



An
Bord
Pleanála

Inspector's Report ABP 314276-22.

Development	Construct a detached dwelling house, along with ancillary site works.
Location	Rear of Saint Mary's Terrace and Saint Mary's Road, Townland of Inch, Killarney, Co. Kerry.
Planning Authority	Kerry County Council.
Planning Authority Reg. Ref.	22212.
Applicants	Aidan and Ann Ryan
Type of Application	Permission
Planning Authority Decision	Grant outline permission
Type of Appeal	Third Party
Appellant	Gerard Mac Sweeney
Observers	None
Date of Site Inspection	4/5/2023
Inspector	Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The appeal site is situated within a long-established housing area at Saint Mary's Terrace located to the west of Killarney town centre. The site is accessed from a laneway which serves Saint Mary's Terrace which is situated to the eastern side of Saint Mary's Road.
- 1.2. St. Mary's Road is a one-way street with vehicle movements in a north bound direction. It links New Street to the south with New Road to the north. St. Brendan's College is situated to the western side of St. Mary's Road. There is a high stone wall which runs along the boundary of the college and St. Mary's Road. The properties along the eastern side of St. Mary's Road comprise two-storey terraced houses on narrow plots. The properties no's 1-20 St. Mary's Terrace are served long narrow rear gardens which are separated from the rear of the dwellings by a laneway. There is access to the laneway to the south of no. 1 Mary's Terrace and to the north of no. 20. Mary's Terrace.
- 1.3. The properties at no's 21-31 St. Mary's Terrace are situated to the north of the appeal site. The front of the properties are orientated in a north facing direction and the rear of the properties address a section of laneway which is a cul de sac.
- 1.4. The site has a stated area of 0.072ha it contains an existing garage with an area of 24sq m. It is located directly to the rear of nos. 17-20 St. Mary's Terrace. The site is bounded by a block wall and there are two metal gates which provides access into the site located in the western and northern boundaries.

2.0 Proposed Development

- 2.1. Outline permission is sought for the construction of dwelling and ancillary site works.

3.0 Planning Authority Decision

3.1. Decision

Outline permission was granted subject to 13 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Further information was requested in relation to the following issues;

1. Provide details of the applicants intentions in relation to the unauthorised entrance gate along the northern boundary of the site.
2. Submit elevational drawings of the proposed entrance and wing walls to the entrance and a revised site layout plan to show that adequate sightlines can be achieved in both directions.
3. Submit a boundary treatment plan.
4. Clarify the type of house proposed whether single-storey or two-storey. The protection of the residential amenities of the adjoining properties should be taken into account when proposing a style of house.
5. Provide information regarding surface water design including: -
 - Details of any existing streams/drains within the site.
 - Drawings of stormwater drainage system
 - Detail that the outfall has the capacity to cater for any additional attenuation water.
 - The location of any attenuation areas, return period, if required the type and size of attenuation area (design calculations must be included with an additional 20% added to all storm system design (for Climate Change)).

3.2.2. Planning report dated 8/7/2022 – Following the submission of a response to the further information requested. The Planning Authority were satisfied with information provided and a grant of permission was recommended.

3.2.3. Other Technical Reports

3.2.4. Killarney Municipal District Engineer report dated 20/4/2022 – Further information requested.

3.2.5. Killarney Municipal District Engineer report dated 7/7/2022 – No objection subject to conditions.

3.3. Prescribed Bodies

Irish Water – No objection

3.4. Third Party Observations

- 3.4.1. The Planning Authority received a number of submission/observation in relation to the application. The issues raised are similar to those set out in the appeal.

4.0 Planning History

Reg. Ref. 17/693 & ABP 301425-18 – permission was sought for a scheme comprising the construction 10 no. single storey one-bedroom dwelling houses, suitable for elderly occupation, landscaped amenity / recreational area, new site entrance, paving, storage facilities for residential amenity and all associated works at rear. Permission was refused by the Board for the following reasons;

1. Having regard to the location of this restricted site to the rear of St. Mary's Terrace, to the distinctive character and pattern of development of this established residential area, which is characterised by narrow laneways which separate the terraced houses from their rear gardens, and to the objectives of the Killarney Town Development Plan 2009-2015, (as extended), to resist the subdivision of such residential sites, it is considered that, the proposed development of 10 dwelling units, with no parking provision or private amenity space, would result in a congested layout and poor residential environment for existing and future occupiers, and would constitute overdevelopment of the site and contribute to piecemeal development of the area. The proposed development would, therefore, conflict with the provisions of the Development Plan, would seriously injure the amenities of the area, and would be contrary to the proper planning and sustainable development of the area.
2. The site is located on a laneway which is seriously substandard in terms of width and alignment, where existing pedestrian access points open directly onto the lanes and ad hoc parking occurs on the carriageways. The Board is not satisfied, on the basis of the information submitted with the application and appeal, that the proposed development, with no parking provision and 2

set down spaces, would not result in traffic and parking congestion on the lanes and give rise to a serious traffic hazard. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Reg. Ref. 06/204549 – Permission was refused for construction of 3 new buildings (Blocks A, B and C), each to comprise of 2 no. 2-bedroom apartments; a public amenity area and parking on this site (same location). Reason for refusal was based on inadequate access by reason of traffic hazard and obstruction of road users.

Reg. Ref. 03/204099 – Refusal of outline permission for 5 no. dwelling houses on the grounds of excessive density and substandard access, in terms of width and alignment, which would endanger public safety by reason of traffic hazard and obstruction of road users.

Reg. Ref. 01/203698 & PL63.126070 – Permission was refused for the erection of a playschool and apartment and parking facilities on this site (same location). Reasons for refusal were based on substandard access and impact on residential amenity by reason of noise and traffic.

5.0 Policy Context

5.1. Kerry County Development Plan 2022-2028

- 5.1.1. The Killarney Town Development Plan 2009-2015 (as extended and varied) is incorporated into the Kerry County Development Plan 2022-2028.
- 5.1.2. The site is zoned Objective R2 – Existing Residential on Map B – Killarney Town zoning map.
- 5.1.3. Volume Six of the Plan includes (1) Development Management Standards & Guidelines.
- 5.1.4. Section 1.5 refers to Residential Development.

5.2. Natural Heritage Designations

- 5.2.1. Killarney National Park, Macgillicuddy Reeks and Caragh River Catchment SAC (Site code 000365) and Killarney National Park SPA (Site code 004038) are located within 500m of the site.

5.3. EIA Screening

- 5.3.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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. An EIA - Preliminary Examination form has been completed and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal was submitted by Gerard Mac Sweeney the issues raised are as follows.

- The appellant states that they reiterate the issues raised in their submission to the Planning Authority in relation to the planning application.
- The Planning Authority requested further information in April 2022 in relation to a number of issues. The Planning Authority did not consider that it was necessary to readvertise that revised material which was submitted.
- The appellant states that on the drawings submitted at further information state the proposed vehicular entrance was relocated. The revised location is directly opposite the appellant's property.
- They submit that the entrance location would have a detrimental impact on the residential amenity of their property.
- The road into the site is narrow. It is considered that it will not be possible for construction vehicles to access the site. Therefore, it is considered that there

is a risk of physical damage being caused to neighbouring properties including the appellants property.

- The existing lane is located between no. 20 to no. 31 is a cul de sac it is not used apart from where some residents of no's 1 to no. 20 use the back lane to park their cars at the rear of their houses.
- It is stated that the lane to the west of the site is not a through road. It is used by residents for parking.
- It is considered that a single storey detached dwelling would be out of character with the existing surrounding housing.
- The proposed development would set a precedent for other similar development.

6.2. Applicant Response

- The first party submit that the access to the site is satisfactory and that the Killarney town Engineer also considered that the vehicular access arrangements were acceptable.
- The access is frequently used by various other landowners in the area. There have been no reports of incidents or accidents on the laneway. The area is regularly accessed by coal and oil delivery trucks. Therefore, access during the construction stage will not be an issue.
- The proposed position of the entrance provides good access to the site and also affords a significantly better turning area for the public using the roadway.
- The proposed sightlines exceed the requirements of Table 4.2 of "Design Manual for Urban Roads and Streets" (DMURS).
- It is intended to construct a single storey house on the site. The proposed house will be in keeping with the housing style and form in the area and sympathetic to the protection of residential amenities of adjoining properties. It is suggested that any specific requirements that the Planning Authority or the Board have can be conditioned. The first party state that they would welcome this.

- The proposed development is a modest development in the context of town centre development. It is confirmed that the proposed dwelling is to serve the applicants own needs.

6.3. Planning Authority Response

- None received.

7.0 Assessment

The main issues in this appeal are those raised in the grounds of appeal and it is considered that no other substantive issues arise. Appropriate Assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Vehicular access
- Design and residential amenity
- Appropriate Assessment

7.1. Vehicular access

- 7.1.1. The grounds of appeal refer to the proposed vehicular access. There is an existing metal gate to the western boundary and a second metal gate to the northern boundary which provide access into the site. In further information request the Planning Authority sought information to clarify the applicants intentions in relation to the unauthorised entrance gate along the northern boundary of the site. They also required the submission of elevational drawings of the proposed entrance and wing walls to the entrance and a revised site layout plan to show that adequate sightlines can be achieved in both directions.
- 7.1.2. In response to the matters, it was confirmed that it is the intention of the applicant to close up the existing entrance in lieu of the provision of the new entrance. As detailed in the response to the further information which includes a revised plan, it is proposed to setback the existing north boundary and construct a new low level plastered block wall. The proposed vehicular entrance would be further set back circa 7m from the north-western corner of the site. These proposals will result in the removal of the two existing entrances.

- 7.1.3. The appellant referred to the entrance being relocated and that the revised location would be directly opposite their property. They submit that the entrance location would have a detrimental impact on the residential amenity of their property. In relation to this, I would note, that while the location of the proposed vehicular entrance would be located opposite the rear of no. 25 Mary's Terrace, it would be setback from the existing site boundary by between 1.5m and 2.5m. A separation distance of over 7m is proposed between the vehicular entrance and the rear wall of the appellant's dwelling. I also note that the entrance is angled to face north-west and that it is not fully directly opposite the rear of the appellant's property and that vehicular movements into and out of the entrance would take a turning radius which would have an adequate setback from the property.
- 7.1.4. The appellant raised concern regarding the width of the laneway serving the site particularly the movement of construction vehicles. In response to the matter the first party stated that the area is regularly accessed by coal and oil delivery trucks and that therefore, access during the construction stage will not be an issue. I note the response from the first party and I would concur with their rationale.
- 7.1.5. The report from the Killarney Municipal District Engineer dated 7/7/2022 which was on foot of the submitted further information stated that there were no objection subject to conditions. Accordingly, I am satisfied with the vehicular access arrangements to serve the proposed dwelling.

7.2. Design and residential amenity

- 7.2.1. The appeal refers to the matter of the design of the proposed dwelling relative to the character of the surrounding housing. The existing housing at Saint Mary's Terrace are predominately two-storey terraced properties. The further information request issued by the Planning Authority sought information in relation to the type dwelling proposed. In response to the matter the applicant confirmed that they proposed a single storey dwelling. The response further stated that the proposed house will be in keeping with the housing style and form in the area and sympathetic to the protection of residential amenity.
- 7.2.2. As indicated on the revised Site Plan it is proposed to locate the dwelling to the western section of the site. The northern side of the dwelling would be set back 7m

from the rear of the closest dwelling to the north, no. 26 Saint Mary's Terrace. The western side of the proposed dwelling would be setback 17m from the closest property to the west, no. 20 Mary's Terrace.

- 7.2.3. I note that as this application is for outline permission the detailed design of the dwelling would be dealt with at permission consequent stage. Having regard to the site context which is on a laneway to the rear of existing terraced properties with the separation distances provided as detailed above, it is entirely appropriate that the house design be restricted to a single storey in order to protect the residential amenity of adjoining properties and the residential amenities of future occupants of the proposed dwelling. Accordingly, should the Board decide to grant permission, I would recommend the attachment of a condition specifying that the development to which the application for permission, consequent on this grant of outline permission, may be made shall be limited to a single storey dwelling, with no attic accommodation.
- 7.2.4. Volume Six of the Kerry County Development Plan 2022 – 2028 includes Development Management Standards & Guidelines. It is specified under Section 1.20.6 that car parking for detached and semi-detached housing should generally be within the curtilage of the individual house site. The site at Saint Mary's Terrace is located within Area 3 in Killarney with respect to car parking requirements as detailed in Table 4. The site is located in the area outside of the retail core and M2 lands where two car parking spaces are required.
- 7.2.5. The development as proposed and detailed on the submitted revised Layout Plan indicates two car parking spaces to the south-western corner of the site and served by a gated access. Therefore, the provision of two car parking spaces to serve the dwelling is in accordance with the requirements of Table 4 of the Development Plan.
- 7.2.6. Section 1.5.4.6 of the Development Management Standards & Guidelines section of the Development Plan refers to private open space. It sets out that all houses should have an area of private open space of a suitable gradient, exclusive of car parking to the rear of the building line. The minimum area of private open space to be provided shall be in accordance with Table 1 for all new residential development. Table 1 specifies that for dwellings with 1-2 bedrooms a minimum of 50sq m be provided, for a 3 bedroom dwelling that a minimum of 60sq m be provided and for dwelling with 4

bedrooms or more that a minimum of 75sq m shall be provided. Regarding the area of private open space on site, I note that there is significant area available to the rear of the dwelling with an area in excess of 300sq m to the rear of the dwelling. Accordingly, a satisfactory level of private amenity space has been provided.

7.3. Appropriate Assessment

- 7.3.1. The site is located within 500m 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). Given the scale and nature of the development, the distances involved, that the site is located in an established urban area, on serviced lands, it is considered that no appropriate assessment issues are likely to arise.

8.0 Recommendation

- 8.1. I recommend that the Board grant outline permission for the proposed development subject to the conditions set out below.

9.0 Reasons and Considerations

- 9.1.1. Having regard to the policies and objectives as set out in the Kerry County Development Plan 2022-2028 and the Killarney Town Development Plan 2009-2015 (as varied and extended), to the scale and nature of the proposed development and to the nature and character of the surrounding environment, it is considered that subject to compliance with the conditions set out below, the proposed development would be an acceptable form of development at this location and would not seriously injure the 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. This outline permission relates solely to the principle of the development of single residential dwelling on site as outlined in the documentation submitted

with the planning application, including the further information received by the planning authority on the 15th day of June, 2022.

Reason: In the interest of clarity.

2. The development to which the application for permission, consequent on this grant of outline permission, may be made shall be limited to a single storey dwelling, with no attic accommodation.

Reason: In the interest of protecting the residential amenity of adjoining properties and the residential amenities of future occupants of the proposed dwelling.

3. Plans and particulars to be lodged for permission consequent on this grant of outline permission shall include:-:

- (i) Detailed plans and elevations of the proposed dwelling, which shall conform to the requirements of condition number 2.
- (ii) Details of external finishes.
- (iii) Details of surface water attenuation, so as to ensure that no surface water from the site and the laneway discharges onto the public road or adjoining properties.

Reason: In the interest of clarity and to define the subject matter for consideration at permission consequent stage.

4. Prior to commencement of development, the developer shall enter into water and/or waste water connection agreement(s) with Uisce Éireann.

Reason: In the interest of public health.

5. 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.

Reason: In the interest of public health.

6. At permission consequent stage, 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.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Siobhan Carroll
Planning Inspector

12th October 2023