



An
Bord
Pleanála

Inspector's Report ABP.307866-20

Development	Permission to (a) Retain the existing garage and wood store as constructed, (b) Demolish the wood store, and (c) Extend the garage, construct a new wood store and all ancillary site works
Location	3 Beechwood Grove, Gortagass, Kenmare Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	20/447
Applicant(s)	Roland Konings
Type of Application	Planning permission
Planning Authority Decision	Grant permission s.t. conditions
Type of Appeal	Third Party
Appellant(s)	Dr. H. Becker & Andrea Munderloh
Observer(s)	None
Date of Site Inspection	1 st October 2020
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1.** The site is located in the townland of Gortagass, which is approx. 3km to the north-east of Kenmare town. The site is accessed by means of a private access road which branches off the R569, Kilgarvan-Kenmare road, in a northerly direction. Beechwood Grove consist of a private gated cul-de-sac development on the eastern side of the local access road, which is known as 'Limestone Cottages'. There are 8no. substantial detached dwellings on generous sized plots within the development, which has been constructed within the past decade. The estate is open plan in character with minimal delineation of boundaries, principally in the form of open panel timber fencing. There is a small drain/stream running alongside the northern boundary of the estate with a line of mature trees alongside the channel. The appellants' property is immediately to the east. It is a slightly larger plot with a centrally located house of a similar design. The treatment plant and the garage for this property are located to the rear of the house.
- 1.2.** The site area is given as 0.199ha. It is on the northern side of the internal access road and opens on to the roundabout. The one-and-a-half storey dwelling is located in the centre of the site with a detached garage and built-in woodshed situated in the north-eastern corner of the site. The treatment plant is located at the front of the site and the remainder of the site is laid out as lawn. The existing structure comprises a garage (6.1m x 5.1m) with an A-Frame roof and an integral wood-store on the eastern side which is incorporated under the roof slope. The overall floor area of the outbuilding is 45.45m². The ridge height of the outbuilding is c.4.063m and the roof is asymmetrical, with an eaves line on the western side of c.2.3m and on the eastern side of 0.943m. The structure is clad with smooth painted render, with a slate roof and incorporates two windows and two doors, one single and one double.

2.0 Proposed Development

- 2.1.** It is proposed to retain the existing garage but to demolish the attached woodshed. It is further proposed to extend the floor area of the garage and to construct a new wood store as a lean-to under part of the main roof-slope on the eastern side. The proposed structure would have a double A-frame roof with the eastern side

extending down to an eaves-line of c.943mm at the rear, as it would be set back from the front building line of the garage by c.3m.

- 2.2.** The floor area of the extended structure is given as c.66.29m². The floor area of the garage section would be doubled from 31.11m² to 60.39m² with an additional woodstore attached (5.9m²). However, the proposed woodstore would be smaller than the existing woodstore (c.14.34m²). It is further proposed to plant a beech hedge along part of the boundary with Plot No. 4 to screen the extended outbuilding.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to **grant** permission subject to six conditions on the basis of two schedules. Permission to retain the existing garage and wood store as constructed was issued under Schedule 2A with two conditions, including a restriction on the use of the garage and woodstore for private domestic storage purposes only. The second schedule (2B) related to permission for the demolition of the woodshed, the extension of the garage and the construction of the new woodshed. This was subject to four conditions, which were of a standard type.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report noted the location of the site in a **Rural General Area** in the Kerry County Development Plan 2015-21. It was noted that such areas constitute the least sensitive landscapes which can absorb a moderate amount of development, without significantly altering the character of the landscape. It was further noted that Section 12.2.1 requires that development be integrated into its surroundings and that Objective ZL-1 seeks to protect the landscape as a major economic asset and invaluable amenity.

The Area Planner noted the objection from the adjoining neighbours to the east. However, it was considered that the relevant condition of the parent permission de-exempts development within 4.5m of the boundary rather than prohibiting development as alleged. Given the relatively small scale of the proposed

development, which would be located c.20 metres from the adjoining dwelling house, it was considered that there would be no impact on residential amenities. It was considered that EIA was not required given the nature, scale and location of the project. Appropriate Assessment Screening was carried out and it was concluded that there is no likely potential for significant effects to Natura 2000 sites. Permission was recommended subject to conditions.

3.2.2. Other Technical Reports

Roads Dept. – no objections.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

Objection to proposed development on the grounds of breach of Condition 24 of the parent permission (05/1546) which prohibits development within 4.5m of the common boundary, serious injury to the amenities of neighbouring property and disorderly development.

4.0 Planning History

PA Ref 01/2220 – outline planning permission granted for the construction of 5 no. dwelling houses and septic tanks. Condition 4 stated that no part of any dwelling house or other structures to be located within 4.5 metres of the centre of any divisional boundary on either side of the proposed dwelling houses.

PA Ref 05/1546 – planning permission granted for 8 no. dwelling houses with individual wastewater treatment units. Permission was granted subject to 30 conditions, one of which (No. 24), stated that no part of any dwelling house or other structures shall be located within 4.5 metres of the centre of any divisional boundary or adjoining property on either side of the proposed dwelling houses.

PA 18/676, 18/677, 18/678 – permission to retain dwelling houses and garages as constructed on each of Plots 4, 5 and 6 and development within revised boundaries.

5.0 Policy Context

5.1. Development Plan

Kerry County Development Plan 2015-2021

In terms of Rural Settlement Policy, (3.3), the site is located in a **Stronger Rural Area** in which population levels are generally stable. Section 3.3.2 relates to development in Amenity Areas. The site is located within a **Rural General Area**, (3.3.2.1) which is described as constituting the least sensitive landscape which can accommodate a moderate amount of development, without significantly altering the character of the landscape.

Chapter 12 – Zoning and Landscape provides further guidance on development in areas designated as Rural General. Section **12.2.1** states that development in these areas should be integrated into their surroundings in order to minimise the effect on the landscape and to maximise the potential for development. **Objective ZL-1** seeks to

Protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to the quality of people's lives.

5.2. Natural Heritage Designations

5.2.1. The following European sites are close to the site.

Kenmare River cSAC (002150)

Killarney National Park, Macgillycuddy Reeks and Caragh Lake Catchment cSAC (000365)

Kilgarvan Ice House cSAC (000364)

6.0 The Appeal

6.1. Grounds of Appeal

The appeal is a third party appeal against the decision to grant permission. The main points raised may be summarised as follows:

1. Contravenes condition of parent permission 05/1546

The proposed development would clearly contravene Condition 24 of the parent permission (05/1546) which states that no part of any dwelling, garage or other structure shall be erected within 4.5m of the centre of any divisional boundary or adjoining property on either side of the proposed dwelling houses. This was conditioned in order to regulate and control the layout of the development. As the proposed structure would be erected within 1.9m of the boundary, it would clearly contravene this requirement, and would be contrary to the P.A.'s own guidelines.

2. Visual impact and non-Compliance with the Rural Design Guidelines

The siting of the structure in the corner will reduce the impact on the applicant's own property but will adversely affect the appellants' property. The visual impact is ameliorated by the low nature of the eaves line, but this does not address the impact of the increased bulk and closer proximity to the boundary.

The design does not compliment the dwelling house and fails to have regard to the 'Building a House in Rural Kerry – Design Guidelines'. This states that the design should not detract from the design of the main dwelling house but should compliment the existing dwelling. The location of a garage should be considered carefully and not just sited in a line with the dwelling house.

It is considered that the very fact that hedging is proposed between the proposed structure and the appellants' boundary is an admission that the proposal would be visually obtrusive to the neighbouring property. It is further considered that the planting of a 2.5m high hedge at this location would only exacerbate the irregular pattern of development and will be out of sync with the development as a whole.

3. Impact on residential amenity

The proposed development will interfere with the appellant's residential amenity in terms of loss of privacy due to the increased proximity of activities. As their house has a north-facing garden, the area adjacent to the proposed development is the most ideal for sitting out, which is enhanced by the mature trees at this location. The proposal will also interfere with the appellants' views

of the mountains and lake from the rear of their dwelling. The likelihood of noisy activity emanating from the proposed outbuilding is also of concern.

4. Precedent

The estate is well laid out and the proposed development would result in disorderly development which would detract from the overall character of the estate and is likely to create an undesirable precedent.

5. Other matters - Inclusion of personal information

Concern is raised regarding the applicant's inclusion of sensitive information about the appellants and their property in support of the application.

6.2. Planning Authority Response

The P.A. has not responded to the grounds of appeal

6.3. First party response (2/09/20)

- (1) **Hedge screening** - The provision of hedging was in response to the appellants' concerns raised in pre-application discussions. It is disputed that it represents an acceptance that it would result in visually obtrusive development. The proposed hedging is similar to that which exists at No. 1 Beechgrove, which it is stated is in the ownership of the appellants. Furthermore, the appellants have planted similar hedging along the eastern side of their own garage in their rear garden.
- (2) **Visual impact** - The siting of the structure in the corner reduces its visual impact from the north, which helps to integrate it into the countryside.
- (3) **Residential amenity** - It is submitted that the appellants main residence is not in Ireland and that the property is rented out as a holiday home. This is contrary to conditions 19(a) and 20 of the parent permission, which states that the dwelling units shall be used as a permanent all year-round private residences and shall not be used as holiday homes. It would be most unfair if permission was to be refused given that the applicant resides in the property all year round.
- (4) **Reason for development** – the applicant requires the additional space so that he can park his car in one of the garage spaces and use the other one for additional storage for the enjoyment of his house.

7.0 Assessment

7.1. It is considered that the main issues arising from the appeal relate to

- Compliance with conditions of previous planning permissions on the site
- Residential amenity and
- Visual amenity.

7.2. Compliance with Conditions of parent permission 05/1546

7.2.1. Planning permission was granted for 8 dwelling houses subject to 30 no. conditions in 2012. The 8 dwelling houses have been constructed generally in accordance with the planning permission. However, planning applications were subsequently submitted and granted for extension of duration of permission and for the retention of revised boundaries, revisions to the dwelling houses and erection of garages at Site 4 (18/676), Site 5 (18/677) and Site 6 (18/678), respectively. It is noted that these applications had initially proposed to revise the boundary between Sites 3 and 4, (as well as other boundary revisions), but following a request for further information, the applicants had amended this such that the boundaries between these two sites would be as granted under the parent permission (05/1546).

7.2.2. However, revisions were made to the dwelling house and site boundaries of Plot 4. According to the documentation on the planning authority's website for application No. 18/676, the house was constructed as being longer (1.2m), higher (225mm) and its position was changed. Furthermore, the boundaries of Plot 4 were revised to the south and east and a garage/woodshed was constructed, which appears to be very similar to the existing garage and woodshed at Plot No. 3.

7.2.3. The permitted layout plans did not include any outbuildings. Condition 24 restricted the layout by stating that

No part of any of the proposed dwelling houses, garage or other structures shall be erected within 4.5 metres of the centre of any divisional boundary or adjoining property on either side of the proposed dwelling houses

Reason: To regulate and control the layout of the development.

7.2.4. The intended purpose or objective of this condition is not clear. However, it is noted that outline planning permission for 5 dwelling houses had been granted previously

under 01/2220, and that Condition 4 of that permission had included the same requirement to Condition 24 of the parent permission for the 8 dwelling houses. The outline permission related to much larger sites and Plots 3 and 4 (as currently constructed) formed a single site. It is further noted that most of the sites within the estate have had garages with woodsheds constructed within the individual plots and that they seem to be generally of the same design and may have been constructed by the original developer. Thus, the design and layout of the estate has evolved over time. It has been pointed out by the applicant that there are other conditions of the parent permission which have not been complied with, such as the use of several units as holiday homes and not as permanent all-year round residences (Conditions 19 and 20). It was submitted that it would be unfair for the applicant, who lives there all year round, to be penalised in these circumstances.

- 7.2.5. The retention of the existing garage and construction of the extension to this outbuilding, which would be sited 1942mm from the boundary at its closest point, would contravene this condition. It is considered, however, that the design and layout of the development, as originally conceived in 2001, has been revised many times and further alterations have been made to boundaries and layouts, including the construction of garages/woodsheds, for which retention permission has been sought (and granted) in the meantime. The plots are generously sized, being generally half an acre (c.2,000m²), and the density of the development is very low. It is considered, having regard to all of these circumstances, that the contravention of the condition would be acceptable in this instance provided that the proposed development does not result in significant injury to the visual and residential amenities of the area and of adjoining property.

7.3. Visual amenity – Rural General Landscape Area

- 7.3.1. The proposed development must also comply with the provision relating to protection of the landscape. The site is located within a Rural General Area, which are the least sensitive landscapes and capable of accommodating a moderate amount of development. Development proposals should be integrated into their surroundings in order to minimise the effect on the landscape. The Building a House in rural Kerry Design Guidelines requires that outbuilding such as garages should be designed to compliment the main dwelling house.

- 7.3.2. The structure to be retained is generally similar to the garage/woodshed that has been constructed on most of the sites within the estate. It is located at the rear of site and is designed to a high standard with high quality materials that blend in with the overall development. The proposed extension to the existing garage (minus the existing woodshed), would increase the overall floor area of the outbuilding from 45.45m² to 66.29m², which is approx. and additional 21m² (or c. 30%). Although the width of the structure would be increased from c.7.45m to c.12.25m, the depth, height and general design would remain essentially the same. Given the large plot size and the low site coverage and density of development, it is considered that the proposed enlargement of the garage with a small woodshed attached is acceptable in principle.
- 7.3.3. It is considered that the siting of the proposed garage/woodshed at the rear in the north-eastern corner of the site is appropriate, as it would be set back behind the building line and would benefit from existing vegetative screening. There are trees to the rear (north) of the site and further trees along the rear boundary of the appellant's site, including a mature tree within Plot 4 immediately adjoining the site of the outbuilding. The applicant has proposed to plant a beech hedge which would grow to 2.5m to screen the development. It is considered that, having regard to the small scale and design of the structure, together with the existing screen planting and proposed hedging, the proposed development would be well integrated into the landscape. It is further considered that the structure has been designed to a high standard and that it would harmonise with the overall character of development within the estate. The proposal would not seriously injure the visual amenities of the area and would comply with the planning policies for the area.

7.4. Residential Amenity

- 7.4.1. The appellants have raised concerns regarding the loss of privacy, potential disturbance from noisy activities in the garage, and interference with views of the mountains to the north. It is noted that the applicant has stated that the intention of the proposed development is to enable him to park a car in on half of the garage and to utilise the remainder for the storage of domestic items. Given the distance of the proposed structure from the appellants' dwelling, (c. 20 metres), it is unlikely that the proposed development would give rise to either a loss of privacy or disturbance in terms of noise. However, it would be appropriate to attach conditions to any

permission restricting the use to domestic purposes and requiring the hedge to be planted within the next planting season. The right to a view is not protected under planning legislation. It is considered, therefore, that the proposed development would not give rise to any significant injury to residential amenity.

7.5. Environmental Impact Assessment

- 7.5.1. Having regard to the nature and small scale of the proposed development within an established housing 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.

7.6. Appropriate Assessment

- 7.6.1. The P.A. reports screened out appropriate assessment. It is noted that the closest European sites are Kenmare River cSAC(002150), which is 3km to the southwest, Killarney National Park, Macgillycuddy Reeks and Caragh Lake Catchment cSAC (000365), which is c.4km to the north and Kilgarvan Ice House cSAC (000364), which is c. 3km to the east. Given the nature and small scale of the development, the distances involved, and the absence of any indication of a hydrological link to the European sites, it is considered that Appropriate Assessment issues can be ruled out at this stage.

8.0 Recommendation

- 8.1. It is recommended that planning permission be **granted** for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Kerry County Development Plan 2015-2021, to the nature and scale of the development and to the existing pattern of development in the area, it is considered that subject to compliance with the conditions set out below, the proposed development would not materially contravene a condition of a previous planning permission, would not seriously injure 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, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The external finishes of the proposed extension (including roof tiles/slates) shall be the same as those of the existing dwelling in respect of colour and texture. Samples of the proposed materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. The landscaping scheme, including the proposed beech hedge on the north-eastern boundary of the site, shown on Drawing Number MOL015-20-03, as submitted to the planning authority on the 21st day of May, 2020 shall be carried out within the first planting season following substantial completion of external construction works.

Reason: In the interests of residential and visual amenity.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall be erected within the rear garden area without a prior grant of planning permission.

Reason: In the interest of the amenities of the area.

5. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to private domestic storage purposes only and not for any commercial, habitation or agricultural uses (as specified in the lodged documentation), unless otherwise authorised by a prior grant of planning permission.

Reason: To protect the amenities of property in the vicinity.

Mary Kennelly
Senior Planning Inspector

19th November 2020