



An
Bord
Pleanála

Inspector's Report ABP 302835-18

Development	Demolition of dwelling and 3 no. outbuildings.
Location	Bunnarudee, Ballylongford, Co.Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	18/240
Applicant	Brookfield Renewables Ireland Ltd.
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellant	John McCarthy
Observer(s)	None
Date of Site Inspection	24/01/19
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

The site, which has a stated area of 0.252 hectares, is accessed from a gated track off a minor cul-de-sac road c. 5km to the south-east of Ballylongford in north County Kerry. There is a dwelling and 3 no. outbuildings on the site which was fenced off and not accessible on day of inspection. The area surrounding the site is under commercial forestry. The dwelling and its associated yard is currently being used for the housing of greyhounds. There is a stream to the west of the site. The buildings are not visible from the road to the west.

2.0 Proposed Development

The application was lodged with the planning authority on the 14/03/18 with further details submitted 03/09/18 following a further information request dated 04/05/18.

The proposal seeks to demolish the existing dwelling and 3 no. outbuildings. The buildings are considered to be in a poor condition and pose a health and safety risk to the public. Their demolition will eliminate the likelihood of anti-social behaviour and will facilitate tree planting.

The application is accompanied by land registry details.

3.0 Planning Authority Decision

3.1. Decision

Grant subject to 2 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The 1st Planner's report recommends a request for further information on issues relating to ownership, need for demolition and floor plans. The 2nd report following further information recommends a grant of permission subject to conditions.

3.2.2. Other Technical Reports

Executive Planner (Conservation) has no objection.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

An objection to the proposed development received by the planning authority is on file for the Board's information. The issues raised are comparable to those set out in the 3rd party appeal summarised in section 6 below.

4.0 Planning History

None

5.0 Policy Context

5.1. Development Plan

The site is within an area zoned Rural General in the current Kerry County Development Plan.

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 3rd Party appeal can be summarised as follows:

- The appellant has been using the buildings for 23 years. He breeds greyhounds at the site.
- He was given the yard and buildings by his brother. He is of the view that the yard and buildings should not have included in the sale to Brookfield Renewables.
- It is unclear as to why the applicant wants to demolish the buildings. The yard is a corner of the landholding and is bounded by a stream to one side.
- The yard cannot be used for forestry due to its proximity to a watercourse.
- The yard is not an access route for forestry.
- The potential use the yard for storage of timber would not arise in the short term.

6.2. Applicant Response

None

6.3. Planning Authority Response

None

6.4. Observations

None

7.0 Assessment

The buildings in question are accessed via a gated track off a minor cul de sac road with the lands surrounding same under commercial forestry. The applicant wishes to demolish the structures for security reasons so as to eliminate the potential for anti-social behaviour and to allow for the lands to be planted.

Neither the single storey dwelling or outbuildings are listed for protection or are included in the National Inventory of Architectural Heritage for County Kerry. They are setback from the road to the west and are not visible. I have no objection to their demolition.

The substance of the 3rd party appeal centres on what I consider is effectively a legal issue. Mr. McCarthy contends that the buildings and yards were given to him by his brother and should not have been included in the sale of the lands to the applicant. He states that he has occupied the buildings for 23 years and uses the site for breeding of greyhounds.

The applicant provided land registry details as to ownership in response to the planning authority's further information request.

I consider that the applicant has provided adequate evidence that it has sufficient legal interest to make the application. The Board has no remit in the assessment or adjudication of issues pertaining to ownership. This is a matter best pursued through the appropriate legal channels.

The issue of setback of planting from the stream to the west or whether the yard is on a forestry access track or not, are not relevant considerations to the development as proposed.

Appropriate Assessment

Having regard to the nature and scale of the proposed development and distance from the nearest designated site 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 granted for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

Having regard to the nature, extent and location of the buildings proposed to be demolished it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously impact on the amenities of the area or of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable 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 particulars submitted on the 3rd day of September 2018 except as may otherwise be required in order to comply with the following condition.

Reason: In the interest of clarity.

2. Demolition waste shall be managed in accordance with a demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the "Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects", published by the Department of the Environment, Heritage and Local Government in July 2006. The plan shall include details of waste to be generated during site clearance and details of the methods and locations to be employed for the prevention, minimisation, recovery and

disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

Pauline Fitzpatrick
Senior Planning Inspector

January, 2019