



An
Bord
Pleanála

Inspector's Report ABP-301873-18

Development	Construction of 2 No. detached 2 storey dwellings to the rear of existing dwelling.
Location	Inshallah, Ardclough Road, Newtown, Celbridge, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	18/328
Applicant(s)	Thomas and Siobhan Wilkins
Type of Application	Permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Thomas and Siobhan Wilkins
Observer(s)	Residents of Chelmsford Manor
Date of Site Inspection	17 th August 2018
Inspector	Ciara Kellett

1.0 Site Location and Description

- 1.1. The appeal site is located in the rear garden of a dwelling on the Ardclough/Newtown Road south of Celbridge, Co. Kildare. It is c.1.5km south-west of Celbridge Town Centre. The existing dwelling is one of a mix of semi-detached and detached dwellings on the eastern side of the road with long narrow rear gardens. The housing development of Chelmsford Manor where the observers reside, lies to the east of the site and east of the stream which forms the eastern boundary of the subject site.
- 1.2. The site itself is stated as being 0.3204Ha in area, is long and narrow and rectangular in shape. The existing dwelling facing the Ardclough/Newtown Road is a dormer style dwelling. The site proposed for the development is currently overgrown. The stream that forms the eastern boundary is a tributary of the River Liffey. The River Liffey is c.150m to the north-west of the site. Hazelhatch train station is c.2km as the crow flies to the south-east of the site.
- 1.3. Appendix A includes maps and photos.

2.0 Proposed Development

- 2.1. It is proposed to demolish an existing garage and construct 2 no. detached dwellings to the rear of the existing dwelling. Works include minor alterations to the existing front garden wall to provide a recessed entrance which will be shared by all dwellings.
- 2.2. The dwellings are two storey with 4 bedrooms and are 152sq.m in area with a ridge height of 8.744m. No material details have been provided.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for two reasons.

1. *The proposed development is located in an area where the stated zoning objective in the Celbridge Local Area Plan 2017 – 2023 is 'B – Existing*

Residential/Infill, to protect and enhance the amenity of established residential communities and promote sustainable intensification'. The proposed development by reason of its location to the rear of an existing dwelling, lack of independent vehicular access point and narrow site dimensions, would if permitted result in a substandard backland development and the creation of an undesirable building line. Furthermore the location of the development to the rear of existing dwellings, would if permitted have a negative impact on the residential amenity of adjoining properties, establish an undesirable precedent, depreciate the value of property in the area, and would therefore be contrary to the proper planning and sustainable development of the area.

2. *Having regard to the stated zoning objective for the area, which seeks inter alia to 'protect and enhance the amenity of established residential communities'; the proposed development located to the rear of existing dwellings along Newtown Road and Chelmsford Manor, would seriously injure the residential amenity, depreciate the value of properties in the vicinity and would set an undesirable precedent for similar developments in the area where there are a number of dwellings with substantial rear gardens. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report is the basis for the Planning Authority's decision. It includes:

- Subject site is zoned 'B – Existing Residential/Infill' and infill development is therefore acceptable in principle.
- There are concerns in relation to the impact the proposal will have on the residential amenity of the area. The area is characterised by 11 single dwellings on long narrow sites. A total of 3 on a single site is considered excessive and overdevelopment.
- The proposal would constitute an unacceptable and haphazard development of backland which would set an undesirable precedent for the area where there are a number of dwellings with substantial back gardens.

- Proposal would intensify use of existing entrance and could have a negative impact on residential amenities of the existing property.
- A tributary of the Liffey runs behind the site which is noted as being within Flood Zone A. It is noted that a Flood Risk Assessment has been submitted as part of the application and has raised no issues with the Water Services Section.
- Concludes that proposal would represent backland development and constitute haphazard and piecemeal development. It is a departure from the character of development in the vicinity namely single dwelling units on single long narrow plots and would represent overdevelopment of the site and recommends that permission is refused.

The decision is in accordance with the Planner's recommendation.

3.2.2. **Other Technical Reports**

- **Area Engineer:** No objection subject to conditions.
- **Environment:** No objection subject to conditions.
- **Transportation:** File Referred.
- **CFO:** File Referred
- **Water Services:** No objection subject to conditions.
- **Conservation Officer:** File Referred.

3.3. **Prescribed Bodies**

- **Irish Water:** No objection subject to conditions.

3.4. **Third Party Observations**

None

4.0 **Planning History**

- **Reg. Ref. 17/221:** Outline permission was refused in April 2017 for the development of 1 no. single storey bungalow and 1 no. 2 storey detached

house and 1 no. detached dwelling with garage. Permission was refused for 3 reasons. The first two reasons for the refusal are almost identical to the reasons for the subject refusal. A third reason relating to the lack of a Flood Risk Assessment was also included.

- **Reg. Ref. 09/783:** Retention permission was granted in August 2009 for changes made to previous grant under 01/1044, also retention of separate converted single storey garage to hobby room.
- **Reg. Ref. 01/1044:** Permission granted in January 2002 for a dormer style extension to the rear of existing house comprising playschool and bedroom.
- **Reg. Ref. 98/1652:** Permission granted in December 1998 for a dormer bungalow.

Site to the south:

- **ABP Ref. 244464, KCC Reg. Ref. 14/704:** Permission granted in June 2016 by the Board following the decision to refuse permission by the Council for a dwelling along the road.

Site to the north:

- **Reg. Ref. 09/1287:** Outline permission refused in January 2010 to subdivide the existing property and construct a new house to the rear of the existing house. One reason for refusal included its lack of independent vehicular access and narrow site dimensions which would result in a substandard form of development, and impact on residential amenities and undesirable precedent.

5.0 Policy Context

5.1. Kildare County Development Plan 2017 - 2023

- 5.1.1. Chapter 4 of the Plan refers to Housing. Section 4.11 refers to Urban Infill and Backland Development. It states:

The development of underutilised infill and backland sites in existing residential areas is generally encouraged. A balance is needed between the protection of amenities, privacy, the established character of the area and

new residential infill. The use of contemporary and innovative design solutions will be considered for infill and backland development and connections to the surrounding area and services should be identified and incorporated into proposals.

Objective SRO2 states:

Consider backland development generally only where development is carried out in a planned and coordinated manner.

5.2. Celbridge Local Area Plan 2017 – 2023

- 5.2.1. Map 13.1 identifies the site as having land use zoning 'B – Existing Residential/Infill'. Section 6.2.1 of the Plan states that the LAP seeks to establish a framework for the provision of housing that takes account of the demographic profile of Celbridge and will support '*intensification and consolidation in the existing built up area including redevelopment and infill opportunities where appropriate*'.

5.3. Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities

- 5.3.1. Chapter 5 refers to cities and larger towns. Section 5.9 refers to infill and backland development. With respect to infill residential development it states:

Potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill. The local area plan should set out the planning authority's views with regard to the range of densities acceptable within the area. The design approach should be based on a recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area and its amenities, i.e. views, architectural quality, civic design etc. Local authority intervention may be needed to facilitate this type of infill development, in particular with regard to the provision of access to backlands.

5.4. Natural Heritage Designations

Ballynafagh Lake SAC (Site Code 001387) is located c. 15km to the south-west of the site. Ballynafagh Bog SAC (Site Code 000391) is located c. 15km to the south-west. Rye Water Valley/Carton SAC (Site Code 001398) is c. 6km to the north of the site.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal against the decision to refuse permission has been lodged. 6 Maps accompany the appeal and the applicant has addressed each point in the reasons for refusal. In summary it includes:

- Considers '*lack of independent vehicle access*' as a reason to refuse is contrary to recent grants for other similar developments. There are 2 instances within 300m (Reg. Ref. 16/847 Site 'A' for 3 houses and Site B serving 5 houses).
- Other instances with lack of independent access marked on maps.
- Notes there is considerable backland development in Ballyoulster and identified on Map 6.
- Previously there was a playschool on the site holding 20 pupils and therefore there were 20 cars arriving and leaving and the same in the afternoon.
- Refer to planning precedent for shared access – Reg. Ref. 06/2089 at 37/37A Maynooth Road.
- Request the Board to concur that the small scale nature of the proposal will not cause any traffic hazard.
- Narrow site dimensions – plot widths much wider than the semi-detached plots recently constructed on the property to the rear – Chelmsford Manor.
- Proposal site and garden areas are fully in compliance with standards.
- Substandard backland development – Council have permitted backland development within Celbridge – fail to see how this is different. The large back

garden is underused and is zoned for residential development. It does not inhibit future development of adjoining sites.

- Undesirable Building Line – houses are in a near alignment with property 3 plot east of the proposal. Site is large and proposal does not cause any adverse impacts.
- Consider Planning Authority have exaggerated concerns regarding impact on residential amenity. This small development of 2 houses compares with 59 developed behind and to the east of their property or on sites A and B. Site was previously used for childcare purposes and proposal would have less impact.
- Backland opportunities exist to develop plots singly or through the amalgamation of plots.
- Development is close to public transport and is 'shovel ready'.
- Understand Council have sought permission for 30 houses on opposite side of road. Query if Council considered the negative impact this would have on the adjoining area or how it will devalue property.
- Note that they are 1 of 4 detached dwellings and have the widest access that would facilitate access for rear development.
- No internal departments recommended refusal; there were no objections from neighbours; the Council have approved many similar sites; and, there is precedent for clusters of houses with 1 shared access.

6.2. Planning Authority Response

The planning authority responded stating that they have no further observations.

6.3. Observations

An observation on the appeal was submitted by residents of Chelmsford Manor (no's. 34, 35, 36 and 37). In summary it includes:

- Appeal letter states there were no objections from neighbours – there were a number of objections to an earlier planning application (KCC Reg. Ref.

17/221) and the old site notice was left to the front of the property – neighbours were unaware that a new notice was erected until after the deadline. Had neighbours been aware, objections would have been lodged as it is very similar to the earlier application.

- Observers cannot access maps referred to by the applicant in the appeal, however with respect to point 1 of the appeal, they are not aware of any dwellings that have further dwellings built to the rear within 300m of the application.
- With respect to point 4, dispute the statement saying the dwellings are well separated from the dwellings at Chelmsford Manor.
- In terms of privacy, the location of the 2 houses are very close to the gardens in Chelmsford Manor. The position of the houses would result in a direct view into living areas.
- Chelmsford rear gardens are west facing. The proposal would block sunlight.
- Refer to comment about 2 houses compared to 59. Consider it a fallacy to compare the two. Chelmsford Manor is an estate that meets the County Development Plan strategic objectives and has appropriate and proper access. None of the houses in Chelmsford Manor overlook or encroach on any of the original development within the vicinity.
- Consider the proposal is contrary to the proper planning and sustainable development of the area. Refer to flooding in the area.
- Proposal would have an impact on property values.
- Should this permission be granted it would set a precedence for further backland development.
- Four individual letters from each of the residents are attached to the appeal. Additional points made include: Flooding has occurred and it is in Flood Zone A, concerns for flora and fauna, application is incomplete and inaccurate, and road safety.

7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Backland Development
- Residential Amenities and Visual Impact
- Independent Vehicular Access
- Appropriate Assessment

7.1. Backland Development

- 7.1.1. The first reason for refusal by the Planning Authority referred to substandard backland development and the creation of an undesirable building line. I consider that the key issue with respect to this proposal is the concept of backland development, and whether this proposal would result in a haphazard form of development or prohibit future development of these backlands.
- 7.1.2. There are currently 11 dwellings of different sizes and scale along this section of road. What they all have in common is an unusually long and narrow back garden. A dimension of 146m in length is noted on the drawings. The gardens are bounded to the east by a tributary of the River Liffey.
- 7.1.3. The subject site is centrally located amongst the 11 dwellings and has the widest garden. The Development Plan supports backland development and generally encourages use of underutilised sites in existing residential areas. I consider that this site could fall into such a category. However **objective SRO2** in the Development Plan states:

Consider backland development generally only where development is carried out in a planned and coordinated manner.

I am of the opinion that this proposal will not result in development being carried out in a planned and coordinated manner. I am of the view that the development of two

houses to the rear of this dwelling would constitute haphazard and piecemeal development in its current form. A coordinated approach should be taken having regard to the significant quantity of land potentially available. I fully accept that the applicant is unlikely to be in a position to develop any other site, but the development as proposed does not include any level of analysis or other supporting information to demonstrate that it would not prohibit other future development, or that it can be coordinated in terms of layout and design with other potential future development.

- 7.1.4. I am therefore of the opinion that the proposal is uncoordinated piecemeal development and is not in accordance with the Development Plan objective SRO2.

7.2. Residential Amenities and Visual Impact

- 7.2.1. The two reasons for refusal refer to the negative impact on residential amenities. The observers consider that the proposal would impact on their privacy and impact on light in the late afternoon to their west facing rear back gardens.
- 7.2.2. I am satisfied that the proposal will not seriously injure or have an adverse negative impact on the dwellings in Chelmsford Manor in terms of privacy and light. There is a minimum distance of 40.87m between the rear façade of the proposed dwellings and the existing stream. The Sustainable Residential Development in Urban Areas Guidelines recommend a minimum of 22m between opposing first floor windows. The distance in this case is significantly in excess of this.
- 7.2.3. I do however have concerns for the residents in the existing dwelling and potential future residents of the proposed dwellings with respect to boundary treatment, privacy and overlooking.
- 7.2.4. No information has been provided with respect to boundary treatment around the garden of the existing dwelling. Furthermore, there appears to be no delineation between the access road and the side of the existing dwelling leading to potential issues with privacy, car parking etc. If the Board are of a mind to grant permission, I would recommend that a condition is appended whereby boundary treatment is to be agreed with the Planning Authority prior to commencement.
- 7.2.5. With respect to Visual Impact, I am not satisfied with the impact of the proposed dwellings located to the rear of the dormer dwelling and the existing dwellings either side. No height dimensions are provided on drawing no.770-013, but I consider that

the visual impact of the two no. two storey dwellings to the rear of two dormers and a single storey bungalow, and the creation of an undesirable building line is unacceptable. With a proper site analysis an improved design could be achieved to mitigate this visual impact. Furthermore, the design of the proposed dwellings has not addressed the other dwellings along the road in terms of style, layout, materials etc. There is very little information on the drawings, but I consider the design as shown would be incongruous in terms of its design, out of character with the pattern of development in the area and would set an undesirable precedent for future development in this area.

- 7.2.6. To conclude, I am satisfied that there is sufficient distance between the proposal and the observers' dwellings in Chelmsford Manor to avoid a seriously negative impact on their privacy and daylight. However, I am of the view that the proposal in its current form would have a seriously negative impact on residential and visual amenities of existing and future occupants of dwellings in the vicinity and would be out of character with the pattern of development in the area.

7.3. Independent Vehicular access

- 7.3.1. The refusal reason no.1 refers to lack of independent vehicular access as contributing towards a substandard backland development. In response, the applicant has highlighted examples of where access is shared.
- 7.3.2. I am of the view that a single shared access is acceptable when it is planned and a clearly defined access. I am of the view that this is not the case in this instance. During my site visit I visited the 3 areas specifically referred to by the applicant – Site A, B and Ballyoulster Park.
- 7.3.3. Site A comprises three recently completed dwellings which all face Ardclough Road with a coordinated shared access. Site B comprises a number of houses facing the Ardclough Road with a coordinated shared access onto the road, as is the case with numerous developments around the country. I do not consider either site to be backland development per se. Ballyoulster Park is an unusual arrangement of dwellings based around a roughly square green open space. There appears to be a small number of dwellings to the rear of dwellings facing the green area in this development. I am of the view that this development should not set a precedent.

- 7.3.4. I refer the Board back to my conclusion of section 7.1 above. I consider that backland development is acceptable and supported by policies in the Development Plan subject to development being carried out in a planned and coordinated manner. No information has been provided to confirm that this proposed vehicular access to the backlands is the most appropriate location for access to one or more back gardens and therefore in my opinion this proposal cannot be deemed to be planned or coordinated as required by Development Plan objective SRO2.
- 7.3.5. I have read the Inspector's Report and the Board's order referred to by the applicant (ABP Ref. 224993, KCC Reg. Ref. 06/2089) and I am satisfied that they are not relevant for the subject development as it relates to a town centre site.

7.4. Appropriate Assessment

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, namely an urban and fully serviced location, 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 that planning permission should be refused for the reasons and considerations as set out below.

9.0 Reasons and Considerations

1. The proposed development would represent piecemeal backland development of a long rear garden. The development as proposed does not include any level of site analysis or other supporting information to demonstrate that it can be carried out in a planned and coordinated manner. This is contrary to the Kildare County Development Plan 2017 – 2023 objective SRO2 which is considered reasonable. The proposed development would represent an unsustainable use of zoned serviced lands and would,

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

2. Having regard to the limited access arrangements associated with the site and its relationship to adjoining property, it is considered that the proposed development represents inappropriate backland development, and would seriously injure the amenities of adjoining residential property. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The proposed development, by reason of its design and height, would be out of character with the existing residential properties in the vicinity and would set a precedent for further inappropriate development in the vicinity of the site. The proposed development would, therefore, seriously injure the visual amenities of the area and be contrary to the proper planning and sustainable development of the area

Ciara Kellett
Senior Planning Inspector

27th August 2018