

An
Bord
Pleanála

Board Order
ABP-318800-24

Planning and Development Acts 2000 to 2022

Planning Authority: Kerry County Council

Planning Register Reference Number: 231074

Appeal by Stephen Mulvihill of Doon Bay Road, Ballybunion, County Kerry against the decision made on the 20th day of December, 2023 by Kerry County Council to grant subject to conditions a permission to Michael and Deirde Mulvihill care of Des O'Sullivan of Bedford, Listowel, County Kerry in accordance with plans and particulars lodged with the said Council.

Proposed Development: Permission to demolish existing structure, also permission to erect a single storey apartment with connections to all public services on the site at Puckeens, Doon Road, Ballybunion, County Kerry.

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.

Reasons and Considerations

Having regard to the nature and scale of the proposed development, to the pattern of development in the area and the planning history of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would constitute an acceptable form of development in this serviced area, would not seriously injure the residential or visual amenities of the area, including the amenity of property in the vicinity, would not lead to traffic hazard and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered the totality of the documentation on file, including the specific issue of parking, as set out in the appeal. The Board shared the concern of the appellant and Inspector regarding the unsuitability of the parking space as proposed but determined that this issue could be resolved by condition as set out in the final decision. The Board also noted the comments of the Inspector that the proposed dwelling would fail minimum design standards and would result in overdevelopment of the site. However, the Board determined that the proposed dwelling, while modest in scale, would, subject to condition 2, which broadly reflects space provision for a one-bed single-storey dwelling, as recommended in 'Quality Housing for Sustainable Communities' published by the Department of the Environment, Heritage and Local Government, in 1997, provide a sufficient level of amenity, both internally and having regard to usable private amenity space.



Furthermore, the Board considered that the set back of the proposed building from site boundaries compared to the previous structure constructed on site, would resolve the concern of the Inspector regarding overdevelopment and that the modifications set out by condition, while adding an additional one metre to the depth of the proposed dwelling and also providing an additional one metre set back from the western boundary would not adversely affect the amenities of the area including property in the vicinity and the overall development would constitute a reasonable scale, form and position on the subject site, consistent with the pattern of development in the area.

Conditions

1. The 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 development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed building shall be modified as follows:
 - (a) The building shall be set back 3.5 metres from the western site boundary with the adjoining laneway.
 - (b) The building depth shall be extended by an additional 1 metre (internally measured) with the additional internal space allocated to



the kitchen/living area.

- (c) The rear garden area shall be at least 30 square metres in area.

Plans and particulars detailing these modifications, including the delineation of a single parking space shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential amenity and to provide for a usable parking space within the subject site.

3. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of the visual amenities of the area.

4. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Uisce Eireann.

Reason: In the interest of public health.

5. Drainage arrangements for the site, including the disposal of surface and soiled water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of environmental protection and public health.

6. The demolition of the unauthorised structure on site, shall be undertaken within six months of the date of this Order.

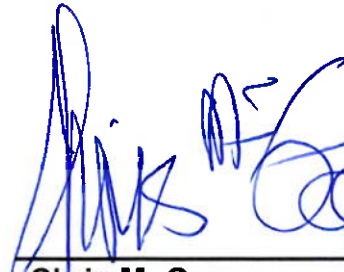
Reason: In the interest of orderly development.


7. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, as amended, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, without a prior grant of planning permission.

Reason: In the interest of the amenities of the area.

8. 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.


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



Dated this 4th day of June 2024.

