



An
Bord
Pleanála

Inspector's Report 300677-18

Development	Proposed single storey extensions to the front and rear elevations of existing single storey dwelling together with internal and external alterations and all associated works.
Location	16 Lakelands, Tramore, County Waterford.
Planning Authority	Waterford City and County Council.
Planning Authority Reg. Ref.	17/747.
Applicant	Peter and Sheila Marnell.
Type of Application	Permission.
Planning Authority Decision	Permission with conditions.
Type of Appeal	Third Party
Appellant	Pebble Beach OMC Ltd.
Observer(s)	None.
Date of Site Inspection	25 th April 2018.
Inspector	Derek Daly.

2.0 Site Location and Description

- 2.1. The appeal site is located in an existing residential development Lakelands located within built up area of the town of Tramore in relative close proximity to the town centre and the beachfront. Lakelands is a development which appears to be comprised of a holiday homes type development and is accessed off the main road leading into Tramore from Waterford. The residential properties are single storied properties in groups of terraces of varying lengths 3 to 6 units but there are also detached and semi-detached units. Parking for the units are largely communal grouped parking located throughout the development.
- 2.2. The appeal site is a single storied property in a terrace of five units adjoining no 17 which is located at the end of the terrace. The dwelling has a stated floor area of 65.6m² has a L shaped footprint with an open front porch area and an A type pitch roof. The site as demarcated in red on the submitted drawings includes lands to the north through which there is a walkway with a gateway which connects to the public footpath to the east and to the west runs along the rear of the other terraced properties to the west units 13 to 16 inclusive.
- 2.3. North of the walkway is an open space area on which there are two sheds. This area is enclosed by a fence on the northern and eastern boundaries.
- 2.4. It should be noted that there is a concurrent appeal in relation to 17 Lakelands which is the site immediately adjoining the appeal site **ABP Reference Number ABP.300675-17.**
- 2.5. The site has a stated area of 0.0248 hectares.

3.0 Proposed Development

- 3.1. The proposal as submitted to the planning authority on the 25th of October 2017 was for the construction of single storey extensions to the front and rear elevations of the existing single storey dwelling together with internal and external alterations and all associated works. The stated area of the proposed extension of floor area is 16.9m².
- 3.2. The proposed extension provides for extension at the front to project to the furthest extent of the existing front bulging line and also for an extension to the rear extending approximately 1950mm out from the existing rear building line. The rear

extension has a pitched roof corresponding to the ridge height of the existing roof. There are alterations to the internal layout and the provision of a roof window on the front elevation section of the pitch roof.

3.3. It is proposed to connect to existing public piped services.

4.0 **Planning Authority Decision**

4.1. **Decision**

The decision of the planning authority was to grant planning permission for the development subject to eight conditions.

4.2. Planning Authority Reports

4.2.1. Planning Report

The planning report dated the 12th of December 2017 refers to:

- The site history;
- relevant provisions of the current development plan including zoning of the site;
- submissions received including third party objections;
- an appraisal of the development in the context of the information submitted;
- The acceptance of the principle of the proposed development as modest and not impacting on the area;
- An AA screening
- Permission is recommended.

4.2.2. Other reports.

The water services report indicates no objections to the development.

4.3. Other submissions.

Submissions were made by a nearby landowner and a management company questioning the ownership of lands referred to in the application and that the

objectors as owner have not given permission for lands outlines to be included as private open space and in relation to the walkway at the rear of the dwelling.

5.0 Planning History

5.1. Planning history has not arisen in any submission relating to the appeal.

There is reference to P.A. Ref No. 88/559 which related to an application for an extension of planning permission until 31/12/1999 in respect of 235 retirement/holiday homes.

6.0 Policy Context

6.1. Development Plan

- 6.1.1. The current operative plan is the Tramore Local Area Plan 2014-2020 and the site is zoned Tourism.
- 6.1.2. Appendix E of the LAP outlines development management standards and I would also note that Chapter 10 of volume 1 of the current Waterford County Development Plan 2011-2017 relates to Development Management and also outlines guidance and standards in relation to development.
- 6.1.3. Paragraph 10.23 refers to extensions and indicates *“the Planning and Development Regulations 2001 (as amended) provide exemptions from planning permission for extensions to the rear of dwelling houses subject to certain limitations on floor area, height, use, etc. Extensions to the side or front of a dwelling (except porches under 2m²) require planning permission. The Council shall only look favourably on extensions that respect the scale and character of the existing structure, and that afford protection to the existing residential amenity of the area”*.
- 6.1.4. Table 10.4 Open Space Standards outlines in relation to housing for the elderly /sheltered housing etc. indicating a requirement of 40m².

7.0 The Appeal

7.1. Grounds of Appeal

The appellant in a submission dated the 12th of January 2018 refers to:

- The appellant indicates that there are procedural matters arising from the planning application and the Board should invalidate the application or refuse the proposal outright.
- Reference is made to the issue of landownership and to Article 22(2)(g) of the Planning and Development Regulations 2001 as amended and that consent was not received from the landowner referencing the open area coloured yellow in figure 1 of the appeal submission and also referred to in figure 2 of the appeal submission.
- Reference is made to the background of the site and that the site forms part of a large retirement home/ holiday villas complex.
- The scheme was developed with open plan to the front and rear of the dwellings.
- The extension as proposed represents a 30% increase in the floor area and is significant.
- Reference is made to the current LAP in particular paragraph 10.23 which relates to private open space requirements for elderly/sheltered housing and where 40m² is required. Although the site is not specifically elderly/sheltered housing a similar standard it is reasonable to consider would apply in relation to the appeal site and the level of private open space is approximately 20m² excluding the disputed open space.
- The extensions as proposed are out of character with nearby and adjoining development.
- Reference is made to the Development Management Guidelines for Planning Authorities 2007 in particular paragraph 5.13 and to the assessment of the matter of land ownership and where the planning report acknowledges that the area in question is not in the ownership of the applicant.

7.2. Response to the Grounds of appeal

Planning Authority Response

The planning authority in a response dated the 6th of February 2018 indicates that the issues highlighted in the grounds of appeal were taken into consideration. The proposal is considered a modest scale house extension and would not adversely impact on the established residential and visual amenities of the area.

The Applicant Response.

The applicant in a response dated the 14th of February 2018 refers to;

- In relation to ownership the appeal site was constructed and first occupied in 1990 as part of a larger scheme however only 16 homes were constructed and reference is made to a memo from the County Manager that these homes do not form part of the holiday homes complex and a memo in relation to this is attached.
- There was a fence line erected between the 16 homes and what was subsequently developed outside of the 16 homes and the original fence has been renewed when it became dilapidated.
- PBOMC have only arrived on the scene lately and reference is made to correspondence from solicitors' of PBOMC confirming that the appellant and the neighbouring property has erected sheds and fences on the disputed lands.
- The sheds were erected 17 years ago.
- In relation to design and development plan matters care was taken in relation to the design and its context with the area.
- The extension is modest and is to provide for more modern living accommodation.
- The site has 78.5m² of private open space and the layout allows owners to interact with each other as any holiday home design encourages.
- Reference is made to the concurrent appeal on the adjoining property.

8.0 Assessment

- 8.1. Having regard to the submissions received and the documentation submitted the primary issue in relation to this appeal relates to the acceptability of the nature of the development as proposed and also considerations specific to the site itself in particular design and impact on the adjoining properties and area.
- 8.2. Much of the content received in the appeal submission relates to issues of ownership and rights in relation to property. I do not propose to address many of the issues raised and I would in this regard refer to section 5.13 of the department guidance on development management which refers to issues relating to title to land where it is indicated that *“the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts. In this regard, it should be noted that, as section 34(13) of the Planning Act states, a person is not entitled solely by reason of a permission to carry out any development. Where appropriate, an advisory note to this effect should be added at the end of the planning decision”*.
- 8.3. In relation to making a planning application there is nothing definitively to cast doubt on the bona fides of any assertion by the applicant to make a planning application or that the applicant does not have sufficient legal interest or that the Board may if satisfied with matters relating to proper planning and development decide to grant permission. However, such a grant of permission would be subject to the provisions of section 34(13) of the Act, referred to above and would not negate any party rights in relation to civil law.
- 8.4. In relation to the principle of the development the site is within an area zoned tourism and the principle of the proposed use is accepted.
- 8.5. Specifically, in relation to the matters applied for in this application / appeal, the proposed development is for the construction of single storey extensions to the front and rear elevations of the existing single storey dwelling together with internal and external alterations and all associated works. The stated area of the proposed extension of floor area is 16.9m² and the existing dwelling has a stated floor area of 65.6m².

- 8.6. The proposed extension provides for an extension at the front to project to the furthest extent of the existing front bulging line and also for an extension to the rear extending approximately 1950mm out from the existing rear building line. The rear extension has a pitched roof corresponding to the ridge height of the existing roof. There are alterations to the internal layout and the provision of a roof window on the front elevation section of the pitch roof.
- 8.7. In terms of scale the overall proposal is not I consider excessive and overly dominant in relation to the current dwelling. In terms of scale, height and proportion it respects the current dwelling and its surroundings and the wider area. I would have no objection to the scale and design as submitted and I consider the extension respects the scale and character of the existing structure and the existing residential amenity of the area.
- 8.8. I would note concern expressed in relation the diminution of private open space but there is private space of a limited area immediate to the site and the occupants of the dwelling would appear to have access to open space irrespective of issues of ownership in the immediate area. I would also note that the development as submitted does not impact the walkway referred to in submissions or any right of way.

9.0 Recommendation

- 9.1. It is recommended that permission for the development be granted for the following reasons and considerations.

10.0 Reasons and Considerations

- 10.1. Having regard to the pattern of development in the vicinity which is an established residential estate, the planning history of the overall site and the nature and scale of the proposed development, it is considered that the development would not be contrary to the proper planning sustainable development or injurious to the residential amenities of properties in 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 as amended by the further plans and particulars submitted on the 25th of October 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 commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interests of clarity

- 2 In relation to the proposed development the external features and finishes shall match those of the existing development

Reason: In the interests of orderly development and visual amenity

- 8 Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

Derek Daly
Planning Inspector

22nd May 2018