



An
Bord
Pleanála

Inspector's Report ABP-319288-24

Development	Dormer extension to duplex apartment
Location	11 Market Street, Listowel, County Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	231175
Applicant(s)	Tadgh & Sheila Horan
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Tadgh & Sheila Horan
Observer(s)	Con Whelan
Date of Site Inspection	9 th May, 2024
Inspector	Kevin Moore

1.0 Site Location and Description

- 1.1. The site of the proposed development is at No. 11 Market Street, Listowel, County Kerry. There is a terraced two-storey structure on the site with a shop at the front ground floor level, residential accommodation behind, and residential accommodation at first floor and attic levels. There is a single-storey shed behind the main structure. There is a bedroom, bathroom and stairwell at the attic level. The existing structure on the site is a protected structure listed in Kerry County Development Plan 2022-2028 and it is located within a designated Architectural Conservation Area. The applicant is the stated owner of the 0.029 hectare site.

2.0 Proposed Development

- 2.1. The proposed development would comprise a dormer roof extension to the rear of the apartment and associated site works. The dormer roof extension would include two new dormer windows which would replace a bedroom and stairwell Velux-type windows, increasing headroom on the stair approach. The roof would be covered in slate cladding.

3.0 Planning Authority Decision

3.1. Decision

On 16th February, 2024, Kerry County Council decided to refuse permission for the proposed development for one reason relating to visual incongruity and conflict with objectives of the Listowel Town Development Plan.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted the site's planning history, development plan provisions, reports received, and a third party submission. It was acknowledged that the proposal would not be visible from Market Street but would be from the lane to the north. It was considered that it would alter the traditional pitched roofline of the structure and would have a negative effect on the architectural heritage of the building. It was

further considered that the proposal would not likely have a negative impact on the residential amenities of the area. It was concluded that the proposal would fail to integrate with the architectural interest of the building and the Architectural Conservation Area and would contravene objectives LIS 67 and LIS 69 of the Listowel Town Development Plan. A refusal of permission was recommended for one reason.

3.2.2. Other Technical Reports

The County Archaeologist noted that there were no recorded monuments listed in the Record of Monuments & Places in proximity to the proposed development and no mitigation was stated to be required.

The Assistant Chief Fire Officer had no objection to the application and recommended a schedule of advice to be provided to the applicant.

The Listowel Roads Office recommended permission be granted and set out a schedule of roads-related conditions.

3.3. **Third Party Observations**

A submission was received from Con Whelan which raised concerns relating to the structural condition of No. 11, the effects on the adjoining property at No. 9 Market Street, necessary repairs required, and the impacts on a protected structure and Architectural Conservation Area.

4.0 **Planning History**

P.A. Ref. 1797

Permission was granted for a commercial storage shed.

5.0 **Policy Context**

5.1. **Kerry County Development Plan 2022-2028**

Volume 1 – Written Statement

Built Heritage

Protected Structures

Objectives include:

KCDP 8-40

Ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting including designed landscape features and views, is compatible with the special character of that structure.

Architectural Conservation Areas

Objectives include:

KCDP 8-44

Ensure developments in an ACA have a positive impact on the intrinsic character of the area, respect the existing streetscape and layout, and are compatible in terms of design, materials, traffic, views, and intensity of site use.

Volume 2 – Listowel Town Development Plan

Zoning

The site is zoned 'M2 – Town Centre'.

Architectural Conservation

No. 11 Market Street is a protected structure (Ref. 21400228).

The site lies within the designated Market Street Architectural Conservation Area.

Heritage Objectives of the Plan include:

LIS 67

Ensure that the design of premises or the refurbishment of existing premises in the town is sympathetic to existing development in the vicinity and is of a design composition that enhances the streetscape.

LIS 69

Ensure the conservation of noteworthy features and architectural detailing of structures, the character of buildings and the continuity / homogeneity of terrace designs, which contribute to urban form and visual amenity and architectural interest.

5.2. EIA Screening

Having regard to the nature, scale and location of the proposed development, there is no real likelihood of significant effects on the environment. The submission of an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the appeal may be synthesised as follows:

- The reason for the dormer extension is to help alleviate the restricted headroom, in particular in the existing staircase from the upper floor (attic).
- The proposed extension would not be visible from Market Street and would not be visible from sections of the laneway to the north of the site.
- While the property is listed as a protected structure and ACA it only relates to the front façade. The description relating to the protected structure refers to the front façade and it was built as part of a terrace of 10.
- Nos. 1-9 have the same roof structure as No. 11 in regard to age, pitch and materials but are not listed as protected structures. This proves that these existing terraced roofs do not have any significance to warrant them as being protected structures.
- From the Market Street side numerous rooflights and dormers have been constructed and numerous rooflights and dormers have been built to the rear of property.
- It is queried that when one cannot see something how is it possible to form an opinion that it is a “visually intrusive feature”.
- It is false to determine that the proposal would detract from architectural heritage and would not respond to its context or integrate successfully with its immediate surrounding environment. The architectural heritage of the building

relates to the front façade and not the rear. The Planner has not provided factual architectural heritage information for the rear of the property.

- It is disputed that the proposal would set a precedent. Given the numerous rooflights to the front and rear of the 10 terraced properties at this location, significant developments to the rear of these properties, and changes to the front facades, the precedent has been set by the Council giving permissions. Reference is made to a number of permissions.
- The reason for refusal is generic and does not examine neighbouring properties.
- No site-specific survey has been produced to identify any historical/architectural importance to the rear of the property to support the decision.
- The proposed dormer will blend in with the landscape given the proposed finish is slate. The windows can be frosted to prevent any possible overlooking.
- Objectives LIS 67 and LIS 69 relate to the front façade and the proposed dormer does not interfere with the existing streetscape.

6.2. Planning Authority Response

I have no record of any response to the appeal from the planning authority.

6.3. Observations

The observer is a retailer at No. 9 Market Street and No. 9 is stated to be owned by the observer's mother. The observation may be synthesised as follows:

- During 2017/2018 the applicant's agent carried out a survey of Nos. 9 and 11 Market Street. This identified a number of structural deficiencies requiring immediate and urgent repair to stabilise the properties. A suite of drawings was prepared setting out the required structural repairs.
- There is a structural crack in the party wall. There is a stepped crack in the front façade of No. 11 travelling in the direction of the first floor window and

roof line. This is as a result of substantial deflection in the older timber beam over the shop window which needs to be repaired.

- In 2017/2018 the owner of No. 11 engaged a Consulting Engineer to examine the timber beam deflection and it is understood that remedial works were recommended. Remedial works were not carried out and the structural issues still exist.
- If planning permission is to be granted, it is requested that it be subject to remedial works taking place on both properties in advance of works on the proposed development.
- The proposed development would seek to construct a structural wall on top of a defective party wall. No works to improve its condition have been included in the planning application. The proposed works would add loading and vibration to the protected structure which would cause further deterioration.
- The applicant makes no reference to the observer's objection to the planning authority.
- Nos. 9 and 11 are protected structures. The County Development Plan requires that development on sites adjoining a protected structure will be required to demonstrate that it will have no adverse impact on the character or integrity of the protected structure or views to it. As the condition of the party wall has not been considered, the proposal has not adequately taken into account the adjoining protected structure or the preservation of the existing structure.
- The proposed development is within Market Street Architectural Conservation Area. The provisions of Kerry County Development Plan are noted. The proposed dormer extension is not a feature present in adjoining properties.
- Given the properties in the terrace were constructed to similar detail, with limited headroom leading to the attic stairs, it is very likely that the precedent the application would set would be copied by neighbours. The proliferation of dormers on roofs at the rear would not integrate successfully and would contravene Objectives LIS 67 and LIS 69 of Listowel Town Development Plan.

- The roof of No. 11 is visible throughout the laneway to the north. The laneway is widely used by serviced businesses and residential properties.
- The attic spaces of properties at Market Street have historically been used as accommodation and required the installation of rooflights. Many rooflights have been replaced with Velux-type units.
- There is no precedent for dormer rooflights to the roofs of properties on Market Street.
- The appellant refers to a safer means of escape. No evidence is provided from the Fire Officer that the existing stairway is not safe. A satisfactory Fire Safety Certificate for No. 11 has not been provided or a Fire Consultant's report confirming travel distances and escape routes. This raises questions as to whether the attic space should be occupied at all.
- The appellant has not engaged with the policy requirements of Kerry County Development Plan.
- There is a notable absence of professional conservation input on the application and appeal.

7.0 Assessment

7.1. Impact on Architectural Heritage

- 7.1.1. I observe that Nos. 3-27 Market Street form a terrace of two-storey buildings. I note from the Record of Protected Structures in Kerry County Development Plan that Nos. 3, 5, 7 and 11 Market Street, Listowel are protected structures. In the Plan, these are seen to have a regional rating. Nos. 3, 5 and 7 are noted for their architectural, artistic and historical merit. No. 11 is listed for its architectural and historical merit. Nos. 9 and 13, which flank No. 11, are not protected structures nor are any of the other buildings in the terrace to the west.
- 7.1.2. I acknowledge from the National Inventory of Architectural Heritage that the regional rating is the same for No. 11. This structure, built c.1860, is recognised as being part

of a terrace of ten and it is noted that it was renovated c.1930. Its street frontage is also noted and the sole reference to the roof is to acknowledge that it has a pitched slate roof with rendered chimney stacks and clay ridge tiles.

- 7.1.3. I note the appraisal of Listowel as set out in Volume 3 of Kerry County Development Plan relating to Architectural Conservation Areas (ACAs). Therein, it is stated that Listowel's architectural character is defined by traditional building forms, materials and position within the streetscape. It is noted that buildings are mostly terraced, a mix of two and three storey, rendered with pitched roof, with many retaining chimney stacks and classical shopfront details. It is further stated that Listowel is unique for its shopfront embellishments and planned streets and that its special character is intrinsically linked to its highly decorated shopfronts and commercial frontages. Eight ACAs are identified for the town, one of which is Market Street.
- 7.1.4. I note that the terrace of buildings in which the site is located forms part of Market Street Architectural Conservation Area in the Listowel Town Development Plan. Rooflights are prevalent on the streetscape frontage at Nos. 3, 7, 15, 19, 25 and 27 Market Street and there is a box dormer window on the roof to the front at No. 23. I further note that there are many rooflights on the rear of the terrace of properties set back from and facing the laneway and that there is a box dormer on the rear section of the roof at No. 13 Market Street next to the appeal site.
- 7.1.5. It is apparent from the understanding of the importance of the building, the terrace of which it forms a part, and the defined Architectural Conservation Area as set out in Kerry County Development Plan, that the streetscape presentation is a key component of the architectural heritage significance of this location. It is also evident that, with regard to architectural value, much emphasis is placed on shopfront form and character in Listowel. There are no details emphasising the architectural or other importance of the roofscape to the rear of Market Street ACA or the laneways and there appears to be no known importance placed on the section of roof to the rear of No. 11 or its association with the remainder of the terrace. It is also apparent that, while the terrace forms a substantial component of Market Street ACA, the roofscape to the rear facing onto the laneways has been subject to substantial change over time. There is no true consistency to window provision in the rear roofscape and,

indeed, in the presentation of structures generally to the laneway behind Market Street. The visibility of the roofs to the rear of the terrace of buildings is somewhat limited from the laneway due to high walls and a variety of added buildings and other structures. It cannot reasonably be observed that what is presented to the laneway behind the terrace forms any known added value to the architectural heritage of Market Street ACA. Therefore, as far as the impact on the ACA applies, it is reasonable to ascertain that the proposed development would be at best negligible and with no impact on the presentation of the structure onto Market Street itself.

7.1.6. Regarding the impact on the protected structure, I note that No. 11 is on the Record of Protected Structures and that the protection appears to encapsulate all of the structure. No other structures flanking it are protected structures and it is not readily understood why it is selected as a protected structure over other structures in the terrace that are not protected structures. I understand the contribution the frontage makes to the terrace and to the ACA when viewed from Market Street. I do not see how the roof to the rear makes any particular notable contribution to its protected status. I acknowledge that this roof to the rear has already been subject to the introduction of a number of rooflights.

7.1.7. I note the provisions of the *Architectural Heritage Protection Guidelines for Planning Authorities* published in 2004 and in particular those pertaining to detailed guidance on buildings of architectural heritage. Sections 9.4.20 to 9.4.23 refer to considerations of proposals affecting dormers. Regarding dormer windows and rooflights, it is stated:

“Alterations to these features will affect the overall appearance of the structure and, in some cases, the appearance of an entire terrace of buildings.”

Thus, the emphasis seems to be placed on ‘appearance’. Having regard to my considerations above, the appearance of the rear section of the roof is extremely limited and it is noted that this section of roof has been subject to the installation of rooflights which are proposed to be replaced.

7.1.8. In Section 9.4.22 of the Guidelines it is stated:

“Where it is proposed to install new dormers or rooflights, the extent of potential damage to historic roof structures should be considered. If the building is part of a terrace, the proposed addition may upset the balance of the whole architectural composition. New rooflights and dormers on minor or concealed slopes may be considered acceptable in some cases.”

- 7.1.9. It is my submission to the Board that, due to the limited visibility of the rear section of roof of No. 11 from the public realm, the lack of impact on abutting properties (see below), the variety of rooflights/dormers which exist in the terrace, and the intent of the proposed development to replace existing windows in the roof, it is difficult to conclude that the proposed dormer extension would be in any way incompatible with the architectural character at this location.
- 7.1.10. Regarding the planning authority’s considerations on the precedent that would be set, the material effect on the protected structure, and the injury to the architectural heritage of the structure, I first note that there is no explanation as to how such impacts result from the proposed development. It is my submission that there is a precedent for a variety of different rooflights/dormers established in the terrace of which No. 11 is part. The replacement of the existing rooflights by the dormer windows has a minimal effect on the protected structure and, in the same manner, any injury to the architectural heritage of the structure is not known or is at best negligible where rooflights are being replaced by dormer windows.
- 7.1.11. Having regard to the above, I do not consider that the proposed development would conflict with objectives LIS 67 and LIS 69 of Listowel Town Development Plan. The development would not be inconsistent with the pattern of development already established in the terrace and it would not have any material effect on the streetscape. Furthermore, the section of affected roof where there are rooflights is not a known noteworthy feature or important architectural detail of the building. In my opinion, it would not be out of character with the rear roofscape of the terrace and would have no distinct impact on the urban form at this location, on the visual amenity of the area, or any particular architectural interest of the structure or the terrace.

7.1.12. Finally, it is important to note that the objectives chosen by the planning authority to determine that the proposed development would be in conflict with are those set out in the Listowel Town Development Plan which relate to built heritage and urban design in general and are not specific to the protected structure itself.

7.2. Structural Impacts on No. 9 Market Street

7.2.1. I first note the nature and extent of the proposed development. A box dormer of the type proposed presents as a relatively lightweight structure reliant for its principal support in this instance on the rear wall of the original structure. As can be seen from the submitted drawings, the box-like structure would project from the existing roofline. It would be set back from the sections of the roof on both sides where the existing roof meets with neighbouring properties. It is apparent, therefore, that the end wall of the dormer extension would carry the load of the dormer rather than any side walls. Thus, in this instance the original exterior rear wall of the building would be the load-bearing wall. The impact of the proposed development on party walls or on the front of the structures onto Market Street, as appears to be espoused by the observer, cannot be understood arising from the form of development proposed. The observer has provided no details to inform his conclusions.

7.2.2. In my opinion, it would not be reasonable to determine that the box dormer, which would be offset from the party wall and would be reliant on the rear wall for structural support, would have notable material adverse impacts on the structural integrity of both buildings premised upon an understanding of the defects as outlined in the observer's submission. While the concerns of the observer are understood, as is the submission that there is a need for remedial works, it is not explicitly clear how the proposed dormer extension to the rear roof as designed could exacerbate impacts on the deficiencies so referenced. The necessity for remedial works to other parts of the building relating to the association with No. 9 Market Street are works which may remain to be resolved but are beyond the consideration of a dormer roof extension to the rear of No. 11 in this instance and should be addressed in their own right beyond the scope of any planning application for this roof extension.

Appropriate Assessment

I have considered the proposed dormer extension in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located in an established urban area within the town centre of Listowel distant from the Lower River Shannon Special Area of Conservation (Site Code: 002165), of which the River Feale flowing through Listowel forms a part.

The proposed development comprises a small rear roof extension to an existing terraced building.

No nature conservation concerns were raised in the planning appeal.

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:

- The small scale and nature of the development, and
- The location and distance from the nearest European sites and lack of known connections.

I conclude that, on the basis of objective information, 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.

8.0 Recommendation

- 8.1. I recommend that permission is granted in accordance with the following, reasons, considerations and conditions.

9.0 Reasons and Considerations

Having regard to the proposed development constituting the replacement of existing rooflights, its siting and location, and the limited visibility of the proposed dormer extension beyond the site, it is considered that the proposed development would not comprise a visually incongruous feature, would not detract from the area's architectural heritage or Market Street Architectural Area, would not materially affect the character of the protected structure, or conflict with the objectives of Listowel Town Development Plan. Furthermore, with due regard to the nature and extent of the proposed development and the form of development proposed, it is considered that the proposed development would not adversely affect the structural integrity of neighbouring properties. 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, 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 external roof finishes shall match those of the existing building in respect of colour and texture.

Reason: In the interest of visual amenity.

3. The disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

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.

Kevin Moore
Senior Planning Inspector

15th May 2024