



An  
Bord  
Pleanála

## Inspector's Report PL04.248314

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<b>Development</b>	Demolition of existing 3-storey detached dwelling and erection of replacement 4-storey dwelling.
<b>Location</b>	Ferryview House, World's End, Dromderrig, Kinsale, Co. Cork.
<b>Planning Authority</b>	Cork County Council
<b>Planning Authority Reg. Ref.</b>	17/04083
<b>Applicant(s)</b>	Cliff Edge Developments (Kinsale) Ltd.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First Party v. Decision
<b>Observer(s)</b>	Gerry & Tina Reynolds
<b>Date of Site Inspection</b>	18 <sup>th</sup> July, 2017
<b>Inspector</b>	Robert Speer

## 1.0 Site Location and Description

The proposed development site is located between World's End and the R600 Regional Road, approximately 700m south of Cork Street in Kinsale town centre, where it occupies a particularly prominent position overlooking the Bandon River. It is situated on the 'seaward' side of the short stretch of narrow roadway known as World's End which meets up with the main regional road at both ends to the north and south. The site itself has a stated site area of 0.0191 hectares, is irregularly shaped and is presently occupied by an architecturally interesting three-storey period dwelling house which has fallen into a state of disrepair / dilapidation. To the immediate north the site adjoins a set of steep pedestrian steps which connect World's End with the R600 Regional Road. Between the top of these steps and the existing dwelling house is a platform which serves to provide off-street parking for 3 No. cars, although this area is outside of the appeal site. To the south the site adjoins a small wooded area whilst the intervening lands between the site and the R600 Regional Road would appear to comprise publicly owned open space.

There is an approximate 10-12m height difference between the R600 Regional Road and World's End in the vicinity of the appeal site with the principle means of access to World's End obtained from its northern end via a Y-junction with the regional road after which the minor road rises rapidly on travelling southwards before reaching a relatively level section of roadway in the vicinity of the subject site. On continuing southwards this roadway branches into two much narrower roads with one of these leading to small residential cul-de-sac known as Ferryview Cottages whilst the other road descends rapidly behind St. John's Terrace to the east before meeting with the R600 Road.

## 2.0 Proposed Development

The proposed development involves the demolition of an existing dilapidated three-storey period property known as Ferryview House and the subsequent replacement of same by a new contemporarily designed 4-storey dwelling house with a stated floor area of 216m<sup>2</sup> and an overall height of 13.95m. The proposed construction has sought to address the difficult site topography by employing an innovative approach whereby access will be obtained from an upper floor level opening onto World's End

with a further floor of accommodation and a roof terrace over same and two subsequent floor levels of accommodation sited below. External finishes will include a painted render, stone cladding, timber cladding, an aluminium / pvc window system and metal / glass balustrading. A total of 2 No. car parking spaces will be provided on site with the vehicular access to same to be obtained from World's End. Water and sewerage services are available from the public mains.

*N.B.* The planning application has been accompanied by an application for a Certificate of Exemption pursuant to Section 97 of the Planning and Development Act, 2000, as amended.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

On 14<sup>th</sup> March, 2017 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following 2 No. reasons:

- The proposed development by virtue of its demolition of a historic structure that is included in the National Inventory of Architectural Heritage, will result in an irreversible loss to our architectural heritage. The proposed development therefore conflicts with Policy RPS 3 in the Kinsale Council Town Development Plan, 2009 which seeks to encourage appropriate reuse, renovation and rehabilitation of buildings which have heritage merit, and its forthcoming replacement the draft Bandon Kinsale Municipal District Local Area Plan, 2017 and the County Development Plan, 2014.
- It is considered that the proposed replacement of an existing single period dwelling of slim and elegant proportions (Ferryview) on the lower site with a significantly wider and bulkier structure would seriously injure the visual amenities of the area by virtue of its scale, massing and design, and as such compromises the integrity and character of the surrounding historic environment. The proposed development contravenes Policy LVA 1 of the Kinsale Town Council Development Plan, 2009 contrary to proper planning and sustainable development.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports:

This report sets out the site context and details the background to the submitted proposal before concurring with the recommendation of the Conservation Officer to refuse the planning application on the basis that the structure proposed for demolition is considered to be quite unique and unusual (notwithstanding its adaptations), makes a strong and positive contribution to the immediate site surrounds, and is also a candidate for inclusion in the Record of Protected Structures. It proceeds to state that the subject application does not explore how the existing structure could be retained (either in full or in part) nor does it adequately address the reason for the refusal of ABP Ref. No. PL65.236998. However, it is acknowledged that a contemporary design may be acceptable at this location, particularly when considered in conjunction with the scheme approved under ABP Ref. No. PL04.245078, although it is stated that some modifications are required to the design such as reducing the horizontal emphasis or width of the structure in order to achieve a more satisfactory overall scale and bulk. With regard to the impact of the proposal on residential amenity, it is noted that the development will impact on the outlook and ambient daylight of the housing permitted opposite under ABP Ref. No. PL04.245078, although it is considered that the internal floor plans between the respective properties have satisfactorily considered the issue of privacy. It is further stated that whilst there are concerns in relation to overlooking from the proposed roof garden area, this may be omitted in the event of a grant of permission. The report subsequently concludes by recommending a refusal of permission.

### 3.2.2. Other Technical Reports:

*Area Engineer:* Recommends that the applicant should be requested to submit an assessment of on-street parking capacity vis-à-vis the current parking demand. It is further noted that any such assessment should include consideration of the current parking arrangements and the future availability of parking spaces once the street in question is redeveloped by the applicant.

*Conservation Officer:* States that the proposed development involves the demolition of an historic building which is identified in the National Inventory of Architectural Heritage as being of 'Regional' Importance and forms part of the 'Ministerial

Recommendations' for inclusion in the Record of Protected Structures. The report proceeds to reference the failure to carry out any remediation works to the structure and further notes that the applicant was advised during the course of pre-planning discussions of the Planning Authority's preference that the existing structure should be retained. The remainder of the report details that the Conservation Officer is not satisfied that the demolition of the existing building is the only feasible option and also raises serious concerns as regards the appropriateness of the design response before recommending a refusal of permission.

*Liaison Officer:* Reiterates that the structure proposed for demolition is identified in the National Inventory of Architectural Heritage as being of 'Regional' importance and that it has been recommended for inclusion in the Record of Protected Structures. It also notes that the applicant was advised during the course of pre-planning discussions that it was the Planning Authority's preference that the existing structure be retained. Further reference is made to the recommendation of the Case Planner and the Conservation Officer to refuse permission. The report concludes by stating that, given the heritage value of the existing building and its inclusion in the National Inventory of Architectural Heritage, the removal of same would be contrary to the Kinsale Town Council Development Plan, 2009. It is also stated that the submitted design is considered to be unacceptable.

### **3.3. Prescribed Bodies**

*Irish Water:* No objection, subject to conditions.

### **3.4. Third Party Observations**

A total of 2 No. submissions were received from interested parties and the principle grounds of objection contained therein can be summarised as follows:

- Detrimental impact on residential amenity by reason of overlooking and overshadowing.
- Negative visual impact / inappropriate design, scale, bulk, massing, proportions etc.
- Overdevelopment of the site

- Increased traffic congestion / impact
- Loss of on-street car parking.

## 4.0 Planning History

### On Site:

PA Ref. No. 08/53049. Was refused on 13<sup>th</sup> February, 2009 refusing James Barber permission to demolish 2 No. dwellings, No. 9 Worlds End and Ferry View House, and the construction of 3 No. townhouses and 4 No. apartments in two separate blocks, with off street parking, all at Worlds End, Kinsale, Co. Cork, for the following reasons:

- Having regard to the density of the development, which is inconsistent with existing developments in the immediate vicinity, it is considered that the proposed development represents an over-intensification of a confined site, is deficient in amenity space, would endanger public safety by reason of traffic hazard, would exacerbate an existing problem with lack of parking and over use of the narrow roadway and would seriously injure the amenities of the area and property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

PA Ref. No. 09/53014 / ABP Ref. No. PL65.236998. Was refused on appeal on 25<sup>th</sup> November, 2010 refusing James Barber permission for a development comprising demolition of two dwellings, number 9 Worlds End and Ferry View House, and construction of eight number residential units of varying typology (comprising one, two and three bedroom units) in two separate buildings of varying scale, with off-street parking, connection to public drainage system and all ancillary site works on property at Worlds End, Kinsale, Co. Cork, for the following reasons:

- Having regard to the proposed excessive site coverage at both sites, it is considered that the proposed development would constitute overdevelopment of both sites and fail to meet the development plan standards for the area. The proposed development would, therefore, be contrary to proper planning and sustainable development of the area.

- It is considered that the proposed replacement of an existing single period dwelling of slim and elegant proportions on the lower site with a significantly wider and bulkier structure of several dwellings would seriously injure the visual amenities of the area. Furthermore, it is considered that the loss of a habitable dwelling at number 9 Worlds End has not been justified, having particular regard to constraints in relation to that part of the site. The proposed development would, therefore, be contrary to proper planning and sustainable development of the area.
- Based on the information provided, and having regard to the indicated necessity for further and in-depth investigation, the Board is not satisfied that the proposed development, and in particular breaking and removal of substantial volumes of rock, notwithstanding the mitigations measures proposed, can be carried out without a risk of land slippage. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

On Sites in the Immediate Vicinity:

PA Ref. No. 0553016. Was granted on 28<sup>th</sup> June, 2005 permitting Mike Aitken permission to remove existing roof and construct new roof (ridge line 1m higher than existing) and use of attic as living area at 9 Worlds End, Dromderrig, Kinsale, Co. Cork.

PA Ref. No. 15/4167 / ABP Ref. No. PL04.245078. Was granted on appeal on 29<sup>th</sup> October, 2015 permitting Cliff Edge Developments (Kinsale) Limited permission for the demolition of an existing dwelling, number 9 Worlds End, and the construction of three number three storey terraced townhouses with off street parking, connection to public drainage systems and all ancillary site works at Worlds End, Kinsale, Co. Cork.

## 5.0 Policy Context

### 5.1. National and Regional Policy

The ‘*Architectural Heritage Protection, Guidelines for Planning Authorities, 2004*’ provide detailed guidance in respect of the provisions and operation of Part IV of the

Planning and Development Act, 2000, as amended, regarding architectural heritage, including protected structures and Architectural Conservation Areas. They detail the principles of conservation and advise on issues to be considered when assessing applications for development which may affect architectural conservation areas and protected structures.

## 5.2. Development Plan

### **Cork County Development Plan, 2014:-**

#### Chapter 3: Housing:

#### Section 3.3: *Delivering Sustainable Residential Communities*

##### *HOU 3-1: Sustainable Residential Communities:*

- a) Ensure that all new development within the County supports the achievement of sustainable residential communities. The Council will have regard to the provisions of the Guidelines on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual, in development plan preparation and in assessing applications for development through the development management process.
- b) Promote development which prioritises and facilitates walking, cycling and public transport use, both within individual developments and in the wider context of linking developments together and providing connections to the wider area, existing facilities and public transport nodes such as bus and rail stops.
- c) Following the approach in chapter 10 of this plan, ensure that urban footpaths and public lighting are provided connecting all residential developments to the existing network of footpaths in an area and that the works required to give effect to this objective are identified early in the planning process to ensure such infrastructure is delivered in tandem with the occupation.



*HOU 3-2: Urban Design:*

- a) Ensure that all new urban development is of a high design quality and supports the achievement of successful urban spaces and sustainable communities. The Council will have regard to the provisions of the Guidelines on Sustainable Residential Development in Urban Areas, the accompanying Urban Design Manual and the Council's Design Guide for Residential Estate Development in development plan preparation and in assessing applications for development through the development management process.
- b) Provide additional guidance, including principles and policies, on urban design issues at a local level, responding to local circumstances and issues. Where appropriate Local Area Plans will consider the need for the provision of additional guidance in the form of design briefs for important, sensitive or large scale development sites.
- c) Require the submission of design statements with all applications for residential development in order to facilitate the proper evaluation of the proposal relative to key objectives of the Development Plan with regard to the creation of sustainable residential communities.
- d) Require developers to take account of the Design Manual for Urban Roads and Streets (DMURS).

*HOU 3-3: Housing Mix:*

- a) Secure the development of a mix of house types and sizes throughout the County as a whole to meet the needs of the likely future population in accordance with the guidance set out in the Joint Housing Strategy and the Guidelines on Sustainable Residential Development in Urban Areas.
- b) Require the submission of a Statement of Housing Mix with all applications for multiunit residential development in order to

facilitate the proper evaluation of the proposal relative to this objective.

Section 3.4: *Housing Density:*

Chapter 12: Heritage:

Section 12.4: *Architectural Heritage:*

*HE 4-2: Protection of Structures on the NIAH:*

Give regard to and consideration of all structures which are included in the NIAH for County Cork, which are not currently included in the Record of Protected Structures, in development management functions.

*HE 4-6: Design and Landscaping of New Buildings:*

- a) Encourage new buildings that respect the character, pattern and tradition of existing places, materials and built forms and that fit appropriately into the landscape.
- b) Promote sustainable approaches to housing development by encouraging new building projects to be energy efficient in their design and layout.
- c) Foster an innovative approach to design that acknowledges the diversity of suitable design solutions in most cases, safeguards the potential for exceptional innovative design in appropriate locations and promotes the added economic, amenity and environmental value of good design.
- d) Require the appropriate landscaping and screen planting of proposed developments by using predominantly indigenous/local species and groupings and protecting existing hedgerows in rural areas.

**Kinsale Town Council Development Plan, 2009-2015:-**

Land Use Zoning:

The extent of the site area occupied by the existing dwelling house is zoned as 'Established Residential' with the stated land use zoning objective 'To protect,

*preserve, enhance and develop existing residential areas, to support appropriate infill residential development, to provide new and improved ancillary community, social and recreational facilities'. The remainder of the site area is zoned as 'Established Open Space, Sports, Recreation and Amenity' with the stated land use zoning objective 'To preserve, protect and improve active and passive open space and recreational amenities on public and private lands'.*

*Explanatory Note:*

*Zoning Objective B: Established Residential:*

This zoning relates to existing residential lands that have been granted permission or are fully or partially built on. The purpose of this zone is to protect and preserve existing residential uses whilst enabling infill residential development at a density that is consistent with the character of the area and meets the needs of the population.

Infill development is considered acceptable in principle, providing that careful consideration is given to design, privacy, overlooking, daylight/ sunlight and aspect.

*Zoning Objective F: Established Open Space & Recreational Amenities:*

This zone relates to both public and private open space and recreational amenities dispersed throughout the town. The Council will not normally permit development that would result in a loss of established open space or recreational amenities within the town except where specifically provided for in this Plan. Acceptable land uses include active and passive open space, allotments, sports clubs, recreational buildings, stands, pavilions, and public/community service installations.

*Other Relevant Sections / Policies:*

*Chapter 4: Housing:*

*Section 4.2: Strategic Housing Objectives*

*Section 4.4: Policy Statements Residential Density & Housing Design*

*Section 4.5: New Residential Policy Statement*

*Section 4.5.2: Infill Housing Policy Statement*

*IH1:* To encourage infill housing developments on appropriate sites where the proposals respect the existing scale and character of the area.

*Chapter 5: Recreation & Community Facilities*

*Chapter 6: Environment & Heritage:*

*Section 6.4: Strategic Objectives:*

- To protect and preserve the natural and built environment of Kinsale.

*Section 6.4.2: Natural & Built Environment Policy Statement:*

*NBE1:* To ensure development, which is likely to cause destruction or significant deterioration in the ecology, character or appearance of the area, is not permitted.

*Section 6.8: Heritage:*

Section 6.10.1: It is an objective of the Council to conserve, protect and enhance in general the character of Kinsale as defined by its natural heritage and biodiversity, built environment, landscape and culture.

*Section 6.12: Architectural Heritage:*

*Section 6.13: Goal:*

To protect our architectural heritage and to encourage sensitive sustainable development so as to ensure its survival and maintenance for the future.

*Section 6.14: Objectives:*

1. To compile and maintain a Record of Protected Structures (RPS) that includes a Record of every structure and/or parts of such structures, which is of special architectural, historical, archaeological, artistic, cultural, scientific, social or technical interest.
2. To make amendments to the RPS on a phased basis in the light of the publication over the forthcoming Development Plan period of the National Inventory of Architectural Heritage (NIAH) and other relevant surveys.
3. To ensure that new development does not have any unacceptable adverse impact on the character of any structure.
4. To encourage the retention of original and early building fabric.

5. To protect other features of architectural and archaeological merit such as historic gardens, stone walls, ditches and street furniture which make a positive contribution to the built environment on account of their heritage interest.
6. To continue the protection of all forms of architectural heritage in Kinsale, including industrial and vernacular architecture.

Section 6.15: *Record of Protected Structures Policy Statements:*

*RPS3:* To encourage the appropriate reuse, renovation and rehabilitation of older buildings, which are not listed, but have some architectural, historical or heritage merit, subject to development standards at Section 7.

*Chapter 7: Development Management & Land Use Standards:*

*Section 7.2: Development Management Standards – General*

*Section 7.7: Residential Development Standards*

*Section 7.8: Housing Design & Layout*

*Section 7.10: Infill & Backland Development:*

*Section 7.10.2: Infill Development:*

Infill development policies apply to areas that are largely built up and where the proposal is not of such a scale that it represents a major addition to, or redevelopment of, the existing physical fabric. Proposed development must have due regard to the predominant design features, existing building lines and heights and the existence of particular elements, such as groups of trees and hedgerows, listed buildings or open spaces.

*Section 7.17: Archaeological & Architectural Heritage*

***Draft Bandon Kinsale Municipal District Local Area Plan, 2016 (Amendments):-***

*Volume 1:*

*Section 1.7: Approach to Town Council Development Plans:*

Section 1.7.5: Therefore, it is proposed to proceed on the basis that the Municipal District Local Area Plans will deal only with the environs of these towns, i.e. the area

between the boundary of the administrative area of the former Town Council and the Development Boundary of the Town as delineated in maps included in this LAP. For clarity, the text of the plans will be revised to omit text, policy / objectives on issues covered by the Town Development Plan and the LAP Maps will 'grey out' the area to which the Town Development Plan applies.

The current Town Council Development Plans will remain in force until the review of the Cork County Development Plan, 2014 is completed in 2020 and these Town Development Plans are the reference point for guidance in relation to issues of proper planning and sustainable development for land located within the administrative area of the former Town Council.

*Appendix A2: Proposed Amendments to Kinsale Environs:*

Section 1.3.64: *General Objectives:*

*KS-GO-05:* Protect the heritage assets of the town including the Battlefield Sites, maritime heritage and its attractive townscape features including its roofscape, urban morphology, fenestration details, slate-hung facades and street furniture.

N.B. It is my understanding that the Draft Bandon Kinsale Municipal District Local Area Plan, 2016 was adopted on 25<sup>th</sup> July, 2017 and will come into effect on 21<sup>st</sup> August, Therefore, the Board is advised to review the situation prior to a final decision being made on the subject application.

### **5.3. Natural Heritage Designations**

None.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- In its decision to refuse permission, the Planning Authority would appear to have dismissed the comprehensive structural reports supplied with the planning application, all of which have stated that the existing structure is unsafe and should be demolished.

- The decision to refuse permission conflicts with the previous acceptance under PA Ref. No. 09/53014 / ABP Ref. No. PL65.236998 that the existing building was unsafe and should be demolished. In addition, the Structural Appraisal prepared by Niall Keely & Associates Consulting Engineers Ltd. states that the *'general structural condition of the building appears to have deteriorated since the original structural surveys were undertaken in 2002 and 2003 respectively'*.
- The view of the Conservation Officer that the existing building should be retained was relayed to the applicant early in pre-planning discussions, however, despite numerous requests the Conservation Officer was unavailable or unwilling to engage in more meaningful discussions or to inspect the interior of the building. It is considered that if the applicant had been afforded more attentive pre-planning discussions, the parties concerned would have been able to discuss and explore the 'middle' ground' suggested in the report of the Conservation Officer.
- It is not possible to retain the front of the building in the context of providing a new dwelling which will comply with modern standards and requirements, including private open space and parking standards. The report of Niall Keely & Associates highlights that *'the demolition of a significant portion of the building which would certainly include the upper two levels of both main gables would, I believe, be such as to render the remaining projection both incongruous and structurally difficult to maintain'*.
- The opinion of the Planning Authority that the building could (and should) be retained is unsubstantiated, was formed without an inspection of the building, and appears to be motivated by a desire to ensure that the applicant should not be rewarded for neglecting the structure.
- Ferryview House is a dangerous structure which is incapable of being reused, renovated or rehabilitated, and as its special interests have been damaged and eroded to an extent that demolition is permissible this will not result in the significant loss of architectural heritage and is in accordance with the *'Architectural Heritage Protection, Guidelines for Planning Authorities, 2011'*.

- Both the Planning Authority and the Board have previously accepted that Ferryview House is unsafe and incapable of viable renovation and rehabilitation due to its structural condition. These decisions were based on structural assessments undertaken in 2002 & 2003 (by ARUP Consulting Engineers and Malachy Walsh & Partners) which both concluded that the building was structurally unsafe and that essential repairs would need to be undertaken in order to rectify its poor structural condition. More notably, in an updated assessment prepared by Niall Keely & Associates Consulting Engineers Ltd. in February 2016 it has been confirmed that the overall structural condition of the building has deteriorated further.
- With regard to the structural damage to Ferryview House, the accompanying report prepared by Niall Keely & Associates Consulting Engineers Ltd. summarises the issues as follows:

*‘This building has suffered extremely aggressive interventions in the latter half of the 20<sup>th</sup> Century. These interventions have not only largely removed elements of the special character of the building internally but have also compromised its structural performance. It is, for example, noted that a large section of the original wall between the projection and the rectangular footprint to the rear was removed at some time. This has significantly compromised both the vertical load bearing elements and indeed the lateral stability of the building’.*

- The planning authority has disregarded its previous assessment and that of the Board, in addition to the contents of structural reports from 3 No. engineering firms which have all concluded that the building is structurally unsafe and a potential danger to the public. This has been done without the input of a structural engineer and without an inspection of the interior to the building.
- The Architectural and Archaeological Assessment of Ferryview House compiled in 2002 concluded that the building had been altered internally to such an extent that it was of little or no archaeological or architectural significance. It also stated that much of the building’s original features were no longer present and that many later additions had been added to the building.



Accordingly, the report concluded that in light of the limited built heritage and architectural value of the building, in addition to the unsafe and potentially dangerous condition of the structure, the building should be demolished. The Architectural and Archaeological Assessment of the property further established that there was very limited architectural quality and merit in the building with many of the original features and materials having been completely replaced in the intermittent years. With regard to the large bow fronted windows located on the eastern elevation of the house, the report also noted that whilst these windows were Victorian in style, they are of a more recent construction and are not original to the building.

- Whilst Ferryview House has been recorded in the National Inventory of Architectural Heritage as being of 'Regional' importance due to its architectural and technical qualities, it is not a protected structure nor is it located within an Architectural Conservation Area and, therefore, there is no legal obligation on the owners to protect it.
- Notwithstanding that Ferryview House is not included in the Record of Protected Structures, having regard to the provisions of the 'Architectural Heritage Protection, Guidelines for Planning Authorities, 2011', it is considered that there is more than adequate justification to demolish the existing building given its structural condition and the fact that the special interest qualities of the structure have been eroded by previous owners.
- The proposed dwelling is an appropriate replacement, will integrate with the evolving streetscape, and will not injure the visual amenities of the area.
- It is submitted that the critical issue in the assessment of the subject case is not the demolition of Ferryview House but rather what constitutes an appropriate replacement. In the Board's previous assessment of the site it was deemed that the proposed 4 No. units constituted overdevelopment of the site and did not meet development plan standards in terms of private open space and parking.
- In order to address the foregoing issues, the applicant has proposed a single replacement dwelling house which complies with the private open space and parking requirements of the Kinsale Town Development Plan. In accordance

with current Development Plan standards, 120m<sup>2</sup> of private open space has been provided which is in excess of half of the floor area of the proposed dwelling whilst provision has also been made for 2 No. off-street parking spaces.

- In terms of design, the attached sketches and notes prepared by Kiosk Architects illustrate the innovative and modern design approach employed and in this respect the Board is referred to the Development Plan which aims to *'Foster an innovative approach to design that acknowledges the diversity of suitable design solutions in most cases, safeguards the potential for exceptional innovative design in appropriate locations and promotes the added economic, amenity and environmental value of good design'*.
- The existing building footprint and proportions of Ferryview House do not meet modern standards in terms of room sizes nor do they satisfy the development plan standards in terms of private open space and parking provision. The bulk of the proposed development has been significantly reduced from that previously proposed and is a composition of elements which deliver a modern dwelling in compliance with modern standards. The proposed design will also integrate with the evolving and more modern streetscape at World's End which was permitted and complimented by the Board in its determination of PL04.245078.
- The planning history of the site has established that the demolition of Ferryview House is inevitable whilst the subject proposal has had full regard to the Board's previous refusal of 4 No. units on site.
- Various structural surveys have shown that the building is structurally unsafe and unfit for habitation in its present form. Due to the restrictive nature of the site and the current state of the building, renovating or retaining the structure in its current form is not viable. Therefore, it is proposed to demolish the building and to construct an appropriate replacement which will respect the existing and evolving pattern of development in the area.

## 6.2. Planning Authority Response

No further comments.

### 6.3. Observations

#### Gerry & Tina Reynolds:

- The Board's attention is drawn to the extensive planning history of the application site and neighbouring lands which has involved repeated efforts to develop the subject site in combination with the development of No. 9 World's End. Furthermore, despite repeated attempts by the local residents, the developer has not engaged or consulted with the local community as regards its development proposals. In addition, it is the observer's understanding that no attempt has been over the years to submit a conservation plan to preserve, protect or restore either of the buildings concerned.
- Whilst Ferryview House has been allowed to fall into a state of dereliction / dilapidation, it nevertheless makes an important contribution to the character of the area and should be restored. It forms part of the built heritage of the town and is situated along a heritage trail which also serves to provide a vantage point with views across the river towards James's Fort (a National Monument).
- Ferryview House is a period building with distinctive 'bow windows' over three floors which rises above a two floor high stone retaining structure. Stone arched entries / window openings are also visible on the southern elevation and large glazed areas in the set back section on the northern side adjoining the bow windows all serve to contribute to the distinctive character of the building. The relevant planning statute refers to the presence of particular design features which resonate in the architecturally significant town of Kinsale e.g. St. John's Hill.
- The overall height and massing of the proposed replacement construction exceeds that of the existing building and will have a detrimental impact on views of the heritage site and vantage points at Compass Hill.
- The proposed development includes for a roof-top terrace on the fifth floor which will give rise to overlooking.
- The overall scale and quantum of development proposed is excessive and out of character with the surrounding area. The proposal represents an

overdevelopment of a confined site, is deficient in private open space provision, and will result in the loss of an attractive building of architectural merit along an approach road to the town.

- The subject proposal does not comprise an infill development given the presence of an existing building on site.
- The proposal will ‘swamp’ the surrounding building fabric of the area and, when taken in conjunction with the development approved under ABP Ref. No. PL04.245078, it will have a significant detrimental impact on the area.
- Construction of the proposed development will be reliant on the use of publicly owned lands as documentation previously submitted by the developer details a proposal to seek *‘permission to use Council owned land to the front of Ferryview House then demolish Ferryview House propping the existing retaining wall as necessary on this site and erect a tower crane which would be used to remove all excavated material to trucks on the lower road and also to construct the houses on the upper site’*.
- Whilst the footprint of the existing house is zoned as *‘Established Residential’*, the garden area to the immediate south of the building is zoned as *‘Established Open Space and Recreational Amenities’* with the stated land use zoning objective *‘To preserve, protect and improve active and passive space’*.
- In assessing the subject application there is a requirement to consult with local residents and to consider the impact of the proposal on the residential amenity of adjoining properties, including the following:
  - The investigation, mitigation and monitoring of any impact on the observers’ property, including any impacts arising during the construction phase of the proposed works.
  - The potential impact of the proposal on traffic congestion along a seriously substandard road which already experiences difficulties with regard to access for emergency and refuse collection vehicles in addition to chronic car parking problems.

- The need to respect the requirements of the local community which is dependent on the infrastructure of the area.
- The proposed development is contrary to the provisions of Objective HOU 3-2: *'Urban Design'* of the County Development Plan.
- There has been no significant change to the design of the submitted proposal when compared to that previously refused under ABP Ref. No. PL04.236998 and in this regard the Board is referred to the assessment conducted by the previous reporting inspector.
- When taken in conjunction with the further development planned by the applicant at this location, it is considered that the subject proposal will have a significant adverse impact on the carrying capacity of the local environment and will seriously injure the residential amenity of the surrounding area.
- Despite permission having previously been refused under ABP Ref. No. PL04.236998 on the basis that the demolition of a habitable dwelling at No. 9 World's End had not been justified, permission has since been granted for same pursuant to PA Ref. No. 15/4167 / ABP Ref. No. PL04.245078.
- The design and massing of the proposed replacement structure, which includes for the provision of the roof-top terrace, will have a detrimental impact on the amenity of the area by reason of overlooking, noise and associated disturbance.
- While the proposed building is of a contemporary design and may be more appropriate in some other location, it is considered that the submitted proposal by reason of its overall bulk and scale, would amount to an overdevelopment of the site and would seriously detract from the visual amenity / character of the surrounding area.
- In its previous determination of ABP Ref No. PL04.236998 the Board has already stated that the *'proposed replacement of an existing single period dwelling of slim and elegant proportions with a significantly wider and bulkier structure would seriously detract from the visual amenities of the area'*.

- The subject proposal, when taken in conjunction with the development already approved under ABP Ref. No. PL04.245078, will result in the creation of a darkened street ‘canyon’ at a previous heritage vantage point.
- The proposed development will result in the loss of 2 No. existing on-street parking spaces due to the opening of a new vehicular entrance.
- The proposed development contravenes Objective HE 4-6 of the County Development Plan.

#### 6.4. Further Responses

None.

### 7.0 Assessment

7.1. 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
- Impact on built heritage
- Overall design and layout
- Impact on residential amenity
- Traffic implications
- Appropriate assessment

These are assessed as follows:

#### 7.2. **The Principle of the Proposed Development:**

From a review of the Kinsale Town Development Plan, 2009-2015, it is apparent that the extent of the proposed development site presently occupied by the existing dwelling house (Ferryview House) is zoned as *‘Established Residential’* with the stated land use zoning objective *‘To protect, preserve, enhance and develop existing residential areas, to support appropriate infill residential development, to provide new and improved ancillary community, social and recreational facilities’* whilst the

remainder of the site area, including those lands to the immediate south of the existing house in addition to the passageway that extends northwards to connect Ferryview House with the adjacent pedestrian steps, is zoned as *'Established Open Space, Sports, Recreation and Amenity'* with the stated land use zoning *objective 'To preserve, protect and improve active and passive open space and recreational amenities on public and private lands'*. In this respect it is of particular importance to note that the subject proposal involves the replacement of an existing dilapidated dwelling house and, therefore, the construction of the new dwelling house on those lands zoned for residential purposes is clearly acceptable in principle. With regard to those parts of the site which are zoned as 'open space', I am inclined to suggest that these areas are likely to have been used for purposes ancillary to the historical residential use of the wider site area and that the subject application should be assessed having regard to same. In support of the foregoing, it should be noted that the lands zoned as 'open space' to the north of the existing dwelling house comprise the passageway through which access is obtained to Ferryview House from the pedestrian steps between World's End and the R600 Regional Road and that this access arrangement will be maintained as part of the proposed development. Similarly, the lands to the immediate south of Ferryview House which are zoned as 'open space' are likely to have formed part of a garden area associated with the residential use of the property and thus may be distinguished from the adjacent publicly owned amenity lands. Therefore, it is my opinion that the proposed development of the application site for residential purposes through the construction of a replacement dwelling house must be considered in light of the aforementioned site context.

In addition to the foregoing, it should be also noted that the site is located in an existing built-up area and that the immediate site surrounds are primarily residential in character whilst the prevailing pattern of development along this section of roadway predominantly comprises older terraced housing. Furthermore, the subject lands could be considered to comprise a potential infill site situated within an established residential area where public services are available and that the development of appropriately designed infill housing would typically be encouraged in such areas provided it integrates successfully with the existing pattern of development and adequate consideration is given to the need to protect the

amenities of existing properties. Indeed, the Town Development Plan states that infill development is acceptable in principle on lands zoned as *'Established Residential'* whilst the *'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities, 2009'* acknowledge the potential for infill development within established residential areas provided that a balance is 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.

Therefore, in light of the foregoing, including the established use of the site for residential purposes, I am satisfied that the overall principle of the proposed development is acceptable, subject to the consideration of all other relevant planning issues, including the impact, if any, of the proposal on the amenities of neighbouring properties and the overall character of the wider area.

### 7.3. **Impact on Built Heritage:**

With regard to the proposal to demolish 'Ferryview House', whilst it is apparent from a review of the available information that the Planning Authority has particular concerns with regard to this aspect of the development on the basis that it will result in the loss of a structure which is considered to be of architectural heritage significance given that it has been included in the National Inventory of Architectural Heritage, it is of relevance to note that the building has not been designated as a protected structure and is not located within an Architectural Conservation Area. Furthermore, it is notable that although the property would appear to have been included in the proposed Record of Protected Structures contained in the previous Draft Kinsale Town Development Plan, 2002-2008 (as referenced in the *'Architectural and Archaeological Assessment'* prepared by Florence M. Hurley, Archaeological Consultant, that has accompanied the application), it would seem that 'Ferryview House' was not ultimately designated as a protected structure. Moreover, the building in question was not subsequently included in any updated Record of Protected Structures compiled as part of the review of former development plans which culminated in the adoption of the most recent Kinsale Town Development Plan, 2009 and the Cork County Development Plan, 2014. Indeed, I would suggest that it is also of relevance to note that the Planning Authority was previously amenable to the demolition of 'Ferryview House' in its determination of PA Ref. No. 09/53014 (which was subsequently overturned on appeal under ABP Ref.



No. PL65.236998) and that the structure has seemingly deteriorated further in the intervening period.

Having reviewed the decision of the Planning Authority to refuse permission for the subject proposal, I would suggest that the principle concerns as regards the potential impact of the proposed development on built heritage considerations can effectively be summarised as relating to the loss of the existing building on site (which is considered to be of architectural heritage merit) and the effect of same on the historic character / streetscape of the area, and the overall suitability of the design of the proposed replacement dwelling given the specific site context.

Whilst Ferryview House is not a protected structure, I would advise the Board that it has been identified in the National Inventory of Architectural Heritage as being of 'Regional' importance by reason of its architectural and technical qualities and that it makes a positive contribution to the overall historic character of the wider area in light of its overall design and prominent positioning overlooking the Bandon River where it enters Kinsale Harbour. However, notwithstanding its designation in the NIAH as a building of 'regional' importance and its consequential 'ministerial recommendation' for inclusion in the Record of Protected Structures, Ferryview House is neither a 'protected structure' or a 'proposed protected structure'. In this regard I would further suggest that the Planning Authority has had multiple opportunities to include Ferryview House in the Record of Protected Structures and has seemingly chosen not to do so and thus I would have some reservations as regards the level of uncertainty now introduced in the Planning Authority's assessment of the subject application in relation to the built heritage value of the existing structure (*N.B.* If the Planning Authority had opted to designate the building as a protected structure this would have imposed an obligation on the property owner to ensure that the structure was not being endangered).

Notwithstanding that Ferryview House is not a protected structure, I note the provisions of Policy RPS 3 of the Kinsale Town Development Plan, 2009 which seek to encourage the appropriate reuse, renovation and rehabilitation of older buildings, which are not listed, but have some architectural, historical or heritage merit, although I would suggest that this objective is somewhat aspirational and perhaps should not be given an unduly restrictive interpretation. In this regard I would refer the Board to the appraisal of Ferryview House as set out in the National Inventory of

Architectural Heritage which notes that this *'unusual building occupies a prominent position with extensive panoramic views over Kinsale Harbour'* and that *'the inclusion of bowed oriels to the front of the house makes the house a unique feature of the landscape'* before concluding that the existing building makes a *'strong and positive contribution to the immediate surrounds'*. In addition to the foregoing, I would concur with the previous reporting inspector in their assessment of ABP Ref. No. PL65.236998 that the existing building is quite a striking feature on the landscape when viewed from along the R600 Regional Road, although it must be acknowledged that the structure remains in a seriously neglected condition and has seemingly deteriorated further.

At this point I would draw the Board's attention to the *'Architectural and Archaeological Assessment'* of Ferryview House prepared by Florence M. Hurley, Archaeological Consultant, in 2002 which has accompanied the subject application. In summary, this report concludes that the existing building has been altered internally to such a degree that it is of no architectural or archaeological significance and that its exterior appearance is only of local significance.

Accordingly, whilst I would accept that the existing building makes a positive contribution to the landscape and architectural treatment of the wider area and that its retention (and refurbishment) would be desirable from a built heritage perspective, it is clear that the structure is in a considerable state of disrepair and that any restoration of same would incur significant financial cost. More notably, the subject application has been accompanied by a structural report prepared by Niall Keely & Associates Ltd., Consulting Engineers, which has reviewed the overall condition / integrity of the existing structure and has concluded that the distortion of the building would appear to have progressed since the structure was previously surveyed in 2002 and 2003 with the deviations appearing to have increased from an estimated 350mm in 2003 to as much as 500mm in 2016 i.e. the 'lean' of the building has deteriorated by approximately 40% since the structure was appraised by ARUP Consulting Engineers in 2003. This report further recommends that the existing building should be demolished to ground floor level on the basis of structural stability and safety concerns having regard to the deformations and the structural condition evident on the first and second floors and at the roof level. Therefore, on the basis of the available information, it would appear that the overall structural condition of

Ferryview House has deteriorated considerably since the Board's previous determination of ABP Ref. No. PL65.236998 when the then reporting inspector was satisfied that the demolition of the structure was seemingly inevitable.

On balance, whilst the demolition of Ferryview House is regrettable, in view of the fact that the structure has not been deemed to be of sufficient merit to warrant inclusion in the Record of Protected Structures to date, and as the current structural condition of the property would appear to have deteriorated to such an extent that it poses a risk to public safety, and as the restoration of the property would no longer appear to be feasible, I am satisfied that the applicant has put forward a sufficient case for the demolition and replacement of same.

7.4. **Overall Design and Layout:**

The proposed development involves the construction of a contemporarily designed 4-storey dwelling house which has sought to address the difficult site topography by employing an innovative approach whereby access will be obtained from an upper floor level opening onto World's End with additional accommodation provided on floor levels both above and below same. Notably, this design serves to reflect the contemporary styling of the multi-unit residential development already permitted (but yet to be constructed) under ABP Ref. No. PL04.245078 on those lands immediately opposite the subject site along World's End. It is of further relevance to note that the subject proposal involves the construction of a single replacement dwelling house and thus does not give rise to any significant intensification of use on site.

With regard to the overall scale, height and massing etc. of the subject proposal, it is apparent that the submitted design has been amended to take cognisance of the Board's previous determination of ABP Ref. No. PL65.236998 wherein permission was refused for a multi-unit development on site on the basis that *'the proposed replacement of an existing single period dwelling of slim and elegant proportions on the lower site with a significantly wider and bulkier structure of several dwellings would seriously injure the visual amenities of the area'*. In this respect I am inclined to suggest that the design of the proposed construction has been scaled back considerably in order to reduce the overall bulk of the proposal whilst efforts have been made through the limiting of the extent of the development which will extend above ground level on World's End to reflect the slimline proportions of the existing Ferryview House. In addition, the utilisation of the stone wall at basement level

further serves to reduce the visual impact of the proposal when compared to that previously refused permission under ABP Ref. No. PL65.236998. On balance, I am generally satisfied that the submitted proposal represents an appropriately designed response to this difficult and confined site, however, I am inclined to suggest that the enclosed balcony projection which will extend from the uppermost floor southwards over the car parking area is excessive as it serves to counteract the efforts made to reflect the existing construction on site. Furthermore, I would have concerns that the provision of this balcony could potentially have a detrimental impact on the residential amenities of those properties already permitted under ABP Ref. No. PL04.245078 by reason of overlooking and overshadowing. Therefore, in the event of a grant of permission I would recommend that this enclosed balcony area be omitted by way of condition, although I would concede that this will result in the loss of a notable area of private open space intended to serve the proposed dwelling house.

**7.5. Impact on Residential Amenity:**

Given the site context, in my opinion, particular attention must be given to the potential impact of the proposed development on the residential amenities of those properties already permitted under ABP Ref. No. PL04.245078 on the opposite side of World's End, although I would suggest that cognisance must also be taken of the possible overlooking and overshadowing impacts already attributable to the existing construction on site (i.e. Ferryview House). In this respect I would reiterate that the submitted design has sought to reflect the slimline proportions of Ferryview House by limiting the extent and height of the development above ground level along World's End, however, I would have serious reservations as regards the inclusion of the enclosed balcony projection which will extend southwards from the uppermost floor level over the car parking area. In the first instance, given the proximity of this balcony area to the first floor accommodation of those units permitted under ABP Ref. No. PL04.245078 (including the balcony areas along the front elevations of those units), I would have concerns that it could result in the excessive overlooking of same with an associated loss of privacy. Secondly, whilst I would accept that the actual construction of the balcony area in question has been designed to permit views (and light) through same for the permitted housing, in my opinion, it will nevertheless serve to limit the amount of daylight / sunlight received by those units

approved under ABP Ref. No. PL04.245078. Therefore, I would recommend the omission of this balcony projection as a condition of any grant of permission.

With regard to the the proposed roof terrace area, I would similarly have concerns that this aspect of the proposal could potentially result in the undue overlooking of those units permitted under ABP Ref. No. PL04.245078 given the limited separation distance between the respective properties (notwithstanding that the extent of this roof terrace will be correspondingly reduced in the event that the enclosed balcony projection is omitted from the development). Accordingly, I would concur with the assessment of the Planning Authority that this roof terrace should be omitted in the interest of preserving the residential amenity of the future occupants of the neighbouring permitted development. However, I would advise the Board that the omission of both the enclosed balcony area and the roof terrace will give rise to a significant shortfall in private open space provision on site, although the proposed dwelling house will continue to benefit from a small terraced area at 'Bedroom Level (-1)' in addition to a further balcony at 'Upper Level (+1)' which will both be accessible from communal areas. Whilst the resultant limited private open space provision is regrettable, I would suggest that this must be balanced against the remaining aspects of the development, including the need to provide for a modern standard of accommodation / amenity internally, the provision of dedicated off-street car parking, the difficulties in developing such a restricted site, and the fact that the proposal involves the replacement of an existing dilapidated dwelling house with limited open space provision.

With regard to the potential impact of the construction of the proposed development on the residential amenities of surrounding property, whilst I would acknowledge that the proposed development site adjoins an established residential area and that construction works could give rise to the disturbance / inconvenience of local residents, given the limited scale of the development proposed, and as any constructional impacts arising will be of an interim nature, I am inclined to conclude that such matters can be satisfactorily mitigated by way of condition.

#### 7.6. **Traffic Implications:**

The proposed development includes for the provision of an area of dedicated off-street car parking that will be accessed via a new vehicular entrance arrangement

onto World's End, however, concerns have been raised that any such proposal will result in the loss of existing on-street car parking spaces.

Having conducted a site inspection, it is clear that the access roadway serving World's End is narrow with limited opportunities for on-street parking and whilst I would accept that the proposed entrance arrangement will result in the loss of an area of roadway which would otherwise be available to local residents for on-street parking purposes, there must be an acknowledgment that the proposed development involves the construction of a replacement dwelling house and that it would be beneficial to any residential occupation of the proposed dwelling house (and the wider area) if car parking facilities could be provided on site. In this respect I would further suggest that the submitted proposal represents an improvement over the existing situation given that the existing dwelling house on site could theoretically be renovated and made habitable in the absence of any requirement to provide off-street car parking thereby further exacerbating traffic congestion / parking difficulties along World's End.

Therefore, on balance, I am satisfied that the proposed car parking and associated site access arrangements are acceptable and that the subject proposal will not endanger public safety by reason of traffic hazard.

#### 7.7. **Appropriate Assessment:**

Having regard to the nature and scale of the proposed development, the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

### 8.0 **Recommendation**

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

## 9.0 Reasons and Considerations

Having regard to the design and scale of the proposed development, the historical use of the site in question for residential purposes, the pattern of development in the area, and the provisions of the current Development Plan and Local Area Plan for the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing character of the area, would be acceptable in terms of traffic safety and convenience and would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. The proposed development shall be amended as follows:
  - (a) The proposed roof terrace / garden area shall be omitted.
  - (b) The enclosed balcony projection extending southwards from the uppermost floor level over the car parking area shall be omitted.
  - (c) Any alternative arrangements for the inclusion of additional private open space shall be provided, where feasible.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interests of visual and residential amenity.

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

**Reason:** In the interest of visual amenity.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

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

5. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

**Reason:** In the interests of visual and residential amenity.

6. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

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

7. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400



hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Robert Speer  
Planning Inspector

11<sup>th</sup> August, 2017