



An
Bord
Pleanála

Inspector's Report ABP317580-23

Development	Retain an existing self-contained living unit ancillary to existing dwelling house
Location	The Wood, Dingle, Co Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	23/460
Applicant(s)	Kathleen Brosnan.
Type of Application	Permission.
Planning Authority Decision	Refuse permission.
Type of Appeal	First Party
Appellant(s)	Kathleen Brosnan.
Observer(s)	None
Date of Site Inspection	11 th September 2023.
Inspector	Ann Bogan

1.0 Site Location and Description

- 1.1. The proposed self-contained unit is located to the rear of an existing dwelling which overlooks the harbour close to Dingle town centre. Vehicular access to the existing dwelling is off a side laneway to the west of the site and the site is bounded by stone walls (circa 2m high). A terrace of three storey structures to the east adjoins the existing dwelling. Residential uses predominate in the immediate area, which is west of the main commercial area.
- 1.2. There is a carparking area to the rear of the dwelling and the self-contained living unit is located at a higher level above this, approximately 20m north of the dwelling, backing onto the site boundary. There is a gravelled area and a paved patio at the higher level in front of the self-contained unit and this area is accessed by a flight of steps from the parking area. There is also a side gate from the laneway providing pedestrian access to the separate living unit.
- 1.3. The site layout plan refers to the site area as 70sq m. This appears to be an error, probably relating back to a drawing included with the original application for a shed which was initially shown as on a separate site from the house (Reg. No. 20/180, as detailed in Section 4 below). The site outlined in red in this application, taking in the existing dwelling and grounds as well as the living unit for retention, is approximately 275 sq m in area.

2.0 Proposed Development

- 2.1. The development to be retained consists of:
 - Retention of a 39sq m detached unit, with a ground floor and mezzanine area above, located to the rear (north) of the existing dwelling. Described as a 'self-contained living unit ancillary to the existing dwelling' in the public notice.
 - Ground floor is labelled as a home office and storage area on the drawings submitted and is shown as containing a kitchen area including cooker, sink and storage units, as well as seating area. The west side elevation has a large glazed sliding door opening onto the adjoining laneway.
 - Mezzanine is indicated on drawing as a study area and the drawing shows seating as well as a separate shower and toilet area.

- A pedestrian access from the laneway to self-contained unit (not indicated in original permission) is shown to west.

3.0 Planning Authority Decision

3.1. Decision

Refusal of permission for retention for the following reasons:

1. The proposed retention of the self-contained unit on site would contravene materially condition No. 5 attached to an existing permission on site, Reg. No20/180 stating the proposed structure shall be used for domestic storage purposes only and not for any habitation uses. The proposed development would therefore be contrary to the proper planning development of the area.
2. The proposed retention of the self-contained living unit on site within the curtilage of an existing dwelling house would constitute an excessive density of development on site and would impact negatively on the residential amenities of the existing main dwelling on site and the occupants of the proposed living unit. 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 Planning Officer notes the proposal would contravene the previous permission for a shed and would result in two dwelling units on one site curtilage. Concludes it would result in excessive density and would set a precedent for similar type development in the area and recommends refusal of permission.

- 3.2.2. A notional screening exercise was carried out in relation to the development proposed for retention and concluded the proposal would not have required EIA or AA screening.

3.2.3. Other Technical Reports

County Archaeologist report states no mitigation required.

4.0 Planning History

Reg No. 20/180 Kerry Co Council granted permission for a single storey domestic storage shed, 24sq m in area, to rear of existing dwelling, with access via a garage type door in side elevation off existing laneway. The original drawings submitted showed the shed on a separate site, not including the existing dwelling. A revised site plan received under further information showed the shed within the curtilage of the existing house. Condition 5 stated that shed shall be used for domestic storage purposes only and not for commercial, habitation or agricultural purposes.

Reg No. 16/469 Permission granted by Kerry Co Council to demolish derelict dwelling and construct new dwelling including associated site works. The dwelling fronted directly onto the street with a garden to the rear. The dwelling adjoined a terrace of existing houses overlooking the harbour. Third party appeal to An Bord Pleanala (**PL08.246952**): Permission granted, included condition de-exempting any further development of an extension or shed etc on the site.

5.0 Policy and Context

5.1. Development Plan

Kerry County Development Plan 2022-28

The Development Plan does not contain zoning for Dingle Town, however the zoning of the area in the **Corca Dhuibhne Electoral Area Local Area Plan** is:

Mixed Use (Town Centres/Core Retail Area) M4 Built up areas.

Volume 1 of the Development Plan contains an objective relating to separate living units ancillary to dwellings, in the context of policies to meet the needs of older people:

KCDP 7-21: Ensure that dependent relative accommodation is integral to the existing dwelling house, capable of being reintegrated to the main house, and subordinate to the main dwelling house.

This is supplemented in Vol 6 of the Plan:

Vol 6 Section 1 Development Standards and Guidelines

1.5.6.4 Dependent Relative Accommodation (Urban and rural)

The creation of an ancillary, subsidiary, dwelling unit to be occupied for habitable purposes, is generally acceptable, provided such proposals can demonstrate a bona fide need for such a unit and that:

- It is not a separate detached unit, and it is possible to provide direct access to the remainder of the house.
- There shall be no permanent subdivision of the garden.
- The unit shall not be let or sold, other than as part of the overall property, and shall revert to being part of the original house when no longer occupied.
- That the proposal does not impact adversely on either the residential amenities of the existing property or the residential amenities of the area.
- The design should ensure that the unit forms an integral part of the main dwelling unit capable of reintegration for single family use.

Vol 6 Development Standards and Guidance

1.5.4.6 Private Open Space

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 units.

The prescribed private amenity space will allow for a private amenity area, which can accommodate the storage of bins/garden shed etc, and the provision of an area for vegetable growing, etc. Reduced quantum may be considered in respect of well-designed high-quality development where it can be demonstrated by the applicant the space is usable, appropriately located & shaped and of high quality

Table 1: Minimum Private Open Space Requirements for Dwelling Units

No. of bedrooms	Minimum Private Open Space
1-2 bedroom*	50sq m
3 bedroom	60sq m

4 bedroom	75sq
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*Reduced quantum may be considered in respect of housing for older people/sheltered housing etc.

5.2. Natural Heritage Designations

None in the vicinity

5.3. EIA Screening

5.4. Having regard to the nature and modest scale of the development proposed to be retained, its location in a built-up urban area and the likely emissions therefrom it is possible to conclude that the development would not have been likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA could have been set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

- The unit is not being used as an independent living unit and is only being used as ancillary accommodation and living space for the main family home
- The initial planning retention application (23/127 – declared invalid) described the development as retention of additional house storage and home office/study. This description was not accepted by Kerry Co Council but is a more accurate description of the development.
- The intention of the shed conversion is to allow extra living and storage space for existing house, to allow extended family to visit and to provide space for their daughters to have a separate space for study and friends to come over.
- The shed conversion could provide an additional overflow for the appellant's family, if one of her parents needs to come and live with her due to ill health.
- There is no intention to sell/lease the unit independently of the main house or use it for commercial purposes. Applicant is happy to accept any condition

restricting the use of the shed conversion to family activity to the main house only and any condition preventing it being rented out separately and condition to remove the kitchenette.

- With the exception of minor alterations to the external appearance, the existing structure is identical to the permitted shed. There are no gable windows or any overlooking of neighbouring properties.
- Conversion of the shed into accommodation/living space ancillary to the existing dwelling on land zoned built-up area is a very appropriate development and does not affect adjoining residential properties
- The original house has no utility room and the kitchenette is intended as a utility space for household chores.
- The issue is the use of the structure rather than the structure itself. The structure is of good quality construction with stone facing and has no impact on neighbouring properties.
- The shed was not being fully utilised so rather than build an extension to the house to meet the needs of the property owner it seemed more logical to convert the existing shed.
- Refers to other planning permissions for same conversion of garages. Ref 17/294, 17/666 and 16/845 so this application is not setting a precedence for other developments
- The small nature of the loft space is suitable for short term accommodation for family members but is not a long-term sleeping option, demonstrating it is only used as overflow space from the house.
- There are no physical attempts to subdivide the shed from the main house.
- We ask the Board to grant the planning permission for the shed conversion and apply any condition appropriate to restrict the use to ancillary space to the main house.

6.2. Planning Authority Response

- No additional comments

6.3. Observations

- None

6.4. Further Responses

- None

7.0 Assessment

7.1. Having reviewed the documentation with the planning application and the appeal and visited the site and considered the Development Plan objectives I consider that the issue to be assessed are:

- Nature of development to be retained and contravention of existing permission
- Residential amenity of existing house and the structure to be retained
- Appropriate Assessment

7.2. Nature of development to be retained and contravention of existing permission

7.2.1. Permission was granted for a 24sqm single storey storage shed, with a condition that it not be used for habitation under Ref 20/180. The structure to be retained is a 39sqm structure with a ground floor and mezzanine above. The external appearance of the structure is similar in appearance to the permitted shed, however the changes to internal layout and floor area and the change from a garage door in the side elevation to a glazed double sliding window indicate a significant departure from the permitted structure and use.

7.2.2. The attractive stone clad structure has the appearance of a small dwelling and has a separate pedestrian access off the adjacent lane. Although the drawings refer to the interior as a home office/storage/study area and the appeal states it would be used for storage, a utility area, home office and extra living space and occasional accommodation for visiting family, it is evident from the drawings and site inspection that it is laid out as a separate self-contained dwelling unit. The ground floor has a layout suitable for a combined kitchen living room. The kitchen area has worktops and a range of kitchen appliances fitted and awaiting fitting. Stairs rise directly from

the ground floor space to the mezzanine, which includes a fitted headboard for a double bed, incorporating bedside storage units and power points. A built-in unit on the opposite wall contains a hanging cupboard and shelving. There is a shower and WC off the main mezzanine space.

7.2.3. The appeal grounds say the structure is not being used as an independent living unit and is only used as ancillary accommodation and living space. However, the application is for retention of a self-contained living unit ancillary to the existing dwelling and must therefore be assessed on that basis. In my opinion it would not be feasible to apply conditions that would enable the Board to grant permission for something other than the retention of the self-contained living unit ancillary to the main house as applied for.

7.2.4. The development plan includes an objective and guidance relating to self-contained units ancillary to a dwelling, but only in the context of provision of a unit for a dependent relative and '*where proposals can demonstrate a bona fide need for such a unit*'. While reference is made in the appeal that the structure could be used in the future for such a purpose, there is no evidence presented with the application or appeal of the need for such a unit at present. In addition, Development Plan Objective KCDP 7.21 and development management standards and guidelines in Section 1.5.6.4 of the Plan require that such accommodation for dependent relatives '*is integral to the existing dwelling house, capable of being reintegrated to the main house, and subordinate to the main dwelling house*'. It is evident therefore that the development to be retained is at variance with and cannot be justified under Development Plan Objective KCDP 7.21.

7.2.5. Many uses ancillary to the main house are referred to in the appeal but they do not justify the need for a separate self-contained living unit. Despite the references to storage and office use on the drawings it is clear from the form and layout of the structure to be retained and the development description in the planning application that it is a separate unit intended to be used for habitation and as such it also materially contravenes Condition 5 of the planning permission which expressly prohibits its use for such purposes. In my opinion retention of the development as proposed would be out of keeping with the proper planning and sustainable development of the area.

7.3. Residential amenity of existing house and structure to be retained

7.3.1. The existing dwelling is a 3 bed 3 storey with a floor area of 175 sq.m. The planning application drawings for the dwelling (Reg16/469) showed a garden to the rear of the dwelling with a patio and lawn and no vehicular access off the adjoining laneway. I note, as constructed, there is a surfaced parking area for circa 2-3 cars immediately to the rear of the dwelling, accessed via a vehicular entrance off the laneway. The elevated patio and gravelled area adjacent to the separate unit is the only remaining private open space for amenity purposes to serve the existing dwelling and the additional unit. At 50sq m, this area it is well below the level which would be required under the Development Plan standards (exclusive of parking areas) to serve two residential units (as outlined in Section 5.1 above). As such, the proposed development would have a negative impact on the residential amenities of both the existing dwelling and the self-contained unit and its retention is not justified and would, therefore, be contrary to the proper planning and sustainable development of the area.

7.4. Appropriate Assessment Screening

7.5. Having regard to the nature and scale of the development to be retained, the nature of the foreseeable emissions therefrom, the nature of receiving environment as a built-up urban area and the absence of a pathway between the application site and any European site it would have been possible to screen out the requirement for the submission of an NIS and carrying out of an EIA at an initial stage.

8.0 Recommendation

8.1. I recommend refusal of permission to retain the development for the reasons outlined below.

9.0 Reasons and Considerations

1. The proposed development would be at variance with Kerry County Development Plan Objective KCDP 7.21 which permits self-contained living units ancillary to and integral to existing dwellings in specific circumstances relating to meeting the needs of dependent relatives. In the absence of any

justifiable reason for a separate self-contained living unit ancillary to the existing dwelling on the site, the proposed retention of the development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposal to retain the self-contained living unit on the site would contravene materially condition No. 5 attached to an existing permission on the site, Reg. No. 20/180, which stated that the proposed structure shall be used for domestic storage purposes only and not for any habitation uses and its retention would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The proposal to retain the self-contained living unit within the curtilage of the existing dwelling house would impact negatively on the residential amenities of the existing dwelling on site as well as the occupants of the proposed self-contained living unit due to the limited amount of private amenity open space, (exclusive of car parking areas), available to serve the needs of both units, which would be at variance with the standards for private open space required for dwellings in the County Development Plan. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

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.

Ann Bogan
Planning Inspector

04 October 2023