



An
Bord
Pleanála

Inspector's Report PL.08.248491

Development	Retention permission for (a) modifications and alterations to internal layout, (b) modifications to elevations, (c) the existing pavilion structure and (d) all landscaping.
Location	Faughbawn, Muckross, Killarney Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	16/781
Applicant(s)	Eilish Madden
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	John Madden
Observer(s)	None
Date of Site Inspection	26 th July 2017
Inspector	Kenneth Moloney

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1.0 Site Location and Description

- 1.1. The subject site is in a rural area situated approximately 3 km south east of Killarney town centre.
- 1.2. The local area is sparsely populated but the existing house on the appeal site forms part of a row of 4 no. houses.
- 1.3. The existing house on the appeal site is contemporary in character and has a T-shaped layout and has a high proportion of voids to solids.
- 1.4. The existing house is primarily single storey in height but part of the house is one and half storeys in height.
- 1.5. The front garden is enclosed by a front stone wall which is approximately 1.2m high and the front garden is landscaped and this includes a stone pavilion which is used to store garden chairs and garden tools.

2.0 Proposed Development

- 2.1. Retention planning permission is sought for the following; (a) modifications to internal floor layouts, (b) modifications to alterations, (c) the existing pavilion structure and (d) all landscaped works.
- 2.2. Permission was granted previously in 1984 (L.A. 84/503) for a 5-bedroom bungalow dormer.
- 2.3. The existing house on the appeal site, for which retention permission is sought, has altered significantly from that of the previously permitted house. The floor area of the existing house is 319 sq. metres.
- 2.4. The permitted dormer 5-bedroom bungalow was traditional in design terms whereas the built house is contemporary in design terms.
- 2.5. The layout of the existing house is T-shaped. The existing house is primarily single storey in height but part of the house is one and half storeys in height.
- 2.6. The development for retention also includes a single storey garden pavilion which has a floor area of approximately 10 sq. metres.

3.0 Planning Authority Decision

Kerry County Council decided to grant planning permission subject to six conditions. The conditions are standard for the nature of development proposed.

3.1. Planning Authority Reports

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

Area Planner

- The existing house was built under planning approval 84/503.
- The dwelling granted in 1984 was a 5-bedroom house.
- It is claimed by an objector that the number of bedrooms has been understated.
- EIA not required in this instance.
- No likely potential for significant effects of any Natura 2000 sites.

3.1.2. Road Design Office; - No objections subject to conditions.

3.2. Third Party Observations

There is 1 no. third party submission and the issues raised have been noted and considered.

4.0 Planning History

Planning History

- L.A. Ref. 84/503 – Permission **granted** for a 5-bedroom dormer bungalow subject to 7 no. conditions.

5.0 Policy Context

5.1. Development Plan

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

Section 13.1 sets out ‘standards / guidelines’ for all development. This section outlines guidelines in relation to design.

Section 13.4 sets out ‘standards for residential development in Rural and Non-Serviced Sites’. This Section outlines guidance in relation to design.

6.0 The Appeal

The following is the summary of a third-party appeal submitted by **Ray Madden** who resides in Caherdanial;

- It is submitted that the applicant has provided the County Council with false and misleading information.
- There are 2 no. beds indicated on the submitted drawings in ground floor bedroom no. 3 rather than the single bed indicated on the submitted drawings.
- It is submitted that the bedroom no. 1 has an en-suite which is not indicated on the submitted drawings.
- The indicated study at first floor level is a bedroom with an en-suite.
- It is acknowledged that normally internal changes to a house would not require planning permission however the internal layout indicated in the drawings is different to that required to enable a suitable treatment plant to operate.
- The treatment plant has a capacity of 7 persons whereas a population of 9 would be more correct.

- The omission of two bathrooms has also effected the design criteria for the treatment plant and the sand polishing filter.
- It is submitted that the land registry map is at variance with the map provided with the application.
- The statutory notices used different names to confuse people.

7.0 Responses

The following is the summary of an observation submitted by Niall Lyne, Architectural Technician, on behalf of **Eilish Madden** the applicant.

- It is submitted that it is the intension of the appellat to delay the planning process.
- It is submitted that the accusation that the applicant has purposely falsified the application with the intension to mislead the Council is incorrect.
- It is submitted that the sole purpose of the appeal submission is to delay the planning process to block the sale of the house.
- It is submitted that the bathrooms and en-suites are not required to calculate the size of the wastewater treatment plant.
- The new system is designed to accommodate 8 persons.
- The proposed house will provide for 5 no. bedrooms which accommodates 7 persons.
- It is submitted that the proposed development is consistent with the Code of Practice 'Waste Water Treatment and Disposal Systems'.
- It is submitted that the bedrooms no. 1 and no. 2 are double bedrooms with an occupancy of 4 persons. Whereas bedrooms no. 3-5 are single bedrooms with a total occupancy of 3 persons.
- The current application includes the decommissioning of the current waste water treatment system.
- The septic tank is located less than the minimum distance from the neighbouring boundaries, dwelling houses and roads.

- A percolation area was previously designed outside the legal and application site boundaries. It was located approximately 30 metres north of the application site in a neighbouring property.
- It is noted that that the planning application boundaries are not consistent with the Land Registry Deeds. However, this is consistent with Article 22 (b) of the Planning and Development Regulations, 2001.
- The submitted map no. 145_003_OSi represents the application site. This map indicates current legal landholdings, rights of way and the current planning application site boundary.
- A separate application has been submitted to the Land Registry Authority to address the boundary irregularities.
- Letters of consent, signed by neighbouring property owners, have been compiled in favour of the applicant.

The following is the summary of a response submitted by the applicant **Eilish Madden**;

- This submission requests that a decision is reached by the Board at their earliest convenience as the applicant has a deposit for purchase on the subject property.

The following is the summary of a response submitted by the appellant **Ray Madden**;

- This submission includes an Auctioneers brochure which indicates the internal layout of rooms in the subject property.
- The application has many defects.
- The internal layout of the house is totally at odds with the layout indicated on the drawings.
- It is submitted that the number of bedrooms and bathrooms were omitted to have a successful grant of planning permission.

- The original application was for a garage located to the east side of the house which is shown as a TV / games room. This is a change of use and should have been included in the planning application.

8.0 **Assessment**

- Principle of Development
- Impacts on Established Amenities
- Waste Water Treatment
- Appropriate Assessment

8.1. **Principle of Development**

The development to be retained includes modifications and alterations to an existing permitted house.

The existing permitted house, which obtained permission under L.A. Ref. 84/503, was a 5-bedroom dormer house of traditional design. However, the actual house built on the appeal site varies considerably from that permitted in design terms. The existing house on the appeal site is predominately single storey in height but there is a one and half storey part to the house. The design of the existing house is contemporary in nature.

I would also note that the appeal site is effectively an infill site as there are houses located either side of the subject property. I would consider that as permission has been established for a dormer bungalow and that the site is an infill site then the principle of alterations to a permitted house is accepted.

The development also includes the retention of a single storey garden pavilion structure. This structure is used for the storage of garden chairs and tools and I would consider that this structure adds to the character of the property.

8.2. **Impacts on Established Amenities**

I noted from a visual observation of the area that the house in question, notwithstanding the high proportion of glazing proposed, would not result in any overlooking of adjoining properties or would the subject property have any adverse impacts on any established residential amenities.

8.3. **Drainage**

The appellant argues that the number of bedroom spaces and bathrooms exceeds the capacity of the domestic waste water treatment plant. In this regard, it is argued that the existing house has a population equivalent of 9 persons whereas the domestic waste water treatment plant has a population equivalent of 7 persons.

The proposed house for retention is a 5-bedroom house and the permitted house is a 5-bedroom house as such there is no intensification to the number of bedrooms proposed.

I would note that the recorded T-value in the submitted site investigation report is 31.83. The E.P.A. publication, Code of Practice, Wastewater Treatment and Disposal Systems Serving Single Houses, 2009, advises that T values between 3 and 50 that the site is suitable for development of a septic tank or a secondary treatment system. The Site Characteristic Form recommends a waste water treatment plant below ground level with pump discharge to a sandcel type sand polishising filter.

During the course of the planning application the applicant acknowledged that there were irregularities with the existing domestic waste water treatment system. The applicant now proposes that the waste water treatment plant will comprise of a Tricel P8 wastewater treatment unit followed by 17.5m² sand filter which sits on a bed of gravel.

I would note that the internal report from the Council Engineer indicates no objections to the proposed development and is satisfied with the proposed domestic

waste water treatment system. Overall I would consider that the proposed domestic waste water treatment system having regard to the submitted site characterisation form and the modifications proposed is adequate to meet the existing house which is in use.

8.4. **Appropriate Assessment**

The appeal site is located approximately 1 km from the boundary of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (site code 00365). The existing house will be served by public water mains and domestic waste water treatment plant. There are established houses located near the subject property. 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 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 permitted development on the appeal site, the pattern of development in the immediate area, and the extent of the development proposed and to be retained, it is considered that subject to compliance with conditions set out below, the 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 retained and carried out and completed accordance with the plans and particulars lodged with the application, as

amended by the further particulars submitted on the 7th day of March 2017 except as maybe otherwise required in order to comply with the following conditions.

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 house to be used as a single dwelling unit.

Reason: In the interest of clarity.

4. 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.

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 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.

Kenneth Moloney
Planning Inspector

28th July 2017