



An  
Bord  
Pleanála

## Inspector's Report ABP-309895-21.

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<b>Development</b>	Extension to house.
<b>Location</b>	East End, Kilkee, Co. Clare.
<b>Planning Authority</b>	Clare County Council.
<b>Planning Authority Reg. Ref.</b>	20/752.
<b>Applicant(s)</b>	Martin Leyden.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant with Conditions.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Tomas Healy.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	09/05/2021.
<b>Inspector</b>	A. Considine.

## 1.0 Site Location and Description

- 1.1. The appeal site is located in the West End area of the town of Kilkee in Co. Clare. Kilkee is a coastal town located on the south western coast of Co. Clare and is the gateway town to the Loop Head peninsula. The East End is located in proximity to the Kilkee Golf Club and George's Head and Byrnes Cove. The site the subject of this appeal is located across the road from the Marine Rescue Centre and Pier, overlooking the adjacent car parking, Moore Bay and Kilkee beach. The former Ocean Cove Hotel lies to the east of the site.
- 1.2. The houses in the Byrnes Cove residential area comprise detached primarily dormer houses to the front with a terrace of 2½ storey houses located at the rear, and more elevated, area of the development. The site has a stated area of 0.063 hectares and includes an existing detached dormer house which has a stated floor area of 137m<sup>2</sup>. The house currently includes 4 bedrooms, 2 at ground floor level including one ensuite, and two further bedrooms and a family bathroom at first floor level. The ground floor of the house also includes a large dining room and sitting area to the front of the house overlooking the sea. The existing kitchen is located within the existing flat roofed annex to the west of the house and there are gardens to the front and rear of the house. To the north east of the existing house, there is an existing small, detached shed which is constructed tight to the existing site boundary.
- 1.3. The primary vehicular access to the site is from the north (rear) of the house via the Byrne's Cove road. There is an existing pedestrian lane which runs from north to south along the western boundary, with a pedestrian gate to the subject site. Parking for the house is available to the rear of the site. The site slopes upwards from south to north. The front boundary of the site comprises a low stone wall with a hedge.

## 2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for permission to alter and extend the existing dwelling house along with all associated site works, all at East End, Kilkee, Co Clare.
- 2.2. The application included a number of supporting documents including as follows;
  - Plans, particulars and completed planning application form

- Cover letter

2.3. The proposed extensions will have a total floor area of 38m<sup>2</sup> comprising the replacement of the pitched roof over the existing flat roofed section which includes the kitchen and an ensuite, and the construction of a tool shed to the rear at the western side of the house. The second element of the proposed development includes the construction of a conservatory and an additional bedroom to the eastern side of the house. The existing detached shed will be incorporated into the eastern extension and will be converted to comprise an ensuite for the proposed new bedroom.

2.4. Following the submission of the third-party objection, the applicant submitted unsolicited information which included contiguous elevations and a letter responding to the objection. The response to the objection is summarised as follows:

- The extension will be constructed independently of the shared party wall and will be constructed wholly within the applicants' property.
- The boundary between the two properties is the centre of the shared boundary wall and the red line on the site layout plan was offset by 300mm from all boundaries for illustration purposes.
- It is submitted that the proposed extension will blend in well into the streetscape.
- Even with the extension, the property will be smaller in scale and mass when compared with the two nearest adjoining properties.

2.5. Following the submission of a response to the FI request, the applicant advised his willingness to remove the roof of the existing shed, which is to be subsumed into the proposed eastern extension and replace it with a roof with flush eaves and no overhang, ensuring that there will be no encroachment on the adjoining property.

2.6. The Planning Authority required that additional public notices were erected at the site following the submission of the response to the FI request.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority decided to grant planning permission for the proposed development subject to 7 standard conditions.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, the third-party submission and the County Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report and an EIA.

The initial Planning Report concluded that further information was required in relation to the development in terms of the proposed eastern extension in order to clarify the exact details of the proposed development in this area. The Planning Officer noted the unsolicited information submitted by the applicant but considered that the content therein did not contain enough detail to clarify the concerns raised. Further information was sought in relation to the following:

1. clarification regarding the shed
2. the exact nature of the extension to the east
3. clarification on the extent of the extension in terms of possible encroachment into adjacent property.

Following the submission of a response to the FI request, the application was re-advertised. The final planning report concludes that the applicant has addressed the issues raised in the further information request and has provided sufficient information to indicate that the proposed development will be constructed within the bounds of the applicants' property. The report concludes that the proposed development is acceptable in terms of design and the Planning Officer recommends that permission be granted for the proposed development, subject to 7 conditions. This planning report formed the basis of the Planning Authority's decision to grant planning permission.

### 3.2.2. Other Technical Reports

**West Clare Municipal District EE:** No observations to make.

### 3.2.3. Prescribed Bodies

None.

### 3.2.4. Third Party Submissions

There is 1 no. third party objections/submission noted on the planning authority file from the adjacent property owner Mr. Tomas Healy. The issues raised are summarised as follows:

- The site layout submitted includes the objectors wall as being within the ownership of the application.
- No permission to use the wall has been requested and the Mr. Healy objects to the proposed extension running right up to his boundary wall.
- It is noted that no contiguous elevations were included to show the impact of the development on both neighbouring properties.

Following the submission of the response to the further information request, the original objector submitted a further submission to the PA, summarised as follows:

- The revised plans do not address the concerns raised in the FI request.
- The drawings mentioned were not available for viewing online but it is unclear how the proposed eastern walls can be rendered without removing the boundary wall.
- The wall was built by Mr. Healy on his property and the applicant does not have ownership to the middle as assumed in the submission.

## 4.0 Planning History

There is no relevant planning history pertaining to the subject site.

Adjacent Site to east:

**PA ref: 08/1696:** Permission granted to retain existing dwelling house as constructed and to change the existing conservatory roof to a slated roof, including structural supports and all other ancillary site works.

## 5.0 Policy and Context

### 5.1. Development Plan

- 5.1.1. The Clare County Development Plan 2017 – 2023, is the relevant policy document relating to the subject site. Kilkee is identified as a small town in the settlement hierarchy for County Clare, in the West Clare Municipal District. Volume 3 of the CDP includes the Municipal District Written Statement and Settlement Plans, with 3d including the West Clare Municipal District.
- 5.1.2. Kilkee is identified as one of Irelands largest tourist town and has a year-round population of approximately 1,100 people, which rises to approximately 15,000 during busy peak tourist season during the summer months. While Kilkee is a tourist town and has a large number of holiday homes, it is also identified as having a significant issue in relation to vacancy, with 71% vacancy recorded on the night of the Census 2011. As such, the Plan focuses on the provision of permanent housing on residential zoned lands in the town. The subject site is located on lands zoned R2 'Existing Residential' where it is the stated objective for such zoned land 'to conserve and enhance the quality and character of the areas, to protect residential amenities and to allow small scale infill development which is appropriate to the character and pattern of development in the immediate area, allow uses which enhance existing residential communities'.

### 5.2. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Kilkee Reefs SAC (Site Code: 002264) which is located approximately 65m to the south of the site.

The Lower River Shannon SAC (Site Code 002165), is located approximately 3km to the south east of the site and Poulnasherry Bay pNHA (Site Code 000065) is a similar distance.

### 5.3. EIA Screening

Having regard to nature and scale of the development, together with the brownfield nature of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

This is a third-party appeal against the decision of the Planning Authority to grant planning permission for the proposed development. The issues raised by the appellant, Mr. Healy, reflect those raised with the PA during their assessment of the proposed development and are summarised as follows:

- The development is going to be built right up to the boundary wall and the excavation will undermine the foundation of the existing party wall.
- There is a double hip roof proposed with no details to show how rainwater will be removed from the roof.
- The proposed gables of the double hip roof will be left unfinished. It is not shown how the finishes are going to be achieved.
- The applicant has historically trespassed into the appellants property without permission or consultation.
- A window in the downstairs bedroom facing the appellants property was also put in without planning permission.
- The original permission for the applicants' house showed a car port and other alterations were undertaken at the site.
- The appellant objects to the disproportionate development on the site. All existing neighbouring detached houses show a 1.1/1.2m gap between the side of the house and the site boundary. The proposed extension is not in keeping with this plan.

## 6.2. Applicant Response

The applicant has submitted a response to the third-party appeal, and is summarised as follows:

- Clare Co. Co did a very thorough assessment of the proposed development.
- No other observations have been made in relation to the proposed development other than from Mr. Healy.
- The proposed design is in keeping with the house and surrounding area.
- The extension will be constructed entirely within the applicants property.
- Rainwater will be removed to a downpipe located within the proposed extension.
- The gables will be finished with a spray on coloured render which will be carried out from within the applicants property or a prefinished external wall cladding to be agreed with Clare Co. Co.
- The relevance of other issues raised by the applicant are queried.

It is requested that permission be granted for the proposed extension.

## 6.3. Planning Authority Response

The PA responded to the third-party appeal noting the grounds for appeal and requesting that the Board uphold the Council's decision.

## 6.4. Observations

None.

## 7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main



issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Design & Residential Amenities
3. Other Issues
4. Appropriate Assessment

## **7.1. Principle of the development**

- 7.1.1. The proposed development seeks to construct a residential extension to an existing detached house in the East End area of Kilkee. The existing house on the site is a 4 bedroomed, detached dormer dwelling. The proposed alterations to the house include the replacement of an existing flat roof to the existing kitchen block to the west of the main building with a pitched roof, and the construction of a new extension, with a total floor area of 38m<sup>2</sup>, to provide a conservatory and ensuite bedroom to the east of the main building. The proposed extension will incorporate the existing shed on the site.
- 7.1.2. Having regard to the location of the house in the town of Kilkee and on lands zoned for residential purposes, I have no objections to the proposal to extend an existing house in principle.

## **7.2. Design & Residential Amenities**

- 7.2.1. The Board will note the concerns of the third-party appellant with regard to the proposed development, who has raised issues in terms of the 'disproportionate development' on the site. Certainly, the extension of a house should not impact negatively on the existing amenities of adjacent properties. In the context of the subject site, the Board will note that there are two elements to the proposed extension.
- 7.2.2. With regard to the replacement of the flat roof over the existing kitchen and a ground floor ensuite, I do not consider the development to be inappropriate or disproportionate. I also note the proposal to construct a new tool shed to the rear of

the existing ensuite. I have no objections to this element of the proposed development.

7.2.3. With regard to the eastern proposed extension, the Board will note that the applicant is seeking to construct a conservatory and an additional ground floor ensuite bedroom. The proposed extension will run to the site boundary and will be constructed along the eastern boundary of the site. The proposed roof structure of this extension will include a double ridge, resulting in the height of this element being quite low. The double ridge will face onto the eastern boundary, and the appellants property. There are no windows proposed in this elevation and therefore, there is no impact arising in terms of third-party amenities. I would also note that the gable of the appellants property in this regard is windowless.

7.2.4. I note the submission of the appellant with regard to the separation distance between houses and site boundaries in the area, suggesting that the proposed development is not in keeping with this plan. I also note the submission that other amendments have been made to the applicants' property without the benefit of planning permission and that trespass onto third party property has occurred in the past. I would note that these are not matters for the Board. With regard to the separation between the site boundary and the proposed extension, I would note that the proposed development does not significantly affect the existing visual amenities of the wider area.

7.2.5. Overall, I am generally satisfied that the proposed development is an acceptable form of residential development at this location and if permitted, would not significantly impact on the existing visual amenities of the area or residential amenity of adjacent properties.

### 7.3. **Other Issues**

#### 7.3.1. **Site Boundary Issue**

The Board will note that the pertinent issue arising in the third-party appeal relates to a disagreement on the boundary of the site. It is submitted that the boundary wall is constructed wholly in the third-party site and the applicant has no permission to interfere with same. This is a civil matter. I am generally satisfied that the applicant has indicated sufficient legal interest to make the planning application and has

submitted proposals to ensure that the proposed eastern extension will not encroach or overhang the third-party property.

In this regard, I would be satisfied that the provision of Section 34(13) of the Planning & Development Act, 2000 as amended, which states 'A person shall not be entitled solely by reason of a permission under this section to carry out any development' is sufficient to ensure that any civil issues are rectified prior to the commencement of development on the site.

### 7.3.2. **Water Services**

I am satisfied that the proposed development does not give rise to any impacts on existing water services.

### 7.3.3. **Roads & Traffic**

I am satisfied that the proposed development does not give rise to any impacts on the existing road network.

### 7.3.1. **Development Contribution**

The Clare County Council Development Contribution Scheme was adopted in April 2017. The Scheme requires the payment of €20 per m<sup>2</sup> in excess of 200m<sup>2</sup> (including both existing development and the extension or €20 per m<sup>2</sup> of extension where existing unit is greater than 200m<sup>2</sup>). As the appeal before the Board relates to the extension of an existing house, with a stated floor area of 137m<sup>2</sup>, and the proposed extension will have a floor area of 38m<sup>2</sup>, the combined floor area is below the 200m<sup>2</sup> threshold. As such, the subject development is not liable to pay development contribution.

### 7.3.2. **Appropriate Assessment**

The site is not located within any designated site. The closest Natura 2000 site is the Kilkee Reefs SAC (Site Code: 002264) which is located approximately 65m to the south of the site.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects,

would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

## 8.0 Recommendation

I recommend that planning permission be granted for the proposed development for the following stated reason and subject to the following stated conditions.

## 9.0 Reasons and Considerations

Having regard to the pattern of permitted development in the area, to the provisions of the Clare County Development Plan 2017-2023, as varied, and to the layout and design as submitted, the Board considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of adjoining properties. 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 on the 18<sup>th</sup> day of February, 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 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. 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.

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 take place within the curtilage of the house without a prior grant of planning permission.

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

5. The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

**Reason:** To restrict the use of the extension in the interest of residential amenity.

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A. Considine

Planning Inspector

09/05/2021