



An
Bord
Pleanála

inspector's Report ABP-302894-18

Development	Permission for a two storey extension to the side of existing dwelling.
Location	7 Ashbrook, Rockshire Road, Mountsion, Ferrybank, Co. Kilkenny.
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	18402
Applicants	Alan Galibert
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party v Refusal
Appellant	Alan Galibert
Observers	(1) Marian Caulfield & Mary Nolan (2) Thomas & Patricia Gleeson
Date of Site Inspection	13 th , Dec. 2018 & 14 th , Feb. 2019
Inspector	Paddy Keogh

1.0 Site Location and Description

- 1.1. The site of the proposed development occupies a corner site (No. 7) within the Ashbrook estate off Rockshire Road, Mount Sion, Ferrybank, Co. Kilkenny.
- 1.2. The site which has a stated floor area of 397 sq.m. contains a 2-storey dwelling which is one of a pair of similar dwellings. A two-storey extension has been added to the side of the adjoining dwelling (No. 8).
- 1.3. Ashbrook estate contains a mix of two-storey dwellings and bungalows. The adjacent dwelling to the south (No. 6) is a bungalow.
- 1.4. Levels in the vicinity of the site fall away in an easterly direction towards the centre of Ferrybank and the River Suir beyond. The appeal site adjoins the rear gardens of detached bungalows fronting onto Rockshire Road. There is a significant drop in levels between the Ashbrook housing estate and the bungalows to the east. As a consequence, the existing configuration of development is such that No. 7 Ashbrook (the appeal site) is at a higher level than the rear gardens of the adjoining bungalows to the east.

2.0 Proposed Development

- 2.1. The proposed development which has a stated floor area of 83.36 sq.m. involves the construction of a two-storey extension to the side and single storey extension to the side and rear (incorporating living room and kitchen accommodation at ground floor level and bedroom accommodation at first floor level) and for a new screen wall within the site to divide the front and side garden of the existing house.

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 2nd, October 2019. The stated reason for refusal was as follows:

Having regard to the close proximity of the proposed two storey extension to a number of single storey properties adjoining the site to the south and east and the third party submissions received, it is considered that the two storey extension as proposed would by virtue of its size, proximity to boundary and potential for overlooking to third party property, seriously injure the residential amenities of the area and of properties in the vicinity. The proposed development would therefore be contrary to the zoning objective to “protect and enhance existing residential amenity” as expressed in the Ferrybank Belview Local Area Plan 2017 and contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner’s Reports dated 30th, July 2018 and 1st, October 2018 are the basis of the decision, and include:

- An extension can be accommodated on this site.
- There are concerns in relation to the proposed design with regard to the potential overlooking of adjoining single storey properties to the east and south.
- The Applicant has confirmed that an existing wall located within the site (partitioning the original side garden) will be removed to facilitate the proposed two-storey extension to the side of the dwelling.
- The Applicant has not changed the fenestration design of the proposed extension as suggested in the planning authority request for additional information.

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

3.2.2. Other Technical Reports

- **Irish Water** – No objection.

3.3. Third Party Observations

- 3.3.1. Third party observations were received from three adjoining neighbours objecting to the proposed development. The stated grounds of objection are similar to the

grounds of objection contained in the observations to the Board (outlined at Section 6.3 below)

4.0 Planning History

Reg. Ref. 99/1398 – Planning permission for 20 houses granted at Mount Sion, Rockshire Road, Ferrybank, Co. Kilkenny per Order dated 30th, December 1999. (The appeal site is one of these houses).

Adjoining Site

Reg. Ref. P06/1039 – Planning permission for a two-storey extension to the side of No. 8 Ashbrook, Mount Sion, Rockshire Road, Ferrybank, Co. Kilkenny was granted per Order dated 23rd, June 2006.

5.0 Policy and Context

5.1. Development Plan

The site of the proposed development is zoned 'Protect and Enhance Existing Residential Amenity' ('RE') in the Ferrybank Belview Local Area Plan 2017. The stated objective of this zoning is 'To allow for the protection and enhancement of existing residential amenity in the area'.

5.2. Natural Heritage Designations

The site of the proposed development is located c. 1 km from the Lower River Suir SAC (Site Code 002137).

6.0 The Appeal

6.1. Grounds of Appeal

- The proposed extension is needed to cater for the accommodation requirements of the Applicant and his young family.
- The rear garden of the appeal site is bounded by 2m high solid walls.

- The overall height, scale and massing of the proposed extension is appropriate to the site.
- The proposed development complies with normal site development standards for a development of this nature.
- The proposed extension will not adversely impact upon the residential amenities of adjoining dwellings.
- The proposed extension will not interfere with the amenities of neighbouring dwellings by reason of overlooking. In refusing planning permission for the proposed development, the planning authority were overly attentive to the overstated concerns of the residents of adjoining houses in respect of overlooking.
- The proposed development complies with the requirement in terms of separation distance between dwellings as set out in Section 11.2.3 of the Ferrybank-Belview Local Area Plan 2017.
- A reduction in separation distance between dwellings (from the normal 22m requirement) is reasonable depending on the angle of view, character of design etc.

6.2. Planning Authority Response

- 6.2.1. A submission from the planning authority per letter dated 21st, November 2018 states that the planning authority has no further comments to make in relation to the proposed development.

6.3. Observations

Objections to the proposed development have been received from the residents of three neighbouring houses. The basis of the objections can be summarised, as follows:

- (1) Thomas & Patricia Gleeson (bungalow fronting onto Rockshire Road – rear boundary wall adjoins appeal site)

- The proposed extension will be no more than 1m from the rear boundary wall separating the appeal site from the objector's property.
- Excavation works required to facilitate the proposed extension have the potential to damage the boundary wall.
- Concerns expressed in relation to surveillance of the objector's garden from a CCTV camera located on the appeal site.
- Concerned that the previously unauthorized commercial use of the site in connection with the motor trade will be re-activated in the future.

(2) Marian Caulfield, Casaverde, (bungalow fronting onto Rockshire Road – rear boundary wall adjoins appeal site).

- The windows at first floor level on the existing house on the appeal site overlook the northernmost corner of the rear garden of Casaverde. This situation will be exacerbated as a consequence of the proposed development – the proposed en-suite window at first floor level to the rear (which is not shown as being obscure glazed will directly overlook the rear garden of Casaverde)
- The proposed development will increase overshadowing of the rear garden and have an overbearing impact on Casaverde.

(3) Mary Nolan, No. 6 Ashbrook (adjoining bungalow to the south).

- The front windows of the existing house on the appeal site overlook (at oblique angles) the rear garden of No. 6 Ashbrook. A tree has been planted in the rear garden of No. 6 to limit overlooking. The proposed extension will give rise to further overlooking (from the proposed new front bedroom window). This will necessitate further screen planting in the rear garden of No. 6.
- Unauthorized commercial use (in connection with the motor trade) is occurring on the site.
- The proposed development constitutes overdevelopment of a restricted site.

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:

- Residential Amenity
- Appropriate Assessment

7.1. Residential Amenity

- 7.1.1. The existing dwelling on the appeal site has a stated floor area of c. 101 sq.m. The proposed part two storey and part single storey extension has a stated floor area of c. 83 sq.m. The proposed extension can be accommodated on site while still retaining adequate private open space to the rear and side of the house to provide for the needs of existing and future residents of the house. Adequate on-site car parking facilities and adequate separation distance between the side of the proposed extension and the site boundary (c. 1m) will be provided. The proposed development meets site development standards as set out in the Ferrybank-Belview Local Area Plan 2017 in respect of these matters. I note that there is a precedent for a large scale two storey extension (to the side and rear) of the adjoining dwelling at No. 8 Ashbrook.
- 7.1.2. I consider that the scale and proportions of the proposed extension are acceptable. However, an issue arises from the configuration of the existing two storey house and the character and juxtaposition of the appeal site viz-a-viz bungalows on the adjoining sites at No. 6 Ashbrook, 'Casaverde' (Rockshire Road) and 'Mount Sion', (Rockshire Road – Tom & Pat Gleeson). Objections to the proposed development on grounds of the overbearing impact of the proposed extension, overlooking and overshadowing have been received from the owners of these bungalows.
- 7.1.3. Levels in the vicinity of the appeal site fall away in an easterly direction. Thus, the existing dwelling on the appeal site is clearly visible from the rear gardens of the adjoining bungalows on Rockshire Road. The proposed two storey extension will be

closer to these gardens. Nonetheless, it will match the existing dwelling in terms of its overall height, width and proportions. The single storey component of the proposed extension will be visible only to a marginal extent above the existing c. 2m high wall separating the rear and side garden of the appeal site from the neighbouring gardens. In this context, having regard to the scale and proportions of the existing house, I consider that the proposed extension will not be unduly visually intrusive or overbearing in terms of its impact on the adjoining bungalows on Rockshire Road.

- 7.1.4. The proposed extension contains no windows at first floor level in the gable elevation facing the rear gardens of the bungalows on Rockshire Road. A small window is proposed at first floor level to the rear of the extension. This window is orientated in a north-easterly direction and has the potential to overlook a strip at the bottom of the rear garden of 'Casaverde'. However, the window serves en-suite accommodation only. I am satisfied that the potential for overlooking from this window can be adequately addressed by way of the attachment of a condition requiring that the window be bottom hinged and be obscure glazed.
- 7.1.5. I consider that any impact on the amenities of the rear gardens of the adjoining bungalows at Rockshire Road by reason of overshadowing will be marginal in nature. Potential for overshadowing from the south will be limited by the short shadow cast by the sun when it is shining from the south and highest in the sky. There will be no significant additional overshadowing from late afternoon and evening sunlight (when the sun is lowest in the sky) over and above the quantum of overshadowing from the existing house.
- 7.1.6. The existing configuration of development is such that the front of No. 7 Ashbrook faces the side of the bungalow at No. 6 at an oblique angle. This pattern of development allows potential for overlooking of the rear garden of No. 6 (over the side boundary wall) from existing front bedroom windows in No. 7. This is a feature of the original layout of the estate. The proposed development incorporates an additional bedroom window at first floor level which will be in closer proximity to No. 6. Thus, to some extent, the potential for overlooking will be compounded by the addition of another window. However, the proposed window will serve bedroom accommodation only which accommodation is not typically occupied throughout the

day. In this context, I consider that any increased overlooking would be only marginal in nature and would not seriously injure the amenities of No. 6 Ashbrook.

- 7.1.7. The scale and proportions of the proposed bedroom window significantly exceeds the scale and proportions of the existing windows at first floor level on either the appeal property of the adjoining dwelling. In the interests of visual amenity, I consider that the scale and proportion of this window should be reduced to match that of the adjoining window (box bedroom of the existing house). This can be achieved by condition. (This modification would also help to reduce the sense of overlooking of the rear of No. 6 Ashbrook).
- 7.1.8. The Applicant has suggested reversing the proposed first floor layout so that the proposed en-suite will be to the front of the house and the proposed bedroom will be to the rear. I see no merit to this proposed amendment. Furthermore, this amendment would result in much greater potential for overlooking of the rear gardens of the adjoining bungalows on Rockshire Road.
- 7.1.9. Having regard to the separation distance between the buildings I do not consider that the proposed extension would have an overbearing impact on No. 6 Ashbrook.

7.2. Appropriate Assessment

- 7.2.1. Having regard to the nature and scale and urban location 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 a 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 nature and scale of the proposed development and to the established character and pattern 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 amenities of adjoining or adjacent residential property by reason of overlooking or overshadowing, would not adversely impact upon the visual amenities of the areas 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 18th day of June 2018 and by the further plans and particulars received by the planning authority on the 18th day of September 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 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.

- (3) The proposed window at first floor level to the rear of the property serving en-suite accommodation shall be bottom hinged and glazed with obscure glass.

Reason: In order to prevent overlooking of adjoining property.

- (4) The proportions of proposed window at first floor level serving bedroom accommodation shall be amended to provide for a window that matches the window serving the existing adjoining box bedroom in terms of overall scale and proportions of window openings.

Reason: In the interest of visual amenity.

- (5) The external finishes of the proposed extension shall match those of the existing dwelling in terms of materials, colour and texture.

Reason: In the interest of visual amenity

- (6) 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

Paddy Keogh
Planning Inspector

25th, February 2019