



An
Bord
Pleanála

Inspector's Report ABP-319026-24

Development	Demolish sheds, renovate house, including elevational changes and construction of extension to rear.
Location	67 Boherbue, Tralee, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	231105
Applicant(s)	Martin Gilroy
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Peter O'Donoghue
Observer(s)	None
Date of Site Inspection	19 August 2024
Inspector	Claire McVeigh

1.0 Site Location and Description

- 1.1. The subject site, stated site area of 0.018ha, is located on Boherbue Road (R875) just at the edge of the designated Tralee town centre boundary (Map 1.4, Volume 2 Kerry County Development Plan 2022-2028 'the development plan') and within the John Joe Sheehy Road Masterplan Area (Map 1.6 of the development plan). There is a mix of residential and commercial properties uses along this section of the street.
- 1.2. The existing two-storey terraced building is positioned directly onto the back of the footpath and has a single storey lean to and large shed to the rear. There is on-street car parking to the front. To the rear of the site is a large area of hardstanding with some storage sheds accessed from John Joe Sheehy Road.
- 1.3. The adjoining properties to either side boundary have single, and two storey extensions built up to the shared boundary blockwork wall.
- 1.4. On the day of my site inspection building works were ongoing at the subject site and the rear boundary was open to the adjoining lands. I note also that the front façade of the building has been modified from the original painted render finish to a stone effect. In the interests of clarity this alteration to the front façade does not form part of the application under assessment.

2.0 Proposed Development

- 2.1. The proposed development comprises the demolition of existing storage sheds (64 sq.m) to the rear of existing dwelling, revisions to the internal layout of the existing dwelling and a new single storey extension to the rear (48.25 sq.m).
- 2.2. A courtyard space, of approximately 13 sq.m in area, is proposed between the existing dwelling and new single storey extension in conjunction with an area of open space to the rear of the extension (approximately 27 sq. m in area).
- 2.3. There is an existing connection to the public water supply and sewer.

3.0 Planning Authority Decision

3.1. Decision

On the 16 January 2024 the planning authority decided to grant planning permission subject to three conditions. These were of a standard type.

I note that Condition No. 2 Development Contributions included a Tralee and Killarney Levy in addition to the standard contribution towards Roads & Transport and Community & Amenity.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The proposal to extend an existing four-bedroom dwelling to a six-bedroom dwelling is acceptable in principle. Notes that planning permission is not required to rent out a dwelling.
- There will be no overlooking as a result of the proposed single storey extension, and it is considered that the proposal would not be seriously injurious to the residential amenity of the area.
- There is no visual impact from the proposed development given it is to the rear of the building and the removal of the lean to and storage shed is noted.
- Considers that there is no additional parking requirement given the established use of the dwelling.
- No issues raised with respect to wastewater disposal and surface water disposal.
- This proposal is not one which requires EIA screening or EIAR.
- Considers there is no likely potential for significant effects to Natura 2000 sites, Appropriate Assessment not required.

3.2.2. Other Technical Reports

- Flooding, Coastal and Marine Unit – no flood risk at this location.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

Three third-party observations were received by the planning authority from Tim Prendergast (resident of adjoining property) and from James O'Donoghue, 64 Boherbee and Peter O'Donoghue, 64 Boherbee.

In summary the issues raised are similar to the grounds of appeal and relate to:

- Future use of the building as a hostel/multi-occupancy and its detrimental impact on the viability of the community and impact on the character of Boherbee
- No provision made for parking,
- Concerns about fire safety compliance in respect to escape route through a bedroom
- Details to be clarified in terms of surface water drainage proposals
- The proposal appears to be overdevelopment of the site and does not provide for adequate amenity space or private open space areas necessary in respect to the proposed six no. bedrooms. Lack of external storage and lack of areas for bin storage and other domestic ancillary uses.
- Concerns about noise impacts from multi-use of the redevelopment property.

4.0 Planning History

Immediately to the rear of the subject site (outside of the red line boundary)

161164 Planning permission refused (January 2017) for the construction of an apartment complex consisting of 8 no. units, onsite parking and bin storage block. Applicant Orana Estates.

Reasons:

- Negative impact on existing residential properties in the area by reason of overlooking, noise, light pollution and general disturbance.

Furthermore, the proposed building would compromise the development potential of adjoining lands.

- It is considered that the proposed four storey high apartment building due to its design and layout would result in a poor level of residential amenity for future residents of the proposed development.
- It is considered that the design of the apartment building would detract from the visual amenities of the area by virtue of the bulk of the proposed structure and would constitute an unduly dominant feature on this exposed site.

5.0 Policy Context

5.1. Kerry County Development Plan 2022-2028

Zoning: M1 Mixed Use, general development, opportunity, proposal site.

4.3.1 Sustainable infill and brownfield development.

Development plan objective KCDP 4-34 Encourage residential, social and employment uses in existing under-utilised or vacant building stock as a mechanism to combat vacancy in town centres.

(Volume Two) Tralee Town Development Plan

Map 1.6 John Joe Sheehy Road Masterplan Area (3.5ha) – large brownfield site with infill sites

TR40 Prepare a masterplan to guide and facilitate the regeneration and development of the John Joe Sheehy Road area in a co-ordinated manner to provide a new residential urban quarter that prioritises walking, cycling and permeability between Boherbue, the Listowel Road and the Town centre maximising the existing public transport hub, planned cycleways and new civic spaces.

(Volume Six) Development Management Standards and Guidelines –

Section 1.5 Residential Development, referencing 1.5.4 General Residential Development Design Standards and 1.5.6.1 Extensions to Dwellings

5.1.1. Ministerial Guidelines

Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities (2024)

5.1.2. **Other**

Quality Housing for Sustainable Communities: Design Guidelines (2007)

5.2. **Natural Heritage Designations**

Within approximately 1.5km of the subject site is the Special Protection Areas: Tralee Bay Complex SPA (Site Code 004188), Special Area of Conservation: Tralee Bay and Magharees Peninsula, West to Cloghane SAC and Proposed Natural Heritage Area; Tralee Bay and Magharees Peninsula, West to Cloghane.

5.3. **EIA Screening**

The proposed construction of refurbishment and extension to a dwelling does not constitute a class listed in Schedule 5, Part 1 or Part 2 of the Planning and Development Regulations 2001, as amended. As such, no EIAR or Preliminary Examination is required for this element of the project. See completed Form 1 attached.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

One appeal was received from Peter O'Donoghue pharmacy business owner in Boherbue/Boherbee located approximately 20 metres east of the subject site. The grounds of appeal can be summarised as follows:

- The proposed redevelopment by reason of the proposed six double bedrooms with ensuites, appears to be a commercial entity with the potential to accommodate up to 12 people. Concerns that the development would be used as a hostel and not as a family home, further diluting the established residential character of the area.
- The proposed development will result in additional demand on car parking in the area. There is limited car parking available currently and the additional

demand would be detrimental to the running of the pharmacy business. The increase demand on on-street parking will seriously impact on residential properties in the area and traffic congestion /road safety issues.

- Fire safety concerns as the plans indicate access to the rear through a bedroom.

6.2. **Applicant Response**

- None received.

6.3. **Planning Authority Response**

- None received.

6.4. **Observations**

- None

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including all the submissions received in relation to the appeal, the reports of the local authority and having inspected the site, and having regard to the relevant local, regional, national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of development and use
- Car parking
- Fire safety

7.2. *Principle of development and use*

7.2.1. The appellant has concerns that the proposed extension and refurbishment of the existing dwelling will be used as a multi-occupancy unit/hostel instead of as a single-family unit. The description of development on the statutory notices clearly state that the proposal is for renovation and extension of the existing dwelling house. As

stated in the planner's report planning permission, renting a property is not usually subject to planning permission, subject to my additional clarification that specific limitations apply in circumstances relating to short-term letting.

7.2.2. I am of the view, therefore, on the facts of the subject application that the proposed demolition of sheds, refurbishment of the property and its extension within the established neighbourhood of Boherbue/Boherbee is acceptable in principle. I am of the view that the nature and scale of the proposal development are such that there will be no significant implications for the future development of the John Joe Sheehy Road Masterplan Area.

7.2.3. A consideration of the proposed development is required having regard to (Volume Six) Development Management Standards and Guidelines of the development plan which advises (para. 1.5.4) that designers should have regard to the targets and standards set out in the 'Quality Housing for Sustainable Communities Guidelines' (2007), the Sustainable Residential Development and Compact Settlements Guidelines as applicable in this building refurbishment scenario and the proposed development's impact on the established amenities of the area.

In the first instance I consider that the proposed demolition of the lean-to link structure and storage shed to the rear of the existing dwelling would significantly improve both the visual amenity of the subject site, particularly from the upper floors of adjoining properties, and will provide for a more useable external open space. Notwithstanding, I highlight for the Board that no details have been provided in respect to the planning status of these existing shed structures. In this context I will consider the proposed extension and internal modifications proposed to the existing dwelling on first principles rather than take into account the existing site coverage of sheds.

7.2.4. The proposed development comprises the following schedule of accommodation in the proposed refurbished and extended dwelling (Table 7.2):

Room type	Dimensions	Approximate total floor area ¹	Minimum floor areas as per development plan/guidelines
Utility	1.1w X 2.1d	2.31	
Sitting Room	2.2w X 4.6d	10.12	*Family dwelling of 4 beds recommended aggregate living area of 40sq.m
WC	1.1w X 1.6d	1.76	
Store	0.8w X 2.5d	2	
Kitchen/Living room	3.8w X 5.5d	20.95	*Family dwelling of 4 beds recommended aggregate living area of 40sq.m
Ground floor bedroom (adj. to open yard)	2.7w X 3.5d	9.45 (Single bedroom)	7.1
Ground floor bedroom (eastern boundary to rear)	2.5w X 3.2d	8.5 (Single bedroom)	7.1
Ground floor bedroom (western boundary to rear)	2.3w X 2.6d	5.98	7.1
First floor bedroom to the rear	3w X 4.1d	12.3 (double)	11.4
First floor bedroom to front eastern boundary	3w X 4d	12 (double)	11.4
First floor bedroom to front western boundary	2.3w X 3.4d	7.82 (Single)	7.1

Table 7.2

In summary there are a total of 4 no. single bedrooms proposed and 2 no. double bedroom proposed. Each bedroom has an ensuite. I note that the quality housing design guidelines recommend that the area of the main bedroom should be at least

¹ In calculating bedroom floor areas, the ensuite and circulation at doorway where corridor space is proposed is not included.

13 sq.m in a dwelling designed to accommodate three or more persons. None of the bedrooms proposed have a floor area of 13 sq. m. On balance, taking into account the proposed double bedrooms are located within the existing dwelling I consider that in this instance the reduced double sized bedroom is acceptable.

The aggregate kitchen/living room and sitting room space is 31.07 sq.m. As noted in Table 7.2 for a family dwelling of 4 beds the quality housing guidelines recommend that an aggregate of 40 sq. m is provided for the living area. There is a shortfall in living space provided in the current proposal.

The proposed development includes two separate external open amenity spaces. The first is an open yard area between the existing rear wall of the house and the proposed new bedroom extension. The second is to the rear of the proposed extension and accessed via the bedroom adjacent to the eastern boundary of the site. In total there is approximately 40.13 sq.m external amenity space. The development plan (Table 1 Volume Six) requires a minimum of 75 sq. metres of private open space for a 4 bedroom + dwelling and the Sustainable Residential and Compact Settlement Guidelines have a reduced minimum figure of 50 sq. m. I acknowledge that as a refurbishment proposal flexibility can be provided for (SPPR 2 of the Sustainable Residential and Compact Settlement Guidelines) in respect to the amount of private open space.

- 7.2.5. The appellant has raised concerns about the intended use of the dwelling, as addressed above, and they also highlight the potential for the development to accommodate up to 12 persons. Having carried a review of the proposed internal room dimensions of the refurbished dwelling and extension against the minimum target floor areas set out in para. 5.3.2 of the 'Quality Housing for Sustainable Communities' guidelines I am of the view that the proposals do result in overdevelopment of the subject site by reason of the ratio of bedroom/ensuite space to aggregate living space. I note also that the proposed bedroom at ground floor (adjacent to the western boundary) does not meet the recommended minimum floor area for a single bedroom (please refer to Table 7.2).
- 7.2.6. On balance, I consider that the identified issues with respect to sub-standard bedroom floor area, ratio of bedroom/ensuite space to aggregate living space and access to same can be addressed by way of condition.

In the event that the Board is of a view to grant permission I recommend that the proposed bedroom and ensuite (adjacent to the western boundary) at ground floor level should be omitted by condition, the proposed extension to be reduced in depth by 2 metres allowing for the bedroom to the eastern boundary to be increased in size while providing direct access to the extended rear amenity space from the proposed corridor. In this respect I recommend that a condition is attached to ensure that the revised drawings are submitted and agreed with the planning authority to illustrate the bedroom omitted, an enlarged private amenity space and revised fenestration to the rear elevation to remove the doorway access from the proposed bedroom (adjacent to the eastern boundary). The enlarged private amenity space would allow for a dedicated space for bin storage.

7.3. *Car parking*

- 7.3.1. The existing dwelling relies on the on-street parking to the front of the property. I note from site inspection that there are no dedicated car parking spaces for either the residential or commercial businesses in the area. Given the edge of town centre location there is an evident pressure on parking, as witnessed on the day of my site inspection. I acknowledge the concerns raised by the appellant in respect to both impact on local business, including the appellants own pharmacy, and also the impact on the existing residents if the proposed development results in additional parking demand.
- 7.3.2. As already considered in section 7.2 of my report the proposed development is for an extension to an existing dwelling. In this scenario it is reasonable not to expect an additional car parking requirement.

7.4. *Fire safety*

The issue of compliance with building regulations will be evaluated under a separate legal code and thus need not concern the Board for the purposes of this appeal. The proposed layout does, however, result in no direct access from the dwelling's core living spaces to the proposed rear amenity space this issue is addressed in section 7.2 of my report.

8.0 AA Screening

- 8.1. I have considered the proposed development including demolition of storage sheds, refurbishment and extension of 67 Boherbue, Tralee in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.2. The subject site is located c. 1.5km of the subject site is the Special Protection Areas: Tralee Bay Complex SPA (Site Code 004188), Special Area of Conservation: Tralee Bay and Magharees Peninsula, West to Cloghane SAC.
- 8.3. The proposed development comprises the demolition of existing storage shed, refurbishment of existing dwelling house and construction of new single storey extension, refer to section 2.0. No nature conservation concerns were raised in the planning appeal.
- 8.4. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- Nature of works, including the small scale and nature of the development within a serviced urban area.
 - Taking into account screening determination by the planning authority.
- 8.5. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

I recommend that permission is granted for the reason and considerations set out below:

10.0 Reasons and Considerations

Having regard to the location of the subject site on the edge of the Tralee town centre on '*M1 Mixed Use, general development, opportunity, proposal site*' zoned

land, the proposed refurbishment and extension of the existing dwelling is in accordance with sustainable reuse of the existing building stock as encouraged in objective KCDP 4-34 of the development plan. It is considered that the proposed development including the demolition of the lean-to and shed structure would positively impact on the visual amenities of the area, particularly as viewed from adjoining properties and subject to compliance with conditions, would not have adverse impacts on the adjacent amenities of adjoining properties nor result in a detrimental impact in terms of traffic congestion/road safety issues by reason of significant increased demand on the existing on-street car parking provision. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. 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.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - (a) The proposed extension shall be reduced in depth by two (2) metres by the omission of the proposed rear ensuite bedroom to the western boundary at ground floor level and reconfiguring the proposed bedroom at the eastern boundary. Permission is hereby granted for five (5) no. ensuite bedrooms only.
 - (b) Direct doorway access shall be provided from the hall into the enlarged rear amenity space, in lieu of the proposed ensuite bedroom, from the proposed corridor.

- (c) The fenestration to the rear elevation shall be revised to omit the doorway access from the proposed rear ensuite bedroom (adjacent to the eastern boundary) at ground floor level.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential amenity.

3. The disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: In the interest of public health.

4. Site development and building works shall be carried out only between the hours of 0800 to 1800 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.

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.

Claire McVeigh
Planning Inspector

25 October 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	319026-24		
Proposed Development Summary	Demolish sheds, renovate house, including elevational changes and construction of extension to rear.		
Development Address	67 Boherbue, Tralee, Co. Kerry		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	✓
		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			
No	✓		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No	✓	N/A	No EIAR or Preliminary Examination required
Yes			

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____