



An  
Bord  
Pleanála

## Inspector's Report ABP-316102-23

<b>Development</b>	<i>Static mobile home, caravan, internal site wall and all associated works.</i>		
<b>Location</b>	<i>Fairgreen, Ballyragget, Co. Kilkenny, R95 Y7R9.</i>		
<b>Planning Authority Ref.</b>	<i>22/60023.</i>		
<b>Applicant(s)</b>	<i>Michael and Sinitta Ward.</i>		
<b>Type of Application</b>	<i>Retention.</i>	<b>PA Decision</b>	<i>Refuse.</i>
<b>Type of Appeal</b>	<i>First Party</i>	<b>Appellant</b>	<i>Michael and Sinitta Ward</i>
<b>Observer(s)</b>	<i>None</i>		
<b>Date of Site Inspection:</b>	<i>27-07-24</i>	<b>Inspector</b>	<i>Adam Kearney</i>

## Context

**1. Site Location/ and Description.** *The 0.34 Hectare rectangular site is located at Fairgreen in Ballyraggett within the settlement boundaries. The site is currently occupied by a dormer style dwelling with a mobile home to the rear and a commercial/shed type structure in the northeastern corner. The site is divided by a stone face concrete block wall that separates the dwelling and mobile home from a hardstanding yard area. The site bounds existing residential areas with Greenview to the north and High Street to the south*

**2. Description of development.** Permission for static mobile home; caravan; internal site wall and all associated site works

### **3. Planning History.**

19/626: Permission Granted to John Ward to demolish the existing derelict house and construct a detached dormer dwelling and detached garage, together with all associated site works

07/2142 – Permission refused to Sandra Brownell for 6 no. houses.

ENF 22063 – unauthorised mobile home, touring caravans at rear of property. Enforcement notice issued 24th October 2022.

### **4. National/Regional/Local Planning Policy**

#### **Kilkenny City and County Development Plan 2021-2027**

- The site is located within the settlement boundary of Ballyraggett as set out in the current Kilkenny City and County Development Plan 2021 – 2027.

#### **Section 4.6 Smaller Towns and Villages**

The smaller towns and villages within the County need to be developed in a way that strengthens their role as local service centres whilst respecting their existing character. Achieving the right balance between encouraging development in smaller towns and villages and the scale and nature of such development is critical. It is important to ensure that new residential development in smaller towns

and villages is of a design, layout, character and scale which fits well with the town or village involved and presents a high-quality living environment.

### **Section 13.15 Family Flat**

A 'family' flat refers to a sub-division or extension of a single dwelling unit to accommodate a member of the immediate family and is generally acceptable, provided it is not a separate detached unit and that it is possible to provide direct access to the remainder of the house. There shall be no permanent subdivision of the garden. The 'family' flat shall not be let or sold, other than as part of the overall property and shall revert to being part of the original house when no longer occupied by a family member. The design should ensure that the flat forms an integral part of the main dwelling unit capable of reintegration for single family use.

The principal requirement for any proposed family flat extension is that the family flat shall generally be less than 50% of the floor area of the main dwelling. In the case of a two-storey family flat, an internal connecting door will normally be required at both levels. External doors will normally only be permitted to the side and rear of the house, with the presumption against an independent front door.

Access shall be either from an internal door or by side door well screened from the front elevation. The design should have regard to the need for light and privacy of adjoining properties. The form and design of the existing building should be followed, and the extension should integrate fully with the existing building by using similar detailing and window proportions, materials and finishes.

### **Archaeology**

The Site is Located in a zone of archaeological potential as identified by the National Monuments Service.

## **Planning & Development Regulations 2001**

### **Part 1 *Exempted Development* — General**

#### **CLASS 8**

The keeping or storing of a caravan, campervan or boat within the curtilage of a house.

1. Not more than one caravan, campervan or boat shall be so kept or stored.
2. The caravan, campervan or boat shall not be used for the storage, display, advertisement or sale of goods or for the purposes of any business.
3. No caravan, campervan or boat shall be so kept or stored for more than 9 months in any year or occupied as a dwelling while so kept or stored.

#### **5. Natural Heritage Designations**

- *The closest Natura 2000 site is River Barrow and River Nore SAC approx. 600 metres to the south west.*

## **Development, Decision and Grounds of Appeal**

### **6. PA Decision**

Refuse Permission for 2 Reasons as follows:

1. Having regard to (a) the prominent and central location of this site at the Fairgreen within the development settlement boundary of Ballyragget, bordered by existing residential developments, (b) together with the large hardcore area and sub-division and layout of the site, (c) the temporary nature and design of both the static mobile home and caravan, it is considered that the development for retention is out of character with the existing form of development in the area, would give rise to the creation of haphazard development with the settlement boundary and would set an undesirable precedent for similar style developments on the site in particular and in the area generally. The development is contrary to the policy as set out in the Kilkenny City and County Development Plan 2021-2027 to ensure that new residential development in smaller towns and villages is of a design, layout, character and scale which fits well with the town or village

involved and presents a high-quality living environment and would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the nature and scale of the development on site, together with the location of the site within a zone of archaeological potential as identified by the National Monuments Service of the Department of Heritage, the applicant has failed to demonstrate that the proposed development would not adversely impact on existing archaeological heritage at this location and would therefore be contrary to the proper planning and sustainable development of the area.

## **7. First Party Appeal.**

### *Grounds:*

- the need for the mobile and the caravan is simply to live in until the dwelling is finished.
- Permission does not expire to complete the dwelling until 24/11/2024, but the applicants would request that permission for retention could be granted for a period of 3 years after this date to ensure completion of the build
- The appellants completely agree and accept that the mobile and caravan shall be removed from site when the dwelling is ready for habitation
- the development for retention is not visible in any way from any public viewing point, as this only exists on the road to the west.
- The wall, mobile and caravan are completely to the rear of this elevated site, and not visible. Therefore, the impact on the character of the existing development in the area is both negligible and temporary in nature.
- There was no condition on the permission Ref 19/626 to indicated any works may affect the archaeology of the area and there was no mention of this archaeological status in the planners report.
- The development of the mobile and caravan is completely negligible in relation to any impact on archaeology as by their very nature they are temporary and transient development

## **8. PA Response**

- *None*

## Environmental Screening

### **9. EIA Screening – Use standard wording with site specific focus**

*Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, 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.*

### **10. AA Screening - Use standard wording with site specific focus**

*Having regard to the modest nature and scale of development, location in an urban area, connection to existing services and absence of connectivity to European sites], it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.*

## 2.0 Assessment

2.1. *I have visited the site and reviewed the planning file and the appeal documentation and consider the issues to be those contained in the appeal and the PA decision and can be summarised as follows*

- *Justification for temporary accommodation at this location*
- *Justification for site dividing wall*
- *Reasons for Refusal pertaining to Archaeology*

### 2.2. Justification for Temporary Accommodation

The agent for the appellants sets out the justification for the temporary accommodation and states that the family are occupying a caravan and a mobile home on the site as they complete the dwelling for occupation. While this is understandable to a degree, the appeal was compiled in March 2023 and during my recent site visit the mobile home remains in-situ to the rear. During my visit there

was no evidence of caravans on the site, however caravans being more mobile than the static structure may have been moved prior to my arrival as it was a pre-arranged visit.

Irrespective of whether the Caravan/Caravans were temporarily or permanently removed from the site the substantive issue remains the same around the necessity for the existence of such temporary accommodation under the circumstances.

The dwelling on site has progressed beyond the status depicted in the pictures that accompanied the original appeal with internal walls rendered and second fixing underway. This progression however is marginal in the context of a 15-month hiatus between the lodgement of an appeal and my site visit and considering that investment has taken place in the interim in the form of a new commercial type shed structure in the northeast corner of the site.

In terms of this new shed/commercial unit type structure and the presence of hardstanding in the wider yard area this is a matter for Kilkenny City and County Council. The Board has no role in enforcement and each planning application is assessed on its own merits.

In terms of the possibility of exemptions that allow for temporary accommodation on lands as set out earlier in the report, I do not see the structures and their residential use as outlined in the retention application as satisfying the criteria for an exemption, while there is provision for the storage of a caravan for a 9-month period this does not allow for residential use.

Overall, I see no impediment why the dwelling cannot be finished and ready for habitation within a no. of weeks. I see no justification therefore for the retention of temporary accommodation on the site save for a short grace period of one month to allow for the physical removal of the structures.

### **2.3. Justification for Site Dividing Wall**

The concrete block wall faced with stone as constructed north to south roughly along the centreline of the site serves to divide the property albeit with a large ungated opening in the wall. I see no purpose to the wall for a domestic property as it only serves to separate the dwelling from a large hardcore surfaced yard area with a commercial shed and numerous commercial type vehicles. As stated heretofore

there are no permissions in place for commercial activity on the site or for a subdivision, so I see no justification for its existence or retention.

#### **2.4. Reason for Refusal Pertaining to Archaeology**

The Agent for the appellant in their appeal questioned the reasoning behind the inclusion of Archaeology as a reason for refusal when this was not raised previously in the application for a replacement dwelling granted in 2019. Notwithstanding the fact that the site is located in a zone of archaeological potential I am minded to agree with the appellants view where they question why it was not raised as an issue heretofore. Manifestly much of the property is now hardstanding in the form of hardcore but the quantum of physical development on the site is not so invasive as to warrant concerns around the impact or integrity of subterranean archaeological assets. I would therefore disagree with the PA and their inclusion of Archaeology as a reason for refusal.

### **3.0 Recommendation**

3.1. I recommend that Retention Permission for the development be Refused.

### **4.0 Reasons & Considerations**

The development proposed for retention consisting of unnecessary temporary accommodation and a site dividing wall would result in haphazard unplanned development of the site contrary to Section 4.6 of the Kilkenny City and County Development Plan 2021 – 2027 which sets out the importance of ensuring that new residential development in smaller towns and villages is of a design, layout, character and scale which fits well with the town or village involved and presents a high-quality living environment. The development that is proposed for retention would constitute an unsustainable and substandard form of development, would set an undesirable precedent for similar such development, would seriously injure the residential and visual amenities of the area. The retention of the proposed development would, therefore, be contrary to the Kilkenny City and County Development Plan 2021 – 2027 and contrary to the proper planning and sustainable development of the area.



I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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*Name: Adam Kearney*

*Planning Inspector*

*Date: 31-07-2024*