



An
Bord
Pleanála

Inspector's Report ABP-314779-22

Development	Sub-division of existing site and construction of a detached two storey house
Location	728 Rowanville, Kildare Town, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	22/430
Applicant(s)	Derek and Martha Carey
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First v Refusal
Appellant(s)	Derek and Martha Carey
Date of Site Inspection	14 May 2023
Inspector	L. Gough

1.0 Site Location and Description

- 1.1. The site of the proposed development is located within the urban footprint of Kildare Town, and is c.750m to the southeast of the town centre within the Rowansville Housing Estate. Houses in this area of the estate are predominantly two storey semi-detached and terraced dwellings. The site itself is situated at the end of a cul-de-sac type arrangement accessed off an internal road and from the R445 to the southeast. It has a stated area of 0.0369 hectares.
- 1.2. It is proposed that the site would be subdivided from a larger site owned by the applicants. There is an existing two storey, 72m² semi-detached dwelling on the existing site. This would be situated to the immediate east of the proposed two storey dwelling on the subdivided site.
- 1.3. Existing site boundaries comprise a c. 1.8m - 2m high composite precast concrete post and timber panel fence to the east and west and palisade fencing to the rear. An existing semi-detached dwelling which fronts onto the proposed dwelling site, is located c.8m away to the immediate west from the front building line of the proposed dwelling and would share a boundary with the proposed subdivided site.

2.0 Proposed Development

- 2.1. The proposed two storey, three-bedroom dwelling would have a floor area of 102m², and would measure approximately 9.9m in length, 6.1m in width, and 7.4m in height, with a separation distance of 0.7m between the western wall of the existing dwelling and eastern wall of the proposed dwelling. From the application drawings provided, it is noted that the proposed eaves and ridge heights would match those of existing houses in the estate.
- 2.2. The two-storey dwelling would be connected to existing public services already serving the estate. Two car parking spaces are indicated as being provided to the front of both the existing and proposed dwellings.
- 2.3. In addition to the above, and following revised plans submitted and regarded as significant further information, it is proposed that the two-storey dwelling would be realigned slightly in line with the boundary to the east rather than the boundary to the west.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse planning permission for the development for the following stated reason:

It is the policy of the Kildare County Development Plan to achieve a high quality design and layout in new residential developments and in this regard Table 4.1 of the Kildare County Development Plan 2017-2023, Guidance on Appropriate Locations for New Residential Development, requires that 'Sub-division shall be considered subject to safeguards regarding residential amenity, internal space standards, private and public open space, car parking and maintenance of the public character of the area'.

Having regard to the restricted configuration of the site and the positioning, massing and bulk of the proposed 2-storey dwelling on the site, much of which is located to the rear of an existing dwelling to the east, the proposed development is considered to be out of character with the prevailing pattern of development in the area and would have an overbearing and overshadowing impact on existing residential development in the immediate vicinity. The proposed development would therefore injure the residential amenity and depreciate the value of property in the vicinity and would set an undesirable precedent for similar development, which would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Council's Planning Report forms the basis for the decision. It provides a description of the appeal site, context and characteristics, and an overview of the relevant local policy context, in accordance with the Kildare County Development Plan 2017-2023 and Kildare Town Local Area Plan 2012-2018.

Further information relating to the positioning of the proposed dwelling on site was requested on the 01/06/22, and a response received from the applicant's agent on 07/07/22 which was deemed significant further information.

The further information submitted included revised plans indicating that the dwelling was being realigned in line with the boundary to the east rather than that of the west. The position of the proposed dwelling was retained 3m behind the front building line of the existing dwelling to the immediate east.

As the response to further information failed to address the Planning Authority's concerns, clarification of further information was requested. The applicant responded with no further changes.

The following points are noted from the final report of the Planning Officer (dated 12/09/2022):

- The principle of development is acceptable on site, and appropriate infill of an appropriate scale which would not negatively impact existing development in the area, would be considered acceptable on site.
- The Planning Authority has concerns regarding the positioning of the proposed dwelling in relation to existing dwellings adjacent to the site on the east and west.
- The eastern boundary line creates an irregular site formation.
- The issues of overshadowing, loss of light, outlook/ impact on existing residences and private open space, and the overbearing scale of the development to the rear of the dwellings, particularly to the east, have not been addressed.
- The Appropriate Assessment Screening Report concluded that AA is not required.

3.2.2. Other Technical Reports

- Kildare Area Office – No objection, subject to conditions.
- Roads, Transportation and Public Safety Dept. – No objection, subject to conditions.
- Water Services Section – No objection, subject to conditions.

3.2.3. Prescribed Bodies

- Irish Water – No objection, subject to compliance with conditions.

3.2.4. Third Party Observations

- None

4.0 Planning History

No relevant planning history.

5.0 Policy and Context

National and regional policy reinforces the need for 'healthy placemaking' and the delivery of well-designed, affordable, adaptable, infill and brownfield development close to existing services and facilities.

5.1. Development Plan

The Local Area Plan (LAP) for Kildare Town has lapsed (2012-2018) and whilst a Draft LAP (2023-2029) has recently been subject of public consultation, at the time of assessment of this application, it is not yet adopted. The Kildare County Development Plan 2023-2029 (KCDP) is thus the effective relevant Development Plan for Kildare Town and the County.

Within the KCDP, Kildare Town is categorised as a self-sustaining growth town. Chapters that are considered relevant to the proposed development, include Chapter 3 Housing, Chapter 14 Urban Design, Placemaking and Regeneration, and Chapter 15 Development Management Standards.

Section 3.8 (Protecting Existing Residential Amenity) of Chapter 3, notes that residential amenity and residents' comfort can be significantly impacted by "*the relationship of buildings to each other and their individual design*". In this regard, "*in older residential areas, infill development will be encouraged, while still protecting the existing residential amenity of these areas*". This is supported by Objective HO 07, which seeks to "*Ensure a balance between the protection of existing residential*

amenities, the established character of the area and the need to provide for sustainable residential development is achieved in all new developments”.

Chapter 14 highlights that high quality, people, centred design within Kildare’s towns and villages is not just an optional ‘add-on’ but is an essential requirement for the development of sustainable and healthy communities. This is supported by a number of policies, including UD P1, which states that it is the policy of the Council to “*Apply the principles of people-centred urban design and healthy placemaking as an effective growth management tool to ensure the realisation of more sustainable, inclusive, and well-designed settlements resilient to the effects of climate change and adapted to meet the changing needs of growing and aging populations*”.

Section 14.6 also outlines best practice guidance and a checklist (Table 14.2), applicable to all types of development, to ensure the delivery of high-quality design.

Other policies/ provisions considered relevant include:

- **Policy 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.

- **Section 15.2.3 Overlooking/ Separation Distances**

In general, a minimum distance of 22 metres between opposing above-ground floor level windows (including extensions to existing houses) will be required for habitable rooms, normally resulting in a minimum rear garden depth of 11 metres. However, where sufficient alternative private open space (e.g., to the side) is available, and in cases of innovative design, (e.g., where overlooking into habitable rooms does not occur), this figure may be reduced, subject to the maintenance of privacy and the protection of adjoining residential amenities.

A minimum distance of 2.3m shall be provided between the side walls of adjacent dwellings or dwelling block with each building being a minimum of 1 metre from the boundary to allow for adequate maintenance and access.

In all instances where minimum separation distances are not met, the applicant shall submit a sunlight/ daylight/ overshadowing analysis for proposed developments.

– **Section 15.2.4 Overshadowing**

High levels of daylight and sunlight provide for good levels of amenity for residents. The internal layout of residential units should be designed to maximize use of natural daylight and sunlight. All new developments are required to comply with the recommendations of Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice (B.R.209, 2011) and British Standard (B.S.) 8206 Lighting for Buildings, Part 2, 2008: Code of Practice for Day Lighting or other updated relevant documents.

– **Section 15.4.1 Development Capacity**

Applications for residential development in urban areas will be required to comply with the principles of compact growth and demonstrate that they will contribute to the overall consolidation of the settlement. The need for new residential development to achieve sustainable densities at appropriate locations, should also be balanced with the following considerations:

- The existing and future (planned) capacity of the physical and social infrastructure to appropriately cater for the envisaged population.
- Achieving adequate privacy and residential amenities for individual residential units within the proposed development.
- Retaining adequate privacy and residential amenities for existing/adjoining residential areas.
- Retaining and integrating the existing green infrastructure features into the layout and design of the open space.
- An assessment of the sites ability to appropriately accommodate development having regard to its environmental sensitivities and physical topography.
- The safety and appropriateness of the proposed layout and access arrangements to the development.

– **Section 15.4.6 Dwelling Design**

In addition to an appropriate layout, a high standard of building design, detailing and specification of materials and a high standard of craftsmanship will be required. While the planning authority welcomes contemporary designs and innovation, such developments should not be incongruous or have an overbearing effect on the established environment. Context remains very important, particularly in the case of the smaller towns and villages in the county.

- **Section 15.6.7 Private Open Spaces – Gardens, Terraces, Balconies**

All houses should have an appropriate and useable area of private open space to the rear of the dwelling. The minimum area of private open space to be provided is set out in Table 15.2 (60m² for a three bedroomed house). Exceptions may be permissible in relation to the development of inner urban infill where there is a need to protect the established pattern of streets and spaces and the redevelopment of brownfield/ regeneration sites. Flexibility will be considered for well-designed development proposals...

- Rear gardens should be a minimum of 11 metres in depth...to protect privacy, sunlight and avoid undue overlooking. Reductions will be considered for single storey developments and/ or innovative schemes where it can be demonstrated that adequate levels of privacy, natural lighting and sunlight can be achieved.

5.2. **Natural Heritage Designations**

The appeal site is not located within any Natura 2000 site. The closest Natura 2000 site is the Pollardstown Fen SAC (site code 000396), which is located approximately 5.5km northeast 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.

5.3. EIA Screening

Having regard to the nature and scale the development, which consists of the construction of a detached two storey 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

The appeal was lodged by an agent on behalf of the applicants. The main grounds of the appeal can be summarised as follows:

- Development proposal seeks to continue and maintain the scale and pattern of development in the area, where the majority of dwellings have already been subject to significant rear extensions.
- The proposal to set the front building line of the dwelling 3m back from that of the existing dwelling on site, is in direct response to accommodating the wishes and request to do so, of the resident of the house to the immediate west.
- The 3m setback ensures that the proposed dwelling remains subservient to existing houses and is a better design arrangement within the existing cul-de-sac context.
- Placing the proposed dwelling in line with the existing house to the east will overshadow and overburden the house to the west.
- Proposed development provides a dwelling on an infill site within an established residential area and is not overly large as it is only 2m² over the minimum size for a three-bedroom dwelling.

6.2. Planning Authority Response

No response was received from the Planning Authority.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, and having inspected the site, and having regard to relevant policy and guidance, I consider the main issues in this appeal are those raised in the reason for refusal and grounds of appeal. I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Principle of Development
- Policy context
- Design and residential amenity

Principle of Development

7.2. The Kildare Town Local Area Plan 2023-2029 came into effect on Monday 6th June 2022. Under the provisions of the new plan the site is zoned 'Existing Residential/ Mixed Residential and Other Uses'. Therefore, the proposed residential development is appropriate to this zoning objective.

7.3. The proposal seeks planning consent for the construction of a new double storey detached dwelling within the side amenity space of the existing dwelling on site. Having regard to the pattern of development in the surrounding area and the applicable zoning designation, I am satisfied that the principle of a new dwelling at this location is acceptable.

Design and Residential Amenity

7.4. Given the nature of the proposed development, regard must be given to Chapter 3 Housing, Chapter 14 Urban Design, Placemaking and Regeneration, and Chapter 15 Development Management Standards. The Rowansville Housing Estate is an established residential area, typically comprising of two-storey terraced and semi-detached dwellings of a similar architectural style and form.

7.5. In terms of the established building line, whilst the front building line of the proposed dwelling is stepped back from that of the existing semi-detached pair of dwellings to the immediate east and the Planning Authority have raised a concern with this aspect of the proposal, I am satisfied that the proposed setback would assist in ensuring that the proposed development would provide a more subservient appearance in the context of the general streetscape within this area of the housing

estate, and would thus not impose an incongruous massing of the built form at the termination point of this 'row' of houses. This arrangement is also similar to a number of other houses within the estate, albeit that these all appear to relate to extensions to existing dwellings.

7.6. As regards the relationship between the proposed dwelling and that of the existing dwelling to the west, it is noted that a largely similar relationship exists on the opposite side of the cul-de-sac (to the south) between existing dwellings. Whilst the distance between these is slightly greater, by approximately 1.5m-2m, this is regarded as insufficient to warrant a consideration of unsuitability with regard to the proposed development on the basis of the relationship of the proposed dwelling with that of the existing development to the west.

7.7. Notwithstanding the above, I share the planning authority's concerns with regard to the location and awkward juxta positioning of the proposed dwelling, relative to that of the existing dwelling to the east. This arises as a result of a number of design aspects including:

- A 'figure and ground' footprint which is almost twice the size of other dwellings in the estate;
- The rectangular, unarticulated design solution of the proposed dwelling, which presents as an imposed block form which does not respond to its context to the east, and which would also result in an 'overbearing' effect on the adjacent dwelling and negatively impact its residential amenity;
- The irregular site formation created by the proposed eastern boundary to the site which also results in a proposed 0.7m setback between the side walls of the proposed dwelling and existing dwelling, rather than the required 2.3m;
- The proposed orientation of the proposed dwelling on site and proximity to the existing dwelling to the immediate east, is such that it would be likely to cause overshadowing to the rear garden of the existing dwelling and therefore reduce its capacity to receive sunlight, particularly in the afternoon, and reduce its useable rear amenity private open space.

7.8. The proposal in its current form therefore fails to satisfy both policy and development management standard requirements, specifically policies HO O7; UD P1; HO P6 and

Sections 15.2.3; 15.2.4; 15.4.1; 15.4.6 and 15.6.7 of the Kildare County Development Plan 2022-2028.

- 7.9. On the basis of the above, I therefore consider that the design solution is one that lacks sensitivity to the site setting and the pattern of development that characterises this area. In addition, the placement and awkward juxtaposition of the proposed dwelling, together with its built form, mass, bulk and lack of appropriate contextual articulation, would seriously injure the amenities of the adjoining residential property by way of overshadowing, private open space amenity and overbearance. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

8.0 Recommendation

- 8.1. I recommend that planning permission is refused for the following reasons and considerations set out hereunder.

9.0 Reasons and Considerations

Having regard to the pattern of development in the area, the design and layout of the proposed development and its juxtaposition with the existing dwelling to the east, it is considered that the proposed dwelling, by reason of its scale, bulk and proximity to site boundaries, would seriously injure the residential amenity of future occupants of the adjacent existing dwelling to the immediate east, by reason of overshadowing, private open space amenity and overbearance. It is considered that the proposed development would be contrary to policies HO O7; UD P1 and HO P6 and development management provisions set out in Sections 15.2.3; 15.2.4; 15.4.1; 15.4.6 and 15.6.7 of the Kildare County Development Plan 2022-2028 and would therefore be contrary to the proper planning and sustainable development of the area.

L.Gough
Planning Inspector

10 June 2023