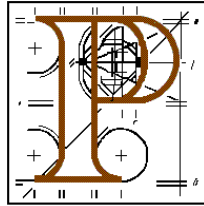

An Bord Pleanála



Inspector's Report

Ref.: PL08. 245953

Development: a) Make elevation changes to dwelling house, b) demolish rear extension (apartment 2), c) construct new rear extension to dwelling house, d) removal of apartments 1 & 2 to convert Silverspruce House back to one dwelling house and e) construct an apartment block with four number apartments to the rear of the site and all associated site works.

Silverspruce, New Road, Killarney, Co. Kerry.

PLANNING APPLICATION

Planning Authority: Kerry County Council
Planning Authority Ref.: 15/702
Applicant: John Paul Coghlan
Type of Application: Permission
Planning Authority Decision: Grant subject to conditions

APPEAL

Type of Appeal: Third Party v. Decision
Appellant: Sean O'Brien

Observers: None.

INSPECTOR: Robert Speer

Date of Site Inspection: 29th April, 2016

1.0 SITE LOCATION AND DESCRIPTION

1.1 The proposed development site is located along the southern side of New Road in Killarney town, Co. Kerry, approximately 420m northwest of the junction of New Street / Main Street / High Street in the town centre, in an inner suburban area which can be described as mixed-use given the presence of a variety of commercial, educational and service uses including a Garda station, schools and Government offices, in addition to a notable residential component, although on progressing westwards along New Road there is a gradual transition with the residential component of the area becoming increasingly prevalent. The site itself has a stated site area of 0.0964 hectares, is irregularly shaped and is occupied by a vacant, two-storey-over-basement, former guest house / 'Bed and Breakfast' ('Silerspruce House') which is presently undergoing renovation / re-construction with some demolition works having already been partially carried out to the rear of the property. It adjoins a substantial two-storey property to the immediate west which although seemingly vacant would appear to have previously been in operation as a hotel whilst the adjacent lands to the east are occupied by a former guesthouse known as 'Gleanntan House' which is also presently undergoing renovation works. To the rear of the site are vacant lands associated with another guesthouse known as Knockcullen House.

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

2.1 The proposed development consists of the following:

- Elevational changes to the existing dwelling house.
- The demolition of the rear extension which presently comprises 'Apartment No. 2'.
- The construction of a new rear extension to the existing dwelling house.
- The removal of Apartment Nos. 1 & 2 in order to convert 'Silerspruce House' back to a single dwelling house.
- The construction of a two and a half storey free-standing apartment block providing 4 No. apartments to the rear of the site and all associated site works.

N.B. A Certificate of Exemption in accordance with Section 97 of the Planning and Development Act, 2000, as amended, was issued on 29th September, 2015 in respect of the proposed development.

3.0 RELEVANT PLANNING HISTORY

3.1 On Site:

PA Ref. No. 04204300. Was granted on 31st March, 2005 permitting Lynch & Bradley Solicitors permission to part demolish existing house and extension to same with change of use to offices, construction of 2 No. dwelling units at rear of house, refurbish existing apartment and provision of signage.

PA Ref. No. 06204541. Was refused on 5th April, 2006 refusing Philip O'Connor permission to 1) Demolish 2 existing 2-storey dwelling houses & other single storey structures; 2) Construct a new building to comprise of the following: A) a basement containing 29 car spaces, ESB sub-station, 2 bin storage areas, lift motor room, access for the basement will be via of a car lift, accessible from ground floor; B) public amenity space at ground floor; C) 2 no. offices at ground & 1st floor; D) 22 no. apartments as follows:- 3 no. 2-bed apartments & 3 no. 1-bed apartments on ground floor; 5 no. 2-bed & 1 no. 1 bed apartments on 1st floor; 5 no. 2-bed & 1 no. 1 bed apartments on 2nd floor; 4 no. 2-bed apartments on 3rd floor. 3) Construct rooftop gardens & stairs to same on 3rd & 4th floors; 4) Connect to public foul and storm sewers; 5) All necessary associated external works.

PA Ref. No. 07204700 / ABP Ref. No. PL63.224720. Was refused on appeal on 19th May, 2008 refusing Philip O'Connor permission for (1) The demolition of two existing two-storey dwelling houses and other single storey structures. (2) The construction of a new building to comprise of the following: (A) a bin storage area and on-site car parking spaces, (B) public amenity space at ground floor level, (C) 2 No. offices at ground and first floor levels and 1 No. office on second floor level and (D) 11 No. apartments as follows: 1 No. two bedroom apartment and 3 No. one bedroom apartments on ground floor level, 3 No. two bedroom apartments and 1 No. one bedroom apartment on first floor level, 2 No. two bedroom apartments on second floor level and 1 No. two bedroom apartment on third floor level. (3) Construction of rooftop gardens to second floor level. (4) Connection to public foul and storm sewers. (5) All necessary associated external works, for the following reason:

- Having regard to the size of this restricted site, the proximity of the proposed four storey development to the site boundaries and the proposals for parking, it is considered that the proposed development would constitute overdevelopment of the site, would seriously injure the residential amenities of adjacent property and would adversely affect the development potential of adjacent lands. The proposed development

would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2 On Adjacent Sites:

PA Ref. No. 05204433 / ABP Ref. No. PL63.217651. Was refused on appeal on 18th September, 2006 refusing Sean and Charles O'Brien permission to demolish dwelling house/structure and construct an apartment block development consisting of:- (i) Block A – 6 No. two bedroom apartments and 1 No. one bedroom apartment. (ii) Block B – 15 No. two-bedroom apartments and 4 No. one bedroom apartments. (iii) Block C – 8 No. two-bedroom apartments and 2 No. one bedroom apartments. (iv) Block D – 15 No. two-bedroom apartments and 4 No. one bedroom apartments. Basement car park containing 59 No. car spaces, 2 No. bin stores, construct service road, footpaths, ancillary areas and services including courtyard lift/stairwells, all at New Road / Coollegrean, Killarney, Co. Kerry, for the following reasons:

- The proposed development, by reason of its scale, layout, open space provision alongside the River Folly, proximity to boundaries and its unresolved access road to the south of the site, would set a precedent for similar development in the area, would prejudice the development potential of the adjacent sites, would seriously injure the amenities and depreciate the value of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.
- The proposed development, providing a new access onto New Street, would be premature pending the making of a road layout for the area having regard to the emerging road layout in the area as set out in the draft Killarney Urban Master Plan. The proposed development would, therefore, constitute disorderly development and be contrary to the proper planning and sustainable development of the area.

PA Ref. No. 15615. Was granted on 22nd February, 2016 permitting the Reprs. of the late Mrs. Kathleen O'Connor outline permission for the demolition of a single storey extension to side of dwelling at No. 7 New Road and construction of 1 No. detached and 6 No. semi-detached two storey dwellings as well as vehicular / pedestrian access from New Road and access roadway including all associated site development works at No. 7 New Road, Killarney, Co. Kerry.

PA Ref. No. 16337. Application by the Reprs. of the late Mrs. Kathleen O'Connor permission consequent on a grant of outline permission for the demolition of single storey extension to side of dwelling at No. 7 New Road and construction of

1 No. detached and 6 No. semi-detached two storey dwellings as well as vehicular / pedestrian access from New Road and access roadway including all associated site development works at No. 7 New Road, Killarney, Co. Kerry. No decision to date.

4.0 PLANNING AUTHORITY CONSIDERATIONS AND DECISION

4.1 Decision:

Following the receipt of a response to a request for further information, on 11th December, 2015 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 24 No. conditions. These conditions are generally of a standardised format and relate to issues including development contributions, construction management, landscaping, external finishes, and infrastructural services, however, the following conditions are of note:

Condition No. 11 – Requires all of the recommendations of the Road Safety Audit (Stage 1) to be implemented in full with the design of same to be approved by the Killarney Municipal District Engineer prior to the commencement of development.

Condition No. 12 – Requires the development to be subjected to a Stage 2/3 Road Safety Audit with all the recommendations of same to be implemented prior to the first occupation of any apartment unit.

4.2 Objections / Observations:

A total of 2 No. submissions were received from the appellant, the contents of which are reiterated in the grounds of appeal.

4.3 Internal Reports:

Conservation Officer: No objection.

Area Engineer: No objection subject to conditions.

Housing Estates Unit: States that the sightlines to the west on exiting the proposed development are obstructed by a mature tree and that the limited width of the access laneway could potentially result in traffic backing up onto the public road. This report subsequently proceeds to comment on wider aspects of the overall development including the need for bin storage facilities, landscaping, a development bond, and the establishment of a management company.

4.4 Prescribed Bodies / Other Consultees:

Transport Infrastructure Ireland: States that the Authority will rely on the planning authority to abide by official policy in relation to development on / affecting national roads as outlined in the DoECLG's '*Spatial Planning and National Roads, Guidelines for Planning Authorities (2012)*'.

5.0 GROUNDS OF APPEAL

The grounds of appeal are summarised as follows:

- The existing wall along the southern site boundary is not a shared party wall and is located entirely within the appellant's property. In this respect it is further submitted that the legally registered boundary is detailed in the 'Title Deed and Folio Plan (KY10668 Book No. 126)' and that this clearly indicates that the boundary in question is positioned c. 3.2m to the north of the southern wall. Therefore, the southernmost edge of the proposed apartment block is located on the appellant's land. In support of the foregoing, the grounds of appeal have been accompanied by a copy of the relevant folio map which identifies the extent of that area of the appellant's property (c. 97.5m²) which has been included within the proposed development site.
- The height and positioning of the proposed development relative to the site boundaries undermines the development potential of the appellant's property as it will be necessary to significantly set back any future development on those lands from the site boundary in order to achieve a reasonable degree of separation.
- The proposed development provides for 3 No. car parking spaces to serve the apartment units located to the rear of the site whilst a total of 5 No. parking spaces are proposed for the entirety of the development. Accordingly, it is considered that the proposed parking provision is inadequate and fails to comply with the requirements of the Killarney Town Development Plan, 2009-2015. Furthermore, it is submitted that the provision of car parking needs to be realistic and set at a reasonable level so as to avoid the parking of vehicles along New Road thereby causing an obstruction to road users during peak school periods and also to provide the future occupants of the proposed development with an appropriate standard of residential amenity.

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- Inadequate provision has been made for sufficient waste and bicycle storage facilities to meet the needs of the future occupants of the proposed development.
 - The proposal does not include for adequate public open space provision and will therefore result in a poor aspect from the proposed residential units.
 - Having regard to the size, scale and excessive density of the development proposed on this very restricted site, the proximity of the proposal to the site boundaries, and the proposed arrangements for parking, bin storage and open space, it is considered that the subject proposal constitutes an overdevelopment of the application site which would seriously injure the residential amenities of adjacent properties.
 - The proposed development would have an adverse impact on the development potential of surrounding properties.
 - The submitted proposal represents piecemeal development, would not be in keeping with the Killarney Town Development Plan, 2009-2015, and has not been designed in accordance with the requirements of the '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities*'.

6.0 RESPONSE TO GROUNDS OF APPEAL

6.1 Response of the Planning Authority:

None.

6.2 Response of the Applicant:

- Contrary to the appellant's assertion, it is submitted that the disputed lands are within the ownership of the applicant. The boundary wall between the proposed development site and the appellant's property has been *in situ* for in excess of 30 No. years and the location of same has never previously been in dispute.
- The proposed development site is contained wholly within the boundary walls as constructed '*on the ground*' and the site boundaries correspond with Folio Nos. KY24900, KY31950F & KY28722F (as supported by the accompanying copies of the relevant folio maps).
- Any dispute over the ownership of the land is a civil matter and not a planning issue.
- The proposed apartment block is located on lands zoned as 'Town Centre Facilities' in the Killarney Town Development Plan, 2009-2015 and the

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- development of apartments is 'permitted in principle' within this land use zoning objective.
- The design of the apartment block is intended to integrate with the site context in terms of height, scale and mass.
 - Notwithstanding the absence of any guidance as regards minimum setback standards for town centre sites, the proposed construction has been set back between 2.45m and 3.7m from the site boundary.
 - There are a number of instances in Killarney where the setback for similarly scaled developments is less than that proposed in the subject application e.g. PA Ref. Nos. 06204587, 05204397, 06202734 & 12205302.
 - The proposed apartment block consists of a two and a half storey development with an eaves height of 5.81m and an overall ridge height of 9.21m over ground level. The northern elevation of this block presents as a traditional design which is in keeping with existing housing along New Road. The rear building line of the proposed apartment block is in line with that of the existing single storey dwelling house within the appellant's property (to the east of the proposed development site).
 - Section 12.37.3: '*Sustainability*' of the Killarney Town Development Plan, 2009 states that priority should be given to the needs of walking, cycling, public transport and the need for car borne trips should be minimised. In this respect it is submitted that the proposed development is located within walking distance of 2 No. primary schools and 3 No. secondary schools whilst the town centre is only a three minute walk away thereby allowing access to shops and services.
 - The design of the proposed apartments complies with the '*Design Standards for Apartments, 2007*'.
 - A total of 3 No. car parking spaces will be provided for the proposed apartment block whilst it is not a prerequisite of the Development Plan to provide 1.25 No. parking spaces per apartment.
 - The proposed bin and bicycle storage provision complies with the requirements of Section 12.23.2 of the Town Development Plan. In this respect it is submitted that an external bin storage area measuring 4.5m x 2.5m has been included in the scheme whilst provision has also been made for 8 No. bicycle stands (i.e. 2 No. stands per apartment). It should also be noted that Apartment Nos. 1 & 2 will have the option of storing bicycles / bins within the private patio areas at ground level.
 - 'Silerspruce' presently accommodates a 'Bed and Breakfast' with 8 No. bedrooms and also includes 1 No. one-bedroom apartment and 1 No. two-bedroom apartment. The proposed development will result in

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- 'Silerspruce' being brought back into line with the current land use zoning objective for the site (i.e. housing protection). It is proposed that the front apartment will be turned into a garage whilst the rear apartment will be demolished to provide open space for the dwelling house (2 No. car parking spaces will be provided to serve 'Silerspruce').
- 'Gleanntan House' has historically relied on 'on-street' parking and this is supported by the documentation submitted in response to the request for further information issued by the Planning Authority.
 - The rear elevation of the apartment block maximises its southern aspect.
 - Open space for Apartment Nos. 1 & 2 will be provided to the rear and side of the apartment block at ground level. The roof terrace at second floor level will provide open space for Apartment Nos. 3 & 4 in full compliance with the Killarney Town Development Plan, 2009. Each apartment has been provided with more than 20m² of open space in the form of patios and / or balconies as required by Section 12.21.1 of the Development Plan.
 - The first floor windows to the front elevation of the apartment block have been designed so that they do not result in the overlooking of the rear garden areas of the existing dwelling houses along New Road. They are high level windows and / or obscured with opaque glass.
 - In reference to the assertion in the grounds of appeal that the design of the proposed development does not accord with the requirements of the 'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009', it is notable that the appellant has not stated specifically how the proposal is in breach of the Guidelines. In any event, such an assertion is rejected.
 - The design of the apartment block has been informed by the context of its surroundings, including both existing and permitted development.
 - The design of the proposed development has taken account of the requirements of the 'Design Manual for Urban Roads and Streets' as part of the Stage 1/2 Road Safety Audit.

7.0 RESPONSE TO CIRCULATION OF APPLICANT'S SUBMISSION

7.1 Response of the Planning Authority:

None.

7.2 Response of the Appellant:

- It is reiterated that having regard to the size, scale and density of the proposed development on this very restricted site, the submitted proposal

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- amounts to an overdevelopment of the site which would seriously injure the residential amenities of adjacent properties.
- The proposed development will adversely impact on the development potential of adjacent properties.
 - The subject proposal constitutes piecemeal development which would be contrary to the proper planning and sustainable development of the area.
 - With regard to the applicant's reference to the rear building line of the proposed apartment block being in line with that of an existing single storey dwelling house within the appellant's property, the Board is advised that the structure in question was constructed for storage purposes only and is currently used for such purposes i.e. it is not a dwelling house.
 - The applicant's ownership of the southern wall has never been in dispute, although the wall itself has not been in place for 30 No. years as has been claimed by the applicant. The legally registered boundary is detailed in the appellant's 'Title Deed and Folio Plan (KY10668 Book No. 126)' which clearly indicates that the boundary is located c. 3.2m to the north of the wall in question (as supported by the accompanying engineer's survey).
 - The existing wall was put in place as part of an interim family arrangement to allow for the temporary provision of car parking for both Gleanntan House and Silverspruce House when both properties were operating as 'Bed and Breakfast' accommodation. It was never intended to result in the establishment of a legal property boundary. Over the last number of years the aforementioned properties have lain derelict and been used for anti-social behaviour. Accordingly, the wall and high railing were left *in situ* in order to prevent illegal access to the appellant's property.

8.0 NATIONAL AND REGIONAL POLICY

8.1 The '*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009*' note that in general, increased densities should be encouraged on residentially zoned lands and that the provision of additional dwellings within inner suburban areas of towns or cities, proximate to existing or due to be improved public transport corridors, has the potential to revitalise areas by utilising the capacity of existing social and physical infrastructure. Such developments can be provided either by infill or by sub-division. In respect of infill residential development potential sites may range from small gap infill, unused or derelict land and backland areas, up to larger residual sites or sites assembled from a multiplicity of ownerships. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and the privacy of adjoining

dwellings, the protection of established character and the need to provide residential infill.

8.2 The ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2015’ (which update the ‘Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2007’) provide detailed guidance and policy requirements in respect of the design of new apartment developments. Notably, where specific planning policy requirements are stated in the document, the Minister intends that such requirements must take precedence over policies and objectives of development plans, local area plans or strategic development zone planning schemes. Furthermore, these guidelines apply to all housing developments that include apartments, whether public or private. The updated guidelines aim to uphold proper standards for apartment design to meet the accommodation needs of a variety of household types and sizes – including households with a child or children, students, older people and an increasingly mobile workforce. They also seek to ensure that, through the application of a nationally consistent approach, new apartment developments will be affordable to construct and that supply will be forthcoming to meet the housing needs of citizens.

9.0 DEVELOPMENT PLAN

Killarney Town Council Development Plan, 2009-2015:-

Land Use Zoning:

The proposed development site is located in an area zoned as ‘Town Centre Facilities’ with the stated land use zoning objective ‘to provide for and improve the development of the Town Centre’. In accordance with Section 12.3.5.1 of the Plan, use for ‘residential’ purposes is ‘permitted’ within this land use zoning.

Other Relevant Sections / Policies:

Chapter 3: Housing:

Section 3.6: Housing Protection Areas:

Policy HSG-03: It is a policy of the Council:

- a) *To preserve the residential distinctiveness and character of established residential communities by the designation of Housing Protection Areas. In general, the Council shall not be in favour, except in exceptional circumstances, the sub-division of:*

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- *Existing dwelling houses, located in areas zoned for residential use, into two or more separate dwelling units/apartments, or*
 - *Individual residential sites, in areas zoned for residential use, into two or more sites for the provision of extra dwellings on the site, where, such development would lead to congestion of layout, over development of the site and would tend to detract from the residential amenities of properties in the immediate vicinity.*
- b) *To curtail the change use of existing houses to other uses within such areas except in immediate family circumstances*
- c) *To extend the Housing Protection Zone to include the Woodlawn Park area (See map of Housing Protection Zone). It is essential that the detached and semi – detached character of the area is preserved with a presumption against terrace style or infill development.*

Chapter 12: Land Use Zoning Objectives and Development Management Standards:

Section 12.7: Requirements for New Residential Developments

Section 12.11: Residential Layout and Design:

Section 12.20: Apartments

Section 12.21: Apartment Open Space

Section 12.26: Infill Developments

N.B. The duration of the Killarney Town Development Plan 2009-2015 has been extended until such time as it is superseded by a Municipal District Plan.

10.0 ASSESSMENT

From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development
- Overall design and layout

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- Impact on the amenities of surrounding properties
 - Traffic implications
 - Appropriate assessment

These are assessed as follows:

10.1 The Principle of the Proposed Development:

10.1.1 The proposed development site is located in an area zoned as 'Town Centre Facilities' with the stated land use zoning objective 'to provide for and improve the development of the Town Centre' and in accordance with Section 12.3.5.1 of the Killarney Town Development Plan, 2009-2015 use for 'Residential' purposes is 'Permitted' within this land use zoning. Accordingly, the proposed development would appear to be acceptable in principle at this location given its adherence to the relevant land use zoning provisions set out in the Town Development Plan. Furthermore, it is of relevance to note that the subject proposal involves the redevelopment of a presently underutilised town centre property which is to be welcomed in that will make a positive contribution to the rejuvenation of the wider area through the re-use of an otherwise vacant and semi-derelict property which detracts from overall appearance of the streetscape.

10.1.2 Whilst the proposed development site is also located within an identified 'Housing Protection Area' and thus is subject to the provisions of Policy HSG-03 of the Development Plan wherein it is the stated objective of the Planning Authority 'To preserve the residential distinctiveness and character of established residential communities by the designation of Housing Protection Areas', I am inclined to concur with the previous reporting inspector in their assessment of ABP Ref. No. PL63.224720 that this designation would appear to conflict with the town centre land use zoning objective applicable to the site which expressly provides for residential development and that the latter should take precedence. In this respect I would further submit that the 'Housing Protection Area' in question would not appear to have taken adequate cognisance of the prevailing pattern of development along this particular stretch of New Road which clearly accommodates a variety of commercial, educational and service uses and is thus representative of the gradual transition from the primary town centre / commercial core towards the more peripheral areas of the town. In any event, it is my opinion that the reversion of 'Silerspruce House' from its previous use as a commercial guesthouse / 'Bed and Breakfast' (which also included 2 No. apartments) to use as a single dwelling house and the redevelopment of the remainder of the site area for residential purposes through the provision of 4 No. apartments would not conflict with the wider objectives for the area.

10.2 Overall Design and Layout:

10.2.1 The proposed development involves the redevelopment of a semi-derelict and dilapidated town centre property which currently detracts from the overall character of the surrounding area and in this respect the subject proposal is to be welcomed, however, any such redevelopment must be carefully considered in light of the site context, with particular reference to its overall size and configuration in addition to the need to protect / preserve the amenities of neighbouring properties.

10.2.2 At present, the proposed development site is occupied by a vacant two-storey-over-basement dwelling house / former guesthouse (and 2 No. self-contained apartment units) which would appear to have been extensively remodelled and extended over the years. The existing construction on being viewed from New Road comprises a principle two-storey dwelling house with a hipped roof detail and a symmetrical front elevation in addition to a flat-roofed extension to the side of same which accommodates a self-contained one-bedroom apartment unit at ground floor level with bedrooms associated with the main guesthouse located overhead. To the rear of the property a series of single storey extensions have been constructed which were used as ancillary accommodation associated with the former guesthouse in addition to another self-contained (two-bedroom) apartment unit. With regard to car parking, from a review of the available information, including the planning history of the application site, it would appear that the area to the rear of the site was previously used as a car park associated with the former use as a guesthouse with access to same being obtained from New Road via a narrow accessway that passes between the existing buildings on site and the adjacent property to the immediate east known as 'Gleanntan House'. Accordingly, having established the general site context and its historical usage, it is necessary to consider the overall design and layout of the proposed development relative to same.

10.2.3 The proposed development effectively involves the carrying out of a variety of accommodation works, including the demolition of certain elements of the existing buildings on site, in order to facilitate the construction of a new free-standing apartment block and the conversion of the former guesthouse into a single dwelling house. Therefore, I propose to assess these two aspects of the overall development in turn.

10.2.4 With regard to the proposal to revert 'Silerspruce House' back into use as a single dwelling house, for the purposes of clarity, it is of relevance to note that

not only will this necessitate the complete demolition of all the existing single storey extensions / additions to the rear of the main building, the re-configuration of the internal layout of the remaining structure combined with associated elevational alterations and the construction of a new flat-roofed single storey extension to the rear of same, but it is evident from a review of the submitted drawings that the proposed works will also include for a new roof construction with an increased ridge height which has been designed to permit the inclusion of a second floor level of habitable accommodation within the new attic space. In addition to the foregoing, the proposed works also include for the conversion of the existing self-contained apartment within the 'extension' to the side of the main building to an enclosed garage area and other ancillary accommodation associated with the new 4-bedroomed dwelling house. Notably, the provision of the proposed garage area, when combined with the area to the front of same onto New Road, which is accessible via an existing dropped kerb arrangement onto the public roadway, essentially allows for the off-street parking of 2 No. cars within the curtilage of the new dwelling house and thus exceeds the minimum car parking requirements set out in Appendix 2 of the Town Development Plan. In terms of private open space provision, the submitted proposal includes for an enclosed garden area to the rear of the new dwelling house which will be screened from view by a wall bounding the communal / car parking area associated with the proposed apartment units. In this regard it should also be noted that the proposed rear garden area measures in excess of 65m² and further benefits from a southerly aspect.

10.2.5 Having considered the available information, and given the variety of building styles prevalent along New Road, on balance, I am satisfied that the subject proposal to convert 'Silerspruce House' back into a single dwelling house is acceptable both in terms of principle and its overall design and layout.

10.2.6 In relation to the construction of the proposed apartment block to the rear of the application site, it is necessary to consider the detailed design of same having regard to the requirements of both the Development Plan and the '*Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2015*'. In this respect it is of particular relevance to note that where specific planning policy requirements are stated in the Guidelines, the Minister intends that such requirements take precedence over the policies and objectives of development plans. Indeed, Section 2.10 of the Guidelines states that it is a specific planning policy requirement that statutory development plans do not set target minimum average floor areas or requirements for additional communal facilities (e.g. common rooms or gyms) or any other aspect of

apartment design that do not accord with the requirements set out in the guidelines. Therefore, in accordance with Section 1.7 of the Guidelines I propose to assess the subject proposal as regards compliance with the relevant planning policy requirements set out in the Guidelines pertaining to the following matters:

- Internal space standards for different types of apartments, including studio apartments
- Dual aspect ratios
- Floor to ceiling height
- Apartments to stair / lift core ratios
- Storage spaces
- Amenity spaces including balconies/patios
- Room dimensions for certain rooms

10.2.7 Internal Space Standards / Apartment Floor Area:

10.2.7.1 It is a specific planning policy requirement of the guidelines that the minimum apartment floor areas previously specified in the 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2007' continue to apply and these are as follows:

- 1 bedroom apartment Minimum 45m²
- 2 bedroom apartment Minimum 73m²
- 3 bedroom apartment Minimum 90m²

10.2.7.2 In this respect I would advise the Board that each of the 4 No. two-bedroom apartments proposed has a stated floor area of either 94.5m² or 145.7m² and thus exceed the minimum requirements of the Guidelines.

10.2.8 Dual Aspect Ratios:

10.2.8.1 The amount of sunlight reaching an apartment significantly affects the amenity of its occupants and therefore it is a specific planning policy requirement of the Guidelines that in urban locations the minimum number of dual aspect apartments to be provided in any single apartment scheme will be 50%, although in certain circumstances such as on inner urban sites, near to city or town centres, the foregoing requirement may be reduced to an absolute minimum of 33% whilst a further relaxation may be permissible where it is proposed to refurbish an older building in a constrained urban context.

10.2.8.2 All of the proposed apartment units are dual-aspect and include a south-facing elevation which provides for the living spaces of each of the units to

receive direct sunlight for some part of the day. Accordingly, the proposed development accords with this specific requirement of the Guidelines.

10.2.9 Floor to Ceiling Height:

10.2.9.1 The Guidelines state that floor-to-ceiling height affects the internal amenities of apartments (in terms of sunlight / daylight, storage space, and ventilation) and that this is of most significance at ground level where the potential for overshadowing is greatest, although it is also noted that ground level floor to ceiling height will also influence the future adaptability of individual apartments for potential alternative uses, depending on location. Whilst it is acknowledged that minimum floor to ceiling heights must accord with the Building Regulations requirement of 2.4m, the Guidelines further assert that a greater standard should be applied in respect of ground floor apartments and thus it is a specific planning policy requirement that ground level apartment floor to ceiling heights should be a minimum of 2.7m (*N.B.* The foregoing are considered to be minimum requirements).

10.2.9.2 From a review of the submitted drawings, it is apparent that whilst the floor to ceiling heights at first and second floor level within the proposed apartment block exceed the minimum requirement of the Building Regulations, the ground level apartment floor to ceiling height of 2.5m is less than the absolute minimum specific planning policy requirement of 2.7m set out in the Guidelines. Therefore, the design of the proposed apartment block does not accord with the Ministerial requirements.

10.2.10 Apartments to Stair / Lift Core Ratios:

10.2.10.1 Given the limited scale of the development proposed and as the overhead apartment units will each have their own dedicated private stairwell for means of access, the subject proposal satisfies the requirements of the Guidelines in this regard.

10.2.11 Storage Spaces:

10.2.11.1 Internal Storage:

10.2.11.1.1 The Guidelines state that new apartment developments should include adequate provision for general storage and utility requirements in order to accommodate household utility functions such as clothes washing and the storage of bulky personal or household items. In this regard I would refer the Board to the specific planning policy requirements for minimum storage areas as appended to the Guidelines which state that the minimum storage space requirement for a two-bedroom apartment is 6m². Notably, this storage provision

is to be in addition to kitchen presses and bedroom furniture (although it may be partly provided within these rooms provided it is also in addition to the minimum aggregate living/dining/kitchen or bedroom floor areas). The Guidelines also state that no individual storage room within an apartment should exceed 3.5 square metres.

10.2.11.1.2 From a review of the submitted drawings, it is apparent that the overall floor area of each of the proposed apartment units considerably exceeds the minimum requirement of the Guidelines and thus it would seem reasonable to conclude that adequate storage space has been provided within each apartment, however, on further examination, I would advise the Board that the development as proposed does not strictly accord with the requirements of the Guidelines as regards the provision of internal storage space. In the first instance, whilst the ground floor units each include a dedicated 'utility room' with a floor area of c. 8.6m² which exceeds the minimum space requirements, it should be noted that the guidelines expressly state that no individual storage room within an apartment should exceed 3.5 square metres. Furthermore, it is regrettable that no specific proposals have been included in the subject application for the provision of dedicated internal storage areas within the first floor apartment units (with the exception of the kitchen presses and some built-in bedroom wardrobes). Similarly, although the Guidelines allow the use of secure ground floor storage space to satisfy up to half of the minimum storage requirement for individual apartment units, no provision has been made for same in the submitted proposal. Accordingly, in view of the foregoing, the development as proposed does not comply with the specific planning policy requirements of the Guidelines as regards the provision of internal storage space.

10.2.11.2 Refuse Storage:

10.2.11.2.1 The proposed development includes for the provision of an external communal bin storage area adjacent to the proposed car park. This will be set behind a screen wall within the development itself and will not be visible from any public area due to its siting behind the established building line. In principle, the inclusion of such a facility is generally satisfactory, however, I would have concerns that insufficient space has been allowed for the communal storage area to satisfy the three-bin system for the collection of mixed dry recyclables, organic waste and residual waste (*N.B.* Within the apartments, there should also be adequate provision for the temporary storage of segregated materials prior to deposition in communal waste storage).

10.2.12 Amenity Spaces (including balconies / patios):

10.2.12.1 *Private Amenity Space:*

10.2.12.1.1 It is a specific planning policy requirement of the Guidelines that adequate private amenity space be provided in the form of gardens or patios / terraces for ground floor apartments and balconies at upper levels. In this respect I would advise the Board that a two-bedroom apartment is required to be provided with a minimum floor area of 7m² of private amenity space whilst consideration must also be given to certain qualitative criteria including the privacy and security of the space in question in addition to the need to optimise solar orientation and to minimise the potential for overshadowing and overlooking.

10.2.12.1.2 With regard to the 2 No. ground floor apartments, from a review of the submitted site layout plan, it is proposed to provide Unit Nos. 1 & 2 with 73m² and 85.5m² of private open space respectively. In addition, it is of relevance to note that these amenity areas will extend to both the side and rear of each unit thereby benefitting from a southerly aspect whilst the areas in question will also be secure and only accessible to the occupants of the individual units. Accordingly, I am satisfied that the provision of private open space to serve the ground floor apartment units is acceptable and exceeds the minimum requirements of the Guidelines.

10.2.12.1.3 In relation to the 2 No. apartment units which each extend over the first and second floors of the proposed construction, the subject proposal includes for the provision of an enclosed south-facing roof terrace at second floor level for each of the respective units which will extend to 24m² in area with access available from a sitting room within each apartment. In my opinion, this provision is acceptable and exceeds the minimum requirements of the Guidelines.

10.2.12.2 *Communal Amenity Space & Children's Play:*

10.2.12.2.1 The Guidelines state that the provision and proper future maintenance of well-designed communal amenity space is critical in meeting the amenity needs of residents, with a particular emphasis being placed on the importance of accessible, secure and usable outdoor space for families with young children and for less mobile older people, and in this respect there is a requirement for a minimum of 7m² of public communal amenity space to be provided per two-bedroom apartment which would equate to the provision of a cumulative total of 28m² of amenity area in the case of the subject proposal.

10.2.12.2.2 It is clear from the submitted site layout plan that the proposed development does not include for the provision of any dedicated communal amenity space to serve the needs of future residents of the scheme and, therefore, it fails to comply with the relevant minimum requirements of the Guidelines.

10.2.13 Room Dimensions for Certain Rooms:

10.2.13.1 Having reviewed the submitted drawings, I am satisfied that the overall design of the proposed apartment units accords with the required minimum floor areas and standards (including the dimensions of certain rooms) as appended to the Guidelines (with the exception of internal storage provision as has been referenced earlier in this report).

10.2.14 Other Design Considerations:

10.2.14.1 Security Considerations:

It is a requirement of the Guidelines that apartment design should provide occupants and their visitors with a sense of safety and security by ensuring the natural surveillance of streets, open spaces, play areas and any surface bicycle or car parking. In this respect it should be noted that although the proposed apartment block will be positioned in a backland location to the rear of existing buildings, the entrance point from New Road will be overlooked by some of the proposed apartments and adjoining properties whilst the communal area and car parking spaces within the scheme itself will also be directly overlooked by several of the apartment units. However, in the event of a grant of permission, I would suggest that the security of these areas could be improved further through the implementation of a suitable lighting scheme. With regard to the security of ground floor apartments, I would suggest that this could also be improved further by providing for a wall between the gable ends of the proposed apartment block and the site boundaries thereby ensuring the privacy of the amenity areas (and the apartment entrance doorways).

10.2.14.2 Access and Services:

Given the limited scale of the development proposed and the requirements of Part M of the Building Regulations, it is my opinion that the proposed access arrangements as detailed on the submitted drawings are acceptable in principle.

10.2.14.3 Communal Rooms / Services:

The 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2015' state that the provision of communal or other facilities within apartment schemes should be subject to negotiation and

agreement with the developer as part of the planning process and that they should not generally be imposed as requirements by the planning authority in the absence of proposals from and / or the agreement of an applicant.

10.2.15 Overall Design of the Proposed Apartment Scheme:

10.2.15.1 On the basis of the foregoing, it is apparent that certain aspects of the design of the proposed apartment units, with specific reference to the inadequacy of the floor-to-ceiling heights within the ground floor apartments, the failure to provide for any communal open space, the inadequate provision of identifiable internal storage space within each apartment, and the likely shortfall in the refuse storage arrangements, do not comply with the minimum requirements of the *'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2015'*. However, given the limited scale of the development proposed and the obvious constraints posed by the site context and its overall configuration, I am inclined to suggest that it would be appropriate in this instance to avoid an overtly rigid application of the design standards set out in the Guidelines. In this regard I would refer the Board to the provisions of Section 5.9 of the guidance which states that *'depending on individual circumstances, certain elements should be applied flexibly by the local authority or An Bord Pleanála in response to an acceptable design solution for which a case is made by an applicant, subject to appropriate application of the relevant Building Control standards'*. Whilst I would accept that the applicant has not specifically acknowledged that the design of the proposed apartment scheme does not fully meet all of the requirements of the Guidelines and thus has not provided a rationale for any alternative compensatory design solutions, it is my opinion that this omission does not in itself serve to preclude the Board from the consideration of any potential compensatory features which are an integral part of the wider design. In this regard I would suggest that it not possible to provide communal amenity space to serve the proposed apartment units due to the constrained nature of this inner suburban site and that this will be adequately compensated for by the inclusion of additional private amenity space for each unit in excess of the minimum requirements of the Guidelines. Similarly, the case could be made that the failure to achieve the minimum floor-to ceiling heights within the ground level apartments is compensated to some degree by the fact that the floor area of those units is in excess of 20m² above the minimum requirement. Furthermore, given the floor areas of the proposed apartments, it would seem feasible to satisfy the necessary internal storage space requirements by way of condition whilst the proposed refuse storage arrangements could perhaps also be addressed by condition in the event of a grant of permission.

10.2.15.2 Therefore, whilst I would acknowledge that aspects of the proposed apartment design do not strictly accord with the minimum requirements of the Guidelines, on balance, it is my opinion that the design of the submitted proposal provides for adequate compensatory features which will provide the occupants of the units with a satisfactory level of residential amenity.

N.B. The adequacy of the proposed car and bicycle parking arrangements is considered elsewhere in this report.

10.3 Impact on the Amenities of Surrounding Properties:

10.3.1 Concerns have been raised in the grounds of appeal as regards an alleged infringement of the property boundary and the associated encroachment of the proposed construction into an adjoining property held in the ownership of a neighbouring third party who has not consented to same. In this respect the appellant has submitted that the existing wall along the southern site boundary is not a shared party wall and is located entirely within his property as purportedly supported by the details contained in 'Title Deed and Folio Plan (KY10668 Book No. 126)'. Accordingly, the case has been put forward that the legally registered boundary line is positioned c. 3.2m north of the existing wall and thus an extent of the appellant's property measuring c. 97.5m² has been included within the proposed development site without his consent. In response, the applicant has rejected the appellant's assertion and has submitted that the proposed development site is contained wholly within the boundary walls as constructed 'on the ground' and that the site boundaries correspond with Folio Nos. KY24900, KY31950F & KY28722F (as supported by the accompanying copies of the relevant folio maps).

10.3.2 In respect of the foregoing, I would advise that it is not the function of the Board to adjudicate on matters pertaining to boundary disputes. Accordingly, any alleged encroachment or interference with the appellant's property is essentially a civil matter for resolution between the parties concerned and in this respect I would refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*'.

10.3.3 With regard to the potential for the proposed development to result in the overlooking of adjacent properties, it is apparent from a review of the available information that the applicant is cognisant of the need to avoid any direct overlooking of neighbouring residences, including the rear garden areas / private

open space serving same. In this respect it is of relevance to note that in order to avoid undue overlooking towards the rear of both Silverspruce House and Glenatann House, it is proposed to glaze the bottom panel of the first floor bedroom windows within the front elevation of the proposed apartment block in obscure glass whilst the kitchen and en-suite windows within the same elevation will be located at an increased height relative to the floor level. In addition to the foregoing, it should also be noted that the design of the apartment block has been amended in response to a request for further information in that the bottom panels of the gable end sitting room windows at first floor level are proposed to be finished in obscure glazing whilst the gable walls themselves are to be increased in height so as to avoid any overlooking of the adjacent properties to the immediate east and west from the second floor balcony areas.

10.3.4 Therefore, the remaining potential for overlooking concerns the appellant's property to the immediate south of the application site which presently comprises predominantly undeveloped lands. Notably, these lands would appear to have previously been included in the Killarney Urban Master Plan (which was published in 2005 but was not seemingly formally adopted) which recommended that the future development of those lands should be undertaken together with adjacent properties. Accordingly, the key issue which requires consideration is the degree to which the proposed development may serve to undermine the future development potential of the appellant's lands by reason of the proximity of the proposed construction to the site boundaries and the associated implications which could arise as regards possible overlooking etc.

10.3.5 From a review of the submitted site layout plan, it is clear that the rear elevation of the proposed apartment block will be positioned between 2.45m and 3.67m from the southern site boundary and that the first floor windows within this façade, in addition to the second floor roof terraces, will have unobstructed views directly over the appellant's property. Therefore, as was the case in the reporting inspector's assessment of a previous proposal made on site under PA Ref. No. 07204700 / ABP Ref. No. PL63.224720, it is my opinion that the proximity of the proposed development to the site boundary is such that the achievement of reasonable separation, particularly in the case of future residential development on the appellant's lands, would require that any new buildings on the appellant's property be set back a significant distance from the shared site boundary thereby compromising the realisation of the full development potential of those lands. In effect, the overall design and positioning of the proposed apartment block relative to the undeveloped lands to the immediate south would unacceptably impact on the development potential of those lands by necessitating any future

development on same to be set back an adequate distance from the subject apartments so as to avoid any consequent loss of amenity to either the occupants of the proposed units or any development on the appellant's lands.

10.4 Traffic Implications:

10.4.1 The Proposed Access Arrangements:

10.4.1.1 The subject proposal seeks to utilise an existing accessway which extends into the site from New Road between Silverspruce House and Glenatann House in order to provide vehicular access to a series of 3 No. car parking spaces which are proposed to be provided to the rear of Silverspruce House in order to satisfy the parking requirements associated with the development of the apartment units. In this respect it is of relevance to note that this entrance arrangement would appear to have been previously used to access a car parking area associated with the former use of Silverspruce House as a guesthouse whilst a review of the available planning history also confirms that the same accessway was proposed to provide access to the car parking (i.e. 6 No. car parking spaces) associated with the change of use to offices and the construction of 2 No. dwelling units approved under PA Ref. No. 04204300. Accordingly, given the historical and previously approved use of the existing entrance to provide access to the rear of the application site I am inclined to suggest that the use of the same to facilitate the subject proposal is generally acceptable in principle. Furthermore, it is my opinion that the development as proposed, which provides for 3 No. car parking spaces to the rear of the site to accommodate the proposed apartment units, will not give rise to any significant intensification in the use of the existing access as would give rise to a traffic hazard when cognisance is taken of the historical (and previously approved) use of same and the improvement measures detailed in the submitted Road Safety Audit.

10.4.2 Car / Bicycle Parking Provision:

10.4.2.1 In accordance with Appendix 2: 'Car Parking' of the Killarney Town Development Plan, 2009 there is a requirement to provide 1.25 No. parking spaces per apartment and in this respect it should be noted that there be a shortfall of 2 No. parking spaces with regard to this aspect of the development given that provision has only been made for a total of 3 No. car parking spaces to serve 4 No. apartment units. It is of further relevance to note that the 'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities, 2015' suggest that 1 No. car parking space per unit should generally be required as a benchmark guideline for apartment developments and thus the submitted proposal would also fail to comply with this recommended standard.

10.4.2.2 Whilst I would acknowledge that Section 12.53 of the Development Plan states that in town centre locations where car parking cannot be provided on site a development contribution towards the provision of public car parking will be required and that the *'Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities'* also envisage a relaxation in parking requirements in accessible areas such as in central business districts, I would suggest that in this subject case the failure to provide adequate on-site car parking could potentially serve as an indication of the overdevelopment of the application site, particularly in light of its somewhat peripheral location relative to the retail / commercial core of the town.

10.4.2.3 With regard to the proposal to convert Silverspruce House into a single residential unit, I would accept that the provision of the proposed garage area, in combination with the existing parking area to the front of same which is already accessible from New Road, would be sufficient to cater for the parking demands likely to be associated with this aspect of the development.

10.4.2.4 In terms of bicycle parking facilities, the proposed development includes for 8 No. bicycle stands within the confines of the apartment scheme which is considered to be satisfactory.

10.5 Appropriate Assessment:

10.5.1 From a review of the available mapping, including those contained in the Killarney Town Development Plan, 2009 and the data maps available from the website of the National Parks and Wildlife Service, it is apparent that the proposed development site is not located within any Natura 2000 designation although it is situated approximately 600m east of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment Special Area of Conservation (Site Code: 000365) and the Killarney National Park Special Protection Area (Site Code: 004038). In this respect it is of relevance to note that it is the policy of the planning authority, as set out in Chapter 9: *'Natural Heritage, Biodiversity & Conservation'* of the Development Plan, to protect all natural heritage sites, both designated or proposed for designation, in accordance with National and European legislation. In effect, it is apparent from the foregoing provisions that any development likely to have a serious adverse effect on a Natura 2000 site will not normally be permitted and that any development proposal in the vicinity of, or affecting in any way, the designated site should be accompanied by such sufficient information as to show how the proposal will impact on same. Therefore, a proposed development may only be authorised after it has been established that the development will not have a negative

impact on the fauna, flora or habitat being protected through an Appropriate Assessment pursuant to Article 6 of the Habitats Directive.

10.5.2 Having reviewed the available information, including the screening exercise undertaken by the Planning Authority in respect of the subject proposal, and following consideration of the 'source-pathway-receptor' model, it is my opinion that in light of the nature and scale of the development proposed, the availability of public services, the nature of the receiving environment, and the separation distance between the lands in question and the nearest European sites, no appropriate assessment issues arise and that the proposed development would not be likely to have any significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

11.0 RECOMMENDATION

Having regard to the foregoing, I recommend that the decision of the Planning Authority be overturned in this instance and that permission be refused for the proposed development for the reasons and considerations set out below:

1. Having regard to the size of this restricted site, the proximity of the proposed development to the site boundaries, it is considered that the proposed development would constitute overdevelopment of the site which would seriously injure the amenities and development potential of adjacent lands. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Signed: _____

Robert Speer
Inspectorate

Date: _____