



An  
Bord  
Pleanála

## Inspector's Report

### ABP-308809-20

---

<b>Development</b>	Permission to construct a two storey extension to the rear of existing three storey dwelling
<b>Location</b>	23 Friary Street, Co. Kilkenny.
<b>Planning Authority</b>	Kilkenny County Council
<b>Planning Authority Reg. Ref.</b>	20336
<b>Applicant(s)</b>	Mary and David Lawlor.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Martina McGuinness.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	15 <sup>th</sup> of April 2021
<b>Inspector</b>	Caryn Coogan

## 1.0 Site Location and Description

- 1.1. 23 Friary Street (0.006Ha) is located in the central hub of Kilkenny City, on the northern side of Friary Street.
- 1.2. It is a three storey mid dwelling (125.sq.m.). It would appear to be fully residential in use.
- 1.3. It was vacant at the time of inspection. I viewed the rear of the premises from the contiguous property.

## 2.0 Proposed Development

- 2.1. The proposed development consists of a rear extension to the mid terraced dwelling (125sq.m.), providing a dining room at ground floor level (11.49sq.m.) and an additional bedroom (11.49sq.m) at first floor level. The existing two bedroom town house will become a three bedroom townhouse with all three rooms ensuite. The finished floor area will be 148sq.m.
- 2.2. The rear garden area will be 11.49sq.m.

## 3.0 Planning Authority Decision

### 3.1. Decision

The planning authority granted planning permission for the proposed extension.

### 3.2. Planning Authority Reports

#### 3.2.1. *Planning Reports*

The planning authority requested further information to address concerns of third party objector. A response was received on 22/10/2020. The rear garden of No. 24 extends beyond the rear site boundary of the subject site and there is already first and second floor windows overlooking the garden, The window is for fire escape purposes. Recommendation to grant permission.

#### 3.2.2. *Other Technical Reports*

Irish Water: No objection

### 3.3. **Third Party Observations**

The neighbour (the appellant) objected to the proposal on loss of privacy and security.

### 4.0 **Planning History**

No relevant planning history.

### 5.0 **Policy Context**

#### 5.1. **Development Plan**

Kilkenny City and Environs Development Plan 2014-2020, the subject site is zoned for **General Business**, *the objective is to protect, provide and improve general development uses.*

**11.8.4** – The principal requirement for any proposed 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.

The site is within St. Mary's Architectural Conservation Area.

The site is located within a zone of Archaeological potential.

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

River Nore SAC

#### 5.3. **EIA Screening**

Having regard to the nature and scale of the proposed development and the nature of the receiving environment, which is a fully serviced urban 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 stage, and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The owner and occupier of No. 24 Friary Street (contiguous building to the west) has lodged an appeal on the following grounds:

- Their rear garden is enjoyed on a daily basis, and the proposed first floor window is only 1.88metres from the boundary wall between the subject site and No. 24 Friary Street.
- In the further information the applicants state the first floor window is now 2.7metres from the rear boundary, yet the drawing submitted shows 1.88metre, and the applicants state they stepped in the footprint of the proposed extension, yet the floor areas provided are bigger than the original proposal.
- There are serious concerns regarding safety and access to No. 24 Friary Street via a second floor bedroom window (which is not included on the submitted drawings). It does not feel safe going away on holidays knowing the neighbours have such ease of access to the rear of their home. No. 23 Friary Street has been rented out to tenants for years, and the Garda have been called regarding anti-social behaviour. Photos attached show the window.
- The applicants have made an inaccurate claim that the rear garden of 24 Friary Street extends to the rear of 25,23,22 and 21. The appellant does not own the area to the rear of Houses 21 and 22, and there is no garden to the rear of No. 25.
- The applicants replaced two windows in the rear elevation to one large one. This does not reduce overlooking.

## 6.2. Applicant Response

- The singular rear window has been reduced in size to 1,2metres in width and is not 2.75m to neighbouring boundary.
- The distance from the rear boundary to the extension is 2.6m and not the dimension stated on appeal.
- Drawings submitted of proposed development.

## 6.3. Planning Authority Response

The planning authority had no further comment to make on appeal.

## 6.4 Further Response from Appellant

There were no new issues raised. The appellant requested obscure glass in the first floor window. The appellant has serious concerns regarding the security of their property due to the accessibility from the window on the second floor at 23 Friary Street.

## 7.0 Assessment

The proposed development involves a modest two storey rear extension (25.1sq.m) onto a three storey terraced dwelling (125sq.m.) in order to provide an additional bedroom at first floor level and a dining room on the ground floor. The existing dwelling is a two bedroom townhouse and, I consider the small extension will greatly enhance the minimal living accommodation and conditions for the applicant.

I have inspected the site, considered the appeal file and the following is my assessment of the issues arising.

- Principle of the Proposal
- Impact on existing amenities

### 7.1 Principle of the Proposal

In the current development plan for the area the site is located with a General Business zoning. The principle of extending an existing dwelling to provide enhanced accommodation is considered to be a sustainable form of development.

**Section 11.8.4** of the Kilkenny City and Environs 2014-2020 is relevant to the current proposal, it states— *The principal requirement for any proposed 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.* The proposal is not obvious from the streetscape and the extension is in proportion to the existing dwelling.

## **7.2 Impact on Existing Amenities**

The proposal is not an overdevelopment of the subject site, it is a modest extension onto a modest dwelling. The existing yard area associated with the subject dwelling at 23 Friary Street is extremely small, and holds little amenity value. The proposed extension will leave a yard area 2.6 metres in depth, which is adequate for storage of wheelie bins etc.

The proposed development will not result in any material impacts to the contiguous properties in terms of loss of privacy or overshadowing. There will be no loss of privacy associated with the proposed development, having regard to the positioning of the first-floor window to the rear. This is an urban setting, where a certain amount of indirect overlooking of rear garden areas is unavoidable.

The second floor bedroom window will remain unaltered and it does not form part of this a planning application. I note the appellant is concerned residents will have access to her property via the second floor window. This concern fails to acknowledge these are terraced dwellings and access can be gained from a number of sources, and such security matters are beyond the remit of planning law and a civil matter.

In addition, the concern about the property been rented out, is beyond the remit for this planning appeal also.

## **7.3 Appropriate Assessment**

Having regard to the small nature and scale of the proposed development, alternatives to an existing dwelling located in the built up urban area of Kilkenny City, 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 the conservation objectives of any European site.

## **8.0 Recommendation**

7.1. I recommend planning permission for proposed development be granted.

## **8.0 Reasons and Considerations**

Having regard to the provisions of the Kilkenny City and Environs Development Plan 2014 – 2020, for the area and to the siting and design of the proposed development, the Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities or depreciate the value of properties in the vicinity, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

### **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 22<sup>nd</sup> of October, 2020 and by the further plans and particulars received by An Bord Pleanála on the 8th day of January, 2021, 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. Water supply and drainage arrangements, including the [attenuation and] 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.

3. The external finishes shall harmonise in colour and texture with the existing finishes on the house.

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

---

Caryn Coogan  
Planning Inspector

30<sup>th</sup> of April 2021