



An  
Bord  
Pleanála

## Inspector's Report ABP 314893-22

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<b>Development</b>	Renovate and extend existing dwelling house along with all ancillary site works.
<b>Location</b>	Sandhills Road, Ballyheigue. Co. Kerry.
<b>Planning Authority</b>	Kerry Co. Council.
<b>Planning Authority Reg. Ref.</b>	22/191.
<b>Applicant(s)</b>	Paddy O'Meara Properties Ltd.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	To Grant Permission.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Dermot & Martina O'Mahony.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	October 12th, 2023.
<b>Inspector</b>	Breda Gannon.

## 1.0 Site Location and Description

- 1.1. The site is located off Sandhills Road, Ballyheigue. Co Kerry. It lies to the east of Ballyheigue Beach and associated carpark. The site accommodates a single storey dwelling on a restricted site. There is a small garden area on the south side of the house and the boundaries are formed by painted concrete block walls.
- 1.2. The site is adjoined to the west by a single storey dwelling that is set back significantly within the site, with a garden to the front. To the north, the rear wall of the site shares a common boundary with an adjacent dwelling. To the east a right of way provides access to houses to the rear, beyond which there is a dormer style dwelling that faces the appeal site.
- 1.3. The town functions mainly as residential settlement but also as a traditional seaside tourist destination. The area close to the site is primarily residential. Ballyheigue Community Centre lies to the southeast and the rear entrance to the rear of the White Sands Hotel is further east.

## 2.0 Proposed Development

- 2.1. The proposal as described in the public notices submitted with the application is to renovate and extend the existing house on the site. The existing toilet at the rear would be removed and alterations are proposed to the internal layout of the house. Additional windows are proposed (ensuite, kitchen) together with increased glazing (sitting room and den) and roof lights (kitchen, sitting room). A new entrance porch is proposed along the western elevation and a storage area would be provided to the rear. It is proposed to provide first floor accommodation incorporating a gallery and patio area. The overall roof ridge height would be increased from 4.83m to 6.0m in the extended section.
- 2.2. Further information on the application was sought on 19<sup>th</sup> April 2022 requesting additional contiguous cross section drawings and details of the ridge height of proposed development relative to adjacent dwellings. It was the planning authority's view that the proposed balcony would result in overlooking and that the proposed design was not in keeping with existing dwellings in the vicinity.

2.3. The response of 31<sup>st</sup> August 2022 confirmed that the revised drawing submitted included the construction of a 1.92m high screen wall to eliminate overlooking and the replacement of the flat roof to the entrance porch with a pitched roof to simplify the design.

Photographs were attached to indicate that there is no definitive design style to adjacent properties.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The planning authority decided to grant permission for the development subject to 7 no. standard type conditions.

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

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

The planning officer's report of 14/4/22 considered that the proposed renovation works would have a visual impact and be out of character with adjoining dwellings and inappropriate given the proximity of surrounding houses. The proposed roof ridge height of 6m to facilitate a gallery area and the creation of a patio/balcony area at first floor level would lead to overlooking, loss of privacy and loss of amenity to adjacent dwellings.

A subsequent report of 26/9/22, following the receipt of further information, concluded that the addition of a 1.96 m screen wall to the patio area on the upper floor would be obtrusive. Having regard to the open and exposed location of the site in this coastal location, it was considered that the proposed upper floor extension would not be in keeping with the area and contravenes Objective BE-GO-O2 of the development plan. It was recommended that the proposed first floor extension be omitted, which was subsequently overruled.

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

Road's Report – No objection subject to conditions.

## 4.0 Submission

- 4.1. An objection was received from the residents of the adjoining house to the east who raised issues regarding the building of the balcony/patio area at first floor level and potential impacts on the privacy of their home.

## 5.0 Planning History

No details of any relevant planning history relevant to the site was forwarded by the planning authority.

## 6.0 Policy and Context

### 6.1. Development Plan

Ballyheigue is identified as a District Town in the Listowel Municipal District LAP 2020-2026. The site lies within the development boundary for the town and is zoned 'Mixed Use'. The plan seeks to ensure that new development does not detract from the character of the settlement. Relevant objectives include:

**BE-GO-o2:** Ensure that all development shall have regard to the scale and setting of the settlement in an attractive rural coastal landscape.

### 6.2. Natural Heritage Designations

There are a number of European sites in the vicinity of the town including the following:

- Akeragh, Banna and Barrow Harbour SAC.
- Magharee Islands SAC.
- Tralee Bay Complex SPA
- Kerry Head SPA.

### 6.3. EIA Screening

6.4. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

- Negative impacts on residential amenity of the house and seating area associated with overlooking, overshadowing and visual obtrusiveness.
- The provision of a balcony is unnecessary as the house already enjoys an impressive unobstructed view of Ballyheigue and mountains. Balconies are not a common feature and are out of character in this residential area.
- A photo of the streetscape in the village to the north submitted by the applicant shows balconies to commercial properties on Main Street that do not overlook residential properties. This is not in the vicinity of Sandhill's Road and should have no bearing on the planning authority's decision.
- The appellants' house is omitted from the photograph showing buildings A, B, C, D, and E. A photograph is attached from a different angle showing the proximity of proposed screen wall and how out of character a balcony and screen wall will be with houses in the area.
- A photo submitted by the developer shows two houses 45m to the north which are again located on Main Street. The planning authority granted planning permission for a house (Ref No 19/636) with a condition that the flat roof should not be used as a roof terrace/balcony area, further evidence that there are no balconies in the area or on Sandhills Road with planning permission to build residential balconies.

### 7.2. Applicant Response

No response was received to the grounds of appeal.

### 7.3. **Planning Authority Response**

No response was received to the grounds of appeal.

## 8.0 **Assessment**

### 8.1. **Introduction**

8.1.1. Having examined all the application and appeal documentation on file, I consider that the main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise.

8.1.2. I consider that the main issues that arise for determination by the Board in this appeal relate to the following:

- Impacts on the amenities of the area.
- Appropriate Assessment.

### 8.2. **Impacts on the amenities of the area**

8.2.1. The appellants' property is a dormer style dwelling located to the east of the appeal site separated by the existing access road. The front of appellants' house faces the appeal site.

8.2.2. I consider that the alterations proposed at ground floor level are acceptable. The proposed new entrance porch, outdoor storage area, reconfigured ground floor arrangements, incorporating additional windows to serve an ensuite (west) and the kitchen (east) and increased glazing to the living areas will improve the quality of accommodation afforded by the house, which will improve the overall amenity for residents and will not negatively impact on adjoining properties.

8.2.3. There are no increased levels of overlooking associated with the proposed development at ground floor level. Due to the set back of the adjacent adjoining house to the west, its front garden area is currently overlooked by all of the existing windows in the western gable. It is not considered that the provision of an additional ensuite window and the additional glazing proposed would result in any additional impacts. On the east side, the existing boundary wall limits any potential for significant overlooking of appellants' property.

- 8.2.4. The house is located on a restricted site with open space confined to the front (south) of the house. The proposed new entrance porch and storage area would be constructed in an area that is currently used as driveway which will ensure that the existing open space is preserved. Sufficient parking space for one car will be retained on the site and the large carpark adjacent to the beach would cater for any additional demand.
- 8.2.5. At first floor level, the main concerns are associated with the patio/balcony area. I accept that raising a portion of the roof by 1.2m would result in an increase in the level of overshadowing of adjoining properties, but not to the extent that the amenities of the dwellings would be seriously compromised.
- 8.2.6. I concur with the view expressed in the planning officer's report that the provision of a 1.9m high screen wall would be incongruous and detract from the visual amenities of the area in this location. I consider that the replacement of the proposed wall with a 1.8m privacy screen along the western side of the balcony would address concerns relating to overlooking and reduce the overbearing impacts.
- 8.2.7. However, I share the concerns raised in the planning officer's report regarding the design of the proposed first floor extension. While I accept that the site is located in an area where there is significant variation in roof profiles, the proposed alterations to the roof are completely out of character with the design of the existing house and adjacent property. Further it does not add significantly to the level of accommodation that would be provided in the house.
- 8.2.8. I note the overall vision for Ballyheigue is to ensure that it develops sustainably as an attractive location for residents and tourists and that future development preserves the towns character as a seaside town and reinforces it where necessary. To permit this element of the proposal would in my opinion, detract from this coastal location and create an undesirable precedent for similar development in the future, which would be contrary to Objective BE-GO-o2.
- 8.2.9. I would therefore recommend, should the Board be minded to grant permission for the development, that the alteration proposed to the roof to facilitate the first floor extension be omitted from the development.

### 8.3. Appropriate Assessment Screening

8.3.1. Having regard to the nature and scale of the proposed development, the nature of receiving environment as a built-up urban area with discharges to public collection systems and the distance from any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an EIA at an initial stage.

### 9.0 Recommendation

9.1. On the basis of the above assessment, I recommend that permission for the development be granted for the reasons and considerations set out below.

### 10.0 Reasons and Considerations

10.1. Having regard to the established use of the site for residential purposes and the pattern of development in the area, it is it is considered that subject to compliance with the conditions set out below, the proposed development would not detract from the character of the existing dwelling or the residential or visual amenities of the area, and would, therefore, be in accordance with the proper planning and sustainable development of the area

### 11.0 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 31st day of August 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
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2.	<p>The development shall be revised as follows:</p> <p>(a) The first-floor extension including the patio area shall be omitted from the development.</p> <p>(b) The roof over the proposed den area on the ground floor shall be in keeping with the roof style of the existing dwelling.</p> <p>Revised plans and particulars incorporating these changes shall be submitted for the written agreement of the planning authority prior to any development taking place on the site.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
3.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p><b>Reason:</b> In the interest of public health.</p>
4.	<p>Details of the external finishes of the proposed development, which shall match the external finishes of the existing dwelling, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Any stonework shall be constructed of nature stone local to the area. The use of white uPVC shall not be permitted on windows, doors, fascias, soffits and guttering.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
5.	<p>Any external lighting shall be suitably cowled to prevent overspill outside the site.</p> <p><b>Reason:</b> To control light pollution in the rural environment.</p>

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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Breda Gannon  
Planning Inspector

24<sup>th</sup> October 2023