



An
Bord
Pleanála

Inspector's Report PL.08.247916

Development	Construct house and all associated site works.
Location	Killnabrack Upper, Glenbeigh, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	16/1068
Applicant(s)	Karl and Caroline Griffin
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Christine O'Riordan
Observer(s)	None
Date of Site Inspection	25 th April 2017
Inspector	Kenneth Moloney

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1.0 Site Location and Description

- 1.1. The subject site is located on the outskirts of Glenbeigh and to the south of the village centre.
- 1.2. There is a line of established houses located along the public road either side of the appeal site as such the subject site is an infill site.
- 1.3. There is a continuous line of houses located on the opposite side of the public road however these houses are situated on higher ground than the appeal site.
- 1.4. The size of the appeal site is 0.141 ha (0.34 acres) and the shape of the appeal site is approximately square.
- 1.5. The gradient of the appeal site falls steadily from the public road to the rear of the site.
- 1.6. The appeal site offers panoramic views over Dingle Bay.

2.0 Proposed Development

- 2.1. Planning permission is sought for the construction of a dwelling and a garage served by a waste water treatment system.
- 2.2. The floor area of the proposed house is 199 sq. metres and the floor area of the proposed garage is 21 sq. metres.
- 2.3. The proposed house is a split level height, i.e. single storey facing onto the public road and two-storey facing towards the rear of the site. The floor plan comprises of living space and a bedroom at ground level and two bedrooms at first floor level.
- 2.4. The eaves height of the proposed house is 4.3 metres to the front and 7.5 metres to the rear.
- 2.5. The proposed development includes vehicular access onto the public road.

3.0 Planning Authority Decision

Kerry County Council decided to grant planning permission subject to 12 conditions.

3.1. Planning Authority Reports

3.1.1. The main issues raised in the planner's report are as follows;

Area Planner

- The site is an urban site as such no visual impact issues arise.
- There are no negative impacts on any neighbouring residential amenities.
- The 2 no. windows on the southern side elevation are to be omitted and replaced with a narrow high window on the gable for daylight purposes.
- Traffic is not an issue.

3.1.2. Submission; - There is a submission from Irish Water who have no objection to the proposed development. There is also a submission from Transport Infrastructure Ireland who have no observations to make.

3.2. Third Party Observations

There is one third party submission and the issues raised have been noted and considered.

4.0 Planning History

10-Year Planning History

- L.A. Ref. 09/587 – Permission **refused** as the Planning Authority were not satisfied that the effluent arising from the proposed development could be adequately treated and disposed of to the ground water. The proposed development would be prejudicial to public health.

- L.A. Ref. 08/2242 – Permission **refused** a dwelling house, garage and septic tank. The reason for refusal stated that the Planning Authority was not satisfied on the basis of the submissions that the effluent arising from the proposed development could be adequately treated and disposed of to the ground water. The proposed development would be prejudicial to public health.

5.0 Policy Context

5.1. Development Plan

The operational Development Plan is the Kerry County Development Plan, 2015 – 2021.

5.2. Killorglin Functional Area Local Area Plan, 2010 – 2016

The appeal site is zoned residential (ext.).

Policy Objective OO-1 is relevant. This policy encourages compact and sustainable village structure which makes effective use of infill sites.

6.0 The Appeal

The following is the summary of a party appeal submitted by Christine O’Riordan;

- The public road adjoining the appeal site serves as tourist walking route and is part of the Kerry Way.
- The appellant submits that she remodelled her house in 2011 and her kitchen offers ground floor to ceiling height views over Dingle Bay.
- It is submitted that the appellant’s new kitchen will now be looking into a gable wall should the house on the appeal site be constructed in its current position.
- The proposed development will cast a shadow into the appellant’s kitchen.

- The appellant requested that the applicant to flip their floor plan so that the garage would face the appellant's property. However, this did not occur.
- The proposed house is set back further than the existing properties either side of the appeal site.
- It is submitted that the appellant's property is set back approximately 7.9m from the road edge whereas the proposed house is set back 11m from the road edge.
- It is submitted that the front elevation of the proposed house will be set back approximately 1.1m behind the line of the neighbouring property facades.
- The proposed dwelling is approximately 7.9m deep at the gable and this is 0.6m deeper than the appellant's dwelling.
- It is submitted that the 0.6m difference combined with the 1.1m set back difference means that the rear of the proposed dwelling will extend approximately 1.7m beyond the appellant's property and will cause a major concern with privacy as there are two kitchen windows that will overlook the appellant's rear garden.
- It is submitted that the rear of the proposed house will overlook the appellant's property.
- It is submitted that the design of the proposed property gives the house a contemporary mono-pitch style, which gives the property a substantial mass and height. This is particularly the case for the rear façade.
- It is submitted that the proposed building will be visually overbearing and it is an inappropriate design for the village.
- It is contended that such a large building would be out of keeping with the neighbouring houses.
- The predominant house types are single storey dormer bungalows.

7.0 First Party Response

The following is the summary of a response submitted by the applicant's agent;

- The applicants currently live in Glenbeigh Village with their daughter who attends the local national school.
- The site is zoned residential.
- The proposed build is small scale (3-bedroom), well designed and within the village boundary.
- The proposed development is not a holiday home and is served by a separate waste water treatment unit.
- The subject development is urban infill and there are 1 and ½ storey houses on either side of the site.
- It is submitted that should permission be granted that it would complete a row of 7 continuous houses. There are four standalone houses across the road.
- The front of the house is designed similar to the style of the house to the immediate south of the subject site.
- The proposed house is in keeping with the established design character of the area.
- There are no objections from Kerry County Council, Irish Water and Transport Infrastructure Ireland.
- The Kerry Way referred to by the appellant is 1km in length of which 29 metres refers to the applicant's road frontage.
- It is submitted that there are full views of Dingle Bay and Wynn's Folly all along this route.
- It is submitted that there is a view of the Folly from the site to the north and there is also access to the Folly from this site.
- It is submitted that any loss of view from the appellant's kitchen window has been kept to a minimum. Through consultation with the applicant's neighbour

prior to lodging the planning application the proposed build was moved 1m closer to the road.

- It is submitted that claims that the proposed development will overshadow the appellant's property are incorrect given the orientation of the site.
- The reason for not flipping the proposed design and layout as requested by the appellant is to maximise light into the proposed kitchen / dinner.
- Condition no. 4 of the Kerry County Council permission requires removing 2 no. south facing windows and replacing them with one long narrow high level window.
- The set back distance of the proposed house from the public road is to allow the construction of a driveway to the front of the proposed house. The subject site is very steep and requires a landscape retaining embankment.
- In relation to overlooking it is submitted that the proposed builds ground floor is 2.9m below the appellant's ground floor and it is not possible to overlook their property. Condition no. 4 of Kerry County Council permission will ensure that no overlooking arises.
- The style of the property is in accordance with the house to the north.
- It is submitted that the proposed house is only slightly larger than the appellant's house.
- The proposal is less imposing in the landscape as it is incorporated into the landscape. The proposed mon-pitch roof ensures less height to the front of the proposed build and the proposed build sits on a plot much larger than the appellant's plot.

8.0 Assessment

- Principle of Development
- Impacts on Established Amenities
- Access
- Visual Impacts

- Drainage
- Appropriate Assessment

8.1. **Principle of Development**

The proposed development is for a split level house and is located on site that is zoned residential in accordance with the land use zoning map for Glenbeigh which is part of the Killorglin Functional Area Local Area Plan, 2010 – 2016. The subject site is effectively an infill site as there are two established houses located to the north of the appeal site and four houses located to the south of the appeal site.

Policy Objective OO-1 of the LAP, 2010 – 2016, is relevant and this policy states it is an objective to '*encourage the development of a compact and sustainable village structure by ensuring that new development is contiguous with existing development and makes effective use of backland and infill sites*'.

Therefore, having regard to the location of the subject site, which is a zoned infill site, I would consider that the principle of the proposed development on the subject site would be acceptable provided that the proposal has adequate residential amenity and adequately safeguards the residential amenities of the adjoining properties, and would be in accordance with the development plan provisions.

8.2. **Impacts on Established Amenities**

I would note that the appellant is generally concerned that the proposed development will adversely impact on their established residential amenities in terms of overlooking, overshadowing and visually overbearing. The primary reason for these concerns is the front building line of the proposed house is set back approximately 2m – 2.5m from the appellant's property which is situated to the immediate north of the appeal site.

I would consider having regard to the submitted site layout plan that overshadowing would not be a genuine concern given the orientations of the proposed development in relation to the existing house to the south of the appeal site.

In terms of overlooking potential, I would note that the appellant's house has ground floor to ceiling glazing at ground floor level to the rear and on their northern gable elevation. These established windows would offer panoramic views over Dingle Bay to the north and west. As such and having regard to the difference in building lines the proposed development would slightly impact on some of these views. However, in response I would argue that the appeal site is zoned for residential development and some level of impact on these views can be anticipated and furthermore the applicant states that given the steep gradient of the appeal site it is necessary to set back the proposed property from the public road as proposed in the submitted site layout plan to allow for the construction of a driveway. Also in terms of visual overbearing I would note from the submitted drawings that the southern gable wall of the proposed house is set back approximately 10m from the existing house which is a satisfactory set-back distance. I would consider that planting along the boundary would mitigate further issues in relation to visual overbearing and overlooking. Furthermore, it is evident from the submitted drawing 'Site Section B-B' that the proposed house is cut into the existing site and this will reduce visual impact of the proposal further. As such the appeal site has also lower levels than the appellant's property. In order to address potential overlooking Kerry County Council in granting permission imposed condition no. 4 which effectively eliminates overlooking from the proposed development towards the appellant's property. I would concur with the applicant that overlooking of the proposed development is likely to occur from the appellant's property.

Overall I would consider that issues in relation to overshadowing, overlooking and visual overbearing would not be significant to warrant a refusal of permission and I would recommend condition no. 4 of the local authority permission to the Board, should they favour granting permission, to address potential overlooking.

8.3. **Vehicular Access**

I noted during my site inspection that the sightline provision in either direction from the appeal site was good with unobstructed views. There are also established vehicular entrances located on the same side and the opposite side of the public road from the appeal site.

There is a submission on the file from Transport Infrastructure Ireland who indicate that they have no observations to make and the Planning Authority have indicated in the Planner's Report that they have no issues with traffic. Overall the proposed vehicular access is acceptable.

8.4. **Landscape**

The appellant states that the proposed development is located adjacent to the Kerry Way which is a designated tourist walking route. The Kerry Way is effectively the public road serving the appeal site. I noted from my site inspection that the public road offers panoramic views towards Dingle Bay. The land-use zoning map for Glenbeigh indicates protected views to the west of the appeal site towards Wynn's Folly and the proposed development will not have any impact on these designated protected views.

I have also reviewed the Kerry County Development Plan, 2015 – 2021, and I note that there are protected views outside the Glenbeigh settlement boundary but immediately adjoining the settlement boundary. However, the proposed development will have no impact on these protected views given the separation distance of the proposed development from the protected views.

The proposal is an urban infill development and overall I would consider having regard to the proposed design, the pattern of development in the local area, and the landscape designations that the proposed development would not unduly impact on the landscape character or the visual amenities of the area.

8.5. Waste Water Treatment

In considering proposals to deal with on-site waste water treatment I would have regard to the planning history of the appeal site. In the previous application on the appeal site (L.A. Ref. 09/587) permission was refused for a dwelling on the site as the Planning Authority were not satisfied that the effluent arising from the proposed development could be adequately treated and disposed of to the ground water.

The Council Engineer in assessing the previous proposal considered that as the proposed percolation pipes ran perpendicular to the site contours they would not be acceptable. It was also noted that due to the steep slope on the site it would mean that the invert level of the pipework varied sharply with the existing ground levels. The Council recommended that a solution for the site would be a mechanical aeration unit followed by a soil polishing filter where the percolation trenches ran parallel to the site contours.

The previous waste water treatment was an effluent treatment tank with a soil polishing filter. The current proposal is a packaged wastewater treatment system and polishing filter and the applicant has chosen to install a Tricel P6 pumped system, sand polishing filter and distribution gravel bed. In considering the current proposal, I have reviewed the submission from the manufacturer (tricel), the site characterisation form and the report from the Environment Section of the Local Authority. The current proposal represents a secondary treatment system and a final polishing filter. The proposal also includes approximately 1000mm of unsaturated soil between the point of infiltration of effluent and the aquifer to be protected.

I would consider on the basis of the information available that the applicant has adequately addressed the previous refusal reason in L.A. Ref. 09/587 and the proposed development would not be prejudicial to public health.

8.6. **Appropriate Assessment**

The appeal site is located several hundred metres outside and to the west of the Killarney National Park, McGillycuddy Reeks and Caragh River Catchment SAC (site code 000365). The general topography of the local area slopes from an east to west direction. Therefore, the natural flow of any drainage from the appeal site is in a westwards direction away from the designated SAC. Having regard to the nature and scale of the development proposed, to the nature of the receiving environment and the likely effluents arising from the proposed development I recommend that no appropriate assessment issues arise.

9.0 **Recommendation**

I have read the submissions on the file, visited the site, had due regard to the Local Area Plan Plan and the County Development Plan, and all other matters arising. I recommend that planning permission be granted for the reasons set out below.

10.0 **Reasons and Considerations**

Having regard to the zoning objective of the appeal site in the Killorglin Functional Area Local Area Plan, 2010 – 2016, and the pattern of development in the local area, it is considered that subject to compliance with conditions set out below, the proposed development would not seriously injure the amenities of the area and would be in accordance with the proper planning and sustainable development of the area

11.0 **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 points of detail to be agreed with the planning authority, these matters shall be the subject of written

agreement and shall be implemented in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. 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 and to ensure a proper standard of development.

3. The proposed development shall be modified as follows;
 - a. the proposed 2 no. windows on the southern gable shall be omitted and replaced with a high level narrow window to allow for daylight into the proposed dwelling house.

Revised drawings showing compliance with the above requirements shall be submitted to the planning authority for written agreement prior to the commencement of development.

Reason: In the interest of residential development of the adjacent properties.

4. The proposed vehicular entrance shall be designed and constructed in accordance with the requirements of the planning authority. Details shall be agreed with the planning authority prior to the commencement of development.

Reason: In the interests of traffic safety.

5. Prior to commencement of development, details of the materials, colours and textures of all the external finishes shall be submitted to the planning authority for agreement.

Reason: In the interest of orderly development and the visual amenities of the area.

6. The house to be used as a single dwelling unit.

Reason: In the interest of clarity.

7. Details for all boundary treatment to serve the proposed development shall be submitted for the written agreement of the Planning Authority prior to the commencement of development.

Reason: In the interests of amenity and the proper planning and sustainable development of the area.

8. The site shall be landscaped with suitable trees, shrubs or hedging which shall mainly be of indigenous species. Details shall be agreed with the planning authority before development commences.

Reason: In the interest of visual amenities.

9. That all necessary measures be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

- 10 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 the commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of amenities and public safety.

- 11 All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

Reason: In the interest of orderly development and the visual amenities of the area.

- 12 Surface water from the site shall not be permitted to drain onto any public roads.

Reason: In the interest of traffic safety.

- 13 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Kenneth Moloney
Planning Inspector

5th May 2017