



An  
Bord  
Pleanála

## Inspector's Report ABP.307555-20

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Development	Renovation and change of use of Carriage to holiday home, construct new canopy and store, new entrance gate and piers, wastewater treatment plant, bored well and all ancillary site works (Protected Structure)
Location	Flesk Castle, Mill Road, Dromhumper, Killarney  Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	19854
Applicant(s)	O'Reilly Family
Type of Application	Planning permission
Planning Authority Decision	Grant permission s.t. conditions
Type of Appeal	Third party against grant
Appellant(s)	Sean O'Donoghue
Observer(s)	None.
Date of Site Inspection	2 <sup>nd</sup> October 2020
Inspector	Mary Kennelly

## **1.0 Site Location and Description**

- 1.1.** The site is located in the townland of Dromhumper, on the outskirts of Killarney Town. It is accessed from the Mill Road which follows the course of the River Flesk between the N22 and the N71 (Mucross Road), and by means of a private road which leads through a wooded area to a clearing at the top of a hill. The private road serves a small number of private dwellings. The site comprises a castle which is in a ruinous state, and is known locally as Killarney Castle, but is formally entitled as Flesk Castle.
- 1.2.** The site area is given as 2.1ha. The castle is a Recorded Monument (KE066-083) and a Protected Structure, comprising an early 19<sup>th</sup> Century castellated country house, which has a complex ground plan with several projecting towers and an enclosed farmyard. The building is listed in Appendix 2(a) of the Record of Protected Structures (RPS No. 66-4) and is also listed in the National Inventory of Architectural Heritage (21306604). The private roadway travels alongside the southern boundary to the entrance to the castle grounds, which is located to the east of the castle and the appellant's property is situated opposite the entrance. The northern and southern castle grounds (outside the courtyard) are largely wooded with a gravel pathway encircling the castle walls.
- 1.3.** The main castle building is located at the western end of the structure and opens onto a large open terrace, with a further terrace at a lower level in front. To the rear, there is a large enclosed courtyard with an arched entrance gate set into the eastern courtyard wall. The Carriage House is a former stables/coach house which is situated within the courtyard at its south-eastern corner, and the southern and eastern walls of this structure are formed by the castle courtyard walls. It is a roofless structure which is in a ruinous state but is in the process of being renovated. The castle is owned by the O'Reilly family who are undertaking a large-scale renovation project for the castle.
- 1.4.** The carriage house is a two-storey structure, but the first floor is missing. There are window openings on the northern and western elevations and an arched entrance facing west. There is a further window opening with an iron grid insert on the southern elevation.

## **2.0 Proposed Development**

- 2.1.** It is proposed to renovate and restore the carriage house and to change the use of the structure to a residential dwelling. It is intended that it would principally be occupied by members of the O'Reilly family but that it would also be rented out privately as a holiday home. It is stated that this supplementary use is essential to provide full time occupation of the site and so that the return on rental periods would help to fund the overall restoration project. The floor area of the residential unit is given as 111.5sq.m.
- 2.2.** The proposal would restore the structure mainly on the basis of the original footprint of the carriage house. This would involve the reinstatement of the first floor and the layout of the accommodation as a two-bedroomed unit. The ground floor would consist of two rooms, (a kitchen/dining room and a sitting room), which would require the replacement of the central dividing wall, which is partially intact at present. The west-facing archway opening would be fitted with a glazed double door at ground floor level and the existing openings would be fitted with glazing panels. However, it is also proposed to turn one of the openings into a door to provide access to the external area of the courtyard. This area would have a metal canopy installed, with an external store, to provide for a sheltered area along the internal side of the southern castle walls.
- 2.3.** The carriage house would be fitted with a flat roof, comprising standing seam metal, which would incorporate a skylight at the rear over the staircase. It is also proposed to incorporate a narrow strip of glazing between the top of the wall and the roof, which would be recessed, on the western elevation with the courtyard. It is proposed to restore the low boundary walls that run parallel to the southern courtyard wall (outside the castle walls) to form a small private garden for the residential unit. This would be accessed from the courtyard via an existing opening, which would be reinstated. It is also proposed to restore the historic brick chimney which occupies and forms part of the north-eastern corner of the carriage house.
- 2.4.** The proposed unit would be served by a new bored well which would be located close to the entrance to the grounds and by a packaged WWTP with polishing filter, which would be located to the south of the castle walls. It is also proposed to reinstate the gate and piers at the entrance to the grounds.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority decided to grant planning permission, following the receipt of further information, which was generally in accordance with the recommendation of the Area Planner. The decision to grant was subject to thirteen conditions, which were generally of a standard type. Condition 2 required the payment of a development contribution. Condition 4 stipulated that the holiday home shall be rented on a weekly basis rather than on a daily basis, and not on a room-by-room basis. Condition 5 required details of materials and condition 6 required revised proposals for the proposed steel channel gutter, which would be visually less obtrusive. Conditions 11, 12 and 13 related to the proposed wastewater treatment system.

### **3.2. Planning Authority Reports**

#### **Planning Reports**

- 3.2.1.** The Planner's Report considered that the proposed development was acceptable in principle as it would result in the re-use and restoration of the structure and the proposed use would help to offset the costs of renovation. However, this needed to be reflected in the planning application, as the renting out of a unit as a holiday home requires permission. It was further considered that the use as a holiday home on a weekly basis would not give rise to adverse impacts on the residential amenities of nearby properties. It was noted that the biodiversity officer was satisfied with the information submitted in respect of the likely impact on owls.
- 3.2.2.** The third-party objections relating to the concern that the proposal could be a precursor to the future sub-division of the property were noted but it was stated that the current application should be considered on its merits.
- 3.2.3.** The Area Planner considered that Further information should be requested in respect of archaeology, the wastewater treatment proposals, the use of the dwelling as a holiday home and a Conservation Method Statement.

**3.2.4.** Appropriate Assessment Screening was carried out and it was noted that the site lies within 180 metres of Killarney National Park, MacGillicuddy Reeks and Caragh River Catchment SAC (000365), which includes the Flesk River, and within 1.7km of the Killarney National Park SPA (004038). However, it was considered that given the limited nature of the development proposed, there is no predicted impact on these European Sites. The need for EIA was also ruled out on the basis of the small scale and nature of the proposed development, which would not be likely to give rise to any significant effects on the environment.

**3.2.5. Request for FI** of permission was recommended.

### **3.3. Other Technical Reports**

**Conservation Officer** – (4/10/19) No objection in principle but sought further information in respect of a Conservation Method Statement for the carrying out of stabilisation of the historic fabric to ensure the structural capability of the carriage house to accommodate the proposed development. Particulars were also requested regarding the proposals for rainwater disposal and for details of finishes.

**County Archaeologist** – (17/09/19) The proposed development is located as a recorded monument, Ke066 083, Flesk Castle, listed in the Record of Monuments & Places as 'castle' and in the Sites & Monuments Record as 'country house'. A detailed archaeological assessment is required which should address specific matters including evidence of an earlier structure on the site of the 19<sup>th</sup> century complex and the potential impacts on any such structure, as well as the potential for sub-surface remains of an earlier structure on the site. The assessment should be completed by a qualified archaeologist and should be submitted prior to any grant of permission.

**The SAU** – (2/10/19) The proposed WWTS is over-designed for the renovation of the existing carriage house to a dwelling. It is understood that the system has been designed for the renovation of the whole property, but it is considered that it should be re-assess the design for the proposed application. Otherwise there was no objection to the proposed system which was considered to be appropriate.

**Biodiversity Officer** – (3/10/19) As the works relate entirely to the coach house, the potential impacts on the SAC relate to annexed habitats and annexed species as the

castle complex is outside the SAC and there is a considerable distance between the site and the nearest habitat, the Flesk. The possibility for significant effects relates to LHS bats which could use the structure. However, the findings of the bat survey submitted with the application were accepted, which considered that due to the open nature of the ruined building, there was no record of bats using the structure, no predicted impacts and no measures are proposed. It was noted that there was evidence of other bat species, but none were roosting or using the coach house.

Reference was also made to the letter from BWI in relation to nesting barn owls and it was clarified that there was no evidence of use of the coach house, but there was evidence of the species using the castle building. It was concluded that there would be no likely impact on breeding barn owls arising from the proposed development.

### **3.4. Prescribed Bodies**

Dept. of Culture, Heritage & The Gaeltacht (16/09/19) – Notification of proposed works at a recorded monument acknowledged and has been assigned to an archaeologist. Advised that no works should take place during the 2 months following the date of notification in accordance with Section 12(3) of the National Monuments (Amendment) Act 1994.

### **3.5. Third Party Observations**

**Sean O'Donoghue, Kestrel Haven** (12/09/19) – (Third Party appellant) - Reference is made to possible encroachment issue at the entrance to the castle grounds. It is disputed that a bored well exists on the property and as such the application would be premature. Inadequate measures proposed to contain storm waters within the site. It is considered that the site should be a bird sanctuary and that the works have disturbed bats. Claims that unauthorised works have been carried out and that a tree survey should have been conducted. The proposed WWTP is inadequate.

**Seamus O'Donoghue, Laragan House** (12/09/19) – objection to proposal to change the use of a private family house to a commercial venture. The applicant's claims re vandalism are disputed.

**Paraic O'Donoghue, Dromhumper** (12/09/19) – welcomes application but expresses concern regarding the possible future subdivision of the castle. It is

sought that a condition be attached to any permission requiring the entire property within the boundary to be retained as a single-family dwelling.

**Ciaran Gallagher, Flesk Castle** (12/09/19) – objects to change of use to a commercial enterprise.

### **3.6. Unsolicited FI – response to Third Party Observations**

The applicant's agent responded on 2<sup>nd</sup> October 2019. The response was mainly in the form of a rebuttal of the objections. However, it was confirmed that there was no intention to subdivide the site, that it has historically been a family home and that it is intended to restore it as a family home. It is also confirmed that the application includes a proposal to install a bored well. It is reiterated that the applicants have had to deal with repeated incidents of trespass and vandalism, and it is refuted that any of the works carried out have been unauthorised.

### **3.7. Further Information – 08/04/20**

In response to a request for FI of 4/10/19, (in respect of archaeology, WWTS, use of the proposed dwelling and the conservation method statement), the applicant submitted Further Information on 8<sup>th</sup> April 2020. The FI was re-publicised. It included the following

- Site Characterisation Report – Reeks Consulting Engineers including revised drawings and maps
- Conservation Method Statement – Stabilisation of the Historic Fabric – Karol O'Mahony Architects
- Archaeological Test Trenching & Impact Assessment Report – AEGIS Archaeology Ltd.
- Revised Drawings of West Elevation and Roof Detail including rainwater disposal
- Confirmation that the proposed development description has been amended to 'holiday home'.

### **3.8. Planning Authority response to FI submitted 8 April 2020**

The Area Planner noted that there were no objections subject to conditions from the Site Assessment Unit or from the Conservation Officer, who welcomed the sensitive adaptation of the structure. It was noted that the County Archaeologist was satisfied that no previously unrecorded archaeological features or strata were encountered during testing and that no further mitigation in relation to these areas is required. It was further noted, however, that other archaeological investigations are ongoing and that outstanding assessment reports should be submitted for the agreement of the P.A. prior to commencement of works on site.

It was considered that the FI was satisfactory. The justification for the weekly rental of the dwelling was accepted in terms of the need for a presence on the site to counter vandalism and the contribution that the rental income would make to the overall renovation project. It was noted that a high percentage of heritage buildings are unoccupied and that the CDP has identified this as a factor that militates against the long-term survival of these buildings. Permission was recommended subject to conditions.

## **4.0 Planning History**

None.

## **5.0 Policy Context**

### **5.1. Architectural Heritage Protection Guidelines 2004**

**5.1.1.** These guidelines provide advice regarding appropriate alterations and extensions to protected structures. Chapter 6 provides Development Control Advice including extensions to protected structures (6.8). The Conservation Principles contained in Chapter 7 include Protecting the Special Interest; Promoting Minimum Intervention; Respecting Earlier Alterations; Use of Appropriate Materials and Methods; Ensuring Reversibility of Alterations; and Avoiding Incremental Damage. Chapter 13 provides advice regarding development within the curtilage or attendant grounds of a Protected Structure, which should not damage important views to/from the P.S.



## 5.2. Kerry County Development Plan 2015-2021

### 5.2.1. Chapter 5 Tourism and Recreation

**T56** - Ensure heritage related development does not result in negative impacts on the fabric or setting of Kerry's heritage assets.

**5.2.2. Chapter 11 - Built and Cultural Heritage.** The most relevant policy objectives are as follows:

**H-34** – Protect the architectural heritage and promote conservation led regeneration and re-use of buildings where appropriate.

**H-38** - Ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting: -

- Is appropriate in terms of the proposed materials, scale, density and layout.
- Addresses the issue of reversibility.
- Respects the original design plan and form.
- Demonstrates an understanding of the historical importance of the building and its setting and does not detract from the special character/interest of the protected structure.
- Deal sensitively with historically important features and fittings.
- Takes account of any protected species that may utilise the structure and accordingly mitigate any impacts on the species.

**H-39** – Ensure that the special interest of a protected structure is not gradually eroded by minor alterations.

**H-44** – Ensure a balanced approach to maintenance and development of the architectural heritage, having regard to both the qualities of the given architectural context and the modern requirements to safety, comfort and usage, thus facilitating continuity of the use of the architectural heritage in a sustainable manner.

### 5.3. Killarney Town Development Plan 2009-2015 (as extended and varied)

**10.14 – Adaptive reuse of a Protected Structure** – encourage proposals for a change of use where a new use will give the structure a viable future without adversely affecting its character.

**10.15 – Alterations and Extensions to a Protected Structure** – encourage the continued development of Protected Structures, including alterations and extensions, where such works contribute to the viability of the protected structure and do not adversely affect its character. The P.A. will promote a standard of design and workmanship which will enhance the special character of the PS and are appropriate to it, (Chap 12 – Development Management Standards).

**Policy BH-11.k** – Ensure that development taking place above or below ground which is within or adjacent to or might affect sites and features of historical and archaeological interest respects the character of the archaeological site and its setting, to be sited and designed with care for the character of the site and its setting.

### 5.4. Natural Heritage Designations

The site is located approx. 180 metres from the Killarney National Park, MacGillicuddy Reeks and Caragh River Catchment (including the Flesk River) SAC (000365) and c. 1.7kms from the Killarney National Park SPA (0040380).

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The appeal is a third-party appeal against the decision to grant planning permission. It was submitted by Sean O'Donoghue of Kestrel Haven, which is a private residence opposite the entrance gates to the site. The main points raised may be summarised as follows:

1. **Principle of development** - The proposed renovation of the carriage house is incompatible with the logical sequence of works necessary to restore the castle, which should be the primary and major objective for the site. The change of use to residential is unacceptable. The justification for renting the

unit as a holiday home is not accepted and the money spent on renovating the structure should have been diverted to the renovation of the main castle building, which is in need of restoration.

2. **Impact on Protected Structure** – the proposed door to be inserted into the beautiful stone wall on the south elevation of the castle should not be permitted as it will destabilise the wall. The justification that it was formerly a door opening is not accepted and it is claimed that it was only a window. It is claimed that unauthorised works were carried out in terms of repointing stonework at the upper terrace of the castle, and two dwarf walls were demolished.
3. **Archaeology** – the value of the test trenching is questioned as it is claimed that heavy excavating machinery was operating within the castle walls in 2019, prior to the archaeological testing. It is further claimed that during this time, unauthorised works to the castle were carried out which resulted in piles of rubble stone being stored in the courtyard.
4. **Wastewater treatment** – the siting of the WWTP in a woodland is asking for trouble. The area is one where trees have been removed and no information has been provided regarding measurement of capillary attraction and osmotic influence. However, effluent will kill the trees and will seep onto the road.
5. **Water supply** – a watermain is available and it is questioned as to why one would bore a well, which would be very challenging in this location.
6. **Proposed entrance** – the existing entrance gate is an eyesore. However, the proposed entrance is to be widened to 5.0m. This should not be permitted, and the width should not be greater than 4.3m and should be set back 6.0m from the property boundary. Parking is prohibited on the private driveway, yet his driveway is frequently obstructed. It is also claimed that there is an issue of encroachment where the site boundary overlaps the lands in the appellant's ownership.
7. **Bird sanctuary** – reference is made to a previous owner who used the coach house as a shelter for homing pigeons. It is submitted that the structure should not be renovated for residential use but should be used instead as a bird sanctuary for bats, kestrels, barn owls and swallows.

8. **Vandalism** – it is disputed that the site has been subjected to vandalism and trespass related issue, including the cutting down of power lines, as the site is well protected by CCTV and by a security firm. The value of inhabiting the site to guard against such vandalism is disputed.
9. **Validity of application** – name of applicant needs to be clarified. It is not clear which members of the O'Reilly family are responsible for the works. The site is known locally as Killarney Castle and this is the name on the land registry documents. Killarney Castle Ltd. is a limited company and several of the O'Reilly family members are directors of the company.

## 6.2. Planning Authority Response

The P.A. responded to the grounds of appeal on 13<sup>th</sup> August 2020 and made reference to the Planner's Report in which the issues were fully set out. The following additional comments were made:

The main planning issues related to the proposed use of the carriage house as a holiday rental home, effluent treatment and disposal and archaeology. These were addressed in the planning and technical reports. Several non-planning issues were also raised by the appellant. The P.A. has no further comment to make.

## 6.3. Response from First Party to grounds of appeal

A response was received on 13<sup>th</sup> August 2020. This was mainly in the form of a rebuttal. However, the following points of note were also made: -

- **Overall restoration project** - A full conservation plan is in place for the overall site, which is being undertaken in line with best conservation practice. The considerable works to date were concerned with stabilising, saving rooftop features and weathering of the castle, which is currently drying out following the recovering of all of the flat roofs. A further planning application will be submitted in the near future for the next phase of works, including proposals to reinstate floors, fenestration and roofs and reopening of blocked windows.

- **Significance of current proposal** - The renovation of the carriage house forms a critical step in the overall works sequence. The carriage/coach house is a Protected Structure in its own right and the owners have an obligation to arrest its deterioration. Finding an appropriate or compatible use is a part of the key conservation methods in conservation projects as advised in the various guidelines.
- **Unauthorised works** - It is clarified that works were carried out under a Section 57 Declaration in early 2019, which included the completion of works to install an electrical connection to the castle. Following this, dense overgrowth of vegetation was removed, including the felling of some dangerous trees and landscape cleaning up. No living trees were removed from the area of the proposed WWTP or polishing filter and the P.A. was in close communication at all times. The County Archaeologist visited before and after these works. This phase involved clearance not digging. No structural demolition or inappropriate repair works have taken place.
- **Water supply** - It is preferred to bore a well rather than trenching the considerable distance to Mill road for water supply.
- **Wastewater treatment system** – the proposed unit is a sealed proprietary system and the history of the ground at this location is largely irrelevant. The proposed polishing filter is remotely located, and the required tests have been carried out to the satisfaction of the planning authority.
- **Entrance gate** – the existing gate width is c.4.75m and the proposed width is c. 4.78m between the proposed piers. A setback is unnecessary for an existing entrance on a private road such as this.
- **Vandalism** – Evidence is provided to demonstrate the significant level of vandalism whereby newly installed power lines were cut down in the form of correspondence from the ESB (with photographs) and demonstrates the need for Garda involvement. There is also a letter from the applicant's solicitor to the appellant regarding the incident.
- **Ownership issues** – information is provided regarding the names and addresses of the relevant family members.

## **7.0 Assessment**

**7.1.** It is considered that the main issues arising from the appeal are

- Principle of development
- The impact on the character and integrity of the P.S.
- Archaeological impact of development
- Adequacy of wastewater treatment and water supply
- The appropriateness of the revised entrance.
- Appropriate Assessment.
- Environmental Impact Assessment.

### **7.2. Principle of development**

**7.2.1.** Policy H-34 of the Kerry County Development Plan 2015-2021 seeks to protect architectural heritage and to promote the conservation led regeneration and re-use of buildings. In a similar vein, Objectives 10.14 and 10.15 of Killarney Town Development Plan 2009-2015 (as varied and extended) encourages proposals for a change of use and development of a Protected Structure, including alterations and extensions, where such uses and works contribute to the viability of the PS without adversely affecting the character of the structure. These policies and objectives are generally in accordance with Government advice in the Architectural Heritage Protection Guidelines. The carriage house (or coach house) is a Protected Structure which forms part of a larger complex of buildings which are listed as both protected structures and recorded monuments. At present the carriage house is in a ruinous state and open to the elements. It is of considerable importance that the fabric and structural integrity of the building is not allowed to deteriorate any further. The proposed development will provide a new use which will ensure the viability of the building and will secure the restoration of the structure generally within the original footprint, using the original walls and opes. Provided that the detailed works proposed respect the character and integrity of the Protected Structure, it is considered that the proposed development would be in compliance with these policies and objectives. The appropriateness of the detailed works will be considered in the following section.

**7.2.2.** The proposed use of the structure as a residential unit is considered appropriate in principle, provided that it remains an integral part of the castle grounds. The applicant proposes to use it as a holiday home, principally for members of the family, but also as a rental property on the basis of weekly rentals. The main reason for the proposed use is to counteract the problems that have been experienced with trespass and vandalism to date. The Planning Authority was satisfied with this provided that the property was rented out as a whole unit and not as individual rooms. It also sought weekly lets to protect the residential amenity of neighbouring properties.

**7.2.3.** I would agree that use of the property as a holiday home is particularly suited to the circumstances of this case, as a more permanent home would probably necessitate more intrusive alterations and extensions to the structure to make it a habitable home. The use as a short-term holiday rental home is likely to provide the human presence that would assist with the security and maintenance of the property without the need for more rigorous alterations. It also has the benefit of providing some income which will help with the costs of restoring the castle grounds. Should the Board be minded to grant permission, it is considered that appropriately worded conditions should be attached to prevent the independent sale of the carriage house and to ensure that holiday lets are on the basis of weekly lets of the whole unit.

### **7.3. Character and integrity of Protected Structure**

**7.3.1.** The Architectural Heritage Protection Guidelines state that it will often be necessary to permit appropriate alterations and extensions to protected structures in order to make them fit for modern living and to keep them in viable economic use. However, the guidance implies that where possible, the new functions or services should ideally be incorporated into the existing envelope, rather than to extend. Some of the main conservation principles are to promote minimum intervention and to protect the special interest of the P.S. This requires that interventions, such as extensions and alterations, are low key and do not adversely affect the historic features of the P.S. (such as walls, windows etc.). It is further required that any intervention would indicate respect for the historical importance, integrity and special character of the protected structure, and for its setting.

- 7.3.2.** The Carriage House is an attractive stone building which forms an integral part of the 19<sup>th</sup> Century castle grounds. It is located just inside the arched entrance to the enclosed courtyard, the walls of which form the southern and eastern elevations of the carriage house. The remainder of the castle buildings are physically and visually separated from the structure. The proposed development is quite faithful to the original layout and built form of the carriage house as it retains the same footprint and layout. The original openings are proposed to be used and restored, with new glazing inserted, as none of the original doors or windows survive. The proposed roof is a flat metal roof on a timber structure with a standing seam metal finish. The gap that had originally existed between the top of the west wall and the former corrugated iron roof level will be used to provide additional light to the upper floor by means of clerestory glazing in steel and glass. All masonry is proposed to be repaired to best conservation standards, minimising loss of existing fabric and using like for like replacement materials, and replacement windows will be either matched to traditional details or high-quality contemporary materials used where appropriate.
- 7.3.3.** There are no internal floors surviving within the structure but there are joist pockets which indicate the former floor level, and the ground floor is partially covered in concrete. It is proposed to provide a new timber floor at FF level and to dig out the concrete and provide a new modern floor. The dividing wall is only partially intact, and in a poor state of repair. This wall will be dismantled and removed, as it is not capable of alteration, and it will be replaced by a timber stud partition which will also conceal the drainage services from upstairs, thereby obviating the need for an external stack. The internal chimney breast in the NE corner which links with the brick chimney stack abutting the external wall will be restored and repointed and will be re-used for the proposed stove.
- 7.3.4.** It is proposed to provide a sheltered utility area to the west of the structure adjoining the southern wall of the castle courtyard, in a location that was formerly occupied by sheds. This would involve a metal canopy over a screened store for refuse bins and services including a heat pump. The southern wall adjoins a grassy area with low stone walls running parallel with the southern wall of the courtyard/carriage house. It is proposed to utilise this area as a small garden for the proposed unit. Part of these works involve the re-opening of a window opening in this wall which is located c.5m to the west and it is proposed to enlarge the opening to form a doorway between the



proposed garden and the castle courtyard. This is considered to be acceptable. However, insufficient details have been provided of the proposed garden area and the associated enclosure, which currently consists of low stone walls that are in need of repair. It is considered that detailed site layout plan, sections and elevations of the treatment of this area should be submitted to the planning authority prior to commencement of development, should the Board be minded to grant permission.

**7.3.5.** It is considered that the proposed development would ensure that the interventions to the historic fabric would be kept to a minimum, would largely be reversible, would utilise appropriate materials and methods and would respect views of and from the main castle buildings, and hence the setting of the castle would not be affected. The Method Statement submitted as FI (08/04/20) would ensure that the historic character and structural integrity of the carriage house would be respected and that the proposed works would not adversely affect the fabric of the protected structure. The proposed extension would, therefore, be in compliance with policy objectives H38, H39 and H44 of the County Development Plan and with the guidance contained in the Architectural Heritage Protection Guidelines.

#### **7.4. Archaeological impact of development**

**7.4.1.** In response to the FI request, an Archaeological Assessment Report was submitted on 8<sup>th</sup> April 2020. It advised that test trenching took place on 4<sup>th</sup> March 2020, involving the opening up of 14 no. trenches across the site (as shown on Fig. 7). The purpose of the testing was to ascertain the location, nature and extent of possible sub-surface archaeological features. However, no archaeological features were identified, and no post-excavation work was proposed.

**7.4.2.** The trenches predominantly comprise of topsoil with boulder clay and small stones or cobbles. A metal detection study was also carried out and no features were identified. A visual inspection of the carriage house did not identify any earlier fabric of archaeological interest. It was also established that no licensed archaeological work had been carried out previously. However, it was noted that further works are planned at other locations within the castle grounds which it is stated will be reported in due course.

**7.4.3.** The appellant questioned the value of the test trenching as he believed that heavy excavating machinery was operating within the castle walls in 2019, prior to the

archaeological testing. The first party has responded stating that the works referred to involved the laying of an electricity cable and no digging was involved, merely site clearance. This is borne out by the findings of the archaeological testing, which established that there was no evidence of disturbed ground other than the site of the cable-laying. The County Archaeologist was satisfied with the findings of the testing and as no previously unrecorded archaeological features or strata were encountered, it was considered that no further mitigation is required. However, he had noted that further archaeological investigations are ongoing and requested that any outstanding assessment reports should be submitted for the agreement of the P.A. prior to commencement of works on site. This seems reasonable.

## **7.5. Adequacy of the proposals for wastewater treatment and water supply**

**7.5.1.** The FI (08/04/20) included a revised site characterisation form and further details of the proposed WWTP, which was redesigned to cater for a PE of 8. It was stated that it was not possible to locate any previous wastewater treatment system and that the proposed new system would provide a high standard of effluent treatment which would be in accordance with the EPA's Code of Practice. It was stated that the ground was found to be generally favourable throughout the site, but an area to the south was chosen for the wwtp and polishing filter, as it was intended to avoid the area of the landscaped gardens. It was stated that the site of the polishing filter avoids the heavily wooded area and the sloped area, and that adequate separation distances are achieved from all targets.

**7.5.2.** It is noted from the information submitted that the trial holes were 3m deep and that no water table, mottling or bedrock was encountered. The average T- value was 17.17, which means that the proposal to install a packaged treatment system and a polishing filter seems to be appropriate. The Site Assessment Unit of the P.A. considered that the T value reflects the soil classification and that the design assumptions were correct and that the effluent treatment system was adequately sized to cater for the proposed development. The Unit was satisfied with the proposed effluent treatment system subject to conditions regarding installation and maintenance. I would agree with this assessment and consider that effluent can be adequately disposed of on site.

**7.5.3.** The appellant had objected to the boring of a well on the site and queried why the applicant could not connect to the public water mains. The applicant, however, advised that the public water mains connection point is at the Mill Road end of the private lane, which would be a considerable distance to provide trenching for a pipe connection. It is therefore considered to be appropriate to bore a well on the site.

## **7.6. Appropriateness of the revised entrance**

**7.6.1.** It is proposed to replace the existing agricultural style gate at the entrance to the site from the private road with a new gate and piers which is more in keeping with the entrance to the castle grounds. Photographic evidence is provided to demonstrate that a gate with piers had previously existed at this location. The entrance is proposed to be widened to 4.78m, which is not significantly greater than the existing width of c.4.75m. It is considered that the proposed entrance gates and piers and the increased width of the entrance are acceptable. However, it is considered that the design of the gates is quite utilitarian in appearance and they are not in keeping with the character of the historic castle complex. The size of the piers also seems to be too small and narrow for the gates at the scale proposed. It is considered, therefore, that should the Board be minded to grant permission, a condition should be attached to any such permission requiring revised details of the gates and gate piers to be submitted to and agreed with the planning authority.

**7.6.2.** The objections relating to parking on the private lane and outside the appellant's entrance are unrelated to the proposed development and are outside the remit of the Board.

## **7.7. Environmental Impact Assessment**

**7.7.1.** Having regard to the nature, size and location of the proposed development, and to the established nature of the site, 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.

## **7.8. Appropriate Assessment**

**7.8.1.** The castle site is located approx. 180 metres from Killarney National Park, MacGillicuddy Reeks and Caragh River Catchment SAC. One of the qualifying

interests of the SAC is *Rhinolophus hipposideros* (Lesser Horseshoe Bat). The applicants have submitted a Bat Fauna Study by Aardwolf Wildlife Surveys dated 16<sup>th</sup> July 2019. The report was based on a desktop study and a survey of the site, with particular emphasis on the Carriage House structure. It was found that the site of the proposed development did not contain any evidence of bat usage and that the roofless ruin was deemed to be unsuitable for bat roosts. Although five bat species were recorded flying in the vicinity during a bat detector survey, including Lesser Horseshoe Bat, it was established that none of the bats had originated in the carriage house.

**7.8.2.** It was concluded that the carriage house has limited potential for bat-use as it is very open to temperature variation. Its location close to the main castle building would also reduce its potential for use by these animals as the latter is far more attractive as a roosting site. It was further stated that as no bats are present in the coach house, the proposed redevelopment will not have any adverse impact on these animals and no mitigation measures are required.

**7.8.3.** The P.A. reports screened out appropriate assessment. It was noted that the site is located adjacent to Killarney National Park, MacGillicuddy Reeks and Caragh River Catchment cSAC (000365). However, having regard to the fact that the works are confined to the coach house and are fairly minor in nature and to the considerable distance from the SAC and its lower elevation, it was considered that there is no potential for significant effects on a European site. Regard was had to the report from the Biodiversity Officer which considered that as the works related entirely to the coach house, no direct impacts to the annexed habitats, including the River Flesk, were likely. This is considered to be a reasonable approach. Other comments made by the Biodiversity Officer in respect of the application are as follows:

- Lesser Horseshoe Bats – the potential for significant effects relates to LHS bats which could utilise the structure. However, the findings of the bat survey submitted were that due to the nature of the structure, which is almost entirely exposed to the elements, no use of the structure by LHS bats was recorded. It was accepted that no significant direct or indirect effects on the species would occur and that no mitigation measures were considered necessary. As such, no significant effects on the SAC were anticipated.

- Other bat species – the other bat species which were recorded were not roosting or using the coach house building and no effects are anticipated on these species.
- Barn owls – The proposed development is within an area of high potential for barn owl activity. A letter from Bird Watch Ireland which was submitted with the planning application was referenced. It is stated in this letter that although Flesk Castle is utilised by Barn Owls for nesting, no evidence has been found that the coach house is/has been used by this species. It was noted that BWI are active in monitoring barn owl activity on site on an ongoing basis. It was therefore concluded that the proposed development would not give rise to any impacts on barn owls.

**7.8.4.** The proposed development is located at the south-eastern corner of the castle complex and is located c.35m from the main castle buildings. The castle complex is located in an elevated setting within a large clearing, which is surrounded by woodland, much of which is deciduous, but a substantial proportion of which is also coniferous. It is physically separated from the closest point of the SCA by the said woodland and by individual private dwellings. There is also a farmyard in the general vicinity to the south-west. In these circumstances, and given that the SAC boundary is estimated to be at least 180 metres from the site of the proposed works, it is unlikely that the proposed development would have any significant effect on the European site, having regard to the nature and scale of the works and to the conservation objectives of the SAC. In terms of waste water treatment, I would agree with the P.A.'s assessment that provided that the proposed system is installed and operated in accordance with the permission granted, which includes a maintenance contract, it is considered that the operation of the proposed development is not likely to give rise to any significant effects on the European site in respect of this potential pathway. The assessment of the impacts on bat activity and barn owls also seems reasonable, and no significant effects are likely to arise in respect of these species.

**7.8.5.** It is noted that the closest other European sites are Sheheree (Ardagh) Bog cSAC (000382), which is c.1km to the south west and Killarney National Park SPA (004038), which is c.1.7km to the west and southwest. Given the small scale of the development, the distances involved, and the absence of any indication of a

hydrological link to these European sites, it is considered that Appropriate Assessment issues can be ruled out at this stage.

**7.8.6.** Having regard to the nature and scale of the proposed development, the location of the carriage house within the overall footprint of the built form on the site, and the nature of the receiving environment, and the distance to the nearest European site, no Appropriate Assessment Issues arise. It is considered that the proposed development would not be likely to have a significant effect, individually or in combination with other plans or projects, on a European Site.

## **7.9. Other matters**

**7.9.1.** The appellant has raised several matters which are not considered to be planning matters or related to the development. For example, concern has been expressed about progress on the overall restoration project, the specific names and addresses of the various members of the O'Reilly family, the extent to which vandalism has taken place and claims that unauthorised works have been carried out on the site of the castle, as well as the appropriate name for the castle. It is considered that these matters have been adequately addressed in the various submissions from the applicant.

## **8.0 Recommendation**

**8.1.** It is recommended that planning permission be granted for the reasons and considerations set out below.

## **9.0 Reasons and Considerations**

Having regard to the location of the site within a historic castle complex which is a Recorded Monument and a Protected Structure, to the ruinous state of the carriage house structure, to the proposals to bring the structure into habitable use and to the minor nature of the works, it is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely affect the character and integrity of the historic structure or seriously injure the visual or residential amenities of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance

with the provisions of the Architectural Heritage Protection Guidelines and with the policies and objectives set out in the current Kerry County Development Plan 2015-2021 and in the Killarney Town Development Plan (2009-2015, as extended and varied), and 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 3<sup>rd</sup> day of October 2019 and the 8<sup>th</sup> day of April 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. The proposed development shall be amended as follows: -
  - (a) The proposed steel channel gutter shown on Drawing No. FCC-DD-013A shall be revised such that it is less visually obtrusive.
  - (b) The proposed entrance gates and gate piers as shown on Drawing No. FCC-PL-011 shall be redesigned with a more traditional style to reflect the character of the castle complex.
  - (c) Detailed site layout plans, sections and elevations of the proposed garden area to the south of the carriage house showing the proposed treatment of this area and the associated enclosure.

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 protection of the special interest of the Protected Structure.

3. The proposed dwelling shall be used for short-term tourist accommodation only, which shall be rented on a weekly basis only as a single unit of accommodation and shall not be used as a permanent place of residence and shall not be sold, let or otherwise transferred or conveyed separately, save as part of the castle complex.

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

4.
  - (a) A conservation expert shall be employed to manage, monitor and implement the works on the site and to ensure adequate protection of the retained and historic fabric during the works. In this regard, all permitted works shall be designed to cause minimum interference to the retained building and facades structure and/or fabric.
  - (b) All repair works to the protected structure shall be carried out in accordance with best conservation practice as detailed in the application and the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of Environment, Heritage and Local Government in 2004. The repair works shall retain the maximum amount of surviving historic fabric in situ, including structural elements, plasterwork (plain and decorative) and joinery and shall be designed to cause minimum interference to the building structure and/or fabric. Items that have to be removed for repair shall be recorded prior to removal, catalogued and numbered to allow for authentic re-instatement.
  - (c) All existing original features, including interior and exterior fittings/features, joinery, plasterwork, features (including cornices and ceiling mouldings) staircases including balusters, handrail and skirting boards, shall be protected during the course of refurbishment.



**Reason:** To ensure that the integrity of the retained structures is maintained and that the structures are protected from unnecessary damage or loss of fabric.

5. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

Contoured drawings to scale of not less than [1:500] showing –

- (a) a survey of all existing trees and hedging plants on the site, their variety, size, age and condition, together with proposals for their conservation or removal
- (b) any hard landscaping works, including car parking layout, enclosed areas, lighting and outdoor seating, specifying surfacing materials
- (c) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment
- (d) Proposals for the protection of all existing and new planting for the duration of construction works on site, together with proposals for adequate protection of new planting from damage until established
- (e) A timescale for implementation, which shall provide for the planting of the garden area adjoining the southern elevation of the carriage house to be completed before the dwelling is first made available for occupation.

Deciduous trees shall be planted at not less than 2 m in height and evergreen species at not more than 750mm in height. Species to be used shall not include either *cupressocyparis x leylandii* or *grisellinia*. Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development, 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 interest of visual amenity.

6. An archaeological impact statement and conservation plan for the outstanding archaeological testing, geophysical survey and assessment to be undertaken within the castle grounds shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The development shall be carried out in accordance with this plan, and the relevant works shall be restricted to conservation, consolidation and presentation works.

**Reason:** To ensure that these elements of the historic structure are maintained and protected from unnecessary damage or loss of fabric.

7.
  - (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 8<sup>th</sup> day of April, 2020, and in accordance with the requirements of the document “Wastewater Treatment Manual: Treatment Systems for Single Houses”, Environmental Protection Agency (current edition). No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.
  - (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
  - (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwelling house and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted

to, and agreed in writing with, the planning authority within four weeks of the installation.

(d) Surface water soakaways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.

(e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

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

8. 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.

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

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

10. 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.

11. 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.

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. 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.

14. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable

indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

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Mary Kennelly

Senior Planning Inspector

22<sup>nd</sup> October 2020