



An
Bord
Pleanála

Inspector's Report ABP-303242-18

Development	Construction of 8 no. holiday homes, alterations to vehicular access / egress and car parking arrangements. The site is within the curtilage of a protected structure (Ref. 63-3).
Location	Towers Hotel , Kilnabrack Upper, Glenbeigh village, Co Kerry.
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	18/944
Applicant(s)	Brendan Sweeney
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Inlands Fisheries Ireland
Observer(s)	None
Date of Site Inspection	26 th February 2019
Inspector	Elaine Power

1.0 Site Location and Description

- 1.1. The site is located in the centre of the Glenbeigh Village, at the junction of the Ring of Kerry (N70) and High Road. The overall site has a stated area of approx. 1.26ha and is generally triangular in shape. It currently accommodates the Towers Hotel with associated grounds and car parking areas. It is bound by a number of commercial, institutional and residential uses.
- 1.2. The original Towers Hotel building is a Victorian style building, constructed in 1895 and is a Protected Structure (ref. 63-3). The original hotel has been extended twice, once in the 1980's and once in the 1990's. The proposed development is located on a green area to the west of the later extension.
- 1.3. There are 2 no. separate car parking areas associated with the hotel complex, both are adjacent to the Ring of Kerry (N70). One car parking area is adjacent to the entrance to the hotel, along the north eastern boundary of the site contains 14 no. car parking spaces. The other car parking area is located along the north western boundary of the site contains 25 no. car parking spaces and a bottle bank. The 2 no. car parking areas are separated by an area of open space with mature trees.
- 1.4. There are different levels on the site, with the site generally sloping upwards from the Ring of Kerry (N70).

2.0 Proposed Development

- 1.5. It is proposed to construct 8 no. holiday homes to the west of the existing Towers Hotel complex. The development comprises 4 no. pairs of semi-detached houses, located around an existing garden area. The houses consist of 4 no. 2-bed houses (approx. 109sqm gross floor area) and 4 no. 3-bed houses (approx. 124sqm gross floor area). The houses are traditional design with gable ended roofs with a maximum height of 7.8m.

- 1.6. The works also include modifications to the 2 no. existing car park areas and access arrangements. It is proposed to amalgamate the 2 no. existing car parks and provide an additional 18 no. car parking spaces. The proposed alterations will result in a total of 51 no. spaces on site. It is also proposed to rationalise the existing access and egress arrangements from the Ring of Kerry (N70) to provide 2 no. accesses and 1 no. egress.
- 1.7. In response to the appeal the applicant proposed a new a waste water treatment system to serve the site.

2.0 Planning Authority Decision

2.1. Decision

The decision to grant permission was subject to 12 no conditions. The following condition is of relevance.

Condition no 2: required that no development commence until a connection agreement from Irish Water was obtained for the provision of water and sewerage.

2.2. Planning Authority Reports

2.2.1. Planning Reports

The Area Planners report (22nd November 2018) raised no objection in principle to the development.

2.2.2. Other Technical Reports

County Archaeologist: No objection.

Housing Estates Unit: The report noted that the development would have a negative impact on the streetscape and does not comply with Objective's OO3 and AH-1 of the Killorglin Functional Area Local Area Plan, 2010

Building Control Officer: No objection.

Executive Planner (Conservation): No observation and noted the planning history 17/974.

2.3. Prescribed Bodies

Inland Fisheries Ireland. The report stated that the Glenbeigh public sewer is at capacity and any additional increase in the system either organically or volumetrically would exacerbate the already inadequate effluent treatment system, particularly during the summer months. This will increase the potential for polluting discharges to the Behy River. It is considered that further connections to the existing system is unsustainable and not in accordance with the proper management of the Glenbeigh area. Effective effluent treatment should be available prior to further connections to the public system.

Transport Infrastructure Ireland (TII): Recommended that the measures outlined in the Road Safety Audit should be undertaken at the applicant expense.

2.4. Third Party Observations

None.

3.0 Planning History

3.1. Subject Site

Reg. Ref. 17/974: Permission was refused in 2017 for 10 no. holiday homes, with additional car parking and alterations to access / egress arrangement on the subject site. The reason for refusal stated the following: -

It is considered that the development by design and layout would have an adverse impact on the amenities and character of the area due to a car park being proposed rather than a streetscape which is contrary to Objectives OO-3 and OO-7 of the Glenbeigh Local Area Plan as contained in the Killorglin Functional Area Local Area Plan 2010-2016. The proposed development would therefore be contrary to proper planning and sustainable development of the area.

3.2. Surrounding Site

Reg. Ref. 18/243 , ABP 302566-18: Outline permission was refused in 2019 for 4 no. houses on a site opposite Glenbeigh Hotel to the east of Glenbeigh village centre for the following reason: -

‘On the basis of the information provided with the planning application and the appeal, the Board cannot be satisfied that there are not existing deficiencies in the Glenbeigh wastewater treatment plant to which connection is proposed and cannot be satisfied as to the period within which any such deficiencies may reasonably be expected to cease. The proposed development would, therefore, be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area’.

Permission was granted by Kerry County Council.

4.0 Policy and Context

4.1. Killorglin Functional Area Local Area Plan, 2010 - 2016

- 4.1.1. It is noted that the Plan has expired, and it is proposed to prepare a Municipal District Plan for the South West of the county however as this plan not been produced to date the information below is considered relevant.

4.1.2. The site is located within the development boundary of Glenbeigh. The majority of the site is zoned 'Mixed Use' with 2 no. separate areas of the site zoned for car parking and another section along the boundary with the N70 zoned as passive open space. It is an objective to provide a mixed-use streetscape along a section of the boundary with the N70 and there is an indicative access route proposed through the site linking the N70 to High Road.

4.1.3. Holiday homes and car parking are permissible in areas zoned Mixed Use. It is noted that there is an existing car park on the area zoned for passive open space. Relevant Policies include the following: -

Policy OO-3 'Promote attractive streetscapes and approaches into the village and preserve and enhance the elements of the built and natural environment which define the unique character of the village'.

Policy OO-8 'Promote the development of attractive urban spaces throughout the village'

4.1.4. There is an existing protected structure on the site. Policy AH-2 relates to protecting and enhancing existing protected structures.

4.1.5. The Plan notes that Glenbeigh is reliant on the tourism industry and that the character of the village must be retained and enhance. It is considered that the extent of holiday homes is affecting the vibrancy of the village therefore the number of holiday home developments should be limited.

4.1.6. Glenbeigh is served with public foul sewer infrastructure. A network of foul sewers leads from the village to the treatment plant which is located to the north west of the village. The outfall from this treatment plant discharges to the River Behy. The waste water treatment plant is currently operating at capacity. A preliminary report has been prepared for the construction of 2,500 p.e (person equivalent) waste water treatment plant. The lack of capacity will act as a significant constraint on

development. A limited number of houses may be permitted to connect to the system where the development will not cause pollution.

4.1.7. The village is served by a public water supply scheme.

4.2. **Kerry County Development Plan, 2015-2021**

4.2.1. The site is located in an area identified as a stronger rural area. It is an objective of the plan to consolidate and sustain the stability of the rural population and to promote a balance between development activity in urban area and villages and the wider rural area.

4.2.2. Chapter 3 notes that urban design has a key role to play in creating and maintaining successful places.

Policy US-7 Ensure that all new urban development is of a high design quality and supports the achievement of successful urban spaces and sustainable communities. The Council will have regard to the provisions of the Guidelines on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual.

4.2.3. The plan acknowledges that tourist accommodation within existing towns and villages can contribute to their economic performance however the scale of the development should not interfere with the economic or social viability of that settlement.

4.2.4. Objective T-70 encourages visitor accommodation to be located within existing settlements.

4.2.5. It is noted that there is an increased demand for water and wastewater infrastructure and it is an aim of the plan to provide, improve and extend wastewater services and to prioritise the provision of water services infrastructure to achieve improved

environmental protection and to protect public health. Chapter 10 provides a number of policies relating to the protection of groundwater, these includes Objectives NE-17, NE-18, NE-19, NE-20, NE-21 and NE-22.

4.2.6. Chapter 13 provides guidance for developments with regard to design. It states that an emphasis should be on quality in relation to materials, design and landscaping and these should be clearly outlined in the initial stage of an application or in design statements where required. Simplicity in design, materials and finishes is advised. Modern and innovative designs will be considered where appropriate and where these proposals reflect the scale and form of the landscape.

4.2.7. Chapter 13 also sets out car parking standards which permits 1 no. car parking space per bedroom in a hotel development. It notes that a space for a bus shall also be provided.

4.3. **Natural Heritage Designations**

4.3.1. The site is located approx 1.2km south of Castlemaine Harbour SAC (000343) and Castlemain Harobur SPA (004029). It is also located 250m north of Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (000365).

5.0 **The Appeal**

5.1. **Grounds of Appeal**

The third-party appeal by Inland Fisheries Ireland raised the following concerns: -

- The Glenbeigh effluent treatment plant is at capacity and particularly during the summer holiday period resulting in the discharge of poor-quality effluent to the to the Behy River, a salmonid river, and ultimately to Castlemaine Harbour SAC (000343) and Castlemaine Harbour SPA (004029).
- Poor effluent conditions are confirmed from effluent analyses in 2017. Irish Water notifications of incidents / reoccurrences, ref. INCI008277 for

Glenbeigh Licence (D0286-01) and more recently ref. INCI008277-REC8, are attached with the appeal. The incidents note that the waste water treatment plant is not designed for seasonal loadings and has no ammonia and OP removal.

- Condition no. 2 required a connection agreement to the Irish Water network however there is no requirement that the public foul sewerage system be of a standard that effluent from the development can be treated effectively without exacerbating an already unacceptable effluent emission to the system.
- If the existing effluent treatment system cannot treat effluent to acceptable standards it is considered that any increase in loading should not be permitted as this is incompatible with the proper management and sustainable development of the area.

5.2. Applicant Response

5.2.1. In response to concerns raised by Inland Fisheries Ireland it is proposed to install an effluent treatment tank and a Sandcel polishing filter on site. It is stated that the site assessment and tests concluded that the ground is suitable for discharge and that the proposed waste water treatment system is adequate to cater for the proposed development. The proposal also complies with the EPA Code of Practice for Waste Water Treatment Systems for Small Communities.

5.2.2. A site characteristics form and a site recommendation report have been submitted with the response.

5.3. Planning Authority Response

5.3.1. The Planning Authority noted that the subject site is in the centre of Glenbeigh village. This area is highly dependant on the tourism industry and the proposed development would sustain the existing Towers hotel.

- 5.3.2. The planning application was not referred to Irish Water. However, it should be noted that Irish Water had no objection to the provision of 4 no houses (reg. ref. 18/243, ABP -302566-18) on the eastern side of Glenbeigh village. Condition no. 2 required that a connection agreement be obtained from Irish Water. This condition gives Irish Water control over when and if the development can proceed.
- 5.3.3. The Planning Authority noted that it was unclear if the test results of the treated effluent from the Glenbeigh Sewerage Treatment Plant in 2017 was due to a one-off incident or whether there is an on-going problem with the facility.

5.4. **Further Responses**

- 5.4.1. In response to the applicant's proposal to provide a waste water treatment system on site Inland Fisheries Ireland considered the proposal acceptable subject to compliance with all relevant regulations and standards to ensure the groundwater is not contaminated.
- 5.4.2. The submission also reiterated concerns that the Glenbeigh sewer network / treatment facility is at capacity and any additional connections to the system would be incompatible with the proper planning and sustainable development of the Glenbeigh area and Behy River.
- 5.4.3. It recommended a condition be attached to any grant of permission that the proposed development be connected to the new / upgraded effluent system for Glenbeigh when it becomes available.

5.5. **Section 131 Notice**

- 5.5.1. Having regard to the potential impact of the development on the Protected Structure and on public sewerage system the Board invited certain prescribed bodies to make submissions on the appeal. A response was received from Irish Water.

- 5.5.2. The submission from Irish Water noted that the design capacity of the existing Glenbeigh Waste Water Treatment Plant is reported as 800 pe, which relates to Urban Waste Water Treatment Directive (UWWTD) discharge standards. The waste water discharge authorisation (WWDA) is approx. 500 pe. The peak summer load is approx. 1,446 pe and the winter load is approx. 831 pe. Therefore, the system is overloaded, especially during the summer months. There are no plans to upgrade the Glenbeigh Waste Water Treatment Plant and it is unlikely to be a priority site for inclusion in the next investment plan. It is also noted that the treatment plant was non-compliant with the ammonia and Ortho-P levels set in the wastewater discharge licence in 2017. However, the submission also noted that the receiving waters reach the Environmental Quality Standards required for good status for BOD, Ammonia and Ortho-P and that the discharge from the treatment plant does not have an observed negative impact on the water quality or the Water Framework Directive status.
- 5.5.3. In response to the submission from Irish Water the applicant reiterated that a waste water treatment system is proposed for the site and therefore the development will not be connected to the Glenbeigh treatment plant and will not have a negative impact on water quality.
- 5.5.4. In response to the submission from Irish Water Inland Fisheries Ireland noted that over the past number of years they have observed gross contamination in the vicinity of the overflow outlet to the Behy River. In relation to the Water Framework Directive status, the nearest monitoring station is over 100m upstream of the discharge, therefore the comments that the discharge from the treatment plant does not have an observed negative impact on the water quality or the Water Framework Directive status are irrelevant. In addition, as there is a potential for waste water discharges from the Waste Water Treatment Plant to impact on water quality this service should be upgraded prior to any additional loadings being permitted.

5.6. **Section 142 (4)**

The public notices were considered inadequate as they failed to mention that the application is located within the curtilage of a protected structure. The applicant was therefore requested to erect a revised site notice and to re-advertise the proposed development. The revised notices note the location of the development with the curtilage of a protected structure and that the revised scheme includes a waste water treatment system on site. No submissions have been received.

6.0 **Assessment**

6.1. The main issue in this appeal is water services. I also consider that the design approach, the impact on the Protected Structure and Appropriate Assessment requirements need to be addressed. I am satisfied that no other substantial issues arise. The main planning issues can be dealt with under the following headings:

- Water Services.
- Design Approach.
- Protected Structure.
- Appropriate Assessment.

6.2. **Water Services**

6.2.1. Having regard to concerns raised by Inland Fisheries Ireland regarding a connection to the Glenbeigh Waste Water Treatment Plant, which is at capacity and discharges into the Behy River, the applicant has revised the scheme to include a waste water treatment system. The submission from Irish Water confirmed that the Glenbeigh wastewater treatment plant is overloaded and there are no proposals to upgrade the system.

6.2.2. It is proposed to install a waste water treatment tank and Sandcel polishing filter with discharge to ground water to cater for a population equivalent (p.e) of 36 no. persons. The submitted Site Suitability Assessment Form states that a trial hole, with a depth of 2.7m recorded the following: 200mm of topsoil; 200m of clay; 50mm of iron pan; and 2,250mm of Silt / Sand with Cobbles. With regard to the percolation

characteristics of the soil, a T value of 31.89 minutes / 25mm. This indicates that the site is suitable for the installation of an on-site waste water treatment system.

- 6.2.3. The Site Recommendation Report by Tricel based its assessment on the standards set out in the EPA's Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses (p.e \leq 10). However, as the development will have a p.e of 36 no. persons the EPA's Wastewater Treatment Manual – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels, 1999 is the relevant document when assessing the development.
- 6.2.4. The EPA's Wastewater Treatment Manual – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels, 1999 sets out recommended minimum separation distances from a treatment system to residential properties. For developments of 2-10 no. houses a minimum separation distance of 28m is recommended. The system is located to the west of the development on open space and comprises 2 no. tanks and a polishing filter. House 8 is located a minimum of 23m from Tank A, 27m from Tank B and 32m from the polishing filter. As Tank A is located approx. 23m from House 8 it does not reach the recommended separation distance. However, having regard to the size of the site it is considered that the minimum separation distance could be achieved.
- 6.2.5. Inland Fisheries Ireland have no objection in principle to the provision of a waste water treatment system on site provided the facility is in accordance with all relevant regulations and standards. It is also noted that the Planning Authority had no objection to the proposed development. However, as there is an existing waste water treatment plant in Glenbeigh, I would have concerns that the proposed development would set an undesirable precedent for the provision of waste water treatment systems to serve individual sites.
- 6.2.6. There are a number of potential development sites within the village, including a site adjacent to the Glenbeigh Hotel where outline permission was recently refused by the Board (ABP 302566-18) for 4 no. houses, due to deficiencies in the Glenbeigh

waste water treatment plant. It is acknowledged that the existing treatment plant is overloaded and the proposed system can cater for 36 p.e. However, it is considered that the proposed development would set an undesirable precedent for similar types of development within the vicinity of the site, the cumulative impact of which has the potential to negatively impact on the water quality of the River Behy, which flows into Castlemaine Harbour SAC and SPA.

- 6.2.7. Having regard to the existing public waste water treatment plant in Glenbeigh, the Boards recent decision (ABP 302566-18) to refuse outline permission for 4no houses, due to the deficiencies in the existing system and Inland Fisheries Irelands comments that there is a potential for waste water discharges from the treatment plant to impact on water quality and that this service should be upgraded prior to any additional loadings being permitted it is considered that the proposed development is premature pending an upgrade on the treatment plant and would set an undesirable precedent for similar types of development. It is therefore recommended that the appeal be upheld with regard to the potential impact on water quality and permission be refused on this basis.

6.3. ***Design Approach***

- 6.3.1. Permission was previously refused on the subject site (Reg. Ref. 17/974) for 10 no. holiday homes. The reason for refusal related to the proximity of the car park to the Ring of Kerry (N70) and the potential negative impact on the streetscape. The proposed development is similar to the previously refused scheme. It is noted that concerns were raised by the Housing Estates Unit regard the potential negative impact of the development on the streetscape however no concerns were raised in the appeal regarding the design or layout of the proposed development. Notwithstanding the concerns of the Housing Estates Unit the Board may consider this to be a new issue.

- 6.3.2. The proposed development is located in the centre of the overall hotel complex and is designed around an existing garden area. Houses 1 and 2 form a natural extension to the hotel. They are located approx. 45m from the Ring of Kerry (N70) and 17m from High Road. Houses 3 - 8 are located at a right angle to Houses 1 and 2. The gable end of House 8 is located approx. 25m from the N70 (Ring of Kerry) and the gable end of House 3 is located approx. 27m from High Road. They are traditional design with gable ended roofs with a maximum height of 7.8m.
- 6.3.3. The revised car parking arrangements will result in 2 no. accesses and 1 no. egress onto the Ring of Kerry (N70) with 51 no. car parking spaces. The car park has a length of 130m along the Ring of Kerry (N70) and will be located behind a boundary wall. No details of the proposed boundary wall have been submitted.
- 6.3.4. Having regard to the location of the site in the centre of Glenbeigh village and the zoning objectives for the site I have no objection in principle to the provision of holiday homes located within the grounds of the Tower Hotel complex, additional car parking provision or the rationalisation of access and egress arrangements. However, I have serious concerns regarding the siting of the houses and the excessive length (130m) and associated negative visual impact of the additional car parking area, adjacent to the Ring of Kerry (N70). It is noted that no design statement has been submitted.
- 6.3.5. Policies OO-3 and OO-8 of the Killorglin Functional Area Local Area Plan, 2010-2016 aimed to promote attractive streetscapes and urban spaces within the village. The proposed development does not provide an active frontage onto either the Ring of Kerry (N70) or High Road. In my opinion the proposed development does not integrate into the streetscape of the village and it is considered that the siting and layout of the development does not improve the visual amenities of the area, create an attractive streetscape or enhance the character of the village.

- 6.3.6. Although expired it was also an objective of the Local Area Plan to provide a pedestrian link through the site. It is noted that there are level differences on the site however, having regard to the overall size of the site, it is considered that permeability could be provided which would improve connectivity and enhance the character of the village.
- 6.3.7. Having regard to the excessive length of the car park, approx. 130m, along the site boundary with the Ring of Kerry (N70), the siting of the development, the lack active frontage onto both the Ring of Kerry (N70) and High Road and the lack of permeability through the site it is considered that the proposed development would have an adverse impact on the visual amenities and character of the village. It is recommended that permission be refused permission on this basis.

6.4. ***Protected Structure***

- 6.4.1. The proposed development is located within the curtilage of a protected structure (Ref. 63-3). The protected structure comprises the original Towers Hotel building which is a Victorian style building constructed in approx. 1895. The building is located in the centre of the village at the junction of the Ring of Kerry (N70) and High Road. The original building was extended in the 1980's to accommodate additional bedrooms. It was further extended in the 1990's to provide additional bedrooms. The proposed development is located approx. 45m to the west of the protected structure on a garden area associated with the existing hotel complex. The proposed development does not include any works to the protected structure.
- 6.4.2. No concerns were raised by the Planning Authority or in the appeal regarding the potential impact on the protected structure. Due to the location of the site within the curtilage of a protected structure the Board notified prescribed bodies and requested that the public notices be re-advertised. No submissions were received regarding the potential impact on the protected structure.

6.4.3. While the development is located within the curtilage of the protected structure, having regard to the distance from the protected structure it is my opinion that the proposed development would not be detrimental to the character or setting of the protected structure.

6.5. **Appropriate Assessment**

6.5.1. The site is located approx 250m north of Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (000365). The qualifying interests include aquatic species and habitats, blanket bogs, heaths, woodlands, Kerry Slug, Lesser Horseshoe Bat, Killarney Fern and Marsh Frilillary. Detailed conservation objectives have been prepared for the site with the overall aim to maintain or restore the favourable conservation status of the habitats and species.

6.5.2. The site is located approx 1.2km south of Castlemaine Harbour SAC (000343) and SPA (004029). The qualifying interests of the SAC include aquatic habitats and species. The qualifying interests of the SPA include wetland and water birds. Detailed conservation objectives have been prepared for both sites, the overall aim being to maintain or restore the favourable conservation status of the habitats and species.

6.5.3. The proposal includes a waste water treatment system on site. I am satisfied that there will be no indirect effects on water quality in the designated sites from the proposed development. It is noted that the Planning Authority carried out an Appropriate Assessment Screening and considered that the proposed development would not have a significant effect on those or other designated sites. However, having regard to the precedent that the proposed development would set I would have concerns that the proposed development in combination with similar developments would have the potential to indirectly impact on the water quality of the River Behy.

6.5.4. Notwithstanding concerns the precedent the proposed development would set, it is considered that having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the distance to the nearest Natura 2000 sites, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually on a European site.

7.0 Recommendation

7.1. I recommend that permission be refused for the reasons stated in the attached schedule.

Reasons and Considerations

1. It is considered that the proposed development would be premature by reference to the existing deficiencies in the Glenbeigh wastewater treatment plant and would set an undesirable precedent for further inappropriate development within the vicinity of the site with the potential for indirect impacts on the water quality of the River Behy. The proposed development would, therefore, be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the prominent location of the site within the village of Glenbeigh it is considered that the proposed development by reason of the siting of the holiday homes, the excessive length of the car park adjacent to the Ring of Kerry (N70) and the lack of permeability through the site would result in a development that would be detrimental to the visual amenities and character of the village and would, therefore, seriously injure the amenities of the area and of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Elaine Power
Planning Inspector

1st April 2019