



An
Bord
Pleanála

Inspector's Report ABP-302790-18

Development	Permission for a 1.5 storey detached mews dwelling to include removal of existing outbuilding, and associated site works at 1 Pearn's Cottage, Ballytruckle, Waterford.
Location	1 Pearn's Cottage, Ballytruckle, Waterford.
Planning Authority	Waterford City and County Council
Planning Authority Reg. Ref.	18/360
Applicant	Sonya Kelly
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party v Refusal
Appellant	Sonya Kelly
Observers	None
Date of Site Inspection	13 th , December 2018
Inspector	Paddy Keogh

1.0 Site Location and Description

- 1.1 The site of the proposed development which has a stated area of 0.0121 hectares is located at Pearn's Cottage, Ballytruckle on the southern side of Waterford City. The infill site is to be provided by the sub-division of the site of the existing dwelling at No. 1 Pearn's Cottage. The area in the general vicinity of the site comprises a mix of uses. However, Pearn's Cottage and the immediately surrounding area is a well established residential area characterized by terraces of predominantly single storey cottages. The attic space in a number of these cottages has been converted to habitable space. The majority of the converted attics incorporate rear dormer windows. However, there are also a significant number of front dormer windows.
- 1.2 No. 1 Pearn's Cottage occupies a corner site. The side of the site bounds a section of public road that terminates in a cul-de-sac. The bottom of this cul-de-sac is defined by a low wall with a pedestrian opening to the public road beyond.
- 1.3 There is a detached garage/outhouse on the site.
- 1.4 There is direct vehicular entrance to the rear of the site via solid wooden gates.

2.0 Proposed Development

- 2.1 The proposed development involves the removal of the existing garage and the construction of a detached dormer infill dwelling. New boundary treatments, a new external gate and landscaping are also proposed. The proposed dormer bungalow will be finished to a roof ridge height of 7.3m.
- 2.2 It is proposed to connect to the existing foul sewer and public water supply.

3.0 Planning Authority Decision

3.1 Decision

Notification of a decision to refuse planning permission for the proposed development was issued by the planning authority per Order dated 20th, September 2018. The single reason for refusal related to injury to the amenity of the existing house at No. 1 Pearn's Cottage (also in the ownership of the applicant) by reason of overshadowing and loss of light.

Planning Authority Reports

3.1.1 Planning Report

The initial report dated 16th, July 2018 notes the residential zoning of the site in the Waterford City Development Plan 2013-2019 and the acceptability in principle of the proposed development. However, the report identifies 2 matters of concern, notably (1) lack of clarity in relation to the quantum of private open space proposed to be retained to serve the existing house and (2) potential for the proposed house to injure the amenities of the existing dwelling by reason of overshadowing and loss of daylight. This report recommended that the applicant be requested to submit additional information to address both items.

A report dated 18th, September 2018 indicates that the planning authority are generally satisfied with the open space provision to serve the existing and the proposed house as clarified in the additional information submitted by the applicant. An existing steel canopy covering a portion of the rear yard will be removed to ensure adequate private open space provision for the existing house. However, the Area Planner concludes that the applicant has not satisfactorily demonstrated that the proposed development will not result in overshadowing and loss of light to the existing house at No. 1 Pearn's Cottage and concludes that (albeit the latter property is in the ownership of

the applicant) planning permission for the proposed development should be refused.

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

3.1.2 Other Technical Reports

- **Water Services Dept.** – Report from the Senior Engineer dated 19th, July 2018 indicates no objection to the proposed development subject to conditions.
- **Irish Water** - Report dated 18th, July 2018 indicates no objection to the proposed development subject to conditions.

4.0 Planning History

Reg. Ref. 96509745 – Planning permission for a garage and store to the rear of No. 1 Pearn's Cottage was refused by the planning authority per Order dated 2nd, July 1996.

5.0 Policy Context

Development Plan

- 5.1 The site of the proposed development is located within an area zoned 'Existing Residential' in the Waterford City Development Plan 2013-2019. The stated objective of this zoning is 'To protect, provide and improve residential areas and their amenities'.
- 5.2 Policy POL13.1.1 of the Development Plan sets out policy in relation to the encouragement and establishment of sustainable residential communities in the city. These include securing adherence to and implementation of the quantitative and qualitative design standards and controls implicit as set out in national guidelines '*Sustainable Residential Development in Urban Areas : Guidelines for Planning Authorities (DOEHLG 2009)*'.

- 5.3 POL 13.0.1 of the Development Plan states that it is the policy of Waterford City Council to require all development to comply with the relevant development management standards set out in the Waterford City Development Plan 2013-2019.
- 5.4 Standards in relation to residential development are set out in Chapter 13 of the Development Plan.
- 5.5 Chapter 5 of the national guidelines on Sustainable Residential Development in Urban Areas includes guidance on the promotion of increased residential densities in Cities and larger towns. Section 5.5 (a) refers to appropriate locations for increased densities in city and town centres including the promotion of infill development on suitable 'gap' sites.

Natural Heritage Designations

- 5.6 The site is located c. 1.15km from the Lower River Suir Special Area of Conservation (SAC) (Site Code 002137).
- 5.7 The site is less than 50m east of John's River which is a tributary of the River Suir.

6.0 The Appeal

6.1 Grounds of Appeal

- The applicant owns both No. 1 Pearn's Cottage (from which the appeal site is to be subdivided) and the appeal site.
- The planning authority reason for refusal relates to the potential for injury to the residential amenity of No. 1 Pearn's Cottage by reason of overshadowing and loss of daylight.
- The principal guidance document for measuring the impact on daylight and sunlight is as set out in British Research Establishment (BRE) 'Site Layout Planning for Daylight and Sunlight – A Guide to Good Practice 2011'. In accordance with these guidelines the main focus when assessing impact on residential property relates to the impact on living rooms, kitchens and bedrooms.

- The initial test stipulated in the BRE Guidelines is to establish if the proposed massing subtends above a 25 degree line drawn from the centre of the window in question. In the event that this standard is breached, assessment proceeds to examine the impact of massing in terms of Vertical Sky Component (VSC) and No Sky Line (NSL).
- The relevant rooms in the current appeal are the rooms to the rear serving ground floor kitchen and bathroom accommodation and bedroom accommodation at attic/dormer level.
- Computer modelling of the impact of the massing (gable wall of the proposed dormer dwelling) on rear windows serving bathroom, kitchen and bedroom accommodation at No. 1 Pearn's Cottage demonstrates that the proposed development complies with the recommendations of the BRE guidance in respect of the 25 degree line standard.
- The ground floor bathroom and kitchen windows serving No. 1 Pearn's Cottage currently face a solid wall (the side wall of an existing garage/outhouse). Sections AA and BB on the submitted appeal document (through the bathroom and kitchen windows respectively) demonstrate that the impact of the proposed structure will be no different to the impact that currently pertains with the massing of the existing garage/outbuilding. The applicant proposes to remove an existing roof canopy over part of a rear yard immediately behind the kitchen. The removal of this roof will improve the situation in respect of daylight to the kitchen window.
- Section CC illustrates the impact of the proposed development on the bedroom window at attic/dormer level in respect of daylight. This demonstrates that the 25 degree line is not currently obscured by development and that this will continue to be the case post-development.

6.2 Planning Authority Response

The Planning Authority has not submitted any response to the submitted grounds of appeal.

7.0 Assessment

7.1 The proposed development involves the construction of a dormer bungalow on an infill site to be provided by the sub-division of the rear garden currently serving No. 1 Pearn's Cottage – an end of terrace cottage located within a well-established high density urban context on the southern side of Waterford city. I note that the proposed development complies with the general policies and standards in relation to infill development as set out in the Waterford City Development Plan 2013-2019 and is generally in accordance with policies promoted in the *Sustainable Residential Development in Urban Areas : Guidelines for Planning Authorities (DOEHLG 2009)*.

7.2 The main issue in this appeal, therefore, is that raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issues of environmental and appropriate assessment also need to be addressed. The issues can be dealt with under the following headings:

- Daylight & Overshadowing
- Environmental Assessment
- Appropriate Assessment

7.3 Daylight & Overshadowing

7.3.1 The appeal submission demonstrates the impact of the proposed development on the residential amenities of the existing house at No.1 Pearn's Cottage in terms of daylight and overshadowing to the rear of the dwelling.

7.3.2 The appeal demonstrates that the proposed development will not breach the requirement for minimum daylight and sunlight as set out in the BRE Guidance '*Site Planning for Daylight and Sunlight ; A Good Practice (2001)*'. These guidelines measure impact by establishing if the proposed massing subtends **above** a 25 degree angle drawn from the centre of an affected window/room.

- 7.3.4 There is an existing bathroom window and kitchen window at ground floor level and a dormer bedroom window at attic level to the rear of No. 1. Pearn's Cottage. The appeal submission demonstrates that there will be no impact on daylight on the ground floor bathroom and kitchen windows insofar as the distance to the massing (gable wall of proposed dormer dwelling) is the same as that pertaining at present to the massing of the side wall of the garage/outbuilding currently occupying the site. There will be some impact on the dormer bedroom window. However, the impact will not subtend above the 25 degree angle. Thus, the proposed development will not breach the 25 degree rule as set out in the BRE guidance.
- 7.3.5 A shadow diagram analysis accompanies the grounds of appeal. The analysis examines the impact of the proposed development in June, September and December. The removal of the existing steel canopy covering a portion of the rear yard of No. 1 Pearn's Cottage will increase the amount of sunlight and reduce the amount of overshadowing of the kitchen window at all times insofar as this window will receive sunlight and daylight post development currently blocked by the canopy. In September the bathroom window will suffer from overshadowing. However, this is not a habitable room. In December, both the bathroom and kitchen windows will be overshadowed irrespective of whether or not the development proceeds.
- 7.3.6 The site of the proposed development occupies a tight urban context characterized by existing reasonably high density residential development. I consider that the overall configuration of development on this infill site is compatible with the established pattern of development in the immediate vicinity. The proposed development will be located immediately to the south of the existing dwelling at No. 1 Pearn's Cottage. While this juxtaposition of buildings will result in impact on the residential amenity of the No. 1 Pearn's Cottage in terms of overshadowing, based on the analysis outlined above, I consider that any impact will be of a marginal nature only.
- 7.3.7 It is clear from the submitted shadow analysis that there will be an increase in the extent of overshadowing of the rear yard (private open space) to be retained to serve No. 1 Pearn's Cottage. However, the extent of overshadowing will be limited by reason of the fact that the proposed

development will be located to the south of the existing house and the shadow cast will be limited from late morning and midday (when the sun is highest in the sky) onwards. In my opinion, as illustrated in the submitted shadow analysis, the rear yard of the existing dwelling will receive adequate sunlight throughout the summer months (defined as from June to September).

7.3.8 In the circumstances outlined, on balance, I consider that the proposed development would not seriously injure the residential amenities of the dwelling at No. 1 Pearn's Cottage (for existing or future residents of the property) by reason of loss of daylight or overshadowing. In this regard, I do not share the conclusion of the planning authority in their stated reason for refusal.

7.3.9 The submitted grounds of appeal contain a suggestion that the design of the proposed dwelling be modified in order to provide for a 'Dutch' style half-hipped roof. It is submitted that this modification would help to reduce the impact of the proposed development on No. 1 Pearn's Cottage. In my opinion, this design modification is unnecessary (being of little, if any, benefit to No. 1 Pearn's Cottage in terms of protecting daylight and limiting overshadowing) and highly undesirable in that a 'Dutch' style roof would be significantly out of character with the established architectural style in the vicinity of the site. I consider that such a modification would be detrimental to the visual amenities of the area. I consider that an appropriately worded condition that omits this feature should be attached to any grant of planning permission that may issue from the Board.

7.4 Environmental Assessment

7.4.1 Having regard to the nature and limited scale of the proposed development and the nature of the receiving environment 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 a preliminary examination and a screening determination is not required.

7.5 Appropriate Assessment

- 7.5.1 The proposed development concerns an urban infill site that is fully serviced by public foul and surface water sewers and there is no source-pathway-receptor link between the site and the Lower River Suir SAC which is c. 1.15km from the site or the John's River which is a tributary of the Lower River Suir and passes within c. 50m of the site.
- 7.5.2 Having regard to the nature and scale of development proposed and to the nature of the receiving environment, 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 any European site.

8.0 Recommendation

- 8.1 I recommend that planning permission for the proposed development be granted for the reasons and considerations and subject to the conditions as set out below.

9.0 Reasons and Considerations

Having regard to the residential zoning of the site in the Waterford City Development Plan 2013-2019, to the infill nature of the site, the design of the proposed dwelling and to the established character and patterns of development in the vicinity of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of adjoining dwellings or the amenities of the area and would 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 as amended by the further plans and particulars submitted on the 28th, day of August 2018, 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 design of the proposed house (including roof style) shall be as shown on the plans and particulars lodged with the planning authority. The proposed modification to the roof to provide for a half-hipped 'Dutch' style roof as shown in the appeal drawings lodged with An Bord Pleanála shall not be carried out.

Reason: In the interests of clarity and in the interest of visual amenity.

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

Reason: In the interest of public health.

6. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006

Reason: In the interest of sustainable waste management.

7. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to

An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Paddy Keogh
Inspector

15th, January 2019