



An
Bord
Pleanála

Inspector's Report

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| Development | Demolish derelict dwelling and construct new dwelling at The Wood, Dingle, Co. Kerry |
| Planning Authority | Kerry County Council |
| Planning Authority Reg. Ref. | 16/469 |
| Applicant(s) | Kathleen Brosnan |
| Type of Application | Permission |
| Planning Authority Decision | Grant |
| Appellant(s) | Alec O'Conchuir |
| Observer(s) | None |
| Date of Site Inspection | September 2016 |
| Inspector | Mary Crowley |

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The appeal site with a stated area of 0.28 ha is located within the boundary of Dingle on the western side of the town centre. This is a prominent location fronting onto the R559 and opposite a large surface car park at the seafront in Dingle. The existing uninhabited two-storey dwelling house (stated 128 sqm) on site is in a derelict condition. There is a grass laneway to the west side of the site. The house has a very steeply pitched natural slate roof and it is a three-bay structure positioned close to the public footpath. Adjoining the site to the east is a uniform terrace of three story houses that are designated as being within an Architectural Conservation Area. It is evident that these houses have been considerably modified since the date of their construction. Further to the west again is the Marine B & B, which is of recent construction. The rear garden is overgrown and rises reasonably steeply to the north.
- 1.2 A set of photographs of the site and its environs taken during the course of the site inspection is attached. I would also refer the Board to the photographs available to view throughout the appeal file.

2.0 PROPOSED DEVELOPMENT

- 2.1 The application for permission to demolish an existing derelict dwelling house and in its place construct a new dwelling house maintaining all existing public service connections and also to include all associated site works.
- 2.2 The application was accompanied by a planning report and a Preliminary Condition Survey Report for the Existing Dwelling House (February 2014).

3.0 TECHNICAL REPORTS

- 3.1 The **Conservation Officer** has no stated objection to the scheme and recommends that permission be granted subject to conditions as set out in their report.
- 3.2 The **Local Authority Planner** recommended that permission be granted subject to 13 conditions. The notification of decision to grant planning permission issued by Kerry County Council reflects this recommendation.

4.0 OBJECTIONS / OBSERVATIONS TO THE PLANNING AUTHORITY

- 4.1 There is one objection recorded on the planning file from Alec O'Conchuir, An Ghraig, Baile An Fheirtearaigh. The issues raised relate to impact on adjoining property, overshadowing, overlooking, impact on character, overdevelopment, and structural impact.

5.0 PLANNING AUTHORITY DECISION

5.1 Kerry County Council issued notification of decision to **grant** planning permission subject to 13 generally standard conditions.

6.0 PLANNING HISTORY

6.1 There is evidence of two previous appeals on this site that may be summarised as follows:

6.2 **PL08.243495 (Reg Ref 14/180)** – the Board refused permission 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.

6.3 **PL08.245895 (Reg Ref 15/431)** – The Board refused permission in April 2016 for demolition of the dwelling and its replacement for two reasons which can be summarised as follows:

1. The extent of the rear projection would cause significant overbearing and overshadowing of the adjoining property to the east
2. The revised design introduced elements that would be visually incongruous and the ridge height is appropriate given the inclusion of these buildings in the ACA

7.0 POLICY CONTEXT

7.1 The operative plan for the area is the **Dingle Functional Area Local Area Plan 2012 – 2018**. The site is zoned **Existing Residential**. Policies relevant to this development are as follows:

- **TC-3** Ensure that future development in the town centre is sympathetic to the existing built heritage of the town. Promote in-fill development while maintaining the building line throughout the central core area.

- **UD-2** Ensure the design of premises or the refurbishment of existing premises in the town is sympathetic to existing development in the vicinity, complies with the objectives of the Architectural Conservation Area, and is of a design composition that enhances the streetscape.
- **BH-2** Encourage the appropriate reuse and sensitive restoration of unused/derelict properties in the town.
- **BH-3** 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 developments must be designed to a high architectural standard and must take cognisance of local design features and materials.

8.0 GROUNDS OF APPEAL

8.1 The first party appeal has been prepared and submitted by Alec O'Conchuir, An Ghraig, Baile An Fheirtearaigh against the decision of Kerry County Council to grant planning permission. The main issues raised in the appeal may be summarised as follows:

- Impact on adjoining property due to severe overshadowing
- Inconsistencies between what exists on the ground within the proposed site and that of the drawings of the existing and proposed development
- Overlooking of the rear garden on the adjoining property due to position of glazing on third floor side elevation, this would have major negative impact on the enjoyment afforded to the appellant's family
- The proposed dwelling would have a detrimental effect on the character of the adjoining properties within the Architectural Conservation Area due to its proposed design
- Overdevelopment of the existing site which is zoned Residential Existing in the Dingle Local Area Plan and which would adversely affect the character of an Architectural Conservation Area
- The proposed demolition of the existing dwelling house could severely impact on the structural integrity of the appellants dwelling as it directly adjoins his property within an Architectural Conservation Area
- Construction of the development beyond the existing rear building line would have a high risk of causing major subsidence to the stone party boundary wall as the proposed ground floor is completely underground and constructed only 600mm from the centre of the old stone party boundary

8.2 **NOTE:** The appeal was accompanied by a letter from Malachy Walsh & Partners, Engineering and Environmental Consultants advising inter alia all issues relating to proposed adjoining works, particularly demolition works, be addressed and agreed by all parties in advance of the commencement of any works.

9.0 RESPONSE OF THE PLANNING AUTHORITY

9.1 There is no response to the matters raised in the appeal(s) from Kerry County Council recorded on file.

10.0 FIRST PARTY RESPONSE TO THE APPEAL

10.1 the first party response to the appeal was prepared and submitted by Declan Noonan on behalf of the applicant and may be summarised as follows:

- Difficulty securing permission for a family home
- The reasons for the two previous refusals have been taken on board in this current application
- The current proposal is complementary to the existing streetscape
- There is a high quality finish proposed to ensure the property will be completed to a very high standard
- There are no windows proposed on the upper levels and there is no opportunity to overlook the appellant's property from the proposed development. The applicant is reluctant to remove the roof lights as they will provide excellent natural light into the stairwell
- The development does not constitute overdevelopment of the site. The modest rear projection incorporates excellent quality private open space and ancillary storage. The plot ratio and site coverage are modest and in keeping with acceptable standards.
- This is a modest extension that promotes the sustainable re-development of a derelict, infill, brownfield site. The design approach was carefully considered and has been guided by best principles.
- In the previous refused scheme, the Over Shadowing and Sun Study concluded that there would be no significant detrimental effect on the quality of light received by the neighbouring windows.
- The proposed scheme would not seriously injure the amenities of adjoining occupiers, would result in an acceptable standard of development in respect of density, design and open space provision.
- The demolition of the existing dwelling is acceptable on conservation and heritage grounds.

11.0 OBSERVATIONS / SECTION 131 RESPONSES

11.1 None recorded on file.

12.0 ASSESSMENT

12.1 This is the third appeal for the demolition of the dwelling and its replacement at the site in question. Planning reference number PL08.243495 (14/80) and PL08.245895 (Reg Ref 15/431) refers. Both previous appeal were refused by the Board.

12.1 Having regard to the information presented by the parties to the appeal and in the course of the planning application and to my site inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be addressed under the following general headings:

- Principle / Policy Considerations
- Architectural Treatment
- Residential Amenity
- Structural Works
- Appropriate Assessment Screening
- Other Issues

13.0 PRINCIPLE / POLICY CONSIDERATIONS

13.1 This is an application for permission for the demolition of a derelict uninhabited dwelling and the construction of a new dwelling in Dingle Town on lands zoned existing residential. The dwelling to be demolished is not listed on the record of protected structures and neither is it located within a designated conservation area although its proximity to the adjoining ACA is noted. The dwelling, in my view does not have any distinctive architectural merit and does not contribute beneficially to the area in terms of visual amenity, character, or accommodation type. Further the demolition of this structure has already been deemed appropriate and its retention was not sought by either the Planning Authority or An Bord Pleanála in the two previous decisions.

13.2 Accordingly, there is no objection in principle to the proposed demolition of this habitable dwelling house together with the redevelopment of this serviced, zoned site for a single dwelling unit at this location subject to the acceptance or otherwise of site specifics / other policies within the development plan and government guidance.

14.0 ARCHITECTURAL TREATMENT

14.2 I have considered the previous refusals on this site and it is evident that the developer has taken on board the previous reason for refusal in their design response and it is particularly noted that the roof ridge has been set 300mm below the ridge line of the adjoining terrace. Overall I am satisfied that the scale of the scheme does not overwhelm or dominate the character and appearance of the adjoining ACA that it is compatible with the surrounding area. In conclusion,

therefore, I consider that the proposed development will not seriously injure the visual amenities or character of the adjoining Architectural Conservation Area or the overall streetscape.

14.0 RESIDENTIAL AMENITY

14.1 Having regard to the scale and location of the rear extension I do not consider that the scheme would if permitted, form an unduly overbearing or dominant element when viewed from the adjoining properties or surrounding areas. Furthermore, I am satisfied that the design, scale, form and positioning of the proposed extension to the rear of the replacement dwelling strikes a reasonable balance between the protection of the amenities and privacy of the adjoining dwellings, that it will not result in any significant over shadowing of adjoining properties and that it will not result in any unreasonable loss of natural light or overlooking to neighbouring residential properties. I do not consider that the proposed development would seriously injure the residential amenities of the area.

15.0 STRUCTURAL WORKS

15.1 The appellant raises concern that the proposed demolition of the existing dwelling house could severely impact on the structural integrity of the appellants dwelling and that that construction of the development beyond the existing rear building line would have a high risk of causing major subsidence to the stone party boundary wall. I also note the letter from Malachy Walsh & Partners, Engineering and Environmental Consultants that accompanied the appeal advising inter alia that there is always potential risk of damage to a property or part of a property where an adjoining property is proposed to be demolished.

15.2 It is my view that impacts to the structural integrity of the adjoining property as result of the development is an engineering issue. This is not a planning issue in this instance whereby it falls to the applicant to ensure that there is no damage or deterioration to adjoining properties. However, I agree with the conclusion reached by Malachy Walsh & Partners where it states that all issues relating to proposed adjoining works, particularly demolition works, should be addressed and agreed in advance of the commencement of any works. Therefore, should the Board be minded to grant permission it may be appropriate to adopt a precautionary approach in this regard whereby a suitably worded condition is attached requesting details of the intended method of demolition and construction to be submitted and agreed in writing prior to commencement of work on the site.

16.0 SCREENING FOR APPROPRIATE ASSESSMENT

16.1 Having regard to the nature and scale of the proposed development, on a fully serviced site in Dingle town centre, the nature of the receiving environment and

proximity to the nearest European site (Dingle Peninsula SPA (004153) and Mount Brandon SAC (000375)), 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.

17.0 OTHER ISSUES

17.1 **Development Contribution** - Kerry County Council adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended) on 21st March 2011. The proposed development does not in my view fall under the exemptions listed in the “Exemptions from Payment of Development Contributions” Section of the scheme. However, I note from the Local Authority Planners Report that no levy was applied in this instance. It was considered that the development was under the threshold figure set out in the levies applicable to different development classes where the scheme set out the rates of contributions to be levied on *all private residential housing units on serviced lands and domestic extensions > 60%*. The local authority based their decision not to apply a development contribution in this instance on the following calculations

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| Existing Dwelling House on site | 128 sqm |
| New Dwelling House | 175 sqm |
| Net Increase | 60 sqm |

18.2 I agree with the approach and interpretation taken by the Planning Authority in this instance (replacement dwelling) and recommended that should the Board be minded to grant permission that no Development Contribution condition is attached.

18.3 **Supplementary Development Contribution** - Kerry County Council adopted a Supplementary Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended) on 21st March 2007 for the Relief Road and associated Coach Car Park. The scheme applies to lands within the development boundary of the Dingle Local Area Plan. The proposed development does not in my view fall under the exemptions listed in the “Exemptions and Reduced Contributions” Section of the scheme. I do not consider that the scheme is exempt from the requirement to pay a supplementary development contribution scheme and therefore I recommend that should the Board be minded to grant permission that a Supplementary Development Contribution condition is attached.

19.0 CONCLUSION & RECOMMENDATION

19.1 I consider that the revised proposal addresses the reasons for refusal in the previous appeal. Having considered the contents of the application, the provision of the Development Plan, the grounds of appeal and the responses thereto, my site

inspection and my assessment of the planning issues, I recommend that permission be **GRANTED** for the reasons and considerations set out below.

20.0 REASONS AND CONSIDERATIONS

20.1 Having regard to the location of the site within the town of Cahersiveen, the land use zoning objective for the site, the established residential use of the site, the pattern of development in the area, the nature and scale of the proposed development, and the policy considerations set out in the current Development Plan for the 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.

21.0 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 16th day of May 2016, 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. 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.

3. 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.

4. (a) The submission of an annotated photographic survey of the existing derelict dwelling house on site, both internal and external shall be submitted for the written approval of the Planning Authority prior to the commencement of developing.
- (b) The brick wall to the southern boundary shall be retained to form a feature of the development and shall be protected during the course of construction works
- (c) The use of uPVC is not permitted. All finishes on the exterior should complement the adjoining Architectural Conservation Area and should be submitted for prior approval to the Planning Authority prior to commencement of development.

Reason: to keep a record of the building and to enhance and protect the character of the adjoining designated Architectural Conservation Area.

5. 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.
 - (g) Details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels;

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

6. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management

7. Drainage arrangements, including the attenuation and disposal of rain water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health

8. The developer shall pay to the planning authority a financial contribution in respect of the Dingle Relief Road and Associated Coach Car Park in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission

Mary Crowley
Senior Planning Inspector
26th October 2016