curtilage the proposed dwelling is located within. The applicant does not have a housing need under any of the categories indicated under section 3.5.2.3. It is indicated that the dwelling is for the applicant's daughter who lives in the existing home on site and has a need for an independent dwelling unit.

7.2.2 The applicant's daughter should really be the applicant as the actual applicant does not have a housing need as defined under Development Plan policy. I am not satisfied that the applicant has demonstrated a housing need as required under the criteria outlined under Section 3.5.2.3 of the County development Plan and the proposal would be contrary to Development Plan policy having regard to its location in an area classified as an area under urban influence. The proposed dwelling is an unusually small house with the applicant noting that it is based on the tiny house movement. The size of the house and the principle of such is not an issue, however I would note such makes more sense in a context where there is denser development as the current proposal still has access and wastewater requirements.

7.3 Design, visual impact, pattern of development:

7.3.1 The proposal was refused on the basis that it constitute haphazard backland development that would result in a disorderly form of development which would seriously injure the rural character of this area. The appeal site is split into two portions, one adjoining the public road, where the existing house is located and a more secluded portion of the existing curtilage located to the south west and linked to the by a laneway. The location of the new dwelling is well secluded in that it is located at a much lower level than the public road and the existing dwelling and is screened by existing trees and hedgerows. The dwelling proposed is small in scale and is effectively a one bed unit with the bedroom being a mezzanine level. The dwelling is wooden with a profiled metal roof.

7.3.2 I would consider that overall visual impact of the proposed dwelling to be not significant and due to its modest scale, its location on a lower lying portion of the site and the existing trees and vegetation, to have no significant or adverse visual impact. I note the reason for refusal relating to backland development and despite the location of the dwelling to the south west of the existing dwelling on site, the existing site has such a shape that does provide a significant degree of separation and detachment of the site of the new dwelling and the proposed dwelling. The layout of the existing site and existing entrance arrangement does provides for the provision of an independent dwelling unit within the curtilage of the existing dwelling, which is fully separated in terms of amenity space, parking, access and wastewater treatment facilities. I am satisfied that the overall design and scale of the proposed dwelling would not impact on the amenities of the existing dwelling within, whose curtilage it is located or the dwelling on the adjoining site to the east.

7.4 Traffic Impact:

7.4.1 The existing dwelling on site currently has two vehicular entrance points. There is an existing entrance on western side of the dwelling on site that provides access to the lower section of the site on which the new dwelling is to be located. The existing dwelling on site has a vehicular access on the eastern side off the public road. The new dwelling will be provided with a fully independent means of access. The access

to be used to serve the site is narrow due to its location relative to the existing house. Also given the fact it is in such close proximity to the existing dwelling (south western gable) and the fact the existing dwelling is in close proximity to the public road, sightlines are severely curtailed in a north easterly direction along the public road. Given the layout and size of the site and the position of the existing dwelling, there is limited scope to alter the proposed access to facilitate improved sightlines or provide any sort of a splay. I would acknowledge that the site is located off a lower category road that is not heavily trafficked, notwithstanding such the proposed entrance is severely constricted in regards to sightlines and would, therefore constitute, a traffic hazard.

7.5 Wastewater Treatment:

7.5.1 The proposal entails installation of a proprietary wastewater treatment system. Site characterisation was carried out including trial hole and percolation tests. The trial hole test notes that the water table level was not encountered in the trial hole (1.8m) with bedrock encountered at a depth 1.5m. The percolation tests result for T and tests carried out by the standard method, indicate percolation values that are within the standards what would be considered acceptable for the operation of a wastewater treatment system set down under the EPA Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses. The drawings submitted meets the required separation distances set down under the EPA Code of Practice (based on site size and separation from site boundaries). I am satisfied that there is adequate separation between the wastewater treatment and the proposed well on site and any existing wells on adjoining properties including that identified on the opposite side of the road. Notwithstanding the information on file and subject to appropriate conditions requiring compliance with the EPA Code Practice, I would note that there is a significant amount of wastewater treatment systems already at this location in a concentrated area and the proposal for another wastewater system would result in an over proliferation of such at this location and would, therefore, be prejudicial to public health.

7.6 Appropriate Assessment:

7.6.1 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 based on the following reasons.

9.0 **Reasons and Considerations**

1. Having regard to the provisions of the “Sustainable Rural Housing Guidelines for Planning Authorities”, issued by the Department of the Environment, Heritage and Local Government in April 2005, which seek to distinguish between urban-generated housing need and rural-generated housing need, and having regard to the location of the site in an area classified as an area under urban influence under the County Development under where compliance with criteria under Section 3.5.3.2 is required, the applicant has failed to demonstrate a functional need for the proposed development or compliance with the stated criteria for rural housing. It is considered that the proposed development would represent urban-generated housing in the open countryside, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the Guidelines, Development Plan policy and contrary to the proper planning and sustainable development of the area.

2. Having regard to the severely restricted sightlines available at the proposed entrance point and the lack of ability to improve such in particular due to the location of the existing dwelling on site, the proposed development would constitute a traffic hazard and cause obstruction to other road users. The proposed development

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

3. Having regard to the nature of the proposed development and its requirement for an on-site wastewater treatment system, and the existing level of wastewater treatment systems in close proximity, the proposal would give rise to an over-proliferation of wastewater treatment systems in a concentrated area and would, therefore, be prejudicial to public health. The proposal would, therefore, be contrary to the proper planning and sustainable development of the area.

Colin McBride
Planning Inspector

05th July 2018