



An
Bord
Pleanála

Inspector's Report ABP 308206-20

Development

- (a) retain subdivision and change of use of guesthouse to staff accommodation,
- (b) demolish shed,
- (c) construct extensions and conversion of attic to provide 7 no. apartments,
- (d) elevational and internal alterations and all associated site works.

Location

Dromhale, Woodlawn Road, Killarney, Co. Kerry

Planning Authority

Kerry County Council

Planning Authority Reg. Ref.

19/320

Applicant

Kevin McAllen

Type of Application

Retention permission & permission

Planning Authority Decision

Grant subject to conditions

Type of Appeal

3rd Party v. Grant

Appellant(s)

Marie O'Regan

Observers

- (1) Deborah O'Mahony
- (2) John Hickey
- (3) Raymond & Mary Doyle Hickey
- (4) Jeremiah & Bridget Cronin & Others

Date of Site Inspection

04/12/20

Inspector

Pauline Fitzpatrick

1.0 Site Location and Description

The site which has a stated area of 0.179 hectares, is located on the northern side of Woodlawn Road which links the N71 Killarney – Kenmare Road with the N22 Killarney – Cork Road. The junction with the N71 (Muckcross Road) is c.225 metres to the west and from there the town centre is c.0.75 kilometres to the north. To the east of the site there are detached two-storey houses whilst to the west there are large three-storey detached buildings in commercial/residential usage i.e. hotel, guesthouses, apartments etc. A two storey detached dwelling bounds the site immediately to the east with a three storey dwelling immediately to the west. On the southern side of Woodlawn Road there are detached and semi-detached domestic houses. Almost directly opposite the appeal site there is an access road leading into a large modern housing scheme (Woodlawn Park).

The large two-storey former guesthouse on the site is known as Marion House and is stated to be currently used as staff accommodation. It was noted to be occupied on day of inspection. It has a single storey garage to the side. The land to the rear of the building rises very steeply with undeveloped lands bounding the site to the north. There are steps facilitating access to this area.

The boundary treatments consist of post and wire fencing, concrete walling and trees/hedgerows.

2.0 Proposed Development

The application was lodged with the planning authority on **20/12/19** with further plans and details received **29/07/19** and **11/08/20** following a request for further information dated 14/07/20.

The proposal entails:

Retention permission for:

- Change of use of 9 bedroom guesthouse to use as staff accommodation.
Stated floor area of 299 sq.m.

Permission sought for:

- Demolition of sheds to side of dwelling (36 sq.m.)

- Extension to existing building at both ground and 1st floor level and conversion of attic to provide for 7 no. 2 bed apartments ranging in size from 72 sq.m. to 126 sq.m.
- Alterations to the elevations including window openings at 2nd floor level.
- 10 no. parking spaces are to be provided along the roadside boundary.
- Communal open space provided to the rear.

The application is accompanied by photomontages.

3.0 Planning Authority Decision

3.1. Decision

Grant permission for the above described development in two schedules subject to 16 conditions.

Schedule 2(A) – retain subdivision and change of use from 9 bedroom guesthouse to 9 bedroom staff accommodation.

Schedule 2(B) – demolition of shed, construct extensions, conversion of attic and provision of 7 apartments.

Condition 7: prohibition against use of apartments for overnight commercial guest accommodation without prior grant of permission.

Condition 8: no ancillary plant or equipment including satellite dishes to be placed on the external walls or roof without prior grant of permission.

Condition 13: Submission of comprehensive landscaping scheme.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The 1st Planner's report (undated)

- the current proposal differs from the previous application in that the overall size of the scheme has been reduced.

- whilst it would appear that it is not proposed to interfere with the bank to the rear of the property the site layout plan indicates a retaining wall. Further information required.
- the contemporary design is acceptable in principle.

A request for further information recommended on the retaining wall, revised photomontages and elevation drawings and details on surface water disposal.

The 2nd report dated 25/08/20 following further information (countersigned) notes:

- No changes are proposed to the rear of the site.
- The development has been scaled back from those of the previous proposals and it will not be visually obtrusive. The contemporary design fits well between the much taller building to the west and the two storey dwelling to the east.
- Surface water attenuation proposed prior to discharge to the public stormwater drainage system.
- 10 parking spaces is considered adequate.

A grant of permission subject to conditions recommended.

3.2.2. Other Technical Reports

Housing Estates Unit in a report dated 21/01/20 recommends further information on access, sight lines, parking, site services, boundary treatment and details of retaining wall to rear.

County Archaeologist states no mitigation required.

Fire Authority has no objection. Fire Safety and Disability Access certificates required.

Building Control recommends that the application be deferred pending the receipt of an application for a Regularisation Certificate.

Biodiversity Officer concludes that no significant effects are considered likely on the nearest SAC. Consideration should be given to landscaping with native Irish species.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

Objections to the proposal received by the planning authority are on file for the Board's information. The issues raised are comparable to those set out in the 3rd Party appeal and observations received, which are summarised in section 6 below.

4.0 Planning History

18/1033 – permission refused for change of use of guesthouse to 6 apartments and extensions and alterations to the existing building for 1 reason citing the substandard level of residential amenity for prospective residents and adverse impact on amenities of adjoining property arising from overall scale and design of scheme, the extent of works to the rear and absence of adequate assessment of surface water drainage.

PL63 .237925 (10/205113) – permission refused for demolition of building and construct 8 no. unit apartment building for 1 reason. It was considered that the overall scale and design of the proposal, when taken together with the retaining wall and allied works to the rear, would have a significant detrimental impact on the amenities of nearby property, and would seriously injure the amenities of future occupants.

PL63.228254 (Reg. Ref. 07/4850) – permission refused for 9 no. apartments. The reason for refusal stated that having regard to the topography of the site and the design of the proposed development, including 4 ground floor apartments with no quality private open space, it is considered that the proposal would seriously injure the residential amenity of future occupants, and by reason of its excessive bulk and proximity to site boundaries would result in an overbearing form of development which would be out of character with the pattern of development in the surrounding area and would seriously injure the residential amenity of adjoining properties.

07/4708 – Permission refused for two blocks containing 10 residential units (6 townhouses and 4 apartments) on grounds of height and in depth nature of the development being incompatible with existing nearby development.

PL63.20550 (Reg. Ref. 03/4112) –permission refused to demolish existing building and construct three-storey building comprising a B and B, private accommodation and site works on approximately half of the current appeal site.

PL63.20552 (Reg. Ref. 03/4117) – permission refused to demolish part of the existing dwelling and construct 6 apartments and site works on approximately half of the appeal site.

The Boards reasons and considerations for the two above files were similar and referred to the bulk, scale, depth and extent of development on a restricted narrow site and its proximity to the site boundaries and adjoining property constituting overdevelopment and an excessive density of development, which would seriously injure the visual amenities of the area and would depreciate the value of residential property in the vicinity.

5.0 Policy Context

5.1. Development Plan

Note: The Killarney Municipal District LAP was adopted in December 2018. It states that the Killarney Town Development Plan 2009-2015, as extended, will continue to apply to the area formerly administrated by Killarney Town Council. That plan will remain in force as the relevant development plan for the former town council area until the next Kerry County Development Plan is adopted in 2021.

Killarney Town Development Plan 2009-2015 (as extended)

Of note is Variation No.4 of the Plan

The site is within an area zoned R2 'Existing Residential'

It is the policy of the Local Authority to facilitate development that supports in general the primary land use of the surrounding existing built up area.

Development that does not support or threatens the vitality or integrity of the primary use of these existing built up areas shall not be permitted. Within the development

boundaries of the town, in areas that are not subject to specific zoning objectives, proposals for development will be considered in relation to the following:

- The objectives of this and any other statutory plan;
- The character of the surrounding area; and
- Other planning and sustainable development considerations considered relevant to the proposal or its surroundings.

Note: Revision 27 of Variation No.4 of the Plan by way of deletion of section 12.20.1 has removed the prohibition of apartments outside the town centre.

POP-01-G - Require at least 30% of new housing development to be delivered within existing built up areas on infill and/or brownfield sites.

HSG-03-C - Ensure that residential densities reflect the density of appropriate adjoining developments. Higher densities will be considered in the town centre or within close proximity to the town centre.

HSG-03 - preserve the residential distinctiveness and character of established residential communities by the designation of Housing Protection Areas. In general, the Council shall not be in favour, except in exceptional circumstances, of the subdivision of existing dwelling houses, located in areas zoned for residential use, into two or more separate dwelling units/apartments.

3.10.2 Urban Renewal and Regeneration

The Local Authority shall facilitate the redevelopment of all backland, infill, vacant and derelict sites throughout the town. It will encourage the construction of well designed high density apartments or residential units subject to achieving a high quality of living accommodation for incoming residents, adequate provision of amenity space and refuse storage.

5.2. Environmental Impact Assessment

Having regard to the characteristics of the site and the nature and scale of the proposed development 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.

5.3. **Natural Heritage Designations**

The River Flesk which forms part of the Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC (site code 00365) is c. 400 metres to the south.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The 3rd Party appeal by Marie O'Regan who owns the dwelling immediately to the east refers. It is accompanied by supporting detail, including a summary of the planning history on the site and photographs. The ground of appeal can be summarised as follows:

6.1.1. ***Policy Provisions***

- The proposal contravenes development plan policies and objectives including guidance discouraging subdivision of existing residential units for apartments and the preclusion of apartments outside the town centre.
- No regard has been given to the Sustainable Urban Housing Design Standards for Apartments.
- Retention as staff accommodation or development as 7 apartments would not be in compliance with objective HSG03-0-C as inserted into the Killarney Town Plan under variation 4.
- The development plan guidelines for extensions to dwellings have not been adhered to.

6.1.2. ***Design and Amenities of Adjoining Property***

- The same issues arise as per the previous refusal of permission under ref. 18/1033.

- The scale of the proposed building is significantly greater than that existing on the site. The footprint is more than double that of the dwelling to be replaced with at least 2 ½ times the floor area. It will be materially higher, deeper and wider. It constitutes overdevelopment of the site.
- The proposal is not consistent with the scale and height of development in the vicinity which is largely two storey, detached and semi-detached houses. The 3 storey dwelling bounding the site to the west is not a large building. The proposal will be visually obtrusive and out of character.
- The building will be too close to the shared boundary, will be overbearing and will overshadow and impact on light to the appellant's property and will give rise to overlooking and loss of privacy.
- The raising of the roof will make it more than an attic conversion. It will be 3 storeys in height. The flat roof is not in keeping with that prevailing in the area.
- The established building line is breached.
- Inadequate parking is provided with the reduced parking area raising issues regarding vehicular manoeuvres and access by emergency services. Parking is an issue along Woodlawn Road.
- Potential for anti-social behaviour.
- The existing leylandii hedge to the appellant's property should be replaced by a wall.
- 2 no. dwellings would be an appropriate alternative.

6.1.3. *Amenities of Prospective Occupants*

- It will offer little privacy for prospective occupants.
- Quality private open space has not been provided. The ground floor apartments have none whilst the balconies on the upper floors offer poor amenity space.
- The communal amenity space is substandard with limited accessibility.

- The apartments proposed do not provide for satisfactory accommodation for a variety of household types and sizes.
- The location of the bin storage is sub-optimal.
- Management and maintenance of the development queried.

6.1.4. *Other Issues*

- The photomontages are inaccurate. They do not show the increase in height or the changed building line. The appellant's dwelling is not shown. The height and size of the dwelling to the west has been exaggerated.
- Contiguous elevation drawings were not submitted.
- Fire safety issues arise with access to rear by emergency services constrained.
- Whether a retaining wall is required is not clarified. Landslides have occurred in the area in the past.
- Proposals for surface water disposal from the sloping amenity area not provided. Flooding has occurred in the past.
- The nature and extent of the development as given in the public notices is inaccurate. There does not appear to have been any subdivision from the original guesthouse layout. The application should have been deemed invalid.
- No details provided on Part V obligations.
- Screening for appropriate assessment has not been undertaken by the planning authority.
- A retention application cannot be accepted for a development requiring EIA, screening for EIA or AA.

6.2. Applicant Response

The submission by Leahy Planning Ltd. on behalf of the application which is accompanied by supporting plans and details can be summarised as follows:

6.2.1. *Planning History and Principle of Development*

- The proposal is in accordance with both local and national policies in terms of residential provision and accords with the relevant guidelines for apartment development.
- The current proposal addresses the issues arising from the previous refusals of permission on the site. Firstly, the proposal involves renovation of an existing building rather than new build. Secondly, the topography at the rear of the property is not altered. The scale of the development has also been reduced.

6.2.2. *Design and Layout*

- Revised plans are submitted with amendments showing balconies meeting minimum area and depth requirements. Private amenity space areas for the ground floor apartments also provided, to be enclosed with 1.5 metre high fences comprising of stone piers and timber effect panels. All balconies and amenity spaces are south facing and are set back 22 metres from the public road which is more than sufficient to ensure privacy.
- While the majority of residential developments to the east along Woodlawn Road are single occupancy residential the area, itself, is characterised by a variety of uses. The majority of the buildings to the west are multi-occupancy being devoted to guest accommodation.
- The site is bounded by 3 storey houses immediately to the west. 1 no. is a private dwelling, the next two are in use as a guesthouse/hotel. The proposal cannot be considered to be out of context.
- The building height is being increased marginally from 7.7 metres to 8.4 metres. It would be materially less in height, scale and bulk than the buildings to the west.

- Whilst having a larger footprint and would be higher than what is currently on site, the design will be at a smaller and more attractive scale achieved by breaking the building down into coherent elements. The design is contemporary.
- It is difficult to say that there is a coherent building line in the area given that the site is located on a sharp curve. The buildings to the east and west are at substantially different angles. The appellant's property is closer to the road than either the existing or proposed buildings. The proposal remains significantly behind the appellant's property. In drawing a continuous line from the existing building to the west the proposed new corner does not indicate a breach.
- The balconies face south and are divided by vertical fins. There is no possibility of overlooking of the appellant's property. In terms of the rear (north) facing elevation there will be no overlooking with views being entirely oblique as is normal practice in any housing situation.
- The building remains 2 metres from the shared boundary. The building height is being increased marginally. There is no evidence to support the claim that overshadowing would arise.
- In view of the substantial properties to the west claims of the development being overbearing cannot be substantiated.
- The proposed use is provided for in the development plan.
- Previous proposals to locate car parking to the rear and which would have required substantial site works were refused.
- No alterations are proposed to the rear with no new retaining wall to be constructed.
- Although the ground to the rear is steep it will be available for amenity purposes. Killarney has substantial amenity spaces.
- The floor areas of the apartments exceed the minimum requirements. The requirement for a mix of units is relaxed on schemes of up to 9 apartments on sites under 0.25 hectares.

- The proposed bin storage arrangement is reflective of normal arrangements.
- The software package for the photomontages derive from photographic representations taken, with the possibility of error being slight.

6.2.3. **Other Issues**

- A management company will be put in place.
- The development will be subject to a Fire Safety Certificate.
- The ground to the rear is not being altered. It will not have any impact on the drainage regime.
- The planning authority felt that it was necessary to regularise the planning history of the building prior to considering granting permission for change of use from guesthouse to apartments.
- There is no suggestion that EIA or AA are required.

6.3. **Planning Authority Response**

The submission can be summarised as follows:

- The photomontages are only used as a visual aid.
- Revision 25 of the 4th variation to the Town Development Plan removed the prohibition against apartments outside the town centre.

6.4. **Observations**

Observations have been received from

1. Deborah O'Mahony
2. John Hickey
3. Raymond Hickey & Mary Doyle Hickey
4. Jeremiah & Bridget Cronin & Others

The submissions can be summarised as follows:

- The proposal is very similar to that previously refused on the site.

- The area is zoned residential and is outside the town centre. The building was originally used as a private dwelling. The Town Development Plan discourages the subdivision of houses into apartments.
- The site is too small and is restricted with a steep bank to the rear. The proposal constitutes overdevelopment of the site.
- The proposal contravenes the Killarney Town Development Plan provisions for apartments.
- The ground floor apartments will have no private amenity space. The balconies overlooking the road will be afforded no privacy.
- No storage has been provided.
- The building will be visually obtrusive. It is materially larger than the dwellings in the vicinity. It is at variance with the prevailing 2 storey height.
- The building line will be broken contrary to development plan provisions.
- The amenities of adjoining property will be adversely impacted by reason of overlooking and loss of privacy.
- Inadequate parking will give rise to on-street parking.
- The entrance on a curve with vehicles entering and exiting Woodlawn opposite will create conflicting movements and traffic hazard. The traffic generated would be twice that associated with the guesthouse.
- The matter of whether a retaining wall is proposed requires clarification. Concerns regarding flooding and landslides arise.
- The photomontages are inaccurate.
- Devaluation of property.
- The communal open space is too steep, will be hard to access and will be unsafe for certain persons.
- Potential for anti-social behaviour.
- Management and maintenance of the new development queried.
- Disabled access is not possible to 4 of the apartments.

- No drawings are provided delineating the layout of Marion House before the changes for which retention permission is sought. The drawings are substandard. The application is considered invalid.
- The scheme does not provide for a mix of units as required by the Town Development Plan.
- No consideration has been given to impact on biodiversity.
- The site would be more suited to family dwellings.

6.5. Further Responses

The applicant's response to the 3rd party appeal was circulated for comment.

6.5.1. *3rd Party Appellant - Marie O'Regan*

In addition to issues raised in her appeal submission:

- The 3 storey developments to the west are not in the immediate vicinity of and cannot be seen from the front of her house. Existing development to the south and east is not described at all.
- The area available for development on the site is substantially reduced by the steep hill.
- The 9% increase in building height is considered substantial not marginal. The only building of substantial height is the Earls court Hotel. This does not justify the proposed increase.
- The views expressed as to the suitability of the design are not accepted.
- The proposed amenity spaces to the ground floor units cannot be considered good quality. The wooden screens cheapen the look of the building. Their height will have a negative impact on the spaces.
- The use of materials such as synthetic timber cladding on the south elevation will not weather well.
- The fact that 2 metres is to be retained from the shared boundary does not address the issues arising from the increase in height, width and depth including overlooking, overshadowing and loss of light.

- The need for compact apartments does not require them to be located in existing residential locations.
- The impacts arising from an apartment development in terms of vehicular movements, noise, nuisance etc. would be materially greater than from a guesthouse.
- There is the possibility for error in the software that produced the photomontage.
- The increase in balcony size and storage in the revised drawings reduces the internal living space.
- It is queried whether the area to the front of Marion House is large enough to accommodate the proposals therein.
- It is not clear whether the scale on the site layout in the appeal response is 1:200 or 1:250.
- The Town Plan imposed higher standards than the Department Guidelines for New Apartments. LAPs take precedence over Government Guidelines.
- The retention application should have been dealt with as a separate application.
- The site is not close to the town centre.

6.5.2. **Observers**

Responses from:

1. Raymond Hickey & Mary Doyle Hickey
2. Jeremiah and Bridget Cronin & Others.

In addition to issues raised in their observations, in the 3rd Party appeal and the appellant's response to the applicant's submission, the following are noted:

- No reference has been made to the dwellings on the opposite side of the road.
- Both Marian House and the appellant's property were in existence for years prior to the enactment of the Town Development Plan 2009-2015 as extended.

- The drawings are inconsistent in terms of height of the building.
- The building will obliterate their views of the hill at Dromhale and the tree line.
- No communal amenity space is being provided in contravention of the Town Development Plan.
- Two bedroom apartments without communal open space are not suitable for families with children.
- The measurements and scale given on drawings are inconsistent or inaccurate including proposed setback of the balconies from the site boundary.
- To protect the amenities of property opposite the site it is requested that (a) boundary wall be raised to 2 metres and be stone faced (b) set back of car parking spaces so area in between can be planted and (c) entrance gate to be staggered. A full landscaping plan should be made available prior to construction.

7.0 **Assessment**

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

- Overview and Policy Context
- Suitability of Design and Amenities for Prospective Applicants
- Amenities of Adjoining Properties
- Other Issues
- Appropriate Assessment

7.1. **Overview and Policy Context**

- 7.1.1. As detailed in section 4 above there is an extensive planning history on the site dating back to 2003. The applications under refs. PL63.228254 and PL63.237925 sought the demolition of the existing building on the site and replacement with duplex units; the former application providing for 9 no. units and the latter 8 no. units (albeit

reduced further to 6 no. units by way of a section 137 response). Both proposals entailed excavation of the hill to the rear and provision of a retaining wall. The reasons for refusal had regard to the topography of the site, the unacceptability of the scale and design and the adverse impact on the amenities of existing property and prospective occupants. A further application under ref. 18/1033 entailed the retention of the existing building and its conversion and extension to provide for 8 apartments. Again, works required excavation into the hill to the rear. Permission was refused for a reason comparable to those cited in the earlier applications.

- 7.1.2. The proposal now before the Board, in seeking to address the grounds of the refusal, proposes the conversion and extension of the existing building to provide for 7 no. apartments. The works include the demolition of the single storey garage to the side. The extension entails an increase in the footprint of the building resulting in a front elevation which would be 3.3 metres closer to the roadside boundary and side elevations closer to the east and west boundaries. A setback of 2 metres is to be maintained to the shared boundary with the appellant's property to the east, reduced from 4 metres. A setback of 1 metre is to be maintained to the western boundary at its closest point, reduced from 2.6 metres. The roof is to be altered from the original hipped design providing for a mix of pitched to the two storey elements with a flat roof to the three storey portion giving an overall building height of 8.387 metres. The design of the building is contemporary in execution.
- 7.1.3. The site is located in an established residential area within walking distance of the town centre (approx.1km) and the wide range of facilities on offer there. Whilst the dwellings to the west are characterised by two storey detached units on relatively large plots with the dwellings to the south also two storey in height, the site is bounded by a three storey dwelling immediately to the west with other three storey buildings further west again towards the junction with Muckcross Road.
- 7.1.4. The appeal site comprises a large, detached building with a single storey garage to the side. It was historically used as a guesthouse and, as noted on day of inspection, is currently occupied. It is setback from the road with the area to the front used for parking. The rear of the site is characterised by a somewhat overgrown steep slope currently accessible via steps to the side.

- 7.1.5. National policy, as expressed in the National Planning Framework (2018) and the Sustainable Residential Development 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) to which regard must be had 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.
- 7.1.6. 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, the objective for which is protect and improve existing residential areas. 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.
- 7.1.7. Whilst the original building on the site may have a private residence it has been extended and used for a period as a guesthouse. It now appears to be in multiple occupancy use (staff accommodation). Its current iteration cannot reasonably be considered to be the same as a private dwelling. Therefore I do not consider that the provisions of the current Town Development Plan as set out in objective HSG-03 which precludes the subdivision of existing dwelling houses, located in areas zoned for residential use to be applicable in this instance.
- 7.1.8. On the basis of the above I consider that there is no impediment to the site being redeveloped for an apartment scheme. It is noteworthy that the Board in its decisions on the previous appeals on site did not detail concerns as to the principle of apartments on the site.
- 7.1.9. The current proposal for 7 apartments on a site with a stated area of 0.179 hectares equates to a density of approx. 39 units per hectare. However, in view of the site constraints in terms of the steep slope to the rear the actual developable area is effectively halved. On this basis a density double that cited is unquestionably high however the apartment guidelines state that such intermediate urban locations are

generally suitable for smaller-scale higher density development that may wholly comprise apartments at broadly >45 dwellings per hectare net. Notwithstanding, the acceptability or otherwise of the proposal is predicated on other planning considerations being met including the acceptability of the design solution, impact on amenities of adjoining property, the securing of adequate amenities for prospective occupants and access and traffic. I shall address these matters in the sections below.

7.2. Suitability of Design and Amenities for Prospective Applicants

- 7.2.1. Obviously, any development of the site will bring about a change in the streetscape and character of the immediate area and I accept that the site strictures are notable in terms of steep slope to the rear which proved problematic in previous iterations. It is not to be altered in the current proposal. I submit that the challenge is to be sure that the design complements and does not detract from the area and provides for an appropriate form of development ensuring an acceptable level of residential amenity for prospective occupants, whilst protecting those of adjoining properties.
- 7.2.2. As can be seen from the site location map the public road is on a curve and the existing buildings do not follow a rigid setback. Its orientation relative to the three storey building to the west is acceptable. The existing building has a building line that is set back from that of the appellant's dwelling to the east. The bringing forward of the building line by over 3 metres, in my opinion, is acceptable. In view of the design of the buildings and proposed privacy screens to the side of the upper floor balconies, overlooking will not arise. No issues in terms of overshadowing will arise due to the variation in the building height stepping down to two storeys to the shared boundary and the maintenance of a setback of 2 metres.
- 7.2.3. Concerns have been expressed as to the impact on the amenities of the dwellings on the opposite side of the road. In view of the setback to be maintained and the fact that the relationship of the proposed development to same is tempered by the public realm in-between (road and footpaths) issues of overlooking or loss of privacy are not considered to be of material concern. On this basis an increase in the roadside boundary wall height is not warranted.
- 7.2.4. I consider that there is no overriding architectural style evident in the area and that the size of the site allows for a certain level of latitude in terms of design. As

proposed, the contemporary design solution can be accommodated without having an adverse impact on the visual amenities of the area. A contiguous elevation drawing was submitted by way of further information. In this regard I note that the accuracy of the computer generated images is raised in a number of submissions. I would concur with the planning authority in its response to the appeal that such CGIs are an aid, only, to the assessment of the suitability of the proposal and are not the basis on which a decision is made.

- 7.2.5. With respect to amenities of prospective occupants I note that the standards in the Apartments Guidelines (2018) differ from those as set out in the current Town Development Plan which pre-dates same. Contrary to the assertion that the development plan takes precedence, I submit that the former represents current guidance and to which regard must be had. This is clearly stated in section 1.21 of the guidelines.
- 7.2.6. At the outset I note that SPPR 2 of the 2018 Guidelines has no requirements in terms of unit mix in schemes of up to 9 no. residential units, for all building refurbishment schemes on sites of any size, and on urban infill schemes on sites of up to 0.25ha.
- 7.2.7. As submitted with the application the proposal entails the provision of 7 no. 2 bedroom apartments. All but 1 exceed the 73 sq m minimum requirements for 4 person units as set out in SPPR 3 of the guidelines. Apartment No.4 with a floor area of 72 sq.m. would exceed the minimum floor area requirements for a 2 bed 3 person unit (63 sq.m.) as set out in Appendix 1. The minimum aggregate floor area requirements are met. All units are dual aspect with the building having a north-south orientation therefore complying with SPPR 4.
- 7.2.8. In terms of SPPR 5 the floor to ceiling heights is dictated by the existing building which is being converted and extended. As such whilst the minimum 2.4 metre floor to ceiling height is to be provided for the top floor unit, the units at 1st floor level fall marginally short at 2.342. The ground floor units with a floor to ceiling height of 2.4 metres falls short of the 2.7 metre requirement. I consider that the relaxation of these requirements as allowed for in the guidelines would be appropriate in view of the nature of the proposed development, namely the refurbishment and extension of an existing building.

- 7.2.9. There is no provision for storage either within the units or externally. 6 sq.m. per 2 bedroom unit is required. Whilst the upper floor units provide for the 7 sq.m. minimum private amenity space by way of balconies the depth of same at 1st floor level at 1 metre falls short of the 1.5 metre requirements. Of greater concern is the total absence of private amenity space for the 3 ground floor units.
- 7.2.10. To address the above shortcomings revised plans accompany the appeal response. Storage is provided in all units with the balcony depths at 1st floor level increased to 1.5 metres. The knock-on impact results in a marginal reduction in the apartment floor areas. The said amendments are acceptable.
- 7.2.11. However I do not consider that the proposed solution in terms of private amenity space for the ground floor units is successful. Over and above the overlooking that can arise from the units on the upper levels the amenities of the spaces are poor due to the limited depth of the spaces (c. 2 metres) to be enclosed by 1.5 metre high fencing. In addition the means of enclosure proposed will detract visually from the appearance of the building.
- 7.2.12. Furthermore, the amenity value of the proposed communal space to the rear is severely compromised due to its steepness and limited accessibility. Its use for such purposes will also result in overlooking into the rear of adjoining properties.
- 7.2.13. The issue of provision of acceptable levels of amenity for prospective occupants has been a consistent issue in the assessment of the previous proposals and I submit that the current proposal does not adequately resolve same. Whilst the site constraints are acknowledged with specific regard to the steep slope to the rear this does not provide for exceptional circumstances whereby a relaxation of the minimum standards would be acceptable. I therefore recommend a refusal of permission on grounds of substandard amenities for future residents.

7.3. Other Issues

- 7.3.1. I do not have any concerns regarding the additional vehicular movements that would arise as a consequence of the proposal notwithstanding the proximity of the junction with Woodlawn opposite. The front boundary wall is to be set back 1 metre. The site is within an urban location where the 50 kph speed limit applies. 10 parking spaces for 7 apartments is acceptable and would not give rise to concerns in terms

of overspill onto the road. I note that there are no on-street parking restrictions in the vicinity.

- 7.3.2. The proposal will require a Fire Safety Certificate and will be addressed under the relevant legislative code.
- 7.3.3. The steep slope to the rear is not to be altered. Therefore the prevailing drainage regime will not be altered.
- 7.3.4. I submit that the nature and extent of the development as given in the public notices is acceptable although there does not appear to have been any subdivision from the original guesthouse layout.
- 7.3.5. As noted above I consider that 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. I address the matter of appropriate assessment below.

7.4. Appropriate Assessment

Site Location and Description

- 7.4.1. The site location and description of the proposed development are as set out in sections 1 and 2 above.

Designated Site and Qualifying Interests

- 7.4.2. The River Flesk which forms part of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (site code 00365) is c. 400 metres to the south.
- 7.4.3. The qualifying interests comprise a mix of terrestrial and aquatic habitats and species.
- 7.4.4. Detailed conservation objectives have been prepared for the site the overall aim being to maintain or restore the favourable conservation status of the qualifying interests.

Assessment

- 7.4.5. The site is not in the Natura 2000 site. No direct impacts will arise.

- 7.4.6. No source/ pathway/receptor route between this site and the designated site exists. The site is located within an urban location and is serviced. Woodlawn Road and the Woodlawn housing estate are in between the sites.

Screening Statement and Conclusions

- 7.4.7. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out screening for appropriate assessment, it has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have significant effects on European Site No.00365 or any other European site, in view of the site's conservation objectives and appropriate assessment (and submission of a NIS) is not therefore required.
- 7.4.8. The determination is based on the location of the site within a built up serviced area, and the intervening development.
- 7.4.9. In making this screening determination no account has been taken of any measures intended to avoid or reduce the potentially harmful effects of the project on the European Sites.

8.0 Recommendation

On the basis of the foregoing I recommend that permission for the above described development be refused for the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the design and layout of the proposed units, including three number ground floor apartments with poor quality private open space, and the constraints and poor accessibility to the communal open space area to the rear, it is considered the proposed development would fail to provide a satisfactory standard of amenity to meet the needs of future occupants. The proposed development would, therefore, seriously injure the residential amenities of future residents, and would be contrary to the proper planning and sustainable development of the area.

Pauline Fitzpatrick
Senior Planning Inspector

December, 2020