



An
Bord
Pleanála

Inspector's Report

320930-24

Development	Retention of front boundary, side boundaries, front façade and open covered area to rear of dwelling, as constructed.
Location	68 Ardshanavooley, Killarney, Co Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	24/60472
Applicant(s)	Lucia Droган.
Type of Application	Retention permission.
Planning Authority Decision	Refusal
Type of Appeal	First party
Appellant	Lucia Droган.
Observers	Carmel & John Horgan and 2 others.
Date of Site Inspection	16 th April 2025.
Inspector	Ann Bogan

1.0 Site Location and Description

- 1.1. The site is located in Ardshanavooley, a housing estate of over 100 dwellings in Killarney, which is accessed off Park Road, the main access road to Killarney town centre from the east.
- 1.2. No 68 Ardshanavooley is a two storey mid terrace house with pedestrian access from the estate road to the front and a second pedestrian access from the rear, via a narrow service road. The front façade and front boundary wall have brick-effect cladding and the small front garden is enclosed by boundary walls topped by railings.
- 1.3. There is a single storey flat roofed extension to the rear of the dwelling, in use as a kitchen. Beyond this is a further single storey, fully enclosed, flat roofed structure, the subject of this retention application. An oil tank is stored on the roof of the structure. A path runs from the rear of the house along the side boundary to the back gate.

2.0 Proposed Development

- 2.1. Retention of:
 - Front boundary made up of a low wall with multi-coloured brick effect cladding, topped by metal railings
 - Side boundaries topped by railings
 - Front façade including multi-coloured brick effect cladding
 - 'Open covered area' to rear of dwelling (gross floor area stated to be 22.86sqm)

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Refuse permission for retention for the following two reasons:

1. It is considered that the brick-effect cladding that has been placed on the front façade of the mid-terrace dwelling house and front boundary wall together with the ornate railings that have been put in place are visually obtrusive and are out of

character with the existing buildings in the estate. Accordingly, the proposed retention of the front boundary, side boundaries and front façade would have a seriously negative impact on the visual amenities of the area, which would seriously injure the amenities and depreciate the value of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed retention of the open covered area to the rear of the terraced dwelling house, taken together with the recently constructed kitchen extension, would constitute over development of the restricted site by reason of its size and scale and would result in seriously inadequate private amenity space available to the occupants of the dwelling house. The proposed development would not comply with Development Management Standards for Extensions to Dwellings as set out in Section 1.5.6.1 of Volume 6 of the Kerry County Development Plan 2022-2028, would seriously injure the amenities and depreciate the value of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Considers cladding on front façade and boundary wall cladding and railings to be visually obtrusive and out of character with area
- Considers structure to the rear to be excessive in scale and leaves no private amenity to occupants and impacts negatively on amenities of adjoining houses
- Agrees with EAU assessment below re AA and EIA
- Recommends refusal of retention permission.

3.2.2. Other Technical Reports

- Environmental Assessment Unit (EAU): Notional AA screening concludes Development would not have required AA. Notional preliminary EIA screening

examination concludes the development would not have required either an EIA or a determination as to whether an environmental impact assessment would have been required.

3.3. Prescribed Bodies

- Uisce Eireann: no objection

3.4. Third Party Observations

Three third party observations were made on the planning application. The matters raised are similar to those included in the observations to the appeal.

4.0 Planning History

None

5.0 Policy Context

Development Plan

Kerry County Development Plan 2022-2028 was adopted on 4th July 2022 and includes Killarney Town Development Plan.

The site is zoned 'Existing Residential'.

Volume 6 Development Management Standards

Section 1.5.3 General Residential Development Design Standards

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.

Section 1.5.6 Other Development in Built-up Areas

1.5.6.1 Extensions to Dwellings

Front Extensions - Porch extensions, other than those deemed to be exempted development, should be of appropriate design and scale relative to the design of the original house and shall not dominate the front elevation of the dwelling. 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. A break in the front building line will be considered subject to scale and design and impact on established residential and visual amenity. A minimum driveway length should be maintained appropriate to the site context.

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 determining applications for first floor extensions, the following will be considered:

- Degree of overshadowing, overbearing and overlooking - along with proximity, height and length along mutual boundaries.
- Size and usability of the remaining rear private open space.
- Degree of setback from mutual side boundaries. No part of the extension shall encroach or overhang adjoining third party properties.

Any planning application submitted in relation to extensions, basements or new first/upper floor level within the envelope of the existing building, shall clearly indicate on all drawings the extent of demolition/ wall removal required to facilitate the proposed development. In addition, a structural report, prepared by a competent and suitably qualified engineer, may be required to determine the integrity of

walls/structures to be retained and outline potential impacts on adjoining properties. This requirement should be ascertained at preplanning stage.

Alterations at Roof/Attic Level Roof alterations/expansions to main roof profiles (changing the hip-end roof of a semi-detached house to a gable/'A' frame end or 'half-hip' for example) and additional dormer windows will be assessed having regard to the following:

- The character and size of the structure, its position on the streetscape and proximity to adjacent structures.
- Established streetscape character and roof profiles.

5.1. Natural Heritage Designations

- Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC approx. 1.3km from site
- Killarney National Park SPA approx. 1.3km from site

6.0 EIA Screening

- 6.1.1. The development to be retained is not a class of development for the purposes of EIA as set out in Schedule 5 of the Planning and Development Regulations 2001 as amended. The need for environmental impact assessment could therefore, have been excluded at pre-screening stage. (See attached notional EIA Form 1 Pre-screening).

7.0 The Appeal

7.1. Grounds of Appeal

Appeal submitted by agent Leahy Planning Ltd on behalf of applicant, Lucia Drohan, in summary:

Brick effect cladding

- Housing estate has wide variety of textures and finishes to front wall of houses, important that individuals be allowed express individuality

- The deep front gardens form an intermediate space between the public and private realms of these houses
- Therefore, while the brick effect cladding is different to other buildings, this differentiation is less important than on a street terrace where a unified façade is presented to the public
- Suggest that concerns of the Council could be met by a condition deleting the cladding from the front boundary wall

Railings around front garden

- Railings around front garden together with the planting reinforce the intermediate space between the public and private realms
- It is a common enough feature, particularly where garden forms an important amenity feature and is south facing
- Use of medium sized railing as has been installed is appropriate in tandem with planting and doesn't represent a loss of amenity or a discordant feature
- Individuality in front garden treatment should be celebrated

Covered area to rear

- Questions whether it is reasonable to state that rear space area can no longer be regarded as private amenity space as it has been covered over
- It's reasonable to provide protection from rain where there's a limited amount of private amenity space; occupants should be best judges of how amenity space is laid out
- Planting and railings to front will enhance front garden and make it more useful to occupants as a private amenity space
- Difficult to see how covered area to rear of house off a service lane would injure amenities and value of property in vicinity
- Accept that oil tank on roof of covered area is not appropriate and proposes to relocate to ground floor and install it in within bunded concrete enclosure inside rear wall of property

- Propose to complete finishes of area to rear of property, suggests condition requiring these finishes to be agreed with planning authority

Conclusion

- Asks the Board to exercise a degree of flexibility in this case
- Many Council houses built between 1930s and 1960s, as this one was, need to be extended/ upgraded and front and rear gardens brought to optimal use as amenity for residents
- Important to differentiate between areas of high architectural quality where use of differing materials may result in loss of public amenity by interfering with an architectural set piece, and a location such as this where this is not the case.

7.2. Planning Authority Response

- None

7.3. Observations

Three observations received, one from occupants of adjoining house to west and two other persons. Summary of issues raised:

Structure to rear

- Open covered rear building referred to in planning retention notice, is referred to in appeal as covered area to rear, with deletion of the word 'open'
- This building is now fully enclosed with window and door
- Height of rear building is imposing and not in keeping with surrounding properties.
- Structure reduces natural light and casts shadow on neighbouring garden and kitchen, where light needs to be on all day, removing occupant's enjoyment of their space, impacts houses on both sides of it
- Oil tank on roof of structure close to chimney, health and safety concerns re fire risk of occupants and neighbouring houses and air pollution

- Number of lights erected facing directly into neighbouring garden is excessive and causes light pollution
- Concern re structural stability of building, was visibly sagging and looking like it could collapse; does it meet building regulations?
- Disregard of cease works notices issued by Kerry County Council and works continued, including windows, doors, internal walls etc
- Ramps on public property at back of property causing water to lodge outside adjoining property; also ramp installed on Council owned tarmacked area to allow van to be parked.

Front facade

- Front façade not in keeping with surrounding area
- Railing on front wall an eyesore and health and safety risk
- Light pollution from spotlights on front of property
- Site boundaries show encroachment on neighbouring properties
- Alteration to windows at front not in keeping with aesthetic of surrounding properties

8.0 Assessment

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

- Visual Impact
- Residential Amenity

8.2. Visual Impact

- 8.2.1. The front façade of this two-storey dwelling has been covered with multi-toned brick-effect cladding, as has the front boundary wall. In addition, metal railings, painted black with gold tips have been added to the front and side walls of the garden.
- 8.2.2. The ground floor front window opening and standard recessed front door have been replaced by a floor to ceiling window and a small porch with glass panelled doors. There is variation in treatment of the ground floor window and door along the terrace and I believe these changes are relatively minor and unobtrusive.
- 8.2.3. The appeal submission indicates that the area already has a wide variety of textures and finishes and argues for the need for flexibility to allow for individual expression. I note that houses in the area are painted a variety of colours, some with a variation in colour of the ground and first floor, and some have smooth plaster finish, while others have retained the original finish, according to individual preferences. However, despite the variations, the general impression in this terrace is a unity of character in the terrace and street. By contrast, the cladding applied to the full front façade and front boundary wall of the dwelling is, in my opinion, visually obtrusive, over prominent and out of character with the surrounding houses. Furthermore, while great efforts have been made in landscaping and maintaining the small garden, the railings which have been erected on the front and side walls are also out of character with the area.
- 8.2.4. As the appeal submission says, the estate is not an architectural set piece, and I believe there is scope in an estate such as this for individual expression through use of paint colour and garden design and planting, however freedom of expression needs to be tempered by the need to respect the overall character of the other houses and the area. In my opinion, permitting the retention of the visually obtrusive changes to the front façade and boundary walls would have a negative visual impact on the area and could also create a precedent for future visually obtrusive alterations to houses in the area.

8.3. Residential Amenity

- 8.3.1. A flat roofed kitchen extension has been constructed to the rear of the house, described on the drawings as 'exempted development guidelines area'. Immediately

beyond this is a single storey flat roof structure described as an 'open covered area' which is stated to be 22.86sqm in area and 2.7m in height, and which is subject of the retention application. It extends from the kitchen extension to the rear boundary of the property. Although described as an open covered area, it was evident during the site inspection that it is now a fully enclosed building with window and door. A wall and door have been fitted to the circa 2m opening shown on drawings submitted with the planning application, but even at that stage, it was somewhat misleading to describe it as an 'open covered area'.

- 8.3.2. The structure is not connected internally to the remainder of the house but opens onto the side passageway. It contains a 'fireplace' and chimney, which appear to be for use as an indoor cooking/barbecue facility. The room is also in use for storage of household goods and equipment, a freezer, drying rack etc. The floor is tiled but walls as yet unfinished. There are what appear to be temporary ad hoc electrical fittings at present and also fittings for permanent wall lights which have not yet been installed. It seems the building will serve as a multi-functional extension to the house, and goes beyond what would be normal for a garden shed or store both in form and area.
- 8.3.3. Section 1.5.6.1 of the Kerry County Development Plan, Volume 3 states that "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. In this case no usable private open space remains to serve the occupants of the dwelling, following the construction of the kitchen extension and the building behind it, apart from the passageway running along the boundary, which has a limited amenity value. I note the open space is so limited that the oil tank has been placed on the roof, which is acknowledged as not appropriate, in the appeal submission. I agree that it is inappropriate on safety, environmental and possibly structural grounds.
- 8.3.4. While, as the appeal submission states, there is amenity space in the south facing front garden, this does not meet the requirement for private open space. Section 1.5.4.6 of the Development Plan requires private open space to be provided 'behind the building line'. While I acknowledge that the plot is confined in area, I believe that the combined area of the extensions constitutes overdevelopment of the site and results in adequate private open space for the occupants and a negative impact on residential amenity.

- 8.3.5. The rear building and kitchen at 2.7m in height, are circa 1m over the height of the existing boundary fence and run the full length of the rear yard. The rear of these two storey houses faces north/north west and the gardens and rear of the houses are already significantly overshadowed by the houses themselves. There is therefore little likelihood of significant additional overshadowing or reduction in daylight from the subject structure. Its height and bulk however results in it appearing somewhat overbearing when viewed from adjoining rear gardens.
- 8.3.6. I note that there are a number of un-cowled hanging lights along the length of the extension which results in light spill into the adjoining garden, impacting negatively on the residential amenity of the neighbouring house. In addition, a ramp has been constructed rear of the development which allegedly causes water to lodge outside the rear of the neighbouring dwelling. If permission were to be granted, these issues would need to be addressed by conditions.
- 8.3.7. In conclusion, I consider that the retention of the building to the rear, referred to as 'open covered area' would result in overdevelopment of the site and would have a seriously negative impact on the residential amenity of occupants, and as constructed, is also having a negative impact on the amenity of neighbouring residents.

9.0 AA Screening

9.1. Notional Screening of the need for Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive)

I have considered the project in light of the requirements S177U of the Planning and Development Act 2000 as amended. The development to be retained comprises modification to the front boundaries and front façade of an existing dwelling, and of an 'open covered area' to the and construction of two new dwellings.

The subject site is located 1.3 km from the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC and 1.3km from the Killarney National Park SPA.

Having considered the nature, scale and location of the project, I am satisfied that it could have been eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows

- Nature and limited scale of the works
- Distance from and lack of connections to the nearest European site

I conclude on the basis of objective information, that the development to be retained would not have had 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) would not have been required.

10.0 Recommendation

10.1. I recommend refusal of permission for retention of the development.

11.0 Reasons and Considerations

1. The brick-effect cladding which has been placed on the front façade and front boundary wall of this mid-terrace dwelling as well as the decorative metal railings placed on the front and side boundary walls of the front garden, are considered to be visually obtrusive and out of character with the other dwellings in the terrace and wider area. The retention of the front boundary, side boundaries and front facade would, therefore, seriously injure the visual amenities of the area, would set an undesirable precedent for future development and would be contrary to the proper planning and sustainable development of the area.
2. The proposed retention of what is referred to as the 'open covered area' to the rear of the dwelling, taken together with the kitchen extension, would by reason of its scale constitute over development of this confined site and would result in seriously inadequate private open space to serve the occupants of the dwelling house. The development to be retained would not be in keeping with Development Management Standards for Extensions set out in Section

1.5.6.1 of Volume 6 of the Kerry County Development Plan and would seriously injure residential amenities and 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

29th April 2025

Appendix 1 - Form 1
Notional EIA Pre-Screening
[EIAR not submitted]

An Bord Pleanála Case Reference	320930-24		
Proposed Development Summary	Retention of front boundary, side boundaries, front façade and open covered area to rear of dwelling to rear of dwelling.		
Development Address	68 Ardshanavooley, Killarney, 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	X	
	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)?			
Yes			Proceed to Q3.
No	X		No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No			Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes			Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			

No		Screening determination remains as above (Q1 to Q4)
Yes		

Inspector: _____ Ann Bogan _____ Date: 29/04/2025 _____