

An  
Bord  
Pleanála

## Board Order ABP-319128-24

**Planning and Development Acts 2000 to 2022**

**Planning Authority: Kerry County Council**

**Planning Register Reference Number: 23/60260**

**Appeal** by Padraig Moriarty and Enda Maguire of 'Penzac's', Kilfenora, Fenit, Tralee, County Kerry against the decision made on the 31<sup>st</sup> day of January, 2024 by Kerry County Council to grant subject to conditions a permission to Stephen and Hazel Burke care of Michael Burke of Curraheen, Tralee, County Kerry in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Demolish existing flat roofed rear extension, partially demolish existing storage shed to south-west, remove existing slate roof finish and replace with new roof finish, erect new rear extension (part single and part two-storey), construct new covered walkway along part front and west side of existing dwelling, refurbish existing dwelling replacing all windows and doors, create new off-street parking to west side of dwelling complete with all ancillary site works associated with same, all at Kilfenora, Fenit, Tralee, County Kerry.

*hol*

## **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 Kerry County Development Plan 2022-2028 and Policy Objectives KCDP 11-78, KCDP 11-79 and KCDP 11-81 to protect the landscapes in visually sensitive areas by ensuring that any new developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of their area, the nature of the proposed renovation and restoration works, including part one and part two-storey rear extensions which, whilst strongly contemporary in form, are considered to be sympathetic to the character of the existing structure in terms of the retention of the principal form and ridge height of the building to the road frontage. In addition, having regard to Policy Objective KCDP 5-30, regarding the efficient use of the existing housing stock and taking into account the separation distance between the existing property and the proposed extension, it is considered that the proposed room design, positioning of windows and use of the rooms that overlook from these spaces, would not adversely impact on the privacy and established residential amenities of the adjoining properties. Having regard to the proximity of the proposed carparking area to the junction of a regional road and the access point to the Greenway, it is considered that a revised vehicular access and parking layout would ensure that the proposed development would have no adverse impact on traffic safety. It is considered that, subject to compliance with conditions set out below, the proposed development would comprise the efficient use of existing housing stock, would not seriously injure the residential amenities of property in the vicinity, and 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, as amended by the further plans and particulars received by the planning authority on the 20<sup>th</sup> day of December, 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2.
  - (a) The replacement roof covering to the existing A-pitch roof shall be slate or tile which shall be either black, dark grey or blue black. The colour of the ridge tile shall match the colour of the roof.
  - (b) The use of white uPVC shall not be permitted on windows, doors, facias, soffits and guttering.
  - (c) The stone of the old store building, proposed to be part demolished, shall be re-used in the construction of the new wall proposed between the existing store and the existing concrete southern boundary to be supplemented, as necessary, with natural stone which shall be sourced locally.

**Reason:** In the interest of visual amenity and to help integrate the structure into the surrounding area.

3. The developer shall submit a revised vehicular access and parking layout to the planning authority for written agreement, which shall address the proposed provision of external lighting and any potential conflict with traffic at the junction of the laneway and the regional road, including the access point to the Greenway.

**Reason:** In the interest of traffic safety and visual amenity.

4. (a) The landscaping scheme shown on drawing number 202317/21 and details contained in the Arboricultural Assessment and Report, as received by the planning authority on the 20<sup>th</sup> day of December, 2023 shall be carried out within the first planting season following substantial completion of external construction works.
- (b) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum radius of two metres from the trunk of the tree or centre of the shrub, and to a distance of two metres on each side of the hedge for its full length and shall be maintained until the development has been completed.
- (c) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

- (d) All planting shall be adequately protected from damage until established. 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.

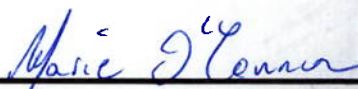
**Reason:** In the interest of residential and visual amenity and to protect trees and planting during the construction period.

5. Site development and building works shall be carried out between the hours of 0800 to 1800 Mondays to Fridays, inclusive, between 0800 to 1400 on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written.

**Reason:** To safeguard the amenity of property in the vicinity.

6. 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.

  
\_\_\_\_\_  
**Marie O'Connor**

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

Dated this *12* day of *November* 2024.