



An
Bord
Pleanála

Inspector's Report ABP-309268-21

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| Development | Construct a dwelling house with public sewer connection. |
| Location | Cooleen, Emlagh West, Dingle, County Kerry. |
| Planning Authority | Kerry County Council |
| Planning Authority Reg. Ref. | 20717 |
| Applicant(s) | Ciara Brick. |
| Type of Application | Permission |
| Planning Authority Decision | Grant Permission with conditions |
| Type of Appeal | Third Party |
| Appellant(s) | Mr & Mrs Tommy Devane. |
| Observer(s) | Click here to enter text. |
| Date of Site Inspection | 13 th April 2021. |
| Inspector | Bríd Maxwell |

1.0 Site Location and Description

- 1.1. This appeal relates to a site with a stated area of 0.0354 hectares located at Cooleen, Emlagh West in Dingle Co Kerry. An Cúilín (Cooleen) comprises a cul de sac roadway running in a southwest direction from the N86 and lies a short distance to the east of the harbour area. The appeal site is rectangular in shape and would originally have formed a vegetable / garden plot serving the house on the opposite side of Cooleen Emlagh Cottages which comprises a terrace of single storey and dormer cottages. I note that Nos 1 to No 8 Emlagh Terrace inclusive are Protected Structures (RPS KY-042-016 – 023).
- 1.2. To the northwest / rear of the site is a playground area which opens out onto the car park serving the harbour area to the west of this. The adjoining plot to the south of the appeal site is subject to a concurrent appeal ref ABP309267-21 and to the south of this is a two-storey dwelling of recent construction with parking area to the front. The plot to the northeast is vacant and to the northeast of this is a dormer type dwelling.
- 1.3. The appeal site is currently grassed and bounded by a stone wall to the northwest with hedging along the side boundaries and boundary wall at roadfront with a public lighting column along the road front.

2.0 Proposed Development

- 2.1. The proposal involves permission for the construction of a two-storey dwelling with attic accommodation (261sq.m.) public sewer connection and all other associated ancillary site works.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1 By order dated 6th January 2021 Kerry County Council issued notification of its decision to grant permission and 12 conditions were attached including:
Condition 2 Requires payment of a development contribution of €4,220.

Condition 3 Permanent occupancy condition.

Condition 4. Dwelling shall be used as a primary permanent all year-round private residence not as a holiday home or second home.

Condition 13. The pedestrian gate to roadway shall be retained if feasible.

3.2. Planning Authority Reports

Planning Reports

Planner's initial report sought additional information to include an accurate contiguous section demonstrating proposed height relative to the height of the permitted development on site southwest of the proposal. A minimum distance of 2.3m between the proposed dwelling and potential future dwellings on adjoining sites for the full length of flanks.

The second report considers proposal to be acceptable and recommends permission subject to conditions

Other Technical Reports

County Archaeologist - No recorded monuments listed in the recorded monuments and places located in proximity to the development.

3.3. Prescribed Bodies

Irish Water – No objection subject to connection agreement. Development will be subject to constraints of Irish Water Capital Investment Programme. All work in compliance with Irish Water Code of practice. Applicant may have to pump effluent into manhole within their own property and then manhole to discharge by gravity to foul sewer network.

3.4. Third Party Observations

3.4.1 Submission by Ger O Keefe Consulting Engineers on behalf of Mr and Mrs Tommy Devane, 2 Emlagh Cottages. Object to the proposed design on the following grounds:

- Proposed design will be obtrusive in the skyline and represents overdevelopment of the site. Out of character with existing dwellings.
- Building line should be set back in line with the dormer at the northeast side of the site at least 9m.
- Negative impact on established residential amenity.
- No contiguous section provided showing Emlagh Cottages.
- Existing unauthorised house should not be the benchmark for further development.
- Board Inspector in considering retention application PL08. 237911 considered that the limited separation distance resulted in a visual imbalance and evident lack of sympathy and harmony between the height of the dwelling for retention and Emlagh Cottages.
- Overlooking and overshadowing of established dwellings.
- Creation of three storey houses opposite a line of former / single storey cottages which are protected structures would not be in accordance with the proper planning and sustainable development of the area.
- Roadway is narrow and parking limited.

4.0 Planning History

No planning history on the appeal site.

Adjoining site to the southwest

Concurrent appeal **ABP309267** for the construction of dwellinghouse with public sewer connection.

PA Ref 19/176 Outline Permission granted to Elizabeth O Donnell to construct a dwelling with a public sewer connection and all associated ancillary site works. 18th April 2019. Condition 3 restricted use to primary permanent all year-round private residence.

Adjacent site to the southwest.

PA Ref 07/3915 Permission was granted for a dwelling 8.5m in height.

The house constructed larger and 9.4m over finished floor level. and a subsequent application (PA Ref 10847 ABP Ref PL08.237911) for retention as constructed with removal of roof overhangs from both side elevations was refused by the Council and the Board. Permission to. The Board refused on grounds of excessive ridge height, visually obtrusive and overbearing when viewed from the public domain in particular Dingle Harbour and public open space that make up the waterfront of Dingle Harbour.

5.0 Policy Context

The Urban Development and Building Height Guidelines for Planning Authorities
Department of Housing Planning and Local Government 2018.

5.1. Development Plan

The Kerry County Development Plan 2015-2021 and refers.

The site is zoned existing residential in the Draft An Daingean Electoral Area Local Area Plan 2020-2026 and the Dingle Functional Area Local Area Plan 2012-2018.

5.2. Natural Heritage Designations

The site is not within a Natura 2000 site. The nearest such sites include the Mount Brandon SAC is within circa 1km to the northwest and the Dingle Peninsula SPA which is within circa 2km to the south east.

5.3. EIA Screening

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment. The submission of an EIAR is not required

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 The third-party appeal is submitted by Ger O Keeffe Consulting Engineers on behalf of Mr & Mrs Tommy Devane, 2 Emlagh Cottages.

- Request the Board to consider the submission in conjunction with adjoining site appeal ABP Ref: 309268-21.
- The incorporation of three storey houses in close proximity to Emlagh Terrace is not in keeping with proper planning and will be detrimental to residential amenity.
- Proposal will tower over Emlagh cottages and will be excessively prominent and obtrusive on the skyline.
- Cross section drawing not provided to show impact on Emlagh cottages.
- Overpowering, overlooking and negative visual impact.
- No objection to principle of development on the site however height, scale, mass and bulk should be in keeping with the dormer style type dwelling north. Three storey terraced type development is out of character.
- Existing unauthorised house should not be the benchmark for further development.

6.2. Applicant Response

6.2.1 The response by Ó Muircheartaigh Ó Bambaire Civil Engineering and Planning Consultants.

- Applicant is fluent Irish speaker born and reared in the immediate locality.
- Proposals meet the criteria for residential development as set out in the Dingle Functional Area Local Area Plan
- Precedent for height was set under 07/3915 and the ridge height proposed following further information request is based maintains that height.
- Proposed dwelling is for full time residence and will add to the social and economic fabric of the locality.

6.3. Planning Authority Response

6.3.1 The response of the Planning Authority reaffirms the decision to grant permission and is summarised as follows:

- Permission was granted for a dwelling of 8.5m ridge height to the south west of the appeal site. The house was built higher than the permitted 8.5m and retention was sought but refused by Kerry County Council and An Bord Pleanála. The proposed height maintains the 8.5m high permitted height.
- Development in the area consists of mix of house style scale and design.
- The proposal will integrate into the area on serviced land within the town boundary.

7.0 Assessment

7.1 Having regard to the planning history on nearby sites and in light of the residential zoning objective pertaining to the site and the location of the development within the serviceable urban area of Dingle Town there is no objection in principle to

development on the site and it the detail of the design which is the focus for assessment.

- 7.2 The third-party appellant contends that the grant of permission for an 8.5m high dwelling on the adjacent site to the southwest of the site should not taken as a precedent for development on the appeal site particularly as the dwelling was constructed in excess of this height and subsequently retention refused by both Kerry County Council and An Bord Pleanála PL08-237911. The appellants consider that a lower dormer type design with increased setback, similar to that to the north east of the site, would be more appropriate and more in keeping with the established single storey dwellings Emlagh Cottages opposite.
- 7.3 The proposal provides for an 8.5m high dwelling with accommodation provided also at attic level. The proposed dwelling is set back circa 5.5m from the front roadside boundary. As regards the standard of residential amenity provided, I consider that a reasonable standard is achieved in terms of internal floorspace and a private garden is provided to the rear of the dwelling.
- 7.4 As regards impact on established residential amenity it is clear that any development on the site will represent a significant change and impact on the established dwellings immediately opposite on Emlagh Terrace given the currently open aspect and views available towards the harbour. I note that the development plan and national guidelines including the Urban Development and Building Height Guidelines for Planning Authorities 2018 promote an increase in prevailing building heights in order to address the delivery of more compact growth in our urban areas. In assessing the relevant development management criteria, I note that the site is central and accessible in the context of Dingle Town. The proposed design is of traditional character and is in keeping with the permitted and proposed development on the adjacent sites while providing a variety in form to create visual interest in the streetscape. I consider that the proposed development positively contributes to the dwelling typologies in the neighbourhood. I consider that the proposed development will integrate reasonably well into the historical neighbourhood. On the issue of cultural heritage impact on the character of Emlagh Cottages which are designated as protected structures within the Kerry County Development Plan I note that whilst

the appeal site and adjoining plots would once have been provided as vegetable plot associated with the cottages, the significance of this historic link has been eroded over time. Having regard to the current context and the planning history on the site and in light of national and local policies promoting appropriate infill within the serviced urban area, I consider that the proposal represents an appropriate development of the site.

- 7.5 As regards traffic impact the proposal provides for two car parking spaces forward of the proposed dwelling, I am satisfied that the proposal will not give rise to traffic hazard.
- 7.6 On the issue of appropriate assessment I note that the development is located within the serviceable urban area of Dingle within an established residential area. The location which is separated from Mount Brandon SAC remote to the north of the town and Dingle Peninsula SPA distant to the south by extensive buildings, infrastructure, agricultural lands, and other developments. Having regard to the nature, scale, and location of the proposed development, the serviced nature of the development, the nature of the receiving environment, and the separation distance to the nearest European sites, it is concluded that no Appropriate Assessment issues arise as 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. Grant Permission subject to the following schedule of conditions.

Reasons and Considerations

It is considered that the proposed development, subject to conditions set out below, would not adversely affect the residential or visual amenities of the area, would be acceptable in terms of urban design, height and quantum of development, would not be prejudicial to public health and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 received on the 23rd day of November 2020 except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars. In default of agreement, the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

- 2 The proposed dwelling shall be for permanent occupation only and shall not be used as a holiday home or second home.

Reason: To ensure that the proposed house is used to meet a permanent housing need in accordance with the objectives of the Kerry County development plan and with the proper planning and sustainable development of the area.

3. The proposed dwelling, when completed, shall be first occupied as a place of permanent residence. The initial occupier shall enter into a written agreement with the Planning Authority under Section 47 of the Planning and Development Act to this effect.

Within two months of the occupation of the propose dwelling the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason: To ensure that the proposed house is used to meet a permanent housing need in accordance with the objectives of the Kerry County Development Plan and with the proper planning and sustainable development of the area.

4. The road works associated with the proposed development including the setting out of the entrance, paving and surface finishes shall be carried out and completed in accordance with the requirements of the planning authority.

Detailed arrangements in respect of relocation of utility pole at site frontage in agreement with the relevant utility provider shall be submitted for written agreement of the planning authority prior to the commencement of development.

Reason: In the interest of traffic safety and orderly development.

- 5 The applicant or developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

6. Details of the materials. Colours and textures or all external finishes shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the Planning Authority for such works and services, and shall be agreed in writing with the Planning Authority prior to commencement of development.

Reason: In the interests of public health and to ensure a proper standard of development.

8. All service cables associated with the proposed development (such as electrical, television, telephone and public lighting cables) shall be run underground within the site.

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

9. 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 hours of working, noise management measures and off-site disposal of construction / demolition waste.

Reason: In the interests of public safety and residential amenity.

- 10 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. 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 the Board to determine the proper application of the terms of the scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

Bríd Maxwell
Planning Inspector
28th April 2021