



An
Bord
Pleanála

Inspector's Report

ABP-307858-20

Development	Retention of detached single storey one bedroom dwelling house comprising a timber cabin and all other associated site works.
Location	715 Courtown Road, Kilcock, Co. Kildare, W23 D329
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	20/507
Applicant(s)	Nuala Donagher
Type of Application	Retention Permission
Planning Authority Decision	Refuse Retention Permission
Type of Appeal	First Party
Appellant(s)	Nuala Donagher
Observer(s)	None
Date of Site Inspection	9 th December 2020
Inspector	Phillippa Joyce

1.0 Site Location and Description

- 1.1. The appeal site is located at 715 Courtown Road in Kilcock, an established residential area to the southwest of the town centre. The host property is a mid-terrace 2 storey dwelling, to the rear of which is a garden area comprising a detached shed, the timber cabin and private open space.
- 1.2. The property is narrow and long, extending in a northerly direction from the terrace row of houses fronting onto Courtown Road. Vehicular access exists to the rear of the site via a laneway which runs along the back of the row.
- 1.3. The red line boundary of the site encompasses the northern part of the rear garden area where the timber cabin is sited and an area of open space, with a blue line boundary encompassing the remainder of the adjacent host property (the host property is owned by the applicant's mother). The stated area of the site is given as 0.0141 hectares.

2.0 Proposed Development

- 2.1. The proposed development comprises the retention of a detached single storey one bedroom dwelling house comprising a timber cabin, alterations to existing drainage connections, alterations to boundary treatment and all other associated site works.
- 2.2. The timber cabin is sited in the southerly part of the appeal site and indicated as being c. 1m from the rear elevation of the storage shed, and c. 21m from the rear elevation of the main dwelling. The side elevations of the cabin are indicated as being c.1m and c.0.6, at their most proximate, to the boundaries with the adjacent properties to the west and east respectively.
- 2.3. The cabin has a stated floor area of 32 sqm and comprises one bedroom, bathroom, and living area. The cabin is single storey structure with a pitched roof, and principal dimensions including c.4.24m in width, c.9.24m in length and c.3.31m in height. External finishes of the cabin include a timber cladding with a slate roof.
- 2.4. The cabin is connected to existing water services infrastructure, is served by a gravelled car parking area and an area of open space indicated as being 53 sqm.

3.0 Planning Authority Decision

3.1. Summary of Decision

On the 9th July 2020, the Planning Authority issued a Notification of Decision to Refuse Permission for 2 no. reasons that can be summarised as follows:

1. The proposed development is haphazard, piecemeal, contrary to the existing pattern of development and an inappropriate form of infill development. As such, the proposal is contrary to the applicable land use zoning objective 'B Existing Residential and Infill' included for in the Kilcock Local Area Plan 2015-2021. Furthermore, permitting the proposal would set an undesirable precedent for similar inappropriate infill development; and
2. The proposed development is a substandard form of residential development due to its being of inadequate floor area, which contravenes development management standards included in Section 17.4.5 and Table 17.4 of the Kildare County Development Plan 2017-2023. The proposal would injure residential amenity, result in overdevelopment of the application site and be contrary to the proper planning and sustainable development of the area.

4.0 Planning Authority Reports

4.1. Planning Report

The planner's report is the basis for the Planning Authority decision. In addition to the matters referred to the refusal reasons, the report notes, inter alia:

- Serious reservations are expressed about the nature of the proposed development to be retained;
- Detrimental effect on the amenity of the main dwelling on the site and negative impact on the rear gardens of the adjacent dwellings;
- The established residential area is considered to be wholly unsuitable to developments such as the proposal which would set an undesirable precedent;

- The quality of the private open space afforded to the main dwelling arising from the proposed development is questioned and Section 17.4.5 of the Development Plan is referred to which requires houses to have areas of usable private open space and that long narrow rear gardens are not acceptable; and
- An Appropriate Assessment screening report has been undertaken and a conclusion statement indicates there is no potential for significant effects on the Natura 2000 network.

4.2. **Other Technical Reports**

Area Engineer: no objection.

Transportation Department: no objection, subject to conditions including the requirement for at least one independently accessible car parking space to be provided within the boundaries of the site.

Water Services Section: no objection, subject to standard conditions.

Chief Fire Officer: no objection.

4.3. **Prescribed Bodies**

Irish Water: no objection subject to standard conditions for connection agreement, available capacity and required standards.

4.4. **Third Party Observations**

None received by the Planning Authority.

5.0 **Planning History**

Appeal Site:

The planner's report refers to Enforcement file at the site.

PA Ref. UD7449 – warning letter dated 06/02/2020 is stated as being issued in relation to a log cabin in the rear garden in habitable use.

Adjacent Site to West

PA Ref. 01/2112 – Planning Authority granted permission on 7th August 2003 for a dormer bungalow at the rear of 714 Courtown Road. This permission has been implemented.

6.0 Policy Context

6.1. Kilcock Local Area Plan 2015-2021

In the *Kilcock Local Area Plan 2015-2021*, the site is located on lands zoned as 'B: Existing/ Permitted Residential' with the zoning objective '*To protect and improve existing residential amenity; to provide for appropriate infill residential development; to provide for new and improved ancillary services*'.

The LAP further states: '*This zoning principally covers existing residential areas. The zoning provides for infill development within these existing residential areas. The primary aims of this zoning objective are to preserve and improve residential amenity and to provide for further infill residential development at a density that is considered suitable to the area and to the needs of the population...*'

6.2. Kildare County Development Plan 2017-2023

The *Kildare County Development Plan 2017-2023* provides further policy and associated objectives for new residential development in established urban areas, and quantitative and qualitative standards for new residential development than are included for in the predating Kilcock LAP detailed above.

Specifically referenced in the Planning Authority's refusal reason and therefore of direct relevance to the appeal determination are certain standards included in Chapter 17 of the Development Plan.

6.2.1. **Section 4.11 Residential Development in Established Urban Areas**

In relation to urban infill and backland development, it is stated that a balance is needed between the protection of amenities, privacy, the established character of the area and new residential infill.

Policy SR 1: Support sustainable residential development in established urban areas at appropriate locations, to support the ongoing viability of social and physical infrastructure and services, and to meet the future housing needs of the county. Standards in relation to residential development in established urban areas are set out under Chapter 17 of this Plan.

Objective SRO 1: Encourage the consolidation of existing settlements through well designed infill developments in existing residential areas, located where there are good connections to public transport and services and which comply with the policies and objectives of this Plan.

Objective SRO 2: Consider backland development generally only where development is carried out in a planned and coordinated manner.

6.2.2. ***Section 17.4.5 Dwelling Houses – Design /Layout/ Boundary Treatment***

Includes Table 17.4 and Table 17.5 which, respectively, present the quantitative standards for the minimum floorspace and private open space requirements for new residences.

Of relevance for the proposed development, a 1 no. bedroom dwelling, these include a floor area of 55 sqm with 3 sqm of storage, and an area of private open space measuring 48 sqm.

In relation to qualitative standards of relevance to the proposed development, the section specifies that:

- Storage should be additional to kitchen presses and bedroom furniture, but may be partly provided in these rooms. Storage should be provided off a hallway or landing to facilitate access; and
- Private open space should be designed so that it is usable for the proposed residents. Long narrow rear gardens or awkward shapes are therefore not acceptable.

6.3. **Quality Housing for Sustainable Communities: Best Practice Guidelines, 2007**

The national planning guidelines, *Quality Housing for Sustainable Communities: Best Practice Guidelines, 2007* outlines design approach and standards for dwelling design at a national level.

In Table 5.1 of the guidelines, space provision and room sizes for typical dwellings are indicated. These are identified as being the target gross floor area and the minimum floor areas for living, bedroom and storage areas likely to be required to satisfy requirements of normal living.

The quantitative standards for a single storey 1 no. bedroom/ 2 no. person dwelling (i.e. with a double bedroom space) include a target gross floor area of 44 sqm; minimum main living room is 11 sqm; aggregate living area is 23 sqm; aggregate bedroom area is 11 sqm; and storage area is 2 sqm.

6.4. **Natural Heritage Designations**

The appeal site is not located in or near to any European site.

7.0 **The Appeal**

7.1. **Grounds of Appeal**

The following is a summary of the main issues raised in the first party grounds of appeal:

- Highlights extracts from the zoning objective in the Kilcock LAP which refer to and support infill development;
- Refutes that the development is haphazard or piecemeal;
- States there is an irrational and 'broad stroke' bias on behalf of the Planning Authority against timber cabins;
- States a precedent for dwellings in rear gardens has been established in the adjacent site, PA Ref. 01/2112; and by other planning applications for timber cabins permitted by the Planning Authority;

- The property is longer than others, has space to accommodate an additional dwelling, is accessible by the mews laneway and therefore lends itself to development;
- The residential amenity of the main dwelling is not negatively affected as the host property is served by a rear garden area of 61 sqm (in excess of the Development Plan minimum standard for 3 no. bedroom houses) and there is no overshadowing, overlooking or other impact arising from the cabin;
- Accepts that the dwelling is not in compliance with minimum floor area standards, but states that the imposition of a requirement for 55 sqm is not warranted as the dwelling is for the sole use of the applicant, is more akin to a family flat and that facilities such as the existing shed, are for shared use;
- Accepts that the dwelling is not attached to the main house, but requests that the development be assessed as a family flat due to health circumstances of the applicant's mother; and
- Invites the Board to grant retention permission for humane reasons and attach a strict occupancy clause and a time limit on the duration of the permission.

7.2. Planning Authority Response

The Planning Authority responded to the first party appeal, the key issues raised are summarised as follows:

- The proposed development is contrary to the established pattern of development, haphazard and piecemeal;
- The proposed development cannot be considered under family flat policy as it is not one, as noted in the public notices which describes it as a one bedroom dwelling;
- The references to the standards included in the Apartment Guidelines and smaller house sizes in other Development Plans are not of relevance as the dwelling to be retained does not comply with the standards in the Kildare County Development Plan, is therefore contrary to same and would represent a substandard form of development; and

- Requests that the Board uphold the decision to refuse retention permission.

7.3. Observations

None received.

8.0 Assessment

I consider the main issues in determining the appeal to be as follows:

- Residential Amenity; and
- Infill/ Backlands Development.

8.1. Residential Amenity

- 8.1.1. The timber cabin dwelling on site is accepted by the applicant as not achieving the quantitative standards included in Section 17.4.5 of the Kildare County Development Plan which are applicable to one bedroom dwellings. While I note the applicant's case for a less strict application of the standards due to the size of the site, access to existing services, sharing of facilities with the host property and the request to assess the proposal under planning policy applicable to a family flat, such an approach is not considered to be reasonable, logical or appropriate.
- 8.1.2. The cabin structure has a stated floor area of 32 sqm and, therefore is 23 sqm less than the minimum standard required of 55 sqm. A clearly defined storage area of 3 sqm, thereby complying with the requirements of Section 17.4.5, is not definitively apparent from the plans submitted. In this regard, the subject dwelling fails to achieve the quantitative standards in Table 17.4, and therefore is contrary to Policy SR1 and Objective SRO1 of the *Kildare County Development Plan 2017-2023*.
- 8.1.3. Furthermore, in respect of the quantitative standards for dwellings set in the national planning guidelines, I highlight that the subject dwelling also fails to achieve each of the applicable standards identified for a single storey 1 no. bedroom/ 2 no. person dwelling (i.e. with a double bedroom space). The gross floor area of the cabin is

stated as 32 sqm; the minimum main living room is calculated from the plans as being c.9.2 sqm; the aggregate living area is calculated as being c.12.4; the aggregate bedroom area is calculated as being c.9.2 sqm; and storage area is c.1.5 sqm.

- 8.1.4. As the subject dwelling fails to meet County and national standards, the proposed development does constitute a substandard form of development. I consider that permitting the proposal would set an undesirable precedent for similar substandard forms of development in which the residential amenity of future residents would not be assured or protected.

8.2. Infill/ Backlands Development

- 8.2.1. The principal dimensions of the appeal site include c. 24m in length, c. 6m in width and a stated area of 141 sqm. The host property is distinctive in its configuration by being long and narrow, in comparison with other properties in the vicinity and I note the case presented by the applicant, highlighting the advantageous nature of the site that would facilitate its development. However, I consider that the configuration of the host property is too restrictive to be satisfactorily subdivided as is being proposed in this retention permission.
- 8.2.2. Due principally to the limited size and narrow width of the appeal site, in my opinion, it is not possible to satisfactorily accommodate the subject dwelling in its current configuration without causing injury to the amenities of the host property and those of the resultant subject property. There is highly restricted circulation space around the dwelling, especially along the eastern site boundary. The dwelling is separated from its area of open space by a required on-site car parking space.
- 8.2.3. While I note the emphasis placed by the applicant on the supportive infill related policy within the 'B: Existing/ Permitted Residential' zoning objective, I do however consider that the proposed development does not constitute an appropriate form of infill development due to the site restrictions, the limited separation distances to the boundaries of the adjacent properties, the siting and positioning of the structure within the site and opposite the rear garden area enjoyed by the adjacent property to

the east. In this regard, I consider that the proposed development is not planned or coordinated and is contrary to the 'B: Existing/ Permitted Residential' zoning objective of the Kilcock LAP and Objective SRO2 of the Kildare County Development Plan.

8.2.4. I note the planning history in the adjacent site to the west and the other cases referred to by the applicant in the appeal documentation. However, these are not considered relevant as, in the first instance, the adjacent site is wider than the appeal site, has direct road access and was designed to address the R125. The timber cabins applications referred to, appear instead to relate to temporary arrangements where applicants had alternative housing plans or options to meet their residential requirements in a timely and deliverable manner.

9.0 Appropriate Assessment

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.

10.0 Recommendation

I recommend that permission be refused for the proposed development due to the reasons and considerations set out below.

11.0 Reasons and Considerations

1.	The dwelling to be retained fails to meet the minimum standards for one-bedroom dwellings stipulated in the <i>Quality Housing for Sustainable Communities: Best Practice Guidelines 2007</i> and in the <i>Kildare County Development Plan 2017-2023</i> . As such, the proposed development constitutes a substandard form of residential development, is contrary to Policy SR1 and Objective SRO1 of the <i>Kildare County Development Plan 2017-2023</i> , would set an undesirable precedent for similar forms of
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	substandard development, and therefore, would be contrary to the proper planning and sustainable development of the area.
2.	The proposed development, by reason of the restricted nature of the site, the limited separation distances to site boundaries, the constrained options for positioning the dwelling within the site, and its siting adjacent to the private amenity space of adjacent properties, is not an appropriate form of infill residential development. The proposed development would be contrary to Zoning Objective 'B: Existing/ Permitted Residential' of the <i>Kilcock Local Area Plan 2015-2021</i> , to Objective SRO2 of the <i>Kildare County Development Plan 2017-2023</i> , and would, therefore, be contrary to the proper planning and sustainable development of the area.

Phillippa Joyce

Senior Planning Inspector

5th January 2021