



An
Bord
Pleanála

Inspector's Report

ABP-310850-21

Development	Construction of 2 apartments.
Location	14 O'Connell's Terrace, Killarney, Co Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	201090
Applicant(s)	Aiden Kennedy.
Type of Application	Permission.
Planning Authority Decision	Grant Permission with conditions
Type of Appeals	Third Party
Appellant(s)	Thomas & Mary Regan Peter & Pat Fleming Denis & Breda Slattery Katherine Cremin, Killarney Nature Conservation.
Date of Site Inspection	23 rd September 2021.
Inspector	Bríd Maxwell

1.0 Site Location and Description

- 1.1. This appeal relates to a site of 0.2 hectares located at the junction of O Connell's Terrace and Sunnyhill Upper a mature residential area within Killarney. The site is centrally located within 300km of High Street / Main Street. O Connell's Terrace comprises a row of single storey cottages constructed circa 1914 fronting directly onto the footpath and street. The appeal site forms part of the front garden and parking area associated with no 14 O Connell's Terrace and is attractively landscaped with mature hedging and trees. No 14 appears to be the only cottage within the row with a front garden. To the east of the site is a vacant plot which in turn backs onto the Parish Hall and a Community Centre to the north (National Monument KE0344 Fever Hospital). Further to the east Sunny Hill Upper comprises a terrace of two-storey houses accessed off Lewis Road. Opposite the appeal site to the south are garden plots associated with houses on Sunnyhill Lower.

2.0 Proposed Development

- 2.1. The application as initially submitted sought permission to construct a three-storey flat roofed contemporary building providing three no one bed apartments with private amenity spaces, car parking spaces and all associated site works. Following a request for additional information the proposed design was revised providing for revised siting forward on the site and a pitched roof. The revised design incorporates two apartments a one bed apartment at ground floor level and one bed with additional bed/office over the two upper floors. Proposal to provide car parking was omitted and private amenity space was proposed to the front of the building in the form of a garden at ground floor and balcony at first floor level.

3.0 Planning Authority Decision

3.1. Decision

By order dated 21st June 2021, Kerry County Council issued notification of the decision to grant permission and 15 conditions were attached which included the following:

Condition 2. Development Contribution €4,648.80 in accordance with the Development Contribution Scheme.

Condition 3. Contribution €12,000 in respect of car parking facilities.

Condition 4. The second-floor bedroom / office shall be omitted, and the height of the roof shall be reduced accordingly.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.1.1 Planner's initial report noted the restricted area of the site and expressed some concern regarding overdevelopment and overbearing impact. Concurrent application 20/934 to the east was noted and it was considered that co-ordinated development would be preferable. A request for additional information was recommended to include:

- Pre-connection enquiry with Irish Water.
- Provision for separate water connections and sewer connections of sufficient diameter. Arrangements for diversion of existing sewer pipe running through the site.
- Development impact on the future development potential of the site to the east to be considered and a contiguous elevation relative to the terrace of houses to the east to be provided.
- Scale considered overly dominant and should be revised to be more in keeping with the established character.
- Proposals with regard to car parking for 14 O Connell's Terrace to be detailed and provision made for 1.2m wide footpath on the southern side of the development.

3.2.1.2 Following submission of further information revised proposal was deemed acceptable. The second-floor level should be reduced to an attic to reduce the overall height of the roof. Permission was recommended subject to conditions.

3.2.2. Other Technical Reports

3.2.2.1 Housing Estates Unit report proposal is not in keeping with the existing settlement pattern or traditional character of O Connell's Terrace. Site plan is difficult to interpret as scale is too small. Concerns arise regarding safety issues with parked cars and tight corner. Access road from the south to the development is circa 3m wide. A 5.5m wide access road is required for two-way traffic. Is there lateral clearance between the north of the building and the northern site boundary. Refusal should be considered.

3.2.2.2 Building Control Officer. No objection. Fire Safety Cert will be required prior to commencement of works. Disability access Certificate prior to building being occupied,

3.2.2.3 Municipal District Engineer's report. Noting requirement for public footpath on southern side of the development to allow safe movement of pedestrians between Sunny Hill Upper and O Connell's Terrace. Following further information works will require road opening license. Formation of entrance shall not cause water or seepage to road. Final layout of footpath to be agreed.

3.3. Prescribed Bodies

3.3.1 Irish Water Further information required to include pre connection enquiry to be submitted to determine feasibility of connection to public water wastewater infrastructure. Independent water connections. Sewer pipe may run through the site and arrangement for diversion to be included in design.

3.3.2 Following request for additional information pre connection enquiry indicates water and wastewater connections to be feasible. Wastewater pipe identified as running through the eastern part of the site.

3.4. Third Party Observations

3.4.1 Submissions were received from the following third parties.

- Tommy & Mary Regan, 9 O Connell's Terrace, Killarney.

- Ken Grieves, 2 O Connell's Terrace, Killarney.
- Jim Doyle, 4 O Connell's Terrace, Killarney
- Pat & Peter Fleming, 3 O Connell's Terrace, Killarney
- Denis & Breda Slattery. 11 O Connell's Terrace, Killarney

3.4.2 Submissions raised common concerns which I have summarised as follows:

- Overdevelopment.
- Traffic hazard.
- Development out of character with single storey O Connell's Terrace
- Negative impact on streetscape
- Negative impact on amenity and value of neighbouring properties

3.4.3 Following Additional information response submissions from

- Ken Grieves, No 2 O Connell's Avenue,
- Denis and Breda Slattery 11 O Connell's Terrace,]
- Pat and Peter Fleming, 3 O Connell's Avenue
- Breda Joy, 8 Lower Sunnyhill.
- Katherine Cremin, Killarney Nature Conservation

Submissions reiterated strong objection to the proposal on the following grounds:

- Development out of character and detrimental to quality of life
- Attic office gives rise to potential for future provision of third apartment
- Impact of balcony. Noise and disturbance,
- Apartments have poor outlook and inadequate sunlight.
- Piecemeal uncoordinated development.
- Loss of daylight and sunlight. Negative impact on outlook.

- Loss of existing trees and negative impact on biodiversity.
- Concerns regarding short term rental use.
- Pedestrian vehicular conflict.
- Accompanying list of 30 signatories indicates strength of local objection.

4.0 Planning History

14/205499 14 O Connell's Terrace. Permission was granted to construct 2 no single storey extensions to existing dwellinghouse, construct a car port at rear garden of existing dwelling, enclose existing front garden with a gate erect a new gate to entrance off laneway at northern side of house. Current appeal site was within the curtilage of this application and denoted as front garden.

Recent Permission on site to the east – (Though not directly contiguous).

21/710 Permission granted 23/11/21 to construct 2 no apartments on site 2, 2 no apartments on site 3, 1 no dwelling house on site 4 and 1 no dwelling on site 5 and all site development works.

5.0 Policy Context

5.0 National Planning Framework 2018 The NPF seeks to focus growth on cities, towns and villages with an overall aim of achieving higher densities than have been achieved to date. 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.

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.

**Sustainable Urban Housing ; Design Standards for New Apartments -
Department of Housing Local Government and Heritage, December 2020.**

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. Chapter 13 – Development Management Standards.

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. The site is not assigned a specific zoning.

5.1. Natural Heritage Designations

Killarney National Park, Macgillicuddy 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.

5.2. EIA Screening

5.3.1 An Environmental Impact Assessment Screening report was not submitted with the application. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development

Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

5.3.2 It is proposed to construct 2 apartments. The number of dwellings proposed is well below the threshold of 500 dwelling units noted above. The site has an overall area of 0.2 ha therefore well below the applicable threshold of 10ha in the built-up area. The site is located within an established residential area. The introduction of infill residential development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any European Site and there is no hydrological connection present such as would give rise to significant impact on nearby water courses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services of Irish Water and Kerry County Council, upon which its effects would be marginal.

5.3.3 Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands within the existing built-up area under the provisions of the Killarney Town Development Plan 2009-2015 as extended, and the results of the strategic environmental assessment of the Killarney Town Development Plan 2009-2014 as extended, undertaken in accordance with the SEA Directive (2001/42/EC),

- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case (See Preliminary Examination EIAR Screening Form).

6.0 The Appeal

6.1. Grounds of Appeal

There are four third party appeals by the following:

- Katherine Cremin, Killarney Nature Conservation.
- Denis and Breda Slattery. 11 O Connell’s Terrace.
- Peter and Pat Fleming, 3 O Connell’s Terrace.
- Tom and Mary Regan, 9 O Connell’s Terrace.

6.1.2 Grounds of appeal are summarised as follows:

- Site is not designated for development. Garden plot not suitable for development.
- Loss of trees and negative biodiversity impact.

- Development is out of character and design is visually obtrusive.
- Traffic hazard.
- Overlooking and overshadowing. Depreciation of existing property values.
- Inappropriate speculative development. Concern regarding potential use for short holiday lets.
- Piecemeal development.
- Contrived design solution.
- Poor level of amenity in apartments. Poor outlook and inadequate daylight.
- Overdevelopment of a small site.
- List of 30 signatories accompanying the appeals demonstrates the extent of local opposition to the development.
- Question the legitimacy of registration of the title of the ground given reference to 14 O Connell's Terrace.

6.2. **Applicant Response**

The first party did not respond to the grounds of appeal.

6.3. **Planning Authority Response**

The response by the Planning Authority asserts that all the planning issues relating to the application are dealt with in the Planner's report. The proposed development was reduced to take account of the concerns raised in the further information request. The site is town centre zoned for residential development.¹ It is considered that the scale of the proposed development is appropriate to the location and will not seriously impact on the residential amenities of the existing residential properties.

¹ As noted at 5.0 above the site is not actually assigned a specific zoning within the Killarney Town Development Plan 2009-2015 as extended.

7.0 Assessment

- 7.1. Having reviewed the proposal in the light of national planning guidelines, the Kerry County Development Plan 2014 and Killarney Town Development Plan 2009-2015, the submissions of the parties, and my own site visit I consider that this appeal should be assessed under the following broad headings:

Principle of Development and Policy Considerations

Design and layout and impact on residential amenity

Screening for Appropriate Assessment.

7.2 Principle of development and policy considerations

- 7.2.1 As noted above the site is not assigned a specific zoning within the Killarney Town Development Plan 2009-2015 as extended. I note that it is outlined within the plan that within the development boundaries of the town, in areas that are not subject to specific zoning objectives, proposals for development will be considered in relation to the following:

The objectives of the Plan and any other statutory plan;

The character of the surrounding area; and

Other planning and sustainable development considerations considered relevant to the proposal or its surroundings.

- 7.2.2 Having regard to the National Planning Framework which seeks to ensure that at least 30% of all new housing development is delivered within the existing built-up area of towns and villages on infill and or brownfield sites the provision of residential

development within this central and accessible location is acceptable in principle subject to normal proper planning considerations.

7.2.3 As regards the status of the site as the front garden of an established residential property I note that No 14 O Connell's Terrace appears to be the only house within the terrace to benefit from the front garden, therefore this adds weight to the argument that its loss in terms of the amenity of the dwelling is not significant. However little detail has been provided with regard to the background of the site and the adjoining site to the east. I also note the footpath running along the western boundary of the site and I would query its use and any right of way that might affect it. I consider that the site currently provides an attractive landscaped green space relief within this built-up urban area and its loss and loss of mature vegetation has not been sufficiently justified. In my view the level of detail provided is entirely deficient in this regard.

7.3 Design and layout and residential amenity impact.

7.3.1 As regards the design the proposed scheme was revised in response to the request for additional information from a three-storey flat roofed 9m high structure to a two storey building with accommodation in the attic and a ridge height of 8.2m. The building has an extensive footprint and is sited predominantly within circa 1m of northern (rear) eastern and western (side) boundaries thus resulting in no ability to provide for landscaping enclosure within the site. The building extends across part of the frontage of No 14 O Connell's Avenue (within 4m) and would in my view give rise to a significant overbearing impact and a significant negative impact on outlook. On the issue of daylight and sunlight no daylight/sunlight or overshadowing assessment has been submitted with the application to determine the significance of change.

7.3.2 I have noted that permission has been granted for four no two storey residential properties in respect of sites to the east though not that on the plot immediately

adjacent and the ownership and status of this adjacent site should in my view be investigated to avoid piecemeal proposals in the interest of proper planning and sustainable development.

7.3.3 As regards development standards the proposed apartments appear to generally comply with the minimum internal floorspace areas and dimensions set out in Section 5.3 of the Quality Housing for Sustainable Communities: Best Practice Guidelines. I note that the balcony at first floor level falls short of the minimum 1.5m depth. I note the proposal to provide frosted windows to the side elevations in an attempt to mitigate overlooking of adjacent properties. This would in my view have a negative impact on outlook from the proposed residential units. I would share the concerns of the third-party appellants with regard to the standard of residential amenity provided in terms of outlook and functionality noting for instance the remote location of the proposed bike and bin store to the rear of the building. In my view the proposal relates poorly to adjacent development does not sit well on the site represents an overdevelopment which is entirely at odds with the established pattern of development in the vicinity. On this basis I consider that refusal is warranted.

7.4 Traffic, access, parking and servicing and other matters

7.4.1 I note that the proposal does not include provision for car parking and the Council in its decision to grant permission included a condition requiring payment of a development contribution in lieu of same. As regards piped services the site is serviced by public watermains and foul sewer. Pre connection enquiry from Irish Water indicates that the public sewer traverses the eastern part of the site and required that prior to commencement of development agreement to be reached regarding wayleave or possible diversion.

7.5 Screening for 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. Having regard to the scale and nature of the development which relates to the provision of two apartments on a site of 0.2hectares, the distances involved, that the site is located in an established urban area, on serviced lands, and proximity to the nearest European Site 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. Having considered the contents of this application in detail, the decision of the planning authority, the provisions of the Development Plan, the national guidelines, the grounds of appeal, my site inspection, and my assessment of the planning issues, I consider it appropriate to recommend to the Board that permission be refused for the following reasons.

9.0 Reasons and Considerations

The proposal involving the placement of a dwelling in an established garden space in front of a terrace of single storey dwellings without a coherent morphological relationship to those houses would lead to a disjointed and piecemeal form of development. The proposal would be out of character with and give rise to a significant overbearing impact and overshadowing on the established residential dwellings in particular No 14. The proposal would therefore be seriously injurious to the visual and residential amenities of the area and of properties in the vicinity and would not be in accordance with the proper planning and sustainable development of the area

Bríd Maxwell

Planning Inspector
30th December 2021