



An
Bord
Pleanála

Inspector's Report

ABP-307026-20

Development

Construction of 3 houses (one detached and two semi-detached), a new vehicular entrance and the relocation of the existing front boundary wall and railings to facilitate sight lines and access to the proposed development. Permission for the provision of a landscaped public open space to be enjoyed by the occupants of the proposed development and the occupants of cable station apartments (to the west of the development)

Connection to foul sewer and watermain and all associated site works. The site is adjacent to and or within the curtilage of protected structure DOEHLG Ref no. 21309801 and Kerry Co Council reference rps 098-001 (cable station)

Location

Spunkane, Waterville, Co Kerry

Planning Authority

Kerry County Council

Planning Authority Reg. Ref.

2045

Applicant(s) Keith Whyte.
Type of Application Permission.
Planning Authority Decision Refuse Permission

Type of Appeal First Party

Appellant(s) Keith Whyte.

Observer(s) Residents at Cable Station Apartment Complex : Mr & Mrs Kevin and Margaret Smith, Mr & Mrs Fiachra & Rose Driscoll, Mr & Mrs John & Colette O Flynn, Mr John Layden, Mr & Mrs Steve & Elsa Galvin, Mr & Mrs Anthony and Belinda Reed.

Date of Site Inspection 9th July 2020.

Inspector Bríd Maxwell

1.0 Site Location and Description

1.1. The appeal site has a stated area of .146ha and is located within the village of Waterville on the south western coast of the Iveragh Peninsula on the N70 Ring Kerry between Cahersiveen and Caherdaniel and circa 80km southwest of Killarney. The appeal site consists of a lawned area adjacent to the historic 19th Century Cable station, which played a pivotal role in the growth of global telecommunications. The building now functions as an apartment complex. The Cable Station building NIAH Ref 21309801, Protected Structure RPS KY-098/001. The description within the NIAH record is as follows:

“Detached eight-bay single and two-storey former cable station, dated 1899, comprising four-bay two-storey double-gable-fronted main block with single-bay single-storey flat-roofed projecting porch to ground floor approached by flight of steps. Four-bay side elevations having four-bay single-storey over raised basement wing to south. Two-bay single-storey return to rear to west. Later in use as hostel. Now in use as apartments. Pitched slate roof with clay ridge tiles, gable copings with finials, cast-iron profiled gutters and square downpipes and rubble chimneystacks with ashlar cornices. Rock-hewn random rubble red sandstone walls with grey limestone string courses, springers and parapet copings. Limestone lintels, sills and reveals to timber sliding sash windows having progressively subdivided sliding sash windows at ground floor and first floor. Double-leaf panelled doors approached by granite steps. Retaining interior features. Freestanding single-bay three-stage sandstone water tower, built c. 1900, to west on a square plan with round-headed integral carriage arch to ground floor to house fire engine, now disused and mostly derelict. Freestanding monolithic pier with pyramidal capping having wrought-iron gas lamp holder and wall-mounted cast-iron letter box, c. 1905, with inscribed "ER" monogram.”

1.2 The Victorian terraced cable workers houses located to the east are also protected structures RPS KY098-001. A recent development of detached residential dwellings back onto the appeal site to the south. The front roadside boundary of the appeal site is defined by a low wall with ornamental railing overhead. The western boundary adjacent to the Cable Building is fenced with a post and rail fence in which I noted a breach/gap on the date of my site visit.

2.0 Proposed Development

- 2.1. The application as set out involves permission for construction of 3 houses (one detached and two semi-detached), a new vehicular entrance and the relocation of the existing front boundary wall and railings to facilitate sight lines and access to the proposed development. Permission is sought for the provision of a landscaped public open space, connection to foul sewer and watermain and all associated site works. The site is adjacent to and or within the curtilage of protected structure DOEHLG Ref no. 21309801 and Kerry Co Council reference RPS 098-001 (cable station).
- 2.2. The proposal provides for the dwellings set back circa 23m and 25m from the front roadside boundary with shared public open space area to the northwest and vehicular entrance and car parking area to the north east. The proposed dwellings have a nap plaster finish and blue-black natural slate roofs.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1 By order dated 18th March 2020, Kerry County Council issued notification of its decision to refuse permission for the following reasons.

“The proposed development would have a serious adverse impact on the available views of eastern elevation of the Old Cable House (a protected structure of architectural and historical importance) which is the principal elevation of that protected structure and would disrupt the relationship between the Old Cable House and other buildings in the vicinity which were part of the historic cable station at Waterville, would negatively impact on the character of the building and of the area and would adversely impact on the views of the building from the public road. The proposed development would, therefore, seriously injure the setting and character of protected structures, NIAH Ref 21309801 and RPS-KY-098-001 and for contravening stated council objectives H-38, H43 from the Kerry County Development Plan 2015-2021 and would seriously injure the amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.”

The proposed development would deprive the occupants of the apartments in the Old Cable House of an adequate amount of usable private open space and parking space, would seriously detract from the residential amenity of existing occupants of the Old Cable House and would therefore, seriously injure the amenities and depreciate the value of property in the vicinity of the site, The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.”

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.1.1 Planner’s report considers that the proposed development would detract from the character of the area and due to its density layout building line and impact on existing open space would be unacceptable. Impact on privacy of adjoining properties.

3.2.2. Other Technical Reports

3.2.2.1 County Archaeologist. There are no recorded monuments in proximity to the site which has been previously partly disturbed, No mitigation required.

3.2.2.2 Housing Estates Unit. Impact on Cable House protected structure. Pedestrian provision and road layout to be addressed.

3.2.2.3 Roads Transportation and safety revised layout required showing front boundary set back. Sustainable Urban Drainage System details. Car parking layout in accordance with DMURS.

3.2.2.4 Conservation Officer’s report outlines reservations and concern regarding impact on the character and setting of the protected structures in the vicinity of the site. Proposal would detract from the views and setting of the Cable Station Building NIAH 21309801 and the Setting of Old Cable houses RPS-KY-098-001. Cable station building and associated workers houses collectively read as a single entity or ensemble of buildings united by their function. To introduce a modern housing element in the middle would destroy the relationship. Refusal recommended.

3.3. Prescribed Bodies

3.3.1 Irish Water Submission further information required on wastewater and water connection.

3.4. Third Party Observations

3.4.1 Submission from Manchan Geraghty and Michelle Geraghty, 16 Waterville Cottages object to the proposal on grounds of negative impact on Waterville Cottages. Out of character. Foul sewer infrastructure design and capacity issues.

3.4.2 Submission by John MacCarthy Consulting Engineer on behalf of Mr & Mrs Kevin and Margaret Smith, Mr and Mrs Fiachra and Rose Driscoll, Mr and Mrs John and Collette O Flynn, Mr and Mrs John and Susan Leyden, Mr and Mrs Steven and Elsa Galvin and Mr and Mrs Anthony Reid, residents of Cable Station. Application is invalid, ownership not demonstrated. Site forms part of open space for apartment and is within the curtilage of the protected structure. Proposal is contrary to proper planning and sustainable development.

4.0 Planning History

18/832 Permission to construct an entrance to the site. Gerard O Sullivan. Refused on grounds of traffic hazard, impact on private open space. Legal Interest questioned.

05/1218 Liam Davis. Refusal of permission for construction of 5 houses. Grounds of overdevelopment. Development out of character.

PL08.245230 15/92 The Board overturned decision of Kerry and refused permission for construction of dwelling and associated works for the following reasons:

“The proposed development would deprive the occupants of the apartments in the Old Cable House of an adequate amount of useable private open space and parking space, would seriously detract from the residential amenity of existing occupants of the Old Cable House and would, therefore, seriously injure the amenities and depreciate the value of property in the vicinity of the site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area”.

PL08.235654 09/348 The Board overturned the decision of Kerry County Council to grant permission for a mixed use one and half storey development comprising five townhouses on grounds floor commercial unit and apartment over, arranged about an hard and soft landscaped courtyard area complete with 15 number car parking spaces, external works and landscaping. Refusal on grounds of adverse impact on available view of eastern elevation of Old Cable House, injury to the setting and character of the protected structures. The proposal would deprive the occupants of the apartments of Old Cable House of an adequate amount of useable private open space and parking space and would detract from existing residential amenity.

5.0 Policy Context

5.1 Architectural Heritage Protection Guidelines for Planning Authorities Department of the Environment Heritage and Local Government 2004.

13.5.2 refers to Development within the Curtilage of a Protected Structure

“where a formal relationship exists between a protected structure and its ancillary buildings or features, new construction which interrupts that relationship should rarely be permitted. There may be a designed vista between a building and a built or landscape feature within its gardens or a less formal relationship between a house and its outbuildings, Similarly the relationship between the protected structure and the street should not be damaged. New works should not adversely impact on views of the principal elevations of the protected structure.

Where a large house or an institutional building has a garden, which contributes to the character of the protected structure, subdivision of the garden, particularly by permanent subdividers may be inappropriate.”

5.2 Development Plan

5.2.1 The Kerry County Development Plan 2015-2021 and West Iveragh Local Area Plan 2019-2025 refer.

- Waterville is designated as a District Town within the settlement hierarchy.

- The site is zoned “M4 -Built Up Area” zoning. Residential development is open for to consideration.
- Architectural Heritage and Conservation Objectives are set out at Chapter 11 Built and Cultural Heritage and include

H-38 Ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting:-

“ Is appropriate in terms of the proposed materials, scale, density and layout,

- *Addresses the issue of reversibility,*
- *Respects the original design plan and form,*
- *Demonstrates an understanding of the historical importance of the building and its setting and does not detract from the special character / interest of the protected structure,*
- *Deal sensitively with historically important features and fittings,*
- *Takes account of any protected species that may utilise the structure and accordingly mitigate any impacts on the species.”*

5.3 Natural Heritage Designations

5.3.1 The site is not itself within a designated area. There are a number of designated sites in the vicinity including

Iveragh Peninsula SPA

Knockroe Bog NHA

Killarney National Park, McGillicuddy Reeks and Caragh River Catchment SAC.

Valentia Harbour Portmagee Channel SAC

Ballinskelligs Bay and Inny Estuary SAC

Kenmare River SAC

5.4 EIA Screening

5.4.1 Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the immediate vicinity, 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 The Appeal

6.1 Grounds of Appeal

6.1.1 The appeal is submitted by Derek Whyte, Planning Consultant on behalf of the first party. Grounds of appeal are summarised as follows:

- The proposal was not assessed in any reasonable or objective manner.
- Proposal designed to address the previous reasons for refusal.
- Site is zoned M4 Mixed use within the built-up area and is not within the Architectural Conservation Area.
- Council have previously granted permission on site for 2 developments 15/92 and 09/348 subsequently overturned by the Board. Notably with regard to the most recent 15/92 (245230) the reporting Inspector raised no issues regarding visual disamenity.
- Proposal is set back behind the building line of Iveragh Terrace and Old Cable Station allowing for an uninterrupted view from east. Separation distance provided.
- Site is infill. Proposal acceptable in terms of zoning and land use policies.
- Report of conservation officer is subjective.
- Notwithstanding that the site does not currently provide car parking or open space for residents of Old Cable house the proposed open space deliberately designed to be used and accessed by the occupants of Old Cable Station.
- Entrance is within the confines of the site therefore legal issue raised in 15/92 does not arise. 45m sightline is available in accordance with DMURS. Area is residential and traffic speeds are low.
- Foul sewer and watermain available on the road. Surface water to discharge to individual soakaways.

- Turning areas will be available. Home zone will be a simple 25mm raised paved area. Stop signs with thermoplastic road markings to be provided where necessary.
- Proposal balances the need to protect the structures to the east and west and the need for infill development in zoned land and serviced areas.

6.2 Planning Authority Response

6.2.1 The Planning Authority did not respond to the appeal.

6.3 Observations

6.3.1 Observations are submitted by John MacCarthy BE on behalf of Mr & Mrs Kevin and Margaret Smith, Mr & Mrs Fiachra & Rose Driscoll, Mr & Mrs John & Colette O Flynn, Mr John Layden, Mr & Mrs Steve & Elsa Galvin, Mr & Mrs Anthony and Belinda Reed, residents at Cable Station Apartment Complex. The submission is summarised as follows:

- Support the decision to refuse. Refute criticism of planning assessment.
- Application is incomplete and misleading.
- Site within the curtilage of the protected structure. No impact assessment.
- Site continues to be used and maintained as part of the open space permitted under 3198/98 and would seriously detract from established residential amenity.
- Serious adverse impact on the setting and character of the protected structure.
- Contrary to the proper planning and sustainable development of the area.
- Site cannot be viewed as infill. Request the Board to reaffirm the decision to refuse.

7 Assessment

7.1 Having inspected the site and reviewed the file documents and having regard to the planning history on the site, I consider that the key planning issues for this appeal are as follows:

- Impact on established residential amenity.
- Architectural Heritage Impact
- Appropriate Assessment

7.2 Impact on established residential amenity.

7.2.1 The Local Authority's first reason for refusal was as follows:

The proposed development would deprive the occupants of the apartments in the Old Cable House of an adequate amount of usable private open space and parking space, would seriously detract from the residential amenity of existing occupants of the Old Cable House and would therefore, seriously injure the amenities and depreciate the value of property in the vicinity of the site, The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area."

7.2.2 This reason is consistent with the two previous decisions of the Board in respect of proposals for development of the site 235654 and 245230. The first party denies that the site forms part of open space serving the Old Cable House apartments and rejects this reason for refusal. In terms of a concession it is intended that the proposed that the open space area 325sq.m located towards the north western corner of the site will be accessible to the residents of the Cable House building. I am not satisfied however that this proposal represents an acceptable approach. The appeal site is laid out as grassed public open space serving and overlooked by the Cable House building. The proposal by reason of its design and layout is entirely at odds with the established setting and context. The impact on outlook and connectivity to open space would be seriously diminished. The proposed development would clearly have a significant negative impact on established residential amenity and would set an undesirable precedent for similar such

development. Accordingly, I consider the proposal to be contrary to the proper planning and sustainable development of the area.

7.3 Architectural Heritage Impact

7.3.1 As regards the impact on architectural heritage, I note that the first party submissions in application public notices acknowledge that “The site is adjacent to and or within the curtilage of protected structure DOEHLG Ref No 21309801 and Kerry County Council Reference RPS 098/001 (cable station).” The application is not however accompanied by any detailed analysis in terms of plans and other particulars as are necessary to show how the development would affect the character of the structure as is required by Article 23 (2) of the 2001 Planning and Development Regulations. I note previous applications PL05.245230 and PL08.235654 included Architectural Heritage Impact Assessments. Both documents noted the significant architectural and artistic interest of the Cable House Building in itself as well the significant social and historical interest.

7.3.2 I note that at 13.5.2 of the Architectural Heritage Protection Guidelines Development within the Curtilage of a Protected Structure it is outlined the *“where a formal relationship exists between a protected structure and its ancillary buildings or features, new construction which interrupts that relationship should rarely be permitted. There may be a designed vista between a building and a built or landscape feature within its gardens or a less formal relationship between a house and its outbuildings, Similarly the relationship between the protected structure and the street should not be damaged. New works should not adversely impact on views of the principal elevations of the protected structure.*

Where a large house or an institutional building has a garden, which contributes to the character of the protected structure, subdivision of the garden, particularly by permanent subdividers may be inappropriate.”

7.3.3 Policy H38 of the Kerry County Development Plan 2015-2021 is to ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting:-

- Is appropriate in terms of the proposed materials, scale, density and layout,
- Addresses the issue of reversibility,

- Respects the original design plan and form,
- Demonstrates an understanding of the historical importance of the building and its setting and does not detract from the special character / interest of the protected structure,
- Deal sensitively with historically important features and fittings,
- Takes account of any protected species that may utilise the structure and accordingly mitigate any impacts on the species.”

7.3.4 The relationship of the Old Cable House to the Cable Station worker’s dwellings to the north and east is notable as outlined in the Conservation Officer’s report. The ensemble of buildings are linked in terms of function and this connection is significant in terms of the architectural heritage and character of the area. The eastern elevation of the Old Cable House is its principal front elevation and the setback of the dwellings to the east and intervening open space provided by the appeal site is an intrinsic part of the character of the structure. I consider that the proposal to provide for three dwellings, parking and open space area on the appeal site would constitute an entirely discordant intrusion which have a significant adverse impact on the principal front elevation of the Old Cable House building. The proposal fails to acknowledge the historical importance of the building and its setting. The proposal would significantly diminish the prominence of the eastern elevation of the Cable House Building, Protected Structure, in terms of its visibility from the public road. The proposed development would be detrimental to the built heritage of the town contrary to Section 13.5 of the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of the Environment Heritage and Local Government in December, 2004, and contrary to objectives H-38 of the Kerry County Development Plan 2015-2021 and would therefore be contrary to the proper planning and sustainable development of the area.

7.4 Appropriate Assessment

7.4.1 The nearest Natura 2000 site is the Ballinskelligs Bay and Inny Estuary SAC which lies approximately 250m to the west. Having regard to the minor nature of the development and fully serviced nature of the site and having regard to the receiving

environment and proximity to the nearest European 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 Recommendation

8.1 Refuse permission for the following reasons:

9 Reasons and Considerations

1. The proposed development would deprive the occupants of the apartments in the Old Cable House of an adequate amount of useable private open space, would seriously detract from the residential amenity of existing occupants of the Old Cable House and would, therefore, seriously injure the amenities and depreciate the value of property in the vicinity of the site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development would have a serious adverse impact on the available views of the eastern elevation of the Old Cable House a protected structure (Ref RPS-KY-098-001 NIAH Ref 21309801) of architectural and historical importance, which is a principal elevation of that protected structure and would disrupt the relationship between the Old Cable House and other buildings in the vicinity which were part of the historic cable station at Waterville and would negatively impact on the character of the building from the public road. The proposed development would, therefore, seriously injure the setting and character of a protected structure in a manner that would be contrary to the advice given in section 13.5 of the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of the Environment Heritage and Local Government in December, 2004, and contrary to objective H-38 of the Kerry County Development Plan 2015-2021, would seriously injure the amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

Bríd Maxwell
Planning Inspector
24th July 2020