



An
Bord
Pleanála

Inspector's Report ABP-311407-21

Development	Rear & side extension to house and associated site works.
Location	Dunlickey Road, Kilkee, Co Clare V15 C971
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	21126
Applicant(s)	Philip & Sarah Clifford
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Mary & Elaine O'Brien
Observer(s)	None
Date of Site Inspection	12 th November 2021
Inspector	Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.0248 ha is located within the seaside town of Kilkee, adjoining Dunlickey Road. The site comprises a semi-detached house. The area is characterised by residential development. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer to the site photos available to view on the appeal file including those of the Case Planer. These serve to describe the site and location in further detail.

2.0 Proposed Development

- 2.1. The application submitted to Clare County Council on the 17th February 2021 sought planning permission for the construction of a single storey rear and side extension (68.64sqm) and associated site works to the existing house (102.4sqm).
- 2.2. Further information was submitted on 14th July 2021 and comprised:
- Shadow Analysis and Report
 - Revised Drawings reducing the height by 160mm to 260mm and setback of the scheme from the boundary. Stated that the distance may vary between 150mm and 250mm according to the conditions found at the time of construction.
 - A prefinished maintenance free fibre cement cladding system, Tegral Cedral or similar in a grey colour is proposed.
 - Neighbouring Letter of Consent requested – However no letter of consent from the neighbouring property owners have been submitted. The revised proposal sets the extension back c200mm from the boundary wall. Stated that maintenance works to the extension will not require access from the neighbour property.
- 2.3. Revised public notices were submitted on 27th July 2021 indicating that significant further information was furnished to the Planning Authority.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Clare County Council issued a notification of decision to grant permission subject to 8 no generally standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Case Planner** in their first report sought further information in relation to the following as summarised
 - (1) Concern raised with regard to the height and scale of the scheme and proximity to the existing boundary. Applicant requested to submit amended plans.
 - (2) Written consent re encroachment on shared boundary
- Further information was requested on the 12th April 2021.
- Revised public notices were requested on the 15th July 2021.
- The **Case Planner** having considered the further information submitted recommended that permission be granted subject to conditions. The notification of decision to grant permission issued by Clare County Council reflects this recommendation.

3.2.2. Other Technical Reports

- **West Clare Municipal District Engineer** – No observations

3.3. Prescribed Bodies

- None

3.4. Third Party Observations

- 3.4.1. There are 2 no observations recorded on the planning file from (1) Mary & Elaine O'Brien and (2) Andrew O'Brien. The issues raised relate to loss of day light and

sunlight, overbearing, impact to foundations and no consent for the demolition of shared boundary wall.

- 3.4.2. In response to the submission of further information there are 3 no observations recorded on the planning file from (1) Mary & Elaine O'Brien, (2) Andrew O'Brien and (3) Kate McMahon. Submitted that issues raised relate to further information does not alleviate concerns regarding overshadowing. The reduction in height is insignificant and should be reduced by a minimum of 300mm. The proposed setting back of the wall of the extension from the shared boundary wall is insufficient. This should be increased to 1m for maintenance. All venting including mechanical venting and heating units (e.g air to water equipment) not to be allowed on the eastern wall of the extension.

4.0 Planning History

- 4.1. There is no evidence of any previous planning appeal on the site. No planning history has been made available with the appeal file. The following history of adjoining sites is summarised from the Case Planners report.

- **Reg Ref P97/5** – Permission granted to demolish Olympia Hall and development 4 no apartments.
- **Reg Ref P12/56** – Permission granted for demolition for stores / toilets and development of 3 no serviced mobile homes.
- **Reg Ref P12/778** – Permission refused for modification to Reg Ref P12/56 for occupancy condition.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative plan for the area is the **Clare County Development Plan 2017 - 2023: West Clare Municipal District**. The appeal site is zoned **R2 Existing Residential** where *the objective for land zoned 'existing residential is 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 and uses that enhance existing residential communities. Existing residential zoned land may also provide for small-scale home-based employment uses where the primary residential use will be maintained.

5.2. Natural Heritage Designations

- 5.2.1. The site is not located within a designated Natura 2000 site.

5.3. EIA Screening

- 5.3.1. Having regard to the nature of the development comprising a residential extension located in a built-up area zoned for residential development where public water mains and sewerage are available the need for environmental impact assessment can be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The third-party appeal has been prepared and submitted by Andrew Hersey Planning on behalf of Mary & Elaine O'Brien, No 3 Dunlickey Road and may be summarised as follows:
- There is no issue with the principle of the development however the proposed development will severely impact on the residential amenity of the appellants house by way of overshadowing, overbearing impacts and depreciation of their property value.
 - The development will block westerly sunlight onto the appellants rear garden thus diminishing their use and enjoyment of the garden during the summer months. The Shadow Study submitted supports this position.
 - There is no justification or quantification as to how much overshadowing would be deemed appropriate and there is no policy in the development plan that puts a limit on overshadowing on properties adjacent to proposed development.

- Scheme contravenes the Existing Residential zoning for the site where the objective is to protect residential amenities as it blocks sunlight to the appellants property by reason of its height and proximity to the party boundary.

6.2. Applicant Response

6.2.1. There first party response to the appeal has been prepared and submitted by the applicants and may be summarised as follows:

- The house has been in the Clifford family since 1969 and used as a holiday home until the applicants moved to Kilkee permanently making the appeal site their main residence. The house is antiquated and needs an upgrade. The proposed scheme is in keeping with Clare County Councils Development Plan 2017 – 2023, meets the needs of the applicant and brings the house in line with current building standards.
- To minimise the impact on neighbouring properties the following measures were undertaken in the design phase:
 - 1) Architect engaged to meet applicants requirements, minimise impact to neighbours and bring building up to current standards
 - 2) Flat roof extension to minimise height of 1.2m which is lower than extension to neighbouring property
 - 3) No windows in the side walls so no overlooking
 - 4) Not building the boundary walls
 - 5) Parapet edge on the roof to avoid unnecessary overhanging shoots and pipes
 - 6) No appliance outlets on walls facing neighbours
- The extension does not overshadow the neighbours as outlined in the Shadow Analysis Study. Site photo provided depicts natural shadowing caused by sun setting in the west behind all the houses at 6.20pm in late May 2021. The entire area was shadowed by 6.35pm. This is a natural occurrence and cannot be avoided. The proposed extension has no bearing on this natural phenomenon. Due to the location of the rear gardens to the setting sun all these properties go

into shadow when the sun is setting in the west. The time frame for this occurrence is very short. Shadow survey attached refers.

6.3. Planning Authority Response

- 6.3.1. Clare County Council request that the Board uphold the Councils decision to grant permission.

6.4. Observations

- 6.4.1. There is one observation recorded on the appeal file from Philip & Sarah Clifford. The issues raised relate to

6.5. Further Responses

- 6.5.1. None

7.0 Assessment

- 7.1. This assessment is based on the plans and particulars submitted with the application as amended by further plans and particulars submitted by way of further information on the 14th July 2021. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings

- Principle
- Scale & Design
- Overshadowing
- Property Values

7.2. Principle

- 7.2.1. Under the Clare County Development Plan 2017 - 2023: West Clare Municipal District the appeal site is on lands zoned R2 Existing Residential where a residential extension

is an acceptable development in principle subject to compliance, with the relevant policies, standards and requirements set out in plan

7.3. Scale & Design

- 7.3.1. In terms of scale and design I have considered the plans and particulars (as amended) together with my site inspection I am satisfied that the scale and design of the works proposed will not overwhelm or dominate the original form or appearance of the parent building and will not have a significant negative impact on the adjoining houses in terms of established character and / or visual amenities.

7.4. Overshadowing

- 7.4.1. Concern is raised that the proposed scheme will block sunlight into the appellant rear garden, located on the adjoining site to the east of the appeal site. I refer to the Shadow Analysis and Report submitted by way of further information. The report concluded that *the proposed extension will have some impact on the rear of the property to the west from the proposed development during the morning hours and will affect adjoining property's rear garden during afternoon hours throughout the year.*
- 7.4.2. Having regard to the scheme as amended I am satisfied that the design, scale, form and positioning of the proposed extension strikes a reasonable balance between the protection of the amenities and privacy of the adjoining dwellings, that it will not result in any significant over shadowing of adjoining properties and that it will not result in any unreasonable loss of natural light to neighbouring residential properties. Accordingly, there is no objection to the proposed scheme in terms of impact to residential amenities.

7.5. Property Values

- 7.5.1. I note the concerns raised in the grounds of appeal in respect of the devaluation of neighbouring property. However, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

7.6. Other Issues

- 7.6.1. The Case Planners report states that Development Contribution(s) are not applicable as the enlarged house (173.04 sqm) will not exceed 200sqm. I refer to the Clare County Council Development Contribution Scheme 2017-2023 (adopted 24th April 2017) where it states that a development contribution is applicable where an extension to an existing residential unit is in excess of 200m² (including both existing development and the extension). The application submitted to Clare County Council on the 17th February 2021 sought planning permission for the construction of a single storey rear and side extension (68.64sqm) and associated site works to the existing house (102.4sqm). Both the existing development and the extension (171.04sqm) does not exceed 200sqm and therefore no development contribution is applicable in this case.
- 7.6.2. **Appropriate Assessment** - Having regard to the nature and scale of the development and its distance to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed 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

- 8.1. 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 provisions of the Clare County Development Plan 2017 – 2023, and its zoning for residential purposes, to the location of the site in an established residential area and to the nature, form, scale and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development not seriously injure the residential or visual 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.	<p>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 14th day of July 2021 and by the further plans and particulars received by An Bord Pleanála on the 20th day of October, 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.</p> <p>Reason: In the interest of clarity</p>
2.	<p>The existing dwelling and 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.</p> <p>Reason: To restrict the use of the extension in the interest of residential amenity.</p>
3.	<p>Details of the materials, colours and textures of all the external finishes and boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
4.	<p>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.</p> <p>Reason: In the interest of public health</p>
5.	<p>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p>Reason: In the interest of visual amenity</p>

6.	<p>Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.</p> <p>Reason: In the interest of sustainable waste management.</p>
7.	<p>The site and building works required to implement the development shall be carried out only between the hours of 0800 to 1800 Monday to Fridays, 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>Reason: In order to safeguard the residential amenities of adjoining property in the vicinity</p>

Mary Crowley

Senior Planning Inspector

5th January 2022