



Planning and Development Acts 2000 to 2022

Planning Authority: Kerry County Council

Planning Register Reference Number: 23/390

Appeal by John and Deirdre O'Donnell of Ardrinane, Annascaul, County Kerry against the decision made on the 9th day of August, 2023 by Kerry County Council in relation to an application for permission for (a) retention permission to retain the alterations and extensions to the existing dwelling house as it is constructed including associated site works, (b) retention permission to retain the existing shed as it is constructed and (c) permission for development to construct a dry-stone boulder wall along part of the riverbank including all associated site works at Ardrinane, Annascaul, County Kerry in accordance with the plans and particulars lodged with the said Council (which decision was to grant subject to conditions permission for retention of (a) the property within revised boundaries, (b) alterations and extensions to the existing dwelling house as it is constructed, including second vehicular access and associated site works and (c) retain the existing shed as it is constructed and permission for development to construct a dry-stone boulder wall along part of the riverbank including all associated site works and to refuse permission to retain decorative garden walls.

Decision

GRANT permission for the retention of alterations and extension to existing dwelling as constructed including associated site works, retention of the existing shed as constructed and associated site works in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below.

REFUSE permission to construct a dry-stone boulder wall along part of the riverbank based on the reasons and considerations marked (2) under.

Reasons and Considerations (1)

Having regard to the permitted residential development on the site and the nature and extent of the development, it is considered that, subject to compliance with the conditions set out below, the retention of the development including (a) the retention of the property within the revised site boundaries, (b) the retention of extensions and alterations to the dwelling, (c) the retention of the existing shed and (d) the retention of the secondary vehicular access to the site would not detract from the visual amenities of the area, would be acceptable in terms of traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 13th day of July 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.

Reason: In the interest of clarity.

2. The shed shall be used for private domestic purposes only and shall not be used for commercial, industrial purposes or for the housing of animals.

Reason: In the interest of residential amenity.

3. Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.

Reason: In the interest of public health.

4. Within one month of the date of this Order, the applicant shall submit proposals for written agreement with the planning authority to provide a hedgerow along the western boundary of the site. Planting shall include native indigenous species only. A timescale for implementation shall be agreed with the planning authority.

Reason: In order to provide protection from the river and improve biodiversity along the riverbank.

5. 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.

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.

Reasons and Considerations (2)

It is considered that the retention of the decorative garden wall along the western boundary of the site would materially contravene condition number 1 of the parent permission granted under register reference number 78/2476 relating to the required separation distances to the public sewer and would, therefore, be contrary to the proper planning and sustainable development of the area.



Liam Bergin

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

Dated this 29th day of March, 2024.