



An
Bord
Pleanála

Inspector's Report ABP-301582-18

Development

Dwelling

Location

Ardnamweely, St. Brendan's Place,
Killarney, County Kerry

Planning Authority

Kerry County Council

Planning Authority Reg. Ref.

18/160

Applicant(s)

Timmy O'Leary

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Timmy O'Leary

Observer(s)

Residents of St. Brendan's Place

Date of Site Inspection

11th July, 2018

Inspector

Kevin Moore

1.0 Site Location and Description

1.1. The site of the proposed development is located a short distance to the north of the centre of Killarney in County Kerry comprising land behind the residential estate of St. Brendan's Place and houses onto Rock Road. Housing in the adjoining estate primarily consists of terraced two-storey dwellings. The site is located to the rear of Nos. 54 and 55 St. Brendan's Place, accessed via a narrow lane serving as access to the rear of Nos. 51-61. The site consists of a narrow overgrown strip of mainly unfenced land that is flanked by overgrown lands. These lands comprise lands to the rear of residential properties on Rock Road which is a principal road into Killarney town centre. There is an existing detached dwelling to the south-west of the site which has been constructed to the rear of, and has access to, Rock Road.

2.0 Proposed Development

- 2.1. The proposed development would comprise the construction of a detached, gable-fronted, two-storey, two bedroom house to the rear of Nos. 54 and 55 St. Brendan's Place on a site with a stated area of 0.026 hectares. The gross floor area of the house would be 110.3 square metres. The development would be accessed from the lane serving as access to the rear of Nos. 51-61 St. Brendan's Place.
- 2.2. A covering letter submitted with the planning application refers to the site being the last remaining portion of land owned by the family and states that the applicant intends relocating back to Killarney from Dublin with his family. Noting the narrow width of the access lane, it was stated that the applicant proposes to park in the public parking areas of Brendan's Place and walk to the house.

3.0 Planning Authority Decision

3.1. Decision

On 17th April, 2018, Kerry County Council decided to refuse permission for the proposed development for two reasons relating to undesirable backland development and prematurity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted development plan provisions, reports received, and third party submissions. The site was referred to as a vacant site and it was submitted that the development of a dwelling on this infill-type site is acceptable under the 'Existing Residential' zoning objective for the land as set out in the Killarney Development Plan. It was acknowledged that a house had been permitted, and was constructed, on the southern portion of the overall plot to which the site originally was part and that this existing house has access via Rock Road. It was further noted that permission was recently granted for a house on a last plot along the eastern boundary with O'Kelly's Villas, with access from a laneway to the east. It was submitted that the existing laneway proposed to serve the proposed house was not designed to take traffic. It was submitted that the feasibility of providing pedestrian access to the house only via the lane was questionable, given that there would be no impediment to driving down the laneway. It was further considered that the site is located where there is some development potential and that, with the development of a plan, it would be possible to develop a number of residential units, with adequate vehicular access being addressed as part of that plan. Until such a plan is in place the proposal was seen to be premature. A refusal of permission was recommended.

3.2.2. Other Technical Reports

The Killarney Engineer requested information on how the applicant is to deal with the upgrading of the lane for pedestrian access.

3.3. **Prescribed Bodies**

Transport Infrastructure Ireland stated that it had no observations to make.

Irish Water requested details on how it is intended to connect to the public sewer and public water mains.

3.4. **Third Party Observations**

A third party submission was received by the planning authority from residents of nos. 51-61 St. Brendan's Terrace. The observation submitted to the Board reflects the principal planning concerns raised.

4.0 **Planning History**

I have no record of any previous planning application or appeal relating to this site. I note that planning permission was granted for a dwelling to the south-west of this site that accesses Rock Road (P.A. Ref. 09/205046).

5.0 **Policy Context**

5.1. **Killarney Town Development Plan 2009-2015**

Zoning

The site is zoned 'Existing Residential'.

Infill Development

Outside of the town centre infill and backland development is required to pay attention to the local character of the area in terms of blocks plots and buildings ... As a general rule the number of materials used on a building, should be kept to a minimum. Development will only be considered if it:

- Will not detract from the character of the area
- Will not be detrimental to the residential amenities of the area
- Will not be prejudicial to the proper planning and development of the area.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the appeal may be summarised as follows:

- The zoning of the land permits infill development and the development is compliant with the development plan provisions.
- Permission was recently granted by the Council on a neighbouring site which will also access St. Brendan's Place and this has set a precedent which is being continued by this application.
- There is ample public parking available in St. Brendan's Place and, as the house would be two bed roomed, it would most likely be served by only one car, if any at all.
- Pedestrian access only is proposed to the front of the house to prevent any possibility of vehicular access and will minimise disturbance to existing residents. The lane is 40m long and is well within a comfortable pedestrian travel distance to or from vehicular transport.
- The proposed development would connect to the public sewer and water mains in St. Brendan's Place by laying services along the laneway.
- The Council's Planner makes a number of assumptions and conclusions that are inconsistent with the principles of the Killarney Development Plan.

As part of the appeal submission, the appellant submits a drawing indicating how the lands at this location could be developed, with each back garden having a detached dwelling

6.2. Planning Authority Response

I have no record of any response to the appeal from the planning authority

6.3. Observations

The residents of Nos. 51 and 53-61 St. Brendan's Place raise concerns relating to access, lack of access to the public sewer, impact on amenity, the difference

between the proposal and others granted, and the failure to address the problems arising from the development of the proposal. The residents support the Council's decision.

7.0 Assessment

- 7.1. The site of the proposed development consists of a narrow strip of land to the rear of residential property on Rock Road, which is located to the south-west of the site. A house has already been developed on this plot under Planning Permission 09/205046 and this house has access onto Rock Road. The proposed site backs onto a very narrow lane that serves as access to the rear of Nos. 51-61 St. Brendan's Place which is located to the north. This lane reduces to below 3 metres in width over sections. The proposed site is, thus, effectively a landlocked plot that cannot adequately provide vehicular access due to the laneway constraints. It is evident that the proposed development does not constitute infill development but rather may reasonably be determined to be backland development. It is behind the properties on St. Brendan's Place and it is behind the dwelling to the south-west that has access onto Rock Road.
- 7.2. The configuration of this site, being extremely narrow in width (approximately 6 metres), places significant limits on the extent of development that may be accommodated, eliminating circulation space and access around the proposed structure and posing particular constraints, as a result of such development, on the developability of flanking properties that also lie to the rear of properties onto Rock Road. In this context, the individual development of this narrow plot could not rationally be viewed as being in the best interest of orderly, sustainable development for this location if these lands are to be pursued for residential development in the future. It would clearly undermine a cohesive approach to the appropriate development of the overall extent of backland that could potentially be available, which may accommodate a more sustainable development in the best interest of the development of the town of Killarney.
- 7.3. The applicant has sought to address the above issue by submitting to the Board a proposed development approach to the site and adjoining lands. This proposes a linear development of detached houses more or less in keeping with the character of

the current proposal in layout terms. It is evident that such a plan would be ill-judged, maintaining and exacerbating the landlocked nature of the development and intensifying the utilisation of access via the narrow lane. Such a plan could not be construed as sustainable or, indeed, functional.

- 7.4. In terms of impact on residential amenity, the proposed development would have two types of effect, namely for the occupier of the proposed house and for the existing residents whose properties back on to the service lane. The proposed development clearly has all the difficulties associated with poor access, requiring parking on the street within St. Brendan's Place, necessitating the servicing of the house by way of pedestrian access only. I submit that the laneway constraints have significant implications for the construction of the dwelling itself, inclusive of delivery of materials and utilisation by construction-related traffic. A functioning dwelling at this location would also demand serviceability from deliveries, a properly surfaced access road, lighting along a narrow laneway, etc. Further to this, there is no understanding that the developer is in a position to service the house by way of public sewer and water mains.
- 7.5. With regard to the established residents of Nos. 51-61, there are particular concerns about the siting of the dwelling immediately behind Nos. 54 and 55 and the direct overlooking from the front of the proposed house over the back gardens and rear elevations of these houses in the manner proposed. Evidently, the occupancy of the proposed house would introduce a degree of noise, disturbance and nuisance to the rear of Nos. 51-61 by the functioning of such a house immediately to the rear of these houses and utilisation of the lane. I consider that this negative impact on residential amenity clearly highlights the piecemeal, haphazard and backland form of development that would result from the current proposal.
- 7.6. With regard to any precedent that has been presented as such by the appellant, I again note the significant and material differences between the current proposal and the house to the rear of this site which has access onto Rock Road. I acknowledge the development recently permitted under P.A. Ref. 17/815 and submit to the Board that that there are significant differences in terms of site location and context. Further to this, notwithstanding any such permitted development, the backland nature of the proposed development now before the Board has significant adverse impacts on

residential amenity and constitutes piecemeal, development for which adequate access cannot be accommodated.

- 7.7. In conclusion, I consider that the proposed development should be refused for reasons relating to the adverse impacts arising from the backland nature of the development of a house on this plot and because of the constraints the development would likely have on any future orderly development of the overall lands at this location, which should appropriately be developed in a coherent and co-ordinated manner.

Note: I note that the planning authority undertook a screening for Environmental Impact Assessment for this development. This is an application for a house. This is a development to which EIA does not apply and to which screening for EIA should not be undertaken. The Board will note that the outcome from undertaking screening for EIA when it should not be undertaken can potentially have significant planning implications. No such screening is undertaken in this assessment

8.0 Recommendation

- 8.1. I recommend that permission is refused in accordance with the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to the restricted nature of the proposed site, its location immediately behind the established houses of Nos. 51-61 St. Brendan's Place, the serviceability constraints arising from the narrow access lane proposed to serve the house, the siting of the proposed house fronting onto the back gardens and rear elevations of Nos. 54 and 55 St. Brendan's Place, the inadequacy of separation distances between the proposed development and the adjoining properties, and the loss of privacy to adjoining residential properties arising from overlooking and nuisance, it is considered that the proposed development would result in a gross overdevelopment of this plot,

would seriously injure the residential amenities of adjoining properties, would depreciate the value of these properties, and would provide a substandard form of accommodation for the occupiers of the proposed dwelling due to the restricted nature of the site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the pattern of existing residential development in the immediate vicinity of the site, to the siting of the proposed house to the rear of established residential properties, to the extent of undeveloped lands flanking the proposed site, and to the lack of any comprehensive plan for the orderly development of the lands at this location, it is considered that the proposed development would constitute a piecemeal, disorderly, haphazard form of backland development that would be premature pending the adoption of a plan to function as a guide to the qualitative and orderly development of the overall landholding and would create an undesirable precedent for development of a similar nature in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Kevin Moore
Senior Planning Inspector

26th July, 2018