



An
Bord
Pleanála

Inspector's Report ABP 304916-19

Development	Construct 18 apartments in one three-storey block and 4 number townhouses in one block to replace the 14 cottage flats permitted under Reg. 15/765
Location	Derreen, Killarney, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	19/435
Applicant	Thermohouse Ltd.
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellants	Ballydribeen Residents Association
Observers	None
Date of Site Inspection	23 rd October 2019
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1.1. The site is located in the townland of Derreen, to the north of Killarney town, in a suburban area to the east of the N22 and to the north of the Killarney Bypass Road. It is located close to the roundabout junction at the entrance to Killarney from the Tralee road. The site forms part of a larger site which is currently being developed as a housing estate, and is situated between two established housing estates, one to the east (Bruach na hAbhann) and one to the west (Doirin Alainn). There are further houses to the southwest (Willow Grove, Oak Hill etc). The overall site is bounded to the west by a long row of semi-detached 2-storey houses and to the east by a series of cul-de-sacs, beyond which are a number of playing pitches and sports facilities. The access road from the N22 serving the overall residential area follows the line of the Deenagh River, which forms part of the Killarney National Park, Macgillycuddy Reeks and Caragh river Catchment cSAC.
- 1.1.2. The site, which is roughly rectangular in shape, has a stated area of 0.2 hectares, but, as stated above, forms part of an overall landholding of 1.9ha. This larger site is currently being developed by Cluid Housing Association under planning permission reference 15/765. That permission, for 75 housing units included a proposal to construct 14 no. cottage flats in the central portion of the site, adjacent to the eastern boundary. It is now proposed to replace these with a new development as described below.

2.0 Proposed Development

- 2.1.1. The proposal entails the construction of an apartment block with 18 units and four terraced town houses, in lieu of 14 cottage flats permitted under 15/765. The permitted layout (7th March 2016) showed the cottage flats as Type 'F', which were one-bedroomed apartments in two-storey blocks. They were sited close to the eastern boundary of the site on either side of a large central public open space (c.1750m²). The current proposal is to replace the flats to the south of the open space with the 3-storey apartment block, and the units to the north of the open space with four terraced houses.
- 2.1.2. The proposed four dwelling houses are 'Type B' which provide for 3 bedrooms in a 2-storey plus attic terraced house. The floor area for this house type is 116m². The

18 no. apartments are one bedroomed (6 no.) and two bedroomed (12 no.). The floor areas for the proposed apartments range from 55.3m² for the one-bedroomed to 76.76m² for the two-bedroomed. The overall number of dwelling units would be increased from 75 to 83. The density of the proposed development is c.43 units/ha.

- 2.1.3. Access to the development is proposed from the new estate road which branches off the Bruach na hAbhann road to the north. It is proposed to provide one parking space for each of the proposed apartments and one visitor space, which would be located in a continuous row to the north of the apartment block, adjoining the southern boundary of the open space area. The proposed houses would continue the permitted pattern of housing facing the estate road with parking spaces to the front, accessed directly from the estate road.
- 2.1.4. It is proposed to connect to the public water supply and to the public wastewater system. Surface water will be disposed by gravity storm sewer system to the river, following attenuation.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The P.A. decided to grant planning permission subject to 20 conditions including:

Condition 2: Development contribution of €53,476.32.

Condition 4: Requirements to enter connection agreement with IW and no development to commence until connection agreement signed.

Condition 5: Part V.

Condition 7: No overnight commercial guest accommodation.

Condition 9: cross sectional drawings showing proposed FFL of apartment block relative to dwellings granted under 15/765 and the houses in Doirin Alainn - details to be submitted to the P.A. for agreement.

Condition 20: Landscaping as in site layout plan submitted on 26/04/19. All mature trees on the eastern boundary to be protected by stout fences.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's report dated 19/06/19 noted that the proposed development would increase the number of units on the site by four, which would in turn, increase the total number of units to 79 overall. It was considered that this density on a 1.9ha site was acceptable and that the inclusion of one-bedroom as well as two-bedroom apartments improves the mix of dwellings within the site.

It was further noted that the site is zoned for Residential development and that the suitability of the site for housing (Phase 1 Residential) was identified in the Core Strategy, adopted as Variation No. 1 of the Killarney Town Development Plan. It was considered that the design and scale are acceptable as the development will not give rise to overlooking onto the private amenity spaces of the houses in the Kerry County Council estate to the east. It was further noted that the building had been situated so that the windows and balconies on the eastern/rear elevation would look out onto the cul-de-sac roadway in that estate.

A **grant of permission** subject to conditions was recommended.

3.3. Other Technical Reports

3.3.1. **Archaeologist (22/05/19)** – there are no recorded monuments in proximity to the proposed development. Previous archaeological testing was carried out on the site in relation to application 15/765 with negative results. No mitigation required.

3.3.2. **Estates Engineer's Report (23/05/19)** – The Estates Engineer was generally satisfied with the proposed development subject to a number of conditions. Additional details were required in relation to matters such as boundary treatments fronting all communal area, two additional parking spaces, visitor parking. These matters were required to be addressed as conditions, along with several standard conditions regarding public lighting, provision of services and bonds etc.

3.3.3. **Biodiversity Officer (10/06/19)** – It is noted that the entire (housing) site (granted in 2015), is located adjacent to the Deenagh River, which is designated as part of the Killarney National Park, MacGillycuddy Reeks and Caragh River Catchment cSAC. The application for the overall housing estate, of which this application site forms

part, it was noted, had included lands directly adjacent to the river and had been accompanied by an NIS.

- 3.3.4. The Biodiversity Officer considered that as the current proposal represents amendments to the design of the overall scheme, which are sited c.100m from Deenagh River, and that the development will be serviced by public water and waste water supplies, with no pathways evident to the river/SAC, the proposed development is unlikely to result in any significant effects on the qualifying interests of the SAC.

3.4. **Prescribed Bodies**

- 3.4.1. **Irish Water** (14/06/19) stated that there was no objection to the proposed development. It was pointed out that the developer would need to enter into a connection agreement with IW.
- 3.4.2. **Inland Fisheries Ireland** (28/05/19) – required the following in order to protect the integrity of the river bank, river channel and water quality –
- No interference, culverting or modification of the watercourse or its immediate river bank.
 - Details of any proposals to develop/use the section of land between the river and public road to north should be provided.
 - Good construction site management practices to prevent discharges to surface waters or storm drainage.
 - Monitoring at outlet points to surface waters on a daily basis.
 - No foul overflow connections to surface water drainage from any part of the foul sewer pipeline or from any pumping station.
 - Certification of correct connections to foul and surface water drainage.

3.5. **Third Party Observations**

Objections received by the planning authority are on file for the Board's information. The issues raised are comparable to those set out in the 3rd Party appeals and

observations received and summarised in section 6 below. The concerns raised related to the following issues

- Housing density above national standards and out of context with area
- Insufficient car parking spaces, including lack of disabled spaces
- Inadequate provision of amenities, including child-care facilities.
- Environmental impact – preservation of trees on boundary
- Loss of privacy and sunlight and inappropriateness of 3-storey building
- Additional traffic on a busy road

4.0 Planning History

- 4.1.1. **15/765** – planning permission granted to construct 75 no. dwellings consisting of 18 no. 1-bedroom cottage flats, 14 no. semi-detached 3-bed houses, 2 no. semi-detached 2-bed houses, 25 no. 3-bed townhouses, 16 no. 2-bed townhouses, along with roads, footpaths, green areas and all associated site works.
- 4.1.2. **07/204832** – permission granted to demolish existing house and to construct 92 dwelling units consisting of 84 no. two and a half storey 3-bed and 2-bed townhouses, 1 no. 2-storey block of apartments (4 no. 2-bed units), and 2 no. 2-bed dormer cottages.

5.0 Policy Context

5.1. National Planning Framework 2018

The NPF seeks to focus growth in cities, towns and villages with an overall aim of achieving higher densities than have been achieved to date.

NP Objective 33 seeks to prioritise the provision of new homes at locations that can support sustainable development and at an appropriate scale of provision relative to location.

NP Objective 35 seeks to increase residential density in settlements, through a range of measures including reductions in vacancy, re-use of old buildings, infill development schemes, area or site-based regeneration and increased heights.

5.2. **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (2009)**

In order for small towns and villages to thrive and succeed, it is stated that their development must strike a balance in meeting the needs and demands of modern life but in a way that is sensitive and responsive to the past. New development should contribute to compact towns and villages and offer alternatives to urban generated housing in unserviced rural areas. The scale should be in proportion to the pattern and grain of existing development. In terms of densities, centrally located development in small towns and villages could achieve densities of up to 30-40 dw/ha., whereas edge of centre sites should achieve 20-35 dw/ha.

5.3. **Kerry County Development Plan 2014**

Chapter 3 – Housing – sets out the housing policies and objectives including the following:

HS-2 - Facilitate the housing needs of people in their local communities through actively providing/assisting the provision of housing in settlements.

HS-4 - Have regard to and promote increased residential densities in the towns and other appropriate locations in accordance with the 'Sustainable Residential Development in Urban Areas' Guidelines 2009 (DoEHLG).

US-1 – Ensure that future housing in urban areas in the County is located on lands zoned for residential use. In towns and villages residential development shall be located in town/village centres or immediately adjacent to town/village centres, on serviced lands, and in accordance with the Development Guidance of this document.

US-3 – Ensure that all new development within the County supports the achievement of sustainable residential communities. The Council will have regard to the provisions of the Guidelines on Sustainable Residential Development in Urban Areas and the accompanying Urban Design Manual.

US-4 – Promote development which prioritises walking, cycling and public transport use in a sustainable manner, both within individual developments and in the wider

context of linking developments together and providing connections to the wider area, existing facilities and public transport nodes.

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.

Chapter 13 – Development Management Standards includes the following:-

Infill Sites – Infill development must have regard to the main adjoining existing uses, design features, building lines and heights, as well as the existence of any features such as trees, built and natural heritage and open spaces on the site or on adjoining sites. Proposals for infill development must demonstrate how they will integrate satisfactorily with the adjoining developments, without any loss of amenity.

Apartments – must comply with minimum size as set out in Sustainable Urban housing Design of apartments 2007. Private open space to be provided at 5sq.m per apartment. Public/shared open space to be provided as 10sq.m per bedroom. Adequate space to be provided for communal and bin storage.

Building lines and private open space – A minimum of 22 metres shall generally be provided between directly opposing first floor habitable rooms. This may be reduced subject to good design and the individual design requirements of the site where it can be demonstrated that residential amenity and adequate light is not compromised.

Parking requirement - apartments – one space per bedroom.

5.4. **Killarney Town Development Plan 2009 – 2015 (as extended)**

Killarney Town Development Plan was extended by Variation 4, which was adopted in December 2018. This Variation replaces the zoning maps and many of the other maps of the original Development Plan. It also includes the population allocation and housing land requirement as contained in the Core Strategy of the Kerry County Development Plan 2014. It also addresses the Killarney Municipal District LAP 2018-2024, which was adopted at the same time, and several other planning issues.

In respect of residentially zoned lands, Variation 4 redesignates lands in Killarney from Residential Phase 1 & 2 to 'Residential' and is based on the sequential approach and lands with extant permissions. Revision 1 of this Variation designated

lands as 'Residential' which relates to all lands which are centrally located within walking distance of the town centre.

The site is shown on the New Killarney Zoning Map A (Variation 4) as being located in an area zoned as 'New Proposed Residential' (R1), and is surrounded by lands which are zoned 'Existing Residential' (R2). Revision 6 replaced HSG-03-D with a revised HSG-03-C, which states –

Ensure that residential densities reflect the density of appropriate adjoining development. Higher densities will be considered in the town centre or within close proximity to the town centre.

The objective for Existing/Developed/Residential Areas is to protect and improve these areas and to provide facilities and amenities incidental to those areas.

Development Management Policy 12.20 addresses Apartment Development. It is noted that Variation No. 4 omitted 12.20.1 which had stated that apartment development would only be acceptable in the town centre and not in established residential areas. The remainder of the policy 12.20 (subsections 2-6) remains unaltered. Policy 12.21 addresses Apartment Open Space.

5.5. **Natural Heritage Designations**

Killarney National Park, Macgillycuddy Reeks and Caragh River Catchment SAC (site code 000365) and Killarney National Park SPA (Site code 004038) approx. 100m to the north.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

A Third-Party Appeal has been received from Ballydribeen Residents Association. The submissions can be summarised as follows:

- **Non-compliance with density standards** – The density of development proposed is excessive and does not comply with either national or local policy in this regard. Kerry CDP (Chap.13) aims to maintain a lower density of 10-12 dwellings per hectare in Kerry. Sustainable Residential Development in Urban

Areas recommends densities of 20-35 dwellings/ha on sites at the edge of town. The development as permitted under 15/765 had a density of 39dw/ha, (based on 75 dwellings overall), but the current proposal would increase that to 43dw/ha (based on 83 dwellings overall). This represents a 22% increase on these density standards.

- **Scale and density of development out of context with area** – It is submitted that the density proposed is considerably higher than any housing density within the area. The site is located on the outskirts of Killarney Town and is already a densely populated area with 6 different housing estates consisting of 230 dwellings. The densities of these estates have been calculated as ranging from 24dw/ha to 32dw/ha (set out in Table 1 of Grounds of appeal), with the average density at 27dw/ha. This represents a 60% increase on the prevailing density. A three-storey apartment block is out of context with the established character of the area.
- **Reduction in privacy and daylight** – design and siting of the proposed apartment block does not respect the amenities of existing adjacent housing in terms of overlooking and access to sunlight. No daylight or shadow projections have been included. Concern is expressed regarding the scale of the apartment block and its proximity to the boundary with the adjoining estate.
- **Inadequate provision of amenities** – the proposal lacks the dedicated amenities and facilities needed to support a housing development of this size. It is submitted that such high-density development without the appropriate supporting facilities could lead to anti-social behaviour. It is noted that the Sustainable Urban Housing: Design Standards for New Apartments recommend the provision of one child-care facility for every 75 dwelling units. The sports facilities on adjoining lands relate to members-only sports clubs, which are not appropriate in this instance.
- **Removal of trees** – the parent permission (15/765) included a condition which required the retention of trees along the common boundary and their protection during construction. However, the siting of the proposed apartment

block is likely to undermine the retention and preservation of these trees. It is important that these trees are retained and preserved.

- **Traffic impact** – An increase of 10% on the number of dwellings on the site would have a knock-on effect on traffic in the area. It is noted that there is already a planning permission for a National Centre nearby (14/205472) and there are private football pitches nearby. Inadequate provision has been made for parking and disabled parking.
- **Inadequate parking** – Kerry CDP requires 1 space/bedroom for apartments and 2 spaces/dwelling with an additional 0.5 spaces per dwelling. The current proposal provides for 30 bedrooms (12 x 2 bed and 8 x 1 bed). Thus, there should be at least 30 parking spaces, whereas the proposal is for 18 spaces and one visitor space. The additional housing units propose 4 parking spaces and 2 visitor spaces, yet the CDP requires 10 spaces. Furthermore, no disabled parking has been provided for the apartment block and one of the previously permitted disabled bays has been removed, reducing the number of disabled spaces overall to 5.

6.2. Applicant Response

The submission from the applicant (15/08/19) is mainly in the form of a rebuttal of the grounds of appeal. It was pointed out that Cluid Housing agreed to the transfer of 61 housing units but declined to purchase the 14 cottage units as these were not of a standard that would suit the needs of their clients. The cottage units were one bedroomed flats in two-storey units with floor areas of 44-45sq.m. The submission can be summarised as follows:

(1) Planning policy

- The National Planning Framework sets out ambitious targets for population and employment to deliver sustainable development at an appropriate scale in the right locations. The location of the site in close proximity to the town and within the built-up area of the town is one which could support enhanced residential densities. 'Rebuilding Ireland' highlights the need to accelerate social housing and to support the development of new homes. The proposed

development in this location, with the proposed unit mix (including the turnkey element) complies with these objectives.

- Kerry CDP contains a number of policies and objectives which support the principle of development at this location, including CS-1, HS-4, HS-5, HS-6 and US-3. The Housing Strategy (vol. 5 of the CDP) also contains several Key Principles to guide housing development in the county. It is submitted that the proposed development is in accordance with each of these as it will deliver a particular housing mix which directly responds to the specific and identified housing needs of Cluid in Killarney.

(2) Scale and density of development

- The density of the proposed development would be increased from 39.5 units/ha to 43units/ha. The CDP policy quoted in the grounds of appeal regarding 10-12 dw/ha relates primarily to rural areas and omits the sentence *“However each application will be looked at on its own merits and higher density levels may be applicable to certain urban areas.”* It is submitted that the proposed density is compatible with the scale and grain of the existing development in the surrounding area and can be accommodated without adverse impacts on the amenities of neighbouring properties.
- Support for the density proposed is provided for in the Guidelines for Delivering Quality Housing for Sustainable Communities’ (2007) and is in accordance with the Sustainable Residential Development in Urban Areas Guidelines which promotes increased densities in towns and cities and at locations which are within the footprint of existing neighbourhoods and within close proximity to a town centre.
- The proposed development is also in line with the recently published Design Standards for New Apartments – Guidelines for Planning Authorities (2018). This describes three types of locations, and it is submitted that the appeal site falls within 2) Intermediate Urban Locations, wherein the site is located within reasonable walking distance (800m-1000m) of a principal town. This would indicate a medium-high scale density, broadly comprising >45 dw/ha. The proposed development would bring the overall scheme to within this parameter.

- The increased density would not result in any significant height increase with the apartment block being 3-storeys and 10.3m in height, which is comparable to the pitched roof heights of neighbouring development. Although the typical suburban model is not replicated, the scale and form of the apartment building is compatible with the established form of development.

(3) Insufficient car parking and disabled parking provision

- The quantum of parking is in accordance with the guidance provided in Design Standards for New Apartments (2018) due to the size of the scheme (45dw/ha) and the proximity to the town centre. This approach is consistent with national policy which seeks to reduce reliance on private transportation and encourages use of public transport. The developer has reviewed car ownership rates in Killarney. It was found that the percentage of people who owned either no car or one car was notably higher in Killarney Town than in Kerry or in the State.
- Revised drawing submitted showing disabled bay (previously permitted) reinstated (Site Layout Drawing No. 1000). It was noted that there are limited national guidance on the level of disabled parking within new housing schemes.

(4) Environmental impacts

- A tree survey was carried out in compliance with conditions of the parent permission. This demonstrated that of the 22 trees surveyed, 14 were suitable for retention. These include the trees referred to by the appellants.
- The developer now proposes to reinforce the boundary with hedging and augmented with a double row of native trees. This revision is incorporated into the revised Site Layout Drawing No. 1000 submitted with the response to the grounds of appeal.

(5) Reduction of privacy and sunlight

- The design and siting of the apartment block specifically ensures that there would be no overlooking of adjoining dwellings or private gardens.
- There will be no overshadowing due to the location of the apartment building northwest of the southern row of housing. It is acknowledged that there could

be limited impact on the north-facing gardens of the northern row of houses for a short period in the early afternoon, but given the impact of the mature tree on the boundary at this location, it was considered that there would be no significant increase in the loss of sunlight.

(6) Traffic impact

- The proposed development would result in an increase of just 8 dwelling units. The traffic accessing the development would do so from the N22, whereas the traffic accessing the football pitches/clubs would do so from the east. A TTA was carried out as part of the application for the parent permission (15/765) and it was found that there is ample spare capacity at the junction of the N22 and Bruach na hAbhann. It is submitted that the additional 8 units can be accommodated within the existing road network.

(7) Amenities

- In response to the concern that the proposed development lacks dedicated amenities and facilities which would contribute to anti-social behaviour, the developer has sought to incorporate passive surveillance into the design of the estate. Reference is made to a range of facilities and amenities in the vicinity of the site and within the town centre.
- The proposed development complies with the child care requirements as set out in the Design Standards for New apartments (2018) as the unit mix includes forty units with one or two bedrooms. Thus, the threshold is lower than in a standard housing development.

6.3. Planning Authority Response

The P.A. responded to the grounds of appeal on the 9th August 2019. It was stated that the P.A. does not wish to make any further comment on the appeal.

7.0 Assessment

I consider that the issues arising can be assessed under the following headings:

- Principle of Development
- Appropriateness of density and scale of development
- Adequacy of facilities and amenities
- Traffic impact
- Adequacy of parking provision
- Residential amenity
- Retention of trees
- Environmental Impact Assessment
- Appropriate Assessment

7.1. Principle of Development

- 7.1.1. Killarney is a town with a population of c.13,000 and an excellent level of services and facilities. It is the second largest town in Kerry and is designated as a 'Hub' along with Tralee. The Settlement Strategy for Kerry identifies Killarney as a "key destination, economically active supporting surrounding area, located on multi-modal transportation corridor". The site forms part of a recently permitted housing scheme which is being developed by Cluid Housing which is in the midst of a number of recently developed housing schemes. It is located within an emerging residential area which is within walking distance of the town centre and the wide range of facilities on offer. National policy, as expressed in the National Planning Framework (2018), Sustainable Residential Development in Urban Areas Guidelines (2009), and the Design Standards for New Apartments (2018), emphasises the need to make the most efficient use of zoned and serviced lands, which are close to towns and villages, with a good range of services and facilities. In such circumstances, there is strong support for increased densities. It is considered that the appeal site is one which could support increased densities in principle, in accordance with national policy.

- 7.1.2. The proposed development seeks to replace 14 cottage flats with a block of 18 no. apartments. The Guidelines on Design Standards for New Apartments (2018) take precedence over existing policies and objectives of Development Plans and the Board is required to apply these guidelines in the performance of its functions. It is stated that to meet housing demand in Ireland, it is necessary to significantly increase supply (2.1) and that apartments are most appropriately located within urban areas (2.2). Guidance is provided at 2.4 regarding the identification of the types of locations in cities and towns for apartment developments. Three types of location are identified i.e. (1) Central and/or Accessible Locations, (2) Intermediate Urban Locations and (3) Peripheral and/or Less Accessible Urban Locations.
- 7.1.3. It is considered that the site of the proposed development falls within the Intermediate Urban Location category as it is within reasonable walking distance (800-1000m) of principal town/suburban centres or employment locations, including hospitals. Such locations are generally considered suitable for medium-high density residential development of any scale but broadly >45 dwellings/ha. It is noted that Variation 4 of the Killarney Town Development Plan (adopted Dec. 2018) omitted the policy regarding Apartment development (12.20.1), which had specified that apartments would only be considered in town centre areas and not in established residential areas. The site is zoned as 'New Proposed Residential' in the New Killarney Zoning Map A in Variation 4, which relates to centrally located lands within walking distance of the town centre.
- 7.1.4. It is considered that the increase in density of the development together with the introduction of an apartment building at this location, is in accordance with the objectives of the National Planning Framework, the Design Standards for New Apartments Guidelines (2018) and the Sustainable Residential Development in Urban Areas Guidelines (2009), and would facilitate the achievement of the objectives of the Development Plan for the area. The proposed development is, therefore, considered to be acceptable in principle.

7.2. **Appropriateness of Density, Scale, Design and Layout of development**

- 7.2.1. The guidance in the national and local policy framework seeks to achieve higher densities in general, with a density of 35-50 dw/ha in centrally located sites, and 20-35 units/ha in edge of town locations. The appellants believe that the site is an edge-

of-town site. However, as stated above, the location of the appeal site is considered to be 'Intermediate Urban' due to its proximity (within 1km) to the town centre and a range of facilities including sources of employment such as the Killarney Community Hospital, St. Columbanus Community Hospital and Killarney Nursing Home.

- 7.2.2. The prevailing density and character of the lands in the vicinity is generally more consistent with an edge of town location, (20-35dw/ha), although the permitted development of which the proposed scheme forms a part is consistent with a more centrally located site (39dw/ha). The proposed development would bring the density of the overall scheme to 43dw/ha. This would still be well within the recommended density for more centrally located sites of 35-50dw/ha, such as this one, which is considered to be a medium density.
- 7.2.3. The design, scale and siting of the apartment block is broadly consistent with the design and scale of the permitted development both within the Cluid scheme and on the adjoining sites. The houses within the Cluid scheme are generally semi-detached or terraced, are two-storeys, and have a ridge height of c.9.3m. They are generally arranged in rows or blocks which run perpendicular to the terraced blocks on the lands to the east, and parallel to the house blocks to the west. The proposed 4no. dwelling units will follow the same pattern as the houses under construction. The proposed apartment block has a similar width (c.24m) and overall height (10.12m) as the blocks of houses. The depth is approx. twice the depth of the house type units.
- 7.2.4. The houses on the lands to the east (Doirin Alainn) are generally arranged in short terraces with pitched roofs but many incorporate a parapet wall at the front. The materials are generally a mix of white painted rendered walls with red brick panels. This gives the illusion of a flat roof when viewed from certain locations. The proposed materials for the flat roofed apartment block consist of white rendered walls with red brick panels. The apartment block would be sited such that it is bounded to the north by a large area of open space and car parking spaces, and does not directly abut the gable walls of the blocks of terraced houses to the immediate east. Thus, it is considered that the proposed apartment block, in terms of its scale, height, design and siting, would be readily absorbed into the existing built form within the overall site and on adjoining lands. The scale and density of the development are therefore considered to be appropriate in this context.

7.3. Adequacy of amenities and facilities

7.3.1. The appellants have raised concerns regarding the lack of dedicated amenities and facilities to serve a development of the scale and density proposed, which it is submitted could give rise to anti-social behaviour. The developer, however, has pointed out that the site is located in close proximity to a wide range of sports facilities and to the commercial services and community facilities available within the town of Killarney. It is further noted that the town is particularly well served in respect of facilities, given its long standing and well-developed tourism role in the County and the considerable number of amenities available to the general public, including the National Park. It is further submitted by the developer that passive surveillance has been incorporated into the design and layout of the estate. I would agree that the level and range of amenities provided within the site and in the general vicinity of the site is adequate.

7.3.2. The Design Standards for New Apartments Guidelines state (4.7) that

“notwithstanding the Planning Guidelines for Childcare Facilities (2001), in respect of which a review is to be progressed, and which recommend the provision of one child-care facility for every 75 dwelling units, the threshold for provision of any such facilities in apartment schemes should be established having regard to the scale and unit mix of the proposed development and the existing geographical distribution of childcare facilities and the emerging geographic demographic profile of the area.”

One-bed units and two-bed units (subject to location) are generally excluded from the requirement to contribute to childcare provision.

7.3.3. The developer's response to the grounds of appeal estimates (conservatively) that, based on the above, between 43 and 77 units of the overall development may require a childcare need. It is submitted that this is further supported by the Census 2016 CSO statistics indicating that the most common family type in the Killarney area is families without children (29%) and with one child (28%), together with the CSO published Quarterly National Household Survey on Childcare (Q3, 2016), stating that only 13% of children aged 0-12 attend a creche /Montessori /playgroup/ afterschool activity. It is further submitted that there are 6 no. existing childcare facilities within 3.5km of the site, two of which are within 1km.

7.3.4. Given that the proposed development seeks to increase the number of residential units by only 8 no. units (from 75 to 83), and having regard to the information provided by the developer in the response to the grounds of appeal (7.3.3 above), it is considered that the requirement for the provision of a childcare facility to serve the proposed development is not justified in this instance.

7.4. Traffic impact

7.4.1. The appellants consider that the additional 8 units would generate additional traffic on the road network serving the development and surrounding areas, which would result in a traffic hazard. It is noted that under 15/765, following a request for FI, the applicant submitted a Traffic Impact Assessment and a Road Safety Audit, with particular emphasis on the junction of the N22 with the road serving the site and adjoining housing estates. It was found that there would be no significant queues in the design year (2023) at this junction, (RFC 0.433 with a queue length at peak hour of 0.7). It is noted that the TIA had included the development of the National Adventure Sports Centre in the baseline. The developer in the response to the grounds of appeal also pointed out that the NASC would be likely to access the development from the east rather than from the N22.

7.4.2. I would agree with the developer that the introduction of 8 additional units would not result in any significant traffic impact and would not adversely affect the carrying capacity of the national road. It is considered that the proposed development can therefore be accommodated within the existing road network.

7.5. Adequacy of parking provision

7.5.1. The proposed development provides for 18 parking spaces and one visitor space to serve the apartment block and 4 no. spaces (with 2 further visitor spaces) to serve the four houses. The appellants consider this to represent only 60% of the parking requirement as set out in the CDP. The developer, however, pointed out that the recently adopted Design Standards for New Apartments (2018) state in relation to Intermediate Urban Locations (4.21), (particularly in the case of developments with >45dw/ha), that planning authorities must consider a reduced overall car parking standard and apply an appropriate maximum parking standard. This approach is consistent with national planning and transport policy which seeks to reduce the

dependence on car borne journeys and to encourage a modal shift to more sustainable forms of transport such as walking, cycling and public transport.

- 7.5.2. The proposed apartment block incorporates 6no. one-bed and 12no. 2-bed apartments in place of 14 no. one-bed cottage flats. It is considered that the provision of one space per apartment and per dwelling, with three visitor spaces is adequate given the proximity of the site to the town centre. The developer has increased the disabled parking provision by one space in the revised drawing submitted with the response to the grounds of appeal. It is considered that this is acceptable.

7.6. Impact on residential amenity

- 7.6.1. The concerns raised regarding overlooking relate principally to the upper floors of the apartment block. This building has been sited so that the footprint aligns with the cul-de-sac to the front of the houses in the adjacent development (Doirin Alainn) and the eastern elevation is set back c.5m from the boundary, (c.3.5m in the case of the balconies). The building has been designed so that there are no windows on the northern or southern elevations, at the eastern end of these elevations. However, there are bedroom windows on the eastern elevation at first and second floor levels which face east. The developer has pointed out that these windows overlook the cul-de-sac and the west-facing elevations of the Doirin Alainn houses are gables with no windows.
- 7.6.2. I would accept that there would be no direct overlooking from these windows, and that any overlooking would be from an oblique angle, which is unlikely to result in any significant loss of privacy or amenity. However, it is noted that the projecting balconies at this level are more centrally positioned on the eastern elevation and that they include north-facing and south-facing windows within the projecting elements. The purpose of these windows is unclear and it is considered that they should be omitted, as the projecting elements would provide an important screening function to the houses in the cul-de-sac. It is also noted that the P.A. has attached a condition requiring frosted glass on the upper floor bathroom and landing windows of the apartment block, which should be attached to any permission, should the Board be minded to grant permission.

7.6.3. Regarding overshadowing, it is noted that a shadow study has not been provided. The proposed development would result in the building envelope being brought closer to the common boundary. Given the orientation and siting of the building, it is possible that the proposed apartment block could have an impact on sunlight reaching the closest dwellings on the northern side of the cul-de-sac. However, it is acknowledged that there are tall mature trees on the common boundary which are likely to cast similar shadows. The developer has also pointed out that the rear gardens of the northern row of houses are north facing, with limited access to sunlight at present. It is considered, therefore, that the loss of amenity by reason of overshadowing would be unlikely to be significant.

7.7. Retention of trees

7.7.1. The appellants have raised concerns regarding the impact of the proposed development on the existing mature trees on boundary. It is noted that this issue was addressed in the parent permission by means of a condition (13) which sought the retention, strengthening and preservation of these trees and their protection during construction. In response to this condition, it is noted from the P.A. website (15/765) that the developer provided a Tree Report on 7th December 2018, which was based on a tree survey dated 30/11/18. This study identified that of the 22 trees on the site, only 14 were suitable for retention, due to the fact that a significant number of trees had had their roots compromised by a previous development on the adjoining site. Thus, it was proposed to retain 14 no. trees and to remove 8 no. trees, but it was further proposed to replace trees and to reinforce the planting with additional trees.

7.7.2. The developer in the response to the grounds of appeal has referred to this tree report and has confirmed that the trees identified in the grounds of appeal will be retained as part of the development, and that they will continue to provide screening to the adjoining development. It was also confirmed that it is proposed to augment the boundary planting between the site and Bruach na hAbhann and Doirin Alainn estates, respectively, with a double row of common hawthorn, blackthorn, common holly and wild privet. (This additional landscaping is shown on the revised drawing Site Layout Plan No. 1000).

7.7.3. The commitment to the retention and reinforcement of the planting, particularly in relation to the trees along the eastern boundary is to be welcomed. However, I noted

when on my site inspection, that the embankment surrounding these trees had building materials stored in a haphazard manner in and around the trees. Furthermore, the stout protection fences which were required to be in place in compliance with Condition No. 13 of 15/765 had not been erected. Although I did not observe any construction works being undertaken in the vicinity of the trees, it is considered that should the Board be minded to grant permission, a condition should be attached requiring the erection of such fences and the removal of all building materials from the embankment around the trees to be retained.

7.8. **Environmental Impact Assessment**

Having regard to the nature and scale of the proposed development within the development boundary of Killarney town on serviced lands, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.9. **Appropriate Assessment**

- 7.9.1. The site is located in close proximity (within 100m) to two European sites, Killarney National Park, Macgillycuddy Reeks and Caragh River Catchment SAC (site code 000365) and Killarney National Park SPA (Site code 004038). Castlemaine Harbour SAC (000343) is located approx. 4km to the west. There are no known hydrological links to the protected sites. Given the scale and nature of the development, which involves a revision to a permitted scheme that is currently under construction, the distances involved, that the site is located in an established urban area, on serviced lands, it is considered that no appropriate assessment issues are likely to arise.

8.0 **Recommendation**

Having regard to the foregoing I recommend that permission for the above described development be **granted** for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

Having regard to the planning history of the site, to the location of the site within an established housing area in close proximity to Killarney Town Centre, which is zoned 'New Proposed Residential in the Killarney Town Development Plan (2009-2015, as extended and varied), and to the national and local policy objectives to encourage increased densities in such locations, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area, would not adversely impact the character of the village and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted to the planning authority on the 24th day of May 2019 and 18th day of June 2019, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Apart from any departures specifically authorised by this permission, the development shall be carried out and completed in accordance with the terms and conditions of the permission granted on the 6th day of July 2016 under planning register reference number 15/765, and any agreements entered into thereunder.

Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission.

3. The proposed development shall be amended as follows:-
- (a) The north and south facing windows in the projecting screens to the balconies on the first and second floors of the eastern elevation of the apartment block shall be omitted. The nature, height and materials of these screens to be agreed with the planning authority.
 - (b) The bathroom and landing windows on the first and second floors of the apartment block shall be fitted with obscure glazing.
 - (c) The Finished Floor Levels of the apartment block shall match those of the dwellings granted under the parent permission Reg. Ref. 15/765 and shall have regard to the FFLs in Doirin Alainn estate to the east.

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

Reason: In the interest of the residential and visual amenity of the area.

4. Prior to the commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water. No dwelling shall be occupied until water and sewerage services serving the development have been installed and functioning in accordance with the connection agreements made with Irish Water.

Reason: To ensure that satisfactory water and wastewater arrangements are in place to serve the development.

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

Reason: In the interest of public health.

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

Reason: In the interest of visual amenity.

7. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.

Reason: In the interest of amenity and of traffic and pedestrian safety.

8. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company. A management scheme providing adequate measures for the future maintenance of public open spaces, roads and communal areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

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

Reason: In the interest of residential amenity.

10. Parking for the development shall be provided in accordance with the Site Layout Plan Drawing No. 1000 Rev. P02 submitted to An Bord Pleanála on 15th day of August 2019. A minimum of one parking space shall be provided for each residential unit hereby permitted and shall also provide for a minimum of two parking spaces which shall be reserved for persons with physical disabilities.

Reason: To ensure adequate off-street parking provision is available to serve the proposed development.

11. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interest of amenity and public safety.

12. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual and residential amenity.

13.
 - (a) All screen walls and boundary walls within the proposed development shall be constructed and finished in accordance with the details submitted to the planning authority.
 - (b) Details of the location, design and construction method of any retaining walls, including those between plots, shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interest of visual amenity and public safety.

14. The landscaping scheme shown on Drawing No. 1000 entitled Site Layout Plan, as submitted to the Planning Authority on the 26th day of April 2019, and as amended by the Drawing No. 1000 Rev. P02 to An Bord Pleanála on the 15th day of August 2019 shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential and visual amenity.

15. All trees within and on the boundaries of the site shall be retained and maintained, with the exception of the following:

- (a) Specific trees, the removal of which is authorised in writing by the planning authority to facilitate the development.
- (b) Trees which are agreed in writing by the planning authority to be dead, dying or dangerous through disease or storm damage, as identified in the qualified tree surgeon's report, which was submitted to the planning authority on the 7th day of December 2019, and which shall be replaced with agreed specimens.

Retained trees shall be protected from damage during construction works. Within a period of six months following the substantial completion of the proposed development, any planting which is damaged or dies shall be replaced with others of similar size and species, together with replacement planting required under paragraph (b) of this condition.

Reason: In the interests of visual and residential amenity.

- 16.
- (a) Prior to the commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at a minimum a radius of 2 metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.
 - (b) Any construction equipment, machinery or materials that are currently stored in the vicinity of the trees to be retained shall be removed within one month of the date of this order.
 - (c) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of

site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: To protect trees and planting during the construction period and in the interests of visual and residential amenity.

17. Prior to the commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on the site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or are seriously damaged or diseased within a period of three years from the substantial completion of the development with others of a similar size and species. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To secure the protection of the trees on the site.

18. Proposals for an estate/street name, housing numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally

appropriate place names for new residential areas.

19. The areas of public open space shown on the lodged plans shall be reserved for such use. These areas shall be soiled, seeded, and landscaped in accordance with the landscaping scheme submitted to the planning authority on the 24th day of May 2018. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

20. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

21. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials within each house plot shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with

the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

22. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

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

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

24. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

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

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

Mary Kennelly
Senior Planning Inspector

18th November, 2019