

An
Coimisiún
Pleanála

Commission Order
ABP-322313-25

Planning and Development Act 2000, as amended

Planning Authority: Kerry County Council

Planning Register Reference Number: 2460854

Appeal by John T. and Anne Quill of Castlclawn, Ballyheigue, County Kerry and by Others against the decision made on the 26th day of March 2025, by Kerry County Council to grant, subject to conditions, a permission to HRP Construction Limited care of BON Total Planning Solutions of Old Thompson Bakery, Thompson House, MacCurtain Street, Cork in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construction of short-term tourist accommodation. The proposed development consists of the Change of Use from an existing vacant residential structure and a vacant/derelict outbuilding to short-term tourist accommodation resulting in the provision of seven number self-catering apartments (four number two-bed units and three number one-bed units). Planning permission is also sought for the construction of a single storey extension consisting of 24 square metres as well as some minor internal and external demolition (32.7 square metres) to the existing structures. Access is via the existing access to the south at Castlclawn. Planning permission is also sought for the provision of car parking, bike parking, bin storage, shared open space, connection to the public sewer and all associated ancillary site works

on a site within the curtilage of Ballyheigue Castle, a Protected Structure (RPS KY-21301401-A) and a Recorded Monument (RMP KY014-100) Castlelawn, Ballyheigue, 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.

Reasons and Considerations

Having regard to the location of the site in an Area Zoned M4 – Built up Area as set out in the Kerry County Development Plan 2022-2028, Policy Objective KCDP 10-11 of the development plan which encourages, inter alia, the provision of visitor accommodation within established settlements and KCDP 10-30 which encourages, inter alia, the sensitive redevelopment of derelict, vacant or redundant buildings to provide for visitor accommodation, and the planning history and pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would provide an acceptable level of residential amenity for the proposed use as short term letting tourist accommodation, would not seriously injure the residential amenity of properties in the area, would not seriously injure the setting of Ballyheigue Castle, a Protected Structure, would not give rise to a pedestrian or traffic hazard and would not have an adverse impact on the environment or any European Site. 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 Commission considered that, having regard to the nature and extent of the proposed works and the revisions made at further information stage, the findings of the Archaeological Assessment Report and the recommendations of the Architectural Heritage Impact Assessment Report, the proposed development would prevent further dereliction of the existing vacant/derelict buildings and that the proposed design and form of the development would not detract from or seriously damage the setting of Ballyheigue Castle and would not adversely impact on the visual amenity 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 received by the planning authority on the 27th day of February 2025, 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 development hereby permitted shall be used solely for holiday accommodation and shall not be occupied by any person as a sole or main residence.

Reason: To regulate the use of the development.

3. Existing stone walls shall be retained in full and protected during construction works. Drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of the protection of architectural heritage.

4. Prior to the commencement of development the developer shall submit, for the written agreement of the planning authority, a detailed method statement covering all works proposed to be carried out, including:
 - (a) a full specification, including details of materials and methods, to ensure the development is carried out in accordance with current Conservation Guidelines issued by the Department of Arts, Heritage & the Gaeltacht,
 - (b) methodology for the recording and/or retention of concealed features or fabric exposed during the works,
 - (c) details of features to be temporarily removed/relocated during construction works and their final re-instatement,
 - (d) details of any features to be protected during the construction works,
 - (e) materials/features of architectural interest to be salvaged,
 - (f) details of materials and features to be retained,
 - (g) details of the specialist conservation consultant engaged to oversee the works.

Details to be accompanied by drawings of an appropriate scale of not less than 1:50.

Reason: In the interest of the protection of architectural heritage.

5. (a) The developer shall engage a suitably licensed and qualified archaeologist to monitor all site clearance works, topsoil stripping, groundworks, and/or the implementation of agreed preservation in-situ measures associated with the development. Prior to the commencement of such works the archaeologist shall consult with and forward to the Local Authority archaeologist or the National Monuments Service (NMS) as appropriate a method statement for written agreement. The use of appropriate tools and/or machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary.
- (b) Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the National Monuments Service, regarding appropriate mitigation, preservation in-situ and/or excavation. The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer.
- (c) Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final

archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation, either in situ or by record, of places, caves, sites, features or other objects of archaeological interest.

6. Details of the materials, colours and textures of all the 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.

7. External and public lighting shall be provided in accordance with a scheme which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. Such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interest of amenity and public safety.

8. 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 a plan to scale of not less than 1:500 showing –

- (a) Existing trees, hedgerows, shrubs, stone walls, specifying which are proposed for retention as features of the site landscaping

- (b) The measures to be put in place for the protection of these landscape features during the construction period.
- (c) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder.
- (d) Details of screen planting, which shall not include cupressocyparis x leylandii.
- (e) Hard landscaping works, specifying surfacing materials and finished levels.

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 interest of residential and visual amenity.

- 9. Prior to commencement of development, the developer shall enter into water and wastewater connection agreements with Uisce Éireann.

Reason: In the interest of public health.

- 10. Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

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 interest of visual and residential amenity.

12. (a) No signage shall be erected on the building without the prior written approval of the planning authority.
- (b) No structures/elements shall be placed to the front of the property.
- (c) The balconies shall not be used for satellite dishes, clothes lines, or for any other domestic reasons.

Reason: In the interest of visual amenity and protection of the architectural character of the area.

13. Proposals for a building name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs and unit numbers shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

14. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs, shall comply with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS). Details of all locations and materials to be used shall be submitted to and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interest of amenity and of traffic and pedestrian safety.

15. Plans for the provision of EV charging points servicing the development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

16. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

17. Prior to commencement of works, the developer shall submit to, and agree in writing with the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including noise and dust management measures, pest control measures and off-site disposal of construction/demolition waste.

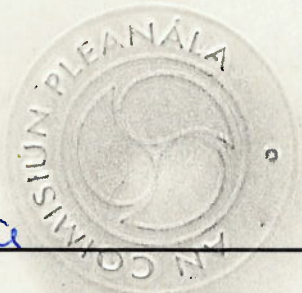
Reason: In the interest of public safety and amenity.

18. 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 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 amenities of property in the vicinity.

18. 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 Coimisiún 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.


Mary Gurrie

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Planning Commissioner of An Coimisiún
Pleanála duly authorised to authenticate
the seal of the Commission.

Dated this 08 day of August 2025.