



An  
Bord  
Pleanála

## Inspector's Report

### ABP-305757-19

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<b>Development</b>	Demolish a single storey dwelling and shed and construct a two storey dwelling with a detached garage and an open summer house and all associated site works.
<b>Location</b>	Unara Lodge, No 7 Kilcreen Cottages, Kilcreen, County Kilkenny.
<b>Planning Authority</b>	Kilkenny County Council
<b>Planning Authority Reg. Ref.</b>	19461
<b>Applicant(s)</b>	Silviu and Crina Gherca
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Silviu and Crina Gherca
<b>Observer(s)</b>	Brian and Agnes Dowling
<b>Date of Site Inspection</b>	31 <sup>st</sup> December, 2019

**Inspector**

Stephen Kay

## 1.0 Site Location and Description

- 1.1. The appeal site is located c.1.5km to the west of the centre of Kilkenny City on the Circular Road R695 which runs south west from Kilkenny to Kilmanagh. The site comprises one of a total of 7 no. single storey houses that are located in a cul de sac accessed off the R695 with the appeal site being different from the others in that it is accessed directly from the R695.
- 1.2. The existing dwellings on the adjoining sites to the north west within the cul de sac are small and are effectively chalets of timber construction with low pitched roofs. Information on file indicates that the houses were originally in local authority ownership. The existing house on the appeal site is a single storey design with a low pitched roof such that the overall height of the building is c. 3.5 metres above the existing ground level. The stated floor area of the existing house on the site is 85.9 sq. metres.
- 1.3. In addition to the main house there is also a shed or standalone accommodation located at the rear of the site along the north west boundary. This structure is located immediately adjoining the boundary with the adjoining house at No.6 Kilcreen Cottages.
- 1.4. To the east, the site boundary comprises a block boundary wall with the adjoining property to the east being a two storey dwelling which is access from the R695. This adjoining site is located at a lower level to the appeal site by approximately 2 metres. The western site boundary comprises a wire fence beyond which is a landscaped strip between the site and the road which is outside of the ownership of the first party. The boundary to the R695 comprises a stone wall located close to the road edge with a recessed entrance close to the southern end. The rear boundary with No.6 Kilcreen Cottages is poorly defined with tree and shrub planting. There are also a number of mature trees located along the boundary with the adjoining house to the north east.
- 1.5. To the east and south east of the site, the section of the existing R695 which fronts the site will shortly be by passed by a new realigned section of the road which is currently under construction. This new section of road commences from a position approximately 50 metres to the south west of the site and will run to the east of the existing alignment and towards a new roundabout to the north east of the appeal

site. The effect of these road realignment works when complete will be that the road fronting the appeal site will now be a cul de sac and no longer part of the regional road network.

- 1.6. The existing house on the site is served by the public water supply and foul drainage systems.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the demolition of the existing structures on the site and the construction of a new two storey dwelling on the site. The proposed new dwelling would be centrally located on the site and incorporate a complex hipped roof profile with a covered car part located on the eastern side of the house and covered terrace on the western side.
- 2.2. The stated floor area of the proposed dwelling is 262 sq. metres. A detached garage is proposed to be sited at the north east corner of the site and a 'summer house' is indicated at the south west corner. Access is proposed to be provided from a new entrance approximately in the centre of the site frontage onto the R695.
- 2.3. The north west and southern boundaries to the site are proposed to be altered with new plastered and capped walls.
- 2.4. The new dwelling is proposed to be connected to the public water supply and foul drainage networks.

## **3.0 Planning Authority Decision**

### **3.1. Further Information**

Prior to the issuing of a Notification of Decision, the following items of further information were requested from the applicant:

1. That the planning authority have concerns regarding the scale bulk and massing of the proposed development and the design regarding the ratio of roof to wall and potential for overlooking. A revised design addressing these issues is requested.

2. Clarification of what boundary trees are proposed for removal as part of the development.
3. Clarification as to how the required visibility splay at the site entrance as required by SMURS can be achieved.
4. Clarification regarding any ESB poles / lines that traverse the site.

The following is a summary of the main information submitted in response to the request for further information:

- Revised plans for the dwelling submitted which propose a reduction in the FFL and a reduction in the roof height which combine to reduce the overall height of the dwelling by c.1.84 metres. Stated the first floor windows to the rear and side are mainly bathroom and dressing room and that such windows will be fitted with obscure glazing.
- Stated that floor area of all structures is 242 sq. metres which is 30 percent of the site area of 830 sq. metres. (Noted that the submitted plans as part of the RFI indicate that the total floor area of the house is 262 sq. metres).
- That the trees have been shown on the revised site plan. New trees proposed to replace those lost and provide additional screening.
- That the front boundary wall is proposed to be located 1 metre further back to achieve the required visibility splays.
- ESB poles and lines shown on the plans with some to be relocated.

### 3.2. **Decision**

The Planning Authority issued a Notification of Decision to refuse Permission for a single reason that can be summarised as follows:

1. That the bulk, scale and massing of the proposed house is such that relative to its surroundings and smaller scale development on adjoining sites the proposed development would fail to take cognisance of its location and would be excessively visually prominent and such that it would be contrary to several design criteria set out at 11.4 of the development plan and contrary to the proper planning and sustainable development of this suburban area.

### 3.3. **Planning Authority Reports**

#### 3.3.1. Planning Reports

The initial report of the planning officer notes the third party submission on file and issues raised. The visual impact of the development is considered to be significant given the scale of the dwelling proposed and those on surrounding sites. Significant changes to the design are required to address issues of design and overlooking. A second report subsequent to the request for further information

#### 3.3.2. Other Technical Reports

Road Design – No objection.

Area Engineer – notes the location and design of the proposed entrance and states that further information on compliance with DMURS and achievement of sightlines is required.

### 3.4. **Prescribed Bodies**

Irish Water – No objection to proposed development.

### 3.5. **Third Party Observations**

A third party observation was submitted on behalf of the owners of the adjoining house to the north east of the appeal site. The main issues raised in this submission can be summarised as follows:

- That the scale of surrounding houses and site levels are such that the proposed house would tower over its surroundings.
- Design and scale out of character with surroundings.
- Removal of boundary trees.
- Overlooking of first floor windows.
- Removal of the existing shed / outbuilding will result in the adjoining No.6 Kilcreen Cottages being exposed and overlooked.
- Inadequate private amenity space and over development of the site.
- Existing drainage / sewer issues in the vicinity that need to be resolved.
- That the site has a history of multiple occupancy and it is feared that this will continue.

#### 4.0 Planning History

The report of the Planning Officer does not note any recent planning history relating to the appeal site.

The following relates to the lands opposite the appeal site on the opposite (southern) side of the R695:

Kilkenny County Council Ref. 17/866; ABP Ref. ABP-303427-19; Permission granted by the planning authority and decision upheld on appeal for the development of 14 number Type A four bedroom semi-detached houses, five number Type B three bedroom corner houses, six number Type C three bedroom end terrace houses, 23 number four bedroom terraced houses, three number two bedroom apartments and three number three bedroom duplex units with all associated site works.

## 5.0 Policy Context

### 5.1. Development Plan

The site is located on lands that are within the development boundary of the *Kilkenny City and Environs Development Plan, 2014-2020* and the appeal site and adjoining houses in Kilcreen Cottages are all zoned Existing Residential. Dwellings are a Permitted Use on lands that are zoned Existing Residential.

Section 11.4 of the plan relates to residential standards and 11.7 relates specifically to open space. A minimum of 60-75 sq. metres of private amenity space is required for a 3 or 4 bedroom house.

Section 11.8.9 relates to infill development and states that infill developments and refurbishments will be required to pay particular attention to local scale and plot size and to the local character of the area. Development will only be permitted where it will not detract from the character or residential amenity of the area.

### 5.2. Natural Heritage Designations

The closest European sites are the River Barrow and River Nore SAC and the River Nore SPA sites which are located c.1.5km from the appeal site at the closest point. There is a stream which is located c.50 metres to the north west of the appeal site at the closest point and which provides a direct hydrological connection between the appeal site and the European sites.

### 5.3. EIA Screening

The form of the proposed development comprising a new dwelling is of a class of development that requires EIA, that being Class 10(b)(i) of Part 2 of the Fifth Schedule of the Planning and Development Regulations, 2001 (as amended).

Having regard to the nature and scale of the development being a single dwelling that is proposed to be connected to the public water supply and foul drainage network and located in an existing residential 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

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

- That the existing house on the appeal site was built prior to the others in the cul de sac. It has a different style and has access onto the R965. The context of the site is not therefore as part of the cul de sac as stated by the Planning Authority.
- That the appeal site (Unara Lodge) is also located on a much larger site than the other houses in the cul de sac.
- That the proposed dwelling, garage and summer house would occupy an area of c.30 percent of the total site.
- That it is proposed to lower the floor level of the house and the roof height to reduce the impact and such that the height of the roof would be only c.340mm higher than that of the adjoining house to the north east. In the context of the road elevations the overall height is similar.
- Regarding the stated failure to take cognisance of the sites context and location, it is noted that there is already a two storey house adjoining the site and also that there is a permitted development of 100 plus residential units on lands to the south of the realigned R965. A drawing showing the permitted layout of these units in the context of the revised road layout and the appeal site is submitted with the appeal.
- The appeal is also accompanied by drawings showing the proposed and current elevation of the road, the current site layout and the proposed site layout.

## 6.2. Planning Authority Response

Response received stating that the planning authority have no further comments to make on the appeal.

## 6.3. Observations

An observation has been received from Peter Thomson Planning Consultants on behalf of Brian and Agnes Dowling who are the owners of the adjoining two storey house to the east of the appeal site. The following is a summary of the main issues raised in the observation:

- That all of the houses in Kilcreen cottages, including that on the appeal site, are modest in scale with low pitched roofs. Notwithstanding the fact that it is accessed off the main road rather than the cul de sac, the appeal site and house on the site share the estates address and the design is in keeping with other houses in the estate and reads as part of the estate.
- That No.6 Kilcreen Cottages will suffer more than any other house from loss of sunlight and daylight as a result of the proposed development.
- That the observers house is set at a lower level and such that the height is approximately the same as the bungalows to the east (presume this should read 'west') of the proposed house. The proposed dwelling will look elevated in the streetscape relative to these adjoining houses.
- That the practicality of reducing the finished floor level by c.1 metre as proposed is questionable and would likely necessitate works that would reduce the available extent of open space.
- That the hard standing area, retaining walls and circulation areas around the house constructed at a lowered level would mean that the effective site coverage would be significantly greater than the 30 percent stated.

- That the reference to the proximity of the proposed development to the permitted development on the opposite side of the main road is irrelevant as the site relates more to the cul de sac than to the proposed development site opposite.
- That the first party has not addressed any of the issues raised by the Planning Authority and objectors including those relating to complex roof design, window detailing, and the impact along the site boundaries from the removal of trees.
- That the proposed use of obscure glazing to a bedroom window to mitigate overlooking indicates a poorly thought out design.
- Submitted that the site is most suitable to a single storey house of simple design and that the scale of site is such that a significantly sized dwelling could be accommodated. This would avoid the need to undertake significant site works to reduce the finished floor levels.
- That no development should be permitted so close to the common boundaries with the neighbouring houses which require or result in the loss of significant boundary planting.

## 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 and visual impact
- Impact on residential amenity,
- Site access and servicing,
- Appropriate assessment.

## 7.2. Principle of Development

- 7.2.1. The site is located on lands that are within the development boundary of the *Kilkenny City and Environs Development Plan, 2014-2020* and the appeal site and adjoining houses in Kilcreen Cottages are all zoned Existing Residential. Dwellings are a Permitted Use on lands that are zoned 'Existing Residential'. The demolition of the existing dwelling on the site and its replacement with a new house is, therefore acceptable in principle subject to other relevant considerations, including those relating to design and impacts on visual and residential amenity, being acceptable.

## 7.3. Design and Visual Impact

- 7.3.1. The basis for the refusal of permission issued by the Planning Authority relates to an assessment that the bulk, scale and massing of the proposed house is excessive and such that, relative to its surroundings and smaller scale development on adjoining sites, the proposed development would be excessively visually prominent and out of character with the surrounding properties.
- 7.3.2. With regard to the compatibility with the existing form of development in the cul de sac, the first party states that the existing house on the appeal site was built prior to the others (Nos. 1-6 Kilcreen Cottages) and note that it has a different style and direct access onto the R965, such that the context of the site is not as part of the cul de sac as stated by the Planning Authority. I cannot verify the statement of the first party that the dwelling on the appeal site predates those to the north and west in Kilcreen Cottages, however the basic form of the existing house on the appeal site is very similar to and compatible with that of the adjoining houses, and the site reads as part of the same development. It is also noted that the address of the appeal site is No.7 Kilcreen Cottages.
- 7.3.3. The appellants highlight the fact that the appeal site ('Unara Lodge') is located on a much larger site than the other houses in the cul de sac. This is correct and the appeal site is approximately twice the size of the adjoining site to the north at No.6. Notwithstanding this larger site however, and having regard to the reduction in height proposed, I would have concerns with regard to the impact of the scale of dwelling proposed on the setting of the other houses in Kilcreen Cottages. The first party has submitted elevation drawings to the R695 which shows the scale of the proposed

dwelling as being only marginally higher than the existing adjoining house to the east, and that the levels of the road are such that it would be compatible with the existing scale of development at No.1 Kilcreen Cottages. This drawing is noted, and the scale of the proposed dwelling is only c.340mm higher than the existing two storey house to the east. From an inspection of the site however, the appeal site reads as being visually separate from the site to the east whereas it is clearly part of the Kilcreen Cottages residential layout. When viewed from within this existing development, the scale of dwelling proposed would in my opinion be completely out of scale and character with the existing dwellings and such that it would constitute an excessively visually prominent and obtrusive form of development.

7.3.4. With regard to the design of the proposed dwelling and the visual impact when viewed from the R695, the efforts to reduce the overall height of the house on the site are in my opinion such that the roof form is out of proportion with the scale of the house. It is also my opinion that the design of the roof is excessively complex with a triple pitch arrangement to reduce the overall height. Similarly, the bulk of the proposed design is very significant with a footprint that measures c.14.5 metres in width by c.12 metres in depth. In addition to being visually bulky, the scale of the floorplan results in a layout of accommodation at first floor level that necessitates windows to habitable rooms in the side elevations with implications for residential amenity and in my opinion indicative of an excessive scale of development. The fact that two bedrooms which have windows in the side elevation are proposed to be fitted with obscure glazing in the interests of protecting residential amenity is noted and would in my opinion result in a sub standard level of residential amenity for future occupants of this accommodation.

7.3.5. The first party proposes to lower the floor level of the house, however no detail of how this would be achieved or the extent of works that would be required to reduce the site ground level by the c.1 metre proposed have been submitted. In the absence of such details I would agree with the third party observers that the practicality of reducing the finished floor level by the amount proposed is questionable. I would also agree that works to facilitate such a reduction in ground levels and finished floor levels would have potential implications for the site layout in terms of open space and boundaries that may impact on amenity and these are considered in the section below relating to Residential Amenity.

- 7.3.6. The comments of the first party with regard to the changed context for the site following the granting of permission for two storey development on the opposite side of the realigned R695 are noted, however I do not consider that this permitted development changes the local context of the site or its relationship with the existing houses in Kilcreen Cottages.
- 7.3.7. Overall, it is my opinion that the scale and design of dwelling proposed does not pay sufficient regard to its location and context and particularly to the scale and form of development in Kilcreen Cottages estate to which the appeal site is visually and physically related. I therefore agree with the assessment of the planning authority that the form, bulk and scale of development is excessive for the site and also have concerns regarding the impact of the modifications to the design undertaken with the aim of reducing the overall height of the structure, in particular with regards to the impact on the roof profile and appearance of the house and the implications of the reduced floor level on the site layout.

#### **7.4. Impact on Residential Amenity**

- 7.4.1. The observers to the appeal contend that the design and layout of the proposed house is such that it would impact negatively on their privacy and residential amenity. I notice however that the proposed dwelling is set back by c.11 metres from the eastern site boundary and by c.16.5 metres from the appellant's property. These separation distances, combined with the retention of boundary planting are in my opinion such that there would not be a significant negative impact on the residential amenity of the observer's property due to overlooking, overshadowing or visual intrusion. I do note the fact that the proposed garage structure is indicated as being located immediately adjoining the boundary with the observer's property and such that it would result in the loss of existing mature boundary planting. This is not considered appropriate and if permission was being considered it is recommended that this structure would be moved away from the boundary.
- 7.4.2. In terms of residential amenity I consider that the main potential impact arising from the proposed development would be on the adjoining house to the north at No.6 Kilcreen Cottages. This house is small and located on a restricted site that is currently significantly screened from the appeal site by mature planting located along

the north west boundary of the appeal site. As part of the proposed development it is proposed that a block wall would be constructed along this boundary which would result in the removal of the existing boundary trees. While the proposed development would not be located significantly closer to the north west boundary with No.6 than is the case with the existing house, (c.9 metres against the current c.10 metres), I consider that the scale of the proposed house and its largely blank rear (north west) facing elevation would have a negative impact on the amenity of No.6 Kilcreen Cottages due to its proximity, scale and visually overbearing nature. It is also my opinion that the structure indicated as summer house at the north west corner of the site, and which is indicated on the plans as having a terrace area, would be a potential source of disamenity for the residents of No.6 Kilcreen Cottages given its proximity to this third party site.

- 7.4.3. In terms of the amenity of the layout proposed on the appeal site, I have noted the concerns regarding the use of obscure glazing in the bedroom windows in the side elevations. The rest of the internal layout is considered to be acceptable, however it is considered that the proposed detached garage could be omitted and parking provided in the car port area on the north east side of the house.
- 7.4.4. Section 11.7 of the development plan relates to re to private open space and states that a minimum of 60-75 sq. metres of private amenity space is required for a 3 or 4 bedroom house. In the case of the proposed development there is a significant area to the rear of the building line and such that it would potentially significantly exceed the private amenity space requirements set out in the plan. It is noted however that the site layout submitted indicates a driveway running around all four sides of the house and such that the indicated area of landscape private amenity space to the rear is only c.50 sq. metres and below the development plan standard. In the event that a grant of permission was being considered it is recommended that revisions to the site layout in this area and the provision of additional landscaped space would be required. With regard to open space I also note the potential implications of the proposed reduction in site level by 1 metre. Details of how this would be achieved have not been submitted by the first party and I would agree with the comments of the observers that the practicality of reducing the finished floor level by c.1 metre is unclear, as are the implications of the required groundworks on the available extent of open space. Once the works required to change the site levels are completed, it

is not in my opinion clear that adequate private amenity space to the rear of the building line could be provided or that the area that is provided would be of a usable layout and dimensions.

#### **7.5. Site Access and Servicing,**

- 7.5.1. The site is proposed to be accessed via a new entrance which is located approximately at the mid-point of the road frontage onto what is the existing R695. The fact that the existing house on the site has access onto the R695 is noted as is the fact that the road realignment works which are currently being undertaken to the east of the site will result in the site access being onto a cul de sac rather than onto a regional road.
- 7.5.2. As part of the response to further information, the first party submitted revised proposals for the front boundary of the site which indicate the boundary realigned to be approximately 1 metre further back than originally proposed and such that adequate sight lines measured from a position 2.4 metres back from the road edge are available. Given the fact that the road will become a cul de sac it is considered that the proposed access arrangements are acceptable and consistent with the requirements of DMURS for an urban area within the 60km/hr speed limit zone.
- 7.5.3. The proposed development is proposed to be connected to the public water supply and foul drainage networks and the existing dwelling on the site is connected to these services. I note that the submission from Irish Water states that there is no objection to the proposed development and the proposals for servicing of the site are considered to be acceptable.

#### **7.6. Appropriate Assessment.**

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.



## 8.0 Recommendation

- 8.1. Having regard to the above, it is recommended that permission is refused based on the following reasons and considerations.

## 9.0 Reasons and Considerations

1. Having regard to the design, scale, bulk and height, of the proposed development, to the prominent location on a corner site and to the established pattern of development in the adjoining houses in Kilcreen Cottages Estate to which the appeal site is visually and physically connected, it is considered that the proposed development would constitute a visually incongruous element in the streetscape in this location, would be out of character with the existing residential properties in the vicinity and would set a precedent for further inappropriately scaled and designed development in the vicinity of the site. The proposed development would, therefore, seriously injure the visual amenities of the area and be contrary to the proper planning and sustainable development of the area.
2. Having regard to the to the scale, bulk and footprint of the proposed development, to the proximity of the development to site boundaries, to the works required to facilitate the reduction in ground levels on the site and the implications for the site layout and to the house design incorporating obscure glazing to habitable rooms, it is considered that the proposed development by would constitute overdevelopment of the site and a form of development that would result in a poor standard of residential amenity for future occupants of the development and have an overbearing visual impact on No.6 Kilcreen Cottage. The proposed development would, therefore, result in a sub standard form of residential development, would seriously injure the amenities and depreciate the value of adjoining properties and would be contrary to the proper planning and sustainable development of the area.

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Stephen Kay  
Planning Inspector

7<sup>th</sup> February, 2020