



Planning and Development Acts 2000 to 2020

Planning Authority: Kerry County Council

Planning Register Reference Number: 19/1320

Appeal by Marie O'Regan of Hillside, Woodlawn Road, Killarney, County Kerry against the decision made on the 25th day of August, 2020 by Kerry County Council to grant subject to conditions a permission to Kevin McAllen care of David Mosca Design of 41/42 High Street, Killarney, County Kerry in accordance with plans and particulars lodged with the said Council.

Proposed Development: (a) Retain the subdivision and change of use from nine bedroom guesthouse to nine bedroom staff accommodation, (b) permission to demolish shed to side of building, (c) permission to construct extensions and conversion of the attic on the existing building all to provide seven new apartments and (d) carry out elevational and internal alterations to existing building and all associated site works at Dromhale, Woodlawn Road, Killarney, County Kerry.

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 existing development on the site, to existing and permitted developments in the area, and to the provisions of the Killarney Town Development Plan 2009-2015 (as extended), it is considered that, subject to compliance with the conditions set out below, the proposed development and the development to be retained would not be visually obtrusive or out of character with the surrounding area, would not seriously injure the amenities of adjoining residential properties and would provide satisfactory standards of amenity for the future occupants of the development. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that the revised plans to provide for increased private amenity space for the ground floor apartments, as well as modifications to the upper floor balconies, would provide acceptable levels of amenity space for future occupants of the apartments, subject to some modifications to the boundary treatment of the ground floor private amenity space, as set out in the conditions under.

Conditions

1. The development shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars on the 29th day of July, 2020 and by the further plans and particulars received by An Bord Pleanála on the 16th day of October 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 so that the height of the proposed fences enclosing the private amenity space for the three ground floor apartments shall be reduced from 1.5 metres to no more than 1 metre.

Details of the materials to be used for the fencing and 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 visual and residential amenity.

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

Reason: In the interest of visual amenity.

4. Notwithstanding the provisions of Article 10(4) of the Planning and Development Regulations 2001, or any statutory provision modifying or replacing them, no room in the proposed house(s) shall be used for the purpose of providing overnight paying guest accommodation without a separate prior grant of planning permission.

Reason: In order to prevent overdevelopment of the site in the interest of residential amenity and traffic and pedestrian safety.

5. 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.

6. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

7. 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 provision of a continuous hedge of indigenous species inside the front boundary wall. All planting shall be adequately protected from damage until established. 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 interests of residential and visual amenity.

8. Site development and building works shall be carried out only between the hours of 0700 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.

9. The construction of the development shall be managed in accordance with a Construction Management Plan which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide, inter alia, details of intended construction practice for the development, including noise management measures, measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network, and off-site disposal of construction/demolition waste.

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

10. Any damage to the adjoining public footpath/roadway as a result of the proposed development shall be made good at the developer's expense to the satisfaction of the planning authority.

Reason: In the interests of orderly development and public safety.

11. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme, providing adequate measures for the future maintenance of public open spaces, roads and communal areas, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of 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.

Dave Walsh

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2021.