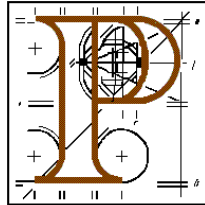

An Bord Pleanála



Inspector's Report

Development: Demolition of dwelling and construction of new dwelling and all ancillary site works at The Wood, Dingle, Co. Kerry.

Planning Application

Planning Authority : Kerry County Council
Planning Authority Reg. Ref. : 15/431
Type of Application : Permission
Applicant : Kathleen Brosnan
Planning Authority Decision : Grant subject to conditions

Planning Appeal

Appellant : Alec O'Conchuir
Type of Appeal : 3rd Party v. Grant
Observer(s) : None

Inspector : Pauline Fitzpatrick

Date of Site Inspection : 17/02/16

Appendix - Photographs

Note: This is the 2nd appeal for the demolition of the dwelling and its replacement at the site in question. Planning reference number PL08.243495 (14/80) refers.

1.0 SITE LOCATION AND DESCRIPTION

The site is as previously described in the Inspector's report on the previous appeal and is as follows:

The site comprises a plot of 0.28 hectares located at The Wood, Dingle. This is a prominent location opposite a major surface car park at the seafront in the centre of Dingle. On the site is an existing two-storey dwellinghouse which is in a derelict condition. It has a stated floor area of 128 square metres. The existing house has a very steeply pitched natural slate roof and it is a three-bay structure positioned close to the public footpath.

Adjacent the site to the east is a terrace of houses which is designated as an Architectural Conservation Area. As originally laid out it appears that this would have comprised 5 no. three-bay, two-storey dwellinghouses all of which contained a central gable feature. These houses have been considerably modified since the date of their construction. The centre of the original five houses appears to be of most architectural interest as it contains a natural slate roof, intact railings and the original layout of the windows albeit that they are now executed in uPVC. The steeply pitched roof is reasonably characteristic of the town's architecture. Similar roof forms are present in buildings in the vicinity including the detached house positioned to the west of the site. Further to the west again is the Marine B & B, which is of recent construction.

The site rises reasonably steeply and the rear garden of the plot is very overgrown. At the rear of the existing dwellinghouse a level of 13.355 metres is marked on the application drawings and at the rear of the site the level is 16.672 metres.

2.0 PROPOSED DEVELOPMENT

The application was lodged with the planning authority (PA) on the **25/05/15** with further plans and details submitted **28/10/15** following a further information (FI) request dated 28/10/15.

As amended the proposal entails:

Demolition of the existing building and construction of a three-storey residential dwellinghouse as presented to the road with a two storey rear return. The dwelling is

to have a stated floor area of 199 sq.m. Internally the 1st floor would provide for the main entrance and living accommodation with access from the rear of the site. The upper and lower floors consist of bedrooms. A total of 3 no. en-suite bedrooms are proposed.

The site layout indicates that the applicant retains a right-of-way over the laneway to the west of the site.

A copy of the Building Condition Survey that accompanied the previous application (dated Feb 2014) accompanies the application.

An overshadowing and sun study was submitted by way of FI which concludes that the proposal will not have a significant detrimental effect on the quality of light received by the neighbouring windows.

A Flood Resistance and Construction Plan was submitted by way of FI.

All structural engineering best practices to protect all neighbouring properties from any structural or subsidence risk are to be employed.

Note: Objections to the application received by the PA have been forwarded to the Board for its information. The issues raised are comparable to those set out in the 3rd party appeal summarised in section 5 below.

3.0 INTERNAL REPORTS

The **Executive Planner (Conservation)** in a memo dated **17/06/15** recommends an internal and external photographic survey.

A report from the **Executive Planner** dated **22/06/15** recommends a Stage 3 Flood Risk Assessment taking into account that the 1/1000 fluvial event bounds the application site and that the study identifies the site at risk of flooding from a 1/1000 coastal event. The **2nd report** following FI considers the details to be acceptable and recommends a condition to be attached should permission be granted.

The **Planner's** report dated **24/11/15** notes the existing dwelling has some nice traditional elements but it is accepted that the structure is in poor condition. The proposed house design is considered traditional and sympathetic to the existing dwelling house on the site and the adjoining streetscape. The current proposal addresses the reasons for refusal on the previous application. A grant of permission subject to conditions is recommended.

4.0 PLANNING AUTHORITY DECISION

The PA decided to grant permission for the above described development subject to 15 conditions. In addition to the standard planning, engineering and financial contribution requirements the following are noted:

Condition 6(a)(i) – revised side (east) elevation to correspond with rear and west elevations.

Condition 7: Preclusion of exempted development provisions save with planning permission.

5.0 GROUNDS OF APPEAL

The 3rd Party appeal against the PA's notification of decision to grant permission which is accompanied by supporting detail can be summarised as follows:

- Demolition of the existing dwellinghouse would impact on the structural integrity of his dwelling which is within an ACA and conflicts with LAP objectives for same.
- Negative impact on the adjoining property within an ACA due to its design. The recommendations set out in the previous Inspector's report in terms of height and roof pitch have been ignored. The dormer windows detract from the ACA.
- The rear return diminishes the character of the buildings in the ACA. It's height could be reduced and still accommodate a bedroom.
- Overdevelopment of the existing site which is zoned residential in the Dingle Local Area Plan. The dwelling is twice the size of that which currently exists. It is not in keeping with those adjoining.
- Impact on adjoining property due to overshadowing. The shadow study shows the ridge level of the proposed building being much lower than the revised plans and therefore is inaccurate.
- The detail given on the elevation drawings are inconsistent in terms of height.
- Overlooking of rear garden of adjoining property would arise due to position of glazing on third floor c. 800mm from the party boundary wall. There is concern that the attic space could be converted with the roof windows allowing for overlooking. The Inspector in the previous appeal considered that roof lights should be eliminated.
- Impact on adjoining property due to subsidence risk. There may also be springs in the area as evident to the east of the proposed site as shown on the 25" OSI maps which would exacerbate the issue.

6.0 APPLICANT'S RESPONSE TO APPEAL

The response comprises a copy of the submission by McCutcheon Halley Walsh that was submitted on the earlier appeal (dated 16/07/15) supplemented by a submission dated 15/01/16.

- The proposal accords with the importance of promoting residential development within the town, the development of infill/brownfield sites and regeneration of derelict sites. The proposal would accord with the relevant provisions as set out in the County Development Plan and the LAP. The proposal constitutes a modest size dwelling.
- The structure is not a protected structure and does not form part of an ACA. To retain the existing structure which has structural, rising damp and other defects is far more likely to affect the integrity of the existing buildings within the ACA.
- The design of the new property was heavily influenced by the architectural style of other property in the town including the style of the adjoining terrace. Features of the new property are also consistent with the existing structure which is to be demolished.
- The proposed dwelling would be of significantly better quality than that existing and would have a positive impact on the character of the area.
- Regard was had to the Inspector's report on the previous appeal. The proposal is complementary to the existing streetscape with the high quality of finish ensuring that the property will be completed to a very high standard. The applicant is willing to accept any condition that will improve the quality of the product.
- In terms of protecting the integrity of the adjoining property the structural report recommends a number of ways to protect the appellant's property. Demolition has been accepted by the Council and the Board provided the appropriate safeguards are put in place.
- The question of protection of the structural integrity of properties is not a planning matter.
- The proposal is modest in scale and cannot be considered as constituting overdevelopment of the site. At 2½ storeys the proposal is smaller than the rest of the houses in the terrace which are 3 storey.
- The proposal meets the development control standards for development in the town and has acceptable site coverage and plot ratio. It comprises a modest projection past the existing line of development. The previous proposal comprises a bigger extension. In that instance the Inspector did not identify overdevelopment as a problem.
- The design ensures that there will be no opportunity for overlooking of the adjoining rear garden. The only roof windows to the rear extension serve a vaulted ceiling to the stairs. There is no possibility of looking out these

windows. As they will provide natural light into the stair well there is a reluctance to omit them but will accept such a conclusion should the Board require so.

- Some shadowing will be evident for a very short period during the day for a very limited number of days through the year. The area affected is a ground floor window which is already in shadow from the existing boundary wall. No extra shadowing would affect light entering the window. The neighbouring property will enjoy the same standard of light it has always enjoyed through its rear windows. To counteract the perceived overshadowing the rear extension has been offset from the shared boundary and the height of the roof reduced from that previously proposed.
- The roof structure serving the extended area has been reduced by 500mm from that previously proposed and the 4th bedroom omitted which was previously incorporated into the attic space. This is the maximum height drop possible to facilitate the stairs to the 3rd floor to provide the required head room.
- The width and length of the extension has been reduced.
- The proposal is modest in comparison to other development in the vicinity.

7.0 PLANNING AUTHORITY'S RESPONSE TO GROUNDS OF APPEAL

No response received.

8.0 SECTION 131 NOTICES

On the basis that the proposal might detract from the appearance of structures in an ACA certain prescribed bodies were invited to make a submission on the appeal.

A response from An Taisce was received which states that it would be desirable to make as few changes as possible to the appearance of the building, The existing façade has five windows and a centrally placed door but the new building will have two extra dormer windows. The existing gable has no windows but the proposed gable will have five.

The above submission was circulated to the parties to the appeal for comment. A response from the agent for the applicant was received. In same it is stated that the dwelling to be demolished is a much newer structure and has little relationship to the Farmer House. It is not within the ACA and is not a protected structure. The requirement is that the replacement building should be of an equal or better quality than that existing and should not adversely affect the character of the area. The proposed building complies with same.

9.0 PLANNING HISTORY

PL08.243495 (14/180) – permission refused in October 2014 for demolition of the dwelling and its replacement for two reasons which can be summarised as follows:

1. The height of the rear section would cause significant overbearing and overshadowing of the adjoining property.
2. The elevation to the west by reason of excessive amount and varying sizes of windows and roof lights in addition to the height of the rear section would be visually discordant at this sensitive location and would injure the visual amenities of the area.

10.0 DEVELOPMENT PLAN POLICY

In relation to the development plan the relevant policy provisions of the Dingle Functional Area Local Area Plan 2012-2018 apply, which includes the ACA designation at the adjacent terrace.

Guidelines for new development within the Conservation Area are set out. New buildings should be designed with reference to their surroundings and their impact on the character and appearance of the area and special attention paid to form, bulk, materials, proportion of openings and detailing of roofs, windows and doors. Works which impact on the character of the area require permission.

Objective UD2 is to ensure that the design of premises is sympathetic to existing development in the vicinity, complies with the objectives of the ACA and is of a design composition that enhances the streetscape.

Objective BH2 is to encourage the appropriate re-use and sensitive restoration of unused / derelict properties in the town.

Objective BH3 is to preserve the town's architectural heritage and encourage development that is designed in a manner that is in keeping with the scale, character and pattern of the existing built fabric and urban form. New development must be designed to a high architectural standard and take cognisance of local design features and materials.

11.0 ASSESSMENT

This constitutes the 2nd appeal for the demolition of the dwelling on the site and its replacement. The Board refused permission in 2014 under ref. PL PL08.243495 (14/180) for two reasons which relate to the adverse impact on the amenities of adjoining property by reason of overbearing rear return and overshadowing and unsuitability of the elevational treatment to the west and the consequent visual discordance. A note to the Board's Direction advised that the ridge to the front should have been set no less than 300mm below the ridge line of the terrace to the east and that the roof pitch should have been approx. the same as that on the terrace. Effectively the applicant in the current proposal is endeavouring to overcome the issues as identified. As such I submit that the substantive issues arising in the case pertain to same.

From my assessment of the plans that accompanied the previous and current applications the following comprise the material alterations:

- Reduction in the floor area of the dwelling from 261 square metres to 199 sq.m. and resultant reduction in the number of bedrooms from 4 to 3. The original dwelling to be demolished has a stated floor area of 128 sq.m.
- Reduction in the rear extension from three storeys and a height of 9.5 metres to two storeys and a height of 8.8 with a reduction in depth at 1st floor level from 7.8 metres from the rear wall of the house to 6.5 metres.
- An average setback in the rear return of 800mm from the shared boundary with the dwelling to the east.
- Increase in the ridge height to the front elevation of in the region of 0.5 metres relative to the earlier proposal.
- As a consequence of the changes to the internal layout a rationalization of the window openings in the western elevation.
- Rationalisation of the roof windows in the eastern elevation.
- Alterations to the rear elevation.
- Alterations to external finishes including horizontal line detail to the ground floor to the front and side, coin detailing, cornicing and roof barge.

The rear extension by reason of both its reduction in height and depth and providing for a setback from the shared boundary with the property to the east has taken due cognisance of the need to address the material concern regarding loss of amenities arising from the overbearing nature of the extension and in my opinion provides a reasonable compromise. In support of the current application a sunlighting and daylighting assessment was undertaken. I consider that adequate evidence has been provided in support of the assertion that the proposed extension would not give rise to overshadowing to 1st floor windows and that it would not give rise to any increase in overshadowing to the ground floor window over that already arising from

the existing shared boundary wall.

The window openings in the western elevation at first floor level serve the stairwell and overlooking into the adjoining property would not arise. I also note the concerns regarding potential further living accommodation at 2nd floor level. I submit that such provision if contemplated in the future could, by way of condition, be required to be subject of a separate planning application so as to allow for an assessment at that juncture.

As such I consider that the Board's 1st reason for refusal has been adequately addressed.

In terms of the size and design of the extension and its impact on views from the west at this sensitive and high profile waterfront location the revised proposal comprises a materially better design solution whereby the bulk and massing has been reduced allowing it to appear as subservient to the main building with the incorporation of a stone wall providing an appropriate level of screening. In addition the rationalization of the window openings has also assisted in improving its appearance. I have no objection to the window openings in the main part of the dwelling serving the three floors and I consider that the Board's 2nd reason for refusal has been adequately addressed. Were the Board so disposed I note that in view of the alternative openings available to all but the ensuite serving the bedroom at ground floor level, the windows could be omitted to reflect the absence of windows in the gable of the building to be demolished.

I note that the dormer windows proposed to the front elevation are comparable to those delineated in the previous proposal.

The issue that has not been resolved is the setting of the ridge to the front elevation. The note attached to the Board's Direction on the previous appeal advised that the setting of the ridge to the front elevation should be not less than 300mm below the ridge line of the terrace to the east and that the roof pitch should have been approx. the same as that on the terrace. There appears to be some discrepancy between the ridge height proposed as given in the front and rear elevations with the latter showing a ridge height the same as the terrace. As to why the ridge has been increased is unclear as the necessary floor to ceiling clearances were maintained in the previous appeal. Notwithstanding I consider that a compromise whereby the ridge height of the terrace is maintained is acceptable.

In order to address the shortcomings as to the design of the dwelling in the context of the ACA and the need to distinguish between existing and new buildings as set out in the Inspector's assessment on the previous case the proposal now intends to incorporate a myriad of design features stated to be found elsewhere in the town but

in doing has, in my opinion, gone too far and will result in a design which would be visually discordant. I would suggest the omission of the corner coins and window details allowing for the projecting cornice and horizontal line detailing to provide the distinguishing features. These would also assist in breaking up the massing of the western elevation.

I note that the appellant's grounds of appeal reiterate a number of the points made in his 1st appeal and which were subject of assessment by the Inspector in her report. In the interests of completeness I note that the building is not a protected structure and is not within an ACA. Sufficient detail has been provided to support the proposed demolition arising from structural disrepair. As per the Inspector in her previous assessment there is no objection in principle to the demolition. In this regard I note the appellant's concerns regarding the potential impact on the structural stability of his property arising from the proposed works but as noted by the agent for the applicant this is not a planning consideration and is a matter for resolution under other legislative codes.

AA- Screening

Having regard to the nature and scale of the development proposed on a fully serviced site in Dingle town centre no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

11.0 CONCLUSIONS AND RECOMMENDATION

I consider that the revised proposal addresses the reasons for refusal in the previous appeal and I recommend that permission for the above described development be granted for the following reason and considerations subject to conditions.

REASONS AND CONSIDERATIONS

Having regard to the nature, scale and design of the proposed dwelling, to the location of the site in Dingle town centre and to the character of the general area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity and would respect the existing character of the area and the adjoining Architectural Conservation Area. 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 on the 28th day of October, 2015, 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 out in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The ridge height to the front elevation shall match that of the terrace to which it is to form part. Revised drawings with the necessary alterations shown thereon shall be submitted to the planning authority for its written agreement prior to commencement of development.

Reason: In the interest of visual amenity and to protect the character of the existing terrace.

3. The proposed use of corner coin and over window detailing in the external finishes as delineated on the drawing number titled Brosnan/07/05 REV A received by the planning authority on the 28th day of October 2015 shall be omitted. Elevation drawings with the necessary revisions shown thereon and 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.

Reason: In the interest of visual amenity.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, 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 proposed house, without a prior grant of planning permission.

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

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

ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

6. Water supply and drainage arrangements, including the 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.

7. The construction of the development shall be managed in accordance with a Construction 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) hours of working;
 - (b) details of site security fencing and hoardings;
 - (c) details of on-site car parking facilities for site workers during the course of construction;
 - (d) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network;
 - (e) off-site disposal of construction/demolition waste; and
 - (f) means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

Reason: In the interest of amenities, public health and safety.

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.

Pauline Fitzpatrick
Inspectorate

March, 2016