



An  
Bord  
Pleanála

## Inspector's Report 311271-21

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<b>Development</b>	2-storey, 2-bedroom house & associated site works.
<b>Location</b>	11 The Gables, Kill, Co. Kildare
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	21/0913
<b>Applicant(s)</b>	Jimmy & Deirdre O'Byrne
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party v. Decision
<b>Appellant(s)</b>	Richard & Pauline Forde
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	23 <sup>rd</sup> January 2022
<b>Inspector</b>	Louise Treacy

## 1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.0163 ha and adjoins No. 11 The Gables Kill, a 2-storey detached dwelling located in an established residential estate. The site currently forms part of the garden area of the adjoining property and fronts onto a cul-de-sac turning circle, resulting in a narrower site configuration at the front adjacent to the public footpath and increasing in width towards the middle/rear.
- 1.2. The site is bounded by a detached 2-storey dwelling (No. 10 The Gables) to the north-west, the existing dwelling No. 11 The Gables to the south-east and the rear gardens of 2 no. semi-detached dwellings to the south-west.

## 2.0 Proposed Development

- 2.1. The proposed development consists of a 2-storey, 2-bedroom house of 90 m<sup>2</sup> and associated site works. The dwelling has an overall height of 6.833 m.
- 2.2. The proposed development will accommodate a kitchen/dining room, a toilet, a small storeroom and a tv room at ground floor level, with 2 no. double bedrooms, a bathroom and a study proposed at 1<sup>st</sup> floor level. It is proposed to accommodate 2 no. parallel off-street car parking spaces to the front. The rear garden has a stated area of 57 m<sup>2</sup> and will accommodate a shed/bicycle store of 3 m<sup>2</sup>. A retained garden area of 179 m<sup>2</sup> is proposed to serve the existing dwelling.
- 2.3. The front elevation of the proposed dwelling has a distinctive recessed entrance at ground floor level, which is proposed to be finished in brick, with render above at 1<sup>st</sup> floor level. The side elevations are also proposed to be finished in render, with brick proposed to the rear. No windows are proposed in the side elevations of the dwelling.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. Notification of the Decision to Grant Planning Permission subject to 13 no. conditions issued on 12<sup>th</sup> August 2021.

- 3.1.2. Condition no. 3 requires the dwelling to be occupied as a single housing unit and that it shall not be subdivided, sold or let into separate units. The dwelling is also required to be used for domestic-related purposes only and not for any non-domestic use.
- 3.1.3. Condition no. 8 requires at least 2 independently accessible car parking spaces to be provided within the boundaries of the site.
- 3.1.4. All other conditions are generally standard in nature.

## 3.2. **Planning Authority Reports**

### 3.2.1. **Planning Reports**

3.2.2. Basis of Planning Authority's decision.

### 3.2.3. **Other Technical Reports**

3.2.4. **Water Services:** No objection subject to conditions.

3.2.5. **Roads, Transportation & Public Safety:** No objection subject to conditions.

## 3.3. **Prescribed Bodies**

3.4. **Irish Water:** No objection subject to conditions.

## 3.5. **Third Party Observations**

3.5.1. One third party observation was made on the application by Richard Forde of No. 10 The Gables, Kill, Co. Kildare. The observer's property adjoins the subject site to the north-west.

3.5.2. The issues which are raised can be summarised as follows: (1) inappropriate site for infill development, (2) excessive scale of development, (3) overlooking and overbearing impacts, (4) linked driveways will restrict access, (5) inadequate car parking spaces, (6) negative visual impact, (7) negative impact on living room of No. 10 The Gables, (8) inaccurate hedge/fence details shown along shared boundary, (9) reduced light available to kitchen, living room, bathroom and landing windows, (10) negative impact on property values, (11) impact on boundary wall, foundations and infrastructure of No. 10 The Gables, (12) construction impacts.

3.5.3. The submission includes photographs of the observer's property and photographs of shadows on the ground at 9 am and 1 pm in July 2021.

## 4.0 Planning History

4.1. None.

## 5.0 Policy and Context

### 5.1. Kildare County Development Plan 2017-2023

### 5.2. Housing

5.2.1. **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.

5.2.2. **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.

### 5.3. Development Management Standards

5.3.1. Two-bedroom dwellings shall have a minimum floor area of 85 m<sup>2</sup> with storage space of 6 m<sup>2</sup> and private open space of 55 m<sup>2</sup> (tables 17.4 and 17.5 refer). A car parking standard of 2 no. spaces per dwelling applies.

### 5.4. Kildare County Development Plan 2017-2023 – Volume 2: Kill Small Town Plan

### 5.5. Land Use Zoning

5.5.1. The site is subject to land use zoning “B - Existing Residential/Infill” which has the objective “to protect and improve existing residential amenity, to provide for appropriate infill residential development and to provide for new and improved ancillary services”. Dwellings are permitted in principle under this zoning.

5.5.2. The primary aims of this zoning objective are to preserve and improve residential amenity and to provide for further infill residential development at an appropriate density.

## 5.6. **Housing Objectives**

- 5.6.1. **KL1:** Facilitate the development of residential developments for the lifetime of this Plan, largely within the town centre zone on areas designated as existing residential/infill and on lands zoned new residential, in accordance with the principles of proper planning and sustainable development.

## 5.7. **Natural Heritage Designations**

- 5.7.1. None.

## 5.8. **EIA Screening**

- 5.8.1. Having regard to the nature and scale of the proposed development, comprising 1 no. dwelling in an established residential area which is served by public water and wastewater infrastructure, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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 third-party appeal has been lodged by Richard and Pauline Forde of No. 10 The Gables, Kill, Co. Kildare, which can be summarised as follows:
- Concerns raised at planning application stage not addressed by the Planning Authority.
  - This pattern of development represents overdevelopment, with no such other proposals permitted in this settled estate of detached houses.
  - The principle of the development is unacceptable and will set a precedent for further developments of this kind.
  - The development is adjacent to the shared boundary with No. 10 The Gables, including its main living room, with no consideration given to noise impacts on indoor and outdoor living areas.

- A comprehensive survey of the shared boundary has not been undertaken and there are concerns regarding the shared boundary treatment and its maintenance by future occupants.
- Concerns that the minimum separation distance between the appellants' property and the new dwelling will not be provided.
- Significant overshadowing of No. 10 The Gables, which is not accurately shown on the submitted shadow diagrams.
- The proposed 1<sup>st</sup> floor rear windows will overlook the living room and 3 no. roof lights of No. 10 The Gables.
- The development does not meet the required standards for a 3-bedroom house.

## 6.2. Applicant Response

6.2.1. An appeal response was lodged by Dara Challoner Design on behalf of the applicants which can be summarised as follows:

- The proposed development will enable the applicants to downsize and enable their daughter and young family to move into the existing dwelling.
- The subject site is zoned to accommodate infill residential development and is supported by development plan policy.
- The development will not appear cramped on the subject site and the gap between the proposed dwelling and No. 10 The Gables is typical, if not wider, than average in the housing estate.
- The hedges and shrubs to the front boundary will be carefully retained and improved in the interests of privacy. A separation distance of 1.2 m is proposed to the front boundary, while the existing rear boundary to No. 10 The Gables remains unchanged. No windows are proposed fronting onto the shared boundary.
- The proposed development will have no noise impacts on the appellants' property.

- The applicants' shadow study was prepared using a computer model which enabled the design to be developed so that minimal impacts arise to No. 10 The Gables.
- The proposed development will not overlook the appellants' rooflights.
- Planning permission has not been sought for a 3-bedroom dwelling.
- The proposed development complies with the development plan and the amenities of neighbouring properties have been fully considered.

### 6.3. **Planning Authority Response**

6.3.1. The Planning Authority has reviewed the appeal and has no further comments.

### 6.4. **Observations**

6.4.1. None.

## 7.0 **Assessment**

7.1. I am satisfied that the main issues for consideration in this case include:

- Principle of the Development
- Compliance with Development Plan Standards
- Impact on No. 10 The Gables
- Impact on Existing Dwelling
- Appropriate Assessment

7.2. Each of these issues is addressed in turn below.

### 7.3. **Principle of the Development**

7.3.1. The appellants submit that the principle of the development is unacceptable and that it will set a precedent for further developments of this nature within the estate where none have previously been permitted. It is also submitted that the proposal represents overdevelopment of the site. In response to the foregoing, the applicants'

agent submits that the site is zoned to accommodate infill residential development and is supported by development plan policy.

- 7.3.2. While I acknowledge that the proposed development would increase the density of this residential estate of large, detached houses on generous plots, the site is subject to land use zoning “B – Existing Residential/Infill” which permits appropriate infill development. I also accept the applicants’ rationale for the proposed development, which will enable them to downsize from the existing dwelling, which will subsequently be occupied by their daughter and her family.
- 7.3.3. As such, I am satisfied that the principle of the development is acceptable on the subject site, provided it can be delivered without impacting on the residential amenity of the adjoining dwellings and that it complies with all relevant development management standards.

#### **7.4. Compliance with Development Plan Standards**

- 7.4.1. The appellants submit that the proposed development does not meet the required standards for a 3-bedroom dwelling. In considering this point of appeal I note that planning permission has been sought for a 2-bedroom dwelling as described in the statutory planning notices. The planning application drawings confirm that the 3<sup>rd</sup> room at 1<sup>st</sup> floor level will be used as a study rather than a bedroom. As such, the proposed development is required to comply with development plan standards for a 2-bedroom dwelling.
- 7.4.2. Such dwellings require a minimum floor area of 85 m<sup>2</sup>, storage space of 6 m<sup>2</sup>, private open space of 55 m<sup>2</sup> and 2 no. car parking spaces. The proposed infill dwelling has an overall floor area of 90 m<sup>2</sup>. Storage is proposed by way of 4 no. individual spaces, with a combined area of 5.5 m<sup>2</sup>. While I have some concerns regarding the configuration of these spaces, in particular those proposed to the rear of the furniture in each of the bedrooms, I note that the dwelling exceeds the minimum overall floor area requirement and that the study may also be used for storage purposes. As such, I consider that the proposed storage space is acceptable.
- 7.4.3. The off-street car parking spaces to the front of the dwelling comprise 2 no. parallel spaces which cannot be accessed independently. The Roads, Transportation and Public Safety Department of Kildare County Council recommends that at least 2 no. independently accessible car parking spaces be provided within the boundaries of



each site. In my opinion, the space required to facilitate this configuration is not available within the boundary of the subject site or that of No. 11 The Gables. However, I note that the car parking which serves the existing dwelling and the neighbouring dwelling at No. 10 The Gables comprises parallel spaces which are accessed in forward motion. As such, having regard to the existing car parking arrangements at this location, I consider that the configuration of proposed car parking would be acceptable.

- 7.4.4. I note that private amenity space of 57 m<sup>2</sup> is proposed to the rear of the dwelling, which complies with development plan standards. In conclusion, I am satisfied that the proposed development would provide an acceptable standard of accommodation for future occupants.

#### **7.5. Impact on No. 10 The Gables**

- 7.5.1. The existing and neighbouring dwellings fronting onto the cul-de-sac comprise gable-fronted, 2-storey dwellings on generous plots with front and rear gardens. Several single-storey, gable-fronted dwellings are also located on the northern-side of the cul-de-sac. The site is 3.5 m wide at the entrance, increasing to 4.6 m at the front elevation of the proposed dwelling. The overall width of the dwelling is approx. 5.7 m. The front elevation has a recessed profile to maximise the internal space available at the dwelling entrance. The north-east facing ground floor window serving the tv toom to the front is quite narrow, with a width of approx. 0.65 m. In my opinion, this configuration would result in poor internal lighting within this room.
- 7.5.2. The side elevation of the proposed dwelling extends to a depth of approx. 10 m along the shared boundary with No. 10 The Gables at a set-back of 3.872 m to the front and 1.2 m to the rear. The appellants raise concerns in relation to the scale, height and proximity of the proposed dwelling. They consider that overshadowing, overlooking, overbearing and loss of privacy impacts will arise on foot of the proposed development.
- 7.5.3. In response to the foregoing, the applicants' agent submits that the amenities of neighbouring properties have been considered in the design of the proposed development. It is submitted that no windows are proposed in the gable elevation of the proposed dwelling, and as such, no overlooking impacts will occur. It is also submitted that no noise impacts will occur to the appellants' property. It is considered

that the development will not appear cramped on the subject site and that the gap between the proposed dwelling and No. 10 The Gables is typical, if not wider than average, in the housing estate.

- 7.5.4. I acknowledge that the insertion of an infill dwelling at this location would alter the established character of the site and introduce a 2-storey building form adjacent to No. 10 The Gables where none currently exists. However, as identified by Kildare County Council's Planning Officer, No. 10 The Gables has a single-storey rear extension which projects along the shared boundary for approx. 11.6 m. A rendered wall of approx. 2 m in height is also in place along the middle portion of the shared boundary. The proposed dwelling is set-back from this boundary by 1.2 m to the rear and by 3.872 m from the side/front elevation of No. 10 The Gables. As such, I do not consider that the proposed development would have an unacceptable overbearing impact on No. 10 The Gables having regard to the configuration of the existing development relative to the proposed infill dwelling.
- 7.5.5. While I acknowledge that the side elevation of the proposed dwelling will project beyond the side/front elevation of No. 10 The Gables by 4 m, I do not consider that any significant overbearing impacts would arise to the existing windows in the side elevation of this property on foot of the proposed building footprint.
- 7.5.6. The appellants submit that the proposed 1<sup>st</sup> floor rear windows will overlook their living room and 3 no. rooflights. However, the rear 1<sup>st</sup> floor windows of the proposed dwelling are orientated in a westerly direction towards the rear site boundary, rather than towards No. 10 The Gables. This is a standard fenestration arrangement and as such, I am satisfied that no overlooking of the neighbouring property would occur.
- 7.5.7. The appellants also consider that significant overshadowing of their property will occur, which is not accurately demonstrated on the submitted shadow diagrams. In response, the applicants' agent submits that the shadow study was prepared using a computer model which enabled the design to be developed so that minimal impacts arise to No. 10 The Gables.
- 7.5.8. In reviewing the applicants shadow study, and the photographs which have been provided by the appellants, I acknowledge that some degree of additional overshadowing would arise to the front/side elevation of No. 10 The Gables during March and December. However, in my opinion, the extent of overshadowing impacts

which would arise would not constitute a reasonable reason for the refusal of planning permission in this instance.

- 7.5.9. The appellants submit that no consideration has been given to the noise impacts which will arise to their indoor and outdoor living areas on foot of the proposed development. In considering this matter, I note that No. 10 The Gables has a significant rear garden which extends in a westerly direction away from the shared boundary with the subject site. Having regard to the size and configuration of this amenity space and the location of the existing single-storey extension to the rear of the appellants' property, I do not consider that the proposed development would have any significant noise impacts on this space or the appellants' enjoyment of same. I further consider that the proposed development would have no noise impacts on the indoor living areas of No. 10 The Gables, given that it comprises an infill residential development in an established residential estate.
- 7.5.10. The appellants have raised concerns that a comprehensive survey of the shared boundary has not been undertaken and concerns regarding the maintenance of same by the future occupants of the proposed dwelling. The appellants are also concerned that the minimum separation distance between the appellants' property and the new dwelling will not be provided.
- 7.5.11. In considering the foregoing, I note that any works which are required to the shared boundary will require the consent of both parties. In my opinion, this is a legal matter which is not open for adjudication under this appeal case. I also note that the future maintenance of the shared boundary is not a relevant planning consideration. In the event the Board grants planning permission for the proposed development, I note that any potential future issues of non-compliance with the permission could be addressed through the enforcement provisions of Part VIII of the Planning and Development Act, 2000 (as amended). As such, I am satisfied that these issues are not relevant to the assessment of this appeal case.
- 7.5.12. In conclusion, I am satisfied that the proposed development would not have any significant negative impact on the neighbouring property at No. 10 The Gables.

## **7.6. Impact on Existing Dwelling**

- 7.6.1. While I accept the rationale for the proposed development, I consider that the site configuration is such that it would result in a cramped form of development which would constitute the overdevelopment of the site, would be out of character with the established pattern of development at this location and would have a negative visual impact on the streetscape. In assessing the proposed development, I note that Kildare County Council's Planning Officer considered the site to be "restricted" and "extremely constrained".
- 7.6.2. In my opinion, the proposed development would have an unacceptable overbearing impact on the existing dwelling, No. 11 The Gables. In reaching this conclusion, I note that the proposed infill dwelling is located directly on the shared boundary with the existing dwelling. The proposed off-set side elevation extends to a depth of 3.3 m and a further 8 m along the shared boundary, to a height of 5.4 m to parapet level. The development fronts directly onto the remaining amenity space of No. 11 The Gables at a set-back of between approx. 3.5 – 6.5 m from the ground floor windows to the side of the existing property.
- 7.6.3. In my opinion, this scale of development directly onto the shared boundary would have an unacceptable overbearing impact on the private amenity space and side elevation of the existing dwelling and I consider that planning permission should be refused on this basis.

## **7.7. Appropriate Assessment**

- 7.7.1. 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.

## **8.0 Recommendation**

- 8.1. I recommend that planning permission be refused for the proposed development for the reasons and considerations set out hereunder.

## 9.0 Reasons and Considerations

- 9.1. Having regard to the constricted configuration of the subject site and the established pattern of development in the surrounding neighbourhood, it is considered that the proposed development, by reason of its scale, form and design would constitute the overdevelopment of a limited site area, which would have an overbearing impact on the existing dwelling at No. 11 The Gables, would be visually obtrusive in the streetscape and would be out of character with the pattern of development in the vicinity. The proposed development would, therefore, seriously injure the residential amenities of the area and would be contrary to the proper planning and sustainable development of the area.

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Louise Treacy  
Planning Inspector

31<sup>st</sup> January 2022