



An
Bord
Pleanála

Inspector's Report ABP-317715-23

Development	To construct (a) detached single storey home office and a detached garage, (b) permission to retain timber boundary fence on site, including all associated site works.
Location	Pottlerath, Kilmanagh, Co Kilkenny.
Planning Authority	Kilkenny County Council.
Planning Authority Reg. Ref.	22/738
Applicant	Paddy Holden
Type of Application	Permission & Retention Permission
Planning Authority Decision	Split Decision
Type of Appeal	First Party
Appellant	Paddy Holden.
Observer(s)	None
Date of Site Inspection	02-11-2023
Inspector	Adam Kearney

1.0 Site Location and Description

- 1.1. The site with a stated area of 1.16 Hectares is located in the townland of Pottlerath 2.5km southwest of the village of Kilnamanagh and c.15km west of Kilkenny City. The plot fronts both the local road and a cul de sac with primary access from the latter. The cul de sac road appears to serve 3 no. dwellings and some farmyard areas. The level of the site rises from the public road and is bounded by a mixture of hedgerow, ranch rail fencing with solid timber fencing along a section of the northwest boundary with the cul de sac road.

2.0 Proposed Development

- 2.1. Permission sought to construct (a) detached single storey home office and a detached garage, (b) retention permission for a timber boundary fence on site, including all associated site works.
- 2.2. **Note:** There was an unauthorised 34m² extension to the existing garage identified during the Planning Authority's site visit which was incorporated into the original application at Further Information stage by way of retention.

3.0 Planning Authority Decision

3.1. Decision

Split Decision as follows

Grant Permission for detached single storey home office including all associated site works and **Grant Retention Permission** for: works to the rear of the existing shed, in accordance with the plans, particulars and other documents submitted subject to 12 no. conditions and **Refuse Retention Permission** to retain timber boundary fence on site, including all associated site works and **Refuse Permission** for detached garage.

Planning Authority Reports

3.1.1. Planning Reports

Planning Authority requested further information in relation to the proposed use of the structures proposed and following a response decided to grant the 'Home Office' but to refuse the 'Detached Garage' as it was deemed there was insufficient information supplied to justify the need for the garage.

The Planning Authority during its site inspection identified an unauthorised extension to the existing garage and requested that this be regularised.

With regard to the timber fence, the Planning Authority was not satisfied that the fence was required and that it represents an incongruous feature in a rural setting.

Ranch railing was recommended behind the existing planting at this location.

3.1.2. Other Technical Reports

- Municipal Area Engineer had no objections.

4.0 Planning History

- 21/613 – Permission to construct a detached single storey home office and a detached garage, including all associated site works.

Decision: Refuse Permission (01/03/2022)

- PL15/567 - Permission for the construction of a single storey dwelling and garage with septic tank and percolation area and all associated site works.

Decision: Permission Granted (26/02/2016).

5.0 Policy and Context

5.1. Development Plan

Kilkenny County Development Plan 2021 – 2027

- Chapter 7- Rural Development
- Chapter 13 - Requirement for development

5.2. **Natural Heritage Designations**

- Loughans Turlough SAC (000407) (15km)
- River Barrow & River Nore SAC (002162) (18km)
- River Nore SPA (004233) (15km)

5.3. **EIA Screening**

5.4. The proposed development involving outbuildings to an existing building is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. **Retention of Fence**

- Disagrees that the fence is visually obtrusive given its height, material and length, and its green colour.
- Quiet cul de sac with very little traffic and bend forces motorists to travel at extremely low speed.
- Previously a hedgerow at this location that impeded forward visibility.
- No history of collisions
- Open to a temporary permission for 5 years

6.1.2. **Detached Garage**

- Detached Garage is not associated with a gymnasium for rehabilitation, this will be accommodated in the home office.
- Garage to be used for family cars and a camper van to be purchased.

6.2. **Planning Authority Response**

In an email dated 28/08/2023 the Planning Authority stated that they had no further comment to make.

6.3. **Observations**

None

6.4. **Further Responses**

None

7.0 **Assessment**

7.1. The main issues are those raised in the grounds of appeal, the Planning Report and the consequent split decision, and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The items to be addressed within this assessment will be considered under the following headings:

- Principle of Development including visual impact of proposed and existing structures
- Principle of Development, visual impact of wooden boundary fence
- Road Safety
- Appropriate Assessment

7.2. Principle of Development (Proposed Structures & Existing Garage Extension)

- 7.2.1. The subject site is a large rural site extending to over 1 hectare. There are no issues presenting around separation or overlooking of neighbouring dwellings which are sufficiently remote from either of the proposed detached structures.
- 7.2.2. Before I assess the 2 no. proposed structures, there is the issue of the unauthorised works which were identified during the course of the application. These works involve a minor extension to the existing garage and were incorporated into the application by way of retention permission. The extension is of a small scale and its function as additional storage has been demonstrated. I am satisfied that this extension is acceptable in form and function.
- 7.2.3. The proposed Home Office with a stated area of 50m² and located in the northwest corner of the site is of a traditional construction and a rectangular form. The stated purpose of this structure is office related pertaining to the child-minding business carried out in the main dwelling and also for gymnasium/rehabilitation use connected with the applicant's medical condition where upcoming surgery will result in a period of rehabilitation. I consider the design and the justification for the structure acceptable.
- 7.2.4. The use of the proposed detached garage was the subject of confusion during the application, but the appeal presented more clarity and set out its use as solely intended for the storage of family vehicles and a camper van. I note the location of the detached garage is in the same location where there is an enclosure created by existing retaining walls, a private car was parked at this location on the day of my inspection.
- 7.2.5. This proposed bay garage structure would be forward of the primary dwelling and on an elevated site, I would have concerns that the garage structure as presented would be a discordant feature when viewed from the public road. However, the grounds for appeal sets out a compromise proposal whereby the height of the proposal would be reduced. This approach would be acceptable in that the structure will not be visible and the existing concrete enclosure will essentially benefit from a roof. I am satisfied that a flat roof with a maximum height over existing ground level of 2.8m would mitigate any potential impacts over and above the existing status quo as presented by the mass concrete retaining walls.

7.3. Principle of Development (Wooden Boundary Fence)

- 7.3.1. The solid wooden fence erected on mounding along the norther boundary consists of vertical planks painted green and is close to the carriageway between 200mm to 500mm at any given point and with a height that varies but averages at 1.5m over existing ground level.
- 7.3.2. I would agree with the area planner's sentiment as expressed in the planning report that the fence is '*visually obtrusive and harsh on the rural backdrop*'. I note the original application for the dwelling identified deciduous planting along this boundary. The green colour and the timber material do little to mitigate the presence of this discordant hard edge.
- 7.3.3. In the application documentation the fence justification was attributed to privacy and security concerns and to keep family pets from straying. However, the remainder of the boundary consists of mostly timber post & rail fencing supplemented by planting. I see no reason why this solution cannot work on the northern boundary. While I appreciate there are concerns about road users overlooking the family dwelling set below the road at this point and in relatively close proximity, I maintain a more traditional approach to rural demarcation is necessary.
- 7.3.4. It is noted that in the appeal there is a compromise suggested whereby the fence could be permitted on a temporary basis for 5 years while the planting matures, however, I am not in agreement with the ongoing presence of the fence from an aesthetic perspective and would not be satisfied to leave it in place longer than the 2 months as stipulated by the Planning Authority.

7.4. Road Safety

- 7.4.1. In terms of road safety, I believe the fence poses a potential traffic hazard. The appeal makes the case that the presence of the fence acts as a feature to slow traffic. I would counter however that the fence due to its height and proximity to the carriageway may well achieve a reduced speed, but it does so because it poses more of a threat to a vehicle as a permanent solid structure than would the presence of a hedgerow that can be brushed as one passes without causing damage.
- 7.4.2. The sightlines are also impacted and while I agree that there is little prospect of collision for local people who are familiar with the current configuration and alignment the same cannot be said for a visitor to the area who would not be aware.

7.5. **Appropriate Assessment Screening**

7.6. Having regard to the nature and scale of the development and to the nature of the receiving environment and separation distance from the nearest designated site, no appropriate assessment issues arise, and it is considered that the development would be unlikely to have a significant effect individually or in combination with other plans or projects on any European sites.

8.0 **Recommendation**

8.1. I recommend a split decision with **Retention Permission** Granted

- for works to the rear of the existing shed

and **Permission** Granted for

- proposed detached single storey home office including all associated site works.
- Proposed Detached Bay Garage

for the reasons and considerations set out under Schedule 1 below together with the conditions thereunder

Schedule 1

Having regard to the established residential use on the site, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the wider area, and would therefore, be in accordance with the proper planning and sustainable development in the area.

8.2. Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application [as amended by the further plans and particulars submitted on the 23/06/2023 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 proposed detached garage is to be reduced in height with the pitched roof omitted and substituted with a flat roof with an apex not exceeding 2.8m above existing ground level at the proposed location of the garage. General arrangement drawings setting out this revision shall be agreed with the Planning Authority prior to commencement.</p> <p>Reason: In the interest of visual amenity</p>
3.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p>Reason: In the interest of public health.</p>
4.	<p>Details of the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>The 'Home Office' and 'Detached Garage' shall be used for domestic office use only ancillary to the dwelling and shall not facilitate any trade or commercial entity or involve access from members of the public.</p>

	<p>Reason: In the interest of the proper planning and development of the area</p>
6.	<p>The existing solid timber fence along the northern boundary shall be removed in its entirety within 2 months of this decision and a new post and rail timber fence to be erected in continuation of the eastern boundary and with a setback of at least 0.6m from the road edge and at a height not exceeding 1.2m above road level. A planting scheme to be located behind this fence to be agreed with the Planning Authority along with a schedule for same.</p> <p>Reason: In the interests of proper planning and sustainable development and road safety</p>
7.	<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. 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 be referred to the Board 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 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>

- 8.3. And that Retention Permission for: Timber boundary fence on site, including all associated site works be **REFUSED** for Reasons and Considerations as set out in Schedule 2

Schedule 2

The timber fencing is considered a discordant and obtrusive feature within this rural area and detracts from the visual amenities and landscape character of the area. In terms of road safety, the presence of a permanent solid structure endangers pedestrians and drivers due to its proximity to the road edged and restricts the horizontal and vertical visibility envelopes at the bend of the shared public roadway and therefore constitutes a traffic hazard.

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.

Adam Kearney

Planning Inspector

01 December 2023