



An
Bord
Pleanála

Inspector's Report ABP 302648-18

Development	Erect extension to 1 st floor level of existing premises and all associated site works.
Location	Main Street, Caherciveen, Co.Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	18/692
Applicants	Kate & Andrew Cooke
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	1 st Party v. Refusal
Appellants	Kate & Andrew Cooke
Observers	1. Donal O'Connell 2. Ann & Jim Madigan
Date of Site Inspection	22/01/19
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

This constitutes the 3rd appeal on the subject site. File refs. PL08.247925 and PL08.229466 refer.

The appeal site fronts onto Main Street in Caherciveen. It operates as a public house and restaurant at ground floor level with the upper two floors used as the family residential unit comprising of a 3 no. bedroom dwelling. The living area of the residential unit is at 1st floor level. It has access to an outdoor deck to the rear. This outdoor deck is south facing and is the amenity space for the residential unit. A c. 2 metre high block wall has been erected along the western boundary and is setback from the shared boundary with the two storey properties that back onto the site (frontage onto High Street/Old Post Office Street). The said properties are served by small rear yards.

The said outdoor deck area can be accessed via a car park to the rear which, itself, is accessed from The Old Road further south.

The site as delineated in red on the site location map also includes a terraced unit that fronts onto High Street to the west which is used for short term lets.

2.0 Proposed Development

The application was lodged with the planning authority on the 10/07/18 with unsolicited further information received 18/07/18.

Permission is being sought for a 51 sq.m. extension to the 1st floor living accommodation to provide for 1 no. ensuite bedroom.

There is a lack of clarity in the plans as to whether the wall along the north-western boundary is to be retained. The existing plan denotes an existing wall at 1.8m high with a setback of approx. 1.4m from the shared boundary. The proposed plan denotes an existing wall at 2.044m high with a setback of 1.414m at its widest point.

The roof of the extension is irregular in shape increasing in height away from the western boundary. It is to have an overall height of 2.795 metres.

The application is accompanied by

- Shadow and Sunlight Report

- 3D Images
- Planning Submission

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for the following reason:

It is considered that the proposed extension, by reason of its layout, height, proximity to existing properties and orientation, would overshadow the residential amenities situated to the west of the application site, would be visually obtrusive and would seriously injure the residential amenities of adjoining properties. 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.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's report considers that the extension will overshadow neighbouring properties particularly that to the north-west. A refusal of permission for one reason recommended.

3.2.2. Other Technical Reports

Executive Planner (Conservation) has no objection

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised are comparable to those set out in the observations received and summarised in section 6.4 below.

A representation in favour of the development also on file.

4.0 Planning History

PL08.229466 (07/4092) – split decision. Permission granted for retention of alterations to rear elevation, new building at High Street and alterations to car park. Permission was refused for alterations and 1st floor extension on the grounds that the orientation, height, scale and design of the extension would seriously injure the amenities of property in the vicinity.

PL08.247925 (16/1094) – permission refused for 1st floor rear extension on the grounds that the orientation, height, scale and design of the extension would seriously injure and detract from the residential amenities of adjoining property, would be out of character with and fail to respect the established pattern of development and would set an undesirable precedent.

5.0 Policy and Context

5.1. Development Plan

Cahersiveen, Waterville and Sneem Functional Areas Local Area Plan 2013-2019.

The site is zoned Town Centre.

5.2. Natural Heritage Designations

None in the vicinity.

5.3. Environmental Impact Assessment

Having regard to the nature and scale of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed

development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The submission by HRA Planning on behalf of the 1st Party against the Planning Authority's notification of decision to refuse permission can be summarised as follows:

- The extension is required for medical reasons.
- The proposal has been refused permission solely having regard to the planning history of the site and previous reasons for refusal. No assessment has been undertaken in respect of the proposed design.
- The existing wall is 2044mm high and not 1800mm as stated in the previous applications. This is significant having regard to the Board's previous assessment. This wall was constructed in agreement with the Planning Section of Kerry County Council.
- Whilst similar in concept to the development refused permission in 2016 it is different in scale and form. The height has been kept to a minimum with the highest point of the roof measuring 2795mm and the height to eaves level at 1886mm which is 156mm below the height of the existing wall. It is to be set back from the western site boundary by a further 310mm.
- The proposal would not overshadow adjoining property. The Daylight and Sunlight Analysis provides quantifiable evidence to demonstrate same.
- The proposal would not be visually obtrusive having regard to the presence of the existing 2044mm high wall on the western site boundary and the other sizeable extensions to the rear of properties along Main Street.
- It would not detract from the established level of amenities of adjoining properties to the west which currently experience relatively poor levels of light in their yards.

- It would not be out of character with the established pattern of development in the vicinity having regard to the other extensions to the rear of properties on Main Street. It is cognisant of its surroundings and provides for an extension of similar scale and size.

6.2. Planning Authority Response

None

6.3. Observations

Observations have been received from:

1. Donal O'Connell (No.3 Old Post Office Street)
2. Ann & Jim Madigan (No.2 Old Post Office Street)

The submissions, which support the planning authority's decision, can be summarised as follows:

- The County Council has considered the proposal on its merits without reference to previous refusals.
- The 2.1 metre high block wall positioned 1.1 metres from the common boundary does not comply with the 1.8 metre timber fence to be setback 1.0 to 1.6 metres from the common boundary which was permitted. Permission has not been granted to erect the wall that is in situ. It causes severe overshadowing.
- The construction of any new rear extension will add to the height of the existing 1st floor level wall and will exacerbate the overshadowing.
- The proposed new external wall of the rear extension is shown approx. 4.5 and 6.5 metres from the rear windows of the properties to the north-east. It would cause considerable overshadowing and loss of light, dominance, overlooking and loss of privacy.
- The extension would be visually obtrusive and would seriously injure residential amenities.

- The properties immediately to the north of the site have extensions on the same level as that proposed. Therefore, the same issue of overshadowing does not occur.
- The extension would span the entire width of the rear gardens of Nos. 2 & 3 High Street and the neighbouring property and almost link up with the two storey rear projection to No.4 High Street. It would almost form a complete two storey structure enclosure of the rear gardens.
- The applicants have alternative properties in their ownership which provide scope for expansion.
- The previous refusals of permission were for similar development

7.0 Assessment

This application constitutes the 3rd to come before the Board seeking to extend the premises at 1st floor level. The previous two appeals were refused on the grounds of adverse impacts on the residential amenities of adjoining property to the north-west.

As noted by the Inspector on the last appeal under ref. PL08.247925 the configuration of the site relative to the properties to the north-west which front onto High Street (also referred to as Old Post Office Road) and which are served by small rear yard areas, presents material challenges in terms of the potential to extend the subject property whilst minimising the impact on the said abutting properties.

Therefore, the fact that the extension is comparable to those as developed to the rear of neighbouring properties that front onto Main Street, is not a determining factor.

As can be extrapolated from the plans and drawings accompanying the earlier appeal under ref. PL08.229466 and the conditions attached to the Board's decision (specifically condition 6(c)) a 1.8 metre high fence was permitted to be set back between 1.0 and 1.6 metres from the common boundary with the properties backing onto the site to the north-west. Details were to be submitted to the planning authority for written agreement. As noted on day of inspection the said wall exceeds this height and is approx. 2 metres high (and not 1.8 metres as referenced in the

previous appeal) and is of block construction. It is erected closer to the shared boundary than was stipulated. Whilst the agent for the applicants' states that this wall was erected with the agreement of the planning authority no evidence has been provided of the written agreement of the planning authority as required by the condition. Thus, on balance, it is reasonable to conclude that the said wall does not enjoy the benefit of the permission and it is not reasonable that it is used as an established feature by which the impact of the proposed development is to be assessed.

The depth of the extension is the same as that previously proposed under ref. PL08.247925 at 11.485 metres with only a marginal increase in the setback from the shared boundary from the north-west. Whilst the floor area at 51 sq.m. is stated to be less than that previously sought, the footprint is largely the same in that the floor area effectively omits the existing rear extension which is to be subsumed into the new build.

There is a lack of clarity in the documentation accompanying the application as to whether the proposal entails the retention and incorporation of the existing wall into the extension. The existing plan refers to the existing wall at a height of 1.8 metres with a maximum setback from the shared boundary measured as being 1.4 metres. This appears to be contradicted by the details given on the proposed plan which denotes the existing wall as forming the wall of the extension with its stated height of 2.044 metres and with a maximum setback of 1.414 metres from the shared boundary. The rear elevation drawing indicates the height of the north-western wall of the extension as 1.886 metres with the existing wall not delineated, whilst the side elevation drawing shows the existing wall to be retained. I note that the agent for the appellants in the appeal submission states that the correct height of the existing wall is 2.044 metres and that the proposed extension is to be further setback from the western site boundary by a distance of 310mm. On balance, therefore, it is assumed that the existing 2.044 metre wall is to be retained with the extension to be constructed inside of same. The highest point of the roof would be 2.795 metres which is 0.405 lower than that previously proposed under ref. PL08.247925..

Whilst I note the conclusions of the Shadow, Sunlight and Daylight Studies these are based on the presence of the existing boundary wall. As noted above this wall does not appear to have the appropriate consent and, as such, cannot be used as the

basis on which impacts can be assessed. As noted in the table giving the skylight to habitable rooms (VSC) 11 of the 16 windows assessed currently have a VSC of less than 27%. No analysis is done as to whether the existing wall has a material impact on these figures relative to the lower boundary treatment permitted. The same concerns apply to the calculations for sunlight into living spaces and overshadowing of the private amenity spaces. The observers are consistent in their contentions that the said wall has brought about increased overshadowing and loss of light to their properties including their small rear yard areas. The fact that they may be lightly used cannot override the right to a reasonable level of amenities.

On this basis, therefore, and notwithstanding the angle and low pitch of the extension I do not consider that the applicants have adequately demonstrated that the extension would not unduly impact on the residential amenities of the said properties to the north-west in terms of overshadowing and visual impact. Whilst I note and empathise with the personal circumstances arising for which the extension is needed, this cannot override the proper planning and sustainable development of the area. I therefore recommend that the reason for refusal as cited in the previous appeal remains valid in this case.

Appropriate Assessment

Having regard to the nature and scale of the proposed development within the built up area of the town of Caherciveen 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

Having regard to the foregoing I recommend that permission for the above described development be refused for the following reasons and considerations.

9.0 Reasons and Considerations

It is considered that the proposed extension, by reason of its layout, height, proximity to existing properties and orientation, would overshadow the residential amenities situated to the west of the appeal site, would be visually obtrusive and would seriously injure the residential amenities of adjoining properties. 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.

Pauline Fitzpatrick
Senior Planning Inspector

January, 2019