



An
Bord
Pleanála

Inspector's Report ABP-309533-21

Development	Dormer Dwelling House.
Location	131A Wogansfield, Leixlip, Co. Kildare.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	201481.
Applicant(s)	Aishling Savage.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party
Appellant(s)	Aisling Savage.
Observer(s)	None.
Date of Site Inspection	7 th May 2021.
Inspector	Karen Kenny.

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	6
3.3. Prescribed Bodies	6
3.4. Third Party Observations	6
4.0 Planning History.....	6
5.0 Policy Context.....	7
5.1. Development Plan.....	7
5.2. Natural Heritage Designations	7
5.3. EIA Screening	8
6.0 The Appeal	8
6.1. Grounds of Appeal	8
6.2. Planning Authority Response	9
6.3. Observations	9
7.0 Assessment.....	10
7.1. Refusal Reason 1.....	10
7.2. Refusal Reason 2.....	12
7.3. Other Issues.....	13
7.4. Appropriate Assessment	14
8.0 Recommendation.....	14
9.0 Conditions.....	14

1.0 Site Location and Description

- 1.1.1. The site is located in Wogansfield in Leixlip, Co. Kildare a short laneway off the Celbridge Road. The laneway is characterised by semi-detached storey and a half cottage's dating from the early 1900's. The original cottages had substantial plots and most have been sub-divided to accommodate infill dwellings to the side and / or rear.
- 1.1.2. No. 131A Wogansfield is located to the rear of no. 131 Wogansfield a semi-detached cottage. It is accessed from a driveway that runs along the side of no. 131 and contains a dormer dwelling at the western end. The subject site, with a stated area of 0.453 hectares, is the front garden of no. 131A. It sits between the original cottage and the later backland dwelling and is designed to sit perpendicular to both.
- 1.1.3. The site is flat and grassed. There are mature leylandii trees around the boundaries to the landholding which screens the site from the surrounding area. Development surrounding the site comprises a mixture of storey and a half, dormer and single storey houses.

2.0 Proposed Development

- 2.1. Permission is sought for a 4 no. bed dormer bungalow to the front of no. 131 A.
 - The dwelling has a stated floor area of 235 sq. metres.
 - The development as submitted with the application included three dormer windows to the front (north) and one dormer window to the rear (south). Revised drawings have been submitted with the appeal for the Boards consideration that omit the dormer from the rear elevation and replace this with a fire escape rooflight. Rooflights have been removed or repositioning higher to avoid any visual interaction. In the front elevation the middle dormer has been omitted and replaced with a rooflight.
 - 2 no. car parking spaces are proposed to the side of the dwelling; private open space of 180sq.metres is indicated for the proposed dwelling and private open space of 371sq.metres is indicated for the existing dwelling.

- The red line boundary relates to the front garden area only, however, the blue line boundary relates to the overall landholding associated with no. 131A Wogansfield which is in the ownership of the applicant's parents.
- It is proposed to widen the existing driveway and entrance gate serving no. 131A as part of the proposed development.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for 2 no. reasons as follows:

1. The proposed development would result in a haphazard and piecemeal pattern of development, contrary to the established pattern of development in the area and would contravene policy SR02 of the Kildare County Development Plan 2017-2023 which aims to provide for appropriately planned backland development. The proposed development would result in inappropriate infill development which would be contrary to the landuse zoning objective 'B' (existing residential & infill) which seeks to protect and enhance the amenity of established residential communities, and as such is contrary to the Leixlip Local Area Plan 2020-2023. Furthermore, to permit the proposed development would result in an undesirable precedent for similar inappropriate infill development in the area and would be contrary to the proper planning and sustainable development of the area.
2. The proposed development, by reason of its location, orientation, scale and design would seriously injure the amenities and depreciate the value of property in the vicinity due to an unacceptable size and the degree of overlooking of the adjoining properties. The proposed development would be contrary to the landuse zoning objective of the Leixlip Local Area Plan 2020-2023, which seeks to preserve and improve the amenities of existing residential properties and would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Principle of development acceptable.
- Location and siting of the dwelling considered haphazard, piecemeal and contrary to the established pattern of development in the area.
- Contravene CDP policy SR02 to “consider backland development generally only where development is carried out in a planned and coordinated manner”.
- Impact on amenity of adjacent dwellings and considered inappropriate for the area. Design has not responded to the constrained nature of the site and the existing context. Concerns regarding the scale and massing of the dwelling.
- Undesirable precedent for similar development in the area.
- Concerns in relation to overlooking. Dormer windows in front and rear facing rear gardens. Dormer windows due to orientation and proximity to adjacent sites would result in undue overlooking of private areas of a number of adjacent dwellings.

3.2.2. Other Technical Reports

Area Engineer: No objection.

Transport Section: No objection.

Water Services: No objection.

3.3. Prescribed Bodies

Irish Water: No objection.

3.4. Third Party Observations

None.

4.0 Planning History

No recent planning history on the site or in the immediate vicinity.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The Kildare County Development Plan 2017-2023 and the Leixlip Local Area Plan 2020-2023 are the relevant statutory plans for the area. The site is zoned 'B' Existing Residential / Infill under the LAP with an objective 'to protect and enhance the amenity of established residential communities and promote sustainable intensification'.

Section 4.11 of the CDP states the following in relation to urban infill and backland development: *"The development of underutilised infill and backland sites in existing residential areas is generally encouraged. A balance is needed between the protection of amenities, privacy, the established character of the area and new residential infill. The use of contemporary and innovative design solutions will be considered for infill and backland development and connections to the surrounding area and services should be identified and incorporated into proposals"*.

Policy RS02 is to "consider backland development generally only where development is carried out in a planned and coordinated manner.

Table 4.1 in relation to inner suburban / infill states the following: *"The existing built fabric of large towns often contains residential areas where additional dwellings can be accommodated without compromising the existing residential amenity or residential character of the area. The provision of additional dwellings within inner suburban areas of towns can be provided either by infill or by sub-division. Infill residential development may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. Sub-division of sites can be achieved where large houses on relatively extensive sites can accommodate new residential development without a dramatic alteration in the character of the area or a negative impact on existing residential amenities. Sub-division shall be considered subject to safeguards regarding residential amenity, internal space standards, private and public open space, car parking and maintenance of the public character of the area"*.

5.2. Natural Heritage Designations

None.

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development of housing on zoned and serviced land and the nature of the receiving environment, 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

- 6.1.1. A first party appeal has been received in response to the decision to refuse permission. The principal grounds of appeal can be summarised as follows:
- Development represents a subdivision of an extensive site in an urban area. Not infill.
 - Table 4.1 of the CDP provides for subdivision of sites where there are large houses on extensive sites subject to protection of character and amenity and residential standards being met.
 - Internal space standards, private and public open space, car parking all deemed acceptable.
 - The main issues relate to residential amenity and maintenance of public character.
 - Submitted that the proposed development has no impact on the character of the area as it cannot be seen from any public vantage point.
 - Accepted that some loss of residential amenity will always occur in urban areas due to additional residential development. Loss of residential amenity is subjective but important.
 - Development surrounding the site is in general a mixture of two storey and dormer houses and the proposed development is entirely consistent with the mass, scale and height of adjoining houses. The mature hedgerow and trees and the context of adjoining properties do not reduce residential amenity

below what should be expected in a large urban area such as Leixlip. The rear roof plane has been significantly re-designed to remove windows and now only one fire-escape window addresses south. Open to the inspector to condition the removal of the window with the loss of one bedroom.

- Submit that the proposed development in its revised format is an example of proper planning and sustainable development – reference to services in the area and the pattern of development in the area. Lands to the south have been zoned for high density residential development.
- Reference to national policy in the Sustainable Residential Development in Urban Areas Guidelines in relation to consolidation and backland development.
- Reference to precedent case where ABP overturned decision of KCC to refuse permission for infill development (ABP Ref. 300212-17, PA Ref. 17/982) and precedent case where ABP upheld decision of KCC to grant permission for infill development on appeal from third party (ABP Ref. 307692, PA Ref. 19/1110).
- Do not consider precedent in this case undesirable. Appeal is to help applicant attain a more positive assessment that will either result in planning or allow the applicant to prepare a new application based on the Board's assessment.

6.2. Planning Authority Response

Revised design may partially address the issue of overlooking. Poor siting, orientation and dwelling design are considered to represent a haphazard and piecemeal pattern of inappropriate infill development and would be contrary to established pattern of development in the area.

6.3. Observations

None.

7.0 Assessment

This is a first party appeal against the decision of Kildare County Council to refuse permission for the construction of a dormer dwelling house in Wogansfield Leixlip. I have read the appeal file, all associated reports and plans and I visited the appeal site and the surrounding area. The proposed development comes forward on land zoned for residential development (Objective 'B' Existing Residential & Infill) and is therefore acceptable in principle. The proposed development exceeds the minimum standards for residential dwellings, private open space provision and carparking and the Planning Authority have not raised any concerns in relation to vehicular access or water services and drainage. The reasons for refusal issued by the planning authority state that the proposed development would result in a haphazard and piecemeal pattern of development that would be contrary to the established pattern of development in the area; and that it would seriously injure the amenities and depreciate the value of property in the vicinity due to unacceptable size and degree of overlooking of adjoining properties. I consider that the main issues for consideration in this appeal are those matters set out in the reasons for refusal.

7.1. Refusal Reason 1

7.1.1. Refusal reason no. 1 is as follows:

The proposed development would result in a haphazard and piecemeal pattern of development, contrary to the established pattern of development in the area and would contravene policy SR02 of the Kildare County Development Plan 2017-2023 which aims to provide for appropriately planned backland development. The proposed development would result in inappropriate infill development which would be contrary to the landuse zoning objective 'B' (existing residential & infill) which seeks to protect and enhance the amenity of established residential communities, and as such is contrary to the Leixlip Local Area Plan 2020-2023. Furthermore, to permit the proposed development would result in an undesirable precedent for similar inappropriate infill development in the area and would be contrary to the proper planning and sustainable development of the area.

7.1.2. The subject site is located to the rear of no. 131 Wogansfield and is part of a backland site associated with no. 131A. The Wogansfield laneway is characterised

by semi-detached cottages (early 1900's) that are set back from the laneway by small front gardens. The cottages are storey and a half with a ridge height of c. 7 metres. The original cottages had substantial plots and most have been sub-divided to accommodate infill dwellings to the side and / or rear. The proposed development would represent the second sub-division of plot 131 to accommodate an infill dwelling in the area between the original cottage (no. 131) and the subsequent backland dwelling (no. 131A).

7.1.3. Section 4.11 of the County Development Plan deals with Residential Development in Established Urban Areas. The plan states that the development of underutilised infill and backland sites in existing residential areas is generally encouraged. A balance is needed between the protection of amenities, privacy, the established character of the area and new residential infill. Objective SRO 1 supports this view. Table 4.1 of the Plan provides guidance on the appropriate location for new residential developments. In terms of inner suburban / infill sites, the Plan states that: 'Sub-division of sites can be achieved where large houses on relatively extensive sites can accommodate new residential development without a dramatic alteration in the character of the area or a negative impact on existing residential amenities. Sub-division shall be considered subject to safeguards regarding residential amenity, internal space standards, private and public open space, car parking and maintenance of the public character of the area.' In terms of the Leixlip Local Area Plan 2020-2023, the subject site is located on lands zoned Existing Residential/Infill. The primary aim of this zoning objective is to preserve and improve residential amenity and to provide for further infill residential development at a density that is considered appropriate to the area. On this basis, I am satisfied that there is clear policy support for infill development and the subdivision of large residential sites at this location.

7.1.4. The reason for refusal states that the proposed development would result in a haphazard and piecemeal pattern of development, contrary to the established pattern of development in the area and would contravene policy SR02 of the Kildare County Development Plan 2017-2023 which aims to provide for appropriately planned backland development. It is proposed to construct a dormer dwelling with a stated floor area of 235 square metres in the front garden area of the existing dormer dwelling and to provide for shared vehicular access. The proposed dwelling

comprises a rectangular structure with a pitched roof over and a ridge height of 7.5 metres.

- 7.1.5. The area comprises a diverse mix of dwelling types and plot sizes. There is an established history of plot subdivision and infill development along the lane that can reasonably be described as piecemeal in nature. While the proposed dwelling is substantial in terms of its size and overall floor area, it is not at odds with the scale of other infill dwellings along the laneway (mainly bungalows and dormer bungalows). The site is not overly visible from the laneway and is well screened from adjacent properties by existing planting. I consider that the proposed development, notwithstanding its backland nature and its scale, would not be unduly overbearing or intrusive when viewed from surrounding properties. I consider that on balance, the proposed development represents an efficient use of zoned and serviced land and that it would not represent a dramatic alteration to the established character of the area. In relation to the potential for an undesirable precedent, this is the most substantial plot remaining along the laneway and as such, it is unlikely that a grant of permission in this instance would create an undesirable precedent.

7.2. Refusal Reason 2

The proposed development, by reason of its location, orientation, scale and design would seriously injure the amenities and depreciate the value of property in the vicinity due to an unacceptable size and the degree of overlooking of the adjoining properties. The proposed development would be contrary to the landuse zoning objective of the Leixlip Local Area Plan 2020-2023, which seeks to preserve and improve the amenities of existing residential properties and would therefore be contrary to the proper planning and sustainable development of the area.

- 7.2.1. I consider that a key question for this assessment is whether the proposed development would interfere with the amenities of the adjacent properties to an extent that would justify refusing permission or substantially altering the proposed development. The proposed dwelling maintains a setback of c. 9.5 metres from the boundary to no. 131 to the east, a setback of c. 5 metres from the private garden of no. 132/132A to the south and a setback of c. 7 metres from the existing dwelling on the landholding no. 131A. To the north plot no. 130 has been subdivided twice and the dwelling would face towards an access driveway serving a dwelling at the rear of

that property (no. 130A). The opposing private garden of no. 130B is c. 14 metres to the north of the site. The applicant has submitted a revised design with the appeal to address the potential for overlooking of existing properties. All dormer windows in the rear elevation have been omitted and rooflights are proposed to provide for light and ventilation only. There is one fire escape roof light to a bedroom that would allow for some visibility to the south. The appeal highlights that it is open to the Board to remove the roof light and that Bedrooms 2 and 3 can be merged. There are no gable windows at attic level facing east or west. On the front elevation there are 2 no. dormer windows and 3 no. rooflights provide light and ventilation. There is a separation of 14 metres between the dormer windows and the closest private garden to the north. I am satisfied that this is sufficient to prevent any undue overlooking. There are no opposing first floor windows so the 22m separation distance detailed in Section 17.2.4 of the County Development Plan would not apply.

- 7.2.2. I consider that the development would not give rise to significant overshadowing of adjacent properties due to the level of separation. I am also satisfied that the use is consistent with the predominant use in the area and that the development would not impact unduly on the amenities of dwellings in the vicinity by reason of noise or disturbance.

7.3. Other Issues

- 7.3.1. The development will drain to the existing public drainage networks in the area. The drawings and details submitted with the application are considered to satisfactorily address surface water drainage, foul drainage and water supply.
- 7.3.2. Chapter 17 of the Kildare County Development Plan deals with Development Management Standards. I am satisfied that the development standards of the Development Plan with regard to open space and car parking standards are met and exceeded in respect of the proposed dwellings and the existing dwelling on site. I recommend in the event that permission is granted that a condition is included that requires the applicant to submit details of boundary treatments and car parking arrangements for the overall site.

7.4. Appropriate Assessment

- 7.4.1. Having regard to the minor nature of the development and its location in a serviced urban area, 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

- 8.1.1. Having regard to the location of the site within Leixlip and to the pattern of existing development in the area, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area or of property in the vicinity and would not contravene the objectives of the Kildare County Development Plan or the Leixlip Local Area Plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

9.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and as amended by further plans and particulars received by An Bord Pleanála on the 24th day of February 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. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenity.

3. The developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interests of clarity and public health.

4. 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.

5. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 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 residential amenities of property in the vicinity.

6. The vehicular entrance serving the proposed development shall comply with the requirements of the planning authority for such works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

7. Two number car parking spaces shall be provided within the site for the existing dwelling no. 131A Wogansfield and for the proposed dwelling. The locations and layout of these spaces to include turning arrangements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure adequate off-street parking provision is available to serve the proposed development.

8. The site shall be landscaped in accordance with a scheme of landscaping, which shall be submitted to and agreed in writing with the Planning

Authority prior to commencement of development. The scheme of landscaping shall include detailed proposals for boundary treatments to the site.

Reason: In order to ensure the satisfactory completion of the development.

9. 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.

Karen Kenny
Senior Planning Inspector

9th May 2021