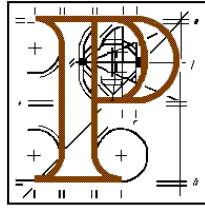

An Bord Pleanála



Inspector's Report

Development: Retain and complete house, wastewater treatment system, landscaping and ancillary site works at Graig, Baile na Fheirtearaigh, Tra Li, Co. Chiarrai.

Planning Application

Planning Authority : Kerry County Council
Planning Authority Register Reference : 15/851
Type of Planning Application : Retention permission
Applicants : Cathal & Catherine Brugha
Planning Authority Decision : Grant subject to conditions

Planning Appeal

Appellants : Liam P. O'Murchu
Type of Appeal : 3rd Party v. Grant
Observers : None
Inspector : Pauline Fitzpatrick

Date of Site Inspection : 17/02/16

Appendix - Photographs

1. SITE LOCATION AND DESCRIPTION

The site which has a stated area of 0.27 hectares is in the townland of Graig, c. 2.5 km to the south-west of Baile na Fheirtearaigh and c. 2.4km to the north of Dun Chaoin. It is accessed via a narrow lane off the R559. The said lane provides access to two other single storey dwellings, one which is immediately to the south-west of the appeal site. A stream runs along the western boundary of the site. The site, due to its elevation, is afforded panoramic views over Sleah Head and the coast.

Alterations and extension to the original dwelling on the site are nearing completion. The part 2 storey house design avails of large window openings to the north to maximise views available.

2. PROPOSED DEVELOPMENT

The proposal is seeking permission to retain and complete the dwelling as constructed on the site. Permission was granted under ref/ 13/430 for extension to side and renovation of the existing house on the site.

The alterations for which retention and completion is sought include a marginal increase in overall height of dwelling, alterations to the fenestration on all elevations including nature of window openings, new door in south-west elevation and flat roofed shed/domestic oil store to the rear elevation.

3. TECHNICAL REPORTS

The **Planner's** report dated **19/11/15** considers that the visual impact is rated as low relative to the permitted development on site. The existing on site screening should be retained. The house is painted white which is in contravention of condition 3 attached to 13/420. A grant of retention permission subject to conditions is recommended.

Note: Objections to the proposal 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.

4. PLANNING AUTHORITY'S DECISION

The Planning Authority decided to grant retention permission/permission for the above described development subject to 10 conditions the majority of which were attached to the permission granted under 13/420. In addition:

Condition 2: Dwelling to be repainted in accordance with detail attached to 13/430.

5. GROUNDS OF APPEAL

The salient points in the 3rd Party appeal which is accompanied by supporting detail including timelines and correspondence with the PA pertaining to enforcement, can be summarised as follows:

- The unauthorised dimensions and elevations have a general negative visual impact.
- The works compromise the privacy of the appellant's house and the house further to the south-west.
- The proposal would set an undesirable precedent

6. APPLICANTS' RESPONSE TO GROUNDS OF APPEAL

The relevant points of the submission by McCutcheon Halley Walsh on behalf of the applicants which responds to the matters raised in terms of enforcement, can be summarised as follows:

- The differences between the development as permitted and that as constructed are minor in extent.
- Extensive works have been undertaken to increase screen cover.
- The minor increase in height of the roof profile is sought to allow for the meeting of Building Regulations requirements within respect to insulation.
- The single storey extension constructed to the rear which has a floor area of c.8 sq.m. is to provide for storage and service equipment. The extension is not visible from the regional road.

7. PLANNING AUTHORITY'S RESPONSE TO APPEAL SUBMISSION

No response

8. OBSERVATIONS

None

9. RELEVANT PLANNING HISTORY

13/430 – permission granted for extension to side of the house, renovate the house, attic space and existing garage, install 13 roof windows, relocate gate and install a new waste water treatment system , landscaping and site works.

Condition 3(a) the lower level storage area to the front/north of dwelling to be omitted.

(c) colour scheme to be agreed. White is not permitted.

10. DEVELOPMENT PLAN PROVISIONS

The *Kerry County Development Plan, 2015* refers.

The site is within an area designated as being Rural Secondary Special Amenity. In same:

- Individual residential home units shall be designed sympathetically to the landscape and the existing structures and shall be sited so as not to have an adverse impact on the character of the landscape or natural environment.
- Any proposal must be designed and sites so as to ensure that it is not unduly obtrusive. The onus is, therefore, on the applicant to avoid obtrusive locations. Existing site features including trees and hedgerows should be retained to screen the development.
- Any proposal will be subject to the Development Management requirements in relation to design, site size, drainage etc.

Section 12.3.1 states that in terms of Rural Secondary Special amenity permission will not be granted for development which cannot be integrated into its surroundings.

The site is located within the line of a protected view/prospect.

ZL-5 it is an objective to preserve the said defined views and prospects.

10. ISSUES AND ASSESSMENT

The issue of enforcement with regard to the non-compliance with the development as permitted under planning reference 13/430 constitutes a material element of the appellant's submission to the Board. Whilst I acknowledge the appellant's contentions regarding same the Board does not have any remit in terms of enforcement and each application that comes before it is assessed on its merits. Any further concerns the appellant may have on this issue is better addressed to the Planning Authority.

I consider that the substantive issue arising in this case is the suitability of the works carried out on the site relative to that as permitted and the impact on both the residential amenities of adjoining property and the visual amenities of the area.

The deviation from the approved plans include:

- c.300mm increase in height of dwelling stated so to allow for compliance with building regulations requirements in terms of insulation
- Minor alterations to the fenestration to the front elevation with respect to the window openings and omission of roof light.
- Minor alterations to the fenestration in the south-west elevation in terms of reduction in size of two openings, size of roof lights and replacement of window with a door.
- Flat roofed extension to rear elevation with a floor area of approx. 8 sq.m. to provide for storage and housing of plant equipment. There are also alterations to fenestration including reduction in size of sliding doors and change in size and number roof lights (1 no. omitted).

I submit that the modifications incorporated into the dwelling as built represent minor deviations from that as granted permission. I note that the appellant's dwelling is immediately to the south-west and upslope of the site. Relative to that permitted the alterations to be retained including the increase in height would not have a material impact on its residential amenities nor result in loss of privacy.

It is reasonable to assume that the planning authority assessed the suitability of the proposed extension and refurbishment of the dwelling in terms of its visual impact and impact on protected views and prospects when determining the approved development under ref. 13/ 430. As noted on day of inspection the dwelling is evident in views in the vicinity and from the north at Clogher Beach. The alterations to the approved plans would not have any material difference in this impact.

Therefore I am satisfied that the dwelling to be retained and completed comprises minor deviations from the approved plans that would not have a material impact on the amenities of property in the vicinity or the visual amenities of the area.

AA – Screening

Having regard to the nature and scale of the development 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. CONCLUSIONS AND RECOMMENDATION

Having regard to the documentation on file, the grounds of appeal, the response thereto, a site inspection and the assessment above I recommend that permission be granted for the above described development for the following reasons and considerations subject to a condition.

REASONS AND CONSIDERATIONS

Having regard to the existing permission for the renovation and extension of the dwelling on the site granted under planning reference 13/430 and to the nature and extent of the alterations to the said approved plans for which permission to retain and complete is being sought, it is considered that the proposed development, subject to the compliance with the condition set out below, would not seriously injure the amenities of the area or of property in the vicinity, would not be seriously injurious to the visual amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITION

The development shall be retained and completed in accordance with the plans and particulars lodged with the application and shall comply with the conditions attached to the permission granted on the site by the planning authority under planning register reference 13/430.

Reason: In the interest of clarity

Pauline Fitzpatrick
Inspectorate

February, 2016