



An
Bord
Pleanála

Inspector's Report

ABP-317057-23

Development	Construct a new detached single storey dwelling house complete with all ancillary site works.
Location	Ballinorig Road, Tralee, Co Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	23156
Applicant(s)	Mary Farmer.
Type of Application	Permission.
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Vincent Dowling.
Observer(s)	None.
Date of Site Inspection	29.07.2023
Inspector	Fiona Fair

1.0 Site Location and Description

- 1.1. The subject appeal site, of stated 0.052 ha, is a rectangular brownfield, serviced, urban site, located a short distance to the east of Tralee town centre, on Ballinorig Road. The surrounding area is generally characterised by residential development with commercial land uses in the broader area.
- 1.2. The appeal site fronts onto Ballinorig Road to its north, with single storey detached bungalows located to its east and west. The dwellings to the north of Ballinorig Road comprise two storey detached and semi detached dwellings. Opposing to the south there is an existing derelict terraced building with a rear garden associated with this plot, No. 7 Quill Street. There is a concurrent application on No. 7 Quill Street to demolish the derelict building and to construct a new storey and a half dwelling house. I am reporting on both applications concurrently.

2.0 Proposed Development

- 2.1. Planning permission is sought to construct a new detached single storey four bedroom dwelling house (115.82 sq. m) complete with all ancillary site works associated with the development including demolition of existing front boundary wall, erection of a new splayed front entrance and refurbishment of existing boundary walls.

3.0 Planning Authority Decision

3.1. Decision

Grant Permission subject to 5 standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The PA consider that having regard to the nature, extent and location of the proposed development and any submissions made in relation to the application it is considered that, subject to compliance with the conditions set out in the second schedule, the proposed development would not be visually

obtrusive, would not seriously injure the amenities of the area or otherwise be contrary to the proper planning and sustainable development of the area.

3.2.2. Other Technical Reports.

- None

3.3. Prescribed Bodies

IW: No objection subject to conditions.

3.4. Third Party Observations

Two number third party submissions received, they are summarised as follows:

- Over development of the site.
- Inadequate private amenity space proposed.
- Concern with respect to the proposal to construct a 1.8m high boundary wall—will block light to the adjoining dwellings.
- Concern with respect to potential negative impact on the existing mature hedge to the south west of the site.
- Proposal will give rise to overlooking, invasion of privacy.
- Concern with respect to sightlines at the proposed entrance.
- Albeit the site layout plan indicates a proposed shed – no plans and drawings for a shed have been included with the application.
- Reduce the value of adjoining property.
- New foundations could undermine and damage the existing mature hedge.

4.0 Planning History

13/308119 Permission Granted on the 14/01/2014 to demolish the existing derelict building on site. To construct a two storey building, the ground floor will comprise of 3 administration offices with ancillary areas and the first floor will have a self contained apartment. Provide vehicular access to the property via the Ballinorig

Road. Construct all associated site works – This permission related to / included the subject appeal site within its boundary.

23/155 Concurrent application, also under appeal, to demolish existing building and construct a storey and a half house and all associated site works at 7 Quill Street, located to the south.

5.0 Policy Context

5.1. Development Plan

The Kerry County Development Plan 2022 – 2028 (Tralee Town Plan) is the pertinent statutory Plan.

The subject appeal site is zoned 'R2' Existing Residential.

Section 1.3.2, Volume 6 of the Kerry County Development Plan 2022 – 2028 states:

“Development in Existing Residential/Built Up Areas (R2/M2/M4)”

“In this plan significant areas of lands within the town and village boundaries have already been developed in the Municipal District’s settlements. These are known as built up areas and constitute the majority portion of the lands zoned on the zoning maps and are typically zoned as (R2/M2/M4) - Development in Existing Residential/Town/Village Centre/Built Up Areas”.

“Within predominantly built up areas, development proposals normally involve infill development, redevelopment or refurbishment or changes of use. It is important to recognise that this is part of the cycle of development or redevelopment in settlements that contributes to the character of towns. In many ways, this is more sustainable than continually encouraging growth to concentrate only towards undeveloped areas. Indeed, a mix of harmonious uses is often considered a desirable and attractive characteristic. It is therefore the policy of the Planning Authority to protect and improve existing/developed/residential areas and to provide facilities and amenities incidental to those areas. There is a range of additional uses

open to consideration within these areas where it can be demonstrated that there is a need for such facilities and that it will not affect the predominant use of the area”.

“It is the policy of the Local Authority to facilitate development that supports in general the primary land use of the surrounding existing built up area”.

Residential development is permitted in principle within the R2 Zone.

I note that the planners report states that “The parking requirement at this location is 2 car spaces and 1 bike space per dwelling as per Section 1.20.7 Car Parking Standards”. I note Table 4: Parking Requirements of Vol 6 of the Plan.

5.2. Natural Heritage Designations

None relevant.

5.3. EIA Screening

Having regard to the nature of the proposed development comprising of one residential unit and all associated site works, in an established urban, infill area, 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 at preliminary examination and a screening determination is not required

6.0 The Appeal

6.1. Grounds of Appeal

A third Party appeal has been submitted by SJK Engineering & Surveying Ltd. On behalf of Vincent Dowling, Ballinorig Road, Tralee, Co. Kerry. It is summarised as follows:

- Over development of the site.
- Design is inappropriate.
- Proposed private amenity space is inadequate.

- Concern with respect to the height of the boundary wall – increased to 1.8m high.
- Concern with respect to loss of sunlight to the adjoining dwellings.
- Concern with respect to potential negative impact on the existing mature hedge to the south west of the site.
- Proposal will give rise to overlooking, invasion of privacy and reduce residential amenity of adjoining property.
- Concern with respect to sightlines at the proposed entrance.
- Albeit the site layout plan indicates a proposed shed – no plans and drawings for a shed have been included with the application.
- No objection to the principle of a dwelling, however the design is inappropriate.
- Question the address as outlined in the application i.e. Ballinorig Road – the neighbouring property’s address is Clash East, Tralee.

6.2. Applicant Response

A response was submitted by Micael Slattery and Associates on behalf of Mary Farmer, it is summarised as follows:

- The proposed development comprises the construction of a domestic bungalow similar to existing properties in the area.
- The floor area proposed is modest at 115.62 sq. m within a site area of 0.052 Ha, with a modest ridge height of 3.7m
- Ample space is proposed in the rear garden.
- Car parking complies with policy requirements.
- The proposed wall at 1.8m in height to the side of the property is in accordance with good design standards and is necessary to protect residential amenity both of the existing dwellings and proposed dwelling.
- The hedge can be protected during construction, to minimal possible damage.
- The design proposed ensures that overshadowing of existing properties is kept to an absolute minimum.

- The design and location of the entrance has been chosen to maximise sightlines and is in accordance with DMURS.
- The shed noted on the site layout is notional and may or may not be constructed in the future.
- The address of Ballinorig Road is correct and has been noted on applications on neighbouring sites.
- Proposed development is an appropriate use of an infill serviced site in both its scale and design and complies with the sites R2 zoning.
- Response accompanied with a cross section drawing noting daylight calculations.

6.3. **Planning Authority Response**

- None received

6.4. **Observations**

- None received.

6.5. **Further Responses**

- None relevant

7.0 **Assessment**

7.1.1. I have read the contents of the file, visited the subject site and its surroundings and have had particular regard to the issues raised in the grounds of appeal as well as the response submitted. I consider the principal issues pertaining to the application before the Board are as follows:

- **Principle and Consistency with National and Local Policy.**
- **Design, Layout and Visual Impact**
- **Impact Upon Residential Amenity**
- **Access Arrangements and Carparking.**

- **Other Matters**
- **Appropriate Assessment (AA)**

7.2. Principle and Consistency with National and Local Policy.

- 7.2.1. In principle, proposals for infill dwellings, not least in residential zoned lands, (the subject site is zoned 'R2' "Existing Residential") and for development especially on underutilised serviced sites within established urban areas well served by transport and facilities are to be encouraged having regard to national strategic policy for consolidation of cities and towns, in accordance with sustainable development principles.
- 7.2.2. Given the R2 zoning of the site and its location with a clear, strong precedent for single storey detached residential developments surrounding it, the principle of development of a single storey dwelling on this site is considered to be acceptable.

7.3. Design, Layout and Visual Impact.

- 7.3.1. The dwelling proposed is modest in scale and has a ridge height of approx. 4 m (My measurement from the plans submitted, I acknowledge the minor difference in purported ridge height in the appeal response). The dwelling proposed has a lower ridge height (even at 4m) to both of the adjoining neighbouring bungalows to its east and west. It is adequately set of the site boundaries. Has adequate parking area to the front (north) and adequate private amenity space to its rear (south).
- 7.3.2. I consider that the layout, design, scale and form of the proposed bungalow responds to the character of the surrounding area. It generally preserves the rhythm of the existing streetscape and on balance, I am satisfied that the proposed infill dwelling does not detract from or negatively impact upon the character of the existing streetscape.

7.4. Impact Upon Residential Amenity

- 7.4.1. I note the concerns raised by third parties that the proposal will compromise their residential amenity, by reason of overlooking and overshadowing. Concern is raised with respect to the height of the proposed boundary wall at 1.8m in height. Concern

is also raised that a mature boundary hedge would be negatively impacted, by construction of the proposed party wall.

7.4.2. The proposal is for a modest single storey bungalow on an infill serviced site. I consider, as set out above, that the design, layout and scale is site specific and has regard to the limitations and constraints of the site. Given its scale and set back from boundaries the proposal will not compromise the residential amenity of the dwellings to the east or west by way of overshadowing, overlooking, loss of daylight or sunlight, and or be overbearing.

7.4.3. I consider that a boundary wall of 1.8m in height is standard and acceptable at this location. The concern with respect to impact upon the mature hedge can be dealt with adequately by way of condition and compliance.

7.5. Access Arrangements and Carparking.

7.5.1. The development description includes demolition of existing front boundary wall and for the erection of a new splayed front entrance and refurbishment of existing boundary walls.

7.5.2. The proposed access is onto the Ballinorig Road to the north, the dwelling is set back some 18m from the front boundary and has a staggered building line with the adjoining dwellings to its east and west. This is considered acceptable. Carparking for three cars can be accommodated on site. A splayed entrance 3.9m in width is proposed.

7.5.3. I note that the Tralee Municipal District Office Roads, Transportation and Marine Development have recommended approval of the proposed development subject to conditions.

7.5.4. Both the sites to the east and west access onto the Ballinorig Road. This is an urban environment within the 50 Kph speed limit. There is a footpath on the opposite side of the Ballinorig Road. I consider that the access proposed is acceptable and would not give rise to a traffic hazard.

7.6. Other Matters

- 7.6.1. The third party has raised concerns with respect to the address used in the public notices. I see no issue with the address used in the application. The name of the road serving the site is the Ballinorig Road and I don't believe there is any intent to mislead the public. The adjoining landowners are clearly aware of the proposal and have made submissions and an appeal, I see no infringement in this regard.
- 7.6.2. With respect to the matter of the shed, I note the response by the first party that the shed is notional. In this regard I draw the Boards attention to the exempted development rights set out in Class 3, Schedule 2, Article 6, Part 1, Exempted Development – General with respect to construction of a garden shed within the curtilage of a house.
- 7.6.3. The shed does not form part of this planning application. Should a shed in excess of 25 sq. m be proposed or not in compliance with the exempted development criteria then a separate planning application would be necessary.

7.7. Appropriate Assessment

- 7.7.1. The appeal site is not within or adjoining any Natura 2000 site. Having regard to the nature and scale of the proposed development, construction of an infill dwelling, the location of the site in a serviced urban area and the separation distance 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. Grant planning permission for the proposed development in accordance with the plans and particulars lodged based on the reasons and considerations set out below

9.0 Reasons and Considerations

- 9.1.1. Having regard to the 'R2' zoning objective pertaining to the site it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of the area or of property in the vicinity, would be acceptable from a visual amenity perspective and would generally be acceptable in terms of compliance with the criteria stipulated under section 1.3.2, Volume 6 of the Kerry County Development Plan 2022 -2028. The proposed development will therefore be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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>Reason: In the interest of clarity.</p>
2.	<p>The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of all intended construction practice for the development, including measures for protection of existing mature boundary hedge, development and boundary walls, construction traffic routing and management, construction parking, materials storage, site compound, noise management measures and off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>

3.	<p>The party boundary walls to the rear of the site shall be 1.8m in height block walls, capped and dashed on both sides.</p> <p>Reason: In the interest of residential amenity.</p>
4.	<p>Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours 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>
5.	<p>Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
6.	<p>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.</p> <p>Reason: In the interest of public health.</p>
7.	<p>The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.</p> <p>Reason: In the interest of public health.</p>
8.	<p>The developer shall prevent any mud, dirt, debris or building material being carried onto or placed on the public road or adjoining properties as a result of the site works and repair any damage to the public road arising from carrying out the works.</p> <p>Reason: In the interests of orderly development.</p>

9.	<p>The requirements of the Transportation Office shall be adhered to, in particular, the developer shall ensure the following measures:</p> <p>(a) Formation of the splayed entrance shall not cause surface water or seepage water to flow onto the road surface. No water from the proposed development shall be allowed to flow onto the public road.</p> <p>(b) Formation of the splayed entrance shall not interfere with roadside drainage, which shall be maintained, repaired, or made good.</p> <p>Reason: In the interests of traffic safety and orderly development.</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 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>

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.

Fiona Fair
Planning Inspector

30.07.2023