



An  
Bord  
Pleanála

## Inspector's Report ABP-313232-22.

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<b>Development</b>	Permission to alter and extend house.
<b>Location</b>	4 Clieveragh Park, Listowel, Co Kerry.
<b>Planning Authority</b>	Kerry County Council.
<b>Planning Authority Reg. Ref.</b>	22/51.
<b>Applicant(s)</b>	Michael & Sarah Long.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Anne Enright
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	24/05/2022.
<b>Inspector</b>	A. Considine.

## 1.0 Site Location and Description

- 1.1. The subject site is located within the settlement boundary of Listowel, Co. Kerry, which is located approximately 24km to the north of the town of Tralee. The site is located within the established estate of Clieveragh Park, which lies to the north of the town centre of Listowel. Clieveragh Park comprises a development of 31 houses comprising primarily semi-detached houses and No. 4 lies adjacent to the turning area associated with the cul-de-sac and houses 3 to 14. No. 4 is currently unoccupied and appears to be undergoing upgrading / redevelopment works. The site was fenced off on the date of my inspection and I could not access the rear. The Board will note that there are a number of photographs included on the appeal file for reference.
- 1.2. No. 4 Clieveragh Park comprises a two-storey semi-detached house with attached single storey flat roofed garage. The existing house has a stated floor area of 134m<sup>2</sup>. The site the subject of this appeal, has a stated area of 0.05ha.

## 2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices, to
- (a) Demolish complete single storey garage/utility room to side of house
  - (b) Demolish single storey porch to front
  - (c) Construction of two storey pitched roof extension to side of house
  - (d) Construction of single storey flat roof extension to rear of house
  - (e) Construction of single storey flat roof extension to front of the house
  - (f) Reposition of front window first floor at front of house
  - (g) Reposition and alter opening size to rear window first floor
  - (h) Construct roof light to existing pitch roof at rear of dwelling
  - (i) All associated site works,
- all at Clieveragh Park, Listowel, Co Kerry.

2.1. The application included a number of supporting documents including plans, particulars and completed planning application form.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

The Planning Authority decided to grant planning permission for the proposed development subject to 4 conditions.

##### 3.1.1. **Planning Reports**

###### Planning Officers Report:

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, third party submission, and relevant local policies and objectives. The report notes that a pre-planning meeting was not held to discuss the proposed development. The report also includes a section on EIA and AA.

The Planning Report considered the proposed development under a number of headings and notes that there is general compliance with local policy. There are no issues raised in terms of visual impact, road safety / traffic or water services. The report considers the third-party submission in terms of the impact of the development on the existing residential amenity of the adjacent property. The report notes that the extension, with a height of 3.62m will be set back some 1.8m from the kitchen window which is identified in the third-party submission. The report concludes that with the distances outlined, the development is acceptable and unlikely to impact negatively on residential amenities. It is further noted that an extension of up to 40m<sup>2</sup> could be constructed against the party boundary line.

The report concludes that the proposed development is acceptable and recommends that permission be granted for the proposed development, subject to 4 conditions.

This Planning Report formed the basis of the Planning Authority's decision to grant planning permission.

### 3.1.2. Other Technical Reports

**County Archaeologist:** Notes no recorded monuments in proximity to the site. No mitigation required.

### 3.1.3. Prescribed Bodies

None.

### 3.1.4. Third Party Submissions

There is 1 third party submission noted in terms of the planning application submitted. The issues raised are summarised as follows:

- The development will block light to the neighbouring kitchen.

### 3.1.5. Elected Members Submissions:

None.

## 4.0 Planning History

There is no relevant planning history associated with the subject site.

The following is the relevant planning history pertaining to the immediate area:

**PA ref 06/404046:** Permission granted for the construction of a two-storey extension at No. 13 Clieveragh Park.

**PA ref 07/404008:** Permission granted for the construction of an extension at No. 14 Clieveragh Park.

**PA ref 07/404016:** Permission granted to convert garage and for the construction of an extension and first floor extension at No. 11 Clieveragh Park.

**PA ref 09/404019:** Permission granted for the construction of a garage at No. 14 Clieveragh Park.

**PA ref 16/110:** Permission granted for the demolition of single storey garage/utility room and the construction of a two-storey extension at No. 10 Clieveragh Park.

## 5.0 Policy and Context

### 5.1. Listowel Town Development Plan 2009-2015 (extended)

- 5.1.1. The Listowel TDP (as extended) sets out the local planning framework for the area and will continue to apply to the area formerly administered by the Listowel Town Council. It is indicated that this Town Development Plan will remain in force until after the adoption of the new County Development Plan. The Board will note that the Kerry County Development Plan 2015 is currently under review and the preparation of the new Kerry County Development Plan 2022-2028 is currently underway.
- 5.1.2. The site is zoned Existing Residential (R2) where it is the stated policy of the Council to protect and improve existing residential areas. The plan provides that the Local Authority will facilitate development that supports in general the primary land use. Development that does not support or threatens the vitality or integrity of the primary use of these existing built-up areas shall not be permitted

### 5.2. Natural Heritage Designations

- 5.2.1. The site is not located within any designated site. The closest Natura 2000 site is the Lower River Shannon (Site Code: 002165) which is located approximately 0.6km to the south of the site. The Moanveanlagh Bog SAC (Site Code: 002351) lies approximately 4.5km to the east.

### 5.3. EIA Screening

- 5.3.1. The application was submitted to the Board after the 1<sup>st</sup> September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018.
- 5.3.2. Item (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 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha 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.)

5.3.3. The proposed development comprises the demolition of an existing garage / utility room attached to a semi-detached house within a residential estate to the northern area of the town of Listowel, and the construction of an extension to the house. The house is on zoned land and has connections to the existing services within the town, and as such, might be described as ‘other parts of a built-up area’ rather than a ‘business district’. I am satisfied that the site area is substantially below the 10ha threshold for ‘other parts of a built-up area’. It is therefore considered that the development does not fall within the above classes of development and does not require mandatory EIA.

5.3.4. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

5.3.5. Having regard to:

- (a) the nature and scale of the development,
- (b) the location of the site within the development boundaries of Listowel,
- (c) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

It is concluded that 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 from Anne Enright, against the decision of the Planning Authority to grant planning permission for the proposed development.

6.1.1. The grounds of appeal reflect those issues submitted during the PAs assessment of the proposed development and are summarised as follows:

- The scale of the development on the site will impact the kitchen window of the appellants' home.
- The appellant spends most of her time in the kitchen and the window is the only source of daylight and sunlight.
- The extension will significantly block and reduce the normal sunlight and daylight and may cast a shadow making the kitchen a much darker place.
- Photographs included with the appeal.
- It is not understood why the full length of the rear extension was not located at the 'open' end of the semi-detached premises.
- The extension if permitted will impact on the quality of life of the appellant.

### **6.2. Planning Authority Response**

None.

### **6.3. First Party Response to Third Party Appeal**

None.

## 6.4. Observations

None.

## 7.0 Planning 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 Amenity
3. Other Issues
4. Appropriate Assessment

### 7.1. Principle of the development

- 7.1.1. The proposed development seeks to extend a semi-detached house with an existing floor area of 134m<sup>2</sup>. The works will consist of the demolition of the existing garage/utility room to the side of the house and the porch to the front of the house, amounting to 29m<sup>2</sup>. A two-storey extension is proposed to the side of the house and a single storey extension to the rear. The total floor area of the proposed extensions will amount to 84m<sup>2</sup>. The development will consist of the construction of a new kitchen / living area of to the rear of the house which is to be constructed 700mm from the boundary with the attached house to the north. This element of the extension will extend between 3.74m at the southern elevation to 5.27m at the norther elevation from the existing rear wall of the house. On completion, the house will have an overall floor area of 194.73m<sup>2</sup>.



- 7.1.2. In terms of the two-storey element of the proposed extension, the building will comprise a new ground floor ensuite bedroom and utility room in the place of the existing single storey flat roof garage / utility, and the first floor will comprise a new master ensuite bedroom. This new master suite will incorporate an existing bedroom in the house and as such, the proposed works will not change the number of bedrooms in the property.
- 7.1.3. Having undertaken a site inspection, I would note that a number of houses in the general residential area in which the subject site sits have been subject to alterations and extensions while the character of the street has been generally maintained.
- 7.1.4. The subject site is located within the town of Listowel and in an area zoned R2 - Existing Residential, which has the objective 'To protect and improve existing residential areas'. Residential development, including extensions to existing houses, is a permissible use within this zoning category. As such the proposal is acceptable in principle, subject to the detailed considerations below.

## **7.2. Design & Residential Amenity**

- 7.2.1. In terms of the proposed development, the primary views towards the front of the house will be altered with the construction of a two-storey extension to the side of the house. I would note no objections to the design of this element of the development.
- 7.2.2. The Board will note that the primary concern of the third-party appellant relates to the scale of the rear single storey extension. I would consider that the proposed development seeks to provide a modest extension, with a floor area of 37m<sup>2</sup>, to the rear of the property, and I am generally satisfied that the principle of the development is acceptable. I would consider that the proposed development will not have an adverse impact on the scale or character of the house and that the overall design is of a high quality. Therefore, the primary issue associated with the rear extension relates to the potential impacts on the adjacent residential amenities.
- 7.2.3. The subject site lies to the south of the attached semi-detached house and the appellant has raised concerns that the extension by reason of its height and length,

will give rise to overshadowing of her property, and in particular, will impact on sunlight and daylight through her kitchen window.

- 7.2.4. The layout of the site provides that the existing houses enjoy rear gardens with depths of approximately 25m. The proposed ground floor extension to the rear of the existing house will occupy a floor area of 37m<sup>2</sup> and it is proposed to position the northern wall of the extension 700mm from the existing party boundary. While I could not get access to the rear of the property on the date of my site inspection, the Board will note that there are a number of photographs of the area on the file. Of note, the party boundary between the semi-detached houses appears to have been removed in sections, with wire fencing erected. The boundary is to be reconstructed as a 2m high wall which is considered acceptable.
- 7.2.5. The overall height of the proposed rear extension is 3.62m in height and will extend between 3.74m and 5.27m from the existing rear wall of the house. Overall, I do not consider the scale of this flat roofed, ground floor extension to be excessive. In addition, and while I acknowledge the concerns of the third-party, I do not consider that a grant of planning permission in this instance will result in any significant impacts on the existing residential amenity of the adjacent property.
- 7.2.6. Should the Board be so minded, it could be conditioned that the rear extension be 'handed' such that the shallower 'dining area' of the floor plan is located to the northern side of the extension and the 'kitchen' area located to the southern side. This would reduce the overall length of the extension adjacent to the appellants property by approximately 1.5m, without reducing the floor area of the extension proposed.
- 7.2.7. 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 residential amenity of adjacent properties. In addition, I am generally satisfied that the development would not constitute a significantly visually obtrusive or overbearing structure so as to warrant refusal of planning permission.

### **7.3. Other Issues**

#### **7.3.1. Water Services**

Having regard to the nominal scale of the proposed extension, I am satisfied that there are no issues relating to the provision of water services arising.

#### **7.3.2. Development Contribution**

A development contribution is applicable in terms of the subject appeal and any grant of planning permission should include such a condition.

### **7.4. Appropriate Assessment**

The site is not located within any designated site. The closest Natura 2000 site is the Lower River Shannon (Site Code: 002165) which is located approximately 0.6km to the south of the site. The Moanveanlagh Bog SAC (Site Code: 002351) lies approximately 4.5km to the east.

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 Kerry County Development Plan 2015-2021, and the Listowel Town Development Plan 2009-2015 as amended and 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 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. 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.

3. 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. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

**Reason:** In the interest of sustainable waste management.

4. Site development and building works shall be carried out only between the hours of 0700 to 1800 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.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

5. 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, or shall be erected on the site/within the rear garden area, without a prior grant of planning permission.

**Reason:** In order to ensure that a reasonable amount of rear garden space is retained for the benefit of the occupants of the extended dwelling and in the interest of the amenities of the area.

6. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, 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.

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A. Considine  
Planning Inspector  
30<sup>th</sup> June 2022