



An
Bord
Pleanála

Inspector's Report PL08.248410

Development

a) Construct a two-storey style dwelling, b) make a connection to the public sewer and c) all ancillary site works.

Location

John Street, Dingle, Co. Kerry.

Planning Authority

Kerry County Council

Planning Authority Reg. Ref.

17/94

Applicant(s)

John Harrington

Type of Application

Permission

Planning Authority Decision

Grant subject to conditions

Type of Appeal

Third Party v. Decision

Appellant(s)

Doreen Kavanagh & Others

Observer(s)

None.

Date of Site Inspection

31st July, 2017

Inspector

Robert Speer

1.0 Site Location and Description

The proposed development site is located on the southern side of (Upper) John Street, approximately 230m southeast of the junction of the R559 & R560 Regional Roads with Main Street in Dingle town centre, in a primarily residential area where it occupies an infill position within an established streetscape dominated by the traditional / vernacular two-storey terraced housing characteristic of John Street to the northwest and the more conventional terraced housing construction of the Marian Park estate to the immediate southeast (and southwest). The site itself has a stated site area of 0.04 hectares, is rectangular in shape, and presently comprises a vacant / disused plot of land which is bounded by a high wall and the remnants of a former stonework structure onto John Street. It comprises an infill site positioned between the traditional terraced streetscape and a series of 3 No. conventional terraced houses which front onto John Street at the entrance to the Marian Terrace housing estate. The elongated shape of the site extends along a southwest-northeast axis and is bounded to the rear by a narrow laneway which provides access to the rear of those properties within Marian Park and along John Street.

2.0 Proposed Development

The proposed development involves the demolition of the remnants of a former stonework structure present on site and the subsequent construction of a two-storey end of terrace dwelling house with a stated floor area of 189m² and a ridge height of 7.7m. The overall design represents a blend of both contemporary and vernacular architecture in that the front portion of the dwelling house, which will face onto John Street, is seemingly modelled on an interpretation of the traditional cottage design with a simple elevational treatment utilising vertically emphasised fenestration, whilst the north-westernmost section of the first floor has been provided with a flat-roofed construction and is recessed from the front building line, presumably in an effort to distinguish the proposed development from the neighbouring property to the immediate northwest. Provision has been made for the widening of an existing gateway to the rear of the site in order to provide for vehicular access from an adjacent laneway to dedicated off-street parking. Water and sewerage services are available from the public mains.

N.B. On 7th March, 2017, the Planning Authority issued a Certificate of Exemption pursuant to the provisions of Section 97 of the Planning and Development Act, 2000, as amended, with regard to the proposed development.

3.0 Planning Authority Decision

3.1. Decision

On 3rd April, 2017 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 12 No. conditions which can be summarised as follows:

Condition No. 1 – Refers to the submitted plans and particulars.

Condition No. 2 – Requires the payment of a development contribution in the amount of €515 towards community infrastructure, environmental amenities and facilities benefitting the development.

Condition No. 3 - Requires the payment of a supplementary development contribution in the amount of €5,906.25 towards the cost of the provision of the An Daingean Relief Road and Coach Park.

Condition No. 4 - Requires the proposed dwelling house to be used as a primary and permanent place of residence and prohibits any usage as a holiday or second home.

Condition No. 5 – Refers to the management of the proposed demolition works, including the disposal of waste arising from same, and states that the developer will be responsible for the cost of any repairs caused to the public road etc. consequent on the proposed development.

Condition No. 6 – Refers to external finishes.

Condition No. 7 – Refers to connection to public services.

Condition No. 8 – Requires any works involving cutting of the public road to be undertaken by the Local Authority at the applicant's expense.

Condition No. 9 – Requires the provision of a home composting unit.

Condition No. 10 – Requires the vehicular access to the site to be located in accordance with the Site Layout Map received by the Planning Authority on 8th February, 2017.

Condition No. 11 – Refers to surface water drainage.

Condition No. 12 – Refers to the maintenance of the public road etc. during the course of the construction works etc.

3.2. Planning Authority Reports

3.2.1. Planning Reports

States that the proposed development involves the construction of a two-storey dwelling house on an infill site which is zoned as 'Existing Residential' and that the proposal will integrate with the surrounding area and is unlikely to have a negative impact on the residential amenity of neighbouring properties. With regard to the proposed use of the rear laneway, it is stated that following liaison with the Area Engineer it has been confirmed that the laneway in question is a public road and that the Local Area Office has no objection to the submitted proposal.

3.2.2. Other Technical Reports

None.

3.3. Prescribed Bodies

Irish Water: No objection, subject to conditions.

3.4. Third Party Observations

A total of 3 No. submissions were received from interested parties and the principle grounds of objection contained therein can be summarised as follows:

- Detrimental impact on / interference with the views available from a nearby property towards Dingle Bay.
- The existing laneway is unsuitable for use as a roadway or for regular vehicular access.

- Concerns with regard to traffic / public safety.
- The potential for car parking to obstruct the laneway and to pose a hazard for local residents.
- The existing laneway cannot accommodate heavy construction traffic / machinery.
- Concerns with regard to the reference to apartment units on the submitted drawings.
- There has never previously been an access gate or a right of way to the proposed development site from the existing laneway.

4.0 **Planning History**

On Site:

None.

On Adjacent Sites:

None.

5.0 **Policy Context**

National and Regional Policy:

The ‘*Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities*’ acknowledge the importance of smaller towns and villages and their contribution towards Ireland’s identity and the distinctiveness and economy of its regions. It is accepted that many of these smaller towns and villages have experienced significant levels of development in recent years, particularly residential development, and that concerns have been expressed regarding the impact of such rapid development and expansion on the character of these towns and villages through poor urban design and particularly the impact of large housing estates with a standardised urban design approach. In order for small towns and villages to thrive and succeed, their development must strike a balance in meeting the needs and demands of modern life but in a way that is sensitive and responsive to the past.

Development Plan:

Kerry County Development Plan, 2015-2021:-

Chapter 2: Settlement Strategy:

Section 3.2: Housing

Section 3.4: Urban Settlement Strategy:

Section 3.4.3: Urban / Settlement Regeneration:

US-6: Support the sustainable development of derelict sites and infill sites in towns and villages and encourage the use of upper floors of retail premises as residential accommodation as a means of providing additional housing and revitalising settlements. Ensure that any such proposals would include adequate provision for waste storage and disposal.

Chapter 13: Development Management - Standards & Guidelines

Dingle Functional Area Local Area Plan, 2012-2018:-

Land Use Zoning:

The proposed development site is located in an area zoned as 'Existing Residential'.

Other Relevant Sections / Policies:

Section 1: Dingle Functional Area: Introduction:

Section 1.4: Overall Development Strategy:

OO-27: Encourage the development of a compact and sustainable settlement structure by ensuring that new development is contiguous with existing development and makes effective use of backland and infill sites. Provide a high quality of design in private and public development, increasing the quality of the public domain while maintaining the character, form and settlement pattern of the settlements.

OO-46: Ensure that all residential units are permanent places of residency.

Section 1.5: Settlement Strategy:

Section 1.5.2: Development Strategy

Section 1.7: Zoning Matrix Definitions:

Section 1.7.1: Residential:

The purpose of this zoning is to provide for new residential areas, to protect and improve existing residential areas and to provide facilities and amenities incidental to those residential areas. It is intended to provide for the full range of housing types required to meet demand and changing demographics. It is intended that higher densities, subject to good design, will be accommodated closer to the settlement centre.

There is a limited range of additional uses open to consideration within the residential zoning where it can be demonstrated that there is a need for such facilities and that it will not affect the predominantly residential nature of the area or the vitality and viability of the centre of the settlement.

Residential development shall only take place in conjunction with the provision of the necessary physical, social, community, educational and recreational services/facilities being provided. Lands used as green / amenity areas within residential developments have not been specifically identified as part of this plan but there is a presumption against the development of such land.

Section 2: Daingean Uí Chúis Local Area Plan:

Section 2.1.5: Growth and Residential Development

Section 2.2: Future Vision and Development Strategy

Section 2.3: Sectoral Strategies and Objectives:

Section 2.3.8: Residential Development:

Section 2.3.8.2: Future Residential Developments:

H-1: Promote the development of high quality, attractive residential developments in the town. All developments shall comply with “Sustainable Residential Development in Urban Areas” Guidelines issued by the DoEHLG 2009.

H-2: Ensure that all new residential units are located within the development boundary on suitably zoned land and for permanent occupancy use only.

H-4: Promote the development of suitable derelict and backland sites for infill housing schemes and other sustainable development proposals.

H-5: Require that planning applications for housing developments shall comply with the development management standards and urban design guidance as contained in Chapter 13 of the Kerry County Development Plan 2009-2015 and shall also comply with all relevant guidelines issued by the Department of the Environment, Community and Local Government.

Section 2.3.8.3: Non-Permanent Residential Developments:

Daingean Uí Chúis has experienced significant demand for holiday home developments within the town in recent years. It is estimated that more than one third of all dwelling units in the town are either holiday homes or second homes. Some estates are entirely for holiday homes which are idle for a large proportion of the year which militates against the creation of viable communities.

Section 2.3.11: Built Environment:

UF-1: Ensure that future development in the town takes place on infill, brownfield and appropriately zoned greenfield sites and consolidates the compact urban form of the town making it an attractive and sustainable settlement.

UF-2: Promote new streetscape development at appropriate locations in the town as indicated on the Zoning Map.

UF-3: Ensure that a high quality urban environment is provided throughout the town. All applications for new development should be accompanied by a design statement.

Section 2.3.11.2: Derelict Sites:

The Derelict Sites Act 1990 requires owners or occupiers of any land to take all reasonable steps to ensure that the land and any structure within, does not become, or continue to be, a derelict site. A derelict site is any land, which detracts, or is likely to detract, to a material degree, from the amenity, character or appearance of land in the neighbourhood of the land. To avoid dereliction and maximise use of resources the Planning Authority is committed to the development of historic buildings and

streetscapes which allows them to be adapted to meet modern requirements. The Planning Authority will facilitate the development of protected structures and streetscapes in ways that optimise their use while conserving their innate architectural and historic value.

Section 2.3.11.5: *Urban Design and Development Management:*

5.1. **Natural Heritage Designations**

None.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- By way of background, the Board is advised that during the laying of a new watermain in 2014 the Water Authority cut back overhanging branches from the application site in order to clear the adjacent laneway to the rear of Marian Park. In this respect it is alleged that the applicant subsequently complained to the Local Authority that these works had knocked his ditch and that he would take further action unless the ditch was reinstated and a wide gate put in its place. Accordingly, as a result of the foregoing, it is submitted that the Local Authority ultimately erected a gate at the end of the laneway, however, the residents of Marian Park were not consulted about this matter.
- The residents of Marian Park have assumed responsibility for the upkeep of the estate and its surroundings for a number of years at their own expense and they are aware that there was never a right of way to the proposed development site from Marian Park. The existing estate was built on lands that were originally owned by Mr. Jack O'Connor prior to their purchase by Kerry County Council for the purpose of providing community social housing in the early 1950s.
- The principle point of objection to the proposed development concerns the use for vehicular traffic of a newly opened access onto a public laneway that passes to the rear of those houses along the north-western side of Marian Park.

- The proposed development is contrary to the proper planning of the area for the following reasons:
 - The provision of a vehicular entrance onto a public laneway requires planning permission, however, permission has been neither sought nor granted for the entrance.
 - There are concerns that the increased levels of traffic along what is currently a very quiet laneway to the rear of existing housing presents a security risk and will also result in the disturbance of residents.
 - The existing laneway is not constructed to a standard capable of carrying increased traffic.
 - Vehicular traffic travelling past the rear entrances of the existing housing will pose a danger to children playing in the area.
 - Since the construction of Marian Park, the existing laneway has been used for pedestrian access with only very occasional use by tradesmen. The opening of this laneway to more regular vehicular traffic amounts to a change of use that would fundamentally alter the character of this quiet residential area.
 - The site layout plan submitted with the initial planning application includes a reference to 2 No. apartments with an entrance to same via the newly opened access to the rear of Marian Park. Whilst the subject application is for a dwelling house on John Street, there are concerns that the vehicular entrance could be used to support a future application for permission for the aforementioned apartments which would be located immediately behind existing homes within Marian Park.
 - There are concerns as regards the precedent that may be set by allowing a rear access to an independently owned private site, particularly as other residents along John Street, whose properties back onto Marian Park, may seek to apply in the future for rear access to their properties.

6.2. Applicant's Response:

- During the course of pre-planning discussions, it is submitted that the Planning Authority indicated a positive disposition towards residential development on the subject site given its location relative to the town centre and the applicable land use zoning. Following this meeting the applicant prepared preliminary proposals and engaged in further discussions with the Roads Department of the Local Authority as regards parking and access to the site from the publicly accessible laneway. In this respect it is submitted that the Roads Department of Kerry County Council was satisfied with the proposals.
- The applicant consulted with the adjoining property owners / residents on both sides of the application site and they each confirmed that they had no issue with the proposal. These neighbours have not signed the grounds of appeal.
- The subject proposal includes for the provision of a private walkway along the eastern side of the proposed dwelling house, however, due to the narrow width of the application site, only pedestrian access could be facilitated from John Street to the rear of the property. However, the publicly accessible laneway facilitates vehicular access to a rear parking area.
- The parking area to the rear of the site lends itself to the design when providing for universal access (i.e. wheelchair accessibility from the parking area to the approach to the dwelling house and entrance) as required by the Building Regulations.
- With regard to the original objections to the proposal to access the subject site from the existing laneway to the rear of Marian Park, the assessment set out in the Planner's Report states that the Area Engineer *'has confirmed that the access laneway is a public road'* and that the *'Local Area Office has no objection to the use of the laneway as proposed'*.
- The Planner's Report on file states that the proposed development *'is not likely to impact negatively on residential amenities in the area'*.
- The proposed development complies with Objective Nos. II-27, DM-1, H-4 & H-5 of the Dingle Functional Area Local Area Plan, 2012-2018.

- Condition No. 12 of the notification of the decision to grant permission for the proposed development states that *'the adjoining footpath, laneway and public road shall be maintained to the satisfaction of the Municipal District Engineer to allow for the easy passage of pedestrians and vehicles throughout all stages of the development and building construction'*. It is considered that the inclusion of this condition should serve to alleviate the concerns of local residents as the construction phase will be the only stage during which use of the rear laneway by other users may be adversely affected.
- Given the land use zoning of the application site as 'Residential Existing' as opposed to 'Residential Proposed', the applicability of the occupancy clause included in Condition No. 4 of the notification of the decision to grant permission is questioned.
- The applicant has retained ownership of the subject site since 1956 and has been granted a certification of exemption under Section 97 of the Planning and Development Act, 2000, as amended, having demonstrated same.
- The comments in the grounds of appeal as regards the applicant's interactions with the Local Authority are not considered to be material to the assessment of the subject application. There is an access to the subject site from the rear laneway which is in the ownership of the Local Authority.
- It is understandable that any overhanging branches had to be cut back by the Local Authority given that it brought heavy construction machinery along the existing laneway during the laying of a new watermain and the installation of water meters. More notably, the foregoing serves to demonstrate the suitability of the access laneway for a limited level of traffic.
- There is no requirement for the applicant to obtain a right of way to the existing laneway as it is a public road. Prior to the lodgement of the subject application, the Roads Department of the Local Authority confirmed that it was satisfied with the proposal to use the laneway for vehicular access to the proposed development.
- The existing laneway is already used by a number of local residents for vehicular access and maintenance purposes, including 2 No. houses along John Street, as a practical alternative to parking along John Street as well as

two other properties to the southwest of the application site (*N.B.* One of these accesses would appear to have been used to facilitate a recent construction project).

- The use of on-street car parking is far less preferable than the development of on-site parking which can be easily facilitated on this infill site. Furthermore, the subject site is bounded by a publicly accessible laneway to the east and west and it is not anticipated that any more than two vehicles would use the laneway to access the parking to the rear of the proposed dwelling house. It is also considered that the subject proposal is preferable to the use of on-street parking from a traffic safety perspective due to the lack of such parking in the area and the limited carriageway width of John Street.
- The purpose of the subject application is to secure a specific residential '*planning and land use*' for the site in question whilst the description of the proposed development as set out in the public notices includes for '*all ancillary site works*' which encompasses permission for the vehicular access to the property as identified on the submitted Site Layout Plan.
- With regard to the appellants' concerns that the proposed development could pose a security risk to adjacent properties and give rise to the disturbance of local residents, the Board is advised that the existing site is enclosed and overgrown whilst access to same is easily achievable from the laneway or over the high wall onto John Street. In this respect it is submitted that the current state of the property could be attractive to anti-social behaviour unknown to the residents of Marian Park. The proposed development will remove the potential for any such anti-social behaviour and will improve visibility along the laneway whilst the actual use of the vehicular access will also discourage any anti-social behaviour along the laneway.
- The existing laneway is of sufficient width to accommodate a single carriageway and was previously used by heavy machinery during the Local Authority's installation of a new watermain etc. It has a solid stone surface and is easily traversable on foot or by vehicle.
- The Roads Department of the Local Authority has confirmed that the existing access lane is adequate and suitable for the proposed entrance arrangement.

- The existing dwelling houses fronting onto John Street, as well as others located beyond the proposed entrance to the application site, presently use the laneway for vehicular access.
- There are clear sightlines at the entrance to the access laneway from the Marian Park service road. Furthermore, there is a distance of only 33m between the proposed site entrance and the service roadway within Marian Park and thus any vehicle accessing the site is unlikely to be accelerating as it reaches its destination. Therefore, the proposed use of the laneway by vehicular traffic accessing the application site is unlikely to pose any danger to children playing in the area.
- The existing laneway was designed and constructed to accommodate both pedestrian and vehicular access to the rear of those properties in Marian Park and has developed as such over the years.
- It can be confirmed that the reference to '*rear access to 2 No. apartments*' on the site layout plan is an error.
- With regard to the appellants' concerns that the proposed development may set a precedent for further vehicular accesses onto the existing laneway, it is submitted that any such proposals would require a grant of planning permission. It is also considered unlikely that there will be any further demand for rear vehicular entrances given the availability of existing parking off the Marian Park service road. Indeed, the provision of parking to the rear of those residential dwellings would be detrimental to their amenity spaces. In respect of the existing dwelling houses north of the application site along John Street, it is suggested that the provision of rear access to those properties is unlikely to be attractive due to the extent of laneway which would have to be traversed in order to access same, particularly when compared to the location of the parking along John Street which has traditionally served those properties.
- The proposed development will extend the existing streetscape thereby improving the continuity and architectural treatment of same.
- The provision of parking to the rear of the site with access from a public laneway will reduce the pressure that would otherwise be placed on street-side parking facilities.

6.3. **Planning Authority's Response**

None.

6.4. **Observations**

None.

6.5. **Further Responses**

None.

7.0 **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
- Impact on the amenities of surrounding properties
- Traffic implications
- Appropriate assessment
- Other issues

These are assessed as follows:

7.1. **The Principle of the Proposed Development:**

With regard to the overall principle of the proposed development, it is of relevance in the first instance to note that the subject site is located in an area zoned as '*Existing Residential*' with the stated land use zoning objective '*to provide for new residential areas, to protect and improve existing residential areas and to provide facilities and amenities incidental to those residential areas*'. In addition to the foregoing, it should also be noted that the surrounding area is primarily residential in character with the prevailing pattern of development along (Upper) John Street dominated by traditional / vernacular two-storey terraced housing whilst Marian Park to the immediate

southwest comprises more conventional housing construction. In this respect I would suggest that the proposed development can 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 *'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, having considered the available information, with particular reference to the site context and the relevant policy provisions of the Dingle Functional Area Local Area Plan, 2012-2018 (including Objective Nos. H-4 & UF-1), 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.

7.2. **Overall Design and Layout:**

The proposed development site occupies an infill position between the predominantly traditional / vernacular two-storey terraced streetscape to the northwest along John Street and the more conventional terraced housing of Marian Park to the immediate southeast which fronts onto John Street. Accordingly, I am inclined to suggest that a suitably designed redevelopment of the application site could provide an appropriate transition point between the vernacular architecture to the northwest and the conventional housing to the southeast, particularly in light of the differing architectural styles of the respective properties and the associated change in building line. In this respect it would appear that the overall design of the subject proposal has sought to achieve some degree of balance between the vernacular streetscape and the more conventional construction as the front portion of the dwelling house, which will face onto John Street, has seemingly been modelled on an interpretation of the traditional cottage design with a simple elevational

treatment whilst the north-western section of the first floor has been provided with a flat-roofed construction and is recessed from the front building line, presumably in an effort to distinguish the proposed development from the neighbouring terraced property to the immediate northwest. Having considered the foregoing, it is my opinion that the redevelopment of this infill site will make a positive contribution to the surrounding streetscape and that the overall design of the submitted proposal provides for an acceptable transition between the architectural styles prevalent along this section of John Street.

7.3. **Impact on the Amenities of Surrounding Properties:**

Having reviewed the available information, and in light of the site context within a built-up urban area, in my opinion, the overall scale, design, positioning and orientation of the proposed development, with particular reference to the separation of same from adjacent dwelling houses, will not give rise to any significant detrimental impact on the residential amenity of neighbouring property by way of overlooking or overshadowing etc.

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 any construction traffic routed through same 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.

7.4. **Traffic Implications:**

The principle concerns raised in the grounds of appeal relate to the proposal to widen an existing gateway to the rear of the property in order to provide for vehicular access from an adjacent laneway to a dedicated off-street parking area. In this respect it has been asserted that the existing gateway was originally provided by the Local Authority at the request of the landowner in the absence of any consultation with the residents of Marian Park (whose properties are also served by the laneway in question) and without the benefit of planning permission. It has also been submitted that the existing laneway is entirely unsuitable for use as a means of

regular vehicular access / egress to and from the proposed development site by reason of its overall condition and limited carriageway width. Furthermore, it has been suggested that the usage of the laneway for any such purposes would have a detrimental impact on the residential amenity of neighbouring properties and would pose a danger to children playing in the area.

With regard to the entitlement of the applicant in the first instance to avail of an access onto the existing laneway to the rear of Marian Park, it is notable that the passageway in question would appear to comprise a public road and that the Roads Authority has no objection to this aspect of the proposal. Accordingly, it would appear that there is no express obligation on the applicant to demonstrate a legal right of way over the existing laneway. However, in the event that the laneway in question is not a public road and has not been taken in charge by the Local Authority, I would accept that it may be necessary for the applicant to obtain a right of way over same, although this would amount to a civil matter for resolution between the parties concerned. At this point, I would also draw the Board's attention 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'*.

In relation to the existing gateway from the application site onto the laneway, I am not in a position to comment on the veracity of either the applicant's or the appellants' claims as regards the construction of same by the Local Authority, however, it is perhaps of relevance to note the provisions of Class 9 of Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended, which state that the construction or erection of any gate or gateway (other than within or bounding the curtilage to a house) shall be exempted development. In addition, it is also noteworthy that the gateway in question would not appear to conflict with Article 9(1)(a)(ii) of the Regulations which states that the formation of a means of access onto a public road, the surfaced carriageway of which exceeds 4m in width, will not be exempted development.

In the context of the subject proposal, given the infill nature of the proposed development and the desirability of improving the streetscape along this section of John Street, it is not possible to provide vehicular access to the rear of the application site other than via the existing laneway. Furthermore, in light of the

limited availability of on-street parking along John Street and the restricted carriageway width of same (which already serves to interfere with the free-flow of traffic in the area), I would suggest that it would be preferable if car parking facilities could be provided on site to serve the proposed development. Therefore, I am inclined to conclude that the proposed provision of dedicated on site car parking is both desirable and acceptable in principle.

Whilst I would concede that the existing laneway from which vehicular access to the proposed on-site car parking will be obtained is generally substandard by reason of its restricted width and overall condition, it is notable that several other properties along this laneway have also made provision for vehicular access onto same. Indeed, I would suggest that given the positioning of the proposed entrance arrangement at a right-angled bend in the laneway (and the sightlines available), the relatively short distance between the upgraded entrance and the main roadway serving Marian Park, and the availability of sufficient space within the confines of the application site to facilitate the turning of vehicles, the proposed access arrangement would appear to pose less of a traffic hazard than some of the other existing access points. Furthermore, it is my opinion that the sightlines at the junction of the laneway onto the main Marian Park service road are comparable to those presently available from the existing domestic driveway to the immediate east of same.

On balance, whilst I would acknowledge the appellants' legitimate concerns as regards the potential impact of the increased usage of the existing laneway on the residential amenity of their properties, in my opinion, the limited volumes of traffic likely to be associated with the proposal are not of such significance as to warrant a refusal of permission. Furthermore, I would suggest that cognisance must be taken of the desirability of developing this infill site along John Street from an architectural / aesthetic perspective and the limited availability of on-street parking in the immediate area. Finally, I would not accept that the specific considerations of the subject application will give rise to any precedent for future development, particularly as any such proposals will have to be assessed on their merits.

In the event that the Board does not concur with the foregoing assessment and accepts the position adopted in the grounds of appeal, consideration should be given to the omission of the proposed car parking on site and the imposition of a

development contribution towards the provision of improved public parking facilities in the area as a condition of any grant of permission.

7.5. **Appropriate Assessment:**

Having regard to the nature and scale of the proposed development, the availability of public services, the nature of the receiving environment, 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.

7.6. **Other Issues:**

The Nature of the Proposed Development:

Concerns have been raised as regards the inclusion of a reference on the submitted site layout plan to a *'Proposed rear access to 2 No. apartments'*, however, in response to the grounds of appeal, the applicant has confirmed that this statement was included in error. Whilst I would accept the applicant's explanation in this regard, I would also advise that the subject application is specifically for the construction of a single two-storey style dwelling house as detailed in the description of the proposed development set out in the public notices.

With regard to the inclusion in the notification of the decision to grant permission as issued by the Planning Authority of a condition which requires the proposed dwelling house to be used as a primary and permanent place of residence whilst also prohibiting any usage as a holiday or second home, it would appear that the necessity for the imposition of same derives from the concerns expressed in Section 2.3.8.3: *'Non-Permanent Residential Developments'* of the Local Area Plan and the provisions of Objective H-2 which seeks to *'ensure that all new residential units are located within the development boundary on suitably zoned land and for permanent occupancy use only'*.

In my opinion, the inclusion of a condition prohibiting the provision of overnight paying guest accommodation without a prior grant of permission will serve to address the Planning Authority's concerns and will also avoid any overdevelopment of the application site and any associated traffic implications.

Impact on Views available from Nearby Properties:

Concerns were raised in an initial objection to the subject application that the proposed development would have a detrimental impact on the residential amenity of a neighbouring property by reason of the obstruction of the views available from same towards Dingle Bay. Having considered the available information, in my opinion, it is of the utmost relevance to note that the views available from any neighbouring property over the surrounding area are not of public interest nor are they expressly identified as views worthy of preservation in the relevant Development Plan / Local Area Plan. They are essentially views enjoyed by a private individual from private property. A private individual does not have a right to a view and whilst a particular view from a property is desirable, it is not definitive nor is it a legal entitlement and, therefore, I am of the opinion that the proposed development would not seriously injure the amenities of neighbouring property simply by interfering with their view of the surrounding area.

8.0 Recommendation

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

9.0 Reasons and Considerations

Having regard to the location and residential zoning of the site, the pattern of development in the area, and the scale and design of the proposed dwelling, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further particulars submitted on the 21st day of March, 2017, 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. Water supply and drainage arrangements, including the attenuation and 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.

3. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

4. Details (including samples) of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

5. Notwithstanding the provisions of Article 10(4) of the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, no room in the proposed house shall be used for the purpose of providing overnight paying guest accommodation without a prior grant of planning permission.

Reason: In order to prevent overdevelopment of the site in the interest of residential amenity and traffic safety and convenience.

6. Prior to commencement of development, the developer shall submit to the planning authority, for written agreement, complete details of all proposed boundary treatment within and bounding the proposed development site.

Reason: In the interests of visual and residential amenity.

7. Site development and building works shall be carried out between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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 site development and construction works shall be carried out in such a manner as to ensure that the adjoining streets are kept clear of debris, soil and other material and cleaning works shall be carried out on the adjoining public roads by the developer and at the developer's expense on a daily basis.

Reason: To protect the residential amenities of property in the vicinity.

9. 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 waste.

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

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, 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.

11. The developer shall pay to the planning authority a financial contribution in respect of the An Daingean Relief Road and Associated Coach Park in accordance with the terms of the Supplementary Development Contribution Scheme made by the planning authority under section 49 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 Supplementary Development Contribution Scheme made under section 49 of the Act be applied to the permission.

Robert Speer
Planning Inspector

31st July, 2017