



An
Bord
Pleanála

Inspector's Report

ABP-314568-22

Development	Erection of a 3 bedroom, 2 storey, detached dwelling.
Location	Callenders Mill, Celbridge, Co. Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	22/761
Applicant	Aidan Henry.
Type of Application	Permission.
Planning Authority Decision	Refusal of Permission
Type of Appeal	First Party v Refusal of Permission
Appellant(s)	Aidan Henry.
Observer(s)	None.
Date of Site Inspection	08/02/2023
Inspector	Enda Duignan

1.0 Site Location and Description

- 1.1. The address of the appeal site is Callenders Mill, Celbridge, Co. Kildare. The site is located on the corner of Callenders Mill and Hazelhatch Avenue, on the opposite side (east) of Nos. 70-75 Callenders Mill. The appeal site is under grass and has formal boundaries. However, there is an earthen mound with some mature trees towards the northern end of the eastern boundary to the north of the site. The appeal site has a stated area of 0.0326ha.
- 1.2. In terms of the site surrounds, the site is located within an established residential area which is typically characterised by double storey, semi-detached dwellings of a similar architectural form. There is an existing 3 no. storey apartment building to the north of the appeal site on the opposite side of Hazelhatch Avenue. An area of public open space associated with the Callenders Mill development and the wider area is located to the east and south of the appeal site. An existing footpath and cycle track has also a partial abuttal to the eastern site boundary. An area of surface level car parking is located to the immediate south of the appeal site.

2.0 Proposed Development

- 2.1. Planning permission is sought the construction of a double storey residential dwelling on the appeal site. The proposed dwelling has a stated floor area of c. 132sq.m. and will comprise an entrance hall, WC, home office, utility and open plan kitchen/dining/lounge at ground floor level and 3 no. bedrooms and a bathroom at first floor level.
- 2.2. The proposed dwelling will have a contemporary architectural expression with a flat roof form. Materials and finishes appear to comprise a combination of a brick, render and cladding finish for the principal elevations. The dwelling is orientated to the south and an area of private open space (90sq.m.) is provided on its northern side which is directly accessible from the ground floor kitchen/dining/lounge.
- 2.3. Two (2) no. designated off-street car parking spaces are provided on the southern side of the dwelling. A front garden measuring c. 32sq.m. is also proposed at this location.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority refused planning permission for the proposed development for the following 2 no. reasons:

1. The proposed development materially contravenes the terms of the parent permission PI. Ref. 03/334, and in particular Condition no. 4 of the parent permission required that the subject site be used for a creche facility/retail unit. The proposed development, if permitted, would therefore contravene Condition no. 4 of parent permission granted under PI. Ref. 03/334, and would act as an undesirable precedent to further such development elsewhere in the county, and as such would therefore be contrary to the proper planning and sustainable development of the area.
2. The proposed development is located in an area where the stated Zoning objective in the Celbridge Local Area Plan, is 'B, Existing Residential/Infill, to protect and enhance the amenity of established residential communities and promote sustainable intensification.

Having regard to the proposed location of the dwelling within an existing area of public open space and the substandard design, setting and configuration of the dwelling itself, it is considered that the proposed development would constitute haphazard development and result in an unacceptable loss of this residential amenity within the area. Accordingly, the proposed development would be contrary to the zoning objective, proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Kildare County Council Planning Report forms the basis for the decision. The Planning Report provides a description of the site and the subject proposal, it summaries the issues raised in the third-party observation and it outlines the planning history of the appeal site. The report also set outs the policy at local level that is applicable to the development proposal.

Within their assessment of the application, the Planning Authority refer to the planning history of the appeal site and surrounds (Pl. Ref. 03/334) and note that the appeal site was reserved for a 'possible site for shop subject to application'. Reference is also made to condition no. 4 of the permission which required the Applicant to submit a planning application for a shop at this location within a specified time period. Given the inclusion of this condition, the Planning Authority considered the proposal to be contrary to the condition of the parent permission.

Concerns were also highlighted with respect to the siting, layout and design of the dwelling and it was considered that the proposal would offer a poor standard of living for any future occupant. It was also commented that the site is currently utilised as public open space for existing residents, and it was considered that the loss of this site would be detrimental to the residential amenity of the area.

3.2.2. Other Technical Reports

Transportation Department: Report received stating no objection subject to conditions.

Area Engineer: Report received stating no objection subject to conditions.

Water Services: Report received stating no objection subject to conditions.

3.3. Prescribed Bodies

Irish Water: Report received stating no objection subject to conditions.

3.4. Third Party Observations

One third-party observation was received from Sinead Coakley and Rupert Heather. The issues raised can be summarised as follows:

- Concerns with respect to the loss of the existing open space area.
- Concerns with respect to the impact of the proposal on existing trees.

4.0 Planning History

14/89: Planning permission refused by the Planning Authority for the construction of new two-storey building consisting of pre-school and educational/training use to

ground floor and two bedroom apartment to first floor. The application was refused for the following reason:

1. Having regard to the scale and location of the proposed development, to the absence of dedicated set down area and the deficiency in car parking provision to serve the development, it is considered that to permit the development would create serious traffic congestion in this primarily residential area, would be seriously injurious to the amenity of residential property in the vicinity, would endanger public safety by reason of traffic hazard and the obstruction of road users and would therefore be contrary to the proper planning and sustainable development of the area.

10/53: Planning permission granted by the Planning Authority for the construction of a single storey retail building consisting of 2 units (total floor area c. 83.5m²) and service yard on site of c.0.094 acres (0.038ha).

04/1371: Planning permission granted by the Planning Authority for the construction of a single storey retail building consisting of 2 units (total floor area c. 83.5 sq.m.) and service yard on site of c. 0.07 acre and a single storey creche (total floor area c. 139 sq. mts.).

03/334 (ABP Ref. PL 09.203970): Planning permission granted by the Planning Authority for the construction of 115 dwellings comprising 32 no. 3 bedroom 2 storey terraced houses in 5 no. blocks, 54 no. 3 bedroom 2 storey semi-detached houses, 28 no. 4 bedroom 2 storey semi-detached and 1 no. 4 bedroom 2 storey detached houses.

Condition No. 4 is of relevance to the current appeal and was included as follows:

- Within six months of the date of final grant of permission the applicant shall submit a separate planning application for the proposed Creche and shop at the locations indicated on drawings and details submitted on.

Reason: to provide sufficient facilities to cater for the development and to comply with the provisions of the childcare guidelines, in the interests of clarity and proper planning and sustainable development.

5.0 Policy Context

5.1. Project Ireland 2040 National Planning Framework (NPF) Local Policy

5.1.1. The first National Strategic Outcome expected of the National Planning Framework is compact growth. Effective densities and consolidation of urban areas is required to minimise urban sprawl and is a top priority. 40% of future housing delivery is to be within the existing footprint of built up areas (National Policy Objective 3a).

5.1.2. National Policy Objective 35 of the NPF seeks to “Increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and increased building heights”.

5.1.3. Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES).

A key National Strategic Outcome (NSO 1) in the NPF and Regional Strategic Outcome (RSO 2) in the RSES is the need to achieve ambitious targets for compact growth in our urban areas. Urban regeneration and infill sites can contribute to sustainable compact growth and revitalisation of existing settlements of all scales. This will help to address National Policy Objective 3a, 3b and 3c of the NPF which targets the delivery of new homes within the footprint of existing settlements.

5.2. Kildare County Development Plan, 2023-2029

5.2.1. The Kildare County Development Plan, 2023-2029 (CDP) came into effect on 28th January 2023, and after the decision of the Planning Authority to refuse planning permission. Celbridge is designated a ‘Self-Sustaining Town’ within the current CDP. I note that Chapter 3 of the Plan sets out the County’s policies for ‘Housing’. Notably, Section 3.9 (Regeneration, Compact Growth and Densification) of the Plan provides the following policies and objectives of relevance.

- **HO P6** Promote and support residential consolidation and sustainable intensification and regeneration through the consideration of applications for infill development, backland development, re- use/adaptation of existing housing stock and the use of upper floors, subject to the provision of good quality accommodation.

- **HO 07** Promote, where appropriate and sensitive to the characteristics of the receiving environment, increased residential density as part of the Council's development management function and in accordance with the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities and the accompanying Urban Design Manual, DEHLG, May 2009.
- **HO 08** Support new housing provision over the Plan period to deliver compact and sustainable growth in the towns and villages in the County, and supporting urban renewal, infill and brownfield site development and regeneration, to strengthen the roles and viability of the towns and villages, including the requirement that at least 30% of all new homes in settlements be delivered within the existing built- up footprint.

5.2.2. In terms of childcare facilities, the following policies and objectives are of note:

- **SC P13** Support and facilitate the provision of good quality and accessible childcare facilities at suitable locations within the County in consultation with the Kildare County Childcare Committee, subject to AA screening and where applicable, Stage 2 AA.
- **SC 078** Require the provision of childcare facilities close to existing built-up areas including:
 - o Business Parks and major employment centres
 - o Neighbourhood and district retail centres - Large scale retail developments
 - o The vicinity of schools and major educational facilities
 - o Adjacent to community centres and facilities
 - o Adjacent to public transport nodes
 - o Convenient to new and existing residential developments
- **SC 079** Ensure childcare provision is delivered in new communities prior to or in tandem with phase 1 of any residential or commercial development and is fully operational prior to the occupation of any residential units within the subject site.
- **SC 080** Support the provision of childcare facilities within or co-located with community buildings, such as community centres and schools.

- **SC O84** Require childcare facilities to incorporate a flexible design approach whereby their use could be adapted for other community purposes as the profile of the area changes. Evening uses should also be considered (e.g., a youth facility or activities for older persons).

5.2.3. Chapter 14 of the current CDP sets out policy with respect to Urban Design, Placemaking and Regeneration.

5.2.4. Chapter 15 of the current CDP sets out Development Management Standards.

5.3. Celbridge Local Area Plan (LAP), 2017-2023

5.3.1. The site is within an area zoned B (Existing Residential/Infill) of the current LAP, the objective of which is 'To protect and enhance the amenity of established residential communities and promote sustainable intensification'. I note that dwellings are identified as being 'permitted in principle' under this zoning objective.

5.4. Natural Heritage Designations

5.4.1. The nearest designated site is the Rye Water Valley/Cartron SAC (Site Code: 001398) c. 4.65km to the north-east of the site.

5.5. EIA Screening

5.5.1. Having regard to the nature and scale the development, which consists of the construction of an infill dwelling in a serviced urban location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A First Party appeal has been prepared and submitted on behalf of the Applicant. The grounds of appeal can be summarised as follows:

- In response to Refusal Reason No. 1, it is not understood how the Planning Authority are using a condition from 19 years ago to refuse permission for this

site. It is stated that over the last 19 years, numerous childcare facilities and businesses have been set up in the area to satisfy demands. It is stated that a childcare audit of the area was not possible due to GDPR regulations, and it is stated that an attempt had been made to contact childcare providers in the area but the response provided was that this information is confidential.

- Currently the site is zoned B (Existing Residential/Infill), and the proposed development which seeks to provide an infill residential dwelling is compliant with the policy of the County Development Plan.
- In terms of Refusal Reason No. 2 and the Planning Authority's concerns with respect to the loss of open space, it is stated that the site is privately owned, it has been fenced off and does not form part of the public open space associated with the wider residential development.
- With respect to the concerns over design, it is contended that the dwelling will be less intrusive than neighbouring properties by not incorporating a conventional pitched roof. It is highlighted that a further information request could have been issued to address any concerns with respect to the design of the dwelling.
- The question is asked as to why it would be acceptable to lose the site as open space if it was a retail unit but not if it is a dwelling.

6.2. Planning Authority Response

Response received which notes that the Planning Authority has no further comments or observations to make.

6.3. Observations

None

6.4. Further Responses

None sought.

7.0 Assessment

The main issues to be considered are those raised in the First Party grounds of appeal, the Planning Report and the consequent reasons for refusal and I am satisfied that no

other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Planning History & Principle of Development.
- Design, Visual Impact & Residential Amenity.
- Access & Car Parking.
- Appropriate Assessment.

7.1. Planning History & Principle of Development

7.1.1. The proposal seeks planning consent for the construction of a detached double storey dwelling on the appeal site. Under the current LAP, the lands to which this appeal relate are zoned B (Existing Residential/Infill), the objective of which is 'To protect and enhance the amenity of established residential communities and promote sustainable intensification'. I note that 'dwellings' are identified as being 'permitted in principle' under this zoning objective. Land uses designated under each zoning objective as 'Permitted in Principle' are generally considered to be acceptable, subject to compliance with those objectives as set out in other chapters of the Plan.

7.1.2. Within their assessment of the application, the Planning Authority place a considerable emphasis on the planning history of the appeal site and surrounds. Notably, the Planning Authority deemed the proposal to contravene Condition No. 4 of Ref. 03/334 which was detailed as follows:

- Within six months of the date of final grant of permission the applicant shall submit a separate planning application for the proposed Creche and shop at the locations indicated on drawings and details submitted on.

Reason: to provide sufficient facilities to cater for the development and to comply with the provisions of the childcare guidelines, in the interests of clarity and proper planning and sustainable development.

I note that planning permission was also granted by the Planning Authority under Ref. 04/1371 for the construction of a single storey retail building (and associated service yard) and a single storey creche. Works on foot of this permission and any subsequent permission (i.e. Ref. 10/53) did not commence and the permissions have now expired. It is worth highlighting, that the appeal site has not been identified in any subsequent application as being as a possible location for a creche or childcare facility. When

reviewing the plans and particulars associated with the previous permissions, it was evident that the childcare facility was envisaged at an alternative site, c. 150m to the north-west, within another area of the Callenders Mill estate. The appeal site was identified as a possible location for a shop and permission was subsequently granted for this use under Ref. 04/1371 and Ref. 10/53.

- 7.1.3. It is evident that wording of Condition No. 4 of the parent permission was flawed as neither the retail use nor the childcare facility were ever delivered as part of the wider development. Notwithstanding this, I note that an application was forthcoming (Ref. 04/1371) for the site, in accordance with the specific wording of Condition No. 4. I acknowledge the appellant's commentary that a significant period of time has elapsed since the parent permission and I would contend that the planning policy landscape has changed and evolved in the intervening period. Within lands zoned B (Existing Residential/Infill), a 'shop' use is identified as being 'open for consideration' under the LAP. I note that the appeal site is conveniently located within a 12-minute walk of Celbridge town centre, where there is access to a variety of shops and services to cater to the needs of the town and its hinterland. Given the legacy of the site's planning history, the viability of a shop at this location is unclear and I question its suitability, given its location outside Celbridge town centre or any designated neighbourhood centre. Having regard to the nature of the proposed infill residential development, where the proposed use is identified as being permitted in principle under the current zoning objective, I am satisfied that the proposal would in fact represent a more efficient use of a brownfield site which benefits from good access to a range of amenities and services given its location relative to Celbridge town centre. This is particularly relevant in the context of national policy objectives which seek to ensure that 40% of future housing delivery is to be within the existing footprint of built up areas (National Policy Objective 3a). Section 2.6 (Securing Compact and Sustainable Growth) of the National Planning Framework (NPF) also highlights that the preferred approach to development would be compact development that focuses on reusing previously developed, 'brownfield' land, building up infill sites, which may not have been built on before and either reusing or redeveloping existing sites and buildings. I consider this to be directly applicable to the development proposal given the national policy objectives which now seek to secure compact and sustainable growth. I am

therefore satisfied that the development proposal is in accordance with local through to national policy objectives and I consider the principle of the proposed development to be acceptable at this location.

- 7.1.4. I note that the Planning Authority also raised concerns that the proposal would result in the loss of existing public open space, a point that was echoed by an observer to the application. Whilst it is likely that the site may be used as incidental open space, it would appear from the application documentation that the site is in private ownership. From a review of the site's planning history, it is also evident that public open space was not the intended use for the appeal site. Therefore, given the applicable zoning objective of the lands, the planning history of the site and the overall extent of remaining public open space that serves the Callenders Mill estate, I am satisfied that the proposal is generally in accordance with the zoning provisions of the site and would not detract from the residential amenity of the wider estate. Therefore, the issue that needs to be ascertained is whether the proposed development is acceptable on this specific site, taking into consideration the design and layout, access and the sustainable planning and development of the area.

7.2. Design, Visual Impact & Residential Amenity

- 7.2.1. The proposal seeks to develop the existing site to provide a detached double storey dwelling (132sq.m. GFA). The dwelling will have a contemporary architectural expression with a flat roof form and materials and finishes appear to comprise a combination of a brick, render and cladding finish for the principal elevations. The dwelling is orientated to the south and an area of private open space, measuring c. 90sq.m. is provided on its northern side. Section 15.4.6 (House Design) of the current CDP notes that a high standard of building design, detailing and specification of materials and a high standard of craftsmanship will be required for all new residential development. The policy notes that while the Planning Authority welcomes contemporary architecture, new developments should not be incongruous or have an overbearing effect on the established environment. It is stated that context remains very important, particularly in the case of the smaller towns and villages in the county. Although I accept that the proposed dwelling represents a departure from the prevailing neighbourhood character in design terms, I am satisfied that a contemporary

architectural response for the appeal site is acceptable, despite the concerns raised by the Planning Authority. Notwithstanding this, I note that the appeal site is prominently located on a corner and the dwelling is lacking fenestration on the southern, eastern and western first floor elevations. The incorporation of additional fenestration would articulate the elevations and provide passive surveillance of the street (west) and the public open space area to the site's south and east. The exception to this is a singular high-level window serving the stairwell on the eastern elevation.

- 7.2.2. The submitted site layout plan shows a narrow footpath (c. 700mm wide) which will run along the full length of the western side boundary. I note that this footpath will then extend further to the south and to the north beyond the red line site boundary and will connect into the existing footpath on the southern side of Hazelhatch Avenue to the north. Upon inspecting the appeal site, it was evident that there is currently no footpath in place along the eastern side of the access road serving the Callenders Mill estate and the site is bound to the west by a stone kerb. It is therefore likely that the proposal would necessitate works that are outside the red line site boundary and it is unclear whether these works are outside the control of the Applicant. I also observed there to be a number of street trees along the site's western edge which have not been identified on the submitted plans and particulars. I note that their removal is likely to be required in order to facilitate the proposed development. In terms of proposed boundary treatments, there is a lack of detail on the submitted documentation. However, the contiguous elevations appear to show a new c. 1.8m high wall along its western boundary (length of c. 9.2m), where it will abut the dwelling's private open space. A new wall is also shown along the full length of the eastern boundary as depicted on the eastern contiguous elevation, where it abuts the existing cycle path and public open space area. However, the precise location of the new boundary walls have not been identified on the submitted plans. In terms of passive surveillance, Section 15.4.6 of the current CDP indicates that where side boundary walls of a dwelling adjoin the public footpath or public open space, the walls shall be a maximum of 1 metre in height as far as the rear building line of the dwelling (beyond which a 2m high screen walls, suitably finished (rendered, natural stone or brick) and capped may be provided). The policy states that proposals for planting along the public side of the

wall shall be included on a landscaping plan and an additional inner grass verge shall be provided along any footpath to facilitate this, if necessary. I note that there is an existing embankment, and a number of mature trees which form a significant portion of site's eastern boundary which provide a valuable contribution to the public open space area. Given the lack of an arboricultural assessment and the proximity of the proposed dwelling and boundary walls to these trees, I have significant concerns with respect to the potential impact of the proposed development on their ongoing viability. Having regard to the foregoing and in the absence of an arboricultural assessment, landscape plan and clear details with respect to boundary treatments, I am not satisfied that the dwelling can be successfully absorbed at this location, and I therefore consider the proposed development to be contrary to Section 15.4.6 of the current CDP.

- 7.2.3. In terms of the floor area of the proposed dwelling and the quantum of open space provided, I note that the proposed dwelling complies with the quantitative standards set out in Table 15.2 of the current CDP. This policy prescribes a minimum floor area of 100sq.m. for a 3 no. bedroom dwelling with a minimum private open space of 60sq.m. Notwithstanding this, I note that the private open space area is located on the northern side of the dwelling and the main living space (i.e. open plan kitchen/living/dining room) is orientated to the north. I also note that the single bedroom at first floor level does not benefit from natural light and the 2 double bedrooms have only north facing windows. As noted earlier in this report, passive surveillance could be provided through the incorporation of additional fenestration on the west, east and southern elevations and consequently, the amenity of these rooms could be improved. I note that a rationale for the siting and layout of the dwelling has not been provided but a more efficient design response for the site would be for a re-orientation of the dwelling to provide its principal living areas and amenity space on its southern side and car parking provided to its north. Overall, I am not satisfied that these design modifications could be addressed by way of condition, and I consider the proposal in its current form to be contrary to Section 15.4.6 of the current CDP and would fail to provide an acceptable standard of amenity to its future occupants. For this reason, I recommend that planning permission be refused for the proposed development.

7.3. Access & Parking

- 7.3.1. The proposal seeks to provide off-street car parking for 2 no. car parking spaces to the south of the proposed dwelling. The Planning Authority's Road's Department in their report on file have raised no objection to the proposed development subject to compliance with conditions. I note that 2 no. car parking spaces for a 3 no. bedroom dwelling would exceed the maximum standards (i.e. 1 space) as prescribed under Table 15.8 of the current CDP. As discussed in Section 7.2 of this report, there may be a rationale for providing an off street car parking space on the northern side of the dwelling in lieu of the current arrangement, subject to the proposal's compliance with Section 15.7.5 (Stopping Distances and Sightlines) of the Plan.
- 7.3.2. I note a specific condition has been recommended by Road's Department which required the Applicant to omit the proposed footpath along the site's western boundary. Again, in the absence of a detailed landscape plan/ site layout, including details with respect to soft and hard landscaping treatments, a level of ambiguity remains with respect to the interface of the appeal site with the public road (west). I recommend that this information should be clearly detailed if a revised application for the site is forthcoming.

7.4. Appropriate Assessment

- 7.4.1. The nearest designated site is the Rye Water Valley/Carton SAC (Site Code: 001398), c. 4.65km to the north-east of the site. Taking into consideration the nature, extent and scope of the proposed development and to the nature of the receiving environment, with no direct hydrological or ecological pathway to any 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

I recommend that the planning application be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to the siting, orientation and design of the proposed dwelling, including the location of the private amenity space on the dwelling's northern side and the insufficient first floor level fenestration, it is considered that the proposed development would result in a substandard level amenity for its future occupants, would fail to provide sufficient passive surveillance of the adjoining street and area of public open space, and would have the potential to adversely impact the ongoing viability of existing trees to the east of the site which make a valuable contribution to the character site and of the surrounding area. In this regard, the proposed development fails to accord with Section 15.4.6 (House Design) of the Kildare County Development Plan, 2023-2029, would fail to accord with the zoning provisions of the site, and would therefore be contrary to the proper planning and sustainable development of the area.

Enda Duignan
Planning Inspector

14/02/2023