



An  
Bord  
Pleanála

## Inspector's Report ABP 314304-22.

<b>Development</b>	Modifications including demolition, and extensions to house. Associated site development works.
<b>Location</b>	Main Street, Castlegregory, Co. Kerry.
<b>Planning Authority</b>	Kerry County Council.
<b>Planning Authority Reg. Ref.</b>	22274
<b>Applicant</b>	Emma Fitzgibbon
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellants</b>	(1) Maria Maher (2) Eamonn and Mary Burke
<b>Observers</b>	None
<b>Date of Site Inspection</b>	3 <sup>rd</sup> of May 2023
<b>Inspector</b>	Siobhan Carroll

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located on Main Street within the village of Castlegregory, Co Kerry. Castlegregory which is located on the Dingle Peninsula. It is situated at the end of the Maharee's sandspit which divides Brandon Bay from Tralee Bay on the north side of the Dingle Peninsula. It is located approximately 24km west of Tralee and 23km north-east of Dingle.
- 1.2. The appeal site has a stated area of 0.025 hectares. It comprises a mid-terrace two-storey dwelling which fronts onto the northern side of Main Street. Main Street contains predominantly residential properties with a number of commercial premises to the south-eastern end of the street including a bar and restaurant.
- 1.3. The site extends to the north-east for circa 47m. The rear garden contains a shed and a number of mature shrubs and trees. The site is surrounded by residential properties. The adjoining two-storey property to the north-west contains a two-storey rear extension. The adjoining building to the south-east is also in residential use and is occupied by the appellants. The north-eastern end of the site adjoins the boundaries of a scheme of four dwellings located off Forge Road.

## **2.0 Proposed Development**

- 2.1. Permission is sought for modification to dwelling including demolition and extensions to house. It comprises;
  - (A) Demolition of existing single storey section of 5.61sq m at the rear of the property.
  - (B) Modify and re-roof existing two-storey annex at the rear of the property and extend ground floor footprint of the existing two-storey extension.
  - (C) Construct two-storey section onto the existing annex with single storey element at north-eastern end of the proposed two-storey extension.
  - (D) Elevation changes to the front elevation whereby the existing front door is moved to the south eastern side of the front elevation and associated

changes to the internal layout of the existing dwelling house all with ancillary and associated site works.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

Permission was granted subject to 6 no. conditions.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

- Further information was requested in relation to the following;
  1. It will be necessary to submit a Shadow Impact Assessment report for the proposed development. This report should clearly comment on the potential impact of overshadowing from the proposed development on properties in the vicinity. The applicant was advised of the two submissions and was requested to comment on them.

Planning Report – dated 6/7/2022 – The further information detail received responds in full to the further information requested. This included the submission of a Shadow Impact Assessment of the proposed development on adjoining properties in the vicinity. This report indicates that there will be a slight impact from the proposed development on the rear garden space of the property to the east and that the proposed development should not increase the degree of shadow onto the existing buildings in the area. A grant of permission was recommended.

##### **3.2.2. Other Technical Reports**

County Archaeologist – No mitigation required.

Conservation Officer – There are no objections to the proposed alterations of the front elevation, namely the proposed relocation of the front door to the south eastern end of the structure. In the event of a grant of permission, it is recommended that the proposed new front door is hard wood timber not aluminium uPVC.

### **3.3. Prescribed Bodies**

- None

### **3.4. Third Party Observations**

- 3.4.1. The Planning Authority 2 no. submissions/observations in relation to the application. The issues raised are similar to those set out in the third party appeals.

## **4.0 Planning History**

- None

## **5.0 Policy Context**

### **5.1. Kerry County Development Plan 2022 – 2028**

- 5.1.1. Section 3.10.2 of the Plan refers to Settlement Hierarchy. Castlegregory is designated a Village in the settlement of hierarchy.
- 5.1.2. Volume Six contains the Development Management Standards & Guidelines.
- 5.1.3. Section 1.5.6.1 of the Development Management Standards & Guidelines refers to Extensions to Dwellings.
- 5.1.4. Rear/Side Extensions will be considered in terms of their length, height, proximity to mutual boundaries and quantum of usable rear private open space remaining. First floor rear/side extensions will be considered on their merits and will only be permitted where the Planning Authority is satisfied that there will be no significant negative impacts on surrounding residential or visual amenities. In determining applications for first floor extensions, the following will be considered:
- Degree of overshadowing, overbearing and overlooking - along with proximity, height and length along mutual boundaries.
  - Size and usability of the remaining rear private open space.
  - Degree of setback from mutual side boundaries. No part of the extension shall encroach or overhang adjoining third party properties.

5.1.5. Any planning application submitted in relation to extensions, basements or new first/upper floor level within the envelope of the existing building, shall clearly indicate on all drawings the extent of demolition/ wall removal required to facilitate the proposed development. In addition, a structural report, prepared by a competent and suitably qualified engineer, may be required to determine the integrity of walls/structures to be retained and outline potential impacts on adjoining properties. This requirement should be ascertained at preplanning stage. Alterations at Roof/Attic Level Roof alterations/expansions to main roof profiles (changing the hip-end roof of a semi-detached house to a gable/'A' frame end or 'half-hip' for example) and additional dormer windows will be assessed having regard to the following:

- The character and size of the structure, its position on the streetscape and proximity to adjacent structures.
- Established streetscape character and roof profiles.
- Dormer extensions to roofs, i.e. to the front, side and rear, will be considered with regard to impacts on existing character and form and the privacy of adjacent properties.

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

5.2.1. Section 3.9 refers to Castlegregory

### Vision

5.2.2. The overall vision for Castlegregory is to ensure that it develops as an attractive seaside location for residents and visitors alike and that future development preserves the village's unique character and reinforces it where necessary.

## **5.3. Natural Heritage Designations**

5.3.1. Tralee Bay and Magharees Peninsula, West to Cloghane SAC (Site Code 002070) is situated 584m from the appeal site at the closest point.

5.3.2. Tralee Bay Complex SPA (Site Code 004188) is situated 700m from the appeal site at the closest point.

## **5.4. EIA Screening**

- 5.4.1. Having regard to the limited nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental assessment can therefore be excluded at preliminary examination.

## **6.0 The Appeal**

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

Third party appeals were submitted by J.J. O'Connor B.Eng on behalf of (1) Maria Maher and (2) Eamonn and Mary Burke. The issues raised are follows.

#### **(1) Maria Maher**

- The two-storey section of the proposed development will completely obliterate any summer sunshine to the rear of the appellant's apartment. Three photographs are submitted with the appeal to indicate the location of the appeal site relative to the appellant's apartment.
- The proximity of the two-storey extension to the boundary of approximately 350mm will greatly reduce the daylight to the existing first floor bedroom window as indicated on photograph no. 3.
- Photograph no. 4 illustrates the existing view from the appellant's bedroom window. Due to the splay and bulk of the proposed extension, the outlook from the bedroom window would be onto a block wall.
- It is considered that the proposed extension due to its bulk and the overdevelopment of a narrow site will devalue the appellant's property.
- The appellant requests that the Board overturn the decision of the Planning Authority and refuse permission for the proposed development.

#### **(2) Eamonn and Mary Burke**

- It is submitted that the two-storey section of the proposed extension will completely obliterate any summer evening sunshine to the backyard of the appellant's property. A number of photographs have been submitted with the appeal which illustrate the appellant's property relative to the appeal site.
- The proximity of the two-storey extension to the boundary circa 350mm will greatly reduce the daylight to the existing ground floor bedroom window as indicated on photograph no. 3 submitted with the appeal. The bedroom window is only 800mm from the boundary wall.
- The appellants consider that the proposed extension due to its bulk and overdevelopment of a narrow site will devalue their property.
- They request that the Board overturn the decision of the Planning Authority and refuse permission for the proposed development.

## 6.2. Applicant Response

A first party response to the third party appeals has been submitted by SJK Engineering Surveying Ltd. on behalf of the applicant Emma Fitzgibbon. The issues raised are as follows:

- The information as submitted by Mr. O'Connor does not in their opinion represent the true design of the proposed works as granted by Kerry County Council.
- The proposed design does reduce the feeling of being overshadowed.
- A shadow report was prepared by Casey Design & Associates and was submitted as part of the application.
- The indicative shading plan in the appeal document does not show the date or effect of the shadowing by the proposed structures.
- The plan as prepared as part of the appeal does not reflect the actual situation as no dates, times, analysis of the true situation has been prepared or identified.
- The details of the shadow plan as prepared by Casey Design & Associates does identify a full picture of the situation.



- The existing rear garden of the applicant's property is located in a built up area within the centre of Castlegregory village where surrounding structures/tree lines currently exist at this built up location.
- Therefore, they disagree with the details in the submitted appeals.
- It is requested that the Board uphold the decision of the Planning Authority and grant permission for the proposed development.

### **6.3. Planning Authority Response**

- The response from the Planning Authority includes two photographs taken by the Planning Officer on the date of the site inspection. It is stated that the photographs show the dwelling house on adjoining site to the northwest relative to the existing dwelling house on site and proposed location for new extension.
- Please note that the existing two storey rear of the dwelling house on site relative to the height of the dwelling on the adjoining site to the north-west. The existing two-storey roof on site is to be reduced in height in height by circa 700mm as part of this application and this reduction will represent the highest point of the proposed extension.
- It is considered that the image from SJK Engineering dated 22/8/2022 appears to indicate a more significant height extension than is actually proposed.
- Furthermore, it is considered that the extension proposed given location to north/northwest of residence in ownership of Eamonn & Mary Burke would not have a significant impact on the property of Eamonn & Mary Burke and any impact would be deemed acceptable having regard to the village centre location.
- A shadow impact survey was requested during the course of the assessment of the application, and this indicates the limited impact the proposed development will have on the property of Eamonn & Mary Burke.

## **7.0 Assessment**

The main issues in this appeal are those raised in the grounds of appeal. I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Design and impact on residential amenity
- Appropriate Assessment

### **7.1. Design and impact on residential amenity**

- 7.1.1. The grounds of the third party appeals refer to potential negative impact to residential amenity arising from overshadowing and also potential overbearing impact.
- 7.1.2. Section 1.5.6.1 of Volume 6 of the Kerry County Development Plan 2022-2028 refers to extensions to dwellings. In relation rear and side extensions it is stated that they will be considered in terms of their length, height, proximity to mutual boundaries and quantum of usable rear private open space remaining and that first floor rear extensions will be considered on their merits and will only be permitted where the Planning Authority is satisfied that there will be no significant negative impacts on surrounding residential or visual amenities. It is set out in the Plan that first floor extensions will be considered having regard to the degree of overshadowing, overbearing and overlooking, along with proximity, height and length along mutual boundaries. The size and usability of the remaining area of rear private open space will also be considered along with the degree of setback from mutual side boundaries.
- 7.1.3. It is contended in the appeals that the two-storey extension proposed to the rear of the existing dwelling would have a negative visual impact in terms of outlook from the appellant's properties and that it would cause overshadowing of their properties and amenity space.
- 7.1.4. In relation to the site context, I note that the appeal site is a mid-terrace two-storey property on the Main Street of the village of Castlegregory. Therefore, the site context is within an existing built up area. Having regard to the configuration of the site and the adjacent properties I note that the rear garden of the property does not

extend directly linearly behind the rear building line of the dwelling as it is angled to the east. The south-eastern boundary in the rear garden of the site is formed by a concrete block wall and the north-western boundary is formed by a fence.

- 7.1.5. It is proposed to demolish the existing single storey rear extension which contains a hall and toilet and construct a ground floor and first floor rear extension. At ground floor as detailed on the floor plan the extension contains a kitchen, living area and toilet. The ground floor rear extension extends out for 12m and has a width of 4m-4.5m. I note that the existing rear ground floor extension projected out 2.92m from the main rear building line of the dwelling. At first floor it is proposed to provide a bedroom and en-suite within the extension. The first floor extension extends out 7m - 7.5m from the rear building line of the dwelling. Having regard to the depth of the site with the proposed extension built, the rear garden would still have a depth of 24.1m and an area of circa 132sq m.
- 7.1.6. Regarding the matter of overshadowing and loss of daylight to the appellants' properties the applicant submitted a Shadow Analysis in response the Planning Authority's further information request. The Shadow Analysis indicated the impacts of shadows cast by existing walls and structures and by the proposed development on the during the months of April to August inclusive on the 21<sup>st</sup> days of those months at 18.00hr, 19.00hr, 20.00hr & 21.00hr.
- 7.1.7. Having viewed the submitted Shadow Analysis diagrams, I note on the 21<sup>st</sup> of April that the proposed extension would not result in any new shadowing of the building of the appellants located to the south-east. There would be some very limited additional shadowing of the rear garden at 18.00hr and 19.00hr. On May 21<sup>st</sup> similar to April there would no new shadow of the building with some additional limited shading of the rear garden to the south at 18.00hr and 19.00hr. The shadow diagrams indicated that for June 21<sup>st</sup>, July 21<sup>st</sup> and August 21<sup>st</sup> that the same outcome would be experienced with no new shadowing onto the building to the south-east and some very limited new shadowing in the rear garden to the south at 18.00hr and 19.00hr.
- 7.1.8. Given the level of additional shadowing would be very limited and that it would not impact the dwellings directly, I am satisfied that the proposed development would not unduly impact the amenities of appellants' properties in terms of overshadowing.

- 7.1.9. In relation to the issue of overbearing impact, the extension has a depth of 4m – 4.5m. As illustrated on the Site Plan, I note that the proposed extension would be inset 350mm from the south-eastern boundary. The single storey section of the extension would be marginally closer at one point with a separation distance of 300mm to the boundary provided. The proposed extension would have a separation distance of 300mm to the north-western boundary and the single storey section of the extension would be marginally closer at two points with separation distance of 250mm and 200mm to the boundary provided. In respect of the north-western boundary, I note that the adjoining property to the north-west has a two-storey extension which projects out from the original rear building line of that property to the same extent the proposed extension on the appeal site. The Planning Authority in their submission to the appeal noted that the existing two-storey roof on site is to be reduced in height in height by circa 700mm as part of this application and this reduction will represent the highest point of the proposed extension.
- 7.1.10. Accordingly, in terms of the site context and surrounding development there is a precedent for a similar type of rear extension on the adjoining property to the north-west. In relation to the issue of overbearing impact upon the appellants to the south-east, I note that the two-storey element of the rear extension would be inset from the party boundary to the south-east by 350mm and that it would project out 7m from the existing rear building line. The ground floor element of the proposed extension would extend out a further 5m.
- 7.1.11. I consider having regard to site context within the centre of the village and also that the depth of the extension at first floor is a maximum of 7m, that it would not unduly impact upon the amenity of the neighbouring property in terms of overbearing impact.

## **7.2. Appropriate Assessment**

- 7.2.1. Having regard to the nature and scale of the proposed development and the location of the site in a serviced urban area, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to give rise to a significant effect individually or in combination with other plans or projects on an European site.

## 8.0 Recommendation

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

## 9.0 Reasons and Considerations

- 9.1.1. Having regard to the provisions of the Kerry County Council Development Plan 2022-2028, and having regard to the pattern of existing development in the area and the design and scale of the proposed extension, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity. 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, as amended by the further plans and particulars submitted on the 15th day of June 2022, 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.

- (a) The external finishes of the proposed extension (including roof tiles/slates) shall be the same as those of the existing dwelling in respect of colour and texture.
- (b) The proposed new front door shall be of hardwood timber construction. The use of aluminium or uPVC is not permitted.

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

- 3. 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 to ensure a proper standard of development.

- 4. Site development and building works shall be carried only out between the hours of 08.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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. 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.

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Siobhan Carroll  
Planning Inspector

22<sup>nd</sup> June 2023