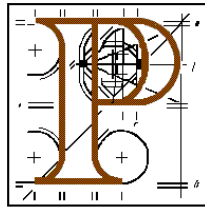


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## An Bord Pleanála



## Inspector's Report

**Development:** Permission for (a) relocation of entrance, (b) advertising signage, (c) effluent treatment plant and associated works and retention permission for (d) renovation, remodelling and change of use of Coach House and ancillary buildings to use for facilities ancillary to the camp site, (b) 15 no. camping pitches, (c) 13 no. recreational vehicle pitches, (d) part demolition of previous 'tea rooms' facility to Boathouse Bistro and part reconstruction and part new build for use for functions ancillary to the main hotel use, (e) play area, (f) WC enclosure serving camping pitches, (g) covered BBQ area and (h) timber gas tank enclosure. Dromquinna Manor (protected structure), Kenmare, Co. Kerry

### Planning Application

Planning Authority : Kerry County Council

Planning Authority Register Reference : 14/871

Type of Planning Application : Permission & Retention Permission

Applicant : John & Gwen Brennan

Planning Authority Decision : Grant subject to conditions

### Planning Appeal

Appellant : Michael O'Sullivan Hand & Xenia  
O'Sullivan Hand Bodler

Type of Appeal : 3<sup>rd</sup> Party v. Grant

Observers : None

Inspector : Pauline Fitzpatrick

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**Date of Site Inspection** : 13/01/16

**Appendices**

1. Photographs
2. Conservation objectives for Kenmare River SAC 002158

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## 1. SITE LOCATION AND DESCRIPTION

The Dromquinna Manor complex is accessed from the N70 c.4km to the west of Kenmare. It is on the north side of Kenmare Bay with a southerly aspect onto the Bay. The entrance from the national secondary road has restricted sightlines in both directions but more notably in a westerly direction due to the poor vertical alignment. The 100kph speed limit applies with double solid white lines precluding overtaking. There is a gate lodge and signage to either side of the entrance.

A meandering driveway slopes down from the entrance splitting in two to provide a separate access to the house and its associated buildings and an access to the Boat House and Shutters further south at the pier. The northern most part of the site is in grass with mature trees. An artificial lake has been developed approximately midway along the avenue and directly abuts the appellants' lands to the east. The pond is lower than their lands with water from the adjoining field noted to be entering the pond on day of inspection. The shared boundary in the vicinity is delineated by a post and wire fence backed intermittently with mature trees. The planting becomes denser along the south-eastern most stretch of the shared boundary with a grassed mound noted along part.

The Manor house is operating as a hotel. It was closed on day of inspection. The area immediately in front is laid out as a lawn (south lawn) sloping down to the Bay. Parking is provided to the east of the house with a further lawn area (east lawn). Mature trees and woodland characterise the eastern most part of the site.

The Coach House and ancillary building located to the north-west of the main house have been renovated to provide for facilities for the camp site and recreational vehicles pitches including showers, toilets, changing rooms and kitchen at ground floor level with a games and media rooms at 1<sup>st</sup> floor level. A reception room and ancillary offices in addition to a small shop are also included.

Immediately to the south of the Coach House is an area with 10 no. recreational vehicle pitches each served by power sources. An old estate wall separates this area from the 15 no. camping pitches, the footprint of each of which is delineated by a timber deck with power point. The pitches are interspersed between the trees and slope down to the Bay.

The Boat House at the southernmost point of the site adjacent to the pier is used as a restaurant. A standalone single storey building to the west of the said Boat House known as The Shutters is used for ceremonies and functions.

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The lands to the west of the tourism provision and Manor House are covered in mature woodland with a two storey house in the vicinity of the walled garden area. The lands bounding the site immediately to the north-west of the Coach House are in agricultural use with the lands to the north-east also in agricultural use and include equestrian facilities including stables and stud.

## **2. PROPOSED DEVELOPMENT**

The application was lodged with the Planning Authority (PA) on the **18/12/14** with further plans and details including revised public notices received **06/08/15** following a request for further information (FI) on the 19/02/15.

Permission is sought for:

- New entrance c 45 metres to the west of the existing entrance off the N70
- Signage at entrance
- Effluent treatment plant and soil polishing filter to be located in proximity to the proposed entrance.

Retention permission is sought for:

- Change of use of Coach House and ancillary buildings from bedroom accommodation, including alterations and remodelling, to provide for facilities to serve the camp and RV sites. The facilities include showers and toilets, laundry facilities, communal kitchen and eating area, reception, shop and administrative office accommodation with games/recreation rooms and further office space at 1<sup>st</sup> floor level.
- Covered BBQ area in courtyard of Coach House
- Timber clad gas tank enclosure
- 13 no. recreational vehicle pitches
- 15 no. camping pitches
- WC to east of camping pitches
- Playground
- Part demolition of building that formed part of the Boat House and part reconstruction, part new build to provide for a function room. The stated floor area is 154 sq.m.

The application is accompanied by:

- Engineering Report (supplemented by further report submitted with FI)
- Photographic survey of Coach House and Ancillary Buildings (FI)

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- Bat Survey (FI)
  - Road Safety Audit (FI – report prepared for previous application)
  - Hydrogeological Site Characterisation for Proposed Wastewater Discharge to Ground (FI – report prepared for previous application)

**Note:** An objection to the proposal received by the PA has been forwarded to the Board for its information. The issues raised are comparable to those in the 3<sup>rd</sup> Party appeal summarised in section 5 below.

### **3. INTERNAL REPORTS & PRESCRIBED BODIES**

#### **3.1 Internal Reports**

The **Archaeologist** in a report dated **13/01/15** notes there are no recorded monuments in the area but given the scale and location archaeological monitoring of all ground works should be required by way of condition.

The **Biodiversity Officer** in a report dated **04/02/15** recommends that a bat survey be requested. The site is in proximity to the Kenmare River cSAC which is designated for the Lesser Horseshoe Bat. Until the survey is undertaken significant effects on the designated site cannot be ruled out. The wastewater treatment plant should meet EPA guidelines and, best practices in the environmental management of waste water during construction works, should be undertaken. The **2<sup>nd</sup> report** dated **27/08/15** following FI states that the list of mitigation measures as provided in the Bat Survey should be conditioned should permission be granted.

**S.E.E. Environment Section** in a report dated **11/01/15** requires FI on the proposed wastewater treatment system, location of the proposed bore well(s), assessment that such provision would not be at risk from contamination by the treatment plant and proposed storage of waste from chemical toilets associated with RV stands. Confirmation required that the private house is served by a separate wastewater treatment system. The **2<sup>nd</sup> report** dated **28/08/15** following FI considers that the issue of risk of contamination of the bore well which is downslope of the proposed effluent treatment system has not been addressed satisfactorily. Guidance as set out in the EPA/GSI document 'Groundwater Protection Scheme' would be applied. It is considered that the proposed use of the bore well would not be appropriate due to the possible risk of contamination. The issue of waste from RVs and the lack of a specific identified outlet is a concern and approval for same is not recommended. A schedule of conditions is provided should permission be granted.

The **Executive Planner (Conservation)** in a memo dated **16/02/15** requires a photographic survey of the coach house and ancillary buildings. The **2<sup>nd</sup> memo**

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dated **19/08/15** following FI considers the survey to be satisfactory with no further observations.

**A/S.E.E. Operations Department** in a memo dated **18/02/15** notes that the NRA has identified this section of the N70 for a pavement and minor improvement scheme. A road safety audit should be submitted. The **2<sup>nd</sup> report** dated **01/09/15** details the requirements in terms of the proposed access relocation including setback of boundary wall to provide sight distances and to facilitate a vertical realignment of the road. The developer shall incorporate the final design of the N70 improvement scheme into the design of the new junction and submit the final junction design for approval. An updated Stage 1/2 Road Safety Audit to be submitted. A Stage 3 audit to be prepared on completion. The improvement in the sight distances is contingent on improving the vertical alignment. A financial contribution towards the improvement works are considered appropriate.

The **Executive Planner** in his **1<sup>st</sup> report** dated **19/01/15** recommends FI following on from the internal reports and reports from prescribed bodies in addition to clarification regarding the nature and extent of the works to the Boathouse. The **2<sup>nd</sup> report** dated **01/09/15** following FI includes both screening for EIA and AA. It is noted that the contribution as recommended towards the road improvement works was included in the previous grant of permission under 11/757. A split decision is recommended with refusal of retention permission for the RV pitches and grant of permission/retention permission for the remainder.

### **3.2 Prescribed Bodies**

The **Department of Agriculture and the Marine** in a report dated **13/01/15** notes that the proposed works do not encroach on the foreshore. But if it transpires that they do appropriate consent will be required.

The **Environmental Health Officer** in a report dated **19/01/15** has no objection.

**NRA (now Transport Infrastructure Ireland)** in a report dated **27/01/15** considers the proposal to be at variance with official policy in relation to the control of development on/affecting national roads. Insufficient data has been submitted to demonstrate that the proposal will not have a detrimental impact on the capacity, safety or operational efficiency of the national road. A Road Safety Audit should be carried out. Full details of how the proposal interacts with the adjacent N70 Dromcuinna road improvement scheme should be provided. The NRA in a **2<sup>nd</sup> report** dated **18/08/15** following FI repeats the contents of its **1<sup>st</sup> report**. It notes that the applicant indicates standards which are not in accordance with those set out in the Authority's Design Manual for Roads and Bridges. The RSA provided in support of the application is not based on the proposed design levels and as such cannot

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assess the impacts of the proposed new entrance on the adjacent N70. In addition no details of how the proposed development will interact with the adjacent Dromcuinna pavement overlay scheme were provided. A further RSA should be carried out.

The **Department of Arts, Heritage and the Gaeltacht** in a submission dated **02/02/15** recommends that a bat survey be undertaken to determine whether any bat populations in the development area would be affected by the proposal and to design in any relevant mitigation measures as appropriate to protect the species. The **2<sup>nd</sup> report** dated **01/09/15** following FI are in agreement with the conclusions of the Bat Survey document and, subject to all of the mitigation measures being implemented, there should be no significant negative impact on the site's bat population. The measures should be required by way of condition.

**An Taisce** in a submission dated **30/01/15** considers that all works need to be considered for possible impacts on the original house and its demesne. RVs and tents should be sited sufficiently far away from the house so as not to be seen from it. Existing and new planting should ensure that they are screened. It would also be desirable to screen them from the pier and shoreline so as to maintain the recreational value of the area. The works to the boathouse should blend architecturally and not dominate it.

#### **4. PLANNING AUTHORITY'S DECISION**

The PA's decision is divided into three schedules (2a, 2b & 2c)

**Schedule 2 a** - Grant permission for relocation of site entrance, advertising signage and wastewater treatment plant subject to 10 conditions. Of note:

*Condition 2:* €182,000 special financial contribution towards road improvement works.

*Condition 3(i) to (iii):* Installation of effluent treatment system within 9 months of date of permission and installation and maintenance requirements.

*(iv):* Water supply to be from mains supply only. Existing wells not be used for drinking purposes but may be used for other purposes provided they do not pose a potential threat to public health.

*(v)* Retention of competent person to determine presence of asbestos within any structure to be demolished.

*Condition 4(a - f):* Relocation of site entrance within 12 months of the decision and requirements for same, including incorporation of final design levels for the N70 Improvement Scheme into the design of the new junction, to be approved prior to commencement of development.

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**Schedule 2 b** – Grant retention permission for change of use and renovation of coach house, 15 no. camping pitches, works to Shutters, playground, WC, timber gas tank enclosure and covered barbecue area subject to 4 conditions including:

*Condition 10:* All mitigation measures in Bat Survey to be carried out.

**Schedule 2 c** – Refuse retention permission for 13 RV pitches on the grounds that the PA is not satisfied that the wastes generated by the RVs can be adequately disposed of and thus would be prejudicial to public health.

## **5. GROUNDS OF APPEAL**

The submission by Liam F. Coghlan & Co. Solicitors on behalf of the 3<sup>rd</sup> parties who own the adjoining property can be summarised as follows:

- The site map is inaccurate, in particular along the extreme north-eastern boundary as it approaches the road. It incorporates a small portion of the appellants' property with the red line bisecting a stable. The appellants wish to make sure that this is not taken as being an acknowledgement of the boundaries on the ground.
- The applicants entered into an agreement with the appellants to provide a bund and additional hedging along the shared boundary to protect their amenities and create a sound and light barrier. Horses are particularly sensitive to light and sound disturbance. These requirements should be incorporated into the current application. It has formed part of all previous permissions granted.
- The applicant had proposed to fill in the artificial pond adjacent to the driveway which was developed by the previous owner. The original drainage system was blocked by the pond and has resulted in flooding on the appellants' property. The applicants had agreed to open up the old drain and it should form part of any planning permission together with the maintenance of same.
- It should be ensured that the proposed percolation area serving the wastewater treatment plant drains to the existing drain and does not flow back into the appellants' property.
- The relocation of the site entrance should be done in the off season and should be conditioned accordingly.
- Inadequate consideration has been given to the well protection measures. The submission in terms of contamination prevention is insufficient and an adequate risk assessment has not been undertaken. Greater clarity is also required on the specific detail of bore well works to be undertaken.



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## **6. APPLICANTS' RESPONSE TO GROUNDS OF APPEAL**

The submission by PLM Architects on behalf of the applicants, which is accompanied by a supporting letter, can be summarised as follows:

- The appeal is considered to be vexatious and without foundation and should be dismissed.
- The applicants concur with the appellants regarding the issue of the actual boundaries and that the ordnance survey mapping cannot be wholly relied on. They undertake to commission an audit of the mapped and physical boundaries.
- The civil agreement with the appellants regarding the provision of the bund is not relevant to the planning decision before the Board. This was agreed between a prior owner and the appellants to reduce the impact of the significant development permitted under ref. 04/92869. It is untrue to say that this agreement covered future applications. The current proposal is low impact and respects and reuses the existing primary and secondary properties on the site without any major physical expansion and respects the character of the existing structure and grounds. Planting of deciduous and evergreen trees enhanced with shrubs would create a more robust visual and sound boundary.
- It is considered that the bunds as proposed are inappropriate in that they are alien in the landscape and inappropriate in the context of preserving the character and setting of the house and its attendant grounds
- The issue in terms of drainage is a civil matter between the parties. The issue of the blocked drain was addressed in January 2015.
- The proposal does not increase the risk of flooding. The percolation area proposed is to the north of the artificial pond. The testing undertaken confirms that there is adequate percolation. No additional surface water will be generated as part of the effluent treatment system installation.
- The new entrance would be developed as soon as the applicants are entitled to do so.
- Significant testing has been carried out with regard to the well provision. Minimum separation distances to wells will be adhered to.
- No development has commenced on foot of permission granted under 11/757.

## **7. PLANNING AUTHORITY'S RESPONSE TO GROUNDS OF APPEAL**

The PA has no further comment

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## 8. OBSERVATIONS

None

## 9. SECTION 131 NOTICE

Certain prescribed bodies were invited to make a submission on the appeal on the basis that the proposal might detract from the appearance of a protected structure. No responses were received.

## 10. RELEVANT PLANNING HISTORY

**PL08.213940 (04/2869)** – permission granted 07/07/06 for remodelling and extension of the hotel with extension to the west to provide 23 apartments, three storey health and leisure spa, 101 holiday cottages, staff accommodation for 48 no. staff, renovate existing detached building to provide for 12 no. senior staff, 286 car parking spaces, landscaping, wastewater treatment system and ancillary works. Other works to include demolition of dwellinghouse, demolition of extensions to protected structure and renovations to protected structure.

**11/757** – permission granted for (a) renovation of the existing Manor Hotel to include reception and function facilities, 12 bedroom suites and supporting facilities and removal of various ad hoc contemporary extensions and outbuildings to the rear and side and associated conservation of historic fabric. (a) provision of 32 no. tents, (c) 62 recreational vehicle stands (d) provision of supporting facilities within the existing coach house complex (e) relocation of site entrance, (f) signage structures at entrance, (g) provision of new wastewater treatment system (h) provision of a motorised vehicle waste disposal point and holding tank (i) 152 parking spaces, and all ancillary site works and landscaping.

An appeal lodged against the PA's decision was withdrawn.

**14/415** – permission refused 26/08/14 for retention of the Shutters for two reasons pertaining to inadequacy of existing site entrance and septic tank system to accommodate the development.

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## 11. DEVELOPMENT PLAN PROVISIONS

The **Kerry County Development Plan 2015** refers:

The site is located in an area designated as being of Secondary Special Amenity which is a sensitive landscape which can accommodate a limited level of development. The level of development will depend on the degree to which it can be integrated into the landscape.

The following provisions shall apply:

- Any proposal must be designed and sited so as to ensure that it is not unduly obtrusive. The onus is therefore on the applicant to avoid intrusive locations. Existing site features including trees and hedgerows should be retained to screen the development
- Any proposal will be subject to the Development Management requirements as set out in this plan in relation to design, site size, drainage etc.

Dromquinna Manor is a protected structure.

## 12. ISSUES AND ASSESSMENT

I consider that the issues arising in the case can be assessed under the following headings:

- Nature and Extent of Development
- Tourism Facilities in proximity to Manor House
- Access
- Site Services
- Amenities of Adjoining Property
- EIA - Screening
- AA- Screening

### 12.1 Nature and Extent of Development

Whilst I accept that the proposal before the Board is to be assessed on its merits I am of the opinion that its context relative to the development as approved under an extant permission is relevant.

The permission as granted under ref. 11/757 allows for 32 camp pitches and 64 recreational vehicle pitches to be located on lands to both sides of the Manor House and associated lawns. The change of use and refurbishment of the Coach House

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to provide for facilities ancillary to the RV and camping pitches are also permitted in addition to modifications to the Manor House to provide for 12 no. suites and function rooms. The relocation of the site entrance and provision of an effluent treatment system are also permitted.

The nature and extent of the development subject of the application is as given in the revised notices received by the PA that accompany the FI response. As per the covering letter accompanying the application one of the purposes of the application is to clarify the quantum of camping and recreational vehicle activity on the site. However the statement in the appeal response that no development has commenced on foot of permission 11/757 is not entirely accurate as the majority of the tourism product to be retained formed part of the approved development.

I consider that the current application could be considered as clarifying the nature and extent of the development as proposed on the site although I note that the application does not detail any works to the Manor House as previously permitted and, as such, is not before the Board for assessment at this juncture. Effectively the scheme as developed and proposed has been materially scaled back from that permitted. I propose to address each of the components in turn.

## **12.2 Tourism Facilities in Proximity to Manor House**

Retention permission is sought for 13 no. recreational vehicle (RV) pitches as previously permitted in what was the walled garden to the south of the Coach House. I note that 10 no. pitches, only, are detailed on the site plan which corresponds with the pitches as evidenced on the day of inspection. Retention permission is also sought for 15 no. tent pitches (yurts for 'glamping') to the south of the walled garden. The positions of the said pitches are set by way of timber deck bases and power points and are interspersed between the mature trees. Whilst their location are not exactly as indicated on the site layout plan accompanying the application the southernmost positioned pitch maintains a setback of in the region of 30 metres from the promenade wall.

Invariably this tourist product is seasonal in nature with the tents removed when not in use. Both the RV and camping pitches are largely screened when viewed from the Manor House by reason of the remaining walls to the garden around the RV area with mature planting to the tent pitches. Any inter-visibility is limited. Whilst the tents would be visible from the shoreline their discrete positioning among the mature trees, coupled with the line of trees that forms a visual break to the southern lawn of the Manor House, assists in limiting the visual impact on the setting of the protected structure.

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An element that did not form part of the previous application is a small timber clad WC providing for two toilets adjacent to the tent pitches providing for night time use. The structure is small and located in a planted area, thus its impact is largely neutralised.

The works to the Coach House are as indicated on the plans that accompanied the previous application granted permission and provide for supporting facilities for the said camping/recreational vehicle facilities, namely toilets and showers, changing rooms, games rooms and ancillary offices. A full photographic record of the works was submitted by way of FI which I noted on inspection to be a true representation. I consider that the works undertaken which provide for minimal external intervention are considered to be sensitive to the historic fabric of the building and would accord with the Guidelines on Architectural Heritage Protection. The addition of a covered barbecue in the southern courtyard is not considered to constitute a material concern in terms of the setting of the said building and is considered acceptable. The same would apply to the timber clad gas tank enclosure. I would also consider that the playground is suitably sited and does not detract from the setting and amenities of the main House or the Coach House in the context of that already permitted.

The feature that effectively constitutes a new element to the tourism product on the site is the building known as The Shutters adjacent to the Boat House. The single storey, standalone structure replaces a smaller building which was used for purposes ancillary to the Boat House. As per the details submitted by way of FI the building is to be used as a function room for civil ceremonies/parties ancillary to the main hotel use. The room was laid out for a ceremony on day of inspection. I consider that the design and scale of the structure and its finishes compliments the Boat House immediately adjoining and remains subsidiary to same and thus is not considered to have a negative impact on its character, integrity or setting. As with the camp site views of both the Boat House and the Shutters are largely screened from view from the Manor House due to a stand of intervening mature trees.

In conclusion I consider that the tourism provision in terms of the RV and tent pitches, changes to the Coach House and the new build in terms of the Shutters building are considered acceptable and do not detract from the architectural quality and setting of the Manor House nor have a negative impact on the integrity of its attendant grounds. I note that the Department of Arts, Heritage and the Gaeltacht was invited by way of section 131 to make a submission on the appeal. No response was received.

### **12.3 Access**

The proposed access arrangement is as permitted under 11/757 and entails its relocation approx. 45 metres to the west of the existing entrance. It will require the

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removal of three trees and the boundary wall. The relocation to the west would allow for better sightlines in both directions, namely an increase of 136 to 237 metres to the east and from 60 to 149 metres to the west and would provide for a materially improved situation than currently exists.

Transport Infrastructure Ireland has maintained its position that development on the site is contrary to national policy in terms of access onto National Roads. I note that the site has been used for tourism purposes for a significant period of time with the Manor House previously used as a hotel. The access will also be serving a materially scaled back tourism product relative to that originally permitted

In view of the fact that the tourism product has already been developed on the site a condition requiring the necessary alterations to be done within a specific time period is entirely reasonable. As per the correspondence on file from the NRA and the Operations Department of the County Council limited improvement works are proposed along the N70 in the vicinity of the site and any works to the proposed access should ensure that they do not compromise same. A condition comparable to that attached by the PA would be appropriate in this instance. I note that a special development contribution of €182,000 was attached towards the proposed improvement works both in the PA's decision on the current case and to the previous permission under ref. 11/757 to which the applicant did not/has not objected. In view of the fact that the vertical alignment works along this section of the N70 would benefit the proposed development it is reasonable to recommend that such a condition be applied.

I would suggest that as the facilities on the site are seasonal that the relocation of the access at a time which does not correspond with its peak season would be to both the applicants and the appellants' benefit however a condition requiring same would not be appropriate in the context of its relevancy to planning.

#### **12.4 Site Services**

Wastewater presently generated by the site is treated by a conventional septic tank system with discharge to Kenmare Bay. The proposal before the Board entails the cessation of such an arrangement and provision of a wastewater treatment system with polishing filters and controlled discharge to ground with due regard had to the EPA guidance document Waste Water Treatment Manual – Treatment Systems for Small Communities and Business, Leisure Centres and Hotels.

The proposed wastewater treatment plant subject of this application has been reduced from that previously granted permission to reflect the scaled back level of development now proposed and has been designed to deal with the variability of loading due to the seasonal nature of the facility. The previously designed system

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was for 22.4m<sup>3</sup> wastewater per day with the current design being for 14.5m<sup>3</sup> per day. As per the information provided by way of FI the plant is to facilitate the hydraulic and organic loads arising from the following:

- 15 yurts (tents)
- 12 RVs
- 12 Hotel Suites
- 160 Hotel Function Facility
- 25 Staff
- 60 Bistro
- 80 Shutters

The above equates to an PE of 415.

The application is accompanied by adequate documentation and detail to confirm that the site is capable of providing for the proposed system. As the majority of the tourism elements have been developed on the site it is imperative that the system be installed within a specified time period as stipulated by the PA in condition 3 of its decision.

The location of the proposed effluent treatment system and polishing filter is to the north-west of, and does not impinge on, the existing artificial pond which abuts the appellants' property.

The issue of disposal of waste from the chemical toilets in the RV stands does not appear to be resolved. Discharge to the proposed effluent treatment system is acknowledged as being unacceptable. Whilst it is the intention to provide a static tank for collection of the waste, confirmation from Irish Water that it would accept this waste by-product has not been secured. It is stated in the FI that presently waste is discharged by RV users to convenient public toilets or to the side of the road and that in the absence of agreement with Irish Water that onsite disposal not be allowed with RV users to be instructed to deal with it themselves.

This, in my opinion, is an unsatisfactory solution and I would concur with the PA that the absence of such provision is problematic. The provision of such a tourism product without appropriate back up services is not acceptable. Thus, until this matter can be appropriately resolved I would concur with the PA's approach to preclude the continued use of the RV pitches.

Water supply is currently via three wells, 2 no. near the entrance and the 3<sup>rd</sup> adjacent to the south of the Coach House. The site is also served by a local authority mains. The two wells by the site entrance are to be decommissioned as a consequence of their proximity to the proposed effluent treatment system. Whilst it is proposed to

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retain the 3<sup>rd</sup> as the main source with the local authority supply a secondary source if needed, I note that it is approx. 220 metres downslope of the proposed treatment system. As per the Senior Executive Engineer's Environment report dated 28/08/15 sufficient detail is not available on file to demonstrate that the said water supply would not be susceptible to possible risk of contamination and in view of the alternative supply available I would concur with the PA's recommendation to preclude the use of same as the main potable water supply to the scheme.

I note the appellant's concerns that they use the same groundwater for their horses. No further details are provided in support and I note that this matter was not raised in their submission to the PA during its assessment of the application. In this regard I note that the Hydrogeological Site Assessment which was prepared for the previous application 11/757 and which was submitted by way of FI on this application, notes that the GSI database indicates that there are no other recorded wells in the land surrounding the proposed development site. It would appear that the appellants did not dispute this fact at the time of the assessment of 11/757. A further examination of the said database does not indicate any changes in terms of additions in the area since the report was prepared. Thus on the balance of evidence available and subject to the above recommendation in terms of water supply to the subject site it is reasonable to conclude that the proposed development would not pose a risk in terms of water contamination.

## **12.5 Amenities of Adjoining Property**

The appellants raise concerns regarding the absence of berms alongside the shared boundary which they contend were incorporated into the previous development proposals. Such provision is considered necessary to provide both a light and noise screen to their property. I note that earthen embankments at various locations were detailed in plans submitted by way of FI on the previous application 11/757. Such provision does not form part of this application. As noted on day of inspection the shared boundary is delineated by a post and wire fence with mature trees along sections with open views onto the appellants' property available in parts. In general the topography of the area slopes gently down to the shoreline and I would tend to concur with the view that the supplementation of the existing planting would be more appropriate to the setting and character of the Manor House and grounds than the installation of a berm structure at variance with this gently sloping topography. In my opinion such supplementation would provide for a level of screening between the sites in terms of noise, light and indeed views. The issue of an agreement between the parties pertaining to the provision of such berms is a civil matter and not a matter for adjudication in this appeal.

I note that the artificial lake adjacent to the avenue is lower than the appellants' lands with water draining from same into the said water feature. It does not appear to be



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causing a blockage. The agent for the applicant in the appeal response states that the matter of drainage at this location has been resolved. As the proposed development does not impact on this pond or drainage in the vicinity any further contention in this any regard constitutes a civil matter for resolution between the parties.

The issue of the accuracy of the boundary particularly in the north-eastern most corner as given on the site map as raised by the appellants is accepted by the applicant and appears to have arisen due to incremental alterations over time with ordnance survey mapping not entirely accurate as a consequence. The applicant proposes to undertake an audit of the mapped and physical boundaries. The appellants wish to make sure that this is not taken as being an acknowledgement of the boundaries on the ground. I consider that the boundary nuances do not prejudice the application as before the Board.

## **12.6 EIA – Screening**

The tourism product on the site with a stated area of 12.78 hectares falls materially short of the thresholds as set out in Class 12, Part 2 of Schedule 5 of the Planning and Development Regulations at which an EIS would be required, namely the site does not exceed 20 hectares, does not have in excess of 300 bedrooms and the camp site and RV pitches totalling 28 (25 if taking the fact that 10 no. only RV pitches have been developed) falls materially short of the 100 pitch threshold. The thresholds as set out in Class 13 which pertains to changes and extensions with respect to the additional provision to the tourism development are not met or exceeded.

In terms of sub-threshold assessment I submit that the site has been in use for tourism purposes for a significant period of time with the Manor House and Boat House used as hotel and restaurant. The development as proposed represents a small scale addition to the product available on the site and is materially smaller than that already permitted under reference number 11/757. The proposed access relocation would provide for improved sight lines which would benefit users of the N70 and patrons of the site. Whilst proximate to the Kenmare River SAC proposals entail the provision of new effluent treatment plant with discharge to ground which will represent an improvement over the current situation which entails disposal by conventional septic tank and discharge to Kenmare Bay. The proposal would have a potential positive impact in terms of water quality. A bat survey accompanying the application concludes that the proposal, subject to certain provisions, would not have an adverse impact on the protected species. Whilst within a secondary special amenity area and within the grounds of a protected structure the additional tourism provision is considered to be of a scale and design which would not detract from the integrity and setting of the structure or the visual amenities of the area.

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I consider that there is sufficient information on file addressing the environmental effects arising as to allow for a proper assessment of the proposal. Thus, having regard to Article 102 of the Planning and Development Regulations and to the criteria for determining whether a development would or would not be likely to have significant effects on the environment as set out in Schedule 7, I submit that the proposal would not have a significant effect on the environment.

## **12.7 AA - Screening**

I consider that the material available to me in preparation of this report is sufficient to allow for a screening determination. I propose to have regard to the guidance published on Appropriate Assessment of Plans and Projects in Ireland Guidelines for Planning Authorities. (DoEHLG 2009), the provisions of Article 250(3)(b) of the Planning and Development Regulations 2001, as inserted by Chapter 4 of the Planning and Development Regulations (Amendment) (No. 3) Regulations 2011 and my site inspection.

The following staged approach to screening for appropriate assessment is recommended in both EU Guidance and by the Department of Environment, Heritage and Local Government:-

1. Description of the plan or project and local site or plan area characteristics.
2. Identification of relevant Natura 2000 sites and compilation of information on their qualifying interests and conservation objectives.
3. Assessment of likely effects-direct, indirect and cumulative, undertaken on the basis of available information.
4. Screening statement with conclusions.

### *Project Description and Site Characteristics*

A description of the general area and the proposed project are set out in sections 1 and 2 above.

### *Relevant Natura 2000 Sites, Qualifying Interests and Conservation Objectives*

The appeal site slopes down to but does not form part of the Kenmare River SAC (site code 002158). The qualifying interests for the site include 11 habitats including Mediterranean Salt Meadow and European Dry Heaths and 4 species - Narrow-mouthed Whorl Snail, Lesser Horseshoe Bat, Otter and Common Seal.

Detailed conservation objectives for the site have been prepared, the overall objective being to maintain or restore the favourable conservation status of the

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habitats and species of community interest so as to contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level. A copy of the objectives is attached to this report for the Board's information.

*Assessment of likely effects*

I note an Ecological Impact Assessment report prepared in support of the previous application for a larger tourism scheme under 11/757 whilst a Bat Survey accompanies the current application.

As the project is not within the identified designated site no direct impact is anticipated. However there is the potential for indirect impacts. Particular regard is had to the following:

A number of the species identified in the immediately adjacent Kenmare River SAC are water quality dependent. The current proposal entails the cessation of the current arrangement whereby the site is served by a conventional septic tank system with discharge to Kenmare Bay and replacement with an appropriately sized and designed effluent treatment system with controlled discharge to ground. Sufficient detail is provided in support of the application as to the suitability of the site to accommodate same. As such the proposal offers an opportunity for a positive impact. Thus in view of the size of the proposed development significant impacts on the qualifying interests of the Kenmare River SAC as a result of potential impact on water quality can be excluded.

The Lesser Horseshoe Bat is a qualifying interest of the SAC. As per the Bat Survey Dromquinna Manor continues to be a site that is rich in bat fauna with the said qualifying interest noted to be roosting within the attics of the house, commuting through the estate and feeding within and around the area. No trees are used as roost site at the main entrance (where three trees are to be felled to allow for its relocation) although it is noted that the Lesser Horeshoe Bat will not roost in trees normally. The Coach House was not known to be bat roost from previous surveys and the risk to bats was low. The main risk would be via repairs to the Manor House which does not form part of this application.

Lighting associated with the tourist product affects all bats and lighting to the camp sites could inhibit movement by light intolerant species such as the Lesser Horeshoe Bat. Such lighting can be appropriately set to be as effective and not impact negatively on the commuting patterns of the species. Subject to certain requirements in terms of lighting provision throughout the site and standard methodologies for tree felling by the road and provision of bat boxes for bat species other than that listed as a qualifying interest, significant impacts are considered unlikely.

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In terms of cumulative impacts the potential redevelopment of the Manor House in which the qualifying interest is known to roost has been previously assessed under ref. 11/757 which concluded that there would be no adverse effects subject to application of standard construction methodologies. I therefore consider that significant in combination effects would not arise.

### *Screening Statement and Conclusions*

In conclusion having regard to the foregoing and on the basis of the information available, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects would not be likely to have a significant effect on any European Site and in particular site number 002158 in view of the site's Conservation Objectives and, a Stage 2 Appropriate Assessment (and submission of a NIS) is not therefore required.

## **13. CONCLUSIONS AND RECOMMENDATION**

Having regard to the documentation on file, the grounds of appeal, the responses thereto, a site inspection and the assessment above I recommend that permission and retention permission for the above described development be granted for the following reasons and considerations subject to conditions.

### **REASONS AND CONSIDERATIONS**

Having regard to the established use of the site for tourism purposes, the planning history on the site, in particular the permission granted under planning reference number 11/757 and to the nature and extent of the development proposed and proposed to be retained, it is considered that subject to the conditions set out below, that the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would therefore be in accordance with the proper planning and sustainable development of the area.

### **CONDITIONS**

1. The development shall be carried out, completed and retained in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 6<sup>th</sup> day of August 2015 except as may otherwise be required in order to comply with the following conditions.

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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 to which this permission refers is as detailed on the plans and details accompanying the application, only, and does not refer to any other structure or works on the overall site.

**Reason:** In the interest of clarity.

3. The recreational vehicle pitches developed to the south of the Coach House shall be removed within three months from the date of this order. A revised layout plan with the necessary alterations shown thereon including proposed reinstatement works to the area in question, shall be submitted to the planning authority for written agreement.

**Reason:** In the interest of public health.

4. The relocation of the proposed access and associated works shall be carried out within 6 months from the date of this order. Revised plans incorporating the proposed Improvement Scheme for the N70 in the vicinity of the proposed access including setback, height, design and finishes of the boundary wall shall be submitted for the written agreement of the planning authority prior to commencement of development.

**Reason:** In the interest of traffic safety

5. An updated Stage 1/2 Road Safety Audit for the proposed access shall be submitted for the written agreement of the planning authority prior to commencement of development. A Stage 3 Road Safety Audit shall be undertaken on completion of the works and submitted to the planning authority for written agreement.

**Reason:** In the interest of traffic safety

6. (a) Within 6 months from the date of this order the treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details lodged with the application, as amended by the further plans and particulars submitted on the 6<sup>th</sup> day of August 2015. No

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system other than the type proposed 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 for a minimum period of five years from its installation 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) Drainage from paved areas of the site shall be diverted away from the location of the polishing filter.
- (e) Within three months of the installation of the treatment system, 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.

**Reason:** In the interest of public health.

- 7. Water supply shall be from public mains. The bored well on the site shall not be used for a potable water supply.

**Reason:** In the interest of public health.

- 8. A comprehensive scheme of landscaping to supplement the existing planting along the site boundaries in the northern part of the site shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This scheme shall include the following:

- (a) A plan to scale of not less than [1:500] showing –
  - (i) 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
  - (ii) Details of screen planting which shall not include *cupressocyparis x leylandii*
  - (iii) Details of roadside planting which shall not include *prunus* species

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(b) A timescale for implementation.

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 5 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.

9. Within three months from the date of this order bat roosts shall be incorporated into the site and the recommendations of the Bat Survey report submitted to the planning authority on the 6<sup>th</sup> day of August 2015, including alterations to site lighting, shall be carried out on the site to the written satisfaction of the planning authority.

**Reason:** To ensure the protection of the natural heritage on the site.

10. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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.

11. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2) (c) of the Planning and Development Act 2000 in respect of N70 Road Improvement Works. The amount of the contribution shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board for determination. The contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with

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changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

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**Pauline Fitzpatrick**  
**Inspectorate**

**January, 2016**