



An
Bord
Pleanála

Inspector's Report ABP 307512-20

Development	4 houses
Location	Main Street, Piltown, Co. Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	19/888
Applicant	Paul Henebery
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellants	Robert & Veronica Blackmore & Others
Observer(s)	None
Date of Site Inspection	24/09/20
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site which has a stated area of 0.2 hectares, is accessed from Main Street in the centre of Piltown. Main Street is characterised by a mix of commercial and residential uses in single, dormer and two storey designs in addition to accesses to a number of housing estates.

The site is roughly rectangular in shape and is relatively level. The roadside boundary is delineated by timber fence backed with planting. A dormer dwelling bounds the site to the east with a block wall delineating the boundary. A garage forecourt used for the display of cars bounds the site to the west with little boundary delineation. The boundary along the south-western most corner is delineated by a hedgerow. Two storey semi-detached dwellings within The Meadows housing estate bound the site to the east and south with the shared boundary delineated by a block wall.

There is no footpath along both the appeal site and adjoining garage's frontage.

2.0 Proposed Development

The application was lodged with the planning authority on the 29/11/19 with further plans and details received 20/04/20 following a further information request dated 28/01/20 with revised public notices received 22/05/20.

As amended permission is sought for 4 no. two storey 3 bedroom terraced dwellings each having a stated floor area of 103.7 sq.m. They are to have a setback of 15 metres from the roadside boundary with each served by a long rear garden.

A 1.8 metre block wall backed by planting is proposed along the site boundaries to the rear of the dwellings. A 1 metre high stone wall is proposed along the road frontage.

A new ESB substation is required to be accommodated within the site boundary, provision for which has been made along the western boundary.

3.0 Planning Authority Decision

3.1. Decision

Grant permission subject to 14 conditions. Of note:

Condition 3: (a) design of dwelling unit no.1 to be revised to prevent overlooking of property to the east/south-east.

(b) applicant to retain a suitably qualified landscape professional to submit detailed landscape plan. Proposals to provide for suitable screening.

Condition 5: Alterations and widening of proposed entrances.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The 1st Executive Planner's report dated 27/01/20 (countersigned) notes that the proposal will not increase the existing Piltown housing stock by more than 12.5% within the lifetime of the county development plan and will further develop the settlement's function within the county's settlement hierarchy. It will contribute to the enhancement and consolidation of the village form by improving the village streetscape and assisting in the redevelopment of infill backlands in the village. Further information recommended on location of utilities, boundary treatments, floor levels, elevation drawings, footpath provision, parking, confirmation of feasibility re. connection to water and wastewater and response to 3rd party submissions.

The 2nd undated report following further information considers that the proposal will integrate satisfactorily with and enhance the village streetscape. The concerns raised in 3rd party submissions can be dealt with by way of revised design of dwelling no.1 and appropriate landscaping. A grant of permission subject to conditions recommended.

3.2.2. Other Technical Reports

Road Design in a report dated 16/01/20 recommends further information on parking provision, utilities in the vicinity, roadside boundary treatment and footpath provision. The 2nd report dated 12/05/20 following further information has no objection subject

to modifications to roadside boundaries and widening of vehicular accesses to houses 2 and 3.

3.3. Prescribed Bodies

Irish Water in a report dated 17/01/20 recommends that the applicant submit a pre-connection enquiry in order to determine the feasibility of connection to water and waste water infrastructure. Confirmation of feasibility to be submitted by way of further information. A 2nd report dated 14/05/20 following further information notes that records indicate the presence of existing foul sewer and surface water mains within the proposed development. Condition recommended to address the necessary diversion should permission be granted.

3.4. Third Party Observations

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised are comparable to those in the 3rd Party appeal summarised in section 6 below.

4.0 Planning History

I am not aware of any previous planning applications on the site.

5.0 Policy and Context

5.1. Development Plan

Kilkenny County Development Plan 2014-2020

The site is within the development boundary of Piltown which is identified as a small village.

Objective - To facilitate development of housing, economic development, services and infrastructure in the smaller towns and villages of the county at a scale and character which is appropriate in order to sustain and renew populations and services in these areas.

In terms of Housing Strategy the plan states that:

- For smaller towns and villages, no one proposal for residential development should increase the existing housing stock by more than 12.5% within the lifetime of the plan.
- For villages of under 400 in population, any individual scheme for new housing should not be larger than about 10-12 units.
- The Planning Authority may limit the extent of development on any one site within the smaller towns and villages having regard to the overall water services capacity and the availability of land for development within the village.
- Have regard to existing framework plans/community action plans including existing Village Design Statements that have been prepared in consultation with the local community, and with relevant agencies, as supplementary planning guidance documents.

Note: The Piltown Local Area Plan 2011-2017 has expired. In same the site was within an area zoned existing and general development.

5.2. **Natural Heritage Designations**

None in the vicinity

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The 3rd party appeal by Robert & Veronica Blackmore & Others against the planning authority's notification of decision to grant permission can be summarised as follows:

- 1st floor windows of the 4 units will overlook their properties and will result in loss of privacy. Condition 3 does not adequately address same.
- Planting of trees along the boundary will result in overshadowing and could lead to loss of light with issues of maintenance. The impact to the integrity of

the boundary wall foundations also a concern. Condition 3 does not address these issues.

- The requirement to retain a qualified landscape professional is short sighted. The proposal should be refused and houses redesigned/repositioned rather than erecting a screen.
- The proposal will have an adverse impact on their residential amenities and will result in the devaluation of property.

6.2. Applicant Response

The submission by Peter Thomson Planning Solutions on behalf of the application can be summarised as follows:

6.2.1. Amenities of Adjoining Property

- The proposed housing is typical in layout and design to many infill developments in the village.
- The County Development Plan requirement of 22 metres between opposing 1st floor windows is considered the optimum distance for straight line of vision. Significantly reduced separation will regularly occur in urban infill development from oblique views.
- The appellants' rear gardens were originally directly overlooked from the 1st floor windows at 21 and 22 The Meadows to the south. Planting along the eastern rear boundary by the owners resolved this issue.
- A professionally designed landscape scheme would ensure planting height can be controlled and limited. There is adequate room for maintenance by the occupant of house no.1 and to ensure wall foundations are not compromised.
- The proposal will not result in the loss of natural light to existing dwellings.
- There will be no loss of privacy with no evidence of devaluation of property.
- In view of the above it is considered that the requirements of condition 3 (a) seeking redesign of dwelling no.1 is not required. If required 1st floor windows could be angled.

- The small window in the gable of dwelling no.1 can be fitted with obscure glass.
- Amendments to condition 3 (b) regarding landscaping put forward. Either no landscaping to be required or that it be limited to the common boundary with No. 27 The Meadows. The condition would not be required if angled windows at 1st floor level is acceptable.

6.2.2. Other Issues

- The applicant has an agreement in principle to develop the dwellings for Kilkenny County Council. In such circumstances no financial contribution as per condition 2 would be applicable. The Board is asked to reflect this in the condition wording.
- Condition 5 (c)(ii) requires the widening of the front entrances of houses nos. 2 and 3 to 3.5 metres. Section 12.5.6.1 of the Development Plan restricts the width of entrances to no more than 3 metres. The requirements of the condition are not considered necessary and would reduce the impact of the boundary wall. The wall also presents an opportunity to integrate with and screen wheelie bin enclosures.

6.3. **Planning Authority Response**

No further comment.

6.4. **Observations**

None

7.0 Assessment

I consider that the issues arising in the case can be assessed under the following headings:

- Policy Context
- Amenities of Adjoining Property
- Other Issues

7.1. Policy Context

The site, located within the centre of Piltown village with access from Main Street, has the characteristics of an infill site with a garage forecourt bounding the site to the west, a dormer dwelling to the north-east and The Meadows housing estate to the east and south.

I consider that the proposal for 4 no. dwellings complies with the objective of the current County Development Plan which seeks to facilitate development including housing at a scale and character which is appropriate to the settlement in order to sustain and renew populations and services in these areas.

7.2. Amenities of Adjoining Property

Main Street is characterised by a varied pattern of residential and commercial development with the residential component comprising a mix of single, dormer and 2 storey detached and semidetached units with a number of housing estates including The Meadows to the east, Banagher and Belline Vale to the north and north-west and Clonmore Hall to the west. There is no overriding architectural style or design evident in the area which allows for a certain level of leeway in terms of house design. However, save for the undeveloped lands and the garage forecourt to the west, there is a consistency in the building line on the southern side of the street which the dormer dwelling adjoining the site reflects. This building line is replicated in the dwellings developed as part of the Clonmore Hall scheme which front onto Main Street on the other side of the garage forecourt.

The layout of the proposed development was amended by way of further information to allow for the installation of a substation as required by ESB in the north-western corner and to allow for connection to drainage services. 4 no. two storey terraced

dwellings are proposed with dwelling no.1 to be set back approx. 1.7 metres from the shared boundary with the dormer dwelling.

The appellants' properties back onto the site to the east and comprise of semi-detached dwellings served by rear gardens ranging between 13 and 16 metres in length. The shared boundary is delineated by a c. 1.8 metre high block wall. The proposed dwellings will be at an angle to same and, as such, any views will be at an oblique rather than straight angle. A separation of 17 metres is to be maintained between the rear corner of House No.1 and No. 27 The Meadows. This increases to approx. 20 metres to the rear wall of No. 26 and 24 metres to No. 25.

I submit that in such a village centre location such a juxtaposition of development and separation distances would not be uncommon. I am satisfied that overlooking will not be significant and would not be beyond what would be considered reasonable in an urban or suburban location. I do not consider therefore, that the proposed development would unduly impact the residential amenities of the appellants' properties. In view of the separation distances to be maintained I do not consider that it is necessary to seek modifications to the fenestration treatment at 1st floor level in any of the units. I also do not consider that landscaping specifically to screen the development from view is necessary. No overshadowing or loss of light will arise.

Notwithstanding, I submit that the proposed setback of the dwellings from the roadside at 14.5 metres would do little to enhance the somewhat weak streetscape along Main Street. I submit that the bringing forward of the dwellings to a setback of 8 metres would be more acceptable and would be more in keeping with that prevailing along the southern side of the street. This may require the relocation of the proposed substation in the north-western corner closer to the road. I consider that such a reduction in the setback would provide for a more appropriate interface with the dormer dwelling immediately adjoining whilst having the knock-on effect of increasing the separation distances to the appellants' properties. The proposed amendments may result in the reduction in the number of off street parking spaces that can be provided within the curtilage of each dwelling from the development plan requirement of 2. This in my opinion is an acceptable compromise and would not give rise to concerns in terms of on street parking.

The house design is considered acceptable with details provided as to the boundary treatments both front and rear. The width of the vehicular entrances vary between 3.71 and 2.909 metres. No entrance should exceed 3 metres which would allow for a stronger delineation of the front boundary to Main Street.

Subject to the above amendments I consider that the proposal would assist in strengthening the streetscape to Main Street whilst providing for an acceptable level of amenities for prospective occupants and protecting the amenities of adjoining property.

7.3. Other Issues

Financial Contribution

I note the agent for the applicant's request that the condition pertaining to the financial contribution (condition 2) be worded so as to reflect the fact that the applicant has an agreement in principle to develop the dwellings for Kilkenny County Council. No evidence of this fact accompanies the application or the appeal. I consider it appropriate that a condition be attached in the absence of same. The condition attached by the Board in such instances allows for the details of the application of the terms of the Scheme to be agreed between the planning authority and the developer.

Appropriate Assessment

Having regard to the nature and scale of the proposed development, its location within the village of Piltown on a serviced site and the separation distance to any Natura 2000 site, 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

Having regard to the foregoing I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development within the development boundary of Piltown and to the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic and pedestrian safety and convenience. 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 20th day of April 2020 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. The development shall be amended as follows:
 - a) The 4 no. dwellings shall have a setback of not greater than 8 metres from the roadside boundary.
 - b) Vehicular access to each dwelling shall not be greater than 3 metres in width.

Revised plans with the above alterations shown thereon and any amendments required to ancillary development shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interest of visual amenity and the streetscape of Main Street.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, dark brown or dark grey in colour only.

Reason: In the interest of visual amenity.

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

Reason: In the interest of public health.

5. 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.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

7. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The proposed name shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name of the development

shall be erected until the developer has obtained the planning authority's written agreement to the proposed name.

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

8. Site development and building works shall be carried out only between the hours of 0800 and 1900 Mondays to Fridays inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity,

9. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials within each house plot shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and in particular recyclable materials, in the interest of protecting the environment.

10. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and

amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

11. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting 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.

Pauline Fitzpatrick
Senior Planning Inspector

October, 2020