



An
Bord
Pleanála

Inspector's Report ABP-305491-19

Development	Demolish house, shed and front boundary wall on site and construction of three houses.
Location	Strand Line , Kilkee , Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	18829
Applicant(s)	Strandline Developments
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Brian Lillis Diana Martin
Observer(s)	Fiona & Patrick Carney
Date of Site Inspection	12/12/2019
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1.1. The subject site sits on The Strand, in the south-western Clare coastal town of Kilkee. The subject site comprises an empty single storey villa and single storey garage.
- 1.1.2. To the immediate north of the subject site is a three-storey guest, to the south a pair of semi-detached two-storey dwellings, one of which is undergoing significant refurbishment. This central section of The Strand Line does not have a uniform pattern of development, in terms of architectural style or height. The south-western section of the Strand (Kilkee Lower) is predominantly single storey villas, as is the north-eastern Strand.
- 1.1.3. To the rear of the subject site are the rear yards of the commercial properties on O'Curry Street.

2.0 Proposed Development

- 2.1.1. On the 5th November 2018, planning permission was sought to demolish an existing dwelling house and garage and construct three 3-storey dwellings.
- 2.1.2. Following a request for further information the proposed development was revised to comprise the renovation of the existing dwelling into two semi-detached 3-storey dwellings with shared car parking and a 2.5storey detached dwelling with off-street car parking.

3.0 Planning Authority Decision

3.1. Planning Authority Reports

- 3.1.1. **Architectural Conservation Officer:** Stone house is not a protected structure but is located in the Kilkee ACA. Structure is sound but shows some damp. Demolition is unwarranted as dwelling makes a significant contribution to the character and amenity of the old sea-side town of Kilkee. Removal of front boundary wall for parking is a concern. The proposed three storey apartment building would appear discordant with the vista of historic stone houses that make up this streetscape. Existing dwelling can be extended without compromising the character.
- 3.1.2. **Waste Water Services:** Applicant should be requested to investigate the existence of a wastewater sewer through the site.

3.1.3. **Planning Report:** Dwelling is worthy of retention. Further accommodation could be provided within the dwelling and to the side. Rear annex would cause overlooking so cannot be permitted. Boundary wall should be retained as it makes a positive contribution to the ACA and benefits pedestrian safety. 7 no. car spaces are required. Boundary treatment to the rear needs to prevent overlooking. Existing balconies on the north-west elevation of the property to the rear must be protected. Waste water services query must be addressed. Proposed dwellings must not be for use as holiday homes, only permanent residency.

3.2. Further Information

3.2.1. On the 12th December 2018, the applicant was requested to address the following items of further information:

- 1 Proposed demolition and construction not in keeping with the ACA, revised proposal requested
- 2 Retention of boundary wall and revision of parking layout requested
- 3 Cross-section of rear boundary treatment showing relationship with properties at rear. Rear windows to avoid overlooking
- 4 Details of waste water services running through site
- 5 Shadow analysis
- 6 Section V compliance
- 7 Confirmation that proposed dwellings are for permanent residency.

3.2.2. On the 9th August 2019 the applicant responded to the FI request as follows:

- 1 Revised proposal showing retention of existing dwelling, converted into two semi-detached dwellings and demolition of garage and construction of a detached dwelling.
- 2 Retention of existing entrance to serve dwelling no. 1 (two spaces). New entrance to shared parking for semi-detached dwellings (four spaces).
- 3 Cross-section of rear boundary treatment. 1.8m high boundary wall. No second-floor windows on rear elevations. First floor windows can be obscure glazing.
- 4 Existing sewer layout. Proposed development will improve situation
- 5 Shadow analysis

6 Section V compliance

7 Confirmation that proposed dwellings are for permanent residency.

3.2.3. The FI was deemed to be significant and re-advertised on the 22nd August 2019.

3.2.4. **Chief Fire Officer:** No objection

3.2.5. **Irish Water:** Proposed diversion of sewer within the site

3.2.6. **Second Planning Report:** Proposed revised design, traffic layout and boundary treatments are acceptable. Proposal to divert a section of the sewer raised by Irish Water but FI cannot be requested. Limited overshadowing will occur. Condition requiring permanent occupancy can be attached. Recommendation to grant permission subject to conditions.

3.3. **Prescribed Bodies**

3.3.1. **Irish Water:** No objection.

3.4. **Third Party Observations**

3.4.1. A number of observations submitted to the Planning Authority raised the issues of overlooking, holiday home development, ground conditions, inappropriate demolition of an architecturally pleasing dwelling in an ACA and services.

3.5. **Decision**

3.5.1. On the 17th September 2019, the Planning Authority issued a notification of their intention to GRANT permission subject to 7 no. conditions. Condition no. 3 restricts the use of the 3 no. dwellings to permanent residences.

4.0 **Planning History**

4.1.1. Planning Authority reg. ref. 16/194: Planning permission granted for the retention of a domestic garage.

5.0 **Policy Context**

5.1. **Clare County Development Plan 2017 -2023**

5.1.1. Kilkee is classed as a small town in the settlement hierarchy of County Clare. By 2023 the development plan seeks to have a population of 1,615 (an increase of 439 persons in 160 no. new households).

- 5.1.2. **Section 4.3.12** of the plan notes that while holiday homes form an important tourism infrastructure, large numbers in an area can have negative impacts. **Policy CDP14** referring to holiday homes notes that there is an identified oversupply of holiday homes and that new residential developments will be for permanent occupancy only.
- 5.1.3. **Section 15.5** of the Development Plan refers to Architectural Conservation Areas. It states that it is an objective of the Development Plan: a To ensure that new developments within or adjacent to an ACA respect the context of the area and contribute positively to the ACA in terms of design, scale, setting and material finishes; b To protect existing buildings, structures, groups of structures, sites, landscapes and features such as street furniture and paving, which are considered to be intrinsic elements of the special character of the ACA, from demolition or removal and non-sympathetic alterations; c To ensure that all new signage, lighting, advertising and utilities to buildings within an ACA are designed, constructed and located in a manner that is complementary to the character of the ACA; d To ensure that external colour schemes in ACAs enhance the character and amenities of the area and reflect traditional colour schemes.
- 5.1.4. **West Clare Municipal District**
Kilkee is defined as a small town in the West Clare Municipal District which states that a significant issue is the vacancy level of 71%. Whilst unoccupied housing is to be expected in a tourist town, this level of vacancy needs to be addressed. During the lifetime of this Plan the focus shall be on the provision of housing for permanent occupancy on lands that are zoned for residential uses in the town of Kilkee.
- 5.1.5. The subject site is located on lands zoned as 'Mixed Use'. The development plan states that the use of land for 'mixed use' developments shall include the use of land for a range of uses, making provision, where appropriate, for primary and secondary uses e.g. commercial/retail development as the primary use with residential development as a secondary use. Secondary uses will be considered by the local authority having regard to the particular character of the given area. On lands that have been zoned 'mixed-use' in or near town or village centres, a diverse range of day and evening uses is encouraged and an over-concentration of any one use will not normally be permitted.

5.2. **Natural Heritage Designations**

5.2.1. The subject site adjoins the Kilkee Reefs SAC (002264).

5.3. **EIA Screening**

5.3.1. Having regard to nature of the development comprising extension to an existing dwelling and the urban location of the site 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. **Brian Lillis, Monkstown, Co. Dublin, Grounds of Appeal**

6.1.1. The appellant states that he is from Kilkee and wishes to appeal the decision of Clare County Council to grant permission. The grounds of the appeal can be summarised as follows:

- The revised plan still provides for the almost total demolition of the existing dwelling. The impact of the revised proposal is largely the same as the first proposal.
- The Planning Authority's reasons for granting permission are not explained. There is no reference to the protection of the Kilkee ACA in their decision.
- The Planning Authority has serious concerns over the impact on the ACA from the first proposal. Then decided that the second proposal would not injure the amenities of the area.
- The Planning Authority's decision allows the elimination of the original 19thC stone house, which the Planning Authority had accepted makes a significant contribution to the character of the ACA.
- The Planning Authority's decision is inconsistent with the Clare County Development Plan and the Architectural Heritage Protection Guidelines, which presume against the removal of ACA buildings.
- The revised proposal would still detract from the ACA, with two modern semi-detached holiday homes. The design scale and form of the dwellings does not justify the removal of the existing dwelling.

- Strand Line houses share a common architectural language to form a uniform and coherent whole. The variety in height, scale and detail is a characteristic of the ACA and must be respected.
- The Planning Authority's decision is inconsistent with previous decisions in the ACA. Under P03-2265 the Planning Authority refused permission for the demolition of a single storey house in the ACA and its replacement with a two-storey dwelling. Under PL03.210821 the Board refused permission to demolish a C19th cottage in Kilkee ACA and replace it with a larger building. The Board stated that the proposed development would result in the loss of an intact habitable house and would adversely affect the character of the Kilkee ACA.
- The proposed development would create an undesirable precedent, would encourage future development of single dwellings into two or three storey dwellings and would negatively impact the sea-front streetscape of the ACA.
- The Planning Authority (reg. ref. P03-2665) confirmed its concern about setting precedents in the ACA.
- The demolition of legacy buildings along the sea-front occurred before the establishment of the ACA. This is not a comparable precedent for the proposed development.
- The proper application of the LAP does not hamper the ability of single storey dwellings to be upgraded. ACA-friendly restoration and extension is preferable to demolition and replacement.
- The appeal is accompanied by background information and photographs of the dwelling and the Kilkee seafront.

6.2. **Diana Martin, Scott's Bar, Kilkee, Grounds of Appeal**

6.2.1. An agent on behalf of the owner of Scott's Bar Kilkee has submitted a third-party appeal against the decision of the Planning Authority to grant permission. The grounds of the appeal can be summarised as follows:

- The appellants property shares a boundary with the subject site.
- The proposed development will result in serious overshadowing of the appellants property, devaluing the amenities currently enjoyed. The applicants shadow

analysis does not accurately reflect the situation on the ground. It does not address vertical or horizontal alignment, height or angle of light relative to existing and proposed structures or distance relative to heights, as required by the BRE standards.

- The proposed development will directly overlook the appellants property. Obscure glazing will not help when windows are open.
- The proposed development will dominate and hem-in neighbouring properties.
- No details of the proposed diversion of the main sewer line running through the site have been presented.
- It is submitted that the proposed dwellings will become holiday homes, as they will not be affordable to local people. The Planning Authority's condition regarding occupancy could facilitate long-term holiday use.
- The proposed development constitutes over-development and does not respect the ACA. The site is more suitable for the provision of two single storey cottages that would reflect and complement the streetscape.
- The Planning Authority's request for further information stated that they had serious concerns regarding the demolition of the existing dwelling which makes a significant contribution to the ACA. The Planning Authority stated that they considered the dwelling to be structurally sound and that a justification for its demolition had not been presented. It is submitted that the eventual decision of the Planning Authority ignored that advice and granted permission for three 3-storey dwellings.
- If the Board grant permission, it will be the catalyst to change the architectural landscape which has survived since the early 19th century. It will set an undesirable precedent and hasten the disappearance of the unique architectural value of the resort town.
- There is no engineering report to support the use of the existing dwelling to construct a three-storey dwelling. This is particularly so where three stone walls are being removed, three window openings are being created on the rear wall and two large openings are being made in the front wall. It is submitted that it will be impractical to retain the stone wall.

- The Planning Authority are incorrect in their finding that the proposed development will not injure the amenities of property in the area. The proposed development will cause material damage to the appellants property.
- The proposed development will negate the protection afforded by the ACA.
- Ground conditions in this area will not support a three-storey structure. Condition no. 1 cannot be complied with.
- The proposed development will cause more traffic disruption to an already grid-locked area. Uncontrolled traffic causes limited visibility.
- The applicant has not authority to remove the shared 2m high wall and replace it with a 3m high wall.
- The Board is requested to refuse permission.

6.3. Applicant Response

6.3.1. An agent for the applicant responds to the third-party appeal of Brian Lillis as follows:

- The proposed development is significantly different from the original proposal. The revised proposal is in keeping with the streetscape and makes a positive contribution to the ACA.
- The existing dwelling with non-original uPVC windows, non-original roof slates, non-original uPVC rainwater goods, non-original front and rear extensions does not make a positive contribution to the ACA. The only redeeming conservation features are the stone external walls and chimneys. The stone walls will be retained.
- The revised design was agreed with the Conservation Officer and the planning department.
- The proposed design is more in keeping with the ACA than the existing dwelling. It comprises natural roof slates, traditional timber sliding sash windows, 100mm deep drop bull nose window sills, timber front doors and bay windows as per the ACA section of the Clare County website. The only C19th element of the property – the stone walls will be retained.
- The appellants reference to a 2003 application in Scarriff, East Clare is not relevant to the subject application.

- The 2005 An Bord Pleanála decision under PL03.210821 include

6.4. Planning Authority Response

- 6.4.1. The Planning Authority sought further information in order to reach a decision that complied with the development plan. The submissions of the appellants before and after the request for further information were considered by the Planning Authority. The permitted development does not provide for the demolition of the existing dwelling, only its sub-division and extension. The proposed development is compatible with the surrounding development. The Board is requested to grant permission.

6.5. Observations

- 6.5.1. An observation on the third-party appeal has been submitted by the owners / residents of the adjoining dwelling at Strandline. The observation can be summarised as follows:
- Overbearing effect of the proposed development caused by height, scale and proximity will significantly impact the residential amenity of the observers back garden.
 - The existing single storey rear of the dwelling is far from the party boundary. The proposed development directly adjoins the party wall and will remove any separation.
 - The proposed development will seriously injure the observers residential amenity.
 - The visual impact of the proposed will fundamentally change the character of the observers dwelling. The physical impact of construction of their dwelling has not been addressed.
 - The size and prominence of the proposed development will diminish the Kilkee ACA.

7.0 Assessment

- 7.1.1. I have examined the file and the planning history, considered all policies and guidance, the submissions of all parties and inspected the site. I have assessed the

proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Architectural Heritage
- Residential Amenity
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The densification of an existing residential site, within an established residential area is to be welcomed. I note the policy of the development plan regarding holiday homes in Kilkee and the stated intent of the applicant to provide the dwellings as places of permanent residence. Should the Board decide to grant permission, an occupancy condition can form part of the decision.

7.3. Architectural Heritage

7.3.1. The existing dwelling, whilst not a protected structure is nonetheless an example of a mid-19th century stone villa within an Architectural Conservation Area. The architectural merit of the dwelling and the role it plays within the streetscape of the Strand is raised by all parties to the appeal.

7.3.2. The Planning Authority resisted the complete demolition of the existing dwelling, stating a preference for its retention in some form. The revised proposal following a request for further information, seeks to retain the walls of the existing villa, add a second story and extend to the rear. The appellant submits that the resulting development bears so little resemblance to the existing dwelling that it may as well be demolished.

7.3.3. I concur somewhat with the appellant. The revised proposal for a pair of semi-detached dwellings maintains little visual markers of the existing dwelling – the defining feature of which is its single storey nature. The proposed dwellings will clearly read as a new development, and not an extension of an existing dwelling. The proposed bay windows, sliding sash windows and decorative plaster work do not present as original features, only pastiche.

- 7.3.4. However and notwithstanding the above analysis, I find no compelling reason to maintain the existing dwelling. It is a good example of a 19th-century stone villa, however it has lost all context within this central section of The Strand. The pattern of development within this central section has no defining architectural feature – as is evident in the northern and southern Strand terraces of single storey dwellings. The existing dwelling, sits within a series of three, two and single storey dwellings. The streetscape so valuable in the adjoining two Strand Lines is absent from this central section. Change to the height or façade of a single building therefore is not as detrimentally, either visually or architecturally. The benefit of providing a further two dwellings on this central site within an established residential area far outweighs the limited merit of retaining one sample of a plentiful example in the immediate area.
- 7.3.5. The appellants submission that the decision of the Board under PL03.210821 is precedential is not accepted. In that instance permission was refused for the demolition of a single storey dwelling and its replacement with two holiday homes. The subject development of retention of the existing dwelling and the construction of three places of permanent residence is not comparable.

7.4. Residential Amenity

- 7.4.1. Given the town-centre built-up nature of the subject and surrounding sites, a degree of overlooking must be expected. I am satisfied that the proposed use of obscure glazing panels on the first-floor rear elevation windows is sufficient to prevent any injury to the amenity of surrounding properties – particularly those in commercial use.
- 7.4.2. Likewise, the built-up nature of the immediate area is such that some overshadowing of ground floor windows / amenity areas is likely to occur. I am satisfied that the degree of overshadowing that may occur from the proposed development is not significant.

7.5. Appropriate Assessment

- 7.5.1. Notwithstanding the proximity of the subject site to the Kilkee Reefs SAC, having regard to the nature and scale of the proposed development in a fully serviced built-up urban area, no appropriate assessment issues arise, and it is considered that the

proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

8.0 Recommendation

- 8.1.1. It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 9.1 Having regard to the zoning objective of the area, the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the development would not seriously injure the visual amenities of the area or residential amenity of property in the vicinity. The proposed development for which permission is sought 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 except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

- 2 The proposed dwellings shall be not used for tourist or holiday accommodation, and shall only be used as a place of permanent residence.

Reason: The occupation of the proposed dwellings on a temporary basis is unsustainable having regard to their location.

- 3 Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colours shall be blue black or slate grey only, including ridge tiles.

Reason: In the interest of visual amenity.

- 4 Drainage arrangements, including the attenuation and 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.

- 5 Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.

Reason: In the interest of public health.

- 6 All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

- 7 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.

- 8 The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including access and egress to the site during construction, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity

- 9 The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission

Gillian Kane
Senior Planning Inspector

17 December 2019