



Planning and Development Acts 2000 to 2021

Planning Authority: Kerry County Council

Planning Register Reference Number: 20/887

Appeal by Carnol Developments Limited care of Hughes Planning and Development Consultants of 85 Merrion Square, Dublin against the decision made on the 26th day of August, 2021 by Kerry County Council to grant subject to conditions a permission in accordance with plans and particulars lodged with the said Council.

Proposed Development: (A) Demolition of an existing three-storey building onto The Square and construction of a new three-storey building comprising two number ground floor one bedroom apartments and two number two bedroom duplexes overhead, (b) a new pedestrian entrance to The Square, (c) renovations to the existing derelict structure within the site to create a two bedroom dwellinghouse, (d) demolition of an existing derelict structure on Castlemaine Road, (e) construction of a new three-storey building to the rear comprising three number four bedroom terraced dwellinghouses, (f) alterations to the existing site entrances at Castlemaine Road, and (g) all associated services and site works including connection to the public sewer, provision of car parking, bin stores, bicycle stores, services, boundaries and landscaping, at The Square and Castlemaine Road, Milltown, County Kerry, which is located within an Architectural Conservation Area.

Decision

Having regard to the nature of the conditions the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to REMOVE conditions numbers 5 and 6 and the reasons therefor.

Reasons and Considerations

Having regard to the Regulation of Commercial Institutional Investment in Housing, Guidelines for Planning Authorities issued by the Department of Housing, Local Government and Heritage in May 2021, the Board considered that the two upper apartment units within the existing three-storey building fronting onto The Square and Castlemaine Road did not come within the definition of duplex units set out in section 4.0 of the Guidelines, and as a consequence, the housing development, which contained less than five or more houses and/or duplex units was not subject to the need to apply planning condition number 5 in accordance with the provisions of section 39(2) and 47 of the Planning and Development Act, 2000, as amended.

Furthermore, in relation to condition number 6, the Board considered that there are no considerations arising in the development as permitted which would require the preclusion of the exempted development provisions as set out in the Planning and Development Regulations, 2001, as amended, as they pertain to provision of overnight commercial guest accommodation.

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.

DR. Maria Fitzgerald

Maria FitzGerald

Member of An Bord Pleanála

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

Dated this 24th day of Jan. 2022.

