



An
Bord
Pleanála

Inspector's Report

ABP-307429-20

Development

Demolish an existing single storey dwelling and outbuildings while constructing 4 no. two storey four bedroom, semi detached dwellings, new entrance (2 number), car parking, associated landscaping and internal boundaries and all associated site works.

Location

Green Road , Kildare Town , Co. Kildare.

Planning Authority

Kildare County Council

Planning Authority Reg. Ref.

20177

Applicant(s)

Dunne Better Build Ltd.

Type of Application

Permission

Planning Authority Decision

Refuse permission

Type of Appeal

First Party

Appellant(s)

Dunne Better Build Ltd.

Observer(s)

None

Date of Site Inspection

31st August, 2020

Inspector

Stephen Kay

1.0 Site Location and Description

- 1.1. The appeal site is located to the north west of the town centre in Kildare Town. The site is on the northern side of the Green Road that runs north west from the Carmelite catholic church in the town, and on the northern side of the railway line.
- 1.2. The site is located in a run of one off, predominantly single storey dwellings and is currently occupied by a single storey house and associated out buildings. The site is essentially split into two with a separate entrance at the eastern end of the frontage which accesses the house, and a second entrance on the western end of the frontage which provides access to a single storey building which was previously in use as an undertakers and a yard area to the rear of the site. Part of this yard area is occupied by a concrete slab which appears as if it previously accommodated some form of building or shed. The stated floor area of the existing house on the site is 126 sq. metres and the floor area of the existing structure on the western side of the site is 71 sq. metres.
- 1.3. The stated area of the appeal site is 0.319 ha.

2.0 Proposed Development

- 2.1. The proposed development comprises the demolition of the existing single storey house on the site and the construction of 4 no. houses comprising two pairs of four bedroom semi detached two storey houses. The floor area of each dwelling is 134 sq. metres.
- 2.2. The development is proposed to be connected to the public water supply and foul drainage networks.

3.0 Planning Authority Decision

3.1. Decision

The planning authority issued a Notification of Decision to Refuse Permission for 2 no. reasons which can be summarised as follows:

1. That the form of development proposed would be incompatible with the existing form and character of development such that it would be visually intrusive and be inappropriate on lands zoned Objective B, '*existing residential / infill*' in the Kildare Town LAP. The proposed development would therefore seriously injure the amenities and depreciate the value of property in the vicinity, would be contrary to the zoning objective and contrary to the provisions of section 4.11 of the Kildare County development Plan 2017-2023 which requires development to respect the amenity and character of existing residential development.
2. That the application does not adequately demonstrate how the development will provide a connection to the public foul drainage network and that in the absence of such details the proposed development may give rise to pollution, be prejudicial to public health and set an undesirable precedent for other similar forms of development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Officer notes the form of development proposed, the location relative to surrounding development and services, the content of internal reports and the fact that there was a previous refusal of permission on the site. There is considered to be a lack of detail and justification to address the previous reasons for refusal on the site, particularly with regard to the design / form of development and connection to public services. Refusal of permission consistent with the notification of decision which issued is recommended.

3.2.2. Other Technical Reports

Area Engineer – Further information required regarding a public lighting scheme.

Environment Section – No objection subject to conditions.

Fire Officer – No objection subject to conditions.

Roads and Transportation – No objection subject to conditions.

Water Services – Further information required on the disposal of surface water which must be to ground and also feasibility statement based on pre connection enquiry from Irish Water regarding a foul drainage connection together with design calculations and levels.

3.3. **Prescribed Bodies**

Irish Water – Comment provided as part of Water Services Report.

3.4. **Third Party Observations**

Submission received objecting to the proposed development on the basis of the following:

- That the 8 no. adjoining houses are on septic tank systems with no public foul drainage connection.
- That there is currently only 1 no. two storey house on this part of the road.
- That there are issues regarding the mapping of site boundaries and site ownership.

4.0 **Planning History**

The following planning history relating to the appeal site and adjoining lands is considered of relevance to the assessment of this appeal. Additional planning history is referenced in the report of the Planning Officer on file.

- Kildare Co. Co. Ref. 18/932 – permission refused by the Planning authority for the demolition of the existing house on the site and the construction of two pairs of semi detached houses on the site. The design and layout of this proposal was very similar to that which is now the subject of appeal although the site size was slightly larger than the current case with the addition of a strip to the north east. Permission was refused for three reasons relating to contravention of the zoning by virtue of inappropriate form of development that would be visually obtrusive and overbearing, poor quality of residential layout and design contrary to government guidance and the development plan

and lack of clarity regarding the feasibility / method of connection to the public foul drainage network.

- Kildare Co. Co. Ref. 12/653; ABP Ref. PL09.241253 – Permission refused by the Planning Authority and decision upheld on appeal for the retention of funeral parlour and extension on the site and retention of timber cladding to garage. Permission refused for three reasons relating to the consolidation of a haphazard form of development on the site when taken in combination with other unauthorised commercial uses on the site, inadequate drainage provision on the site comprising a single septic tank system to cater for the existing dwelling and commercial uses and that the Board is not satisfied that adequate sight lines are available at the entrance that is shared by the proposed use and other commercial development on the site.
- Kildare Co. Co. Ref. 17/764; ABP Ref. PL09.302145 – Permission granted by the planning authority to Makros Limited for the construction of a residential development of 191 no. units on lands located to the immediate north and east of the current appeal site zoned Objective C1 (new residential). .

5.0 Policy Context

5.1. Development Plan

Kildare Town LAP, 2012-2018

The appeal site is located on lands that are zoned Objective B (Existing Residential / Infill) under the provisions of the *Kildare Town LAP, 2012-2018* with the stated objective '*to protect and improve existing residential amenity, to provide for appropriate residential infill development and to provide for new and improved ancillary services*'.

The plan states that the primary aim of lands zoned Objective B is to preserve and improve residential amenity and to provide for further infill residential development at a density that is considered suitable for the area.

Kildare County Development Plan, 2017-2023

Chapter 4 relates to housing and Paragraph 4.11 requires that new development would respect the amenity and character of the existing residential area.

Chapter 17 contains development management standards.

5.2. Natural Heritage Designations

The site is not located in or close to any European sites.

The closest such sites are Pollardstown Fen SAC (site code 000396) which is located c.5km to the northeast of the appeal site at the closest point and the River Barrow and River Nore SAC (site code 002162) which is located c.10km to the west at the closest point.

5.3. EIA Screening

Having regard to the limited scale of the development and separation to nearest sensitive receptor 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 appeal:

- That the reason for refusal relating to the impact on amenity has to be seen in the context of permitted development on surrounding sites to the side and rear of the adjacent houses. This permitted development comprises two storey houses of similar form to the proposed development.

- That the proposal is considered to be consistent with the residential development of the area permitted by the council and will not have an impact on the existing houses on Green Road.
- The reasoning behind refusal reason No.1 is considered to be contrary to the zoning objectives in the plan.
- That prior to the submission of the application, a pre application meeting with Kildare Co Co agreed that connection of the development into the foul drainage and water supply network in the permitted large scale housing development to the rear is the optimal arrangement. This has been agreed by the adjoining land owner and letter of consent is attached. It is also proposed that the adjacent houses on Green Road would also connect into the services in this adjoining development which is currently under construction.
- Appeal is accompanied by letter of consent from the adjoining land owner to foul drainage connection via the development under construction to the rear (north east) of the site.
- Map of foul drainage layout of adjoining permitted development enclosed.

6.2. Planning Authority Response

The following is a summary of the main points made in the response of the Planning Authority to the grounds of appeal:

- That the site is located within an area that is zoned existing residential / infill and it is therefore required that the existing residential amenity would be protected and improved.
- That the form of development is suburban and out of character with the surrounding area, notwithstanding the zoning of surrounding lands to the north.
- The development would break the established building line and result in a visually obtrusive and overbearing development.
- The proposal is very similar in design, layout and form of development to that previously refused under Ref. 18/932.

7.0 Assessment

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

- Site Context, Principle of Development and Compliance with Zoning Objective
- Design and Layout,
- Site Servicing
- Other Issues
- Appropriate Assessment

7.2. **Site Context, Principle of Development and Compliance with Zoning Objective**

7.2.1. The appeal site is located on lands that are zoned Objective B (Existing Residential / Infill) under the provisions of the Kildare Town LAP, 2012-2018 with the stated objective '*to protect and improve existing residential amenity, to provide for appropriate residential infill development and to provide for new and improved ancillary services*'. The basis of the Reason for Refusal No.1 as included by the Planning Authority is that the form of development proposed would be out of character with surrounding houses and would be such that it would form a visually obtrusive and overbearing development.

7.2.2. The Kildare Town LAP states that the primary aim of lands zoned Objective B is to preserve and improve residential amenity and to provide for further infill residential development at a density that is considered suitable for the area. While I note the concerns of the Planning Authority with regard to the two storey nature of the proposed development, the density proposed and the fact that immediately adjoining properties are single storey, there are in my opinion a number of other factors worth highlighting. Firstly, as referenced in the first party appeal, the permitted form of residential development on the lands immediately to the north of the appeal site is two storey (191 no. units permitted under Kildare Co. Co. Ref. 17/764; ABP Ref. PL09.302145). In addition, recent residential development on lands immediately opposite the appeal site and on the southern side of Green Road is two storey, and additional two storey residential development is proposed on lands adjoining this development to the west. Even in the run of existing houses located on the northern

side of Green Road, there are existing two storey houses located two doors to the west of the appeal site and also further to the east. In my opinion therefore the character of the area is not clearly one of single storey houses on large sites, and the form of permitted and proposed residential development in the general environs of the site is such that the principle of two storey housing on the site would not be inconsistent with the Objective B zoning objective or significantly out of character with the edge of town location of the site. Similarly, in principle I do not have any objection to semi detached units on the appeal site and do not consider that such a form of development would be inconsistent with the surrounding context such as to be contrary to the zoning objective.

- 7.2.3. The existing house on the site is not of any particular architectural merit and I do not consider that there is any reason why its retention should be sought. Similarly, the other structures on the site are not of any architectural or other merit such as to warrant retention.
- 7.2.4. With regard to density, I note the provisions of Table 4.2 of the Kildare County Development Plan which identifies the appropriate density for outer suburban / greenfield locations in larger towns as being in the range of 30-50 units per ha. This is consistent with the 35-50 units per ha. specified for such locations in paragraph 5.11 of the Sustainable Residential Development Guidelines for Planning Authorities. The density of development proposed equates to c.12.5 units per ha. and, while below the recommended density range, is in my opinion appropriate given the site context and constraints in terms of size and access.
- 7.2.5. The layout of the two pairs of semi detached units on the site is such that there is a limited (less than 2 metre) degree of separation proposed between the pairs of houses. Particularly in view of the location and context of the appeal site, additional separation between the units is in my opinion appropriate from a visual and residential amenity perspective. In addition, I would have concerns with regard to the proximity of the western pair of semi detached units to the site boundary which comprises a large mature hedgerow which is proposed to be retained. As set out below, the design of the dwellings is such that this proximity to site boundaries could lead to actual or perceived overlooking of adjoining properties.

7.3. Design and Layout

- 7.3.1. While the demolition of the existing structures on site and the redevelopment of the site for residential use with two storey detached or semi detached development is in my opinion acceptable in principle, the design and layout of the residential units needs to take account of the site location and context. The design proposed is contemporary with full height windows to the hall (though there appears to be a discrepancy between the front elevation and floorplan as they relate to this feature) and projecting corner elements with corner windows. While overlooking from these corner windows would not be possible, in combination with the proximity to site boundaries, they would in my opinion give rise to a sense of overlooking. It is also my opinion that alterations to the design are required to make it more in keeping with the context set by the existing houses fronting Green Road and that in its current form the proposed development would be visual obtrusive in this location and such that it would be contrary to the Existing Residential / Infill zoning objective for the site which seeks to protect and improve existing residential amenity. Notwithstanding the design, as set out above I also consider that the separation between the houses and site boundaries and each other is too tight and that a reduction in the number of units is required.
- 7.3.2. I note the reference in the report of the Planning Officer to the proposed building line being inconsistent with that established along the northern side of the Green Road. A review of the other houses shows that there is no clearly established building line in this location and the proposed development would be located slightly further back in the site than the immediately adjoining houses, and not in my opinion such that it would be significantly out of character with the existing context.
- 7.3.3. The internal size and layout of the proposed units is generally consistent with the internal space standards set out in the Kildare County Development Plan and with the Department of the Environment Guidance Quality Housing for Sustainable Communities. The width of the living room areas at c.3.3 metres is below the minimum for a 3/4 bedroom units, although this is part of a larger kitchen / diner at the rear. Similarly bedroom 2 would appear to be below the recommended minimum size for a double bedroom as per 5.3.2 of Quality Housing for Sustainable Communities. Private amenity space is proposed to the rear of each unit and the

area proposed are significantly in excess of the requirements set out in the County Development Plan.

7.4. Site Servicing

- 7.4.1. Notwithstanding the fact that the submitted Site Plan indicates that the houses fronting the Green Road on either side of the site are 'on mains water and sewerage', the information presented on file from the Water Services section of the council and the third party submissions to the Planning Authority indicate that the appeal site and adjoining properties are not connected to the public foul drainage network and are served by on site septic tanks / treatment systems. Reason for Refusal No.2 relates to insufficient demonstration of the proposed connection to the public foul drainage network.
- 7.4.2. The first party appeal against refusal states that prior to the submission of the application, a pre application meeting with Kildare County Council agreed that connection of the development into the foul drainage and water supply network in the permitted large scale housing development to the rear is the optimal arrangement. It is further stated by the first party that this has been agreed by the adjoining land owner and letter of consent is attached and that the adjacent houses on Green Road would also connect into the services in this adjoining development. A plan of the foul drainage layout proposed for the adjoining permitted residential development is also enclosed with the appeal.
- 7.4.3. There are, in my opinion, a number of issues that require to be highlighted on the issue of foul drainage. Firstly, while there is a letter of consent from the adjoining land owner to the connection of the proposed development in to the foul drainage network of the permitted residential development to the north, no details are provided regarding the nature or location of this connection. It is also not apparent, from the letter of consent submitted, that adjoining owner consents to the connection of other houses on Green Road as stated in the first party appeal.
- 7.4.4. I note that the report of the water Services Section on file which includes comment on behalf of Irish Water, states that an Irish Water feasibility letter based on a pre connection enquiry is required. No such correspondence from Irish Water is available on file. The Water Services Report on file also notes that in the event of a

proposed connection to a private development that an agreement is required and not just a letter of consent. No agreement has been presented as part of the first party appeal. In terms of the detail of proposed connection into the private network, the drainage map submitted is in my opinion very unclear with regard to the relationship between the network indicated as the appeal site. The appeal site appears to be located at the top of the drainage layout plan submitted and it is not possible to see the adjoining residential or drainage layout within the permitted housing development in this location. The drainage plan submitted does indicate '*a possible pumped / gravity foul connection...*' running along the Green Road to the south of the appeal site, however the nature of this connection is not clarified and it is not therefore clear whether connection to this sewer is feasible. No levels or other details that demonstrate the feasibility of a connection either to the foul connection on the Green Road or within the permitted residential site are indicated.

7.4.5. On the basis of the information presented, and particularly in the absence of any consent from Irish Water or detailed agreement and method of connection of the development to the permitted residential development to the north, I do not consider that the basis for Reason for refusal No.1 issued by the Planning Authority has been satisfactorily addressed by the first party.

7.4.6. I note that the initial application details indicate that it was proposed that surface water would be discharged to the public surface water drainage network. The report of the Water Services section of the council on file identifies that there is no dedicated surface water drainage network in the vicinity of the site and that proposals for the disposal of surface water to ground are therefore required. While there would appear to be adequate space within the site to accommodate soakaways, no details are presented as part of the first party appeal.

7.5. Other Issues

7.5.1. I note that one of the reasons in the refusal of permission by the Board for the retention of funeral parlour and other works under ABP Ref. PL09.241253 was that the Board was not satisfied that adequate sight lines were available at the entrance that was to be shared by the proposed use and other commercial development on the site.

7.5.2. Sightlines at the eastern entrance are in my opinion acceptable for an entrance located within the 60 km/hr speed limit zone. In the case of the western entrance, which was that the subject of refusal by the Board under Ref. PL09.241253, visibility to the right hand side exiting the site is restricted by a crest in the road. A sight line of c.85 metres is however available to the near edge of the road in this location and, given the existing nature of the entrance and the residential character of the surrounding area and the proposed development, this is considered to be acceptable. An 85 metre sight line is also consistent with the sight stopping distance and visibility at junction requirements set out in Table 4.4 and paragraphs 4.4.4 and 4.4.5 of DMURS.

7.6. **Appropriate Assessment**

7.6.1. The application is not accompanied by a screening for appropriate assessment or Stage 2 Appropriate Assessment. On the basis that the proposed development would be connected to the public water supply and foul drainage network, it is considered that 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 design of the proposed development, in particularly the proximity of the proposed semi detached units to one another and to site boundaries and the contemporary design approach proposed including corner windows and associated elements to the front elevation, it is considered that the proposed development would represent a visually incongruous form of development that would be out of character with its setting and surrounding properties and which would have a negative impact on the amenity of surrounding properties by virtue of visual obtrusion. The proposed development would therefore seriously injure the visual and residential amenities and depreciate the value of property in the vicinity, would be contrary to the Existing Residential / Infill zoning objective of the site and would be contrary to the proper planning and sustainable development of the area.
2. On the basis of the information presented, and particularly in the absence of any consent from Irish Water or detailed agreement and method of connection of the proposed development to the permitted residential development to the north including clearly identified connection point and levels, the Board is not satisfied that an acceptable and feasible method of connection of the development to the public foul sewerage network is available. In the absence of such details the proposed development would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

Stephen Kay

Planning Inspector

2nd September, 2020