



An  
Bord  
Pleanála

## Inspector's Report ABP-313733-22

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<b>Development</b>	Two houses and associated site works.
<b>Location</b>	Spa Road, Dingle, Co. Kerry
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	211439
<b>Applicants</b>	Denis Moriarty.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Permission
<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	Maureen O'Shea + Mary Houlihan.
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	8 <sup>th</sup> July 2022.
<b>Inspector</b>	Suzanne Kehely

## **1.0 Site Location and Description**

- 1.1. This appeal relates to an infill site of 0.082ha fronting onto Spa Road within the development area of Dingle town and within 500m of the town centre. The road is characterised by a mix of single low density frontage development and higher density pocket development in the hinterland. The site is immediately adjoined by detached bungalows as depicted in the contiguous elevations. Cluain Dara is a small housing development to the rear/north of the site on slightly higher ground. The site rises in a northerly direction from the road and the rear boundary comprises a mature hedge which screens the site from the open space to the rear.
- 1.2. The site is 18.36m wide and extends to a depth of c. 45m.
- 1.3. The road fronting the site is urban in nature with street lighting. The road has good alignment. There is an ESB pole in the footpath and the stays extend into the site.

## **2.0 Proposed Development**

- 2.1. The application involves permission for the construction of a pair of semi-detached dwellings totalling 318sq.m. They are one and half storey with the upper level in a dormer design. Each house has a single gable window to the front and to the rear and the roof slope on each side has a single dormer projection incorporating 3 windows (for two en-suite bathrooms and a landing area). The layout in each has a living/ dining/ kitchen area to the front and an en-suite bedroom and utility to the rear at ground level and two ensuite bedrooms in the dormer roof. The overall ridge height is 6.7m (23.05mOD) with the eave's height at around 3m.
- 2.2. Further particulars were submitted on 22<sup>nd</sup> April 2022.
  - Cross section drawings show contiguous relationship with adjacent properties.(no change in dimensions/levels.)
  - Sweep path analysis illustrates capacity for car manoeuvres.
  - Structural impacts due to construction are not anticipated.
  - It is clarified that ESB poles will be moved by the ESB in line with their policy.
- 2.3. Landscape proposals include a mix of 900mm high wall and 1.8m fencing to the rear.

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.1.1. Kerry County Council by order dated 19<sup>th</sup> May 2022 decided to **GRANT** permission subject to 10 conditions:

- In accordance with plans as amended.
- Section 48 contribution
- Restriction of exempted signage/advertising etc.
- Submission of weathering details for external walls
- Noise limits (levels and hours)
- Waste storage

#### 3.2. Planning Authority Reports

3.2.1. Planning Report (22/422) Objections are noted as are the contents of the technical reports and residential zoning of site. The site is outside the area for taking in charge. The submission of further information was requested in respect of: section drawings relative adjacent property, ESB pole, adequacy of car parking and structural impact on adjacent properties and landscaping. No AA or EIA issues.

3.2.2. Planning Report (14/2/22) The response to the request for further information was considered to address all issues.

3.2.3. HEU: outside taking-in-charge area.

#### 3.3. Prescribed Bodies

Irish Water:(11/2/22) No objections subject to conditions.

#### 3.4. Third Party Observations

3.4.1. There were 10 objections lodged by neighbouring residents and others. Issues relate mainly to significant loss of amenity, density and character of area, height and scale and detailed design aspect.

## 4.0 Planning History

4.1. PA ref 962214 refers to permission for dwelling on the site.

## 5.0 Policy Context

### 5.1. Development Plan

5.1.1. **Kerry County Development Plan 2022-2028** is the operative development plan. The Kerry County Development Plan 2015-2021 remained in place until 28<sup>th</sup> November 2022 .

5.1.2. Urban regeneration and compact growth objectives:

- KCDP 4-1 Support and facilitate the objectives and actions in Housing for All to regenerate towns and villages, to tackle dereliction, vacancy, to deliver site assembly opportunities and to promote the sustainable development of land to achieve compact growth and increased population in these centres and to engage with the Land Development Agency (LDA), where appropriate, in the identification, planning and co-ordination of strategic, publicly owned land banks to achieve compact growth, sustainable development, and urban regeneration.
- KCDP 4-2 Facilitate and support the sustainable development of towns and villages of sufficient scale and quality to be drivers of growth, investment, and prosperity.

### 5.2. Corca Dhuibhne Electoral Area Local Area Plan 2021-2027

5.2.1. The site is zoned R2residential

5.2.2. Brownfield Development objectives:

- BD-02Require at least 30% of new housing development to be delivered within the existing built up areas of Dingle and Milltown on infill and or brownfield sites.

5.2.3. The Plan refers to residential development trends and priorities . Obj D-Res-3 seeks to 'Ensure that future residential development is only permitted on appropriately zoned land to ensure a sustainable and compact urban form.'

### **5.3. National Planning Framework (February 2018),**

- 5.3.1. This framework plan supports a strategy of carefully managing the sustainable growth of compact cities, towns and villages in a manner that will add value and create more attractive places in which people can live and work.

### **5.4. Natural Heritage Designations**

- 5.5. The nearest sites are Mount Brandon SAC 000375 to the north of the town at a distance and Dingle Peninsula SPA 004153 to the south of the harbour.

### **5.6. EIA Screening**

- 5.6.1. The proposed development is a small-scale urban development. Having regard to the nature of the development, the absence of features of ecological importance within the site, I consider that the necessity for submission of an EIAR and carrying out of EIA can be set aside at a preliminary stage.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- 6.1.1. Michael Moriarty has submitted an appeal on behalf of each of the neighbours on both sides of the site. The grounds are based on:
- Design: uncharacteristic design by reason of semi-detached nature and one and a half storeys which are submitted to be grossly out of character by reason of design, scale and bulk.
  - Impact on residential amenity by reason of incongruous height and loss of light in the house and gardens.
  - Boundary concerns.
  - Inaccuracies with drawings and heights of properties – the 1m difference is not conveyed.
  - Not consistent with DoEHLG Guidelines on Sustainable Residential Development in Urban areas in that it responds very poorly to its surrounding and would not positively contribute to the character or identity of the area - particularly as it does not relate to single storey dwellings adjoining the property.

- A single-family unit would be more in keeping.

## 6.2. Planning Authority Response

6.2.1. No specific comment on appeal grounds

## 6.3. Applicant's Response.

- The proposal accords with the pre-planning guidance. In this meeting it was indicated that single storey with attic development in a semi-detached build could be considered to fit in with existing dwellings along this stretch of Spa Rad subject to adequate car parking and private amenity space.
- The form, scale and massing are appropriate and the use of traditional materials such as painted render, stone slate and zinc are also in context.
- 4 car park spaces are provided and adequate private amenity is also provided.
- The finished floor level has been reduced to take specific cognisance of the scale and ridge heights of adjoining properties.
- There is a 3m separation distance between the existing and proposed dwelling structures. And having regard to a 45-degree rule, loss of natural light is not significant to either property.
- The front and rear placement of habitable windows ensures protection of amenities. Windows in the bathrooms and landings are high level and obscured to ensure no overlooking.
- Boundary agreements have been agreed and the drawings reflect same.
- The dimensions are confirmed to be accurate, and the submission of inaccuracies is misleading and is requested to be withdrawn.
- Contiguous elevation shows correct relationship of finished floor and ridge levels.
- The design has been very cognisant of retaining the amenity value of adjoining properties.

## 7.0 Assessment

### 7.1. Issues

7.1.1. As this is a residential zoned site in a serviced area the principle of infill housing is not in question. The issues relate primarily to design and impact on residential

amenities. Other issues relate to associated traffic. Appropriate Assessment is also a mandatory consideration.

## **7.2. Visual**

- 7.2.1. The appellants are most concerned about the introduction of semi-detached two storey houses in between two bungalows. I have examined the site and drawings and note the character of the area. In the first instance I note the variety of styles of bungalow and dormer dwellings and consider the site has the ability to absorb an unique design. The use of dormer and massing of the roof to provide a total of four bedrooms in a one and half storey structure is not excessive in scale. While I accept it is higher than the adjacent dwellings in terms of overall height, I note the eaves height nearest the boundary on each side drops to just under 3m and scales the structure down and successfully bridges the difference. I note that the housing development at slightly higher ground together with other dormer dwellings in the area provide for an appropriate context for the proposal. Furthermore in terms of boundary treatment, the single 7m wide vehicular access to be shared by both houses also helps assimilate the property into the streetscape.
- 7.2.2. The mix of materials further breaks down the scale of the development and is I accept well considered. Accordingly having regard to the proposed design and pattern of development in the area, I consider the proposal to be acceptable in terms of visual amenity.

## **7.3. Protection of amenity**

- 7.3.1. The submitted boundary details provide for a low wall of 900mm to the front and along each side of the dwelling along its depth before rising to 1.8m with a concrete post and timber plank fence which is proposed to screen the sides of both rear gardens. Screen planting is proposed in addition to the low wall between the existing and proposed dwellings. I consider a solid wall alongside the house to a depth of 1m beyond the rear boundary should be required to protect privacy unless the neighbours agree to an alternative structure/landscaping. In this regard I note the kitchen windows in the side elevation and the potential for noise and disturbance arising. The applicant explains that boundary details as submitted in the further information were designed with the agreement of the neighbours. As a

precautionary measure I would consider it appropriate to require the highest standard unless a low or more transparent structure is clearly agreed. This could be addressed by requiring submission of details for agreement.

- 7.3.2. In terms of overlooking I note that the side windows in the upper floor are all to be obscure and high level and not likely to be source of undue overlooking. The orientation of the rear bedroom windows in each property will only provide for oblique overlooking of the rear gardens. There are no opposing windows at this level that will be overlooked.
- 7.3.3. The only source of overlooking is from the kitchen window in each of the side elevations facing the respective adjacent properties, but this would be onto a bank wall or at an oblique angle to a window. The introduction of boundary treatment will inhibit this.
- 7.3.4. Finally, I note the concerns about density of two dwellings relative to the nature of the single houses. In the first instance while I accept this a doubling of the densities of adjacent dwelling, it is still low density. While I note the residential housing guidelines advise of the need to respect existing character, for reason already stated I consider the overall design can be absorbed into the site without unduly altering or impinging on the character of the area. I consider this to be an appropriate balance between providing for an efficient use of serviced land and according with a policy of directing development to create compact towns and village while respecting the low-density character of the area. In such circumstances, it accords with proper planning and sustainable development.

#### **7.4. Other matters**

- 7.4.1. Having regard to the alignment of the road in an urban area and provision for off street parking and manoeuvring, I am satisfied that traffic safety is not an issue.
- 7.4.2. As the site is less than 0.1 hectares and the units are less than 9 in total, Part V does not apply.

#### **7.5 Appropriate Assessment**

- 7.4.3. Having regard to the nature and scale of the proposed development for retention of and that it is considerably smaller in scale than that previously permitted and also noting the serviced nature of the site and its separation from the nearest European



site, that no Appropriate Assessment issues arise and it is 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**

GRANT permission based on the reasons and considerations and subject to the conditions set out below.

## **9.0 Reasons and Considerations**

Having regard to the residential zoning objective for the site, provision for infill development in the Corca Dhuibhne Electoral Area Local Area Plan 2021-2027, the pattern of development along Spa Road and the scale, nature and design of the development, it is considered that, subject to compliance with the conditions set out below, the development would constitute an appropriate form of infill development at this location, would be acceptable in terms of scale and design and would not seriously injure amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety. 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, and as amended in further details received by the planning authority on 22<sup>nd</sup> April 2023, 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. Each of the proposed dwellings shall be occupied as a place of permanent residence and shall not be used as holiday home development without the prior grant of planning permission.

**Reason:** In the interest of providing for local permanent housing need within the town.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwellings 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. (a) Screen walls shall be provided along the side boundaries of the site with existing properties, unless otherwise agreed with the owners of the respective dwellings. (For example timber post fencing and landscaping may be permitted to the screen the rear gardens). Such walls shall be less than a height of 1m to the front building line and 1.8m in height between the existing and proposed dwellings and extending to the rear boundary.  
(b) Details of the layout, the materials, and external finishes of the screen walls and front boundary shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of construction of the dwellings.

**Reason:** In the interest of residential and visual amenity.

4. The applicant shall submit cross-sections through the site indicating existing and proposed ground levels and finished floor levels for written agreement prior to commencement of development works on site.

**Reason:** In the interest of residential and visual amenity.

5. All of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed

to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** in the interest of sustainable transportation.

6. The site shall be landscaped, using only indigenous deciduous trees and hedging species and in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Existing boundary screening shall be suitably strengthened. Any plants which die, are removed or become seriously damaged or diseased, within a period of 4 years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of visual amenity.

7. The footpath fronting the development shall be dishd in accordance with the requirements of the planning authority. Details shall be submitted to and agree in writing with the planning authority prior to commencement of development.

**Reason :** In the interest of pedestrian and traffic safety.

8. All service cables associatied with the proposed development shall be located underground.

**Reason:** In the interest of orderly development.

9. Prior to commencement of any works on site the existing ESB pole on the site shall be relocated to the satisfaction of the planning authority.

**Reason:** In the interest orderly developemnt.

10. 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.

11. The applicant or developer shall enter into water and wastewater connection agreements with Irish Water, prior to commencement of development.

**Reason:** In the interest of public health.

12. 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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Suzanne Kehely

Senior Planning Inspector

20<sup>th</sup> April 2023