



An
Bord
Pleanála

Inspector's Report PL08.248865

Development	Single-storey extension to rear of house.
Location	No. 4 Killowen Cottages, Killowen, Kenmare, County Kerry.
Planning Authority	Kerry County Council.
Planning Authority Reg. Ref.	17/108.
Applicant	Mary O'Callaghan.
Type of Application	Permission.
Planning Authority Decision	Grant permission subject to conditions.
Type of Appeal	Third Party v. Decision.
Appellant	Siobhan Tangney.
Observers	None.
Date of Site Inspection	6 October, 2017.
Inspector	Brendan Wyse.

1.0 Site Location and Description

- 1.1. No. 4 Killowen Cottages is located on the eastern outskirts of Kenmare, County Kerry. It comprises a mid-terrace 2 storey house that has been extended to the rear at ground floor level. In common with all the houses in Killowen Cottages, a series of four terraces, the house has a very long rear garden with vehicular access.
- 1.2. The appellant's house, No. 3 Killowen Cottages, adjoins to the west. This house has also been extended to the rear at ground floor level, including a conservatory and raised deck area.
- 1.3. The adjoining house to the east also features a small extension to the rear of the house. There is a large shed structure in the rear garden along the common boundary.
- 1.4. Garden boundaries between the properties are otherwise generally open, being defined in the main by post and chainlink fencing with some timber fencing and hedging closer to the houses. Ground levels fall somewhat away from the rear of the houses.
- 1.5. Maps and photographs in file pouch. The Board is also referred to the photographs attached to the Planning Authority Planner's Report.

2.0 Proposed Development

- 2.1. The proposed development comprises a further single-storey extension to the rear of the house. It would include the conversion of the existing kitchen extension to a bedroom and the construction of a new kitchen further to the rear with a courtyard in between. A hall/corridor would run along one side. The extension would be at the same level as the existing kitchen and would also have a flat roof. It would include rooflights and high level windows.
- 2.2. As originally proposed the extension, extending almost 18 metres into the back garden, would have spanned the full width of the garden. This was modified in a Further Information submission to the Planning Authority of 17th May, 2017. The revised design incorporates a step back from most of the length of the western site

boundary. The relative positions of the bedroom and kitchen are reversed and a new rear door to the side passage is provided. A section drawing illustrates the proposed foundation design to avoid interference with common boundaries. Details of how it is proposed to treat/finish that part of the extension that abuts the boundary to the west in the vicinity of the neighbour's extension and proposed drainage arrangements are also provided.

3.0 Planning Authority Decision

3.1. This is a decision to grant permission subject to conditions.

Conditions 1 and 2 require adherence to the modified design submitted on 17th May, 2017. Condition 2(c) further requires that the high level windows to the west elevation be glazed with opaque glass and that the door to the same elevation be solid with no glazing.

3.2. Planning Authority Reports

3.2.1. Planning Reports

These provide the basis to the Planning Authority decision.

3.2.2. Other Technical Reports

None generated.

3.3. Prescribed Bodies

No submissions received.

3.4. Third Party Observations

Objections to the proposed development were lodged by Siobhan Tangney, 3 Killowen Cottages, the appellant in the appeal. Issues raised are similar to those raised in the grounds of appeal.

4.0 Planning History

None of relevance.

5.0 Policy Context

5.1. Development Plan

5.1.1. Kenmare Functional Area Local Area Plan 2010 – 2016

Noted that this plan has expired.

Site was zoned 'Residential Existing'.

5.2. Natural Heritage Designations

None of relevance.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The application is lodged by Siobhan Tangney, No. 3 Killowen Cottages, the adjacent house to the west of the subject property. The main grounds may be summarised as follows:

- The proposed position of boundary walls relative to the appellant's property is inaccurate as it follows the line of her extension wall that was setback from the common boundary.
- No provision is made for run-off from the roof adjacent to the appellant's extension or to adequately drain the gap that would ultimately exist between the two extensions.
- The proposed extension, if built on the boundary, could seriously compromise the integrity of the appellant's extension and give rise to dampness.
- Due to the slope in the gardens away from the houses the extension, given its length, would reach an excessive height to the south resulting in overshadowing to the appellant's garden. The proposal would set a precedent for other similar developments.

- The proposed raft found could impair the proposed connection of the appellant's house to the pipe running southwards through the No. 4 and which is intended as part of the planned upgrade to the local sewage system.
- While some of the houses at Killowen Cottages have very modest extensions several have none.
- The Planning Authority has previously refused permission for extensions to two of the houses for reasons relating to scale, overshadowing etc.
- The proposed extension would overshadow the appellant's house, significantly darken her kitchen/living room area and depreciate the value of her property.

6.2. Applicant's Response

Includes:

- The finished floor level of the proposed extension would be lower than that of the appellant's extension while the roof level would be far lower.
- To lessen the impact, it is proposed to install planting along the western wall of the extension.
- The western wall of the extension adjacent to the appellant's extension will be setback 200 millimetres from the site boundary. A drain will be fitted between the extensions to collect the small amount of water that may gather there. The drain will be contained within the applicant's boundary. The finished floor level of the appellant's extension will be approximately 0.5 metres above the level of the drain so there will be no risk of dampness.
- A gutter will be fitted along the edge of the flat roof setback back 100 millimetres from the boundary.
- As the proposed extension would only extend about half way up the windows of the appellant's extension that face onto the applicant's property no significant darkening would occur.
- Any services crossing the area of the extension will be adequately protected or rerouted if necessary. The foul water connection to No. 3 will be maintained at all times.

- Details of a previous grant of planning permission at Killowen Cottages included.

6.3. **Planning Authority**

None received.

6.4. **Appellant's Further Submission**

Includes:

- The application drawings do not show the floor levels, the finished roof level and the existing ground levels relative to existing.
- There is a significant fall in the back garden as it extends southwards which is not detailed. As a result the development is likely to have a significant impact on neighbouring properties.
- The planting referred to is not shown and there is insufficient room for adequate planting given the proposed path.
- The proposed setback of 200 millimetres is not consistent with the Drawing MOL 120-16-01 Rev A which indicates the extension stepped into No. 3.
- The extension, effectively a 3 metre higher wall running along/adjacent to the appellant's property for almost 18 metres, will overshadow that property and have an unreasonable adverse impact on the appellant's enjoyment of her property.
- Details in relation to house levels and sewer levels are inadequate.

7.0 **Assessment**

- 7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise.

The issues are considered under the following headings:

- Residential Amenity
- Boundary Issues

- Foul Sewer
- Other Matters
- Appropriate Assessment

7.2. Residential Amenity

- 7.2.1. I acknowledge that the proposed extension, even as modified in the submission to the Planning Authority on 17th May 2017, would represent a substantial addition to the rear of a small house with a long but relatively narrow back garden. It is also the case that ground levels do fall somewhat away from the backs of these houses. Even a single storey extension, therefore, particularly one of such length/depth, at approximately 18 metres (with the existing extension included), needs to be carefully considered in order to ensure that no unreasonable impacts on the adjacent properties arise.
- 7.2.2. The appellants have referred to the absence of certain details on the application drawings, particularly in relation to ground, floor and roof levels. While I concur that the absence of such details is unfortunate, I do not consider that it is fatal to the application. In this I have had regard to the requirements of Article 22, Planning and Development Regulations, 2001 (as amended) in relation to drawings, plans etc., that accompany a planning application. I also consider that there is sufficient information in the document submitted with the application and the appeal to enable the Board to properly assess the proposal for planning purposes.
- 7.2.3. By reference to Section Drawing No. MOL 120-16-10 Rev A, submitted to the planning authority on 17th May 2017, it is evident that the finished floor level of the proposal would follow on from the existing kitchen extension that has clearly been set at a lower level than that of the main house and the small extension across the back of the house that currently accommodates a bathroom. Similarly, the proposed flat roof is designed to follow on from the existing roof of the kitchen extension. Allowing for the fall away from the house I am inclined to agree with the appellant that the bulk of the structure would be of the order of 3 metres high above existing ground levels and perhaps a bit higher than this at the southern gable. Given the immediate context of extensions and other structures at varying levels and of varying heights, and of very generous garden lengths, I do not consider this height to be

excessive even in such close proximity to party boundaries. The structure remains inherently single storey.

- 7.2.4. It follows that I do not consider that the proposed extension, as modified, would have an unduly adverse impact on the amenities of the adjoining properties. The setback proposed to the western elevation further reduces any overshadowing to the appellant's property. I do not consider that there is any basis to the contention that it would impact on property values.
- 7.2.5. One amendment I would suggest to further mitigate impacts to the appellant's property is the removal of the high level windows along the western elevation. While I note that it is proposed that these be glazed with opaque glass I would still consider that they would give rise to a significant perception of overlooking to the appellant's rear garden. Given the proposed internal courtyard and rooflights, as well as the extensive glazing to the southern bedroom elevation, they do not appear to be necessary from a light perspective. I recommend their removal by way of condition.
- 7.2.6. I agree with the applicant that that part of the extension immediately adjacent to the appellant's extension (conservatory) would not give rise to any undue darkening to the rear of that house. As illustrated on the section drawings the finished roof level would be the same as that of the existing kitchen extension and at a considerably lower level than the roof of the appellant's extension. I also note that the windows of that extension facing the common boundary are glazed with opaque glass.

7.3. **Boundary Issues**

- 7.3.1. The issues as raised in this appeal commonly arise with extensions of the type proposed. Generally, they are resolved between the affected parties driven by the fundamental consideration that planning permission in itself does not confer a right to carry out a development – Section 34(13) Planning and Development Act, 2000, as amended refers. Any planning permission issued in this case, therefore, will not enable the applicant's to carry out any works on the appellant's property without their consent. While I agree with the appellant that the applicant's proposals, as set out in their appeal submission, to step back 200 millimetres from the site boundary, are not reflected in the application drawings, I consider that the issue can be adequately addressed by condition.

7.3.2. From a technical perspective, I am satisfied that the applicant's proposals to collect rainwater in the gap between the extensions are satisfactory and that no dampness issues should arise. I am also satisfied that there is no basis to expect that the construction of the extension should affect the integrity of the appellant's extension. These matters are, of course, more properly dealt with under the Building Control code.

7.4. **Foul Sewer**

7.4.1. There is no clear information before the Board to suggest that there may be any significant level issues in relation to the foul sewer to the rear of the property. Again the treatment of the sewer within the development is more properly a matter for the Building Control code and there is no reason to believe that appropriate technical solutions will not be employed.

7.5. **Other Matters**

7.5.1. I draw the Board's attention to the fact that the Planning Authority Planner's Report on this case includes a formal EIA Screening. In my view such a screening exercise (formal EIA determination) is not warranted for a proposed development of such minor significant and has no legal basis. Being a domestic extension it is not a class of development for EIA and, therefore, cannot constitute sub-threshold development. Therefore, not even the de minimus scenario as expressly provided for under Article 109(2) Planning and Development Regulations applies.

7.6. **Appropriate Assessment**

Having regard to the nature and scale of the proposed development, being a domestic extension within a serviced urban area, 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.

8.0 **Recommendation**

8.1. I recommend that permission be granted subject to conditions for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the single-storey nature of the extension and the flat roof design it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of property in the vicinity and that it would be in accordance with the proper planning and development of the area.

10.0 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 to the planning authority on the 17th day of May 2017, 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 the 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. The development shall be modified as follows:
 - (a) The western wall of the kitchen element shall be setback 200 millimetres from the site boundary in accordance with the proposals outlined in the applicant's submission to the Board, dated 2nd day of August, 2017.
 - (b) The high level windows to the western elevation shall be omitted.

Prior to the commencement of the development revised drawings, illustrating these amendments, shall be submitted for the written agreement of the planning authority.

Reason: In the interest of protecting the residential amenities of the adjoining property.

3. 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.

Brendan Wyse,
Assistant Director of Planning
26 October, 2017.