



An
Bord
Pleanála

Inspector's Report ABP 308919-20

Development	Alterations and extension to dwelling and provision of 2 no. car spaces.
Location	16 Marian Terrace, Killarney Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	20/688
Applicant	Greg & Sarah Lanigan
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellants	Karen O'Donoghue
Observers	None
Date of Site Inspection	18 th May 2021
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1.1. The site is located within a long-established housing estate which is within easy walking distance of Killarney town centre. Marian Terrace estate dates from the 1950s and 1960s. It is located to the east of Rock Road (R876) and c.500m from the top of High Street. The site is located within a street with a mix of terraced, semi-detached and detached housing. The appeal site forms part of a pair of semi-detached units (16 and 17). The houses to the west comprise a terrace of 4 houses (12-15) which are at a lower ground level. There is a detached house (17A) to the east of the pair of semi-D's. There is a rear lane which runs parallel to the street from where rear access to the site is available.
- 1.1.2. The site area is given as 0.03ha and the existing floor area as 70m². It is a two-storey house with a small front garden and a long narrow back garden, which is irregular in shape. There is also a side garden which provides for a separation distance of c.4.5m from the common boundary with No. 15 (appellant), which also has a side garden of a similar width. The garden areas are overgrown and in a neglected state. The appellant's property forms the end of a terrace, and the front door is situated on the side elevation of the house, facing the appeal site. It has a lower floor and roof ridge level. The other semi-detached house of the pair, No. 17, has been extensively refurbished with a 2-storey side extension. Several houses within the estate have also been refurbished, altered and extended in the recent past. Photographs on the file indicate where two-storey side extensions have been constructed.

2.0 Proposed Development

- 2.1.1. The proposed development seeks permission to carry out alterations and extensions to the dwelling house which may be summarised as follows:
- Construct two-storey side and rear extension as a wrap-around structure with a proposed additional floor area of 100sq.m.
 - The rear extension would provide for a kitchen/dining room on the ground floor with a master bedroom above. The side extension would provide for a

study, stairwell and utility room on the ground floor with an additional bedroom, bathroom and ensuite (for master bedroom).

- The side extension would include a large feature window on the stairwell on the western elevation facing No. 15. The extension would project c.1.7m beyond the existing front building line and extend to provide for a new entrance hallway. To the rear of the proposed stairwell, it is proposed to provide an enclosed heat-pump area with a utility room beyond. The proposed side extension would be 800mm from the boundary with No. 15.
- The rear extension would be recessed by c.1.2m from the eastern boundary (with No. 17) and it is proposed to provide glazing to mono-pitched roof area over kitchen at this location. The master bedroom above would have 'clerestorey' (or high-level) windows facing east.
- Provide a continuously glazed opening to the rear (northern elevation) of the dining room/kitchen and master bedroom (respectively) which would continue around the corner facing west/north-west. (This corner window at FF level was subsequently omitted in FI).
- It is proposed to demolish several internal walls and part of the gable wall as well as removing the chimney stack to facilitate the development. It is also proposed to replace the rough-cast render with smooth render and the provide new triple glazed windows.
- Create vehicular entrance and provide for two parking spaces in the front garden. The masonry wall screening the rear garden to the west of the house will also be demolished to facilitate the construction of the side extension, and an outbuilding in the rear garden will also be demolished.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The P.A. decided to grant planning permission for retention of the works carried out to the dwelling subject to 9 conditions including:

Condition 5: the stairwell window to be fitted with frosted/opaque glass and the use of white/upvc was prohibited on windows, doors, fascias, soffits and guttering.

Condition 6: the proposed boundary wall with No. 15 Marian Terrace shall be a concrete block wall which shall be capped and plastered on both sides to a height of 1.8m behind the front building line and to 1.2m forward of the building line.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's report noted that the site is a semi-detached dwelling in an established, mature housing development. It was noted that the front door of No. 15 faces the site of the proposed extension and that the side and rear gardens of that property would be overlooked by the proposed corner window to the master bedroom and by the proposed feature window to the stairwell. It was considered that the stairwell windows should be reduced in scale and size and fitted with opaque glazing and that the corner master bedroom window should be omitted and replaced with a standard window. The two double doors to the heating system on the side elevation were also considered to be a potential source of nuisance and should be relocated to the rear. The layout showing two parking spaces was considered to be inadequate in that two spaces could not be accommodated. A contiguous elevation of the front of the property with Nos. 15 and 17 Marian Terrace was also considered necessary, and details of the proposed boundary treatment between Nos 15 and 16 were also required.

These matters formed the basis of a FI request on 22nd September 2020.

3.2.2. FI Response 16th October 2020

The applicant's response to the request for further information (16/10/20) was considered to be significant and the applicant was requested to publish further notices. The republication took place on 28/10/20. The planning authority was generally satisfied with the amendments to the scheme, apart from the issue of fitting the stairwell windows with opaque glazing. This matter was considered to be capable of being addressed by means of condition. Otherwise, it was considered that the outstanding matters regarding overlooking, impact on visual amenity and privacy of

the neighbouring property and the capacity to accommodate 2 parking spaces were adequately resolved.

A **grant of permission** subject to conditions was recommended.

3.3. **Other Technical Reports**

- 3.3.1. Roads Engineer – concern raised that layout as originally submitted would not cater for two parking spaces. However, the revised layout was considered to be satisfactory.

3.4. **Prescribed Bodies**

- 3.4.1. None received.

3.5. **Third Party Observations**

One objection received by the planning authority from the appellant (15 Marian Terrace). This submission is on file for the Board's information. The issues raised are comparable to those set out in the 3rd Party appeal received and summarised in section 6 below. The concerns raised related to the following issues

- Proximity and impact on residential amenity - The proposed extension is only 800mm from the observer's property and the inclusion of a large number of large-scale windows on the facing wall fails to acknowledge the fact that her front door faces the appeal site. The difference in floor levels of 600mm exacerbates the issue of overlooking.
- Corner window to master bedroom – this results in overlooking and should be omitted.
- Feature window to stairwell – this window overlooks her property and should be omitted or replaced with a small window with frosted glass or a roof light.
- First floor high level windows – these windows to the bathroom and ensuite on the side elevation face the observer's property and should be omitted and replaced with smaller windows with frosted glass.

- Front building line - The front building line of the proposal extends approx. 1600mm forward of the established building line which is not in keeping with the character of the street.
- Overshadowing – the proposed 2-storey extension together with the projection forward of the front building line will result in an excessive amount of sunlight being lost to the observer’s property.
- Boundary wall – the boundary treatment between the two properties is unclear and needs clarification and should be agreed with the observer.

4.0 Planning History

4.1.1. None on the site.

5.0 Policy Context

5.1. National Planning Framework 2018

The NPF seeks to focus growth in cities, towns and villages with an overall aim of achieving higher densities than have been achieved to date.

NP Objective 35 seeks to increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of old buildings, infill development schemes, area or site-based regeneration and increased heights.

5.2. Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)

In order for small towns and villages to thrive and succeed, it is stated that their development must strike a balance in meeting the needs and demands of modern life but in a way that is sensitive and responsive to the past. New development should contribute to compact towns and villages. The scale should be in proportion to the pattern and grain of existing development.

5.3. Kerry County Development Plan 2014

Chapter 3 – Housing – sets out the housing policies and objectives including the following:

US-3 – Ensure that all new development within the County supports the achievement of sustainable residential communities. The Council will have regard to the provisions of the ‘Sustainable Residential Development in Urban Areas’ Guidelines 2009 (DoEHLG) and the accompanying Urban Design Manual.

US-7 – Ensure that all new urban development is of a high design quality and supports the achievement of successful urban spaces and sustainable communities.

5.4. Killarney Town Development Plan 2009 – 2015 (as extended)

Killarney Town Development Plan was extended by Variation 4, which was adopted in December 2018. This Variation replaces the zoning maps and many of the other maps of the original Development Plan and also addresses several other planning issues. The site is zoned as ‘Existing Residential’ (R2). The objective for Existing/Developed/Residential Areas is to protect and improve these areas and to provide facilities and amenities incidental to those areas.

Development management standards - Extensions to dwellings must follow the pattern of the existing house (12.41.1) and granny flats must be capable of full integration with the main house and be capable of re-integration with the main house, with the entrance being through the main house (12.41.2). Boundary treatments should be in the form of screen walls which should be 2m (in height) along the side boundaries (12.32).

5.5. Natural Heritage Designations

Killarney National Park, Macgillycuddy Reeks and Caragh River Catchment SAC (site code 000365) and Killarney National Park SPA (Site code 004038) are located approx. 600m to the north, west and south.

6.0 The Appeal

6.1. Grounds of Appeal

A Third-Party Appeal has been received from the owners of the properties to the immediate west of the site (No. 15 Marian Terrace). The appellant welcomes the proposal in principle to upgrade the house to a family home but has certain concerns regarding the design of the proposed extension. The submission can be summarised as follows:

- **Proximity of development** – from the submitted drawings it is unclear what distance the proposed extension would be as in some instances, such as the pinch point at the corner of the stairwell, it is 800mm and in others it appears to be significantly less. The Killarney Town Development Plan (12.31) states that a distance of 2.3m shall be provided between dwellings or pairs of dwellings for the full length of their flanks, which shall be divided equally between the dwellings. It is therefore requested that the extension is set back a minimum of 1.15m from the centre line along the common boundary.
- **Double height feature window** – the proposed feature window on the gable wall that would face the appellant's property which serves the stairwell is double height. It poses a serious overlooking issue and impacts negatively on the appellant's main entrance and patio area outside the front door, which is used frequently in the mornings. The proposed reduction in width of the double-height window does not address the overlooking issue. The P.A. condition to insert opaque glass would not adequately mitigate the overlooking issue as controlling the level of opacity is difficult and the presence of the feature window leaves the appellant feeling of being overlooked. The impact is compounded by the difference in ground levels as the appeal property is c.650mm above the level of the appellant's property.
- **Established pattern of development** – the feature window is out of character with the pattern of development in the area where the stairwells are generally lit by means of a small window, and where the separation distances between dwellings is approx. 7 metres (3.5m to boundary).

- **Residential amenity** – the proposed development, as designed will result in an unacceptable degree of overlooking and will overshadow the appellant's main entrance and garden. In particular, the extension will reduce the amount of sunlight reaching the appellant's patio. The proposed development will therefore have a serious adverse impact on the residential amenities of the adjoining property which contravenes section 12.41.1 of the Town Development Plan.
- **Building Regulations** – it is considered that the extent of glazing in the proposed side elevation contravenes the Building Regulations Part B Fire in relation to the minimal allowable amount of unprotected glazing (1 sq.m) as per section 4.5.7 of Part B Volume B 2017, with the building being less than 1m from the boundary.
- **Location of external air to water units** – these units should be located to the rear of the dwelling so as to minimise any noise emissions due to the location of the doors to the heating system cubicle. It is requested that should planning permission be granted, that a condition be attached requiring the relocation of these units to the rear of the dwelling.

6.2. Response from first party

A response to the grounds of appeal was received from the first party on 21st January 2021. The main substance of the response was in the form of a rebuttal of the grounds of appeal. The following points of note were made:

Background – the applicant is the granddaughter of the original owners and wants to make it a family home. The original houses in the estate are very small c.70m² and although the gardens are large, they are long and narrow with an irregular shape. They are also peculiar in that they have numerous different angles and directions of boundaries as can be seen from the site location map. This presents significant challenges to designing an extension as the site is very restricted. The proposed extension is designed to match that at No. 17, which is the other half of the semi-detached pair of dwellings.

Proximity of extension to boundary – the reference to 2.3m separation distance between dwellings in the KTDP relates to the construction of new dwellings on

greenfield sites, where the required distances are easily achievable. However, this is difficult to achieve on a restricted site such as this one. Given that there is rear access in this case, a relaxation would apply. At 800mm, there is sufficient space to wheel a wheelie bin to the rear with ease. However, there is a structure on the boundary between Nos. 15 and 16 which abuts the rear wall of No. 15.

Gable window and dividing wall – There is an existing window in each of the opposing gable walls of Nos. 15 and 16. The stairwell window, while larger than the existing one, will provide greater privacy protection as it will be fitted with translucent glass. It also forms part of the solar gain for the extended dwelling. In addition, a 1.8m high wall will be provided along the common boundary which will also improve the level of privacy for No. 15.

Precedent – it is incorrect to say that there is no precedent for such a window as there is a similar window in the gable wall of No. 17 facing No. 17A, which was granted permission as part of the extension and alterations to this dwelling.

Air to water units – The air to water systems is extremely quiet in their running and will emit minimal noise. There is a similar unit at No. 17 which is non-intrusive to neighbours. It is submitted that there would be no noise intrusion given this factor together with the distance of the appellant's house from the dividing wall (c. 4m) and the screening effect of the proposed 1.8m high boundary wall.

6.3. **Planning Authority Response**

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

7.0 **Assessment**

I consider that the issues arising can be assessed under the following headings:

- Principle of development
- Residential amenity
- Other matters
- Environmental Impact Assessment
- Appropriate Assessment

7.1. Principle of development

- 7.1.1. The site is located in an established residential estate dating from the 1950s and 1960s which comprises a varied mix of house types and plot sizes and shapes. The floor areas of the dwellings are generally quite small (c.70m²), and many have been extended and modernised. The rear gardens of the centrally located houses in the block are unusual in that they are long and narrow but are often sited at an oblique angle to the rear elevation. The appeal site is located in a section of the estate where the predominant house type is in the form of short terraces of 2-storey houses. However, the subject site comprises one of a pair of semi-detached houses with one detached house adjacent, each of which has been extended and altered to a significant degree. The rear garden is orientated such that it is at an oblique angle to the house and veers off to the north-east, which means that it is largely sited behind No. 17 and part of 17A. Similarly, the rear garden of the appellant's house (No. 15) is largely sited to the rear of the appeal site. I would accept the first party's contention that such restrictions make it quite challenging to design an appropriate extension.
- 7.1.2. It is considered that the house is very small by modern standards with a floor area of c.70m². Thus, the extension of the dwelling is considered to be acceptable in principle. Given that an extension of the size/floor area required, if sited directly to the rear, would be likely to be very intrusive on the amenities of No. 17 due to the orientation and restricted nature of the site. However, the distribution of the extension of accommodation between the side and rear gardens, where there is a generous set back from the side boundary, is likely to be more appropriate, provided that the amenities of the adjoining property can be adequately respected. Thus, the overall layout and design of the proposed extension is considered to be appropriate in principle.
- 7.1.3. The appellant is seeking the reduction in the width of the side extension by 1.15m so that the proposal can comply with the development management standard contained in the current Killarney Town Development Plan regarding separation between dwellings (2.3m to be equally distributed). It is considered, however, that this would compromise the internal space available to provide the accommodation as proposed and would probably require a re-design of the proposed dwelling. I would agree with the first party that this standard seems to relate to the construction of new dwelling houses on greenfield sites rather than to the extension of existing dwellings. I would

also agree that the purpose of the set back seems to be to provide access to the rear of a dwelling house. In this case, there would be a passageway within the site as well as a rear laneway, and as such access to the rear is adequate.

- 7.1.4. It is considered, therefore, that the development, as proposed, makes the most efficient use of this restricted site, and provides for an appropriately sized extension with adequate open space remaining on the site. Thus, provided that the residential amenity of the adjoining properties is not unduly affected, the proposed development would be acceptable in principle.

7.2. Residential amenity

- 7.2.1. **Overlooking** - The first party has stated that the proposed development would replace a small landing/stairwell window in the gable wall which is currently sited some 7 metres from the gable wall of the appellant's house with a large feature window to the stairwell. The main objection seems to be to the size of the opening together with the proximity of the opening to the appellant's property, particularly given that the main entrance and a patio area are sited opposite the said window. The planning authority had already sought a reduction in the size of the window, which was achieved in the receipt of FI, where the width was reduced from 2200mm to 1000mm. It is considered that without mitigation in the form of obscure glazing, the window would overlook the adjoining property and would adversely affect the amenities of that dwelling. However, the planning authority decision included a condition which required the window to be fitted with opaque glass. The appellant is not willing to accept this form of mitigation as it is stated that it is difficult to control the level of opacity and does not overcome the perception of being overlooked at the front door. It is further stated that the difference in ground levels (c.650mm) exacerbates the impact on the appellant's property.
- 7.2.2. The requirement to fit opaque/obscure glazing in a window which would otherwise overlook an adjoining property and cause a loss of privacy, is a tried and tested mitigation measure which has been used as a standard measure by the Board and by planning authorities for many years. I do not accept that the issue of overlooking could not be adequately addressed by this form of mitigation. The arrangement and layout of plots and dwelling houses in the vicinity of the site is such that there is a considerable degree of overlooking of adjoining gardens and patios which is inherent

in the design and layout of the estate. It is considered that the measures that have been taken by the applicant to date, together with the implementation of the condition as attached by the P.A., would adequately address any potential loss of privacy and that there would be no significant increase in overlooking arising from the proposed development.

7.2.3. **Overshadowing** – The appellant has stated that there is a patio area to the front of the screen wall that separates the front/side garden from the rear garden, and which is adjacent to the front door, where there is a sunny and pleasant microclimate. It is contended that this area will be overshadowed by the proposed side extension which will adversely affect her amenity. The area in question is located to the east of the appellant's house and would be to the immediate west/southwest of the side extension. It is not laid out as a patio area, but I noted that there is a garden bench against the gable wall of the house. It is likely, because of the orientation, that the proposed extension would reduce the amount of sunlight reaching this area in the morning. However, it was already in shadow by the early afternoon in mid-May. Furthermore, it is considered that the area is likely to be overshadowed by the proposed 1.8m high screen wall along the boundary even if a side extension was not part of the proposed development.

7.2.4. In addition to this area, the appellant's property has a rear garden which is long and narrow with an estimated area of over 100m². It is north-east facing and the appeal site is located to the southeast. Due to its orientation, it is likely to be overshadowed by the appellant's own house and by the terrace for part of the day, but the garden was sunny at the time of my inspection in mid-May. The proposed extension is likely to result in some reduction in the degree of sunlight reaching this rear garden, particularly in the mornings. However, the changes to the amount of sunlight reaching the patio and rear garden areas are not likely to be significant in the context of the available outdoor amenity space and the urban environment in which the site is situated. It is considered, therefore, that any loss of sun light would not unduly affect the residential amenities of this adjoining property.

7.3. **Other matters**

7.3.1. **Air-to-water units** – it is difficult to see what alternative location the heating system could be relocated to as the rear wall of the house comprises mostly glazing and the

heating system is presumably required to be adjacent to the house. The provision of a domestic heating system is not something out of the ordinary that would require mitigation. The first party has advised that the system is much quieter than a standard oil-fired boiler. It is not considered necessary to require that these units be relocated within the site.

- 7.3.2. **Building Regulations** – this matter is outside of the planning code. I note that the first party has, nevertheless, responded to the ground of objection by stating that it is proposed to provide IWR Fire protection which it is stated would comply with the Building Regulations.

7.4. **Environmental Impact Assessment**

Having regard to the nature and scale of the proposed development within the development boundary of Killarney town on serviced lands, 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.

7.5. **Appropriate Assessment**

- 7.5.1. The site is located within 600m of two European sites, Killarney National Park, Macgillycuddy Reeks and Caragh River Catchment SAC (site code 000365) and Killarney National Park SPA (Site code 004038). There are no known hydrological links to the protected sites. Given the scale and nature of the development, the distances involved, that the site is located in an established urban area, on brownfield and serviced lands, it is considered that no appropriate assessment issues are likely to arise.

8.0 Recommendation

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 policies and objectives as set out in the Killarney Town Development Plan 2009-2015 (as varied and extended), to the scale and nature of the proposed development and to the nature and character of the surrounding environment, it is considered that subject to compliance with the conditions set out below, the proposed development would be an acceptable form of development at this location and would not seriously injure the amenities of the area. The proposed development 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 plans and particulars submitted to the planning authority on the 12th day of October 2020 and by the further plans and particulars received by An Bord Pleanála on the 21st day of January 2021, 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 proposed development shall be amended as follows:

- (a) The proposed feature window to the stairwell on the western side elevation shall be fitted with opaque glazing.

The revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

Reason: In the interest of residential amenity.

3. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. 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.

5. Water supply and drainage arrangements, including the 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.

6. 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 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.

Mary Kennelly
Senior Planning Inspector

2nd June 2021