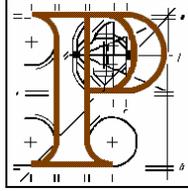


An Bord Pleanála



Inspector's Report

Development: Demolish rear of existing premises and build a new extension containing shops, storage and 4 apartments

Site Address: Bohereencaol, Main Street, Killarney, Co. Kerry

Planning Application

Planning Authority:	Killarney Town Council
Planning Authority Reg. Ref.:	09/5094
Applicant:	MD O'Shea & Sons Ltd.
Type of Application:	Permission
Planning Authority Decision:	Grant permission subject to conditions

Planning Appeals

Appellants:	1. Margaret O'Leary and Timothy Coulihan 2. Des, Karen and Kathleen O'Sullivan 3. Vincent O'Malley
Type of Appeal:	3 rd parties vs. grant
Observers:	None
Date of Site Inspection:	24 th November 2010

Inspector: Stephen J. O'Sullivan

1.0 INTRODUCTION

1.1 This report deals with three appeals by third parties against a decision of Killarney Town Council to grant permission to redevelop a premises to the rear of Main Street.

2.0 SITE

2.1 The site is in the town centre of Killarney. It has a stated area of 0.217ha. The site is roughly L shaped and is almost entirely built-up. It has c20m frontage onto Main Street. This part of the site is occupied by a 4 storey building, c13.5m high, that forms part of the street frontage with a shopfront at ground floor level. The site extends to the rear of other two- and three-storey buildings that front onto Main Street to the north of the site's frontage. The northern boundary of the site faces a narrow public laneway, Bohereencaol. The structures on the site that face that lane are single storey and functional in character. They contain an extension of the shop that faces Main Street and a storage/loading area. Bohereencaol varies in width between c3m and 5m. The frontage on the opposite side of the lane is generally three storeys high, with commercial use on the ground floor and residential above. The eastern boundary of the site adjoins the rear of six plots whose frontage is onto another laneway, Glebe Lane. The northernmost plot is owned by the applicant and is vacant. The next plot is occupied by a three storey, residential building. The next is a two storey house. The next is a two storey building with commercial use at ground floor and residential above. The other two buildings on Glebe Lane which the site adjoins are occupied by two storey buildings that appear to be in commercial use. Bohereencaol and Glebe Lane are part of a series of laneways behind Main Street, Plunkett Street and the public car park on College Street. The buildings along these laneways have retained a fine urban grain and traditional scale. They also have a strong mix of commercial and residential uses and make a considerable positive contribution to the character and amenities of the town centre.

3.0 PROPOSED DEVELOPMENT

3.1 The decision of the planning authority refers to the revised proposals submitted as further information on 24th June 2010. It is proposed to remove the existing structures on the site that lie behind the building that faces Main Street and to erect a new building that would contain –

- Retail use on the ground floor in four shops, two of which would face Main Street (requiring the insertion of two new doors and the closure of the existing door on that facade) with floor spaces of 331m² and 350m² respectively, with the other two shops facing Bohereencaol, with floor spaces of 427m² and 404m² respectively.
- A service access from Bohereencaol along the eastern boundary of the site, under a monopitch roof, that would lead to a loading area within the building.
- Storage on the first floor

- 4no. two-bedroom apartments on the second floor.
- 3.2 The new building would reach a height of c15.6m over the ground level along Bohereencaol. The wall along the eastern boundary would be 4.8m over the ground level there and the monopitch roof would rise from it at an angle of 40° to reach a height of 9.2m approximately 5.3m from the boundary.
- 3.3 The plans and particulars submitted with the initial application showed a development that contained 6 apartments and had a higher wall along the eastern boundary.

4.0 POLICY

- 4.1 The 2009 Killarney Town Development Plan applies. The site is zoned for town centre facilities.

5.0 HISTORY

- 5.1 No relevant recent applications for permission for development on the appeal site were raised by the parties. The response to the appeal cited a grant of permission by the board for a development in another part of the town centre, PL63. 228635 refers.

6.0 DECISION

- 6.1 The planning authority decided to grant permission subject to 23 conditions. The reason for the decision stated that the development would not be visually obtrusive or out of character with the surrounding area and would not seriously injure the amenities of adjoining residential properties.
- 6.2 Condition no. 18 required the extension of apartment no. 2 to omit a veranda on the eastern side of the development.
- 6.3 Condition no. 20 required payment of €20,000 to the planning authority in lieu of 4 car parking spaces.

7.0 REPORTS TO THE PLANNING AUTHORITY

- 7.1 Submissions – Third parties objected to the proposed development on grounds similar to those raised in the subsequent appeals.
- 7.2 Environmental Services – Details for the management of asbestos during demolition should be submitted.
- 7.3 Planner’s report – The initial report recommended that further information be sought regarding the impact of the development on neighbouring properties, including a daylight/sunlight report and other details. The report on the further information noted the reduction of the number of apartments proposed and of the wall on the boundaries shared with objectors, as well as the daylight/sunlight

report. The development makes the most of a town centre site and provides a building more fit for the applicant's purposes. It would add to the vitality and viability of the retail core of the town. The apartments would provide reasonable town centre accommodation. A grant of permission was recommended.

8.0 GROUNDS OF APPEAL

8.1 The grounds of the appeals can be summarised as follows –

- The development would unduly overshadow the properties to the east of the site along Glebe Lane and to the west of the site along Main Street because of the excessive height of the proposed building and its proximity to those properties. The daylight/sunlight assessment submitted by the applicant is not comprehensive or consistent. The development would therefore seriously injure the amenities of the appellants' properties.
- The scale and height of the proposed development would not be in keeping with the established character of development in the area and so would damage its amenities. In particular the height of the building along Bohereencaol would be excessive for such a narrow lane and would unduly overshadow it.
- The demolition of the existing building would disturb asbestos. The proposed development would not have adequate car parking or access for emergency vehicles. The development would therefore threaten public safety due to health, traffic and fire hazards.

9.0 RESPONSES

9.1 The planning authority did not respond to the appeal.

9.2 The applicant's response can be summarised as follows –

- An assessment of the impact of the development on the daylight and sunlight reaching the properties to the east of the site was conducted in accordance with the advice in the document BRE 209 which demonstrated that the proposal would not unduly overshadow those properties.
- The development would make a positive contribution to the character of the area by removing an unsightly shed. The height of the proposed building would be consistent with its town centre location and the plot ratio would be similar to the existing structure. It would allow the re-organization of a business which is no longer viable.
- The development would comply with the building regulations and will require a fire safety certificate.
- The development would not require car parking based on an assessment of the net additional floorspace.

10.0 ASSESSMENT

The planning issues arising from the proposed development can be addressed as follows:

1. The principle of development
2. Parking and access
3. Impact on adjacent property
4. Impact on the character of the area
5. Other issues

10.1 The principle of development

The site is located in the town centre and retail core of Killarney where a considerable density of retail use should be encouraged, along with other complementary uses above ground floor level. The proposed development would comply with this goal and with the zoning of the site in the development plan for town centre facilities. The scale and nature of the proposed uses are therefore acceptable in principle. However whether or not the proposed development is actually in keeping with the proper planning and sustainable development also depends upon other characteristics and on consideration of its impact on the amenities of the area generally and those of adjacent property in particular.

10.2 Parking and access

The development provides a separate access point for goods vehicles and a delivery/loading area off the public street. The uses proposed in this application could therefore be serviced without causing obstruction or hazard to other road users. Adequate parking enforcement would be required to ensure that obstruction did not actually occur, but this is the case with any public road. The streets and lanes around the site are not suitable to carry large volumes of traffic, but this does not mean that they could not provide adequate access for emergency services. Given the town centre location of the site, and its situation between the main shopping street and a series of lanes that preserve the historic character of the area, it would neither be necessary nor desirable that significant amounts of parking for private cars be provided on the site. The demand for parking to server the commercial and small scale residential uses proposed on the site should be met by the public provision of shared parking facilities to serve the town centre as a whole. It would therefore be reasonable that any grant of permission require a financial contribution towards such provision by the planning authority. The actual amount of any such contribution should be based on the amount of additional proposed commercial floorspace and residential units compared to that existing on the site, and by reference to the contribution scheme adopted by the planning authority and the parking standards in the development plan. As third party right would not be at issue, the matter could be determined under a condition attached to a permission.

Issues relating to access and parking would not, therefore, justify refusing permission or substantially altering the development proposed in the current application.

10.3 Impact on the character of the area

The proposed alterations to the elevation onto Main Street would have not have any negative impact of the streetscape. However the scale and design of the elevation onto Bohereencaol would be unsympathetic to the prevailing character of the vicinity. As stated above, the network of laneways between Main Street, Plunkett Street and the car park on College Street have an attractive character that follows an established historic layout. Both the older and newer buildings there respect the fine urban grain of the area, reflecting a pattern of narrow plot widths, traditional details in architectural design and relatively low building heights that are characteristic of subordinate streets in old town centres. A vibrant mix of commercial and residential uses has developed there, and the area makes a very positive contribution to the character of the town centre which should be protected. The existing frontage of the site onto Bohereencaol is rather bulky and functional. It does not contribute to the character of the area, but its low height mitigates its negative impact. The design details of the proposed façade along Bohereencaol would be represent an improvement compared those on the existing façade, but only to a limited extent. They would not reflect the character established by the other buildings in the vicinity, nor would they achieve any notable level of architectural quality in themselves. The standard of design could be described as mediocre, at best. The scale of the proposed building would give rise to a much greater negative impact on the character of the area than that caused by the existing structures. The apparent horizontal extent of the proposed building would be even more at variance with the fine urban grain of the area than is currently the case. The height of the proposed building facing Bohereencaol, at over 15m, would be grossly excessive for a laneway that is between 3m and 5m wide. This defect would be exacerbated by its situation on the southern side of the lane. The proposed building would darken and overbear Bohereencaol to an undue extent and would render it an inhospitable and uninviting route. The reference in the response to the appeal to the prevailing building heights of three and four storeys in the town centre is noted. However the actual height of the proposed development would be much greater than that of the existing three storey buildings in the vicinity, and the argument fails to have regard to the situation of the site on the southern side of a particularly narrow land. The proposed development would therefore cause a serious injury to the character of the town centre of Killarney that would render it contrary to the proper planning and sustainable development of the area.

10.4 Impact on adjacent property

The impact of the proposed development on the daylight and sunlight available to the properties to the east and west of the site, including those belonging to the appellants, would be measurable. Nevertheless, it is not considered that this effect would have a significant negative impact on the amenities of those properties, having regard to their town centre location, their orientation relative

to the proposed buildings, the separation distance between them and the extent to which the adjoining properties have been built up.

However the development would introduce a much higher and more massive building onto the southern side of Bohereencaol. The buildings on the other side of Bohereencaol are not described on the drawings submitted with the application, nor was the impact of the development upon them considered in the daylight and sunlight assessment submitted by the applicant. They contain numerous windows onto habitable rooms at first and second floor level that face the laneway. The separation distance between them and the proposed building to the south is approximately 5m. The height of the proposed buildings along Bohereencaol would reach 15m. In these circumstances it is considered that the proposed development would overshadow the properties on the other side of the laneway to an extent that would seriously injure their amenities.

10.5 Other issues

The proposed apartments would have an adequate amount of internal accommodation and access to open space at roof level. They would provide a sufficient level of amenity for their occupants.

The handling and removal of asbestos is covered by a specific regulatory regime under the 1989 Asbestos Regulations, SI 34 of 1989. It is not within the statutory powers or the expertise of the planning authority or the board to attempt to replicate or supplant the operation of that regime. The issue would not justify refusing permission for the development or changing it substantially.

11.0 CONCLUSION

11.1 The location of the site in the town centre and retail core render it suitable for the proposed retail and other uses, despite the absence of on-site parking. The impact of the development on the amenities to the adjoining properties to the east and west of the site and upon the streetscape along Main Street is acceptable. However the scale and design of the building facing onto Bohereencaol would be out of keeping with the character of the area behind Main Street, which character is worthy of protection. The development would also overshadow the properties on the northern side of Bohereencaol to an undue extent. The proposed development would therefore seriously injure the character of the area and the amenities of property in the vicinity, and as such would be contrary to the proper planning and sustainable development of the area.

12.0 RECOMMENDATION

12.1 I recommend that permission be refused for the reasons set out below.

REASONS AND CONSIDERATIONS

1. The proposed development, by reason of the height, bulk and architectural treatment of the proposed building fronting onto Bohereencaol, would be seriously out of keeping with the established character of development in the part of the town centre to the rear of Main Street, Plunkett Street and College Street. It would therefore give rise to a significant injury to the character and amenities of this part of the town centre, and would be contrary to the proper planning and sustainable development of the area.
2. The proposed development would overshadow the properties on the northern side of Bohereencaol to an undue extent, and would therefore seriously injure the amenities and tend to depreciate the value of property in the vicinity on the site.

Stephen J. O'Sullivan
30th November 2010