



Planning and Development Acts 2000 to 2020

Planning Authority: Kerry County Council

Planning Register Reference Number: 19/854

Appeal by Sean O'Donoghue of Kestrel House, Flesk Castle, Killarney, County Kerry against the decision made on the 15th day of June, 2020 by Kerry County Council to grant subject to conditions a permission to the O'Reilly Family care of Karol O'Mahony Architects of Scartlea, Muckross, Killarney, County Kerry in accordance with plans and particulars lodged with the said Council.

Proposed Development: Renovation and change of use of an existing carriage house to a dwelling including new adjacent canopy and store, new entrance gates and piers at existing site entrance, installation of proprietary wastewater treatment system and polishing filters, bored well and all ancillary site works at Flesk Castle, a protected structure RPS Reference: 66-4, Mill Road, Dromhumper, Killarney, County Kerry, as amended by the further public notice received by the planning authority on the 8th day of April, 2020.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

Having regard to the location of the site within a historic castle complex which is a Recorded Monument and a Protected Structure, to the ruinous state of the carriage house structure, to the proposals to bring the structure into habitable use and to the minor nature of the works, it is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely affect the character and integrity of the historic structure or seriously injure the visual or residential amenities of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the provisions of the Architectural Heritage Protection Guidelines and with the policies and objectives set out in the current Kerry County Development Plan 2015-2021 and in the Killarney Town Development Plan (2009-2015, as extended and varied) and with the proper planning and sustainable development of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the planning authority on the 3rd day of October, 2019 and the 8th day of April 2020, 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 steel channel gutter as shown on drawing number FCC-DD-013A received by the planning authority on the 8th day of April, 2020, shall be revised such that it is less visually obtrusive,
 - (b) the proposed entrance gates and gate piers as shown on drawing number FCC-PL-011 received by the planning authority on the 13th day of August, 2019, shall be redesigned with a more traditional style to reflect the character of the castle complex, and
 - (c) detailed site layout plans, sections and elevations of the proposed garden area to the south of the carriage house showing the proposed treatment of this area and the associated enclosure.

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 interest of the protection of the special interest of the Protected Structure.

3. The proposed dwelling shall be used as a holiday home and/or for short-term tourist accommodation only, which shall be rented on a weekly basis only as a single unit of accommodation and shall not be used as a permanent place of residence and shall not be sold, let or otherwise transferred or conveyed separately, save as part of the castle complex.

Reason: In the interest of residential amenity.

4.
 - (a) A conservation expert shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.
 - (b) All repair works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Environment, Heritage and Local Government in 2004. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.

- (c) All existing original features, including interior and exterior fittings/features, joinery, plasterwork, features (including cornices and ceiling mouldings) staircases including balusters, handrail and skirting boards, shall be protected during the course of refurbishment.

Reason: To ensure that the integrity of the retained structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

- 5. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

Contoured drawings to scale of not less than 1:500 showing –

- (a) a survey of all existing trees and hedging plants on the site, their variety, size, age and condition, together with proposals for their conservation or removal,
- (b) any hard landscaping works, including car parking layout, enclosed areas, lighting and outdoor seating, specifying surfacing materials,
- (c) specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment,
- (d) proposals for the protection of all existing and new planting for the duration of construction works on site, together with proposals for adequate protection of new planting from damage until established, and

- (e) a timescale for implementation, which shall provide for the planting of the garden area adjoining the southern elevation of the carriage house to be completed before the dwelling is first made available for occupation.

Deciduous trees shall be planted at not less than two metres in height and evergreen species at not more than 750 millimetres in height. Species to be used shall not include either cupressocyparis x leylandii or grisellinia. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

- 6. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 8th day of April, 2020, and in accordance with the requirements of the document “Wastewater Treatment Manual: Treatment Systems for Single Houses”, Environmental Protection Agency (current edition). No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.
- (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.

- (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwelling house and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.
- (d) Surface water soakaways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.
- (e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the Environmental Protection Agency document.

Reason: In the interest of public health.

- 7. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

8. Details of the materials, colours and textures of all the external finishes to the proposed dwelling home shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

9. Site development and building works shall be carried out only between the hours of 0800 to 1900 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.

10. The construction of the development shall be managed in accordance with a Construction and Environmental Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

11. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

12. 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.

Maria FitzGerald

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this day of 2020.