



An
Bord
Pleanála

Inspector's Report ABP-319416-24

Development	<i>Construction of a house and associated site works</i>		
Location	<i>Site No. 1, Crann Arda, Newpark Lower, Castlecomer Road, Kilkenny.</i>		
Planning Authority Ref.	23/60494		
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	27-07-2024	Inspector	Adam Kearney

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. 01, 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. 1, 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. 2360495 – relates to Site No. 2 of Crann Arda where 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. The appellant in the current appeal has also appealed this decision, ABP-318933-24 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 Castlecomber 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

Further Information was requested from the applicant on 2nd January 2024 in relation to the siting of the house on Site No. 1 relative to 'Lisadell' to achieve a 22m setback between opposing windows at first floor level. The response was received by the Planning Authority on 12th February 2024 and was deemed to be satisfactory and the Planning Authority issued a Notification of Decision to Grant Permission on 7th March 2024 subject to 11 no. conditions

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:

- *Kilkenny County Council's Planning office requested FI from the developers in relation to the house No. 1 on the 2nd of January 2024 because the house did not comply with the Planning and Development Act 2001 (as amended).*
- *In their Further Information the architects on behalf of the developers have stated on the drawing for house number 01 layout the following:- "Proposed selected hedge to development side inside concrete panel fence" Where this proposal is or who it has been made too is unclear?*
- *The problem with that proposal/wording is that it is unspecified as to what type of hedge is to be planted, what height it is to be*
- *Sowing a hedge of a metre or two high inside the concrete panel fencing would be entirely insignificant when compared to the present 4 metre high Leylandii hedge screen presently in place*
- *During on site discussions with the architect I was given a copy of site 01 for house layout No 1 the subject of this appeal. When I enquired if house No. 2 and No. 3 were to be the same, I was told yes that houses 1, 2 and 3 were the same but now I find that house No.3 has an attic conversion.*
- *I consider House 3 with an attic conversion and Velux windows in the roof is basically a three-storey house which further erodes privacy as the velux windows are very high relative to our house and garden*

7.1 First Party Response to Appeal

- There was communication between the applicant and the appellant over the Leylandi trees and their future maintenance and the appellant wished for them to be removed.
- A 2m high chain link green PVC coated fence and an additional beech hedge inside the development site, to match the appellants beech hedge on the Lissadell side, was proposed.

- This proposal was initially accepted in principle by the appellant but thereafter a proposal for a wall was sought instead.
- This in turn was agreed to be replaced by a decorative post and panel fence due to root structures
- In regard to privacy a separation distance of 22.9m is provided to opposing first floor windows between the proposed house on Site 01 and Lissadell in accordance with the Development Plan and has been considered appropriate by the PA
- Should ABP determine that the leylandii hedge and post & rail fence should be retained along the shared boundary, the hedge will provide high level screening between the two properties and avoid a loss to either party.
- The applicant would accept a determination retaining the leylandii hedge in place.
- In regard to Housetypes Within the appeal the appellant has raised concerns in relation to the variation in house designs for sites 01, 02 and 03.
- At no stage did the Architects for the scheme advise the appellant that the houses for sites 01, 02, and 03 were identical. This is clear from the applications submitted which included contiguous elevations of a houses both to the left and to the right of each application house.
- The rooflight referred to by the appellant in house 03 is part of the double-height living room at ground floor and is not located in the attic as stated by the appellant - See Figure 6. overleaf. No access is provided to afford a view from the rooflights over the double height space
- Rooflights to the attic accommodation are located to the front of the dwelling so as not to overlook the appellants private garden nor property

Inspectors Note: Appeal relating to Site 3 referred to in the foregoing First Party Response 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, first party response 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, one of which has already been decided and the outcome for which I am in full agreement. The Inspectors Report found no obstacle with respect to the impact associated with the proposed development on the amenity currently enjoyed by adjoining properties.
- 2.3. 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.

- 2.4. With all files having been determined by the PA and the first appeal decided that includes for a 2.1m boundary fence consisting of concrete post and panel with supplemental hedging on the development side within the appellant's property I consider the boundary treatment element finalised.
- 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 consult with the appellant and to reconcile any difficulties surrounding the boundaries.
- 2.6. With regard to the house design of Site 3 raised in the appeal, this as outlined has been already dealt with under the appeal for Site No. 3.

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:

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