



An
Bord
Pleanála

Inspector's Report

ABP-304312-19

Development	Permission for demolition of existing habitable dormer dwelling and attached one bedroom apartment, and construction of a new two storey dwelling, storage shed and all associated site works at
Location	The Dormers, Waterford Road, Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	18739
Applicant(s)	Kate & Noel Sugrue
Type of Application	Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party
Appellant(s)	Jane & Stephen Gillman
Observer(s)	None
Date of Site Inspection	12 th July 2019
Inspector	Ciara Kellett

1.0 Site Location and Description

- 1.1. The site is located adjacent to, and just north of, the Waterford Road roundabout junction of the southern Kilkenny Ring Road. It is c.1.4km south of Kilkenny Castle Park and is accessed from the R910 road which runs in a north-south direction to the east of the site.
- 1.2. The site is stated as being 0.18Ha in area. The existing dwelling on the site shares a setback entrance off the R910 with the dwelling immediately to the north of it. The appellants live in the dwelling immediately to the south of the site. That dwelling is not accessed from the R910 but from the Springfields estate to the west. As a result, the front of the appellant's dwelling faces west towards Springfields and not east towards the R910.
- 1.3. The Waterford Road falls from south to north resulting in the appellant's dwelling being at a higher elevation than the applicant's dwelling.
- 1.4. The existing dwelling is stated as being 223sq.m in area and is a dormer style dwelling with three dormer windows facing the R910. An attached one-bedroom apartment is also on the site.
- 1.5. Dwellings in the vicinity of the roundabout are mostly single or dormer style dwellings on large plots. A number of small clinics and offices are located opposite the site as well as residential dwellings.
- 1.6. Appendix A includes maps and photos.

2.0 Proposed Development

- 2.1. It is proposed to demolish the existing dormer dwelling and attached one-bedroom apartment on the site and replace it with a new two storey four bed roomed dwelling. The new dwelling is stated as being 334sq.m in area. A domestic store/shed of 24sq.m is proposed to the rear of the dwelling.
- 2.2. The front façade building line is proposed to move east. There will be a 1.02m gap between the dwelling and the boundary of the appellant's site and a total distance between gable walls of 3.98m. There will be a distance of 6.106m between the gable and the boundary of the dwelling to the north.
- 2.3. Following the request for Further Information the ridge height was reduced from 9.665m to 8.35m. To the rear of the dwelling there will be 4 windows at first floor.

First floor windows in either gable end are mostly obscured glazing with the exception of one bedroom window on the northern gable.

- 2.4. The dwelling style is modern in appearance and materials. Screen planting is proposed along the boundaries to the north and south.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to 11 standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's report is the basis for the Planning Authority's decision. The Planning Authority sought further information. In summary it includes:

- At a pre-planning meeting on the site the applicant was informed that there was no issue with a 2 storey style house provided that the height was only slightly higher than the existing house on site.
- Site is zoned 'Existing Residential'.
- Considers height at almost 10m excessive as the site is already higher than the road level and notes dominance of dormer and bungalow type houses in this area and it would be preferable to lower dwelling by 2m.
- No reasoning why existing 1990's house cannot be extended or renovated.
- Notes concerns from neighbours either side and considers there are several windows that should be omitted to prevent overlooking.
- Recommends that Further Information is sought with respect to five areas including: 1. Why the existing house is not being extended and renovated; 2. The proposed height at 9.665m is unacceptable and a reduction in height is advisable; 3. Request contiguous elevations with adjacent properties; 4. Clarification if all boundary walls are being maintained; 5. Omit the gable end window in the northern façade of the master bedroom and omit the two gable end windows at ground floor level.

- The applicant responded to the request including justifying the reason for demolishing the existing dwelling, a reduction in overall height, contiguous elevation drawings, confirmation of maintaining boundary walls and submission of a landscaping plan, and moving building and corner windows forward of existing building lines to enhance privacy.
- The Planner considered that the house design had been amended to be more consistent with the adjacent houses in terms of height and that the alterations to the façade were not significant. In addition, notes the house has been moved slightly forward but is in keeping with the adjacent house to the south and the house two sites away to the north. It is not perceived to overshadow the house to the north.
- The Planner recommended that permission is granted subject to conditions.
- The decision was in accordance with the Planner's recommendation.

3.2.2. Other Technical Reports

- **Environment Section:** No objection subject to condition
- **Area Engineer:** File referred

3.3. Prescribed Bodies

- **Irish Water:** File referred

3.4. Third Party Observations

There were two third party submissions from residents either side of the proposed dwelling. Both expressed concerns with the scale, mass and bulk of the proposal as well as overlooking concerns. This is dealt with further in the appeal below.

4.0 Planning History

There are two planning applications on the site. In summary:

- **Reg. Ref. P96/552:** Permission for a dwelling house on the site was granted in September 1996.
- **Reg. Ref. P08/547:** Permission for a change of use from a dwelling to a clinic/surgery was granted in December 2012.

5.0 Policy Context

5.1. Kilkenny City & Environs Development Plan 2014 - 2020

- 5.1.1. The site is located within the Kilkenny City and Environs administrative area. It is zoned 'existing residential' in the Plan.
- 5.1.2. Chapter 3 of the Plan addresses Core Strategy & Zoning, chapter 5 addresses Housing and Community, and chapter 11 addresses Requirements for Developments.
- 5.1.3. Chapter 3 notes that the objective for lands zoned Existing Residential is '*To protect, provide and improve residential amenities*'. Chapter 11 refers to residential standards including Scale of Development, Building Height Control, and Building Lines.

5.2. Natural Heritage Designations

- The River Nore SPA (Site Code 004233) is c. 1.5km to the north-east
- The River Barrow and River Nore SAC (Site Code 002162) is c. 1.5km to the north-east

5.3. EIA Screening

Having regard to the nature and scale of the proposed development comprising the demolition of a dwelling and the construction of a replacement dwelling in a serviced urban area 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.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal from the neighbours to the south of the site has been received by the Board. In summary it includes:

- No issue with the principle of development.

- Concerned with loss of residential amenity – existing modest bungalow on the site has a maximum ridge of 7 metres and has no windows at first floor level to the rear. North-western part of their site is sheltered from traffic noise on Waterford Road and consequently is where they spend their leisure time. Their western boundary has significant natural screening which ensures there is no overlooking. The proposed design has a number of windows at first floor to the rear which will overlook their garden particularly the north-western corner.
- A more sympathetic design following the advice of the Senior Planner can be achieved to accommodate the needs of the applicant and address the existing constraints.
- The design of the existing houses either side are low profile single or dormer dwellings with a high degree of privacy. The proposed house is 8.3m high and is overbearing.
- The design is incompatible with the established pattern of development and streetscape.
- Their home will be devalued.
- There is poor and possibly misleading documentation with the application. The applicant's contiguous elevation includes incorrect ridge heights – drawing included with their roof profile marked up.
- Restate the Kilkenny Planner's advice in the Planning Report referring to requesting reduction in height of house.

6.2. Applicant Response

The applicant was provided an opportunity to respond to the appeal. In summary it includes:

- The proposed dwelling was altered at FI stage to accommodate concerns raised by Local Authority and adjacent residents.
- The footprint and floor area are as originally proposed with revised elevational treatment which will enhance the streetscape.
- The dwelling was brought forward to the established streetscape building line thereby moving all front façade/corner windows forward of the adjoining

private open spaces and thereby enhancing the privacy of adjoining occupants and eliminating overlooking of private open space.

- Note the appellant's rear private open space is to the south-east of the applicant's property and its front garden is to the south-west fronting onto Springfields. The private open space is not overlooked. Proposal includes two gable windows at first floor – to the north and south gable – both are WC/bathroom and will be obscure glazing.
- The building pattern is not dominated by single storey dwellings – there is a mix of single, dormer and two storey dwellings in the immediate vicinity.
- Consider that the site section and contiguous elevations are an accurate representation of the scale of the proposed dwelling in the streetscape context. The ground levels are accurate, there is a reduction in existing ground level in excess of 0.5m between the appellant's property and that of the applicant. Are of the opinion that the site section is an accurate reflection insofar as could be reasonably established – no planning records exist on the Local Authority's website or a hard copy for the appellant's dwelling.
- Applicants offer to plant semi-mature Hornbeam trees along the common boundary stands.

6.3. Planning Authority Response

The Planning Authority have no further comments.

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 Amenities
- Design of dwelling
- Appropriate Assessment

7.1. Residential Amenities

- 7.1.1. The appellants live in the dwelling to the south of the site and state that there is no objection in principle to the construction of a replacement dwelling. However, they have significant concerns with the design of the proposed replacement dwelling, which they are of the opinion fails to take into consideration the existing constraints on the site and results in an impact to their residential amenities.
- 7.1.2. The appellants express concern with the height of the proposal and the windows now proposed at first floor to the rear. The existing dwelling has no windows to the rear at first floor and they are concerned that the new design introduces 4 windows which will overlook their front garden where they spend most of their leisure time.
- 7.1.3. The two houses, due to orientation are effectively opposite, i.e. the rear façade of the new dwelling aligns (approximately) with the front façade of the appellant's dwelling. However, due to the traffic noise the appellant's state that the north-west corner of their front garden is where they spend most of their leisure/outdoor time.
- 7.1.4. There are two windows proposed for bedrooms no. 3 & 4 to the rear and while they are large at 2.4m in width, I do not consider them to be excessive. I accept that this may introduce a new perception of overlooking having regard to the fact that there are no windows currently. However, in this instance there is substantial landscaping and well-established trees and hedges in the appellant's front garden which will effectively screen any overlooking of the area where they state they use most.
- 7.1.5. The applicant has offered to plant additional semi-mature trees along the boundaries and I consider that subject to a condition to this effect, there will not be a serious injurious impact to the residential amenities of the appellants as a result of overlooking or loss of privacy.
- 7.1.6. The applicant has stated that the windows on either gable end serve bathrooms and will be obscure glazing. I have no concerns with overlooking from these windows.
- 7.1.7. The appellant refers to the design being excessively overbearing at 8.3m in height and only 1.2m from their boundary. There is also concern raised about the size, scale and massing. The drawings indicate that there will be c.4m between the gable walls. Having regard to the large sites belonging to the appellant and applicant, the c.4m distance between the gable walls, and the alignment of the building lines, I am satisfied that the size, scale and massing of the proposal is acceptable and will not have an overbearing impact.

7.1.8. The appellants submitted a mark-up of drawing reference 103FI with what they consider to be the correct height of their dwelling which appears to be lower than indicated on the drawing. They are concerned that the true impact of the increase in the height of the new dwelling has not been accurately represented on the drawings. In response the applicant states that they believe that the contiguous elevation is an accurate representation of the scale of the proposed dwelling within the streetscape. They state that the ground levels are accurate and there is a reduction in existing ground level in excess of 0.5m between the appellant's property and the applicants. A planning search did not provide planning application drawings for the appellant's dwelling to enable the applicant to establish the permitted ridge height.

During my site visit it was not possible to accurately measure the appellant's dwelling height. However, it is clear that the ground levels do fall between the sites and the applicant's site is at a lower elevation and the appellant's dwelling is currently higher than the existing dwelling on the site. Notwithstanding this, I am of the opinion for reasons stated above that there will not be an overbearing impact on the appellants dwelling even if there are inaccuracies on the drawing with respect to the appellant's dwelling ridge height. I am satisfied that there are sufficient distances between both gable ends, as well as the alignment of the building lines even if there is a query about the actual height of the appellant's dwelling.

7.1.9. While not raised as an issue by the appellants, I note that having regard to the orientation of the dwelling there will not be an impact as a result of overshadowing on the appellants dwelling or their use of the north-west corner due to the replacement dwelling. With respect to the dwelling to the north, I am satisfied that the location of the proposed dwelling (further east of the existing building line) and the distance between the gables will ensure that overshadowing is not an issue with that dwelling either.

7.1.10. In conclusion, I am of the opinion that the proposed replacement dwelling will not result in a significantly injurious impact on the residential amenities of the appellants and do not consider that this is a reason for refusal of permission.

7.2. Design of Dwelling

7.2.1. The appellants state that the majority of dwellings in the vicinity are single or dormer style dwellings and therefore this design is incompatible with the established pattern

of development. The applicant disagrees and is of the opinion that there is a wide mix of dwellings including two storeys.

- 7.2.2. From my site visit, I can confirm to the Board that there is no established pattern or distinctive style of development in the vicinity. The dwellings are located on a busy road which contains a mix of commercial and residential development. The residential units are mainly a mix of single storey, dormer, gable fronted and some two storey dwellings. Each unit would appear to be of an individual style and in my opinion the proposed dwelling will not be out of place along the streetscape.
- 7.2.3. The design is that of a contemporary style which will add to the variety along the road. Furthermore, I am of the opinion that a landscaping plan can be agreed with the Planning Authority to enhance the streetscape.
- 7.2.4. To conclude, I am satisfied that the proposed design is not incompatible with the established pattern of development in the area and will not injure the streetscape or visual amenities of the area.

7.3. Appropriate Assessment

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 a European site.

8.0 Recommendation

- 8.1. Having regard to the documentation on file, the appeal, the site inspection and the assessment above, I recommend that permission for the above described development be granted for the following reasons and considerations, subject to conditions.

9.0 Reasons and Considerations

Having regard to:

- (a) the provisions of the Kilkenny City & Environs Development Plan 2014 - 2020,
- (b) the nature, scale, building line and orientation of the development proposed,
- (c) the size of the overall site, and

(c) the mixed pattern of development in the area,

it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>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 7th day of March 2019, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>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 and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>
3.	<p>Details of the materials, colours and textures of all the external finishes of the dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p>

	<p>Reason: In order to screen the development and in the interest of visual amenity.</p>
5.	<p>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.</p> <p>Reason: In the interest of public health.</p>
6.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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.</p> <p>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.</p>

Ciara Kellett

Inspectorate

15th July 2019