



An  
Bord  
Pleanála

## Inspector's Report

### ABP-306298-20

#### Development

The development to be retained consists of the following deviations to the approved planning drawings (Ref. 19/34): 1. Changing the 10 degree pitched roof on the rear extension to a flat roof and 2. Changing the glazed door on the side (south-west) elevation of the rear extension to a window.

#### Location

8 Dangan Terrace, Thomastown, Co. Kilkenny.

#### Planning Authority

Kilkenny County Council

#### Planning Authority Reg. Ref.

19781

#### Applicant

Polly Donnellan

#### Type of Application

Retention Permission.

#### Planning Authority Decision

Grant Permission subject to Conditions.

#### Type of Appeal

Third Party V. Grant

#### Appellant(s)

Brian Murphy and Grace Brennan.

**Observer(s)**

None.

**Date of Site Inspection**

25<sup>th</sup> March 2020.

**Inspector**

Susan McHugh

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## 1.0 Site Location and Description

- 1.1. The appeal site is located on the eastern side of the development boundary Thomastown, Co. Kilkenny. Dangan Terrace addresses and is accessed from the Thomastown to Graiguenamanagh Regional road R703.
- 1.2. Dangan Terrace is characterised by two storey houses arranged in terraces of four, which step up in height along the street. The end of terrace houses differ in style to the mid terrace houses and include a sloping roof to the front with front entrance doors located to the side. Each have long narrow south east facing rear gardens which are at a higher level, and many have been extended to the rear at single storey level.
- 1.3. The appeal site house no. 8 an end of a terrace house includes a newly constructed single storey extension to the rear. This extension extends out from the rear building line of the house by approx. 1m and includes a number of windows along the side elevation.
- 1.4. The gable elevation and front door of house no. 8 faces onto the gable elevation and front door of house no. 9 to the west. House no. 9 is also an end of terrace house, which is located at a slightly lower level, and is home to the appellants in the current appeal. The boundary between both properties to the rear is defined by a wooden fence.
- 1.5. The appeal site has a stated area of 0.0359ha.

## 2.0 Proposed Development

- 2.1. Permission is sought for the retention of a number of deviations to the approved development under P.A.Reg.Ref.19/34. These include the following;
  - Changing the 10 degree pitched roof on the rear extension to a flat roof, and
  - Changing the glazed door on the side (south west) elevation of the rear extension to a window.
- 2.2. The application was accompanied by a covering letter from the applicants agent outlining the rational for the changes including photographs of the site as existing and prior to development works being carried out.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority decided to **grant** retention permission 10/12/2019 subject to 2 no. conditions. Condition of note includes the following;

Condition No. 2.:

'This grant of Permission relates to amendments from that previously granted under Planning Permission Ref. No. P19/34 as described in the public notices. This permission is conditional on all conditions being complied with and on site development works and all infrastructural services being provided in accordance with the relevant Permission (Planning Ref. No. P19/34).

**Reason:** In the interest of clarity and orderly sustainable development.'

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Report (dated 09/12/2019)

The **Planners Report** is the basis for the Planning Authority decision. It includes;

- Site is within the development boundary of Thomastown.
- Refers to Section 12.5.6 of the Kilkenny County Development Plan.
- Site is located in an area zoned 'Residential' in the Thomastown Local Area Plan.
- Permission was granted for a sloping roof of 10 degrees from 3.7m to 2.7m. The extension as constructed has a flat roof of maximum height of 3.38m.
- Considering the existing boundary treatment, the changes are minor from that permitted and do not have a negative impact on the adjoining property, no objection to the retention of the changes made to the extension.

#### 3.2.2. Other Technical Reports

None.

### 3.3. Prescribed Bodies

**Irish Water:** Recommend no objection.

### 3.4. Third Party Observations

One submission was lodged with the planning authority from the appellant in the current appeal. This has been forwarded to the Board and is on file for its information. The issues raised are comparable to those raised in the third party appeal and are summarised in section 6 below.

## 4.0 Planning History

### *Appeal Site*

**P.A.Reg.Ref. 19/34:** Permission **granted** 11/04/2019 for a single storey extension to the rear and slightly to the west of the main structure of the house and all other ancillary internal and external works at the existing terraced house. (file attached). The stated floor area was indicated as 35.6sqm.

### *Section 5 Declaration*

**P.A.Ref. 512:** Applicant sought a Section 5 Declaration on the question of whether 'the existing footprint of the current single storey rear extension (to be demolished) be used as the starting point for a new single storey extension and therefore be exempt from the requirement of a planning application'. (File and photographs attached).

Declaration issued 15/11/2018 determined that;

- (a) 'the works consisting of single storey extension to the existing dwelling at 8 Dangan Terrace would constitute development which is not exempted development and therefore, would require planning permission.
- (b) Works consisting demolition of an existing extension would constitute development which is exempted development in accordance with Class 50 of the Planning and Development Regulations and would therefore not require planning permission.'

## 5.0 Policy Context

### 5.1. Kilkenny County Development Plan 2014-2020

The applicable Development Plan is the Kilkenny County Development Plan 2014-2020.

**Section 12.5.6** refers to *Domestic Extensions*, it states;

‘The principal requirement for any proposed domestic extension is that the design should have regard to the need for light and privacy of adjoining properties. The form and design of the existing building should be followed and the extension should integrate fully with the existing building by using similar detailing and window proportions. Where an existing dwelling is being remodelled and extended, the proposed extension will be considered on its own merits. A high standard of modern design and materials will be encouraged in this instance.’

### 5.2. Thomastown Local Area Plan 2019

The Thomastown Local Area Plan was adopted on the 25<sup>th</sup> March 2019 and came into effect on the 6<sup>th</sup> May 2019.

The site and surrounding area are zoned ‘**Existing Residential**’. The objective for which is ‘To allow for new residential development and other services incidental to residential development’. (See map attached).

### 5.3. Natural Heritage Designations

There are two designated sites in the vicinity, these include River Nore SPA (Site Code 004233), and River Barrow and River Nore SAC (Site Code 002162) both located 200m to the SW.

### 5.4. EIA Screening

Having regard to the nature of the development to be retained, the nature of the receiving environment, and proximity to the nearest sensitive 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 and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A Third-Party appeal against the decision of the planning authority to grant retention permission was lodged by Brian Murphy and Grace Brennan the owner and residents of the adjoining neighbouring house at no. 9 Dangan Terrace. The appeal was accompanied by photographs, the grounds of appeal can be summarised as follows;

- *Height* - Is higher than were led to understand, as it had been agreed that the proposed extension would not be higher than the existing extension.
- *Loss of privacy overlooking* - Window directly overlooks appellants patio, contrary to what was agreed prior to the application being lodged. Application of frosted sticker over plain glass can be removed at any time.
- *P.A.Decision* – Unclear as to how a decision to grant permission for retention was made for the development which overlooks the appellants property.
- Refer to Section 12.5.6 of the Kilkenny County Development Plan 2014-2020 which requires for any domestic extension that the design have regard to the need for light and privacy of adjoining properties. Rooflights could have been used and avoided the appellants property being overlooked.
- No issue with the building of an extension providing it does not impact on the appellants property.

### 6.2. Applicant Response

A response to the Third Party appeal was lodged by Slattery Design Architecture on behalf the applicant. It can be summarised as follows;



- Confirmed meeting 29<sup>th</sup> January 2019 with neighbours on both sides as a courtesy and not an obligation. The height of 3.7m at the top of the proposed sloped roof of the new extension was indicated on the drawings, and dispute that any indication was given that the extension would not be higher than the existing rear extension as that is not the case. Drawings reviewed at that meeting were submitted to the County Council.
- Window locations have not changed from this initial meeting, with the glazed door changed to a window and the sloped roof changed to flat.
- Confirmed meeting 6<sup>th</sup> July 2019 with the appellants on site where it was requested that the windows be made opaque. Details of this meeting were documented with the agents solicitor and the Thomastown Garda. It was decided by the applicant to make the windows opaque, and in order to avoid delay it was decided to put opaque film on the 2 narrow windows as well as the kitchen window.
- Development to be retained is a modest single storey flat roofed extension of 33sq. The distance from the property boundary remains the same as the previous rear extension of no. 8 though it is slightly higher.
- Houses in the terrace are fortunate to have a south east orientation to the rear. Any shadowing of a property to the west by a single storey extension would be negligible.

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

The planning authority had no further comments and refer to the Planners Report.

### 6.4. **Observations**

None.

## 7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Appropriate Assessment also needs to be considered. The issues are addressed under the following headings:

- Impact on Residential Amenity
- Appropriate Assessment

I refer the Board to the most recent planning history on this site under P.A.Reg.Ref. 19/34 which was granted permission in April 2019, for a single storey extension to the rear and slightly to the west of the main structure of the house. The extension permitted was in place of an older extension to the rear of the house, which was demolished, and in relation to which the applicant had previously sought an exemption under a Section 5 Declaration.

It is also important to note from the outset that the current proposal differs from the previous application under P.A.Reg.Ref. 19/34, in terms of the height and slope of the roof and the insertion of a double window in place of a door to the side elevation.

### 7.2. Impact on Residential Amenity

7.2.1. The development is located within the development boundary of Thomastown as defined under the Thomastown Local Area Plan 2019. It is in an area zoned 'Existing Residential' with an objective 'to allow for new residential development and other services incidental to residential development'. In this zone residential extensions to an existing dwelling are considered acceptable in principal.

7.2.2. The area is characterised by mature, two storey terraced housing, many of which have been extended to the rear at single storey level only.

#### *Height*

7.2.3. The third party have raised concern in relation to the height of the extension and contend that they had understood that the extension would not be higher than the existing/original extension. In this regard I draw the Boards attention to photographs on file of the original extension submitted by the applicant as part of the Section 5

Declaration application to the planning authority, and also the plans submitted with the previous and current development.

- 7.2.4. I note the height of the flat roofed rear extension to be retained as part of the current appeal is stated as 3.338m. This compares to the height of the permitted pitched roof which sloped from 2.7m to 3.7m rising away from the appellants property under P.A.Reg.Ref. 19/34.
- 7.2.5. The difference therefore in height from that permitted and that constructed along the western side elevation is 0.64m ( $3.338\text{m} - 2.7\text{m} = 0.638\text{m}$ ). I do not consider a roof height of 3.338m or an increase in height of 0.64m to be excessive.
- 7.2.6. I note also that the extension is set off the boundary with house no. 9 by approx. 1.7m.
- 7.2.7. I note the contiguous front and rear elevation drawings which illustrate the particular relationship between both properties, in terms of site levels and ridge heights.
- 7.2.8. The particular relationship relates to the difference in site levels both within the appeal site and that of the appellants. I note given the 4.3 degree slope of the appeal site from front to rear that the extension is higher relative to site levels where it joins the existing house i.e. approx. 3.8m.
- 7.2.9. This combined with the level difference between both sites of approx. 0.8m does result in the extension appearing higher from the appellants property.
- 7.2.10. Notwithstanding, I do not consider the overall height of the extension to be retained to be excessive.
- 7.2.11. *Overshadowing*
- 7.2.12. The appellants have also raised concern in relation to overshadowing and that a shadow analysis should have been submitted with the application.
- 7.2.13. I do not however, accept that a shadow analysis is necessary in this instance given that the development relates to a single storey extension, which is set off the common boundary, and located to the east of the appellants property. Both properties benefit from south east facing rear gardens. I am satisfied therefore that the proposed development will not result in overshadowing, and I can also confirm from my site inspection midday in March that there was no overshadowing of the appellants property.

### *Overlooking*

- 7.2.14. The third party have raised concern in relation to overlooking and in my opinion this is the crux of the appeal. They have queried how the planning authority could have made a decision to grant permission and assert that the use of rooflights would be preferable to windows overlooking their property.
- 7.2.15. As already outlined in section 1 above there are a number of windows at ground floor along the gable elevation of house no. 8 which face onto the appellants property. The extension includes a double window in place of the permitted door which was previously to serve a boot room. There are also two narrow windows as permitted under P.A.Reg.Ref. 19/34. I note also that the permitted sloped roof did include two rooflights.
- 7.2.16. From my site inspection I can confirm that the double window to be retained which now serves a kitchen includes an opaque film covering on the lower half of the window only. The other two narrow windows include an opaque film covering the clear glass.
- 7.2.17. I note the applicants response to the third party appeal where difficulties in obtaining obscure glass was cited as the reason the application of an opaque film was used.
- 7.2.18. I have considered the issue of overlooking and note in particular the relationship between the western gable elevation of the extension and the rear amenity space and patio area in particular of the appellants property to the west.
- 7.2.19. I am satisfied however, in this instance that the application of an opaque film is a reasonable measure to address the issue of overlooking but consider that the double window serving the kitchen which currently has only the lower half covered should be covered in its entirety. This can be dealt with by way of condition. In forming this view, I also consider that the provision of a window is preferable in terms of residential amenity to the provision of a door
- 7.2.20. I am satisfied, therefore, that the proposed development to be retained and subject to modification will not result in a seriously negative impact on the residential amenity of the appellants property and should not be refused on this basis.

### 7.3. **Appropriate Assessment**

Having regard to the nature and scale of the development proposed for retention, being a single storey extension to the rear of an existing house only, 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**

I recommend that retention permission should be **granted** for the following reasons and considerations.

### 9.0 **Reasons and Considerations**

Having regard to the minor nature of the development proposed for retention, and its location in an urban area, it is considered that, subject to compliance with the conditions set out below, the development proposed for retention would not seriously injure the residential amenities of the area, or depreciate the value of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

### 10.0 **Conditions**

1. The development shall be retained in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions.

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

2. The double window to be retained shall be permanently covered with an opaque film within 3 months of a grant of retention permission.

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

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Susan McHugh  
Senior Planning Inspector

7<sup>th</sup> April 2020