



An  
Bord  
Pleanála

## Inspector's Report ABP-309489-21

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<b>Development</b>	To retain and complete existing dwelling and all associated site works.
<b>Location</b>	33 St. Brendan's Park, Tralee, Co. Kerry
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	20/1137
<b>Applicant(s)</b>	Jimmy Litchfield
<b>Type of Application</b>	Retention permission
<b>Planning Authority Decision</b>	Grant, subject to 4 conditions
<b>Type of Appeal</b>	Third Party -v- Decision
<b>Appellant(s)</b>	Tommy Griffin & Claire Cassidy
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	30 <sup>th</sup> April 2021
<b>Inspector</b>	Hugh D. Morrison

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## 1.0 Site Location and Description

- 1.1. The site is located 0.6 km north of the town centre of Tralee in an area of two-storey suburban housing. This site comprises the northern half of the residential property at No. 33 St. Brendan's Park. It formerly formed part of the elongated rear garden to the mid-terrace dwelling house at this address. The site abuts that portion of Cahermoneen a residential street to the north, which forms a cul-de-sac with semi-detached dwelling houses on its northern side, i.e. Nos. 15 – 18. On the southern side of this cul-de-sac, each of the rear gardens maintains a vehicular access from it, i.e. Nos. 31 – 37 (inclusive). In addition, gable fronted detached dwelling houses have been constructed at Nos. 32 and 36. St. Brendan's Park and Cahermoneen are connected by means of a public footpath at a short remove to the west of the site
- 1.2. The site itself is of rectangular shape and it extends over an area of 0.025 hectares. This site presently accommodates a partially completed dwelling house, which is the subject of the current application. It is accessed from Cahermoneen via a drive-in. The initial portion of this drive-in is accompanied to the west by a drive-in to No. 32 and to the east by a wide grass verge with a tree in it. The remaining portion lies to the rear of an opening in the front boundary wall to the site. The remainder of the site was formerly enclosed by means of boundary walls. Part of the western boundary wall has been removed in conjunction with the construction of the dwelling house at No. 32, i.e. the blank eastern side elevation of this dwelling house fills the gap opened-up thereby, and part of the eastern boundary wall has been removed, presumably to facilitate work on the dwelling house under construction.

## 2.0 Proposed Development

- 2.1. The proposal is to retain and complete the dwelling house presently under construction on the site. This is a three-bed/six-person dwelling house with a floorspace of 129.2 sqm over ground and first floors. It is of elongated form with long gables to the sides and short ones to the front and rear.
- 2.2. The dwelling house would be served by two car parking spaces to the front and a garden to the rear. An external passageway would accompany the western side elevation of the dwelling house.

## 3.0 Planning Authority Decision

### 3.1. Decision

Retention permission and permission granted, subject to 4 conditions.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

Proposal supported in view of planning history of the site and minor variations from what was previously permitted.

#### 3.2.2. Other Technical Reports

- Irish Water: No objection, standard observations.

## 4.0 Planning History

Site:

- 12/308083: Retain existing dwelling within revised site boundaries + Construct dwelling, with attic accommodation, to the rear: Permitted.
- 12/398083: Extend duration of 12/308083: Expired 16<sup>th</sup> April 2020.
- Pre-application enquiry 20/488.

Adjoining site to the west to the rear of dwelling at 32 St. Brendan's Park:

- 06/307242: Outline for dwelling: Permitted at appeal PL81.218953 + 08/307698 Details: Permitted and implemented.

Further to the east to the rear of dwelling at 36 St. Brendan's Park:

- 11/307957: Dwelling + Extension of duration: Permitted and implemented.

Nos. 31 – 37 St. Brendan's Park (inclusive)

- PDA-2735/64/84: Rear boundary walls and exits: Permitted at appeal PL81/5/67314 and implemented.

## 5.0 Policy and Context

### 5.1. Development Plan

Under the Tralee Town Plan 2009 – 2015 (extended), the site is zoned R2 existing residential.

### 5.2. Natural Heritage Designations

- Tralee Bay and Magharess Peninsula, West to Cloghane SAC (002070)
- Tralee Bay Complex SPA (001488)
- Ballyseedy Wood SAC (002112)

## 6.0 The Appeal

### 6.1. Grounds of Appeal

Tommy Griffin & Claire Cassidy of 16 Cahermoneen

- The planning history of the site is reviewed. Construction works are alleged to have occurred outside the authorised period. Attention is drawn to the absence of a 1m gap between the dwelling house and its eastern boundary. Attention is also drawn to anomalies in dimensions cited on the submitted plans.
- The ridge height of the dwelling to the rear of 36 St. Brendan's Park is 6m following the approach sanctioned by the Board under PL81.218953 for the dwelling to the rear of 32 St. Brendan's Park. In the latter case, whether this approach was followed is questioned.
- The partially built dwelling on the site has a ridge height that is in excess of what was originally permitted, i.e. it is 7.378m, which represents an increase of 0.928m.
- The partially built dwelling has been sited in a position that is forward of the adjacent dwelling to the west and a departure from its originally permitted siting.

- Elevational changes have also been made to the partially built dwelling, which reflect a quest for additional first floor head height.
- The dwelling could be returned to its originally permitted size and shape relatively easily. To fail to do so would be to condone an increase in height, which would establish an adverse precedent for future dwellings in the row, and further departures from the originally envisaged uniformity that would be in keeping with the pre-existing dwellings opposite on Cahermoneen.
- The green space between the kerbside and the front boundary of the site is being used for parking, thereby compromising the streetscape.
- Additional traffic would add to the hazard posed by the use of a nearby sharp bend. Likewise, the absence of a public footpath on the south eastern side of Cahermoneen would add to road hazard on the cul-de-sac.

## 6.2. Applicant Response

- An extension of time was needed, due to delays arising from redesign work to achieve a passive house.
- The height of the dwelling has increased from 6.45m to 7.378m in order to accommodate the installation of an air to water system with heat recovery.
- The resulting visual impact is minor. In this respect, attention is drawn to the height and variety introduced by new dwellings elsewhere in the surrounding estate. Precedent has thereby been set for departures from the uniform approach of the past.
- The reduction in height envisaged by the appellants would not be straight forward, i.e. the walls have been constructed with reinforced steel supports in place for the roof, and it would forfeit the opportunity for the above cited services to be installed.
- The loss of green space is mistaken as hitherto there was an access to a rear gate to 33 St. Brendan's Park in-situ.

### 6.3. **Planning Authority Response**

None

### 6.4. **Observations**

None

### 6.5. **Further Responses**

None

## 7.0 **Assessment**

7.1. I have reviewed the proposal in the light of the Tralee Town Plan 2009 – 2015 (extended), relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

(i) Planning history and amenity,

(ii) Access and parking,

(iii) Water, and

(iv) Appropriate Assessment.

### **(i) Planning history**

7.2. The relevant planning history of the site and adjoining sites on the southern side of the cul-de-sac to the north, which forms part of Cahermoneen, begins with a Board decision in 1981 to permit the residential properties at Nos. 31 – 37 St. Brendan's Park to each establish a rear vehicular access from this cul-de-sac. Thereafter, a further Board decision in 2006 granted outline permission for the construction of a gable fronted detached dwelling house to the rear of the existing dwelling house at No. 32 St. Brendan's Park. Detailed permission followed and this dwelling house has been constructed and is occupied on the site which adjoins the current application site to the west. Subsequently, in 2011, a similar dwelling house was permitted to the rear of the dwelling house at No. 36 St. Brendan's Park, further to the east of the current application site. It, too, has been constructed and is occupied.

- 7.3. The site itself received permission for a similar dwelling house in 2012. This permission was extended, and it expired on 16<sup>th</sup> April 2020. The need for a further permission therefore arises. Furthermore, all the parties to the appeal agree that the dwelling house under construction has departed from what was previously authorised insofar as the ridge height would be 7.378m rather than 6.45m, i.e. an increase of 0.928m.
- 7.4. The applicant has explained the increase on the basis that it was needed to facilitate the installation of an air to water system with heat recovery. The submitted cross sections of the dwelling house depict this system. The appellants state that elevational changes have also been made to achieve additional floor-to-ceiling heights at first floor. They also state that the dwelling house has been sited in a slightly further forward position.
- 7.5. The appellants draw attention to condition 1(b) of the Board's 2006 outline permission, which stipulated that the dwelling house "shall be single storey or single storey with dormer", "In the interest of clarity and visual amenity." They contend that the proposal is now for a two-storey dwelling house, which would exceed that which the Board envisaged as being appropriate for the emerging row of "mews" dwelling houses. As such it clearly exceeds the height of the adjacent dwelling house to the west at No. 32 St. Brendan's Park.
- 7.6. During my site visit, I observed the existing dwelling houses at Nos. 32 and 36 St. Brendan's Park and the one under construction on the application site at No. 33 St. Brendan's Park. From the adjacent cul-de-sac, the dwelling house at No. 36 "reads" to be of one-and-a-half storey form, i.e. the eaves to the front gable are of a similar height to the cill level beneath the first floor window within this gable. The eaves to the front gable of the dwelling house at No. 32 is of a similar height to the top opener in the first floor window within this gable and so it does not "read" as being of a "clear-cut" one-and-a-half storey form. The eaves to the front gable of the dwelling house under construction on the application site is of a similar height to the top of the first floor window within its gable and so it does not read as being of one-and-a-half storey form.
- 7.7. The dwelling house at No. 32 St. Brendan's Park is immediately adjacent to the dwelling house under construction on the application site. Their juxtaposition invites



comparison: While they present to the cul-de-sac as being of similar design, their respective front gable features are on opposite sides of their front elevations, their eaves and ridge heights differ, and their sitings are staggered in relation to one another. Furthermore, the submitted plans indicate that their footprints differ, along with the design of their side and rear elevations. In this respect, the footprint and overall design of the dwelling house at No. 36 St. Brendan's Park bears a greater resemblance to the one under construction on the application site.

- 7.8. During my site visit, I also observed that the rear boundary walls to Nos. 31 – 37 St. Brendan's Park (inclusive) follow a diagonal alignment that parallels that of the cul-de-sac. The staggered relationship between the dwelling houses that front onto the southern side of this cul-de-sac reflects this alignment and so it is complementary.
- 7.9. In the light of the above observations, I consider that the emerging pattern of development "on the ground" does not reflect adherence to the Board's above cited condition for No. 32 St. Brendan's Park. Indeed, the dwelling house at No. 36 St. Brendan's Park is closer to this condition than the one that has been built at No. 32 St. Brendan's Park. I consider, too, that this pattern is not one of uniformity but similarity. Accordingly, I consider that the proposal would be capable of being accommodated within it. The resulting streetscape may be more varied than the appellants would wish to see, indeed it may be more varied than the Board envisaged in 2006, and yet it would be compatible with the visual amenities of the area.
- 7.10. The appellants also draw attention to the absence of 1m wide passageways from either side of the dwelling house under construction. Instead the western side elevation would be accompanied by such a passageway, whereas the eastern side elevation would not. However, the other two comparable dwelling houses at Nos. 32 and 36 St. Brendan's Park have been laid out to have only one external passageway, too.
- 7.11. I conclude that the proposal would be compatible with the emerging streetscape and, as such, with the visual amenities of the area.

## **(ii) Access and parking**

- 7.12. The proposal would be accessed off the cul-de-sac on Cahermoneen to the north of the site and it would be capable of accommodating two off-street car parking spaces.
- 7.13. The appellants draw attention to the sharp bend at the entrance to this cul-de-sac to the north-west of the site. They also draw attention to the absence of a public footpath from its southern side and the incidence of parking forward of the rear boundary walls to Nos. 31 – 37 St. Brendan's Park (inclusive).
- 7.14. The applicant has responded by stating that the parking referred to occurs on the initial drive-ins to the residential properties concerned.
- 7.15. During my site visit, I observed the sharp bend cited by the appellants. I observed, too, that there are six dwelling houses and four vehicular entrances off the cul-de-sac. I consider that this bend would have the effect of slowing vehicular speeds and, given the number of dwelling houses/entrances and the fact that the roadway forms a cul-de-sac, the incidence of traffic would be low.
- 7.16. The principle of providing a dwelling house on the site has previously been established and I am not aware of any material changes in planning circumstances, since the permission on the site was granted, that would prompt any reconsideration in this respect. Accordingly, the traffic generated by this dwelling house has previously been accepted, too.
- 7.17. I conclude that access arrangements for the proposed dwelling house would be satisfactory.

## **(iii) Water**

- 7.18. The proposed dwelling house would be connected to the public water mains and the public foul and storm water sewerage system. Irish Water has raised no objection, in principle, to these connections.
- 7.19. Under the OPW's flood maps, the site is shown as being the subject of an identified fluvial flood risk, which appears to be posed by a culverted stream within the vicinity of the site. This stream does not surface near to the site and so I consider that the risk posed by it is a notional one only.
- 7.20. I conclude that the proposal poses no water issues.

#### **(iv) Appropriate Assessment**

- 7.21. The proposal is for the development of one detached dwelling house on a site within a fully serviced urban area in Tralee's northern suburbs. The nearest European sites lie to the south of the town and so they are at some considerable remove from the application site. I am not aware of any source/pathway/receptor routes between the application site and these sites.
- 7.22. Having regard to the nature, scale and location of the proposal, the nature of the receiving environment, and the proximity of the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposal 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. That permission be granted.

### **9.0 Reasons and Considerations**

Having regard to the Tralee Town Plan 2009 – 2015 (extended) and the planning history of the site and nearby comparable sites, the Board considers that, subject to conditions, the proposed dwelling house would comply with the residential zoning of these sites and it would be compatible with the emerging streetscape and the visual amenities of the area. No access, parking, water or Appropriate Assessment issues would arise. The proposal would thus accord with the proper planning and sustainable development of the area.

### **10.0 Conditions**

1.	The development shall be retained 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
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	<p>prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The proposed development shall be amended as follows:</p> <p>A landscaping scheme for the site shall be prepared showing hard and soft landscaping proposals. Hard landscaping shall include details of the boundary walls to be retained and/or built, front entrance gates, and two off-street car parking spaces. Soft landscaping shall include the planting of native Irish trees and/or hedging plants.</p> <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority within 8 weeks of the date of this Order.</p> <p><b>Reason:</b> In the interests of visual amenity and in order to comply with car parking standards.</p>
3.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
4.	<p>Prior to recommencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
5.	<p>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.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>

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Hugh D. Morrison  
Planning Inspector

7<sup>th</sup> July 2021