



An
Bord
Pleanála

Inspector's Report PL08.249036

Development

1) Permission for retention of as constructed first floor extension at the rear of the building 2) permission to construct extensions at ground floor, first floor & second floor level at the rear of the building (bedrooms), complete the first floor as constructed extension, refurbish the first & second floor of the existing building (bedrooms), removal of the windows from the south western elevation of the as built 1st floor extension, car parking & all associated services and site works.

Location

The Crown Hotel, 47 Main Street, Castleisland, Co. Kerry.

Planning Authority

Kerry County Council

Planning Authority Reg. Ref.

16/1249

Applicant(s)

Carol Browne

Type of Application

Permission & Permission for Retention

Planning Authority Decision

Grant subject to conditions

Type of Appeal	Third Party v. Decision
Appellant(s)	Alice Fitzgerald
Observer(s)	None.
Date of Site Inspection	25 th October, 2017
Inspector	Robert Speer

1.0 Site Location and Description

The proposed development site is located along the south-eastern side of Main Street in the town of Castleisland, Co. Kerry, and principally consists of a mid-terrace, two-bay, three-storey property which extends to include an accessway located further northeast beyond an adjacent property in addition to a substantial yard area to the southeast. The surrounding area is characterised by a variety of uses typical of town centre locations including retail, commercial and residential uses with the site itself adjoining a licensed premises to the southwest and a restaurant to the northeast. The site has a stated site area of 0.162 hectares and presently trades as 'The Crown' public house / restaurant (*N.B.* There is no longer a hotel operating from the premises). The ground floor of the property comprises an elongated bar area with a dining / function room and kitchen area located to the rear of same whilst the first floor and second floor levels, which previously provided for overnight accommodation, staff areas and meeting rooms etc. associated with the operation of the former hotel, are presently used for general storage purposes (*N.B.* It was not possible on the day of my site inspection to gain access to the second floor level). Notably, the property has been extended to the rear to include a partially completed first floor extension intended to provide additional overnight / bedroom accommodation. Access to the site is obtained directly from Main Street, although an alternative point of access to the rear of the property is available via Old Chapel Lane. The rear yard area of the site is used for informal car parking and refuse storage etc.

2.0 Proposed Development

The proposed development, as amended in response to a request for further information, consists of the retention and completion of a partially constructed first floor extension and the subsequent construction of a further extension at ground, first & second floor levels to the rear of the property in order to provide bedroom accommodation and an enclosed escape stairwell. In addition, it is proposed to refurbish the first & second floor levels within the existing three-storey building which fronts onto Main Street to provide additional bedroom accommodation and to omit all the existing windows from within the southwestern elevation of the 'as built' first floor

extension. The only alteration proposed to the front (Main Street) facade of the premises is the substitution of the existing uPVC windows with timber replacements.

The proposal also includes for the development of a car parking area (24 No. parking spaces) to the rear of the property with the access to same to be obtained via Old Chapel Lane.

N.B. Following the receipt for a response to a request for further information which was considered by the Planning Authority to contain significant additional data, and pursuant to a subsequent request, the applicant submitted revised public notices on 22nd June, 2017.

3.0 Planning Authority Decision

3.1. Decision

Following the receipt of a response to a request for further information, on 19th July, 2017 the Planning Authority issued a notification of a decision to grant permission & permission for the retention of the proposed development subject to 10 No. conditions. These conditions are generally of a standardised format and relate to issues including external finishes, waste management, lighting, car parking and development contributions.

3.2. Planning Authority Reports

3.2.1. Planning Reports:

An initial report noted that the proposed development site was zoned as 'Town Centre' in the Castleisland Local Area Plan, 2009 and proceeded to state that, in light of the site location and its existing use for commercial purposes, the proposed development was acceptable in principle. It was further noted that although the site was located within an Architectural Conservation Area, no alterations were proposed to the front of the structure and there was no objection to the proposal by the Conservation Planner. With regard to the overall design of proposed development and its implications for adjacent properties, it was noted that whilst there were no windows proposed within the south-western elevation of the extension, a significant number of individual windows were to be provided within the north-eastern elevation which would face in part onto the hotel's own car park and the adjoining property occupied by the Country Market restaurant (the owner of which had objected to the

proposed development). This report subsequently recommended that further information should be sought in respect of the adequacy of the proposed car parking arrangements, the revision of the fenestration proposals given the implications of same as regards the future development potential of the adjacent property at No. 48 Main Street, the need to avoid construction along the party wall in the absence of the necessary consent, and the overall scale and bulk of the subject proposal, particularly when compared to that previously refused permission under PA Ref. No. 07/4316 (as opposed to that granted under PA Ref. No. 11/983 / ABP Ref. No. PL08.240588).

Following the receipt of a response to a request for further information (including the submission of revised public notices), a further report was prepared which stated that all of the issues raised had been satisfactorily addressed. This report also noted that the car parking assessment undertaken by the applicant had established that adequate car parking space would be provided on site and that alterations had been made to the overall design of the proposed development in order to take account of the concerns raised in the request for further information. The report then references the site's town centre location and states that the redevelopment of the subject site will undoubtedly impact on adjoining properties before subsequently concluding that *'the proposed development will have a seriously negative impact on the amenities of those properties'* and recommending a grant of permission, subject to conditions.

3.2.2. Other Technical Reports:

Kerry National Roads Design Office: No observations.

Building Control: No objection, subject to conditions.

Conservation (Executive Planner): No objection, subject to conditions.

3.3. **Prescribed Bodies**

Transport Infrastructure Ireland: No observations.

3.4. **Third Party Observations**

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

- Overlooking and overshadowing of adjacent property

- The proposal is detrimental to the future development potential of an adjacent property
- Infringement of the boundary line / encroachment over the party wall
- The submitted plans and particulars do not accurately detail the objectors' property relative to the proposed development.

4.0 Planning History

4.1.1. On Site:

PA Ref. No. 93/1839. Was granted permitting Liam Brosnan permission to retain 2 No. first floor guest bedrooms & minor layout revisions and extend to rear as function room bar & 16 No. guest bedrooms.

PA Ref. No. 01/3657. Was granted on 12th March, 2002 permitting Philip O'Connell permission to alter and refurbish front facade with revised signage.

PA Ref. No. 06/3056 / ABP Ref. No. PL.08. 221246. Was refused on appeal on 8th June, 2007 refusing John Enright permission to 1. Retain demolitions and reconstruction. 2. Retain and complete extensions incorporating ground floor kitchen services block extension, first floor bedroom block extension, second floor/roofspace bedroom block and all ancillary development works to The Crown Hotel at 47 Main Street, Castleisland, Co. Kerry (as amended by further public notice received by the planning authority on the 13th day of November, 2006), for the following reason:

- The appeal relates to a building which is situated within an Architectural Conservation Area and is a Protected Structure under the provisions of the 2004 Castleisland Local Area Plan. Having regard to the height, scale and design of the development proposed for retention and completion and its relationship with adjoining property, it is considered that the proposed development would seriously injure the amenities of adjoining property, would be visually obtrusive and would seriously injure the amenities of this Architectural Conservation Area. Retention and completion of the proposed development would, therefore, seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.

PA Ref. No. 074316. Was refused on 24th January, 2008 refusing John Enright permission to 1) retain partial demolitions and reconstruction 2) to retain and

complete extensions incorporating ground floor kitchen services block extension, first floor bedroom block extension, second floor / roofspace bedroom block extension with all associated site works, for the following reasons:

- The proposed design is situated within an Architectural Conservation Area and is a protected structure under the provisions of 2004 Castleisland Local Area Plan. Having regard to the scale, height and design of the proposed extension, it is considered that the proposed development would be visually incongruous and obtrusive, would be detrimental to the character of the building and set an undesirable precedent for similar development within the designated Architectural Conservation Area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
- Having regard to the height, scale and design of the proposed development, it is considered that it would constitute overdevelopment of the site, would seriously injure and adversely impact on the amenity of the area and would set an undesirable precedent for similar such development in the surrounding backlands. The proposed development would be contrary to Urban Design Objective UD1 of the Local Area Plan 2004 and as such would be contrary to the proper planning and sustainable development of the area.

PA Ref. No. 09274 / ABP Ref. No. PL08. 233718. Was refused on appeal on 25th November, 2009 refusing John Enright permission to (1) retain partial demolitions and reconstruction, (2) to retain and complete extensions incorporating ground floor kitchen services block extension, first floor bedroom block extension, (3) construct new rear ground floor function and first floor bedroom block extension, (4) demolish derelict building and construct new service entrance from Old Chapel Lane, all with associated ancillary development works which relates to the development of an architecturally listed streetscape front façade three-storey double bay structure (number 14) under the Castleisland Local Area Plan 2003-2009 at The Crown, 47 Main Street and Old Chapel Lane, Castleisland, Co. Kerry, for the following reason:

- The appeal relates to a building which is situated within an Architectural Conservation Area and is a Protected Structure under the provisions of the 2004 Castleisland Local Area Plan. Having regard to the scale and design of

the development proposed for retention and completion, which proposes an unattractive and monolithic flat roof structure extending approximately 60 metres from the rear of the street buildings, to the extent of site coverage, and to the proposed relationship with adjoining property including windows on the site boundary, it is considered that the proposed development would represent an overdevelopment of the site, would seriously injure the amenities of adjoining property, would be visually obtrusive and would seriously injure the amenities of this Architectural Conservation Area. Retention and completion of the proposed development would, therefore, seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.

N.B. In deciding not to accept the Inspector's recommendation to grant permission, the Board considered that the proposed design was not of a sufficient standard and had not adequately addressed the Board's previous refusal reason (under planning reference PL08.221246), notwithstanding the reduction in height of the proposed extension. It was also noted that the length, scale and intensity of uses in the proposed extension had been increased and the amount of car-parking decreased compared with the earlier application.

PA Ref. No. 11983 / ABP Ref. No. PL08.240588. Was granted on appeal on 24th January, 2013 permitting Patricia Enright permission for (1) Retention and completion of partial demolitions and ground and first floor extension reconstruction; (2) construction of first floor and second floor bedroom block extensions; (3) alter front entrance and street front façade and (4) demolition of an existing bottle store, all with associated ancillary site development works and accompanying ACA Report, as amended by the revised public notice received by the planning authority on the 14th day of March, 2012.

- PA Ref. No. 119983. Application by Carol Browne for an 'Extension of Duration' of PA Ref. No. 11983. No decision to date.

4.1.2. On Adjacent Sites:

PA Ref. No. 76/832. Was granted on 19th August, 1976 permitting Mr. Frank Hughes permission for the erection of an extension and reconstruction of existing dwelling house at No. 22 Church Street, Castleisland, Co. Kerry.

PA Ref. No. 05/2501 / ABP Ref. No. PL08. 214443. Was refused on appeal on 20th February, 2006 refusing Narbert Limited permission for the demolition of the existing store and the erection of a four-storey building containing two lock-up garages, 10 apartments and a link three-storey building containing two apartments, the development includes associated site works at Old Chapel Lane, Castleisland, Co. Kerry, for the following reasons:

- Having regard to the scale, height and design of the proposed building and to the pattern of existing development in the vicinity, it is considered that the proposed development would be visually incongruous and obtrusive, would be detrimental to the streetscape and would, therefore, seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.
- The proposed development, by reason of its scale, design (including single aspect apartment layout) and inadequate parking or amenity space, would constitute overdevelopment of the site, provide a poor quality residential environment, be out of character with the pattern of development in the vicinity and conflict with the provisions of the current development plan for the area. The proposed development would, therefore, seriously injure the amenities of property in the vicinity and be contrary to the proper planning and sustainable development of the area

4.1.3. On Sites in the Immediate Vicinity:

PA Ref. No. 081462 / ABP Ref. No. PL08. 231728. Was granted on appeal on 8th May, 2009 permitting Brian Kelly permission for a development consisting of: (a) change use of and extend existing dwelling house at ground floor level to coffee shop and sandwich bar with revised front elevation and (b) change use of and extend first floor level with revised front elevation to accommodate apartment all with ancillary development works at 24 Church Street, Castleisland, Co. Kerry.

PA Ref. No. 12141. Was granted on 20th July, 2012 permitting Mizzoni Pizza & Pasta Co. permission to retain restaurant with takeaway / home delivery facility & retention of existing shop front elevation as constructed and all associated ancillary development works at 24 Church Street, Castleisland, Co. Kerry.

5.0 Policy Context

5.1. National and Regional Policy

The *'Architectural Heritage Protection, Guidelines for Planning Authorities'* provide detailed guidance in respect of the criteria and other considerations to be taken into account in the assessment of proposals affecting protected structures and Architectural Conservation Areas.

N.B. In the interests of clarity, I would advise the Board that whilst it appears that the subject site was previously listed as a proposed protected structure in the Castleisland Local Area Plan, 2004, the property has since been delisted and is no longer included in either Appendix 'B' (Existing Protected Structures) or Appendix 'C' (Proposed Protected Structures) of the adopted Castleisland Local Area Plan, 2009. It can also be confirmed that the subject site is not included in the Record of Protected Structures contained in the Kerry County Development Plan, 2015. However, it should be noted that the site is situated within an Architectural Conservation Area.

5.2. Development Plan

Castleisland Functional Area Local Area Plan, 2009:-

Land Use Zoning:

The proposed development site is located in an area zoned as *'Town Centre'* with the stated land use zoning objective *'To primarily provide for mixed uses including retailing, residential, commercial, office, civic buildings, financial institutions, professional services and any other uses appropriate to the town centre'*.

Proposed developments should improve the vitality and viability of the town centre and shall meet the needs of the town and the hinterland. Individual applications will be assessed on the basis of the proposed development as well as existing uses, and other proposals in the vicinity.

Developments which the Planning Authority considers would unduly affect the character, quality and amenity of the town will not be permitted. A diversity of uses for both day and evening will be encouraged and the degree of accessibility for all users shall be high.

Any residential development on these sites shall be secondary to the primary commercial/retail use at the site and any residential development shall be compatible with the primary use at the site.

Other Relevant Sections Policies:

Castleisland Adopted Local Area Plan:

Chapter 3.0: Sectoral Strategies and Objectives:

Section 3.1.3: Town Centre:

- TC-1 -* Promote the development of the town centre as an attractive location for shopping, business, tourism and community life.
- TC-2 -* Facilitate a mix of compatible uses that will contribute to an enhanced provision of a range of town centre uses and which will consolidate the retail core around Main St as the primary activity and business centre for the town.
- TC-3 -* Promote the development of the town centre as the primary location for retail and other commercial development in the town and its hinterland.
- TC-4 -* Ensure that future development in the town centre is of a high quality design standard and respects the town's historic character and built form.
- TC-7 -* Encourage the use of upper floors in the town centre for commercial or residential use.
- TC-9 -* Promote a high quality urban environment.
- TC-10 -* Ensure that traditional shopfronts and signage is retained and that new developments are of a high quality architectural design and finish.
- TC-11 -* Carry out a Town Centre Strategy to address the issues pertaining to the development of a town centre. This Strategy will address the physical enhancement and improvement of the town centre through urban design measures and improved traffic management in the town.

Section 3.1.5: Tourism:

T-1 - Promote Castleisland as a town with a unique character and identity and facilitate quality developments that will help improve the tourism potential of the town.

T-2 - Facilitate the development of high quality visitor accommodation within the town at appropriate locations.

Section 3.3: *Transport and Movement:*

TM-10 - Encourage the rear servicing of commercial premises where possible.

Section 3.7: *Built Environment:*

Section 3.7.1: *Urban Form Analysis*

Section 3.7.2: *Urban Design:*

Section 3.7.2.1: *Shop Fronts & Signage*

Section 3.7.2.3: *Materials and Finishes*

UD-1 - Require Urban Design Statements for large or significant developments, including residential developments in excess of four dwellings.

UD-6 - Ensure that the design of premises or the refurbishment of existing premises in the town is sympathetic to existing development in the vicinity and is of a design composition that enhances the streetscape.

UD-9 - Protect important views to and from landmark buildings, historic buildings and associated prospects to ensure the character of these places is adequately protected

Section 3.7.3: *Urban Environment Improvement Areas:*

Section 3.7.3.1: *Main Street*

UEOA-1 – Ensure that new development in the urban environment improvement areas is of high architectural design and layout and respects the character, scale and form of the existing streetscapes.

Section 3.8: *Built Heritage:*

Section 3.8.2: *Architectural Conservation Areas*

- BH-3* - Designate those areas indicated on the Map 3 (b) as Architectural Conservation Areas (ACAs) in accordance with the provisions of the Planning and Development Act 2000 (as amended) and the guidelines for designation issued by the Department of the Environment, Heritage and Local Government. See also Appendix D.
- BH-5* - Preserve the town's architectural heritage and encourage development that is designed in a manner that is in keeping with the scale, character and pattern of the existing built fabric and urban form. New developments must be designed to a high architectural standard and must take cognisance of local design features and materials.

Appendix 'D': *Proposed Architectural Conservation Area.*

5.3. **Natural Heritage Designations**

The proposed development site is situated approximately 3.8km southwest of the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (Site Code: 004161).

6.0 **The Appeal**

6.1. **Grounds of Appeal**

- In their assessment of the subject application the case planner has stated that *'this is a town centre location and the redevelopment of this site will undoubtedly impact on adjoining properties. It is considered that the proposed development will have a seriously negative impact on the amenities of those properties'*, however, in the notification of the decision to grant permission it is stated that the proposed development *'would not be visually obtrusive or out of character with the other properties in the area and would not seriously damage the amenities of the adjoining area'*.

Considering that the case planner concluded that the subject proposal would have a seriously negative impact on the amenities of adjacent properties, it is difficult to reconcile this assessment with the subsequent recommendation to grant permission.

- The subject proposal comprises a substantially altered proposed development which is not in accordance with the previous decision of the Board in respect of ABP Ref. No PL08.240588.
- With regard to the revised plans and particulars submitted in response to the request for further information, it is submitted that notwithstanding the minor alterations to the roof profile and the replacement of some windows with rooflights, the proposed development will continue to have a detrimental impact on the enjoyment and amenity of the appellant's property and thus the proposal is not in keeping with the proper planning and sustainable development of the area.
- The amended plans have not reduced the height of the proposed three-storey rear extension from 9.9m.
- The full extent of the appellant's property extends beyond that shown on the first and second floor plans of the proposed development. In this regard it is submitted that the depth of the appellant's property is 34.5m and that the building line of same on the first and second floor plans should mirror that shown on the ground floor plan. Therefore, the submitted plans and particulars do not accurately portray the existing position 'on the ground'.
- The proposed window which is intended to serve Bedroom No. 106 is located on the boundary line and will overlooks the appellant's property. Therefore, this window should be omitted from the proposed development as it will interfere with or prohibit development to the rear of the property at No. 48 Main Street.
- With regard to the inclusion of windows within the northern elevation of the proposed development in order to serve a protected stairwell and the bathroom of Bedroom No. 104, it is submitted that a right to light should not be allowed to become established and that no windows should be permitted within the northern elevation which would overlook the appellant's property. In this respect it is of relevance to note that the revised proposals submitted in response to the request for further information have omitted all the existing and proposed windows within the south-facing elevation of the proposed development.

- The proposed inclusion of those windows serving Bedroom Nos. 204 & 206 will undermine the development potential of the appellant's property.
- The subject proposal constitutes an overdevelopment of the application site that will have a negative impact on the amenities of adjoining properties.
- The significant number of windows within the northern elevation of the proposed development should be omitted and in this respect it is submitted that the lighting of internal spaces / rooms etc. should be obtained by way of an alternative mechanism within the confines of the application site which is not dependent on any area outside of the site boundary.
- There are Building Regulations pertaining to the provision of windows serving bedrooms and other accommodation and it is suggested that the subject proposal will not comply with same.
- The appellant does not give her consent for any building works to be undertaken on the party boundary wall.
- The revised plans submitted in response to the request for further information do not adequately address the concerns raised by the Planning Authority with regard to the potential detrimental impact of the proposed extension on the development potential of No. 48 Main Street (with specific reference to the inclusion of those windows on the northern elevation of the proposed development). Therefore, the appellant has serious concerns that the number and positioning of windows which will overlook her property may serve to limit the future development of same.

6.2. Applicant's Response

- The proposed development site is located within the town centre of Castleisland and is suitably zoned and serviced.
- The subject proposal complies in full with the relevant policy provisions and development objectives of the Castleisland Local Area Plan.
- The proposed development has the potential to generate up to 30 No. additional jobs in the town and will also provide much needed high quality accommodation which is considered to be critical in order to retain tourists in the area.

- The provision of additional bedroom accommodation is fundamental to the development of tourism which will also benefit other businesses in the town.
- It is a key aim of the County Development Plan to encourage the growth and development of town centres in order to prevent the relocation of retail and commercial businesses to the outskirts of the towns. In this respect it is submitted that the subject proposal involves the redevelopment of a hotel that will provide much needed accommodation in the town, will allow for the expansion of the tourism industry, and will provide employment and stability to local residents.
- The proposed development will strengthen the business of the existing bar, restaurant and function room which currently operate from the ground floor of the premises.
- The proposal will improve the attractiveness of the area and will consolidate the business and retail area of the town centre. It will also encourage other property owners to refurbish their premises thereby contributing to the vibrancy of the town centre.
- The entire facade of The Crown Hotel will be refurbished to a high standard and will thus retain part of the historic Chapel Quarter on Castleisland Main Street.
- The Local Authority has recognised that by not providing additional bedroom accommodation in Castleisland it will become increasingly difficult to market the town as a stopping-point for tourists.
- The proposed development site is located within an 'Urban Improvement Area' and in this respect it is submitted that the subject proposal will improve pedestrian and cyclist movement in the area through a reduction in on-street car parking and that it will also serve to improve the built environment for the benefit of all users.
- In its assessment of the subject application, the Planning Authority acknowledged that the proposed development would have an impact on adjoining properties, however, it was concluded that the positive attributes of the proposal outweighed any negative considerations as follows:

- The proposal involves the redevelopment of an existing property in a town centre location.
 - The façade of the existing building will be retained thereby preserving the built heritage of the area.
 - The refurbishment works will bring the disused first and second floors of the property back into active use. The extension proposed is necessary to ensure that the existing business is viable.
 - The provision of on-site car parking will lessen the demand for car parking along an already congested main street.
 - The proposed development will provide an employment boost to the local economy during both the construction and operational phases.
- The subject proposal involves changes to the development previously approved under ABP Ref. No. PL08.240588 and thus a new planning application was warranted. In addition, discussions were held with the Planning Authority with regard to the revised proposal on a number of occasions.
 - In response to the request for further information, and pursuant to a meeting with the case planner, the following changes were made to the design of the proposed development:
 - The roof profile along the northern side of the proposed building was revised to a 60-degree pitch.
 - Rooflights were inserted within the amended roof profile to replace the previously proposed windows.
 - The height of the roof at the stairwell and over Bedroom No. 204 was reduced by 500mm. The ‘mansard’ element was removed and the window for Bedroom No. 204 was stepped back in line with the stairwell by 1,800mm.
 - The height of the proposed extension was not revised to the rear as it overlooks a car parking area in the ownership of the applicant and as it is 1,000mm lower over Bedroom No. 203 and part of the stairs as well

as being 500mm lower than the remaining building when compared to the height of the development previously approved under PA Ref. No. 11/983 / ABP Ref. No. PL08.240588.

- On the basis of the information available at the time of the application, the extent of the appellant's property has been accurately detailed.
- Whilst the windows serving Bedroom Nos. 106 & 206 will be positioned close to the rear boundary of No. 48 Main Street, they will not directly overlook that property.
- All of the proposed bathroom windows will be finished in obscure glazing and all of these will overlook the applicant's property, with the exception of that serving Bedroom No. 104 which was previously approved under PA Ref. No. 11/983 / ABP Ref. No. PL08.240588.
- The fenestration at first floor level serving the stairwell comprises existing windows and these were granted permission under PA Ref. No. 11/983 / ABP Ref. No. PL08.240588. The proposed second floor windows will be finished in obscure glazing and could potentially be replaced with an overhead rooflight.
- The windows on the southern elevation of the proposed extension were omitted in order to comply with the conditions imposed by the Board in its decision to grant permission for ABP Ref. No. PL08.240588. The light-well was removed as a result of the layout changes proposed.
- The amended design submitted in response to the request for further information has ensured that a pitched roof profile adjoins the neighbouring property and that any windows are located in line with the wall of the stairwell. The line of this wall and a similarly pitched roof were approved under PA Ref. No. 11/983 / ABP Ref. No. PL08.240588.
- The 'as-constructed' and proposed developments are not located on the boundary wall between Nos. 47 & 48 Main Street. A completely independent steel frame was erected and this serves to provide the structure and the perimeter wall of the building.
- The extension to the rear of No. 48 Main Street was constructed in the 1980s and is built on the boundary wall between the two properties. Accordingly, it is

not possible for either the existing building or the proposed extension to be built on the boundary wall.

- The proposed development will be undertaken entirely within the confines of the applicant's own property and thus it is not necessary to obtain the consent of the neighbouring landowner.
- All of the proposed windows comply with the requirements of the Building Regulations.
- The response to the request for further information has set back the wall of Bedroom No. 206 in line with the proposed stairwell as required.
- The flat roofed area outside of the stairwell and Bedroom No. 206 will not be used as a balcony.
- The Planning Authority has determined that the subject proposal does not constitute an overdevelopment of the application site.
- With regard to the assertion that the proposed development could adversely impact on the future development potential of the appellant's property, the Board is requested to consider the following:
 - The entirety of the appellant's property at No. 49 Main Street has been developed at ground floor level whilst the overall density of development equates to almost 200%.
 - There is no car parking or service area available within the confines of No. 49 Main Street.
 - The existing building at No. 49 Main Street has been constructed on the boundary of the property which abuts the application site on three sides.
- The property at No. 49 Main Street was extended during the 1980s whilst rooflights and roof windows were installed in the 1990s and 2000s, however, there is no record of planning permission having been sought for these developments. It is considered that these unauthorised works will have a much greater negative impact on the value of the appellant's property than the

proposed development as she may not be able to sell her property without an appropriate grant of planning permission.

- The applicant had no objection to a previous proposal by the appellant to develop No. 49 Main Street which would have resulted in windows overlooking her property.
- There are a number of other developments in Castleisland which are similar to the subject proposal and thus the Board is requested to have regard to same in its assessment of the appeal (with specific reference to the Island Centre, the River Island Hotel, Hogan's Place, and Kealgorm House). Furthermore, whilst the aforementioned developments are similar in location to the subject proposal, they are also of a much higher density and some are of a greater height. In addition, there can be no doubt that these developments also had a negative impact on neighbouring properties, however, it would seem that in each instance the benefits / advantages far outweighed any negative implications and thus permission was granted.

6.3. Planning Authority's Response

None.

6.4. Observations

None.

6.5. 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
- Overall design and layout / impact on built heritage
- Impact on adjoining property
- Procedural issues / accuracy of the submitted drawings

- Appropriate assessment
- Other issues

These are assessed as follows:

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

- 7.2.1. The proposed development site is zoned as 'Town Centre' in the Castleisland Functional Area Local Area Plan, 2009 with the stated land use zoning objective 'To primarily provide for mixed uses including retailing, residential, commercial, office, civic buildings, financial institutions, professional services and any other uses appropriate to the town centre' and, therefore, it is my opinion that the retention and completion of the redevelopment of 'The Crown' ('The Crown Hotel') as proposed would accord with the land zoning objective applicable to the subject site. Furthermore, I am satisfied that the subject proposal would accord with the wider policy objectives of the Local Area Plan which aim to promote Castleisland as a tourist destination, with particular reference to Objective No. T-2 which seeks to facilitate the development of high quality visitor accommodation within the town at appropriate locations, and the development of the town centre.
- 7.2.2. Accordingly, having regard to the site location in Castleisland town centre, the applicable land use zoning, the existing and historical usage of the property, the surrounding pattern of development, and the wider strategy of the Local Area Plan as regards the promotion and development of Castleisland, I am satisfied that the redevelopment of the subject site as proposed is acceptable in principle.

7.3. **Overall Design and Layout / Impact on Built Heritage:**

- 7.3.1. In the first instance it is of relevance to note that whilst the proposed development site would appear to have previously been listed as a proposed protected structure in the Castleisland Local Area Plan, 2004, the property has since been delisted and is no longer included in either Appendix 'B' (Existing Protected Structures) or Appendix 'C' (Proposed Protected Structures) of the adopted Castleisland Local Area Plan, 2009. It can also be confirmed that the subject site is not included in the Record of Protected Structures contained in the more recently adopted Kerry County Development Plan, 2015. Therefore, in the interests of clarity, I would reiterate that the subject site is not a protected structure, although it is situated within an

Architectural Conservation Area as identified in the Local Area Plan. This is of particular relevance given that previous development proposals on site have been refused permission on the basis of their overall design and layout, their impact on the amenities of adjoining properties, and their impact on the built heritage of the area, with particular reference to the character of the existing structure and its siting within an Architectural Conservation Area.

- 7.3.2. From a review of the available information, including the planning history of the proposed development site, it would appear that the subject application has been lodged in an effort to regularise on-going difficulties with regard to unauthorised works carried out on site, although it should be noted that permission has previously been granted on appeal under PA Ref. No. 11983 / ABP Ref. No. PL08.240588 for the *'retention and completion of partial demolitions and ground and first floor extension reconstruction'* as part of a wider redevelopment proposal (which has not been carried out to date) and that a decision is presently pending on an application lodged under PA Ref. No. 119983 for an 'Extension of Duration' of PA Ref. No. 11983. In this respect the subject application seeks permission to retain and complete certain works carried out to date as part of a wider proposal for the redevelopment of the property in addition to the construction of a further extension to the rear of the premises.
- 7.3.3. The principle component of the proposed development consists of the extension of the existing property to the rear over three floors in order to provide for overnight accommodation. Notably, a case was put forward in my previous assessment of PA Ref. No. 11983 / ABP Ref. No. PL08.240588 that, prior to the commencement of those works for which retention is now sought, the return to the rear of the original three-storey hotel building which fronts onto Main Street extended in part over two floors with a further second storey return housing a stairwell leading to the second floor of the original three-storey building. The proposed construction involves the retention and completion of the existing partially constructed extension at first floor level in order to provide for overnight guest accommodation (6 No. bedrooms and ancillary facilities). Notably, this extension will extend over the entirety of the existing ground floor construction, with the exception of an enclosed smoking area to the immediate rear of the appellant's property / No. 49 Main Street. It is also proposed to construct a new second floor of accommodation over the rear extension to provide a

further 6 No. guest bedrooms and in this respect it is of particular relevance to note the considerable differences between the subject proposal and that previously approved under ABP Ref. No. PL08.240588 (as will be set out elsewhere in this report). The proposal further provides for the extension of the ground floor plan in order to provide for a new protected escape stairwell which will subsequently extend over the upper floors as part of overall development proposal. Additional works include the refurbishment of the first and second floor levels within the original three-storey building fronting onto Main Street to provide a further 4 No. guest bedrooms.

7.3.4. Accordingly, the overall redevelopment proposal effectively involves the refurbishment and extension of the existing premises over three floors to provide for a total of 16 No. guest bedrooms and ancillary services.

7.3.5. It is an objective of the Local Area Plan to ensure that any new development in the Main Street '*Urban Environment Improvement Area*' is of a high quality architectural design and layout and that it respects the character, scale and form of the existing streetscape. Furthermore, the Plan acknowledges the contribution of the primarily 19th Century two and three-storey buildings along Main Street in forming an attractive streetscape which should be conserved and enhanced. In this respect, I would reiterate that the subject site is located within a designated Architectural Conservation Area and that Policy Objective No. BH-5 of the Plan seeks to preserve the town's architectural heritage and to encourage development that is designed in a manner which is in keeping with the scale, character and pattern of the existing built fabric and urban form i.e. new developments must be designed to a high architectural standard and must take cognisance of local design features and materials.

7.3.6. Having regard to the foregoing, I would advise the Board that no element of the proposed rear extension will be visible from along Main Street and thus it will not interfere with the integrity of the streetscape. With regard to the impact of the proposal on the wider character of the existing structure, having conducted a site inspection, and noting the contents of the '*Heritage Appraisal Report and Conservation Strategy*' which accompanied the previous planning application lodged on site (i.e. PA Ref. No. 11983 / ABP Ref. No. PL08.240588), it is my opinion that the completion of the development as proposed will not result in the loss of any fabric which could be considered to be of architectural or historical significance (*N.B.*

The Board is advised that I am familiar with the subject site having previously assessed ABP Ref. No. PL08.240588). Indeed, I would reiterate my agreement with the determination of a previous reporting inspector in their assessment of an earlier development proposal refused under ABP Ref. No. PL08. 233718 that the rear of the hotel has been substantially altered and it appears that any elements of the original structure worthy of preservation have since been removed.

- 7.3.7. However, I would have serious reservations as regards the overall scale, height and massing of the proposed development given that permission was previously refused for a generally comparable proposal under ABP Ref. No. PL.08.221246. In this regard it should be noted that whilst ABP Ref. No. PL08.240588 was approved on the basis that the development then proposed had been substantially reduced in overall size and scale etc. when compared to an earlier proposal refused permission under ABP Ref. No. PL.08.221246 (*N.B.* It was also noted that the size and spatial extent of the development proposed under ABP Ref. No. PL08.240588 had also been significantly reduced from that previously refused under ABP Ref. No. PL08.233718), in my opinion, the overall design of the subject proposal represents a clear divergence from ABP Ref. No. PL08.240588 and is instead more akin to the development refused under ABP Ref. No. PL.08.221246.
- 7.3.8. By way of comparison I would advise the Board that both the subject proposal (as amended in response to the request for further information) and ABP Ref. No. PL.08.221246 have sought to develop a three-storey extension to the rear of the property which will extend alongside the south-western site boundary for a distance of c. 37-39m. Notably, the overall dimensions of the two proposals are generally similar in terms of their depth and breadth, although the subject proposal (as amended) is actually of a moderately increased height and has a greater gross floor area.
- 7.3.9. Having reviewed the previous development proposal refused permission under ABP Ref. No. PL.08.221246 and the Board's assessment of same, in my opinion, there are clear parallels to be drawn between the respective schemes. In this regard I would submit that the overall design of the subject proposal is similarly monolithic and functional in appearance whilst its considerable height and mass is unsympathetic to the character of the existing structure and its setting within an Architectural Conservation Area. In addition, it is clear that the scale and height of

the development proposed along the site boundaries will have a significant overbearing impact on adjacent property. Indeed, when taken in combination with the existing three-storey construction to the rear of the Island Centre at No. 51 Main Street (to the northeast of an intervening laneway located within the confines of the application site), the proposed development will result in the particular enclosure of No. 49 Main Street (i.e. the appellant's property).

7.3.10. Whilst I would accept that there have been various changes in local planning policy since the Board's determination of ABP Ref. No. PL.08.221246 and that the site in question is no longer designated as a protected structure, in my opinion, the overall design, scale, height and massing of the proposed three-storey rear extension is likely to have an adverse impact on the amenity of adjacent properties and would be detrimental to the character of the existing building, the surrounding pattern of development and adjacent properties, and the wider value of the Architectural Conservation Area.

7.3.11. In reference to the precedents asserted by the applicant in response to the grounds of appeal, I do not propose to comment on the acceptability or otherwise of same given that they would appear to precede current planning policy and also involve differing site contexts.

7.3.12. With regard to the proposal to substitute the existing uPVC windows within the front (Main Street) elevation of the existing building with timber replacements, I am satisfied that these works will not have a negative impact on the wider character of the existing building, the surrounding streetscape, or the setting of the ACA, and thus are acceptable in principle.

7.4. **Impact on Adjoining Property:**

7.4.1. The principle concerns raised in the grounds of appeal with regard to the impact of the proposed development on the appellant's property pertain to the possible loss of amenity attributable to the inclusion of a series of windows within the north-eastern elevation of the proposed extension and the diminishment of the future development potential of her property (*N.B.* The revised proposals submitted in response to the request for further information have omitted all fenestration from within the south-western elevation of the existing and proposed extension).

- 7.4.2. From a review of the available information, including the planning history of the site (with particular reference to those drawings of the historical construction on site that were supplied with ABP Ref. No. PL08.240588), it would appear that there was previously a series of 4 No. opes (a doorway, a window and 2 No. rooflights) at first floor level within the north-eastern elevation of that element of the 'original ' hotel structure which has since been demolished and replaced by the current construction proposed for retention, although it should be noted that a previous reporting inspector in their assessment of ABP Ref. No. PL08.221246 suggested that these features appeared to date from recent decades. Assuming that the aforementioned drawings supplied with ABP Ref. No. PL08.240588 are an accurate representation of the original structure, it is of further relevance to note that the 2 No. rooflights served the ground floor reception area of the former hotel whilst the remaining opes were set back approximately 5.5m from the site boundary shared with the appellant's property and comprised a window and doorway serving a fire escape route.
- 7.4.3. In addition to the foregoing, I would advise the Board that the grant of permission issued in respect of ABP Ref. No. PL08.240588 authorised a total of 4 No. first floor windows within the north-eastern elevation of that extension, however, it should be noted that these windows were set back from the site boundary and served by a lightwell whilst they were also required to be glazed with obscure glass and fitted with top hung openings. More importantly, the windows in question did not give rise to any implications as regards overlooking whilst they also served 2 No. ensuite bathrooms and a communal stairwell / landing area and thus did not demand the level of daylighting / amenity which would be expected for living / bedroom accommodation.
- 7.4.4. Therefore, it is necessary to consider whether or not the subject proposal will give rise to any significant additional impact on the amenity and development potential of the appellant's property over and above that caused by the original structure which previously existed on site or which would otherwise be associated with the development previously permitted on site under ABP Ref. No. PL08.240588. In this regard it should be noted that only 3 No. windows are proposed at first floor level within that section of the north-eastern elevation of the extension that will overlook / adjoin the appellant's property. More notably, these windows will be set back from the boundary line in a manner similar to that approved under ABP Ref. No.

PL08.240588 (with daylighting to be provided by a lightwell) whilst they will also serve an ensuite bathroom and a communal stairwell / landing area. Accordingly, I am satisfied that these particular windows will not give rise to any significant additional impact on the amenity of the appellant's neighbouring property.

7.4.5. However, the proposed development does include for the provision of an entirely new window within the north-eastern elevation at second floor level which will serve Bedroom No. 204. Whilst this window will be set back from the boundary line in a manner similar to that at first floor level, and although it is situated at an increased height and may perhaps benefit from an increased level of natural light, I would have reservations that the need to maintain an adequate level of amenity within the bedroom in question in terms of sunlight / daylight could possibly undermine the future development potential of the appellant's adjacent property. Other than providing for a ceiling rooflight there is no other means of providing daylight to this particular room given the layout as proposed.

7.4.6. In addition to the foregoing, the appellant has also raised concerns as regards the accuracy of the submitted drawings and in this respect it has been asserted that the full extent / depth of the appellant's property relative to the first and second floors of the proposed development has not been correctly shown on the submitted drawings. More specifically, the case has been put forward that if the full extent of the appellant's property were to be accurately shown relative to the upper floors of the proposed development it would be apparent that the windows within the north-eastern elevation of same serving Bedroom Nos. 106 & 206 would overlook / open directly onto the boundary line and thereby infringe upon the development potential of the appellant's property over ground floor level.

7.4.7. Having reviewed the submitted drawings, I would concur with the appellant that the delineation of her property as detailed on the submitted ground floor plan does not align with that shown on the layout plans for the upper floor levels of the proposed development (despite these plans being to the same scale) and thus it would appear that the windows serving Bedroom Nos. 106 & 206 will open onto the boundary and the appellant's property. Whilst I would concede that the error identified may perhaps relate to the ground floor plan as opposed to the upper floor plans, in the absence of accurate survey drawings I am not in a position to draw a definitive conclusion on same. However, it is clear that the aforementioned discrepancy could potentially

result in the subject proposal infringing on any future development of the appellant's property above ground floor level.

7.4.8. With regard to the appellant's assertion that she will not give her consent for any building works to be undertaken on the party boundary wall, whilst I note that the applicant has responded to same by stating that the 'as-constructed' and proposed developments are not located on the boundary wall between Nos. 47 & 48 Main Street and that a completely independent steel frame was erected which serves to provide the structure and the perimeter wall of the building, I would comment that issues pertaining to boundary disputes and encroachment / trespass are essentially civil matters for resolution between the parties concerned and that it is not the function of the Board to adjudicate on same. Accordingly, I would direct the Board to the provisions of Section 34(13) of the Planning and Development Act, 2000, as amended, which is specific in citing that '*A person shall not be entitled solely by reason of a permission granted under this section to carry out any development*' and, therefore, any grant of permission for the subject proposal would not in itself confer any right over private property.

7.4.9. By way of further comments, it would appear that the upper floors of the adjoining properties to the northeast and southwest of the application site may be in residential use and thus I would have concerns that the scale and height of the proposed extension to be retained and completed could impact on the outlook from and the light into these properties although this would have to be considered in the context of the previously existing situation on site.

7.5. **Procedural Issues:**

7.5.1. Concerns have been raised with regard to the accuracy of the submitted drawings and whilst it is difficult to verify same in the absence of accurate survey drawings and on site measurement, I would accept that there would appear to be inconsistencies between the ground floor and the first & second floor plans as regards the delineation of the appellant's property relative to the proposed development and that this could potentially give rise to adverse implications as regards the amenity etc. of the neighbouring site.

7.5.2. With regard to the assessment of the subject application by the case planner and the analysis that '*the proposed development will have a seriously negative impact on the*

amenities of those properties' which would seem to conflict with the notification of the decision to grant permission wherein it is stated that the proposed development '*would not be visually obtrusive or out of character with the other properties in the area and would not seriously damage the amenities of the adjoining area*', whilst I would acknowledge the appellant's difficulties in reconciling these statements, I am inclined to suggest that this may simply be the result of a typographical error. In any event, this assessment of the subject appeal has been made from first principles i.e. *de novo*.

7.6. **Appropriate Assessment:**

- 7.6.1. From a review of the available mapping, including the data maps from the website of the National Parks and Wildlife Service, it is apparent that whilst the proposed development site is not located within any Natura 2000 designation, it is situated approximately 3.8km southwest of the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle Special Protection Area (Site Code: 004161). In this respect it is of relevance to note that it is the policy of the planning authority, as set out in Chapter 10 of the Kerry County Development Plan, 2015, to conserve, manage and, where possible, enhance the County's natural heritage including all habitats, species, landscapes and geological heritage of conservation interest and to promote increased understanding and awareness of the natural heritage of the County. Furthermore, Objective NE 12 of the Plan states that no projects which would be reasonably likely to give rise to significant adverse direct, indirect or secondary impacts on the integrity of any Natura 2000 sites, having regard to their conservation objectives, will be permitted (either individually or in combination with other plans or projects) unless imperative reasons of overriding public interest can be established and there are no feasible alternative solutions. In effect, a proposed development may only be authorised after it has been established that the development will not have a negative impact on the fauna, flora or habitat being protected through an Appropriate Assessment pursuant to Article 6 of the Habitats Directive. Accordingly, it is necessary to screen the subject proposal for the purposes of 'appropriate assessment'.
- 7.6.2. Having reviewed the available information, including the screening exercise undertaken by the Planning Authority, and following consideration of the 'source-pathway-receptor' model, it is my opinion that given the nature and scale of the

development proposed, the site location outside of any protected site, the limited ecological value of the lands in question, the availability of public services, and the separation distances involved between the subject site and nearby Natura 2000 designations, the proposal is unlikely to have any significant effect in terms of the disturbance, displacement or loss of habitats or species on the ecology of any Natura 2000 site. Therefore, I am inclined to conclude that the proposed development would not be likely to significantly affect the integrity of Natura 2000 sites and would not undermine or conflict with the Conservation Objectives applicable to same.

7.6.3. Accordingly, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects, would not be likely to have a significant effect on any European site in view of the relevant conservation objectives and that a Stage 2 appropriate assessment (and the submission of a NIS) is not therefore required.

7.7. **Other Issues:**

7.7.1. **Compliance with the Building Regulations:**

In reference to the appellant's concerns as regards adherence to the Building Regulations etc., it is my opinion that such issues are essentially building control matters which are subject to other regulatory control / legislative provisions and thus are not pertinent to the consideration of the subject appeal.

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 and permission for retention of the proposed development be refused for the reasons and considerations set out below:

9.0 **Reasons and Considerations**

1. The appeal relates to a building which is situated within an Architectural Conservation Area as set out in the Castleisland Adopted Local Area Plan and contained in the Castleisland Functional Area Local Area Plan, 2009. Having regard to the height, scale and design of the development proposed

for retention and completion and its relationship with adjoining property, it is considered that the proposed development would seriously injure the amenities of adjoining property, would be visually obtrusive and would seriously injure the amenities of the Architectural Conservation Area. Retention and completion of the proposed development would, therefore, seriously injure the amenities of the area and be contrary to the proper planning and sustainable development of the area.

Robert Speer
Planning Inspector

14th November, 2017