



An  
Bord  
Pleanála

## Inspector's Report ABP 307843-20

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<b>Development</b>	Demolish existing dwelling and construct four one-bed apartments and one two-bed apartments, new entrance and all associated site works
<b>Location</b>	Park Road, Killarney, Co. Kerry
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	19/1152
<b>Applicant</b>	Morgan Nix
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant subject to conditions
<b>Type of Appeal</b>	3 <sup>rd</sup> Party v. Grant
<b>Appellants</b>	Elizabeth O'Connor Mary O'Connell
<b>Observers</b>	None
<b>Date of Site Inspection</b>	1 <sup>st</sup> October 2020
<b>Inspector</b>	Mary Kennelly

## 1.0 Site Location and Description

- 1.1.1. The site is located on Park Road which is largely a residential road providing access to a number of housing estates. Park Road comprises an established residential area located between the Killarney Bypass to the east and the junction of Countess Road and Park Road to the west. The site is located on the southern side of Park Road and is situated directly adjoining the driveway leading to the Church of Resurrection. The site is bounded to the west and south by the church grounds.
- 1.1.2. There is an existing 2-storey detached dwelling house on the site, which has a stated area of 0.049ha. The floor area of the house is given as 181m<sup>2</sup>. It is vacant and has a derelict appearance. There is an existing detached dwelling house to the east and further detached dwelling houses, together with some commercial buildings on the northern side of Park Road, opposite the site. The existing dwelling has an attached garage on the western side with a vehicular entrance and driveway leading to this garage. The house to the east is the property of one of the appellants Ms. O'Connor.

## 2.0 Proposed Development

- 2.1.1. The proposed development seeks to demolish the existing house on the site and to construct a three-storey building (floor area of 289.4m<sup>2</sup>) containing five apartments. There are two apartments on each of the ground and first floors, and a further apartment on the second floor. The proposed building would generally follow the footprint of the existing house, but in the original submission (11/11/19) the vehicular entrance would be to the east and the building would be set back a further metre from the eastern boundary. The proposed apartment building is contemporary in design with a brick and render finish. The second floor is recessed at the front and the rear with a black zinc cladding. There is a projecting central bay at the front which is clad with a laser cut steel decorative panel with a black zinc finish. There are balconies at second floor level on either side of this projecting bay and balconies at the rear on both first and second floor levels, with black screening poles to prevent overlooking to the side. There are no window openings shown on either of the side elevations in the drawings submitted with the application (11/11/19), but openings were introduced on the western side in later submissions (11/06/20).

- 2.1.2. The apartments would be one-bedroomed (4 no.) and two-bedroomed (1 no.) with proposed floor areas of 46.1m<sup>2</sup> – 51.1m<sup>2</sup> (one-bedroomed) and 95m<sup>2</sup> (second floor 2-bed apartment). It is proposed to provide 8 no. parking spaces, one at the front and seven at the rear.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. The P.A. decided to grant planning permission for a single detached house subject to 24 conditions including:

**Condition 2:** Development contribution of €6,176.00.

**Condition 3:** Special contribution of €4,000.00 as a 100% contribution towards the cost of upgrading the public footpath outside the development.

**Condition 4:** A bond of 30,000 was required as security.

**Condition 5:** Requirements to enter connection agreement with IW and no development to commence until connection agreement signed.

**Condition 7:** Front boundary wall to be set back in line with the wall to the church grounds to the west.

**Condition 10:** No overnight commercial guest accommodation.

**Condition 18:** a 2-metre high boundary wall to be constructed on side and rear boundaries.

**Condition 24:** Social and affordable housing.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Planner's initial report (13/01/20) noted that apartments at this location would be acceptable in principle as the Killarney Town Development Plan had been revised to allow for apartments outside of the town centre (Variation 4). It was considered that the proposed development would be acceptable in terms of visual amenity as the site could absorb a contemporary building at this location. It was considered that

overlooking of properties opposite the site would not give rise to adverse impacts on residential amenity due to the distances involved and the nature of the intervening road and the development on the northern side of the road. However, measures should be introduced to prevent overlooking to the east.

It was requested that **further information** (13<sup>th</sup> January 2020) be provided in respect of the following

- Details of connection to existing water and wastewater infrastructure.
- Revised plans showing relocation of vehicular entrance to western side.
- A Road Safety Audit.
- A revised site layout plan showing the front boundary set back along Park Road.
- Revisions to the western façade of the building.
- More solid screening to the proposed first and second floor balconies to prevent overlooking into rear garden of house to east.
- Details of bin storage.

The **Further Information Response (11<sup>th</sup> June 2020)** was considered to constitute significant additional information and republication was required. This included a letter from the applicant's consulting engineers regarding water and wastewater connections and proposals for new connections, a Road Safety Audit, a revised site layout plan and revised elevations. The re-advertisement took place on 25<sup>th</sup> June 2020. The FI was considered to be satisfactory by the Area Planner. A **grant of permission** subject to conditions was recommended.

### 3.3. Other Technical Reports

- 3.3.1. **Estates Engineer's Report (25/11/19)** – Various comments made regarding housing development standards. These included a requirement for bin storage, bicycle parking, boundaries to be childproof, permanent and durable and the access road to be a minimum of 5.5m in width. Conditions requiring compliance with Recommendations for Site Development Works for Housing Areas, Irish Water Code of Practice and that a bond be paid to be attached.

### 3.4. Prescribed Bodies

- 3.4.1. **Irish Water** (13/12/19) stated that further information would be required in respect of the intention to connect to existing water and wastewater supplies. It was also required that the applicant demonstrate the feasibility of the existing water and wastewater connections to supply the development. No objection was raised in respect of the further information received (29/06/20). However, it was noted that the FI indicated that an application for a new larger diameter water and wastewater connections will be made and it is stipulated that there shall be no increase in the volume of stormwater entering the public sewer. It was stated that the developer would need to enter into a connection agreement with IW. It was further stated that IW infrastructure capacity requirements and proposed connections to same will be subject to the constraints of the IW Capital Investment Programme.
- 3.4.2. **Transport Infrastructure Ireland** (2/12/19) stated that it had no observations to make.

### 3.5. Third Party Observations

Six 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 3<sup>rd</sup> Party appeal received and summarised in section 6 below. The principal concerns are as follows:-

- Excessive density and inappropriate location for apartments.
- Excessive height and scale of building and inappropriate design and materials. Obstruction of view of church.
- Concern regarding overlooking and overshadowing, as well as light pollution.
- Residential amenity and overdevelopment of site, including noise and disturbance and safety concerns.
- Traffic hazard and contribution to traffic congestion on Park Road. Overspill parking will impact the church grounds. Footpath too narrow outside site.

## 4.0 Planning History

- 4.1.1. None relating to the site of appeal.
- 4.1.2. **ABP.308394-20** – current appeal against decision by P.A. to grant planning permission for conversion of 48 no. holiday apartments to residential use on site further to the east on Park Road.

## 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.

**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.

#### 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 B (Variation 4) as being located in an area zoned as '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. It is noted that Section 12.20.1 – Apartments had previously stated that apartments would only be considered in town centre areas and not in established residential areas. However, Revision 27 of Variation 4 deleted this policy.



## 5.5. Natural Heritage Designations

The site is located within c.450m of Killarney National Park, Macgillicuddy Reeks and Caragh River Catchment SAC (site code 000365) and Killarney National Park SPA (Site code 004038).

## 6.0 The Appeal

### 6.1. Grounds of Appeal

Two Third-Party Appeals have been received from neighbouring property owners. One of the appeals is from the adjoining property to the immediate east (Elizabeth O'Connor) and the other appeal is from Mary O'Connell, the owner of a B&B St. Anthony's Lodge, which is located approx. 40m to the west of the appeal site on the opposite side of the road. The submissions raise a range of different issues, with some overlap, and can be summarised as follows:

- **Zoning and principle of development** – the site is zoned as Existing Residential in the Killarney Town Development Plan. It is a mature residential area of mainly owner-occupied properties, located outside of and to the east of the town centre. The area is unsuitable for apartment development due to the transient nature of occupants and the inadequacy of infrastructure to support this type of development. There are no other apartment blocks between the Upper Park Road and the railway bridge, which is consistent with Council policy.
- **Non-compliance with Government policy** – the proposed development does not comply with the standards for apartment development set out in the Apartment Guidelines (2015) in respect of minimum floor areas, dual aspect, appropriate areas for bin storage and communal open space and bike storage. It does not comply with the guidance in the Sustainable Residential Development in Urban Areas guidelines either as it fails to provide a balance between the need for infill development and the protection of residential amenity and the established character of the area.

- **Overdevelopment of site** – the site is not suited to 5 no. apartments and will result in a congested layout. The bin storage is inadequate, would be an eyesore and interferes with the parking and communal space. There is inadequate space to accommodate all of the facilities and amenities on site.
- **Overlooking** – The balconies on the rear elevation will overlook the property to the east and will result in a serious loss of privacy.
- **Height and scale** – The floor-to-ceiling heights will mean that the overall height will be 8.525m rather than the 8.09m as stated. The proposed building will therefore be one metre higher than the house to the east which will result in overshadowing.
- **Visual amenity** – the design is completely out of character with the surrounding development. The proposed building will damage the visual amenity of the area by reason of the design and height as well as the bulk and extent of the building and the nature of the façade to the west. The front elevation is an eyesore and the siting of the bin store in the front garden will detract from the visual amenity of the area. It should be relocated to the rear.
- **Roads and traffic** – The issues raised in the Road Safety Audit have not been addressed. In particular, the footpath will not be widened, refuse trucks will not be able to access the site, there is no separate pedestrian access, no evidence of compliance with SUDS and no road markings/stop signs. The proposed entrance has been relocated away from the adjoining property to the east to avoid adverse impact on the amenity of that residence. However, it is clear that in order to avoid increased traffic hazard, the entrance should be located as far away from the church entrance and pedestrian traffic lights as possible. Accurate road collision data was not included in the RSA.
- **Parking** - Inadequate provision has been made for parking on site which is likely to result in overspill parking on the church grounds.
- **Property value** – the proposal will have a negative impact on the value of the adjoining properties. The proposed Management Company will never work for a mere 5 units as the fixed costs will be an excessive burden on the individual unit owners. As a result, the maintenance and management of the site will be substandard and will affect the amenities of the area.

- **Validity of application** – The application should have been declared invalid by the P.A. due to the absence of an address from the applicant, the involvement of a third party in the further information request, the wording of the advertisement for the receipt of significant FI and answers given on the application form regarding demolition of a habitable house and site history.

## 6.2. **Response from Planning Authority (20/08/20)**

The response from the P.A. raised no further issues.

## 6.3. **Response from First Party**

The first party responded to the grounds of appeal made by Elizabeth O'Connor on the 7<sup>th</sup> September 2020. The response is mainly in the form of a rebuttal of the grounds of appeal. However, the following additional points of note have been made as follows :

1. **Compliance with policy** – the proposed development complies with national and local policy. It is pointed out that Variation 4 of the Killarney Town Development Plan amended the policy regarding apartments and this type of development is no longer restricted to the town centre. It is also pointed out that the P.A. could have designated the area a Housing Protection Area, as elsewhere within the Plan area, if it was considered that the residential character of the area was under threat and in need of protection. In terms of national policy, the most recent S28 guidelines are the Design Standards for New Apartments – Guidelines for Planning Authorities 2018, under which the site of the appeal would be classified as Intermediate Urban Location. This removed the restriction on dwelling mix and amended the requirement for amenity space. It is stated that the zoning is 'M4 Built-Up Area' rather than 'Existing Residential'.
2. **Roads and traffic** – it is now proposed to widen the footpath (Revised Drawing MD D1036-A010-B refers). Refuse trucks will not be able to enter the site but will collect from the street as is the norm on Park Road. It is not proposed to provide a separate pedestrian entrance as it is deemed unnecessary on such a

small scheme. Road markings will be provided as shown in revised drawing. Details of drainage design were included with the FI.

3. **Building Design** – the design and scale of the building as proposed is justified and the individual claims regarding non-compliance with the guidelines are refuted. However, the ceiling heights have been amended (Appendix 2).
4. **Communal open space** – the proposed area (37m<sup>2</sup>) exceeds the minimum requirement of 27m<sup>2</sup>. The revised drawing A003-B (Appendix 2) shows an amended layout for the second-floor apartment which allows for passive surveillance of the open space from the living room of this apartment. The Board can attach a condition to this effect if desired.
5. **Bicycle parking** – secure bicycle parking is now included in the site layout.

## 7.0 Assessment

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

- Zoning and principle of development
- Overdevelopment of site
- Residential amenity of adjoining properties
- Visual amenity
- Roads and traffic
- Other matters
- Environmental Impact Assessment
- Appropriate Assessment

### 7.1. Zoning and principle of development

- 7.1.1. The site is located in an established residential area which is comprised of a mix of mature residential properties, some tourist accommodation (B&Bs, hotels and holiday flats), cultural uses (Church) and commercial uses (medical practice, professional offices etc.). It is situated within walking distance of the town centre (1km) and the wide range of facilities on offer there. National policy, as expressed in the National Planning Framework (2018) and Sustainable Residential Development

in Urban Areas Guidelines (2009) 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. The Sustainable Urban Housing Design Standards for New Apartments Guidelines (2018) identify areas within easy walking distance (15 minutes/1-1.5km) as being suitable for apartment development. Kerry County Development Plan is also supportive of infill development provided that it respects the character and amenities of neighbouring development. In such circumstances, there is strong support for increased densities in such locations. It is considered that the appeal site is one which could support increased densities in principle, in accordance with national policy and local policy.

- 7.1.2. It is noted that Variation 4 of the Killarney Town Development Plan (adopted Dec. 2018) has zoned the site as '**Existing Residential – R2**' in the Zoning Map B, which relates to residential lands within walking distance of the town centre. The Zoning Objective is to 'Protect and improve existing residential areas'. This zoning also applies to the appellant's property immediately to the east, to Oakfield Estate (an infill housing estate to the east) and to Park Drive, a housing estate further to the west. However, the lands immediately to the west and south of the site and opposite the site are zoned 'M4 – Built-Up Area', and the hotel and holiday apartments are zoned for 'Tourism', which reflects the mixed-use character of the area. It is noted that the Killarney Town Development Plan, when first adopted (2009) had included a policy (12.20.1) which had sought to restrict apartment development to sites within the town centre. However, this policy was deleted by Variation 4 (2018), and as such, apartment development is now appropriate within the built-up area of the town.
- 7.1.3. Park Road is a busy road linking the town centre with the Cork road/Killarney Bypass road. It would have originally been a residential road characterised by single detached houses on large plots. However, the prevailing density and character of the properties on the road in the vicinity of the site is quite diverse. The lands to the west comprise a large church on substantial grounds, with lawns and hard surface car parking and the lands associated with the hotel and holiday apartments further to the east provide variety in the scale and built-form that characterise the area. Several housing estates have also been constructed in recent years. The appeal site comprises a single detached house dating from the 1960s which, together with the detached house to the east, sit in relative isolation from the established residential

development on the road. The house has been vacant for many years and is in a neglected state.

- 7.1.4. It is considered, therefore, that the re-development of the site as a single block of apartment units at this location is appropriate in principle and would generally be in accordance with the zoning and the planning policy framework for the area and that it would not be out of character with the area.

## 7.2. **Overdevelopment of site**

- 7.2.1. **Layout/scale of building** - The site is an infill site with direct road frontage and shares one boundary with another residential property, which is a detached house of similar size and scale with a similar layout. The remaining boundaries are with the church grounds. The proposed layout, as amended (11/06/20 and 7/09/20), would generally replicate the footprint of the existing dwelling on site and would maintain the existing vehicular entrance on the western side. However, the setback from the eastern boundary would be reduced from c.2685mm to c.1120mm. It is noted that the layout as originally submitted to the planning authority showed the proposed entrance on the eastern side, with a more generous setback of 3684mm. The plot ratio is estimated to be 0.59 and the site coverage is similar to the existing. It is considered that the proposed infill development is generally consistent with the prevailing density, scale and pattern of development in the area.
- 7.2.2. The proposed layout also differs from the existing in that the front garden is reduced in half, with the introduction of a bin store and a parking space, and the rear garden lawn is replaced with a car park for 6 cars. The developer has acknowledged (7/09/20) that the layout does not facilitate refuse trucks entering the site and the bins would have to be collected from the street. It is, therefore, difficult to justify the siting of a large bin store just inside the front boundary, as it is visually unattractive and would detract from the amenities for both the site and the area. It is considered that one disabled parking space could be accommodated at the front, but the remainder of the front garden should be laid out as a landscaped garden space. The relocation of the bin store to the rear would displace some parking spaces. This matter will be addressed in 7.5 below. Should the Board be minded to grant permission, it is considered that these matters should be addressed by means of appropriately worded conditions.

- 7.2.3. **Apartment standards** – The Sustainable Urban Housing Design Standards for New Apartment Guidelines (2018) provide guidance regarding locational context, mix of apartments, internal space standards and a range of other criteria. It is considered that the proposed development generally complies with the locational and internal space standards. The minimum floor area for one-bed apartments (2 person) is 45m<sup>2</sup> and for 2-bed apartments (4 persons) is 73m<sup>2</sup>. The proposed development (as revised 11/06/20) provides 4no. 1-bed apartments at 47m<sup>2</sup> and 51m<sup>2</sup>, and one 2-bed apartment at 96m<sup>2</sup>.
- 7.2.4. These guidelines also changed the policy with regard to mix of units in terms of one-bed apartments and studio apartments (1-bed, 37m<sup>2</sup> min floor area). Specific Planning Policy Requirement 1 states that apartment developments may include up to 50% of one-bedroom or studio apartments. However, Specific Planning Policy Requirement 2 states that on small infill sites (up to 0.25ha), where the development proposes up to 9 units, notwithstanding SPPR1, there shall be no restriction on dwelling mix, provided that no more than 50% of the development (up to 4 units) comprises studio apartments. As the proposed development does not include any studio apartments, it is considered that it complies with the guidance on this issue.
- 7.2.5. In regard to other criteria such as dual aspect ratios, floor to ceiling heights, storage space, room dimensions and amenity space, it is considered that the proposed development is generally in compliance with the guidelines. The developer, in response to the appeal, has proposed to alter the layout of the second-floor apartment to allow for the living room (instead of both bedrooms) to overlook the communal open space at the front. However, it is considered that this would result in a poorer layout for the occupants of the apartment and that it is more appropriate for the living/dining areas to overlook the lands to the rear with a southerly aspect.
- 7.2.6. In conclusion, it is considered that the proposed development is generally consistent with the scale and pattern of development in the area and complies generally with the standards for apartments set out in the Government guidance. As such, the proposed development would not result in overdevelopment of the site.

### 7.3. Residential amenity

- 7.3.1. The western boundary is formed by a fence with hedging which screens the site from the open lawns to the front of the church and the southern boundary adjoins the car park within the church grounds. The adjoining site to the east is the appellant's residence, and any potential impact on residential amenity is largely confined to this site. The common boundary comprises a medium height concrete dividing wall (c. 1.2m). The adjoining site accommodates a detached 2-storey house with a mansard roof and the side gable wall contains a ground floor window and three roof lights in the roof-slope. The footprint of the proposed apartment block and setbacks from the boundaries are similar to that of the existing house on the appeal site, and of the adjoining residential property, but will be closer to the eastern boundary by around 1.5m. The height, scale and bulk of the structures are also comparable. The setback to the east would be reduced from c.2.68m at present to c.1.12m. However, the layout as originally submitted had shown the vehicular entrance relocated from the west to the east of the site and the driveway would have run alongside the eastern boundary. This was revised at the request of the P.A. as it was considered that the location of the driveway would result in increased noise and disturbance to the existing residence.
- 7.3.2. The appellant raised concerns regarding overshadowing. The applicant has not provided a shadow analysis. However, it is considered that notwithstanding the reduced setback along the eastern boundary, the proposed structure would be unlikely to result in any significant increase in overshadowing on the west-facing windows of the appellant's house. I base this assessment on the relative orientation of the structures involved and on my observations that the height and depth of the existing dwelling on the appeal site are such that the shadow cast by the proposed structure would be similar to that at present. It is also unlikely that the proposed building would result in any loss of daylight to the rear garden due to its southerly aspect.
- 7.3.3. The appellant has also expressed concern regarding overlooking and loss of privacy. However, it is considered that the siting and design of the proposed block, with the exception of the first-floor and second-floor living areas with balconies at the rear, would not result in any significant degree of overlooking. This is due to the fact that



the rear and western elevations face the driveway and car park of the church grounds, and the only window on the eastern elevation is at ground floor level. The proposed balconies at first and second floor levels are to be fitted with screens in the form of dark timber poles at the eastern and western ends of the building, which are designed to prevent overlooking. However, no details have been provided of the nature of the proposed screen between the two apartment balconies at first floor level, and the second-floor rear balcony is a long continuous one which extends along the full width of the building. It is considered that due to its design and layout, it would result in some degree of overlooking of the rear garden to the east, particularly from the western end. It is considered, however, that the provision of a further glass screen (1.8m in height and fitted with opaque glass) in the middle of the balcony would resolve this problem. Should the Board be minded to grant permission, a condition requiring the subdivision of the second-floor balcony by means of an opaque glass screen, with a similar approach at first floor level, should be attached to any such permission.

- 7.3.4. It is considered, therefore, that the residential amenities of the adjoining property would not be unduly affected by the proposed development provided that the balconies at the rear are subdivided centrally by an opaque screen at each level.

#### **7.4. Visual amenity**

- 7.4.1. The height and scale of the proposed block are generally in line with the existing dwellings on the site and the adjoining site. The footprint of the apartment block is approx. 2 metres wider north of the garage, but is otherwise comparable. The height of the proposed apartment block is approx. a metre higher than the existing house and approx. 860mm taller than the appellant's house. The design is more contemporary than the houses on the site and on the adjoining site, but the scale bulk and mass of the structures are broadly similar. It is also noted that the building respects the established building lines and that the scale and pattern of development is in line with the pattern of development in the area. It is considered that the use of materials and finishes helps to integrate the development into the area.
- 7.4.2. Concern has been expressed regarding the impact of the proposal on the Church of the Resurrection, which is an iconic building of significant architectural merit. It is considered that the proposed development would not detract from the setting of the

iconic church building as the church is set back some 70 metres from Park Road in its own landscaped grounds, whereas the proposed apartment block would form part of the Park Road streetscape. The revised western elevation (11/06/20) has also addressed the bland façade that had previously been proposed facing the church driveway and the wider Park Road area.

- 7.4.3. As mentioned previously, the proposed siting of the bin store is considered to be unacceptable and would adversely affect the amenity and appearance of the development. The relocation of this element to the rear and the retention of just one disabled parking space will facilitate the provision of an appropriately landscaped garden of sufficient size to the front of the building, which will help to integrate the development into the streetscape. It is concluded that the proposed development generally reflects the existing character of the street and would not detract from the visual amenities of the area.

## **7.5. Roads, traffic and parking**

- 7.5.1. The Road Safety Audit had identified a number of matters of concern, and the appellants had pointed out that several of these items had not been addressed in the FI received by the P.A. on 11<sup>th</sup> June 2020. The response to the grounds of appeal has now addressed these outstanding matters. The front boundary will be set back to allow the footpath to be widened outside the site and road markings and stop signs etc. will be put in place (Drawing No. MD D1036-A010-B). It is stated that the autotrack indicates that refuse trucks will not be able to enter the site, but it is stated that the collection of bins from Park Road is the norm in this location. It is stated that there is no need for a separate pedestrian entrance given the small scale of the development. Details of the drainage design, including how it will comply with SUDS were submitted with the FI in June 2020. I am satisfied that the matters raised in the RSA have been adequately addressed.
- 7.5.2. As previously stated, it is considered that the bin store should be relocated to the rear in the interests of visual and residential amenity. This will necessitate the removal of approx. two parking bays at the rear. As a result, the proposed development would be served by 5 no. off-street parking spaces in total, which would equate to one per unit. I note that the Apartment Guidelines (2018) state at 4.19 that in highly accessible areas, (defined as within 15 minutes walking distance of the

town centre), particularly in larger schemes and where the development is wholly for apartments, the default position should be for car parking provision to be minimised or substantially reduced, or even wholly eliminated. It is considered that in this instance, given the proximity and easy access to the town centre and to the unit mix of predominantly one-bedroom apartments, this would be a reasonable approach. It would also facilitate a more attractive and useable amenity space to the front of the site, to the benefit of the future occupiers and the amenities of the area.

- 7.5.3. An issue regarding the proximity of the entrance to the pedestrian traffic lights and to the church entrance was raised. However, as stated previously, the location of the entrance to the west is preferable in terms of residential amenity and is the site of the current entrance. Given that the proposed development includes the widening of the entrance to the site and the widening of the public footpath, it is considered that any additional hazard would be ameliorated by these measures.
- 7.5.4. It is considered, therefore, that the proposed development, as revised and as suggested above, not give rise to a traffic hazard and would be acceptable in terms of traffic safety and convenience.

## 7.6. Other matters

- 7.6.1. **Validity** – It is noted that the issues raised in respect of the planning application form were not considered to be grave enough to invalidate the application. I further note that the standard form (Form 2) in Schedule 3 of the Planning and Development Regulations 2001 (as amended) states that the contact details of the applicant are not to be published and that the requirement is for the contact details of either the applicant or the agent should be given. In any case, the applicant's address is stated in the Planning Authority's decision order. The questions regarding whether the house is habitable or not and whether the applicant was aware of any planning history are not considered to be of such significance that they would call into question the validity of the application.
- 7.6.2. In terms of the procedural matters and alleged irregularities in respect of the further information request and the wording of the planning notice advising of the receipt of significant additional information, it is considered that these matters were considered acceptable by the planning authority. I am satisfied that this did not prevent the

concerned party from making representations at the appropriate time. The above assessment, in any case, represents my de novo consideration of all planning issues material to the proposed development.

- 7.6.3. **Property value** – I note the concerns raised in the grounds of appeal in respect of general nuisance and problems with property management companies given the small number of units involved as well as devaluation of neighbouring property. It is considered, however, that a condition requiring the developer to submit and agree a management scheme regarding the future maintenance of communal areas would address this issue. Furthermore, having regard to the assessment and conclusion set out above, I am satisfied that the proposed development would not seriously injure the amenities of the area to such an extent that would adversely affect the value of property in the vicinity.

## 7.7. **Environmental Impact Assessment**

- 7.7.1. 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.

## 7.8. **Appropriate Assessment**

- 7.8.1. The site is located within 600m of two European sites, Killarney National Park, Macgillycuddy Reeks and Caragh River Catchment SAC (site code 000365) and Killarney National Park SPA (Site code 004038), which are situated to the south, to the west and to the northwest. There are no known hydrological links to the protected sites. Given the scale and nature of the development, 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 location of the site within an established housing area in close proximity to Killarney Town Centre, which is zoned 'Established 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 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 11<sup>th</sup> day of June 2020 and by the further plans and particulars received by An Bord Pleanála on the 7<sup>th</sup> day of September, 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 layout of the second-floor apartment shall be as shown on the drawing submitted to the planning authority on 11<sup>th</sup> June 2020 with the exception of the rear balcony, which shall be centrally subdivided by a 1.8 metre-high glazed screen, which shall be fitted with opaque glass. The balcony screen between Apartments 3 and 4 at first floor level shall be in the form of an opaque glass screen.

- (b) The bin storage area shall be re-located to the rear of the apartment building.
- (c) A total of five parking spaces shall be provided on the site which shall consist of one disabled bay to the front of the building and four parking bays to the rear of the building.
- (d) The remainder of the front garden shall be laid out as a landscaped amenity area for the use of the future occupiers of the development.

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 and of traffic safety and convenience.

3. The following matters shall be completed on site prior to the first occupation of the apartment building
  - (a) The front wall shall be set back in line with the wall to the front of the church grounds to the west as shown on Drawing No. MD D1036-A010-B.
  - (b) The vehicular entrance to the site shall be widened to 5.5 metres and the stop sign and road markings shall be put in place.
  - (c) The proposed driveway shall be provided with a minimum width of 5.5 metres.
  - (d) The parking bays shall be laid out and the bin store and communal amenity area shall be provided, as amended by condition 2, and
  - (e) The footpath shall be widened and continued in front of the site and shall be dished at the entrance.

**Reason:** In the interests of residential amenity and traffic safety.

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 building 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. Notwithstanding the provisions of Article 10(4) of the Planning and Development Regulations 2001, or any statutory provision modifying or replacing them, no part of 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.

8. (a) A scheme indicating boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This boundary treatment scheme shall provide a screen along the western boundary, the southern and eastern boundaries, consisting predominantly of trees, shrubs and hedging of indigenous species, capable of growing to the height of [X] metres. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works.
- (b) Any plants which die, are removed or become seriously damaged or diseased, within a period of five 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.

- (c) The front boundary wall shall be 1200 millimetres in height and shall be suitably capped and finished in a material that matches the external finish of the apartment building.
- (d) All screen walls shall be two metres in height above ground level, constructed in brick to match the brick used in the apartment block or shall be constructed in concrete block, and shall be capped, and rendered on both sides in a finish that matches the external finish of the building.

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

- 9. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped in accordance with the detailed requirements of the planning authority. 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.

- 10. 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.

- 11. 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.



12. 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.

13. 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.

14. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interest of sustainable waste management

15. 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 housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) 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 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála 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 of the area.

16. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the local authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure the satisfactory completion and maintenance of this development.

17. The development hereby permitted shall be carried out and completed at least to the construction standards set out in the ALTS “Recommendations for Site Development Works for Housing Areas” issued by the Department of the Environment and Local Government in November 1998. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

**Reason:** To ensure that the development is carried out and completed to an acceptable standard of construction

18. 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 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 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 of the development.

19. The developer shall pay the sum of € 4,000 (four thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48 (2)(c) of the Planning and Development Act 2000 in respect of 100% contribution towards the cost of upgrading the public footpath outside the development. This contribution shall be paid prior to the commencement of the development or in such phased payments as the planning authority may facilitate. The application of indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine.

**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning

authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

20. 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**

**16<sup>th</sup> November, 2020**