



An
Bord
Pleanála

Inspector's Report ABP-301389-18.

Development	Convert existing stables to a residential unit, connection to existing waste water treatment system with access from existing entrance.
Location	Thomastown, Co. Kilkenny.
Planning Authority	Kilkenny County Council.
Planning Authority Reg. Ref.	18/70.
Applicant(s)	Fionnula Taylor.
Type of Application	Permission.
Planning Authority Decision	Refusal.
Type of Appeal	First Party v. Decision
Appellant(s)	Fionnula Taylor.
Observer(s)	None.
Date of Site Inspection	15 th June 2018.
Inspector	Susan McHugh.

1.0 Site Location and Description

- 1.1. The appeal site is located approx. 1.5 km to the northwest of the centre of Thomastown in County Kilkenny. The site has an area of 0.133 hectares and is located to the rear of the existing main dwelling house on the overall landholding which is accessed from the local road the (L8300-15).
- 1.2. The entrance to the site is in close proximity to a bend and junction on the local road (L820203-18) which provides access to the Mount Juliet Estate. The road is extremely narrow with a width of approx. 3m with room for one car to pass only. The area is characterised by ribbon development.
- 1.3. The stables are located 48m to the north west of the principle dwelling house and accessed via a tarmacked driveway which runs along south-western boundary to the side and to the rear of the existing house. The site is bounded to the north, west and south by agricultural land.
- 1.4. The single storey building is arranged in an L shape, comprises four no. stables and tack room and has an area of 116 sq.m. The building includes a pitched roof with a ridge height of 5m. The roof extends over each stable door and tack room to create a covered open yard area.

2.0 Proposed Development

- 2.1. Permission is sought for the conversion and extension of the existing stables to provide a two-bedroom family residential unit with a total floor area of 209.20sq.m.
- 2.2. The existing stables would be converted to accommodate 2 no. bedrooms with en suite bathrooms, study and utility. The proposed extension would accommodate a kitchen, dining and living area.
- 2.3. Works to the existing structure include a pop out extension with a pitched roof along the side south western elevation to accommodate the en suite bathrooms and provision of a window to bedroom no. 2. A proposed lean to shed extension with internal access from the utility and external access door is proposed to the rear with provision of a window to the converted study.

- 2.4. The proposed extension will extend 5.5m to the side for a length of 12.2m at single storey level to the north east in line with the rear and front elevations of the existing stables. The proposed north-eastern elevation will comprise a bay window with pitched roof, a window to the proposed kitchen and living room.
- 2.5. The front elevation comprises glazing and entrance doors to an enclosed courtyard with windows to the front bedroom and the living area.
- 2.6. It would be served by the existing access driveway off the local road.
- 2.7. It is proposed to connect to the existing waste water treatment system percolation area located be to the north west of the dwelling. The means of water supply is a private well.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to **refuse** permission for three reasons:

1. The proposed development due to its detached nature and location to the rear and separate from the main dwelling house fails to comply with the requirements as set out in Section 12.5.5 'Family Flat' of the Kilkenny County Development Plan 2014-2020. The proposed development therefore is contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the proposed development to the rear of an existing house, it is considered the proposed development would constitute 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 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.
3. Taken in conjunction with the excessive amount of existing development in this rural area of urban influence close to Thomastown urban area, the proposed development would exacerbate an excessive concentration of

houses in a rural area and will lead to the further erosion of the rural landscape by virtue of extending, strengthening and consolidating this existing haphazard and unsustainable pattern of development. Consequently, the proposed development is contrary to the proper planning and sustainable development of this rural area.

3.2. Planning Authority Reports

3.2.1. Planning Report (dated 14/03/2018)

Basis for the planning authority decision. Includes:

- The proposed extension to the existing stables was not stated in the description of the proposed development in the public notices.
- The existing stables are located 47.7m to the rear of the existing dwelling.
- The conversion of the existing stables does not comply with Development Plan policy set out in section 12.5.5 as it relates to granny flats due to the detached nature of the proposed development.
- By virtue of the position of the proposed development to the rear of an existing dwelling the proposed development constitutes backland development and is contrary to the proper planning and sustainable development of the area.
- References report from Environment Section which seeks certification that the existing treatment plant and soil polishing filter is as required under Condition No. 3 of P.A. Reg. Ref. 07/1662 along with details of the existing treatment system and percolation area to determine whether it is adequate to cater for the development.

3.2.2. Other Technical Reports:

Environment Section – Recommends further information, (no report on file).

Area Engineer - The File was referred to the Area Engineer but no report was received at the time of writing.

4.0 Planning History

P.A. Reg. Ref. 07/1662: Permission **granted** 8/02/2008 for construction of a single storey house, four stables, tack room effluent treatment system and all associated site works, to Fionnula and Mark Taylor. Conditions 13 and 14 relate to development standards for the equestrian aspect of the development.

P.A. Reg. Ref. 07/19: Permission **refused** 29/05/2007 for construction of a single storey house, four stables, tack room effluent treatment system and all associated site works, to Fionnula and Mark Taylor. There was one reason for refusal as follows;

1. *'The proposed two storey dwelling house by reason of its height, size, bulk and scale on an elevated site would be unduly dominant on the surrounding countryside and would be out of character with the existing pattern of development and the rural area within which it is to be located. The proposed development would thus be contrary to the proper planning and development of the area.'*

5.0 Policy Context

5.1. Development Plan

5.2. Kilkenny County Development Plan 2014-2020

Chapter 3 refers to *Core Strategy*. Figure 3.1 is a map of the county indicating the overall strategy for the county and identifies different rural areas largely corresponding with the types of rural areas identified in the guidelines on rural housing. (See map attached)

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 sustainable rural communities without compromising the physical, environmental, natural or heritage resources of the county'*.

The county is divided into three broad categories;

- 1. Areas Under Urban Influence
- 2. Strong Rural Areas

- 3. Peripheral Areas of Population decline

The site is located in an area defined as an 'area under urban influence'.

Backland Development is defined under Section 3.5.2 as:

'Where a development (most commonly associated with but not restricted to one-off housing) is positioned loosely or to the rear of another so as to create piecemeal and disorderly form of development, which could potentially impact on neighbouring residential amenities, and gives 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.'

Section 3.5.2.1 refers to *Areas under Urban Influence* and that the Council's objective for areas of urban influence to facilitate the rural generated housing.

requirements of the local rural community. In areas under urban influence there is a requirement of an occupancy condition.

Section 3.5.2.3 refers to *Rural Generated Housing need* and in relation to areas under urban influence and in stronger rural areas it is indicated that the Council will permit, subject to other planning criteria, single houses for persons where the defined stipulations are met.

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 rural housing.

Chapter 12 of the plan refers to requirements for developments and **section 12.10** outlines guidance in relation to rural housing in relation to siting design and services.

Section 12.5.5 Family Flat

'A family flat refers to a sub division or extension of a single dwelling unit to accommodate a member of the immediate family and is generally acceptable, provided it is not a separate detached unit and that it is possible to provide direct access to the remainder of the house. There shall be no permanent subdivision of the garden. The family flat shall not be let or sold, other than as part of the overall property and shall revert to being part of the original house when no longer occupied

by a family member. The design should ensure that the flat forms as integral part of the main dwelling unit capable of reintegration for single family use.

The principal requirement for any proposed family flat extension is that the family flat shall generally not exceed 50% of the floor area of the main dwelling. In the case of a two storey family flat, an internal connecting door will normally be required at both levels. External doors will normally only be permitted to the side and rear of the house, with the presumption against an independent front door.

Access shall be from an internal door only or by side doors well screened from the front elevation or to the front within an enclosed porch shared with the existing front door.

The design should have regard to the need for light and privacy of adjoining properties. The form and design of the existing building should be followed and the extension should integrate fully with the existing building by using similar detailing and window proportions, materials and finishes.'

5.3. Thomastown Local Area Plan 2009-2015 (Amendment 2 as extended)

The appeal site is located outside the land-use zoning map of Thomastown Local Area Plan, 2009 - 2020, and therefore outside the development boundary.

Policy 9 relates to housing location.

5.4. National Policy

5.4.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations.

5.4.2. Sustainable Rural Housing Guidelines, DoEH&LG 2005.

The guidelines require a distinction to be made between 'Urban Generated' and 'Rural Generated' housing need. A number of rural typologies are identified

including rural areas under strong urban influence which are defined as those with proximity to the immediate environs or close commuting catchment of large cities and towns. Examples are given to the types of circumstances for which 'Rural Generated Housing Need' might apply. These include 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

5.5. Natural Heritage Designations

There are no designated areas in the vicinity, the following European sites are within a 15km radius of the appeal site.

Site Name	Designation	Site Code	Distance
River Barrow and River Nore	SAC	002162	1.3km SW
Thomastown Quarry	SAC	002252	0.9km NE

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal against the decision to refuse permission by the planning authority has been lodged by Martin Larkin of Larkin Associates acting on behalf of the appellant Fionnula Taylor, may be summarised as follows;

- Notwithstanding Development Plan policy in respect to family flats as set out in Section 12.5.5, the existing house is of a very distinctive design and does not lend itself to being extended.
- The stables are no longer required, as the applicant's children have moved away, and although come home at weekends and for holidays use the main house.
- The proposed family flat would not have a separate access or waste water treatment system and would be connected to the existing house services.

- The family flat is urgently needed and prepared to accept a condition in any grant of permission that limited the use for a temporary period.
- The proposed family flat would provide living accommodation for the applicant's mother, and would free up a much needed house in Thomastown which in some way would alleviate the problem of homelessness.
- The proposed family flat will not constitute haphazard development, or seriously injure the rural character of the area.
- The release of a house in Thomastown would constitute proper planning and sustainable development.

6.2. **Planning Authority Response**

The Planning Authority had no further comments.

6.3. **Observations**

None.

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;

- Compliance with Development Plan Policy
- Haphazard / Backland Development
- Appropriate Assessment
- Other Matters

7.2. **Compliance with Development Plan Policy**

7.2.1. Reason for refusal No. 1 relates to compliance with Development Plan Policy with regard to 'Family Flats'.

- 7.2.2. Policy in relation to 'Family Flats' is clearly set out in the County Development Plan (2014-2020) and summarised in section 5.1 above. A family flat is defined as the sub division or extension of a single dwelling unit to accommodate a member of the immediate family and is generally acceptable, provided it is not a separate detached unit and that it is possible to provide direct access to the remainder of the house.
- 7.2.3. The existing stables which it is proposed to convert and extend for use as a granny flat are located 48m from the rear of the existing house. In their appeal the applicants detail that the existing house is of a very distinctive design and does not lend itself to being extended. In this regard I note the significant scale of the existing house and that the applicant's family are now in university or working. In my opinion there is scope to extend the existing house in a manner which would not detract from its design particularly given that there appear to be no other constraints on the site.
- 7.2.4. I would concur with the view of the Planning Authority, that the provision of a standalone family flat to the rear of the site would not comply with the current policy provisions regarding family flats. I also note the reference by the applicants that they would be open to a temporary permission in relation to the use as a family flat. However, this proposition would appear to completely disregard the nature of the physical works proposed, which would comprise the permanent conversion of the existing stables to a residential unit.
- 7.2.5. Notwithstanding the contentions of the applicant, there is a risk that the family flat could be used as a separate dwelling unit at some time in the future. Whilst a condition could be imposed restricting its use, the long-term enforceability of such is questionable. Due to its separation from the main house, the unit could not be reintegrated with the main dwelling house when no longer required. In this regard, I am of the view that the family flat is an inappropriate form of backland development and does not comply with the Development Plan Policy.
- 7.2.6. The applicants have indicated in their application and appeal that the existing stables are no longer used, that the granny flat is required for her elderly mother who still drives, currently lives in a large two storey house in Thomastown, and that the proposed house would be connected to the existing house services. The case that the applicants have outlined in respect to freeing up a much-needed house in

Thomastown where the applicants mother currently resides, in my opinion is not convincing.

7.2.7. While I acknowledge that the applicants mother may wish to downsize, no details in respect of her current residence, or circumstance, have been submitted. Given that Thomastown is located 1.5 km from the subject site, I consider the applicants case for what is for all intents and purposes an additional dwelling in this area has not been justified.

7.2.8. I consider the proposal, therefore, is not in compliance with the Kilkenny County Development Plan 2014-2020 as it does not meet the requirements of Section 12.5.5 of the plan. The development would also be contrary to Objective 19 of the NPF, and to the guidance set out in the Sustainable Rural Housing Guidelines.

7.2.9. I recommend, therefore, that reason for refusal No. 1 be upheld in so far as it relates to the Development policy on family flats.

7.3. Haphazard / Backland Development

7.3.1. Reason for refusal No. 2 refers to the proposed development as haphazard backland development, which would result in a disorderly form of development which would seriously injure the rural character of the area. Reason for refusal No. 3 refers to the excessive amount of existing development in this rural area of urban influence close to Thomastown urban area, and that the proposed development would exacerbate an excessive concentration of houses in a rural area and will lead to the further erosion of the rural landscape by virtue of extending, strengthening and consolidating this existing haphazard and unsustainable pattern of development.

7.3.2. I noted from a visual inspection of the area there is a high concentration of rural houses in the vicinity of the appeal site. I consider that this area which is in close proximity to Thomastown has been the subject of development pressure in recent years and in particular ribbon development.

7.3.3. The Sustainable Rural Housing Guidelines, 2005, recommend against the creation of haphazard development particularly in those rural areas closest to cities and towns. The guidelines state that piecemeal and haphazard development of rural areas close to large urban centres can cause problems as these urban centres grow. The

Guidelines also recommend against the creation of ribbon development due to road safety, future demands for provision of public infrastructure as well as visual impacts.

- 7.3.4. The applicants contend that the proposed single storey house which is located to the rear of the existing house, does not constitute haphazard development, and will not seriously injure the rural character of the area.
- 7.3.5. While I would accept that the existing stables are well screened from public view, I would still consider that, given the existing concentration of housing in the area, the proposed development would constitute haphazard backland residential development in a rural area under strong development pressure and essentially detract from the character of the area. The proposed development, in conjunction with existing development, would exacerbate an undesirable pattern of development.
- 7.3.6. I recommend, therefore, that reason for refusal No. 2 and 3 also be upheld in relation to these matters.

7.4. **Appropriate Assessment**

- 7.4.1. Having regard to the nature and scale of development proposed and to the nature of the receiving environment, the intervening distances and to the lack of a hydrological connections, no appropriate assessment issues arise and 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.

7.4.2. **Other Matters**

- 7.4.3. *Effluent Disposal* – I note that it is proposed to share the existing waste water treatment plant and water supply on site. If the Board are minded granting permission the applicant would need to demonstrate that the existing system complies with the EPA Code of practice.

8.0 **Recommendation**

- 8.1. I recommend that outline planning permission be refused for the following reasons and considerations

9.0 Reasons and Considerations

1. The subject site is located in a rural area which is identified as an Area Under Urban Influence in the Kilkenny County Development Plan 2014 – 2020 and identified as being under strong urban influence in the ‘Sustainable Rural Housing Guidelines for Planning Authorities’ issued by the Department of the Environment, Heritage and Local Government (2005). On the basis of the documentation submitted in support of the application and the planning appeal, the Board is not satisfied that the proposed development would comply with the provisions for a family flat in this rural location, as set out in the said development plan and specifically Section 12.5.5. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development, which would be located in an unzoned, unserviced rural area outside the development boundary of Thomastown, would constitute random residential development in a rural area that is under strong development pressure, and which already has an excessive density of housing development. It is the policy of the planning authority, as set out in the Kilkenny County Development Plan 2014-2020, to channel housing into suitably zoned land in areas where the appropriate social, community and physical infrastructure either exists or is planned, and to restrict development in rural areas. It is considered that the proposed development would exacerbate the haphazard and unplanned form of development in this rural area, would militate against the preservation of the rural environment, would represent an undesirable precedent for further such development in the area, and would be contrary to the policies set out in the said development plan for the area and the Thomastown Local Area Plan 2009 - 2020. The proposed development would, therefore be contrary to the proper planning and sustainable development of the area.

Susan McHugh
Planning Inspectorate
19th July 2018