



An
Bord
Pleanála

Inspector's Report PL.08.247925

Development	Extension to house and all ancillary site works.
Location	Main Street, Cahersiveen, Co. Kerry.
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	16/1094
Applicant(s)	Andrew & Kate Cooke
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	As above
Observer(s)	Donal O'Connell, Ann & Jim Madigan
Date of Site Inspection	26 th April 2017
Inspector	Kenneth Moloney

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1.0 Site Location and Description

- 1.1.1. The subject site is located on the Main Street in Cahersiveen, Co. Kerry. The subject property currently operates as a public house and restaurant at ground floor level and there is a family residential unit at first and second floor level comprising of a 3-bedroom dwelling.
- 1.1.2. The living area of the residential unit at first floor level has access to an outdoor deck to the rear. This outdoor deck or roof terrace is south facing and is the amenity space for the residential unit.
- 1.1.3. The rear (southern end) of the outdoor deck / roof terrace has access onto a car park which is accessed from the The Old Road further south of the appeal site. This car park provides parking provision for the appeal property.
- 1.1.4. The overall property also includes rooms for short-term let and these are accessed off the car parking area and their front access faces onto High Street.

2.0 Proposed Development

- 2.1.1. Planning permission is sought for the erection of an extension at first floor level consisting of two private bedrooms and living area.
- 2.1.2. The floor area of the proposed extension is approximately 72 sq. metres.
- 2.1.3. The proposed extension will have access onto a first floor deck.

3.0 Planning Authority Decision

Kerry County Council decided to refuse planning permission for the following reason;

It is considered that the proposed extension by reason of height, scale, orientation and proximity to neighbouring residential structures, particularly to the north east, would seriously injure the amenities and depreciate the value of the property in the vicinity by reason of over-shadowing and would, therefore, be contrary to the proper planning and sustainable development of the area.

Planning Authority Reports

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

Area Planner

- There is a major issue with residential amenity as the proposed development will overshadow neighbouring properties in particular to the north-east.
- EIA not required in this instance.
- No likely potential for significant effects of any Natura 2000 sites.

3.1.2. Conservation Officer; - No objections.

3.1.3. Submissions; - There is a submission from Transport Ireland who have no objections.

Third Party Observations

There are 2 no. third party submission and the issues raised have been noted and considered.

4.0 Planning History

10-Year Planning History

- L.A. Ref. 10/388 – Retention permission **granted** for alterations to elevations and provision of disable accessible bedroom within altered roof space at first floor level.
- L.A. Ref. 07/4092 – Permission **granted** to retain alterations to rear elevation for permission to alter and extend premises at rear and to erect a new building containing a shop and apartment.

5.0 Policy Context

Development Plan

The operational Development Plan is the Cahersiveen, Waterville and Sneem Functional Areas Local Area Plan, 2013 – 2019, and the site is zoned Town Centre.

6.0 The Appeal

The following is the summary of a first party appeal submitted by Frank Curran, Consulting Engineers Ltd., on behalf of the applicant.

Overshadowing

- It is submitted that there is similar type of extensions built to the immediate north-east of the appeal site.
- The proposed extension will be using the existing wall and roof on the north-east elevation which consists of at least 50% of the development of the elevation.
- The proposed development is consistent with existing extensions and is consistent with the development plan objectives.
- The proposed extension is constructed on top of a screen wall which was constructed in agreement with the Planning Section of Kerry County Council. It is proposed to tie the roof of the extension onto the extension of the screen wall.
- This proposal would increase the height of the screen wall by approximately 200mm.
- The pitch in the proposed roof will be reduced to a minimum which is 25 degrees.
- Given the existing screen wall the amount of overshadowing into the neighbouring property to the south-west will be minimum.
- It is submitted that town centre development will always result in overshadowing.

- The properties to the north-east are secondary holiday homes not occupied all the time.

Height, Scale orientation and proximity to neighbouring residential structures

- The proposed height, scale and orientation and proximity to neighbouring structures is similar to the extensions which have been built on the three adjoining properties.

Sustainable Development and Zoning

- The proposed development provides for family living in the centre of the town as opposed to living on the outskirts of the town. The proposed development supports sustainable development and is consistent with the zoning objective for the local area.

Observations

The following is the summary of an observation submitted by the Donal O'Connell, Architect.

- The observer fully supports the decision by Kerry County Council.
- It is submitted that a boundary wall has been constructed contrary to planning permission. This boundary walls results in overshadowing and the area adjoining the wall is also used as a play space and a storage space.
- It is noted that any habitable room must be 2.4m high to comply with regulations. This will result in a higher structure than the boundary walls and increase the level of overshadowing to neighbouring properties.
- The immediate properties to the north-west of the appeal site are commercial and therefore concerns in relation to overshadowing are not as significant.
- The proposed new external wall of the proposed extension is illustrated as approximately 6.5m from the rear windows of the observer's windows and 4.5m from the observers neighbours windows.
- The proposed first floor rear extension would cause considerable overshadowing, over-dominance, overlooking and a serious reduction in privacy.

- The proposed development will also result in a serious reduction in light to the observer's property.
- It is contended that the proposed development would result in a complete enclosure of the observers rear garden and neighbouring gardens leading to a serious devaluation of property.
- The applicants own a large car park to the rear of their property and also own three large and recently renovated / converted residential properties on Old Post Office Street. Therefore, the applicants have considerable scope to house their family should they wish to.
- An Bord Pleanála has previously refused permission for a similar development by the applicants, i.e. appeal ref. 229466.
- The Board are requested to uphold the decision by Kerry County Council.

The following is a summary of an observation submitted by Ann and Jim Madigan;

- The observer's family own no. 1 Main Street and no. 2 Old Post Office Street for many generations.
- Following the building on the first floor of a solid boundary wall on the appeal property the light has been significantly reduced to the observer's kitchen and living area.
- The first floor rooms have also been affected and should further development go ahead it would result in little or no natural light for the rear of the observer's property.
- The proposed first floor rear extension would over dominate, overshadow and overlook and cause intrusion of privacy.

7.0 Assessment

- Principle of Development
- Impact on Adjoining Amenities

Principle of Development

In principle and having regard to the zoning objective for the appeal site the proposed development which is effectively an extension to an existing use is acceptable having regard to the established pattern of development in the area.

The challenge with the proposed development, having regard to the submissions on the file and a visual observation of the area, is the impact that the proposal may have on established residential amenities in particular those to the immediate north-west of the appeal site. The significant issue is therefore achieving a balance between extending an existing use without unduly impacting on established amenities.

Impact on Adjoining Amenities

The subject site is a town centre site with both a commercial and residential use in existence however the predominate use locally is commercial. In general, the established uses adjacent to the appeal site and facing onto Main Street are commercial in nature. The configuration of the appeal site is very similar to many properties located to the north west of the appeal site and these properties face towards the Main Street. These properties all have Main Street frontage, are rectangular in shape and mainly have 100% site coverage. Some of the properties located adjacent to the appeal site have small courtyards to the rear, either at first floor level or ground floor level.

However, the configuration of properties situated to the north-west are different than the appeal site as these properties face onto High Street and their frontage is west facing. The rear yards of these properties, which are generally ground floor level, are east facing and smaller than the properties facing onto Main Street. In general, these properties are smaller than the existing properties facing onto the Main Street.

Therefore, in my view allowing for the configuration of the sites locally, particularly the appeal site in relation to the sites to the north-west I would consider that the proposed development would give rise to difficulties in terms of impacts on amenities for the future extension of the appeal property.

There are two properties which face onto High Street and the rear yards of these properties adjoin the western boundary of the appeal site. I would acknowledge that the zoning objective is 'Town Centre' in accordance with the provisions of the Local Area Plan, however Town Centre zoning provision also includes an objective to accommodate residential uses.

I would consider that a genuine concern with the proposed development is visual impact and overshadowing given the orientation of the appeal site in relation to the properties which face onto High Street. However, the applicant's agent makes the case that there is an established boundary wall at first floor level, which is set back from the site boundary, and that the impact of the proposed extension will be no greater than any existing impact from the boundary wall. It is also submitted that the roof pitch of the proposed extension slopes gently westwards and this is a mitigating factor in terms of overshadowing and visual impact.

I also noted from a visual observation of the area that the existing rear yards to the rear of the adjacent properties facing onto High Street are small and poorly maintained and give the appearance that they are lightly used.

The height of the existing boundary wall is approximately 1.8 metres high and the roof height of the western elevation of the proposed extension is approximately 2.2 metres. I would consider that this additional height would result in additional overshadowing for the rear yards situated to the immediate north-west. I would consider that the rear yards are currently likely to experience relatively poor levels of light and any additional development would adversely impact on existing levels of

light. Furthermore, the rising roof, notwithstanding the low pitch, would also give rise to additional overshadowing. Overall I would consider that the applicant has not adequately demonstrated that the proposed extension would not unduly impact on the established residential amenities in terms of overshadowing and visual impact.

I accept the argument by the applicant's agent that the proposed extension will revitalise the town centre by providing residential accommodation for a family however given the scale of the proposed development it is likely that this residential extension will be at the expense of an existing residential accommodation to the north- west.

Overall I would consider that the proposed extension will unduly impact on the established residential amenities to the north-west of the appeal site and would therefore not be in accordance with the proper planning and sustainable development of the area.

8.0 Recommendation

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

9.0 Reasons and Considerations

1. It is considered that the proposed extension and by reason of its layout, height, proximity to existing properties and orientation would overshadow established residential amenities situated to the west of the appeal site, would be visually obtrusive, and would seriously injure the residential amenities of adjoining properties. As such the proposal would detract from the amenities of adjoining properties, would be out of character with, and fail to respect the established pattern of development in the vicinity, and would set an undesirable precedent for similar type of development in the area. The proposed development would,

seriously injure the residential amenity of the area and would, therefore be contrary to the proper planning and sustainable development of the area.

Kenneth Moloney
Planning Inspector

28th April 2017