



An
Bord
Pleanála

Inspector's Report ABP-312551-22

Development	Ground and 1st floor extension to existing dwelling.
Location	29 Maiden Hill, Kells Road, Kilkenny
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	21707
Applicant(s)	Niall Lyons
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Paul & Lorraine Morrissey
Observer(s)	None
Date of Site Inspection	1 st September 2022
Inspector	Mary Crowley

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	5
3.4. Third Party Observations	5
4.0 Planning History.....	6
5.0 Policy Context.....	6
5.1. Development Plan.....	6
5.2. Natural Heritage Designations	6
5.3. EIA Screening	6
6.0 The Appeal	6
6.1. Grounds of Appeal	6
6.2. Applicant Response	7
6.3. Planning Authority Response	8
6.4. Observations	8
6.5. Further Responses.....	8
7.0 Assessment.....	8
7.2. Principle	9
7.3. Residential Amenities.....	9
7.4. Other Issues.....	11
7.5. Appropriate Assessment	11

8.0 Recommendation..... 11

9.0 Reasons and Considerations..... 11

10.0 Conditions 11

1.0 Site Location and Description

1.1. The appeal site with a stated area of 0.078 ha is located within the Maiden Hill residential estate to the southwest of Kilkenny city. The site is at the entrance to a small cul de sac of 6 no dwellings. The area is characterised by an extensive, low density estate in the Kilkenny suburbs comprising a range of predominantly 2 storey and dormer dwellings of individual design and style, with a meandering road layout. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

2.0 Proposed Development

2.1. Permission is sought for the following development

- Ground and 1st floor extension to existing dwelling, elevational changes, covered area to rear, upgrading of garage, and all associated siteworks
- The stated area of proposed works is 96sqm with 40sqm at ground floor and 56sqm at first floor
- The development will comprise additional floor space for the sitting and dining / living areas, entrance lobby with storage room and WC at ground floor and 2 additional bedrooms at first floor
- The proposed extension is 6.97m in height and is to step forward 2.5m in front of the existing building line

2.2. Further information was submitted on 23rd November 2021 comprising a Shadow Analysis.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Kilkenny County Council issued a notification of decision to grant permission subject to 8 no conditions summarised as follows:

1.	Comply with plans and particulars submitted on 17 th August 2021 and 23 rd November 2021 by way of further information
2.	Section 48 Development Contribution
3.	Surface Water
4.	Construction hours
5.	No materials to be stored on public road / footpath
6.	Maintain IW infrastructure
7.	Recovery / disposal of waste
8.	Garage ancillary use only

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Case Planner in their first report requested a daylight shadow analysis by way of further information. Further information was requested on 8th October 2021.
- The Case Planner having considered the shadow analysis submitted recommended that permission be granted subject to conditions. The notification of decision to grant permission issued by Kilkenny County Council reflects this recommendation.

3.2.2. Other Technical Reports

- None

3.3. Prescribed Bodies

- **Irish Water** – No objection

3.4. Third Party Observations

- 3.4.1. There is one observation recorded on the planning file from Lorraine Morrissey, No 28 Maidenhill. The issues raised relate to loss of light to the front, upstairs and downstairs and side of the observers house.

4.0 Planning History

- 4.1.1. There is no evidence of any previous appeal on this site. No planning history has been made available with the appeal file.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative plan for the area is the **Kilkenny County Development Plan 2021 – 2027**. The appeal site is zoned “**Existing Residential**” where the objective is to “*to protect and improve residential amenities and to provide for new residential development appropriate to the scale and character of the settlement*”.

5.2. Natural Heritage Designations

- 5.2.1. The site is not located within a designated Natura 2000 site.

5.3. EIA Screening

- 5.3.1. Having regard to the nature and scale of the proposed development, 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. The detailed third-party appeal has been prepared and submitted by Hughes Planning & Development Consultants on behalf of Paul & Lorraine Morrissey, No 28 Maiden Hill (adjoining neighbour immediately to the north of the appeal site) and may be summarised as follows:
- Appellant built their house 27 years ago and have been living there since. The overshadowing and daylight / sunlight implications of the proposed development

are of primary concern to the appellants as the affected rooms are used for working from home.

- The development gives rise to a loss of residential amenity and therefore is inconsistent with the zoning objective for the area by reason of loss of privacy, loss of sunlight, the overbearing and negative visual impact associated with the development.
- The Shadow Analysis submitted by way of further information did not adequately address the impact of the proposal on the surrounding dwellings. The proposal will have a severe impact on the level of light entering the appellants dwelling on the southern elevation.
- The extension will result in undue overlooking on the appellants property with the addition of a large window at ground floor level. The impacts have not been mitigated.
- The proposed extension would overwhelm the front of the dwelling, is excessive and would be visually obtrusive and overbearing due to its location and close proximity to the common boundary of the subject site and the appellants dwelling.
- The development will result in an irregular building line as it projects forward (2.5m) and would be highly visible having regard to its prominent location at the entrance of Maiden Hill.
- Requested that permission be refused

6.2. Applicant Response

6.2.1. The first party response to the appeal has been prepared and submitted by Simon Clear & Associates and may be summarised as follows:

- There is no pattern to establish a regular building line. Aerial photo attached. A number of dwellings in the area have had extensions to the front, some with high gable presentation to the street. Often houses of completely different style and style are juxtaposed. Photos attached.
- Proposed to install a side facing transparent window to be placed in the reconfigured ground floor guest bedroom. There is a wall and high railing running in the separation between the two dwellings which obscures lateral viewing. The

appellants house has 2 side facing frosted glazing windows and therefore there is no overlooking. Applicant is happy to relocate this window if the Board deem it necessary.

- The shadow information provided included shadow path information on plan and also in the vertical plan by providing asymmetrical information. This information shows minimal shadow impact from the proposed development onto the neighbouring property.
- Submitted that there is no real substance to the appeal, and it is requested that permission be granted.

6.3. Planning Authority Response

6.3.1. None

6.4. Observations

6.4.1. None

6.5. Further Responses

6.5.1. None

7.0 Assessment

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Residential Amenities
- Other Issues
- Appropriate Assessment

7.2. Principle

- 7.2.1. Permission is sought for a ground and first floor extension to an existing dwelling, elevational changes, covered area to rear, upgrading of garage, and all associated siteworks. The works are essentially changing the existing dormer style dwelling to a gable fronted 2 storey residence. While I note the concerns raised by the appellant in relation to impact to residential amenity, to be discussed further below, it remains that a residential extension and upgrade to an existing garage at this established residential property on lands zoned “existing residential” and where there is a mixed typology albeit predominantly two storeys in the immediate area, is considered an acceptable form of development in principle.
- 7.2.2. Notwithstanding the foregoing, it is recommended that should the Board be minded to grant permission that a condition be attached requiring that the garage not be used for human habitation in the interest of residential amenity.

7.3. Residential Amenities

- 7.3.1. Concern is raised by the appellants that the shadow analysis or daylight / sunlight assessment submitted at further information stage was insufficient as the development would have a significant impact on overshadowing and loss of light on the appellants property to the north at No 28 Maiden Hill.
- 7.3.2. I refer to the Shadow Analysis submitted by way of further information that took key dates of the equinox (21st September / March) and the Summer Solstice (21st June) as the primary dates for analysis and each date has the following times analyses (dates and times as per BRE Guidelines): 09.00, 12.00 and 15.00. For completeness the applicant also analysed the following dates: 21st February, 21st August and 21st December. The shadow analysis also included shadow path information showing minimal shadow impact from the proposed development onto the neighbouring property, onto residential room windows, or onto private amenity garden space at any time.
- 7.3.3. The shadowing on the side passage frosted windows of the appellants house is mainly from the existing boundary wall and railing. It is noted that early morning shadowing to the front of the appellants house is already caused by the appellant’s own house. There is no significant change to shadowing to the front from the proposed

development as a result of the proposed extension. The analysis shows there is no significant potential shadow impact on any private amenity area or windows in the appellants residence. The rear garden of the appellants house is unaffected by the proposed development in terms of shadow and overlooking.

- 7.3.4. Given the residential nature of the area together with the proposed scale and location of the extension I do not consider that a significant loss of sunlight would occur that would negatively impact on the residential amenities of the appellants property to such an extent that would merit a refusal of permission in this instance. Overall, I am satisfied that the proposed scheme does not significantly diminish daytime sunlight penetration to the adjoining site
- 7.3.5. In terms of design and scale, while a significant intervention is proposed, it is noted that the overall ridge height has not been increased. I am satisfied that the proposal has been sensitively considered in terms of its context and that the scheme will not detract from the visual amenities of this suburban residential area.
- 7.3.6. Regarding the proposed extension coming forward of the existing front building line, I agree with the applicant that the area is characterised by an extensive, low density estate in the Kilkenny suburbs that appear to be comprised of a range of predominantly 2 storey and dormer dwellings of individual design and style, with no particular pattern to establish a regular building line. Accordingly, I consider the proposed building line to be acceptable at this location.
- 7.3.7. In terms of overlooking I note the concerns raised with regard to the proposed new window at ground floor on the northern elevation of the appeal site that will serve a guest bedroom. Having regard to the nature of the use this window will serve, its location at ground level and the existing shared boundary height treatment and between both properties I am satisfied that no significant loss of residential amenity by reason of overlooking would occur. Further the shared boundary wall and higher railings prevent overlooking between ground floor windows in the side elevations as the windows are below the level of the wall. I am satisfied that no issues of overlooking are likely to arise from the proposed new window in the gable.

7.4. Other Issues

- 7.4.1. **Development Contributions** – I refer to the Kilkenny County Council Development Contribution Scheme 2018. The development is not exempt from the requirement to pay a development contribution. It is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and scale of the development and its distance to the nearest European site, 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. Having considered the contents of the application the provision of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **GRANTED** for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1. Having regard to the Kilkenny County Development Plan 2021 – 2027, it is considered that, subject to compliance with the conditions set out below, the proposed development, would not adversely affect the visual or residential amenities of properties in the vicinity and, would be in accordance with the proper planning and sustainable development of the area.

10.0 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
----	---

	<p>plans and particulars submitted on the 23rd day of November 2021 and by the further plans and particulars received by An Bord Pleanála, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The detached garage shall be used solely for purposes ancillary to the residential use of the dwelling and shall not be used for commercial purposes or human habitation, sublet, sold separately, otherwise transferred or conveyed, except in combination with the dwelling.</p> <p>Reason: In the interest of the residential amenities of the area and the proper planning and sustainable development of the area.</p>
3.	<p>Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. No surface water shall be allowed to discharge onto the public road or adjoining properties.</p> <p>Reason: In the interest of orderly development and public health</p>
4.	<p>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 the 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</p>

<p>be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p>
--

<p>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.</p>

Mary Crowley

Senior Planning Inspector

6th September 2022