



An
Bord
Pleanála

Inspector's Report

ABP-318933-24

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| Development | <i>Construction of a house and associated site works</i> | | |
| Location | <i>Site No. 2, Crann Arda, Newpark Lower, Castlecomer Road, Kilkenny.</i> | | |
| Planning Authority Ref. | 23/60495 | | |
| Applicant | <i>Cognito Developments Kilkenny Limited.</i> | | |
| Type of Application | <i>Permission</i> | PA Decision | <i>Grant Permission.</i> |
| Type of Appeal | <i>Third Party</i> | Appellant | <i>Seamus Dunne</i> |
| Observer(s) | <i>None</i> | | |
| Date of Site Inspection | <i>27-07-2024</i> | Inspector | <i>Adam Kearney</i> |

Context

1. Site Location/ and Description.

The appeal site is located off the Castlecomer Road south of the Newpark Hotel complex which in turn is located 1km north of Kilkenny City Centre. The area is suburban in nature with the Ardilea residential estate to the east and a detached dwelling to the north separating the site from the Newpark Hotel grounds. To the south of the site is another detached dwelling 'Lissadell' which is the residence of the appellant.

2. Description of Development

The development proposal involves the Planning permission for the construction of a two-storey dwelling house along with all site and ancillary boundary works at Site No. 02, Crann Arda, Newpark Lower, Castlecomer Road, Co. Kilkenny. All site and site infrastructure works for the provision of the serviced site, including access road with entrance from the Castlecomer Road, as per granted planning permission Ref. No. 20/925.

The application is 1 of 9 No. permissions sought concurrently for dwellings subsequent to permission for infrastructure works granted under Planning Ref. 20/295 with an overall site area of 1.0647ha. The area of Site No. 2, the appeal site, is stated to be 0.074 ha.

3. Planning History

Ref. 20/925 - permission was granted 25th June 2021 on the overall site (that incorporates the current appeal site) subject to 19 no. conditions, to carry out site infrastructure works for the provision of 9 no. individual residential sites, new access road with entrance off Castlecomer Road with all associated road site works, to connect to existing foul sewer, water mains and all underground services, for demolition of existing outhouses / structures on site and for all other ancillary site works.

Condition No.19 of 20/925

Prior to commencement of development the developer shall submit to the Planning Authority for agreement full details of a tree conservation covenant to be applied to each individual site requiring the management and maintenance of any or all trees on the site (which was identified within the arborist report for retention) requiring written consent of the Planning Authority before works are carried out on any tree. The maintenance shall also include for replacement planting in the event of tree removal.

Planning Ref. 2360494 – Relates to Site No. 1 of Crann Arda where permission was granted on 7th March 2024 subject to 11 no. conditions for the construction of a two-storey dwelling house along with all site and ancillary boundary works. The appellant in the current appeal has also appealed this decision, ABP-319416-24 and it has yet to be decided. Drawings on file indicated a 2.1m high fence which is the same mutual boundary treatment as proposed for Site No. 1, 2 & 3.

Planning Ref. 2360493 - Relates to Site No. 3 of Crann Arda where permission was granted on 02/01/2024 subject to 11 no. conditions for the construction of a two-storey dwelling house along with all site and ancillary boundary works. Drawings on file indicated a 2.1m high fence which is the same mutual boundary treatment as proposed for Site No. 1,2 & 3. The appellant in the current appeal also appealed that decision, ABP-318935-24.

NB The appeal was decided on the 1/07/2024 with the PA grant of Permission upheld by the Board with revised conditions.

Planning Ref. 2360499 Relates to the green area in Crann Arda fronting Castlecomer Road where permission was granted on 2nd February 2024 subject to 1 no. condition for an alteration to the previously granted Planning Permission, Ref No. 20/925, for the construction of a 1.8m high concrete post and concrete infill decorative panel fence to the site boundary between the development (“Crann Arda”) and ‘Lissadell’, Castlecomer Road.

4. National/Regional/Local Planning Policy

Development Plan

Kilkenny City and Environs Development Plan 2021 – 2027.

The site is located in an area zoned 'Existing Residential'

Section 13.30.7 Existing Residential

- Objective: To protect and improve residential amenities and to provide for new residential development appropriate to the scale and character of the settlement.
- Permissible Uses: Dwellings, open spaces, places of worship, community centres, halting sites, public service installations, playgroup or crèche, Nursing home.

Section 13.10 Boundary Treatment of House Sites

Where the flank or rear boundaries of house sites abut roads, pedestrian ways or public open space, suitably designed screen walls 1.8 metres in height shall be provided. Where concrete screen walls are proposed they shall be suitably rendered and capped in an acceptable manner.

5. Natural Heritage Designations

The following natural Heritage designations are located in the vicinity of the appeal site:

- River Barrow and River Nore SAC (002162) is located approximately 300m to the west of the appeal site.
- Newpark Marsh pNHA (000845) is located approximately 150m to the east of the appeal site

Development, Decision and Grounds of Appeal

6. PA Decision

Permission was granted on 2nd January 2024 subject to 11 no. conditions for the construction of a two-storey dwelling house along with all site and ancillary boundary works.

Drawings on file indicated a 2.1m high fence which is the same mutual boundary treatment as proposed for Site No. 3 which is the subject of the current appeal.

It is also noted in the Planner's Report that an Arborist is yet to carry out an audit of the retained trees on site and make recommendations in relation to any required tree management. These recommendations will be submitted to the PA for consideration before any works are undertaken to affected trees

7. Third Party Appeal.

Grounds:

- *Had agreed verbally with the Architect that the Leylandi hedge be removed and replaced with a 2.1m wall*
- *8 of the 9 houses were granted except for No. 1 where Further Information was sought due to non-compliance with 22m setback*
- *Because house No.1 is not granted there is no entitlement for the developer to construct the fence permitted for the green area and Site 2 and Site 3*
- *Should be a stipulation in contracts to retain existing trees for all future owners*
- *If house 1 not granted No. 2 and No. 3 should not be allowed to proceed*

Inspectors Note: Appeal relating to Site 3 referred to in the foregoing Grounds for Appeal has already been decided **ABP-318935-24**.

8. PA Response

- *None*

Environmental Screening

9. EIA Screening

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

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 application file, the third-party appeal, and the Inspectors Report and Board determination for Site No. 3 (ABP-318935-24)
- 2.2. I consider that the issues raised in this appeal are replicated across all 3 no. appeals detailed heretofore and one of which has already been decided (ABP-318935-24) and the outcome for which I am in full agreement. The Inspector's Report in his deliberation found no obstacle with respect to the impact associated with the proposed development on the amenity currently enjoyed by adjoining properties.
- 2.3. The appellant has based some of his argument on the outcome of the application for permission of House No. 1 that remained undecided at the time the appeals were compiled for House No. 2 and House No. 3, but as this has now been determined by the Authority including the requirements for a 2.1m boundary fence consisting of concrete post and panel with supplemental hedging on the development side within the appellant's property and as such it is no longer relevant in the context of the uncertainty of what was to be the PA's deliberations that constituted part of the appeal. This decision has also been subsequently appealed and is being assessed in parallel with this Appeal against House No.2.
- 2.4. I have appraised the proposed development layout in the context of overlooking potential, overshadowing, standard of amenity and potential impacts on adjoining property and consider the scheme as designed to be acceptable.
- 2.5. Following a review of all submissions/correspondence on the file I consider that the applicant and their agent have done everything within their gift to liaise with the appellant and to reconcile any difficulties surrounding the boundary treatment and

the form it would take. I consider the boundary treatment to the Southern Boundary as proposed by the applicant in their application to be acceptable.

- 2.6. With regard to the house design of Site 3 raised in the appeal, this as outlined has already been dealt with under the appeal for Site No. 3.
- 2.7. Site 1, 2 and 3 have all been granted by the PA and all three have been appealed for the same substantive reasons. Site No. 3 has been determined by the Board and that decision in the absence of any material difference to the 3 appeals grounds applies to all 3 applications.

3.0 Recommendation

- 3.1. I recommend that planning permission be Granted for the proposed dwelling for the reasons and considerations set out below and subject to the conditions set down hereunder.

4.0 Reasons & Considerations

- 4.1. Having regard to the provisions of the Kilkenny City and Environs Development Plan 2021-2027, and the previously permitted residential infrastructure works on the site (planning register reference number 20/925), it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenity of the area or have an adverse impact on the receiving environment. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions:

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| 1. | The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 |
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| | <p>proposed development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p> |
| 2. | <p>Apart from any departures specifically authorised by this permission, the proposed development shall be carried out and completed in accordance with the terms and conditions of the permission granted under planning register reference number 20/925, and any agreements entered into thereunder.</p> <p>Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.</p> |

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.

Name: Adam Kearney

Planning Inspector

Date: 31/07/2024