



An  
Bord  
Pleanála

## Inspector's Report

### ABP-305949-19

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<b>Development</b>	To construct a three bed bungalow connected to the public sewer and all associated site works.
<b>Location</b>	Station Road, Thomastown, Co. Kilkenny.
<b>Planning Authority</b>	Kilkenny County Council
<b>Planning Authority Reg. Ref.</b>	19634
<b>Applicant(s)</b>	Ian Kelly
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Ian Kelly
<b>Observer(s)</b>	none
<b>Date of Site Inspection</b>	1 <sup>st</sup> May, 2020
<b>Inspector</b>	Stephen Kay

## 1.0 Site Location and Description

- 1.1. The appeal site is located c. 1.2km to the west of the centre of Thomastown and a short distance to the west of Thomastown train station. The local road on which the site is located leads west in the direction of Mount Juliet estate.
- 1.2. Station Road in the vicinity of the appeal site is characterised by a significant concentration of residential developments with a total of 9 no. houses located to the west of the appeal site on the same side of the road. The appeal site is located close to a bend in the road immediately to the west of the site and on the southern (opposite) side of the road there is a residential estate of two storey terraced housing 'The Greens'. There is a footpath on the public road that connects the site with Thomastown.
- 1.3. To the west of the site are located a pair of semi detached bungalows and beyond this to the west there is a road that has been blocked off at the eastern end with what appears to be a realigned road to the west of this which is connected with the road fronting the appeal site.
- 1.4. The appeal site is currently undeveloped and has access to the local road via a field gate. The level of the site rises slightly from the road towards a high point in the north east corner.
- 1.5. The stated area of the site is 0.265 ha. (2,650 sq. metres). It is stated that the applicant is the owner of the site.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a single storey dwelling with a floor area of 182 sq. metres.
- 2.2. The dwelling is proposed to be connected to the public water supply and foul drainage systems.

## 3.0 Planning Authority Decision

### 3.1. Decision

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

1. That having regard to the failure to demonstrate adequate visibility at the proposed access, that the proposed development would result in a traffic hazard and be contrary to the proper planning and sustainable development of the area.
2. That the site is located on unzoned lands outside of any development boundary and that the proposed development would therefore exacerbate the pattern of ribbon development in this rural area that is under strong urban influence and which is considered to be insufficiently serviced to cater for additional housing. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The report of the planning officer notes the planning history of the site and the pattern of development in the vicinity of the site. It is stated that the applicant complies with the rural housing policy of the council. Refusal of permission consistent with the Notification of Decision which issued is recommended.

#### 3.2.2. Other Technical Reports

Environment – No objection to the proposed development.

Area Engineer – Refusal recommended on the basis of inadequate sightlines in both directions at the proposed access and the creation of a traffic hazard.

### 3.3. **Prescribed Bodies**

Irish Water – No objection.

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

None.

## 4.0 **Planning History**

The following relates to the appeal site:

Kilkenny County Council Ref. 18744; ABP Ref. ABP-303642-19 – Permission refused by the Planning authority and decision upheld on appeal for the construction of a single storey dwelling on the appeal site. Applicant Ian Kelly. Permission refused by the Board on the basis of traffic safety and inadequate sight lines at the proposed entrance.

## 5.0 **Policy Context**

### 5.1. **Development Plan**

The relevant plans are the *Kilkenny County Development Plan, 2014-2020* and the *Thomastown LAP, 2019*. The appeal site is located outside of the identified development boundary of the Thomastown LAP and is therefore located in a rural area. This area is identified as being under urban influence.

The policy with regard to housing in areas under urban influence is set out at 3.5.2.1 of the County Development Plan.

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

The site is not located within or close to any designated sites and the nearest such sites (River Barrow and River Nore SAC and River Nore SPA) are located within c.0.5km of the appeal site at the closest point which is due south of the site.

Other European sites in the vicinity of the appeal site are

- Thomastown Quarry SPA which is located c.3km from the site, and
- Hugginstown Fen SAC which is located c.9km from the appeal site.

### 5.3. EIA Screening

Having regard to the small scale of the proposed development, the proposed connection to public water and drainage infrastructure and the separation from any environmentally sensitive sites, 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 reference in the reason for refusal reason to un serviced lands is factually incorrect. The site is serviced with public water supply and drainage and there is a footpath connecting the site to the centre of Thomastown.
- That it is council policy to facilitate rural generated housing demand and this is referenced in the report of the planning officer.
- That there is a strong case that further development should be permitted in this area given its location relative to Thomastown, the development permitted in the general vicinity and at Mount Juliet and the optimum use of existing infrastructure.
- That the site is an infill site and no precedent or other opportunities for further development would exist.

- That the planning officer states that the design of the proposed dwelling is acceptable.
- That if the proposed access to the site is a traffic hazard then the access to adjacent houses are also traffic hazards. Some of these adjacent houses are occupied by council tenants.
- That the neighbours to the west have given their permission to amending their front boundaries and that these works would have a positive impact on the visibility at other accesses to the west of the site.
- That the hedgerow to the east of the site that restricts visibility is in the ownership of Kilkenny County Council. It would be irresponsible of the council not to maintain this hedgerow and improve visibility for the benefit of all houses to the west.
- That there is consent from the owners of the properties to the west to the lowering of boundary walls to facilitate sightlines. A legal undertaking that planting would not be undertaken in the sightline to the west could be entered into.
- A revised plan showing sight lines at the proposed access is submitted with the appeal.

## 6.2. Planning Authority Response

Response received stating that the Planning Authority have no further comments to make on the appeal.

## 7.0 Assessment

7.1. The following are considered to be the main issues in the assessment of this appeal:

- Zoning, Principle of Development and Housing Policy
- Design, Layout and Site Servicing
- Access and Traffic Safety,

- Appropriate Assessment

## 7.2. Zoning, Principle of Development and Housing Policy

- 7.2.1. The appeal site is located on lands that are outside of any identified settlement and the site is outside the development boundary for Thomastown as set out in the Thomastown LAP, 2019. Notwithstanding the extensive development that has occurred in the general environs of the site, the site is therefore located in a rural area and such that the rural housing provisions of the Kilkenny County Development Plan are applicable in this case. The site is also identified as being in a location that is under urban influence and therefore the relevant policy is set out at section 3.5.2.1 of the development plan.
- 7.2.2. From the information submitted with the subject application and from the planning history on this case it is evident that the applicant was born and raised in the local area, coming from Station Road, Jerpoint West, Thomastown. The current employment of the applicant is given as a Hardware Store in Thomastown which is within c.2km of the appeal site. On the basis of the information presented, and having regard to the previous assessment of the Board, I am satisfied that the first party comprises a rurally generated housing need and that his circumstances are consistent with those set out in the *Kilkenny County Development Plan, 2016-2020* with regard to rural housing policy in areas under strong urban influence.
- 7.2.3. I note the fact that Reason for Refusal No 2 attached to the Notification of Decision issued by the Planning Authority relates to the siting of the development on unzoned lands outside of the identified development boundary of Thomastown and that the proposed development would exacerbate a pattern of ribbon development in a rural area that is considered to be insufficiently serviced to cater for additional housing. There are, in my opinion, a number of points relevant to the wording and content of reason No.2. Firstly, as noted by the appellant, the reference in the refusal reason to lands being insufficiently serviced is not easily substantiated. The site is serviced by public water supply and foul drainage connections and it is located such that it is connected to the settlement of Thomastown by a footpath. I note the comments made by the first party with regard to the extent of development that has been permitted in the vicinity of the site and in Mount Juliet, the effect that this

development has had on the overall development of Thomastown and the fact that the site is well located and serviced by a range of amenities.

- 7.2.4. In view of the location of the site in an area that has seen significant development, the fact that the site is an infill location and would not give rise to pressure for additional development in the immediate vicinity of the site, the circumstances of the applicant and the fact that this reason was not cited in the previous Board refusal of permission I do not consider that reason for Refusal No.2 can be substantiated.

### **7.3. Design, Layout and Site Servicing**

- 7.3.1. The proposed dwelling consists of a single storey structure with a floor area of 182 sq. metres. The design, finishes and layout on the site proposed are considered to be acceptable in principle and the contours of the site are such that the dwelling would not in my opinion be excessively visually prominent. I would therefore agree with the assessment of the Planning Officer that the proposed design and siting of the dwelling is acceptable in principle.
- 7.3.2. The development is proposed to be connected to the existing public water supply and drainage networks in the vicinity of the site. The consent of Irish Water to new connections subject to a connection agreement being entered into is on file. No objections from the Environment Section are raised and I consider that the proposed disposal of surface water to soakpits on site is acceptable.

### **7.4. Access and Traffic Safety,**

- 7.4.1. The core issue in the assessment of this case relates to visibility at the proposed access and the creation of a traffic hazard arising from inadequate sightlines at the proposed entrance. This issue is reflected in Reason for Refusal No.1 attached to the Notification of Decision issued by the Planning Authority on the current case and formed the basis of the single reason for refusal issued by the Board in respect of the previous application on the site (ABP Ref. ABP-303642-19).
- 7.4.2. As part of the first party appeal, a revised plan indicating sight lines at the proposed access point has been submitted by the first party. This plan is accompanied by statements in the appeal that there would be no objection from the owners of the two



properties to the west of the site to the lowering of the front boundary of the site to facilitate sight lines and that there is the option of a legal agreement being entered into with the owners of these properties which would restrict planting that might obstruct sight lines in the future. It is also noted that the area engineer of the council has raised concerns with regard to the sight line to the east of the proposed entrance where there is a hedgerow and utility pole that it is considered restrict visibility to the east. The following are what I consider to be the main issues with regard to sight lines at the entrance and traffic safety issues.

- 7.4.3. Firstly, the revised drawing submitted with the appeal is noted. With regard to visibility to the left hand side when exiting (east of the proposed entrance), the indicated 90 metre sight line is currently obstructed by a large mature hedgerow that bounds the eastern side of the appeal site and separates the site from the undeveloped site to the east. The first party appeal states that this hedgerow is in the ownership of the local authority, however it is not verified in the submissions from the Planning Authority on file whether this is the case. In any event, confirmation would be required from whoever is the owner of the lands to the east on which this hedgerow is located that there is consent to its removal. Similarly, the utility pole referenced by the area engineer would require relocation, however this would likely be feasible. In the absence of confirmation regarding the hedgerow I consider that adequate sightlines in an easterly direction cannot be achieved.
- 7.4.4. To the west, the 90 metre sight line indicated on the revised plan is indicated to the far access road that runs parallel to the main local road. This far road is used as an access to 'The Greens' housing development. The sight line indicated requires significant works to the front boundary of both of the houses which immediately adjoin the appeal site to the west. No written confirmation from the owners of these properties is submitted with the appeal and what is referenced in the appeal is the lowering of the front boundary. It is not detailed what extent of height reduction would be required and the reduced section would include the site entrances and gates / gate piers. The first party comments regarding restriction on planting within the identified sight triangles are noted however, as with the works to the boundary, no indication of consent to such an arrangement is presented. In any event, I do not consider that such a restriction is a viable solution or one that could be enforced in the future by the Planning Authority.

7.4.5. I note the comment of the first party appeal with regard to the fact that other entrances located to the west of the appeal site have sub standard sight lines. This may be the case, however the issue at question in this appeal relates solely to the circumstances at the appeal site. The fact that there may be inadequate sight lines at other entrances is not justification to permit a sub standard access arrangement at the appeal site which would impact negatively on traffic safety.

7.4.6. Having regard to the above, I do not consider that adequate sight lines can be provided in either direction at the proposed vehicular access point. It is therefore considered that Reason for Refusal No.1 relating to sightlines and traffic safety / hazard is appropriate and has not been adequately addressed.

## 7.5. **Appropriate Assessment**

7.5.1. 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 be refused based on the following reasons and considerations:

## 9.0 Reasons and Considerations

1. Having regard to the information submitted with the planning application and the appeal, it is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the proposed development would generate onto a public road at a point where sightlines are restricted in both directions.

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Stephen Kay

Planning Inspector

14th May, 2020