



Planning and Development Acts 2000 to 2020

Planning Authority: Kerry County Council

Planning Register Reference Number: 19/1169

Appeal by Taal Burke and Margarita Mulcahy care of Padraig Murphy of Weir Side, Bandon, County Cork against the decision made on the 18th day of June, 2020 by Kerry County Council to grant subject to conditions a permission to Alan King care of Davide Mosca Design of 41/42 High Street, Killarney, County Kerry in accordance with plans and particulars lodged with the said Council:

Proposed Development: (a) Demolition of two two-storey dwellings known as Dunboy House and Lorenzo House, and staff accommodation to rear of existing dwellings, (b) construction of a new two-storey detached dwelling over basement with roof space, (c) construction of a new single storey garage with boiler house, (d) construction of a single storey garage, and (e) construction of new vehicular entrance with new boundary wall and all associated site works, all at Lewis Road, Killarney, County Kerry. The proposed development was revised by further public notices received by the planning authority on the 25th day of May, 2020.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

Having regard to the planning history of the site, to the location of the site within an established, mature housing area in close proximity to Killarney Town Centre, which is zoned 'Established Residential' in the Killarney Town Development Plan (2009-2015, as extended and varied), and to the national and local policy objectives to encourage the use of vacant and derelict sites in such locations, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. 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 to the planning authority on the 9th day of December, 2019 and the 11th day of May, 2020, and by the further plans and particulars received by An Bord Pleanála on the 14th day of August, 2020, 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.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) the windows to the master bedroom and to the bedroom at the north-eastern corner on the first-floor rear elevation of the dwelling shall have a sill height of minimum 850 millimetres from the finished floor level, and
 - (b) the rear-facing window in the first-floor bedroom at the north-east corner of the dwelling shall be a maximum of two metres in width.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the residential and visual amenity of the area.

3. Prior to commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water. No dwelling shall be occupied until water and sewerage services serving the development have been installed and functioning in accordance with the connection agreements made with Irish Water.

Reason: To ensure that satisfactory water and wastewater arrangements are in place to serve the development in the interest of public health.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

5.
 - (1) Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
 - (2) Roof colour shall be blue-black, black, dark brown or dark grey in colour only.
 - (3) No white UPVC shall be used.
 - (4) The materials and finishes of the boiler house/shed and garage shall match those of the proposed dwellinghouse in respect of colour and texture.

Reason: In the interest of visual amenity.

6. Notwithstanding the exempted development provisions of the Planning and Development Regulations 2001, and any statutory provision amending or replacing them, the use of the proposed garage/boiler house and garage shall be restricted to domestic use only and shall be jointly occupied as part of the single residential unit hereby permitted.

Reason: In the interest of residential amenity.

7. Notwithstanding the provisions of Article 10(4) of the Planning and Development Regulations 2001, or any statutory provision modifying or replacing them, no room in the proposed dwelling unit shall be used for the purpose of providing overnight paying guest accommodation without a prior grant of planning permission.

Reason: In the interest of residential amenity.

8. (1) The height of the front boundary wall and gate piers shall be 1200 millimetres and 1800 millimetres, respectively. The wall and gate piers shall be constructed as shown on drawing number D1156-A10-A submitted to the planning authority on the 11th day of May 2020, and shall be suitably capped and finished in a material that matches the external finish of the dwellinghouse.
- (2) Screen walls shall be provided along the side and rear boundaries of the site. Such walls shall be two metres in height above ground level. Details of the layout, the materials and external finishes of the screen walls shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity.

9. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual and residential amenity.

10. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

- (a) the establishment of a hedgerow along the front boundary of the site, and
- (b) planting of trees at two metre intervals along the northern boundary of the site.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

11. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

12. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (a) details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels,
- (b) a construction methodology statement indicating the proposed means of excavation and construction of the basement of the dwelling, and
- (c) details of off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

13. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

14. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

Dave Walsh
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.

Dated this day of 2020.