



An
Bord
Pleanála

Inspector's Report ABP-315364-22

Development	House alterations and all ancillary site works.
Location	Sea Green Lodge, Sandhill Road, Ballybunion, Co. Kerry.
Planning Authority	Kerry County Council.
Planning Authority Reg. Ref.	22/275.
Applicant(s)	Frank & Christine Fern.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party.
Appellant(s)	Frank & Christine Fern.
Observer(s)	None.
Date of Site Inspection	28 th April, 2023.
Inspector	Aiden O'Neill.

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1.0 Site Location and Description

- 1.1. The proposed development site is c. 0.03ha in area, and is a long, narrow plot which faces on to Sandhill Road to the south of Ballybunion town centre, overlooking Ballybunion Golf Course to the south-west, within the development boundary for the town.
- 1.2. The site comprises a single-storey dwelling with gable roof (123m²), known as Sea Green Lodge, set back from the road with a front parking area, and a raised patio area with decorative railings to the front of the dwelling, accessed via steps. The dwelling extends to the full width of the north-west and south-east boundaries, and almost extends to the rear boundary of the site, with raised front living room accommodation with feature glazed front elevation, lower-level kitchen area, and rear bedroom accommodation with attic accessed via a flat roof link. There are no windows on the north-west and south-east elevations. There are low boundary walls to the front of the dwelling and a small yard area to the rear with shed. The height of the existing dwelling fronting Sandhill Road is 5.16m. The rear bedroom accommodation is 3.926m in height.
- 1.3. The dwelling to the north-west is also single-storey (c.4.633m in height), but does not extend the full length of the site, and has a rear and side garden space. The dwelling to the south-east, which has recently been redeveloped from a single-storey dwelling similar in height to the proposed development, is part single-storey, part two-storey, c. 7.04m maximum in height. This dwelling has a porch area as well as ground floor and first floor windows on the north-west elevation. A guesthouse property known as the Towers Centre further south-east is three-storey and is c. 10.7m maximum in height.
- 1.4. The existing dwelling on the proposed development site is not a Protected Structure, nor is it a Recorded Monument, nor is it listed on the National Inventory of Architectural Heritage. The proposed development site is not located in an Architectural Conservation Area. It is also not located in a Flood Zone. The proposed development site benefits from existing public services.

2.0 Proposed Development

- 2.1. The proposed development, PA Reg. 22/275, submitted on 14th March, 2022, will consist of (a) demolition of front single-storey section of existing dwelling (56.2m²), (b) construction of a two-storey extension to front, (with return to the rear), single-storey store to front at ground level, balcony to the front at first floor level and single storey extension to existing rear flat roof link, (c) break out new window to side (north-west) at ground floor level and (d) all ancillary site works.
- 2.2. The proposed two-storey extension and rear return is a total of 134.7m² in area, and the projecting balcony at first floor level is 25m². The height of the proposed development is c. 8.567m.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission by Order dated 22nd November, 2022 for 1no. reason as follows:

It is considered that the proposed extension by reason of its height, scale and proximity to houses in the vicinity would seriously injure the amenities and depreciate the value of property in the vicinity by reason of a loss of natural light and loss of residential amenity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial Planner's report dated 4th May, 2022 commented that:

- The loss of light to the adjacent two-storey house to the south, which has side windows, will be significant given the height of the proposed development.
- The house to the north-west will have a permanent shadow in the green area as a consequence of the proposed development.
- The proposed balcony will result in overlooking, loss of privacy and residential amenity to adjoining properties.

A Request For Further Information was issued on 4th May, 2022 seeking:

- A waste management plan for the demolition of the structure on the site.
- Indicate on the drawings the section of structure to be demolished.
- Indicate any proposed works to the boundaries of the site.
- The loss of natural light to the occupants of adjoining dwellings is significant given the proposed height of the proposed development. Also, the house northwest of the site will have a permanent shadow in the green area as a consequence of the proposed height. The projecting balcony will also contribute to overlooking, loss of privacy and residential amenity to adjoining properties. This is not acceptable to the occupants of these dwellings. In order to avoid a planning refusal you are advised to submit a revised design taking into account the amenity of dwellings and residents adjoining the site.

The First Party responded on 26th October, 2022, as follows:

- Request that the submission of a waste management plan be a condition of planning;
- Details of the proposed demolition is identified on revised drawings;
- A drawing indicating the proposed boundary treatments is provided;
- A shadow study indicates that minor loss of light to the property to the north-west;
- Photos of properties in the vicinity with similar balconies is provided.
- The design of the proposed balcony has been modified to provide 1.8m tall opaque glass screens to the sides of the balcony.
- a letter of support from the owners of the dwelling to the north-west is included.

The Planner's report dated 2nd November, 2022 on the response to the RFI stated that the response to the RFI was acceptable other than the last item, where it is stated that the shadow assessment is noted, but that given the proposed height of the extension, cited as c. 8.8m, that there will be significant loss of natural light to the dwelling to the south of the site as there are a number of windows on the north elevation of this house, and that this loss is unacceptable. A reduced ridge height and the omission of the pitched roof could be addressed in a future planning application. A refusal of permission for 1no. reason is recommended, in line with the Order dated 22nd November, 2022.

The planner's reports are the basis for the Planning Authority's decision to refuse planning permission.

3.2.2. Other Technical Reports

A report dated 12th April, 2022 from Kerry County Council's Executive Planner (Conservation) stated no objection.

A report dated 12th April, 2022 from Kerry County Council's Biodiversity Officer stated that:

- the proposed development is located c. 290m at its closest point to the Lower Shannon cSAC and is adjacent to the Cashen Estuary pNHA.
- there is no direct significant effects on the cSAC.
- no potential is identified for the proposed development to significantly affect European sites indirectly, considering its nature, scale and location.
- there is no identified impact on the pNHA.

3.2.3. Prescribed Bodies:

Irish Water's submission of 21st April, 2022 stated no objection.

3.2.4. Observations:

There are no observations on file.

4.0 Planning History

Subject site:

PA Ref.95/1959. Conditional permission was granted on 11th March, 1996 for the demolition of the existing cottage and the construction of a new dwelling, subject to 12no. conditions.

Site to the south-east:

PA Ref. 11/691 Conditional permission was granted on 10th November, 2011 for the demolition of the existing single-storey dwelling and the construction of a new two-storey dwelling (c. 148m²) with new vehicular access and associated site works, subject to 13no. conditions.

- The planner's report stated that the proposal would not be out of character with the urban streetscape in this part of Ballybunion as there was no clearly defined set pattern of development, scale or design. It was also stated that this variety affords the opportunity for the applicant to create a modern if irregular but interesting addition to the streetscape of Sandhill Road. Similar proposals would be welcome in order to stimulate regeneration to this part of Ballybunion.

5.0 Policy and Context

5.1. Development Plan

In the Kerry County Development Plan 2022-2028, Ballybunion is identified as a Regional Town. Table 3.5 of the Plan notes that such towns provide a housing, employment or service function serving a local region within the county.

Volume 6 of the Plan sets out the development management policies for infill residential developments include:

1.5.6.1 Extensions: Front extensions, at both ground and first level will be considered acceptable in principle subject to scale, design and impact on visual and residential amenities. 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 the Listowel Municipal District Local Area Plan 2020-2026, the proposed development site is zoned R2 – Existing Residential, the objective of which is to provide for residential development and protect and improve residential amenity

5.2. Natural Heritage Designations

The proposed development site is within the screening zone for the Lower River Shannon candidate Special Area of Conservation (cSAC) (Site Code: 002165), and the Cashen River Estuary proposed Natural Heritage Area (pNHA 001340).

5.3. EIA Screening

Having regard to the small scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development.

6.0 The Appeal

6.1. Grounds of Appeal

The First Party appeal against the refusal of planning permission makes the following points:

- Houses along Sandhill Road are predominantly two-storey, many with upper floor balconies. There is a 3-storey building less than 8m to the south-east.
- The proposed design of a two-storey extension to the front of the existing dwelling will reflect the existing context and the upper floor balcony aligns with and reflects the existing typology and precedent of built form.
- The proposed development would not seriously injure the amenities of the neighbouring properties. These neighbours have no issue with the proposed development and did not object to it.
- The shadow study demonstrates that the impact on the neighbours' properties is minimal.
- The design of the proposed balcony has been modified to provide 1.8m tall opaque glass screens to the sides of the balcony.
- The appeal is accompanied by the report of Carey Architects which states as follows:

- As the balcony was not referred to in the decision to refuse permission, it is assumed that it is acceptable.
- The decision to refuse appears to be solely related to the impact on the property to the south-east. There are a number of permitted north-west facing windows on the north elevation of this property, and they have very little direct sunlight. They are located 3m from the shared boundary with the proposed development site. The 2no. ground floor windows directly face the existing gable of the existing dwelling on site. Any raising of the height of the existing house will have no impact as they will still directly face the gable wall. There are 2no. windows at first floor level. The first is a large window at the top of the stairs, a circulation route, not a habitable room. The second window is a 3-sided protruding window to a bedroom, is only 2.1m from the shared boundary, and overlooks the proposed development site. These windows should have been fitted with frosted glass. The bedroom also has a rear north-east facing window.
- The existing house is set back from the public road further than the adjacent buildings. The proposed development would bring this in line with the established ground and first floor building lines.
- There will be negligible overshadowing of the property to the south-east. Any reduction in height of the proposed dwelling would make an imperceptible difference.

6.2. Planning Authority Response

None.

6.3. Observations

None.

6.4. Further Responses

None.

7.0 Assessment

7.1. Having examined all the application and appeal documentation on file, and having regard to relevant local and national policy and guidance, 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. The Planning Authority refused permission on the basis of the loss of natural light and loss of residential amenity of the existing dwellings to the north-west and south-east. The main issues, therefore, are as follows:

- Impact on the residential amenities of the adjacent dwellings.
- Appropriate Assessment

7.2. Impact on the residential amenities of the adjacent dwellings.

7.2.1 The proposed development involves the demolition of the patio, sitting room and kitchen in the front part of an existing single-storey dwelling and its replacement with a two-storey extension, to provide a ground floor 4th bedroom, utility space, wet room, and internal storage area, with external covered area and external store to the front, and an open plan kitchen/living/dining room, landing area, toilet and projecting front balcony at first floor level.

7.2.2 The front two-storey extension increases the overall height of the existing single-storey building from c. 5.2m to c. 8.567m, an increase of c. 3.367m.

7.2.3 The existing rear link to the bedroom accommodation is proposed to be marginally increased in area to provide a slightly larger hallway to the bedrooms, with internal storage area, and is proposed to increase in height from single-storey to two-storey, to facilitate more internal space, although the proposed rear return is at a lower ridge height than the principal two-storey extension.

7.2.4 The building line of the proposed development is aligned with the existing dwelling to the south-east.

7.2.5 There is a minimal reduction in the area of the existing rear yard as a result of the proposed development.

- 7.2.6 The character of development in the vicinity of the proposed development is varied, but is generally represented by two-storey dwellings, set back from Sandhill Road, with off-street parking, and projecting first floor balconies.
- 7.2.7 The height of the proposed development is c. 1.5m taller than the property to the south-east, but this increase in height is marginal when viewed in the context of existing dwellings in the vicinity.
- 7.2.8 The proposed development site, and the property to the north-west, are the only dwellings in the vicinity which are single-storey.
- 7.2.9 The proposed development, the purpose of which is to modernise the existing dwelling on site, enhance internal residential space, and optimise the views over the golf course and coast to the south-west, is consistent with the pattern of development in the vicinity.
- 7.2.10 The design of the proposed development is modern, but, with its gable roof, is more in keeping with the character of dwellings further along Sandhill Road than the existing dwelling to the south-east. The proposed design also aligns with the established building line in the vicinity.
- 7.2.11 The proposed two-storey extension is principally to the front of the existing dwelling. Except for the rear return, the existing rear bedroom block remains unchanged.
- 7.2.12 The shadow study submitted by the First Party demonstrates that there will be minimal impact on the existing dwelling to the north-west and this was accepted by the Planning Authority. There is also no overshadowing of the existing dwelling to the south-east.
- 7.2.13 With the inclusion of the opaque screens to the sides of the proposed balcony, as submitted in response to the RFI, no significant impact on the residential amenity of the property to the north-west, or the property to the south-east, is expected. This was also accepted by the Planning Authority.
- 7.2.14 The key issue to address is the impact of the proposed development on the amenities of the existing dwelling to the south-east.
- 7.2.15 This concern arises as a result of the extent and configuration of existing fenestration on the elevation facing the proposed development site.

- 7.2.16 In terms of loss of light, I would be inclined to agree with the First Party's opinion that the windows on the north-west elevation of the existing dwelling to the south-east would have minimal direct sunlight.
- 7.2.17 I would also agree that there will be minimal change in the impact of the proposed development on the existing ground floor windows on that elevation, and also note that the large window at first floor level is not a habitable room.
- 7.2.18 I would share the First Party's opinion that the first-floor protruding bedroom window should have been conditioned to comprise frosted glass. The design of permitted dwelling to the south-east should have been cognisant of the future development potential of the proposed development site. It would be inappropriate to prevent the redevelopment of the proposed development site in this context.
- 7.2.19 While the protruding window serves a bedroom, the bedroom is dual aspect, and has another window on the rear (north-eastern) elevation. It is my opinion that the loss of light on the first floor north-west facing bedroom window in this context would be minimal.
- 7.2.20 In terms of the loss of residential amenity, it is noted that the existing dwelling to the south-east, which is consistent with the permission granted under PA Ref. 11/691 on 10th November, 2011, overlooks the proposed development site from first-floor level, including the rear yard area.
- 7.2.21 The proposed development, in particular the two-storey element, will, reduce the extent of overlooking from the existing dwelling to the south-east. I also note that there are no windows on the south-east elevation of the proposed development.
- 7.2.22 I also note that the owners of the dwelling to the north-west submitted a letter of support with the response to the RFI, and the owner of the dwelling to the south-east did not object to the proposed development.
- 7.2.23 I would also be inclined to agree with the First Party that the Planning Authority's suggestion for a reduced ridge height and removal of the gable roof would be imperceptible.
- 7.2.24 In respect of the devaluation of property, it would be my opinion that the proposed development, which involves the redevelopment of an older property to meet modern requirements that is in keeping with similar interventions in the vicinity, will provide a

welcome intervention in the streetscape, and would enhance the value of property in the vicinity.

7.3. Appropriate Assessment

Having regard to the nature and scale of the proposed development and proximity to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed 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

8.1. I recommend that planning permission be granted for the reasons and considerations set out below and subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the nature and extent of the proposed development, and to the pattern of development in the vicinity, it is considered that, subject to the conditions set out below, the proposed development would not seriously injure the residential or amenities of adjoining properties, or depreciate the value 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 on 14 th March, 2022 as amended by the further plans and particulars submitted on the 26 th October, 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
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	<p>with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>A 1.8m tall opaque glass screen is to be provided to both sides of the balcony, as detailed in drawing no. 2021-300(PP)022 dated 13.10.2022.</p> <p>Reason: To prevent overlooking of adjoining residential properties.</p>
3.	<p>The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.</p> <p>Reason: To restrict the use of the extension in the interest of residential amenity.</p>
4.	<p>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, without a prior grant of planning permission.</p> <p>Reason: In the interest of the amenities of the area.</p>
5.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof covering shall be slate or flat tile and the colour shall be dark grey or black only.</p> <p>Reason: In the interests of visual amenity.</p>
6.	<p>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.</p> <p>Reason: In the interest of public health.</p>
7.	<p>Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to</p>

	<p>adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.</p> <p>Reason: In the interest of sustainable waste management.</p>
8.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
9.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In order to screen the development, in the interest of visual amenity.</p>
10.	<p>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</p>

	<p>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.</p> <p>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.</p>
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Aiden O'Neill

Aiden O'Neill
Planning Inspector

14th May, 2023