



An
Bord
Pleanála

Inspector's Report ABP-303622-19

Development	Demolition and reconstruction of existing house
Location	Ballinagoth Quay, Rathsnagadan, Inistioge, Co. Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	18/476
Applicant(s)	Myles and Imelda Thorn.
Type of Application	Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party
Appellant(s)	Stephen O'Hara
Observer(s)	None
Date of Site Inspection	29 th of May 2019
Inspector	Caryn Coogan

1.0 Site Location and Description

- 1.1. The site is located in Ballingoth Quay, Inistioge, Co. Kilkenny. The subject site is 0.4Ha and contained an old cottage that was at the end of a rural cul de sac which leads to an old quay on the banks of the River Nore.
- 1.2. On the site, there is a new dwelling, positioned along the road side where the original cottage on site was located. Opposite to this is an old shed on an overgrown site.
- 1.3. Standing on the quay and looking up towards the dwelling, there are 2No. two storey dwellings nestled into the landscape in the back drop. Further up on the hillside there are a number of dwellings visible, but not prominent, and the area is not densely populated.
- 1.4. The road serving the area is a narrow cul de sac which meanders down to the river's edge. There is a sharp bend in the road just before the subject site.

2.0 Development

- 2.1. Retention of additions and alterations to a development granted under 16/841, for the demolition and reconstruction of the existing dwelling, increased ridge height and raised entrance to side of dwelling, changes to windows, a slate roof, grey walls and associated ancillary works.

3.0 Planning Authority Decision

3.1. Decision

The planning authority granted retention of the development as described subject to 3No. standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

It was never the intention to demolish original cottage, however a report submitted by Structural Engineers stated it was not satisfied with the structural integrity of the cottage and demolition was recommended.

The height of the original dwelling was increased by 1.4metre, in order to remove the house from a flood risk, the ceiling heights were raised to comply with building regulations.

The original cottage was not a protected structure or on the NIAH list. Although it is the loss of an original traditional building, safety and structural integrity are serious considerations.

3.2.2. Other Technical Reports

Environment Section : No objections

3.3.3 Further Information

A response to the further information request was received on 18/12/2018. Appropriate Assessment Screening was carried out by Dixon Brosnan and concluded that the elements for retention did not significantly impact on qualifying interests or conservation objectives of Natura 2000 Stage 2 Appropriate Assessment was not considered to be necessary. The file was referred to the department (Wildlife Section) and it had no objection to the proposals.

3.3. Prescribed Bodies

Department of AHRRG - following receipt of further information and the AA screening, the Department had no objections.

3.4. Third Party Observations

The third-party appellant raised similar concerns as on appeal:

- The works are not in keeping with the SAC
- Concern regarding future works to the old shed
- New entrance is dangerous

4.0 Planning History

16/841

Permission for additions and alterations to existing dwelling house to include a new single storey extension to rear and side of dwelling, a new window opening in existing southwest elevation, replacement of existing front door by a window, replacement of existing rough plaster, re-roof existing house, widen existing entrance, construction of new boundary wall, new wastewater treatment system, and demolition of rear extension.

5.0 Policy and Context

5.1. Development Plan

Kilkenny County Development Plan 2014-2020

5.2. Natural Heritage Designations

The site is located alongside the River Barrow and Nore SAC (Site Code 002162) which hosts a range of riverine habitats and species, and Rathsnagadán Wood NIAH with woodland habitats.

6.0 The Appeal

6.1. Grounds of Appeal

Stephen O'Hara has taken this third-party appeal against the decision to grant planning permission for the proposed development. The following is a summary of his grounds of appeal:

- The retention application is a change/ revision to the planning application, 16/841. The original proposal did not intrude on the landscape or impact on the historical quay.
- The original cottage was 300 years old and was razed to the ground and replaced by a larger dwelling. The larger dwelling looms over the quay and changes the atmosphere of the quay. The dwelling is within a SAC and is not

in keeping with the ambience of the quay which is an area of high amenity, conservation and heritage.

- The original dwelling had a similar ridge height to the old shed located opposite. Concern about the demolition of the old shed is also expressed and this would further change the atmosphere of the quay. If this did occur it would intimidate visitors away from the quay as it would give the impression that people are passing through somebody's private property. It is obvious the old shed is a target for the future as the sewer pipes serving the dwelling point towards the shed.
- The new entrance to the house is close to a bend in the road and is a safety risk. The original entrance was at the riverside of the cottage.
- The Board is asked to return the quay to its former appearance within the Special Area of Conservation.

6.2. Applicant Response

Planning permission was originally granted for the refurbishment of the original dwelling, the demolition of a poorly constructed extension, and replacement with a new extension and entrance. The new extension was not lower than the original house. During construction, it was discovered there were no foundations on one side of the cottage, and water from a spring was filling in through holes and into the room. The wall had to be removed, and proper drainage works put in place and foundations. The remaining cottage was made of mud and shale, and were deemed unsafe, as the dwelling was so close to the public road, it was deemed unsafe and demolished. The extension was now built but no cottage, and the applicants were faced with a huge financial bill to rebuild.

In terms of the ridge height, the higher foundations increased the ridge height, which was to protect the dwelling against flooding which can occur along the river bank. The aim was to retain to the character of the old cottage and reduce the risk of flooding. The cottage is on the same footprint as previous, and wooden slash windows are the specification with a natural slate roof.

A conservation architect was employed to design works, and the surrounding area is cherished by the applicants.

6.3. Planning Authority Response

The planning authority had no further comment.

7.0 Assessment

7.1 Development Plan

The site is located in a rural area of Kilkenny, south of Inistioge village along the banks of the River Nore. It is located at the end of a meandering cul de sac which supports a rural hinterland and a number of houses. The site originally contained a 300year old cottage, which the applicants were granted planning permission to refurbish and extend under planning reference **16/841**. The cottage, albeit an old vernacular structure, was not a protected structure or listed in the National Architectural Inventory. The applicants were granted permission as the principle of refurbishing the existing dwelling and extending it is in compliance with development plan policies and sustainable planning practice.

According to the appeal file, following completion of the extension, it was noted structural integrity of the cottage was unsafe as there were no foundations on one side and a spring was found to be leaking into one of the rooms. The applicants demolished the cottage but constructed a replacement unit on the same footprint but with higher foundations to avoid the risk of flooding from the adjoining river. The roof was completed higher than the original cottage to comply with the Building Regulations. In total the finished ridge height was 1.4m higher than the original ridge height of the cottage. The basic footprint of the cottage remained the same and the overall elevation design was similar but with quality specifications in the form of timber slash windows and a slate roof.

7.2 Visual Impact

The third-party appellant has expressed concern over the visual impact of the completed dwelling on the sensitive landscape and heritage area. It is considered the height and scale of the completed dwelling negatively impacts on the heritage quay and the wider area. The third party is also concerned about the potential to refurbish the old shed also in the ownership of the applicant and the implications of same in

terms of the quay, the ambience and conservation atmosphere of the area. The site is within a Special Area of Conservation.

The subject site is the last dwelling, formerly known as *Nore Cottage*, along the public road which is a cul-de sac leading to *Ballinagoth Quay*. Upon until recently there was an old 30 ft wreck located at the Ballinagoth Quay but Kilkenny Co. Co. removed it as it was becoming an eyesore and a danger.

Having examined the completed development in the context of the Quay itself, and the approach to the Quay along the public road, I do not consider the development detracts from the visual or heritage qualities of the area. Although the subject matter of this appeal is a subjective issue, I believe the applicants have constructed a very interesting extension onto the cottage which is very pleasing from all vistas inside and outside of the site. The dwelling is located below the level of the road on approach from the main Regional Road, and the single storey profile and compartmentalisation of the overall footprint, greatly reduces its massing and visual impact. The hedgerow screens the cottage from total view and one only gets glimpses of the dwelling through breaks in the hedge on approach from this side. The main view, in my opinion, is from the direction of the Quay itself. I note the increase in height from the original cottage relative to the derelict shed on the opposite side of the road. In my opinion, given the setting of the site, and the ascending backdrop, I consider the revised height and massing to be acceptable, and not obtrusive on the landscape. The dwelling is derived from the footprint and elevational design of the original cottage, it includes a contemporary extension which is derived from vernacular design principles. The external specifications of the dwelling consist of quality finishes and the dwelling makes a positive architectural statement on the surrounding area without making an obnoxious statement. In my opinion, the overall development is a commendable contemporary architectural statement derived from a conservation objective. The dwelling still maintains an old vernacular appearance with a contemporary twist.

In terms of concern over the future of the shed across the road from the dwelling, this is a speculative concern and it is not relevant to this appeal.

7.3 Access/ Safety

The vehicular access to the dwelling is now at the eastern side of the dwelling only. Previously, there were two accesses to the dwelling from both sides along the road, with the riverside (western) been the main access to the original cottage. Whilst I acknowledge the upgraded eastern access is positioned on a slope, a short distance after a sharp bend in the road, it should be noted, given the width, the vertical and horizontal alignment of the cul de sac at this point, traffic will naturally be moving slowly. Furthermore, as this is a cul de sac leading to the river bank, with a very low number of houses in the immediate area, there is very light traffic on the road. During my site inspection, midday mid week, which took over thirty minutes to complete, I noted no other cars or vehicles on the road at this point apart from my own.

The enhanced vehicular access from the eastern side of the house serves the relocated front door of the dwelling. It is an upgrading of a pre-existing entrance to the property and given the low volume of traffic along the cul de sac at this point, I do not consider the access and traffic turning movements associated with same, to be a traffic hazard.

7.4 Appropriate Assessment

As part of the planning application assessment the development was screened for appropriate assessment by the planning authority. It was also referred to the Department of Culture, Heritage and The Gaeltacht, who stated in a submission the development required screening for Appropriate Assessment.

An appropriate assessment screening report under the parent permission for the extension, planning registration 16/841 concluded the proposed development of which part lies within the River Barrow and River Nore SAC, does not support the species or habitats for which these Natura 2000 sites were selected. The project does not present any risk of direct adverse effect on either the habitats or species for which the site was selected. No impact from invasive species is predicted to occur. Given the limited nature of the works, the distance from estuarine habitats, the presence of the vegetated buffer, the robust nature of the qualifying habitats the impacts on water quality during and post construction will be negligible.

The River Barrow and Nore SAC (Site Code 002162) occurs adjacent to the development, this is the only relevant designated site as other sites are over 10km (Blackstairs Mountains) and impacts from the development are unlikely.

The River Barrow and Nore SAC (Site Code 002162) consists of freshwater stretches of both rivers as far upstream as the Slieve Bloom Mountains, and it includes tidal elements as far down as Creadun Head in Waterford.

Features of Interest

Estuaries [1130]

Mudflats and sandflats not covered by seawater at low tide [1140]

Reefs [1170]

Salicornia and other annuals colonising mud and sand [1310]

Atlantic salt meadows (*Glaucopuccinellietalia maritima*) [1330]

Mediterranean salt meadows (*Juncetalia maritimi*) [1410]

Water courses of plain to montane levels with the *Ranunculion fluitantis* and *Callitriche-Batrachion* vegetation [3260]

European dry heaths [4030]

Hydrophilous tall herb fringe communities of plains and of the montane to alpine levels [6430]

Petrifying springs with tufa formation (*Cratoneurion*) [7220]

Old sessile oak woods with *Ilex* and *Blechnum* in the British Isles [91A0]

Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (*Alno-Padion*, *Alnion incanae*, *Salicion albae*) [91E0]

Vertigo moulinsiana (Desmoulin's Whorl Snail) [1016]

Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]

Austropotamobius pallipes (White-clawed Crayfish) [1092]

Petromyzon marinus (Sea Lamprey) [1095]

Lampetra planeri (Brook Lamprey) [1096]

Lampetra fluviatilis (River Lamprey) [1099]

Alosa fallax fallax (Twait Shad) [1103]

Salmo salar (Salmon) [1106]

Lutra lutra (Otter) [1355]

Trichomanes speciosum (Killarney Fern) [1421]

Margaritifera durrovensis (Nore Pearl Mussel)

In terms of the Freshwater pearl mussel, this species only occurs in freshwater, and the proposed development adjoins an estuarine section of the Nore River, therefore no potential impacts of that species can be identified. There were no signs of otter such as spraints, feeding, holts and couches within 150metres of the bank adjoining the proposed development. The crayfish, lamprey, shad lives in freshwater habitats. Given the nature and small scale of the development it is highly unlikely the proposal will impact on Atlantic salmon spawning. No potential risk to the remaining qualifying species and habitats has been identified.

Elevated silt levels could theoretically result in changes in the ecology of the estuary. The potential for high levels of silt been generated was low given the limited scope of the development, the 30metres distance from the estuarine habitats, the presence of a vegetated buffer between the site and the river, and the robust nature of the habitats. The proprietary treatment system on site was put in place in accordance with current EPA Guidelines, and this will ensure adequate environmental protection. There are a number of dwellings and farms in the local area and wastewater is discharged from Inistioge and Thomastown. In the absence of any significant impacts associated with the development, no potential cumulative impacts on water quality have been identified.

It is concluded that the development was not connected directly with or necessary to the management of a Natura 2000 site and does not have significant impacts on the Natura 2000 network. The elements proposed for retention did not have a significant impact on qualifying interests and conservation objectives for Natura 2000 sites, and that the integrity of these sites was no adversely affected, and no significant impact during occupancy has been identified. As no significant indirect or cumulative impacts on the Natura 2000 sites has been identified, a Stage 2 Appropriate Assessment (NIS) is not required.

8.0 EIA Screening

- 8.1. Having regard to the nature and scale the 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.

9.0 Recommendation

- 9.1. I recommend the planning authority's decision to grant permission for retention of the development be upheld.

10.0 Reasons and Considerations

Having regard to the pattern of development in the area and to the scale, nature and design of the works to be retained, it is considered that, subject to compliance with the conditions set out below, the development proposed for retention would not seriously injure the amenities of the area or of property in the vicinity and would not give rise to a traffic hazard. The development proposed for retention would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be retained 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 of December 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 and the development shall be retained and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. This grant of permission relates to retention of revisions and changes to a development granted planning permission under the parent permission, planning registration number P16/841. This permission is conditional on all

conditions being complied in accordance with the terms and conditions of the parent permission, P16/841.

Reason: In the interest of clarity

3. 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 the 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.

Caryn Coogan
Planning Inspector

6th of June 2019