



An
Bord
Pleanála

Inspector's Report ABP-302425-18

Development	Amendments to previously permitted design for 2 semi-detached houses
Location	Fanad House , Bennettsbridge Road , Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	18384
Applicant(s)	Sarah and Frances Wallace
Type of Application	Permission
Planning Authority Decision	
Type of Appeal	Third Party
Appellant(s)	Residents of Beech Park.
Observer(s)	None
Date of Site Inspection	9 th October, 2018
Inspector	Stephen Kay

1.0 Site Location and Description

- 1.1. The appeal site is located on lands that are on the Bennetsbridge Road to the south east of the town and within c.600 metres of the entrance to Kilkenny Castle. The site is accessed via a cul de sac road that is to the north and the site currently forms part of a B&B called Fanad House that is located to the north of the site. The site currently forms part of the garden of Fanad House. Fanad House is two storey in scale and
- 1.2. The site is bounded to the south and south west by a development of two storey semi detached dwellings called Beech Park. This development is accessed from the Bennetsbridge Road at a point to the south of the appeal site. The dwellings in Beech Park that adjoin the appeal site are on sites that are at a slightly lower level than the appeal site. This difference in levels is estimated at c. 1 metre, however ground levels are not indicated on the site survey drawing submitted with the application.
- 1.3. The appeal site is bounded to the north by Fanad House a two storey house that has been the subject of extensions and which is in operation as a B and B. The curtilage of this house extends to the north parallel with the access cul de sac where a parking area is provided. To the east, the site adjoins the Bennetsbridge Road and this boundary is characterised by a stone wall with a cycle path and footpath between the site and the road. To the south and south west, the site adjoins an existing residential development of two storey semi detached dwellings called Beech Park. The sites in Beech Park are located at a slightly lower level than the appeal site and are separated by a mature tree and hedgerow boundary. On the southern side of the appeal site, in the vicinity of the boundary with Nos. 3-6 Beech Park, the trees at the boundary are at least 4 metres in height.
- 1.4. The general context of the site comprises a mix of development forms fronting onto the western side of the Bennetsbridge Road. To the north of the site fronting the cul de sac is a variety of development types including two storey terraced residential development. Similarly, to the south of the appeal site on the Bennetsbridge Road

there is a variety of building form. With the Beech Park development and further to the south detached dwellings on large plots.

1.5. The stated area of the appeal site is 0.0885 ha.

2.0 Proposed Development

2.1. The proposed development is advertised as amendments to a previously permitted development on the site comprising the construction of 2 no. two storey semi detached dwellings with access from the existing grounds of Fanad House to the east. This permission was granted under An Bord Pleanala Ref. PL10.247496.

2.2. The main alterations to the permitted layout sought in the current application can be summarised as follows:

- Alterations to the design of the roof so as to provide for habitable accommodation in the form of a forth bedroom in the attic space.
- The addition of gable windows and dormer window facing Bennettsbridge Road,
- Amendments to the fenestration to the front and side elevations,
- The addition of canopies over the front doors to the dwellings.
- Single storey extension to the side and rear of the southern unit closest to Beech Park.
- Revisions and improvements to the forecourt areas to the units.

2.3. The development includes a number of other elements as previously permitted including boundary wall treatment, turning bay and separate entrance to Fanad House and connection to public water supply and drainage network. Surface water drainage from the site is proposed to be to soakaways.

2.4. The stated floor area of the development (two units) is 425 sq. metres.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a Notification of Decision to Grant Permission subject to 13 no. conditions the most significant of which are considered to be as follows:

Condition No. 3 requires that the existing south and south eastern hedgerow boundary with mature trees and the south western boundary shall be retained and maintained by the developer. The existing laurel hedgerow with the neighbouring Nos 3-5 Beech Park shall be maintained at a height of no more than 2.5 metres.

Condition No.4 relates to on site surface water drainage and soakaways to be in accordance with BRE standards.

Condition No.11 requires that the first floor gable end windows serving WC's shall be fitted with obscure glazing.

Condition No.12 requires that a qualified arborist to identify root protection areas on the site for the mature beech tree located on site and details of the proposed boundary treatment between the sites.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer notes that the principle of a two storey dwelling has been permitted on this site and that the ridge height of the dwellings proposed are slightly lower than the height of that previously permitted on the site. Adequate private open space is considered provided and the separation distance to the boundary with Beech Hill development, the single storey element to the side of one house and the fenestration considered acceptable. Overshadowing is not considered to be an issue. A grant of permission consistent with the notification of decision which issued is recommended.

3.2.2. Other Technical Reports

Environment Report – Recommends further information regarding surface water disposal including site levels. Noted that this report is dated after the Notification of Decision to Grant Permission had issued.

Irish Water – No objections (Class 1).

3.3. Third Party Observations

Observations were received from the residents of Beech Park development to the south of the appeal site. This submission objected on the basis of the scale of development and proximity to existing houses, contrary to paragraph 12.12.3 of the Plan, reference to historical information and the fact that the hedge requires to be maintained as per previous grants of permission.

4.0 Planning History

There is a significant planning history on the site that can be summarised as follows:

Kilkenny County Council ref. 06/2308 / ABP Ref. PL10.224574 – Permission granted by the Planning authority and refused on appeal for the construction of 2 no. three storey houses on the appeal site. Permission refused by the Board for reason relating to the incongruous and oppressive form of development and the negative impact on the amenities of the area and the dwellings to the south.

Kilkenny County Council ref. 08/142 / ABP Ref. PL10.229762 – Permission granted by the planning authority and refused on appeal for the construction of 1 no. two storey and 1 no. three storey dwelling on the appeal site. Permission refused for reasons relating to scale and development being visually incongruous and negative impact on residential amenities by virtue of loss of outlook and overbearing visual impact.

Kilkenny County Council ref. 09/730 / ABP Ref. PL10.246439 – Permission granted by the Planning Authority and decision upheld on appeal for the construction of a single two storey dwelling on the appeal site.

Kilkenny County Council ref. 15/600 / ABP Ref. PL10.245980 – Permission refused by the planning authority and decision upheld on appeal by the Board for the construction of 2 no. two storey semi detached dwellings with attic accommodation.

Kilkenny County Council ref. 16/421 / ABP Ref. PL10.247496 – Permission granted by the planning authority and decision upheld on appeal by the Board for the construction of 2 no. two storey semi detached dwellings.

Kilkenny County Council ref. 18/115 – Permission refused by the planning authority for alterations to the development permitted under Ref. 16/421 including the addition of a fourth bedroom at attic level. Permission was refused for reasons relating to inappropriate design and being visually injurious to the amenities of the area.

The third party appeal contains a table that summarises the planning history, form and scale / height of the previous applications made on the site.

5.0 Policy Context

5.1. Development Plan

The site is located on lands that are zoned Existing Residential under the provisions of the *Kilkenny City and Environs Development Plan 2014-2020*. Dwellings are a permitted use on lands so zoned.

Paragraph 11.8.9 of the plan relates to infill development in existing residential areas and states that:

Within urban areas, infill development and refurbishment schemes will be required to pay particular attention to the local scale and plot size and the requirements of any Architectural Conservation Area within which the site is located. In general, infill and backland development will also have to pay particular attention to the local character of the area in terms of blocks, plots and buildings.

Development will only be considered if it:

- Will not detract from the character of the area,
- Will not be detrimental to the residential amenities of the area,
- Will not be prejudicial to the proper planning and development of the area.

5.2. Natural Heritage Designations

The site is not located in any designated European site. The River Barrow and River Nore SAC Site Code 0020162 is located within the grounds of Kilkenny Castle to the north east of the appeal site.

6.0 The Appeal

6.1. Grounds of Appeal

The following is a summary of the main issues raised in the third party grounds of appeal:

- That the proposed development is not consistent with the requirements of the development plan relating to infill sites / development as set out at 12.11.6 of the Plan.
- That the permission granted under Ref. 16421 ensured that there was a 5 metre offset to the properties at Nos.3 and 4 Beech Park. This is reduced to just 900mm in the current proposal.
- That the ridge height of the proposed dwellings are reduced relative to the previous permitted development in 2016, however the height is still 1.6 metres above that in the adjacent properties in Beech Park. It is also unclear how this reduction in scale is going to be achieved.
- That the previous applications made with attic accommodation had a ridge height of c.10 metres. The current proposal is nearly 1 metre lower than this.

- That there are 5 no. windows in the gable end of the proposed dwelling facing Beech park which is excessive notwithstanding them being frosted glass.
- That the council have previously been consistent in refusing permission for developments of this scale on the site.

6.2. Applicant Response

The following is a summary of the main issues raised in the first party response to the grounds of appeal:

- That the appeal is invalid as the identity of the appellants is not clear.
- That a pair of semi detached dwellings has previously been granted on the site.
- That the form of development proposed is visually acceptable and complements the residential character of the area.
- That the proposed dwellings are to the north of the houses in Beech Park and so overshadowing is not an issue.
- That previous ABP inspector's reports have noted the lack of a distinctive character or pattern of development in the vicinity of the site.
- That the main body of the house is 5 metres from the boundary with Beech Park. The section that is closer is single storey.
- That the proposed ridge height will be 1735 mm above the houses in Beech Park but would be at a remove of c.18 metres. The eaves height would however be 1800mm lower than the houses in Beech Park.
- That the proposed attic spaces would have the required half the floor area with 2.4 metre headroom.
- That of the 5 no. windows referenced, two are at ground level and would be screened, two are at an angle in roof slopes and one in the first floor gable serves a WC and will be fitted with obscure glazing.
- That the existing site is little used as part of the garden of the existing B&B.

- That the form and roof profile approved by the Board under Ref. PL10.247496 is generally retained.

6.3. **Planning Authority Response**

Submission received stating that the Planning Authority have no further comment to make on the grounds of appeal.

7.0 **Assessment**

7.1. The following are considered to be the main issues in the assessment of the subject appeal:

- Principle of Development
- Design, Visual Impact and Impact on Residential Amenity
- Other Issues

7.2. **Principle of Development**

- 7.2.1. The site is located on lands that are zoned 'Existing Residential' under the provisions of the *Kilkenny City and Environs Development Plan 2014-2020*. Dwellings are a permitted use on lands zoned Existing Residential. The stated objective for these lands are '*To protect, provide and improve residential amenities*'. Section 3.3.1 of the Plan states that the 'Existing Residential' reflects the existing built up areas of the city where there is limited potential for additional development.
- 7.2.2. Subject to not having a significant adverse impact on residential amenities of existing residential areas it is considered that the proposed development is consistent with the land use zoning objective. Issues of design and residential amenity are considered in more detail in the following section 7.3.
- 7.2.3. The appeal site has a significant planning history as set out at section 4.0 of this report above. It is noted in this regard that the principle of two dwellings on the site has been established by previous decision of the Planning Authority and the Board, Refs. 16/421 and PL10.247496.

7.2.4. The existing use of the site is as part of the garden area of Fanad House. The first party state that this area is little used as part of the garden of the existing B&B however it would result in a significant reduction in the area of amenity space around the Fanad House property. The proposed layout would however result in an area measuring approximately 175 sq. metres being retained to the rear of Fanad House. This is considered to be acceptable to serve the needs of this property. The proposed development would not have any significant impacts on the availability of parking to serve the B and B use with 14 no. spaces proposed to be retained.

7.3. Design, Visual Impact and Impact on Residential Amenity

7.3.1. The principle objections to the proposed development from the residents of Beech Park to the south of the site relate to the scale of the proposed development, its proximity to the boundary and the fact that it would lead to overlooking and visual intrusion.

7.3.2. The scale of the proposed dwellings is such that the ridge height of the dwellings would be c.250mm lower than that of the permitted houses on the site under Ref. PL10.247496. The principle of two houses at this overall height is therefore in my opinion established and is acceptable in principle and I do not consider that there is a basis that just because accommodation is proposed at attic level that it would not be acceptable. The method by which this reduction in overall height has been achieved relates to a lowering of the floor to ceiling heights and a reduction in finished floor level. Both of these alterations are considered to be acceptable in principle.

7.3.3. The appellants reference the fact that the proposed development would be located c.900mm from the site boundary rather than the 5 metres as permitted under Ref. PL10.247496. The current proposal however ensures that the two storey element would be sited a minimum of 5 metres from the boundary with the Beech Hill properties to the south and that part of the southern dwelling that is closest to the boundary is single storey and would not be such as to have a significant impact on the residential amenity of Nos. 3-6 Beech Hill. Of more concern however, is the proximity of the single storey element to the existing mature hedgerow boundary of the site and the likelihood that the proposed side element extending to within

900.mm of the boundary would result in the loss of the planting in this area. This existing boundary planting which is on the appeal site, forms an important element in screening the proposed development from the properties in Beech Hill and the protection of their residential amenity. In the event of a grant of permission it is therefore recommended that a condition be attached omitting the room labelled Sun Room in the submitted plans.

- 7.3.4. With regard to overlooking and the number of windows that are proposed in the south facing side elevation of the development, the appellants state that the proposed 5 no. such windows are excessive and would impact on residential amenity. I would however note and agree with the submission of the first party that of the 5 no. windows referenced, two are at ground level and would be screened, two are at an angle in roof slopes and one in the first floor gable serves a WC and will be fitted with obscure glazing. While there is no section drawing through the development that shows the side, (south) facing window in the roofslope that serves bedroom No.4, it would appear from the elevation drawings that it is at the same height off the floor as the rooflight in the rear roofslope, which is 1.8 metres above floor level. These window would require to have an opening element to comply with the building regulations. Subject to these windows being fitted with obscure glazing they are considered to be acceptable.
- 7.3.5. The proposed development would have a relatively bulky side profile when viewed from the south with a depth of c.12 metres and a large expanse of roof to accommodate the attic level accommodation proposed. On balance however, having regard to the overall scale of the roof and to the separation of c.15 metres minimum between the rear elevation of Nos. 3-6 Beech Park and the south facing elevation of the proposed development, and the retention of the existing boundary planting facilitated by the omission of the proposed sun room, it is my opinion that the proposed development would not have a significant adverse impact on the residential amenities of the occupants of Nos.3-6 by reason of visual obstruction.
- 7.3.6. The layout of the appeal site is such that the proposed development would be located to the north of the appellant's properties. I do not therefore consider that the proposed development would have any adverse impacts in terms of overshadowing or loss of daylight.

- 7.3.7. Private amenity space to the rear of the building line is proposed in both units and these areas measure approximately 190 and 120 sq. metres. The private amenity space provision is therefore significantly in excess of the 60-75 sq. metres per 3-4 bed unit specified in 11.7.1 of the development plan and is considered to be acceptable.
- 7.3.8. The proposed development would have an impact on the residential amenity and privacy of the occupants of Fanad House to the north and I note that a loss of amenity to this property was a concern expressed in the report of the Planning Inspector in Ref. PL10.247496. Fanad House has a significant number of windows that face south towards the appeal site and these can be seen in the attached photographs and notwithstanding the fact that the proposed dwellings are to be developed for members of the same family, there would be issues of potential overlooking arising. Subject to the use of obscure glazing in the gable of the proposed development I do not consider that there would be a significant loss of amenity for the occupants of Fanad House.
- 7.3.9. With regard to the visual impact and the impact on the character of the area, I note and would generally agree with the references by the first party to the absence of a clear pattern or established form of development in the general vicinity of the site. The roof pitch of the proposed dwelling is steeper and the extent of roof larger than the design of dwellings previously permitted on the site however I consider that the general design and form of dwellings proposed are acceptable in a predominately residential area such as the appeal site and that the form of development proposed is visually acceptable and complements the residential character of the area.
- 7.3.10. Paragraph 11.8.9 of the plan relates to infill development in existing residential areas and states that Development will only be considered if it, would not detract from the character of the area; would not be detrimental to the residential amenities of the area and would not be prejudicial to the proper planning and development of the area. On the basis of the above, I am satisfied that the requirements of paragraph 11.8.9 of the plan are met in this instance and that the proposed development would be in accordance with the proper planning and sustainable development of the area.

7.4. Other Issues

- 7.4.1. Access to the site is proposed to be via an existing cul de sac road that access Fanad House and a number of residential and commercial premises located to the north. This cul de sac road connects with the Castle Road at a located c.150 metres to the north of the appeal site. This junction is on a bend in the road, however it is in a location within the 50km/hr speed limit zone and at a point where there is adequate visibility in both directions. Overall therefore, the vehicular access to the site is considered to be acceptable.
- 7.4.2. The site is proposed to be connected to the public water supply and drainage network. Irish water have stated that they have no objection to the proposed development. I note the fact that the environment section of the Council recommended that further information regarding surface water disposal be requested. In the event of a grant of permission it is recommended that a condition be attached requiring the submission of details of surface water drainage for the agreement of the planning authority.
- 7.4.3. Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, 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.
- 7.4.4. Having regard to the small scale of development proposed, to the nature of the receiving environment and the absence of sensitive environmental sites in close proximity and to the nature of the emissions / wastes generated by the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can therefore be excluded at preliminary examination and a screening determination is not required.

8.0 Recommendation

- 8.1. Having regard to the above it is recommended that permission be granted based on the following reasons and considerations and subject to the attached conditions.

9.0 Reasons and Considerations

Having regard to the residential zoning objective for the area and the pattern of development in the area, to the planning history of the site and to the design and scale of the proposed development it is considered that, subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. 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 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 development shall be amended as follows:
 - (a) The room indicated as Sun Room on the southern side of the southern dwelling shall be omitted and no part of the permitted development shall be sited within 5 metres of the southern site boundary.

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 residential amenity.

3. The existing hedgerow and tree planting along the south and south western site boundaries shall be retained and maintained by the developer and the existing laurel hedgerow adjoining Nos. 3, 4 and 5 Beech park shall be maintained at a height of no more than 2.5 metres.

Reason: To screen the proposed development and to protect the residential amenities of adjoining properties.

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

Reason: In the interest of visual amenity.

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development the developer shall submit details of the attenuation and disposal of surface water on site for the written agreement of the Planning authority.

Reason: In the interest of public health.

6. All service cables associated with the proposed development shall be

located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

7. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1500 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.

8. 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, storage of equipment and materials and off-site disposal of construction/demolition waste.

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

9. All gable end windows above first floor level shall be fitted and thereafter permanently maintained with obscure glazing.

Reason: In the interests of residential amenity.

10. Prior to the commencement of development, an accurate survey of the

mature beech tree located at the south east corner of the site shall be carried out by an arborist or landscape architect. The survey shall show the root protection area for this tree and measures for its protection during the construction works and shall be submitted for the agreement of the planning authority prior to commencement of development

Reason: To facilitate the identification and subsequent protection of trees to be retained on the site, in the interest of visual amenity.

11. The developer shall pay to the planning authority a financial contribution of €10,625 (ten thousand six hundred and twenty five euro) 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. 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 An Bord Pleanála to determine.

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.

. Stephen Kay
Planning Inspector

13th November, 2018