



An
Bord
Pleanála

Inspector's Report

ABP-311117-21

Development	17 houses, upgrading of existing entrance and access road and all associated and ancillary site works.
Location	Dangan, Kilmacow, Co. Kilkenny.
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	21463
Applicant(s)	CSC Construction Ltd.
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	CSC Construction Ltd.
Observer(s)	None
Date of Site Inspection	4 th February 2022
Inspector	Emer Doyle

1.0 Site Location and Description

- 1.1. The subject site with a stated area of 0.56 hectares is located in the upper village of Kilmacow in south Kilkenny. The site is located on one of the main approach roads to the village within the 50 km/hr speed limit zone.
- 1.2. The site consists of a backland location with a single storey house currently being restored and extended to the front of the site. It is proposed to demolish an existing shed to access the site.
- 1.3. Existing development to the north includes a number of recently built detached two storey dwellings. Permission was granted for a housing development on an adjacent site to the south but development has not commenced. The immediate uses in close proximity to the site are agricultural and residential and there are a number of community uses including a school in close proximity to the site.

2.0 Proposed Development

- 2.1. The proposed residential development would consist of demolition of an existing shed and construction of 17 No. residential units as follows:
 - 8 No. two story semi-detached units
 - 8 No. two storey terraced units
 - 1 No. detached unit

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority refused permission for 4 No. reasons relating to Development Plan policy for Phase 2 lands, unsympathetic design for village, inadequate public open space, and impact on residential amenity of adjoining dwelling to the north approved under P17/636.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- It was considered that the proposal represented overdevelopment for a backland site resulting in a design, layout, and scale that would detract from the amenities of the area. Furthermore, it was considered that the public open space was unusable and there is no quality public open space. Concerns were also raised in relation to the extent of permissions already granted in the village and traffic hazard.

3.2.2. Other Technical Reports

Environment Section: Further Information Requested.

Roads: Further Information Requested.

Parks: Concern expressed in relation to the linear nature of public open space – considered to be of little value.

3.3. Prescribed Bodies

Irish Water: No objection subject to conditions.

TII: No conflict with Waterford to Cahir N25 scheme.

3.4. Third Party Observations

- 3.4.1. A number of observations were submitted to the Planning Authority. The main issues raised related to appropriateness of site and design, density, and development plan policy for the area.

4.0 Planning History

PA 19/731/ ABP 306289-19

Permission refused by PA for housing development of 25 No. house on an adjacent site to the south. Granted on appeal to the Board.

PA Reg. Ref. 21/363

Permission refused by PA for site further south of ABP 306289-19 for 4 No. reasons relating to overdevelopment of site, poor design and layout, impact on protected structure and traffic hazard.

PA Reg. Ref. 17/636

Permission granted by PA for a two storey dwelling house to north of site.

5.0 Policy Context

5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

The National Planning Framework – Project Ireland 2040 is a high-level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. It is a target of the NPF that 40% of all new housing is to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites with the remaining houses to be delivered at the edge of settlements and in rural areas.

The NPF includes a Chapter, No. 6 entitled 'People, Homes and Communities'. It sets out that place is intrinsic to achieving good quality of life. A number of key policy objectives are noted as follows:

- National Policy Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.
- National Policy Objective 35 seeks to increase residential density in settlements, through a range of measures including restrictions in vacancy, re-use of existing buildings, infill development schemes, area or site based regeneration and increased building heights.

5.2. Section 28 Ministerial Guidelines

The following list of Section 28 Ministerial Guidelines are considered to be of relevance to the proposed development. Specific policies and objectives are referenced within the assessment where appropriate.

- Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities (2009) and the accompanying Urban Design Manual: A Best Practice Guide (2009)
- Design Manual for Urban Roads and Streets' (DMURS) 2019.

5.3. Development Plan

The site is governed by the policies and provisions contained in the Kilkenny City and County Development Plan 2021-2027. Relevant policy includes the following:

Chapter 4 – Core Strategy

Section 4.6 sets out the policy for smaller towns and villages. A total of 22 settlements have been identified in this category including Kilmacow. In order to offer an alternative to the provision of single houses in surrounding unserviced rural

areas, proposals for developments with densities of up to 10 dwellings per hectare will be considered in smaller towns and villages.

Figure 4.15 - Site is located within the settlement boundary for Kilmacow.

Chapter 6 - Housing and Community- sets out policies and objectives for housing.

Chapter 13 - sets out requirements for developments.

5.4. Natural Heritage Designations

- 5.4.1. The appeal site is not located within any European site. The closest such site is the Lower River Suir SAC (site code 002137) which is located c. 4km to the south of the appeal site at the closest point.

5.5. EIA Screening

- 5.5.1. Having regard to the nature and scale of the proposed development, the separation of the site from European and other designated sites, the proposed connection of the development to public water and foul drainage connections, it is considered that 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. The grounds of appeal can be summarised as follows:
- The existing plan is outdated with regard to Phase 2 lands. It is considered that the proposed site is superior to all other sites and undeveloped lands in

the village due to its proximity to schools, the community centre, Garda station, Church, shops etc.

- The density proposed is appropriate for this location and in line with Section 6.9 of the Sustainable Residential Development Guidelines.
- The public open space provision is calculated at 12% of the overall area and in line with Development Plan standards. There is a wealth of community public open spaces and community facilities in the immediate area to justify minimum public open space requirements.
- A revised site layout is attached showing the location of the dwelling granted under 19/731. There is a distance of c. 54m between first floor windows which is well in excess of the 22m distance normally required.
- The site is located within a village setting at a point of a speed control ramp. Sightlines are demonstrated on a map included in the appeal documentation.

6.2. Planning Authority Response

6.2.1. The Planning Authority Response can be summarised as follows:

- The proposed development is at variance with policy objectives in the current plan and contravenes the zoning objective of the area.
- It is considered that the proposed development does not follow a sequential orderly phased approach to incremental residential development of the area.
- The Planning Authority consider that there is sufficient housing supply and mix recently granted in the village to cater for incremental housing supply demand/ growth.
- The predominant pattern of development for this part of Kilmacow village is low residential density comprising single stand alone dwellings in a linear pattern. The proposed density and design would be out of character with the pattern of development in this area of Kilmacow village.
- It is considered that the 12% open space provided for the overall development area can not be considered proper/ usable space due to its narrow width.

- The proposed development would impact negatively on the residential amenities of the adjoining permitted detached dwelling.
- Concerns raised regarding traffic safety and car centric approach to development.

6.3. **Observations**

- None submitted.

7.0 **Assessment**

7.1. I consider that issues arising can be dealt with under the following headings:

- Principle of Development
- Density and Urban Design
- Other Matters

7.2. **Principle of Development**

- 7.2.1. The Board will note that a new development plan has been adopted since the decision on this planning application was made by the Planning Authority. The relevant Development Plan is Kilkenny City and County Development Plan 2021-2027.
- 7.2.2. Section 4.3 of the plan sets out the Settlement Hierarchy for the County. Table 4.3 identifies that Kilmacow is located in a Rural Town and Village. The policy for these areas is set out in Section 4.6 - Smaller Towns and Villages. Settlement boundaries have been drawn up for these smaller towns and villages and the current site is identified as being within the settlement boundary of Kilmacow as identified by Figure 4.3.
- 7.2.3. The policy outlines that densities of up to 10 dwellings per hectare will be considered in smaller towns and villages and future growth in these smaller towns and villages

will be incremental, small in scale and appropriate to the size, scale, and character of the village.

7.2.4. I note that the Planning Authority have submitted a response to the appeal which is based on the previous development plan. The main thrust of the response is that the proposed development contravenes the approach of development of Phase 1 lands in the first instance and that a total of 49 new dwellings have been granted in Kilmacow recently and this is sufficient. It is considered that the proposed development does not follow a sequential orderly phased approach to incremental residential development growth in the village. I note that a recent Board decision to grant permission for 25 No. units on an adjacent site is included in the figures referred to under ABP 306289-19.

7.2.5. In the context of the provisions and policy of the current Development Plan, and whilst I will address density and urban design further below in Section 7.3 of this report, I note that the site is located within the identified settlement boundary of Kilmacow. As such, I consider that it is reasonable to support the principle of development potential of the site in accordance with the provisions of the plan. I note that the site is located within the 50km/h speed limit zone and is within a reasonable distance to local amenities including a school, church, and community facilities.

7.3. Density and Urban Design

7.3.1. The guidance set out in the Sustainable Residential Development in Urban Area Guidelines (2009) is that development must strike a balance in meeting the needs and demands of modern life but in a way that is sensitive and responsive to the past. New development should contribute to compact towns and villages and offer alternatives to urban generated housing in unserved rural areas. The scale should be in proportion to the pattern and grain of existing development. In terms of densities, centrally located development in small towns and villages could achieve densities of up to 30-40 dwellings per hectare, whereas edge of centre sites should achieve 20-35 dwellings per hectare.

7.3.2. The guidance set out in Section 4.6 of the Development Plan in relation to smaller towns and villages is that in order to offer an effective alternative to the provision of single houses in surrounding un-served rural areas, proposals for developments

with densities of up to 10 dwellings per hectare will be considered where social services such as a school, church, pub etc. and appropriate infrastructure are available. Where a housing scheme is proposed, this will need to be proportionate to the scale of the settlement. The scale and density of development in small towns and villages will depend on a number of factors as follows:

- Availability of infrastructure including appropriate social, waste water treatment facilities and water supply,
- Contribution to the enhancement of the village form by reinforcing the street pattern or assisting in the redevelopment of backlands
- Contribution to the protection of the architectural and environmental qualities of the village
- Capacity of the existing services in the village to accommodate the proposed development.

Future growth in smaller towns and villages will be incremental, small in scale and appropriate in the size, scale and character of the village.

- 7.3.3. In terms of density, a total of 17 No. units are proposed on a site of 0.56 hectares and the density is calculated at c. 30 dwellings per hectare. This is in line with national guidelines and with the development recently granted by the Board on the adjacent site which was calculated at c. 34 units per hectare.
- 7.3.4. The Planning Authority response considers that this is a backland site in an area with a pattern of low density residential development of single detached rural housing accessing onto the Dangan Road. Having inspected the site, I generally agree with the Planning Authority in terms of the description of the existing area. This pattern of development is likely to change over the coming years and I consider that it is appropriate to develop sites within towns and villages at higher densities in line with national guidelines.
- 7.3.5. However, I have a number of concerns regarding the design and layout of the scheme. The site is a restricted site and is backland in nature and it is proposed to demolish a shed of an existing house in order to access the backlands. This has resulted in a long straight road serving the site and a narrow area of public open space adjacent to the main access road. The public open space ranges in width from

c. 2m to 10.5m with only a very small proportion at the maximum width of 10.5m. Part of this open space includes visitor parking and cycling area and a surface water attenuation tank. The Planning Authority response to the appeal considers that *'most of the public open space is considered unusable due to its narrow width and acts more as incidental left over open space contrary to the requirements under section 12.7 of the Kilkenny County Development Plan...'*

- 7.3.6. The policy for public open space is set out in Sections 13.20.2 , 13.20.3 and 13.20.4 of the Kilkenny City and County Development Plan. Applications should have regard to the qualitative standards outlined in Section 4.18 of the Sustainable Residential Development in Urban Guidelines. The following should be taken into consideration when designing open space: It should be of a high visual standard so that it is functional and accessible to all; it should be designed so that passive surveillance is provided; it should not be located to the side or rear of houses; multifunctional open spaces should be provided at locations deemed appropriate. Inappropriate narrow tracks of land are not acceptable and will not be included in the calculation for open space. A minimum standard of 10 sq. m of dedicated playable space per residential unit is to be provided as an integral part of the required open space for each new development. The playable space can form part of the overall open space provision of a development but must be dedicated to play.
- 7.3.7. The response to the appeal by the applicant makes the case that the public open space is provided at 12% of the overall development area and there is a wealth of existing community public spaces on the doorstep of the development to justify minimum public open space in favour of maximising private open space.
- 7.3.8. I consider that the public open space is predominately a narrow tract of land and could be considered to be 'leftover' land with car and bicycle parking sited on the widest area. As such, I do not consider that it complies with the standards set out in Section 4.18 of the Sustainable Residential Development in Urban Areas Guidelines or the standards set out in the Development Plan. I note that there is no area dedicated to play and the proximity to the main access road could be dangerous for young children. In my view, this would lead to a poor form of residential amenity for future occupants. As such, I concur with the conclusions of the Planning Authority and consider that the design and layout of the open space would result in a substandard level of amenity for future occupants.

- 7.3.9. In terms of the overall design and layout, I note that both the Sustainable Residential Development in Urban Area Guidelines and Section 4.6 of the Development Plan place an emphasis on the contribution to the enhancement of the village and the protection of the architectural and environmental qualities of the village. Section 6.8 of the guidelines require that the design and layout make a positive contribution to its surroundings and have a sense of identity and place appropriate to the character of the existing small town or village.
- 7.3.10. In my opinion, the defining characteristics of Kilmacow are that of a small rural village with only local service provision. There is a requirement under the National Planning Framework and the above guidelines for a proportionate and tailored approach to residential development in all types of rural settlement. This means that it is necessary to tailor the scale, design, and layout of housing to ensure that a suburban or high density urban approach is not applied to a rural setting.
- 7.3.11. I note that the Board recently granted permission for a housing development on an adjacent site which has not yet commenced. In my view, this proposed development was to a high standard of design which included single and two storey development on a larger site which provided for a central open space area and the dwellings were appropriately designed with high quality finishes including natural stone to enhance the distinctiveness of the village setting. Existing development in the immediate vicinity of the site is typical of many rural villages in Ireland with low density older single storey development and newer two storey dwellings. I note that there is a new two storey dwelling adjacent to the site and a new very low density housing development consisting of 8 two storey dwellings almost opposite the site. Whilst I consider that the very low density of development is not a pattern of development that should be emulated, there needs to be a balance between the provision of higher densities and the provision of a high quality of development that makes a positive contribution to the area.
- 7.3.12. I consider that the overall design and layout of the scheme is conventional in appearance and typical of a suburban format. Whilst there is some variation in terms of individual housing designs, with one detached dwelling and a combination of semi-detached and terraced dwellings, each unit shares a common design theme and utilises the same palette of external finishes. The generic format of development and its lack of distinctiveness together with the ridge heights of c. 10.2m for the

detached, semi-detached and end of terraced dwellings is perhaps more typical of larger urban settlements in Waterford and Kilkenny. In my opinion, there is the potential to create a greater degree of distinctiveness and sense of place within the scheme with a higher quality of design in accordance with the principles of national and local policies.

- 7.3.13. On balance, having regard to the restricted nature and characteristics of the site I consider that the density proposed is excessive in this instance. Furthermore, I consider that the suburban design and layout proposed would overwhelm the distinctively rural character of this rural village and would not contribute in a positive way to the enhancement of the village form, and the quality of open space provision would provide a poor standard of residential amenity for intended occupants.

7.4. Other Matters

Residential Amenity

- 7.4.1. I note that the fourth reason for refusal by the Planning Authority considered that the first floor windows for much of the proposed development would result in non-reciprocal overlooking onto the adjoining permitted detached dwelling approved under PA Ref. P17/636 located immediate north and whose footprint has not been shown on the site layout plan and would injure the residential amenities of same.
- 7.4.2. The appeal submitted on behalf of the applicant includes a revised site layout showing the dwelling granted under PA Reg. Ref. 17/636. It is stated that this dwelling is c. 54m from the site.
- 7.4.3. Having regard to the distance between the properties and the absence of first floor windows in the side elevation of the property granted under PA Reg. Ref. 17/636, I am satisfied that the proposed development would not unduly detract from the residential amenities of this property.

Appropriate Assessment

- 7.4.4. The appeal site is not located within any European site. The closest such site is the Lower River Suir SAC (site code 002137) which is located c. 4km to the south of the appeal site at the closest point. The development is proposed to be connected to the

public water supply and drainage system. Having regard to these factors, 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 foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be refused for the proposed development for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. Having regard to the designation of Kilmacow as a ‘Smaller Town or Village’ in Section 4.6 of the Kilkenny City and County Development Plan 2021-2027, to the pattern of development in the area, to the restricted nature of the backland site, to the scale of development proposed, and to the provisions of the ‘Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) – Guidelines for Planning Authorities’ issued by the Department of the Environment, Heritage and Local Government in May, 2009, it is considered that the proposed development would be out of character with the existing pattern of development and would compromise and detract from the rural character and distinctiveness of the village. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.
2. It is considered that the proposed development, by reason of its scale, height, form, and suburban layout and design, together with the poor quality of public open space provision, essentially comprising of a long narrow tract of land, would detract from the rural character of the village of Kilmacow and would provide a poor standard of residential amenity for the intended occupants. It is considered therefore that the proposed development would constitute a substandard form of residential development for future occupants and would conflict with the policies and objectives of the current Development Plan for

the Area. The proposed development would, therefore, seriously injure the amenities of the area and would be contrary to the proper planning and sustainable development of the area.

Emer Doyle
Planning Inspector

19th July 2022