



An  
Bord  
Pleanála

## Inspector's Report

### ABP-305935-19

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<b>Development</b>	Erection of one 1 ½ storey detached mews dwelling
<b>Location</b>	1 Pearn's Cottage, Ballytruckle, Waterford.
<b>Planning Authority</b>	Waterford City and County Council
<b>Planning Authority Reg. Ref.</b>	19/454
<b>Applicant</b>	Sonya Kelly
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party v Grant
<b>Appellant</b>	Rose O'Neill
<b>Date of Site Inspection</b>	29.01.2020
<b>Inspector</b>	Anthony Kelly

## **1.0 Site Location and Description**

- 1.1. The appeal site is located south of Waterford city centre approx. 100 metres north west of the Sacred Heart Church within the built-up urban area.
- 1.2. The site compromises part of the rear garden area of an existing end-of-terrace cottage. The cottage is typical of the area and is on the corner of two roads; a terrace of cottages (Pearn's Cottages) with a relatively wide cul-de-sac to the west (Ballytruckle Road). There are no other houses located on this side of the cul-de-sac. There is a high wall and public footpath along this boundary and there is an existing vehicular gate accessing the rear of the cottage. All houses along both Pearn's Cottages and Ballytruckle Road are similar in scale and design and a number of houses have front dormer features. The existing cottage on site has a rear dormer structure.
- 1.3. The site has a stated area of 0.01215 hectares.

## **2.0 Proposed Development**

- 2.1. Planning permission is sought for a 1 ½ storey mews house, removal of an existing outbuilding, addition of boundary treatments, external gate, landscaping and all associated site works.
- 2.2. The proposed house has a stated floor area of 95.33sqm and an indicated height of 7.3 metres. The outbuilding to be demolished has a stated floor area of 17.61sqm.
- 2.3. Further information was submitted in relation to the services layout.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority decided to grant permission subject to 9 no. conditions of a standard nature including payment of a financial contribution, construction practices,

Irish Water connection, external finish and avoidance of overhanging of adjoining properties.

### **3.2. Planning Authority Reports**

The Planning Officer's report was the basis for the decision. Having regard to the nature of the development proposed, the zoning provisions and the type of development in the vicinity of the site, the planning authority decided that the proposed development would be in accordance with the proper planning and sustainable development of the area.

#### **3.2.1. Other Technical Reports**

None received.

### **3.3. Prescribed Bodies**

None received.

### **3.4. Third Party Observations**

2 no. submissions were received on file from the occupants of Nos. 92 and 96 Ballytruckle Road. The submission from the occupant of No. 92 was countersigned by a number of other local residents. The issues raised are largely covered by the grounds of appeal with the exception of the following:

- A potentially inaccessible 'refuse corner' in the south west corner of the site has been created.
- Light available to the kitchen/dining area is significantly reduced from that proposed under the previous application by the removal of glazing on the south elevation leading to a much reduced amenity.
- It is unclear how the amenity/leisure space available has increased from 58sqm to 62sqm.
- Because of the terraced nature of the streetscape it is considered that the housing density is at its maximum and any additional houses would be injurious to the area and existing residents' enjoyment of the area and community.

## **4.0 Planning History**

4.1.1. The relevant planning history of the site is as follows:

P.A. Reg. Ref. 18/360, ABP Reg. Ref. ABP-302790-18 – Permission was refused in 2019 for a 1 ½ storey mews dwelling, removal of an existing outbuilding, boundary treatments, external gate, landscaping and all associated site works because the proposed development, by reason of its proximity and location relative to the neighbouring residential property to the north, would result in loss of light, overshadowing and overbearing of the neighbouring residential property.

4.1.2. An exemption cert. from Part V was granted under 2018/24.

## **5.0 Policy Context**

### **5.1. Waterford City Development Plan 2013-2019**

5.1.1. The site is in an area zoned 'Developed Residential'. This zoned area aims to protect and improve existing residential areas and their amenities and provide for appropriate residential infill opportunities where feasible.

5.1.2. Chapter 13 (Development Management) of the Plan is relevant as amended by Variation No. 1.

### **5.2. Natural Heritage Designations**

5.2.1. The Lower River Suir SAC is approx. 1.2km to the north east. The closest area of heritage designation is Kilbarry Bog NHA approx. 800 metres to the south west.

### **5.3. EIA Screening**

Having regard to the nature and scale of the proposed development and the nature of the receiving environment, which is a fully serviced urban location, 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 stage, and a screening determination is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The grounds of appeal are submitted by Rose O'Neill, No. 92 Ballytruckle Road. The main issues raised in the appeal can be summarised as follows:

- The repositioning on site of the house by 1.6 metres and the change of design does not reduce the impact it would have on the residential amenity of adjoining dwellings.
- The proposed height and design will not integrate with the existing houses.
- The 8.44 metres height and 4 no. front elevation windows would impact on privacy and freedom of observation of existing residents.
- Proposed site areas are substantially less than existing plot sizes and would lead to unreasonably increased density, reduce existing values and put pressure on local services. The limited plot area would also be a disincentive to 'owner occupiers' or families.
- The proposed height and design will not integrate with the design of existing houses.
- The applicant has no housing need, does not live in the area and this is a commercial venture.
- Granting permission could set a precedent for detached houses in rear gardens facing onto Ballytruckle Road and this would seriously injure the residential amenity and depreciate the value of property in the vicinity as per the previous refusal reason.
- No car parking provision is proposed. The Development Plan states two spaces are required. Existing car parking spaces on the cul-de-sac are fully

occupied by existing residents and it can become extremely congested with additional vehicles during school drop off/collection times and at mass times. Any vehicles parked near the corner with Pearn's Cottages could cause more congestion and affect the safe movement of traffic.

- Policies that facilitate and encourage the development of sustainable neighbourhoods that give a sense of identity and belonging to residents in the city centre should be supported. Development that encourages owner occupiers and families should be encouraged and development contrary to this goal must be resisted. The application is for commercial gain and does not constitute sustainable development of the area.
- The conditions attached by the planning authority to its decision do not take into consideration any of the above objection reasons.

## 6.2. Applicant's Response

The response of the applicant can be summarised as follows:

- The proposal has been redesigned specifically to address the previous reason for refusal. A further 1.6 metres separation has been achieved, the mass has been reduced by a change in roof design and profile by omitting the previous gable facing the cottage and turning this to face south and form part of the front elevation. This change significantly improves daylight and shadow effect to the cottage.
- The proposed design adopts a number of features found in existing properties such as finishes, window design, proportion and the replicated gable feature at the end of the Pearn's Cottage streetscape.
- The neighbourhood is evidence of the changing demands of the modern lifestyle with a number of terraced bungalows converted into dormer properties, all with four front elevation windows. The proposed development follows the pattern of 1 ½ storey properties. The development infills a long dead side wall/streetscape providing passive surveillance on this side of the street and it improves the street.

- National Planning Policy insists cities densities must increase which includes for different types and sizes of properties. Given proximity to the city centre and other amenities this brownfield site provides sufficient private space for occupiers and accords with other Local Authority decisions around rear yard spaces.
- The housing need argument makes no sense. It is intended to rent the house as occurs with the existing cottage. The property was left to the applicant by her grandfather and the applicant has previously lived there. It is intended that the applicant will retire to the proposed house in the long term and give the existing cottage to her daughter.
- The argument that it would set a precedent is subjective as each application must be dealt with on its own merits and national policy ensures higher densities are to be achieved in city centres.
- There is very limited on-curtilage parking in the area. It is generally provided on street. As an end-of-terrace property it has a significant road frontage unused for parking. It is unrealistic, unrequired and out of character with the pattern of the area to provide on-curtilage parking.
- The development provides for an additional home in the city centre and will add to the sustainability of the city as a whole. It demonstrates how unused gardens can be transformed to add positively to the streetscape and neighbourhood and how additional accommodation can be provided without adding strain on amenities or services.

### 6.3. **Planning Authority Response**

None received.

## 7.0 **Assessment**

The main issues 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:

- Principle of Development
- Siting and Design
- Impact on Adjacent Residential Amenity
- Car Parking
- Appropriate Assessment

## **7.1. Principle of Development**

7.1.1. The site is in an area with a zoning objective 'Developed Residential'. This objective equates to the land use zone set out in Chapter 12 (Zoning Policy & Objectives) of the Waterford City Development Plan 2013 which aims to protect and improve existing residential areas and provide for appropriate residential infill opportunities where feasible. Section 3.3 (Residential Density) of the Plan recognises the benefits of increasing the density of residential development at appropriate locations and such development would encourage a more sustainable form of urban development and ensure a more economic use of existing infrastructure and serviced lands. I consider that the proposed development i.e. a house in the rear garden area, is acceptable in principle at this location.

## **7.2. Siting and Design**

7.2.1. The grounds of appeal states that the repositioning of the house on site and revised design do not address the reason for refusal under ABP Reg. Ref. ABP-302790-18 and the reduced site area would lead to an excessive density.

7.2.2. The development is similar to that refused in terms of the site size and house footprint. The site boundaries are the same as previously proposed. The reason for refusal referenced the proximity of the proposed house to the existing cottage on site, which is also under the applicant's ownership, and the subsequent loss of light and overbearing impact. However, the reason for refusal did not suggest that a house at this location was fundamentally unacceptable. The proposed house footprint has been set back 1.65 metres from the proposed party boundary, increasing the separation distance to the cottage. There is a single storey structure, which appears to be a shed, immediately adjacent to the southern boundary.



- 7.2.3. While the house height remains as previously proposed (7.3 metres high) and the floor area proposed has increased slightly (95.3sqm as opposed to 91.5sqm), there has been a notable alteration to the house design. The roof profile has been substantially altered and the gable originally proposed on the northern elevation has been replaced with a hipped gable. I consider that there is a substantial difference between the previous application and the current application in terms of siting and design.
- 7.2.4. The houses along Pearn's Cottages and Ballytruckle Road are single-storey terraced cottages but a significant number of these have had dormer additions to the front. The site is located on the cul-de-sac where there are no other houses on this side of the street and it is located in a relatively isolated location. The house would be a contemporary addition which is not a pastiche of existing design, and I consider that it would sit comfortably within the streetscape.
- 7.2.5. The development is consistent with the relevant Development Management Standards set out in Variation No. 1 of the City Development Plan. The proposed site coverage is approx. 40% (the maximum cited is 50%) and the plot ratio is approx. 0.79 (the maximum cited is 1.1). A minimum private open space area of 120sqm is required for new detached units. However, the Plan states that in certain circumstances the standard may be reduced to no less than 40sqm. I consider that the provision of 62.56sqm private open space for a two-bedroom house within the built-up urban area, and the retention of a private open space area of 50.2sqm for the existing house, is acceptable at this location.
- 7.2.6. On foot of the foregoing, I consider that the proposed development is acceptable in terms of siting and design, would not result in any visually obtrusiveness or incongruity, would not comprise overdevelopment of the property and would result in an acceptable amount of private open space for both existing and proposed houses.

### **7.3. Impact on Adjacent Residential Amenity**

- 7.3.1. The previous application was refused because of the impact of the proposed development on the property to the north specifically in terms of shadowing and overbearing impact.

- 7.3.2. As noted, the house has been set back further from the property to the north and the original gable wall that faced the cottage has been replaced with a less oppressive and overbearing elevation design. It is considered that the combination of these amendments would significantly reduce the overbearing impact on the property to the north.
- 7.3.3. The application was accompanied by a cover letter which included a daylight/sunlight analysis of the impact of the proposed development on existing ground floor rear elevation bathroom and kitchen windows and the first-floor bedroom window to the cottage to the north. This analysis shows a 22% decrease in daylight to the ground floor windows on March 21<sup>st</sup>, a 13%-14% decrease to the ground floor windows on September 21<sup>st</sup> and a 17% decrease to the first-floor bedroom window on December 21<sup>st</sup>. There is no decrease to any window on June 21<sup>st</sup>. Additional detail shows that there will be no overshadowing of the existing house at noon in March, June and September and there would be an approximate 25% shadowing impact to the bedroom in December. The ground floor windows are in shadow in December even without the proposed house.
- 7.3.4. No overlooking results from the proposed development as there are no first-floor windows to the north, east or southern elevations. Overlooking impact to the opposite side of Ballytruckle Road has been referenced in the grounds of appeal. However, the houses are approx. 13 metres away and windows opposing each other on opposite sides of a street is a feature of most urban streets. In addition, beneficial passive surveillance of the public area will result.
- 7.3.5. On foot of the foregoing, I consider that there will be no undue adverse impact on the residential amenity of adjoining property, and, in particular, the adjacent property to the north. While there will be some loss of daylight and shadowing it is considered that the overbearing impact that would have resulted in the original proposal has been largely mitigated by the repositioning of the house and the alteration in design to the northern area of the house. National and local policy seeks to encourage infill housing and increase density within built-up urban areas and it is inevitable that there will be some reduction in the residential amenity of affected properties though I do not consider the reduction in residential amenity in this case to be substantial. The provision of an additional house in the rear garden area within walking distance of the city centre is consistent with these national and local policies and objectives.

#### **7.4. Car Parking**

- 7.4.1. No car parking is provided as part of the development. However, no on-curtilage car parking is provided for the vast majority of houses in the vicinity. There is sufficient on-street car parking in the vicinity. The planning authority included for a shortfall in car parking provision in Condition 2 of their decision and contributions for a shortfall in car parking is provided for in the Waterford City & County Council Development Contribution Scheme 2015-2021.

#### **7.5. Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, which is a fully serviced urban location with no hydrological link to any Natura 2000 site, 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 stage, and a screening determination is not required.

### **8.0 Recommendation**

I recommend that planning permission should be granted subject to conditions, for the reasons and considerations as set out below.

### **9.0 Reasons and Considerations**

Having regard to the provisions of the Waterford City Development Plan 2013-2019, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of the zoning objective of the area, siting and design and 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. 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 27.09.2019, 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.

**Reason:** In the interest of clarity.

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

**Reason:** In the interest of visual amenity.

3. 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.

4. The applicant or developer shall enter into a water and/or waste water connection agreement(s) with Irish Water, prior to commencement of development.

**Reason:** In the interest of public health.

5. No overhanging of, or trespass on, adjoining properties, including the public footpath, by eaves, gutters, foundations, access steps or porch canopies etc. shall take place on foot of this permission save with the written consent of the owners of these properties, a copy of which shall be submitted to the Planning Authority prior to the commencement of any development. The dwelling may be reduced in scale to avoid any such trespass or otherwise in accordance with details to be submitted to the Planning Authority for approval prior to the commencement of any development.

**Reason:** In the interest of existing residential amenity and public safety.

6. 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.

**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.

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Anthony Kelly

Planning Inspector

06.02.2020