



An
Bord
Pleanála

Inspector's Report ABP 308489-20

Development	Sheltered children's accommodation with 8 bedrooms; two 1-bed apartments and one 2-bed apartments
Location	Flemings Lane, Killarney, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	20/120
Applicant	Eileen O'Brien
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellants	Denis & Joan Counihan Denis Murphy & Michael Moriarty
Observers	None
Date of Site Inspection	18 th May 2021
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1.1. The site is located on Fleming's Lane, which is located in the centre of Killarney town and is accessed off High Street, which is the main shopping street. Fleming's Lane comprises a private lane with a mix of established commercial and residential properties. However, the western end is predominantly residential with houses facing each other across the lane. The site is located on the southern side of the lane and is situated towards the western end of the laneway. The site is bounded to the west and east by apartments and offices.
- 1.1.2. The site is a vacant plot with a masonry wall fronting the lane and has a derelict appearance. It is overgrown and has been vacant for some time. The site backs onto a car repair garage on Barry's Lane. The area of the appeal site is given as 0.018ha. The buildings on either side of the site and the lane are generally two to three storeys in height with pitched roofs and with traditional style dormer windows facing Fleming's Lane.

2.0 Proposed Development

- 2.1.1. The proposed development (as originally submitted) seeks to construct a four-storey building (reduced to three-stories in FI submission) with a gross floor area of 505.6m² containing sheltered accommodation on the ground and first floors (c.242m²) and three apartments above. There would be two 1-bed apartments on the second floor, and a further 2-bed apartment on the third floor. The proposed apartment building is contemporary in design with a mix of stone and render finish on the lower floors and synthetic burned timber finish on the upper floors. The second floor is recessed at the front and the third floor is recessed at the front and the rear with a decorative feature on the front elevation comprising dark grey timber steel poles. There are balconies at second and third floor levels. The building would have a flat roof. The overall height of the building is 11.65m (reduced to 8.75m in FI 19/08/20).
- 2.1.2. The 1-bed apartments are dual aspect (82.4m²) and the two-bedroomed apartment has a proposed floor area of 49m². The sheltered accommodation comprises 7 no. ensuite bedrooms (13-14m²) on the first floor with a communal area, a master bedroom (including living area and ensuite) and a further single bedroom with

ensuite on the ground floor. The communal area for the accommodation comprises a TV room, a kitchen/dining room and a therapy room. There would also be an outdoor amenity space at the rear accessible from the dining room. There are separate entrances from the street to serve the apartments and the sheltered accommodation. The ground and first floors would be linked by an internal staircase and a further separate staircase would be provided to access the apartments on the second and third floors. The revised scheme (19/08/20) omitted the 2-bedroomed apartment on the top floor and reduced the height of the building to c.8.75m.

- 2.1.3. The sheltered accommodation is intended to provide a home for homeless teenagers who are in foster care. The accommodation would be supervised by the applicant who would live on the premises. The supervisor's accommodation is within the sheltered accommodation unit on the ground floor. The two apartments on the second floor would either be rented out or used for independent living for the teenagers as they reach adulthood.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The P.A. decided to grant planning permission subject to 14 conditions including:

Condition 2: Development contribution of €16,468.00.

Condition 3: Requirements to enter connection agreement with IW and no development to commence until connection agreement signed.

Condition 5: Finished floor levels in accordance with drawings received 19/08/20 and a colour scheme to be agreed with P.A.

Condition 6: a 2-metre high boundary wall to be constructed on south, south-western boundaries of the site.

Condition 7: No overnight commercial guest accommodation.

Condition 9: No ancillary plant or equipment including satellite dishes to be placed on external walls or roofs without a further grant of permission.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's initial report (24/03/20) noted that insufficient information had been provided regarding the operation of the use and the management of the sheltered accommodation. It was stated that the protection of the residential amenities of existing residents was an important consideration. The storage of wheelie bins on Fleming's Lane was considered to be unacceptable.

It was requested that **further information** (24th March 2020) be provided in respect of the following

- A revised contiguous elevation and sections providing the correct heights of adjoining properties relative to the proposal.
- Details of the operation and management of the proposed sheltered accommodation including the role (if any) of any organisations such as TUSLA or the HSE.
- Details of bin storage, having regard to the ongoing issue of bin storage on the lanes within the town.

The **Further Information Response (19th August 2020)** was considered to constitute significant additional information and republication was required. This included a letter from the applicant providing information on how the sheltered accommodation would be managed and run by her and further information regarding water and wastewater connections and proposals for new connections. It also included a revised site layout plan with provision for the storage of wheelie bins and revised floor plans and elevations showing the omission of the top floor/2-bed apartment. The re-advertisement took place on 3rd September 2020. The FI was considered to be satisfactory by the Area Planner. It was considered that a three-storey building was acceptable in principle on Fleming's Lane and that it would not be out of character with the existing development on the lane. It was further considered that the density of the proposed development (as revised) was more appropriate than earlier lower densities, given the vacant nature of the site and its town centre location. A **grant of permission** subject to conditions was recommended.

3.3. Other Technical Reports

3.3.1. **Building Control** – Fire Cert and disabled Access Cert required.

3.3.2. **HSE** – no objections.

3.4. Prescribed Bodies

3.4.1. **Irish Water** (15/07/20) stated that the proposed water connection and wastewater connection were feasible at present without infrastructure upgrades by IW. The developer would need to enter into a connection agreement with IW which shall comply with the required standards. 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.

3.5. Third Party Observations

Two objections received by the planning authority are on file for the Board's information. The issues raised are comparable to those set out in the 3rd Party appeal received and summarised in section 6 below. The principal concerns are as follows: -

- Out of character with existing development.
- Excessive height, scale and bulk of building and inappropriate design and materials. Incongruous and overbearing development.
- Issues regarding management and ownership of concern, particularly in view of absence of involvement of any formal organisation e.g. TUSLA.
- Residential amenity and overdevelopment of site, including concern regarding overlooking, overshadowing and lack of adequate bin storage facilities.
- Drawings incorrect. Accurate contiguous drawings required.
- Building could be changed to a B&B or guesthouse.

4.0 Planning History

4.1.1. None relating to the site of appeal.

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.

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.

The site is zoned Town Centre Facilities. Objective HSG-03-C is to 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.

At 3.10.2 it is stated that the local authority shall facilitate the development of all backland, infill, vacant and derelict sites in the town. Policy EC-12D is to encourage and promote Town Centre living by facilitating proposals such as living over the shop and redevelopment of brownfield sites.

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, Macgillycuddy 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 commercial property (Denis Murphy & Michael Moriarty) and the other appeal is from Denis & Joan Counihan, the owner of a townhouse directly opposite the site on Fleming's Lane. The submissions raise a range of different issues, with some overlap, and can be summarised as follows:

- **Out of context with scale and character of Flemings Lane** – the proposal by reason of its excessive height, scale, bulk and design would create an incongruous development that would be overbearing and would affect the amenities of adjacent properties. It would adversely affect the streetscape and be out of context with the homogenous development on the laneway.
- **Inadequate drawings** – the contiguous elevation (RFI) is insufficient to demonstrate the incongruous nature of the development and is obfuscatory, misleading and not representative of the context of the proposed

development. The submitted revised drawings have the same floor areas as the originally submitted drawings. There is an extra door shown on the front elevation on the revised plans.

- **Residential amenity** – the proposed development will overshadow and overlook properties which are adjacent and opposite the site.
- **Management and operation** – The model of development proposed is reliant on TUSLA support, but a change in circumstances of the applicant could derail the project. The P.A. cannot approve this model in the absence of documented official support from the HSE or TUSLA. If the applicant were to vacate the property, the building would remain as overdevelopment of the site and could be operated on a completely different basis. It could also be turned into a B&B or guesthouse.
- **Bin storage** – the area proposed for bin storage is under the half landing of the main stairs and is inadequate due to height restrictions and is a fire hazard. The drawings inaccurately reflect the size of the space as the door is shown as full height, but the space is reduced height.
- **Insufficient detail provided** – Inadequate information regarding the construction detailing is provided in the submitted plans.

6.2. Response from Planning Authority (05/11/20)

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 on the 20th November 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. **Circumstances of applicant** – further details have been provided regarding the nature of the application, the past history and character of the applicant and her involvement with similar projects to date. It is confirmed that she is an agent of TUSLA and that children are referred from TUSLA into her care. The central town location is considered to be ideal as many of the children attend training

classes in Tralee and need to be close to the train/bus stations. The master-bedroom on the ground floor, together with the small sitting room and separate guest bedroom are intended for the applicant's own use. The response is also accompanied by several letters of support from professionals in the field.

2. **Compliance with policy** – the proposed development complies with the policies and objectives of the Town Development Plan and the LAP which seek to encourage such development in the town centres and the revitalisation of the laneways.
3. **Residential amenity** – the proposed development will not result in overlooking of any private space of any property. The issues of overshadowing and overbearing must be viewed in the context of this urban location and the vacant use of the site, which is in need of development.
4. **Discrepancies in drawings** – it is confirmed that the floor area in the revised drawings was in error and that the correct floor area is 340m². It is also confirmed that the revised drawings include an additional doorway from the street to facilitate access to the bin storage area. The submitted drawings, including the Computer-generated 3D image are more than adequate to enable a full assessment of the design.
5. **Future changes to development** – any changes to the development in the future would be subject to planning permission if the use/development is outside of the terms of the permission granted in respect of the current proposal.
6. **Bin storage** – a section through the bin storage area is provided which demonstrates adequate head height.

7.0 Assessment

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

- Principle of development
- Design and layout of proposed building
- Residential amenity of adjoining properties

- Management and ownership
- Environmental Impact Assessment
- Appropriate Assessment

7.1. Principle of development

- 7.1.1. The site is situated within the heart of the town centre with access to 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. The site is zoned 'M2 – Town Centre/Built-Up Area' where the policy is to facilitate development that supports the primary land use of the surrounding built-up area. The P.A. will encourage the development of the laneways as part of the Laneway Revitalisation Programme and will facilitate the redevelopment of vacant and derelict sites in the town centre (12.27.4 as amended by Revision 28 of Variation 4). It is further stated that the P.A. will encourage the construction of well-designed high-density apartments or residential units subject to adequate provision of amenity space and refuse storage.
- 7.1.3. The proposed development, as revised, is for a three-storey residential building on a derelict and vacant Town Centre site which is located in the middle of the laneway. The floor area has been reduced from c.505m² to c.340m² and the height has been reduced from c.11.65m to c.8.9m. The plot ratio of the revised proposal is 1.89 with a site coverage of approx. 67%. It is considered that the proposed density of development is appropriate for a Town Centre site which has been a derelict and vacant site for many years. It would provide accommodation for homeless children in

a supervised environment with two additional one-bedroomed apartments on the top floor. The height of the revised proposal compares favourably with the height of the adjoining properties, although it is acknowledged that the proposed development has a flat roof, whereas the adjoining properties have pitched roofs. The properties in the immediate vicinity are generally residential dwellings with two floors of accommodation with some office and apartment development which extends to three floors. There appears to be a high occupancy rate and the residential character of the lane seems to be a well-established one.

- 7.1.4. It is considered, therefore, that the re-development of the site as a single block of 3 no. apartment units, one of which provides for supervised special needs accommodation, 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. Design and layout of proposed building

The site is an infill site with direct frontage to the laneway and shares one boundary with another residential property, which is a terraced 2-storey house, and another boundary with an office building. The rear boundary is with an industrial unit in use as a car repair garage. The proposed layout, as amended (19/08/20 and 22/10/20), would generally be similar to the established pattern of development in the lane. It is considered that the proposed infill development is generally consistent with the prevailing density, scale and pattern of development in the area.

- 7.2.1. 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 45m² and for 2-bed apartments (4 persons) is 73m². The proposed development (as revised 19/08/20) provides 2 no. 1-bed apartments at 54m² and 57.6m², and one 7-bed unit with supervised on-site accommodation, therapy facilities and living accommodation with a floor area of c.242.8m² over two floors.

- 7.2.2. These guidelines also changed the policy with regard to the mix of units in terms of one-bed apartments and studio apartments (1-bed, 37m² 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 2 units) comprises studio apartments. It is considered that it complies with the guidance on this issue.
- 7.2.3. 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 second-floor apartments would have balconies at the front, each with an area of 7.5m² and the shared unit would have an amenity space at ground floor level at the rear which would be approx. 12m². The revised proposals provided for a segregated refuse storage area within the site which would be accessed directly from the lane. A cross section of the bin storage area shows that it would have adequate head height.
- 7.2.4. The design of the proposed building is contemporary in approach with a flat roof and uses modern materials. Although the buildings on either side of the site and directly opposite are more traditional in approach, it is considered to be acceptable in principle to introduce a contemporary design, provided that the scale, massing and proportionality in the main elevations allow the building to be easily assimilated into the streetscape. In this case, it is considered that the flat roof facilitates the assimilation of the increased scale of the building into the streetscape, particularly as the second floor is partially recessed to allow for balconies on either side of the staircase. Given the narrow width of the lane and the generally continuous nature of the building line of the individual plots, it is considered that the adherence to the established front building line also helps the building to be absorbed into the streetscape. The 3-D images submitted with the response to the grounds of appeal illustrate how the proposed building would fit into the laneway.
- 7.2.5. The fenestration pattern differs from that of the neighbouring dwellings as the windows are more contemporary in shape and size. It is considered that in general, the use of more modern window openings is acceptable. However, there is a high-

level window at ground floor level and larger, patio style windows to the second-floor apartments on the front elevation. The high-level window is to the therapy room, and presumably this is to achieve a greater level of privacy. However, there are other ways of achieving this, and for the sake a more harmonious street elevation, it is considered that this should match the other ground floor windows in shape and size, but part or all of the glazing could be of opaque. The openings to the balconies are designed as patio doors which are considered necessary to enable adequate access to the balconies. It is noted that these will appear as windows, as the lower sections will be hidden behind the balcony screens. The provision of the steel poles would provide for screening and at the same time introduce a modern feature into the building and the streetscape.

- 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 is acceptable in terms of design and layout and would not result in overdevelopment of the site and would be assimilated into the streetscape. Should the Board be minded to grant permission, a condition requiring the high-level window to be replaced by a window of a similar size and shape of opening as the remainder of the ground floor windows, which may be fitted with obscure glazing, should be attached to any such permission.

7.3. Residential amenity

- 7.3.1. The third parties have raised concerns regarding overlooking. I noted from my site inspection that the character of the lane includes the presence of residential properties on either side which face each other directly in close proximity. Thus, the windows at ground and first floor levels face equivalent openings approx. 3 metres apart. The residents appear to have adapted to this close environment by the use of blinds, net curtains, plant pots etc. Although the shape and size of the proposed windows differs somewhat from the windows in the properties on either side of the site, there is considerable variety in shape and size of openings along the lane.
- 7.3.2. The fact that the site is currently vacant/derelict means that windows will be introduced directly opposite the house on the other side of the lane, where none previously existed. However, any loss of amenity must be balanced by the benefits

of the development of a derelict town-centre site and considered in the context of the existing character of the laneway, as described above. The patio doors at second floor level would introduce larger openings which could potentially lead to increased overlooking. However, these will be recessed and partially screened by the balcony screens and because of the narrow width of the lane, will result in an oblique angle of sight from a higher level, which is unlikely to give rise to any significant loss of privacy. However, the balcony screens should be of opaque glass to minimise any potential for overlooking. This matter could be addressed by means of a condition.

7.3.3. The appellants also raised concerns regarding overshadowing. The applicant has not provided a shadow analysis. However, it is considered that notwithstanding the close proximity to dwellings on the opposite side of the lane and to the orientation of the proposed building to the south of these residences, the proposed structure would be unlikely to result in any significant increase in overshadowing compared with the established pattern of development and character of the lane. Thus, the shadow likely to be cast by the proposed structure would be slightly greater for the houses directly opposite but similar to that at present for the remainder of the dwellings on the lane. Given the density and pattern of development on the laneway, and to the derelict nature of the existing site, the loss of amenity must be balanced against the benefits of development and the existing environment on the lane.

7.3.4. It is considered, therefore, that the residential amenities of the adjoining properties would not be unduly affected by the proposed development.

7.4. Management and ownership

7.4.1. The applicant has been providing similar accommodation (TUSLA approved) at a house in Lewis Road for the past 7 years and wishes to construct a purpose-built structure to accommodate up to 8 individual teenagers. The foster carer would also live permanently on the premises (GF) and the sheltered accommodation (ground and first floors) would operate as a 'family home'. The appellants have expressed concern that the accommodation would not be operated by or approved by the official organisations responsible for the provision of such care such as TUSLA. The response to the FI request by the P.A. and the response to the grounds of appeal contain supporting documentation which indicates that the applicant is highly regarded by such professional organisations including TUSLA.

7.4.2. The proposed development would provide for a specialised housing need together with two apartments, which would also address the housing need in the town centre. The accommodation should be restricted to the use as proposed in the submitted plans and documentation in the interests of residential amenity. It is considered that should the sheltered accommodation no longer be required for the purposes as set out in the planning application and appeal, any change of use to a more commercial form of accommodation, including a B&B, would require a fresh planning application. It is considered that should the Board be minded to grant planning permission, conditions to this effect should be attached to any such permission.

7.5. **Other matters**

7.5.1. **Inadequacy of submitted drawings** – It is noted that the revised drawings submitted with the FI on 19th August 2020 did not reflect all of the changes to the proposed development, particularly in respect of the floor areas. The first party, in its response to the grounds of appeal (20/11/20), has acknowledged this and stated that the correct floor area is now 340m². The additional door shown on the front elevation is to facilitate access to the internal bin storage area, which was also explained in the response to the grounds of appeal.

7.5.2. One of the appellants was dissatisfied with the nature and level of detail contained in the contiguous drawings, which were considered to be misleading. However, this was strongly refuted by the first party (20/11/20) who advised that a properly scaled contiguous elevation has been provided with the Further Information and that 3-D computer generated images have also been provided in response to the grounds of appeal, which clearly show how the proposed development would be successfully integrated into the laneway. It is considered that the information provided is adequate for a determination to be made by the Board on the proposed development.

7.6. **Environmental Impact Assessment**

7.6.1. Having regard to the nature and scale of the proposed development within the town centre 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.

7.7. **Appropriate Assessment**

- 7.7.1. 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 area in Killarney Town Centre, which is zoned 'Town Centre Facilities' in the Killarney Town Development Plan (2009-2015, as extended and varied), where it is the policy of the planning authority to promote town centre living 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 19th day of August 2020 and by the further plans and particulars received by An Bord Pleanála on the 20th day of November, 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 balcony screen for the apartments at first floor level shall be in the form of an opaque glass screen.
 - (b) The high-level window on the front elevation shall be replaced by a window of a similar size and shape to the proposed ground floor window but shall be fitted with opaque glazing.
 - (c) A 2-metre high boundary wall shall be constructed on the southern and south-western boundaries of the site.
 - (d) The floor plans, elevations and finished floor levels shall be accurately reflected in the submitted drawings in terms of the proposed amendments to the scheme.

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. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to sheltered accommodation for children (as specified in the lodged

documentation), unless otherwise authorised by a prior grant of planning permission.

Reason: In the interest of residential amenity.

4. The premises shall be occupied by not more than 7 residents and 1 staff at any one time. When the development is no longer required for use as a sheltered accommodation unit, its use shall revert to that of a single dwelling unit.

Reason: In the interest of residential amenity

5. No plant or equipment, including satellite dishes, shall be erected on external walls or roofs without a prior grant of planning permission.

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

6. 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.

7. 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.

8. 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.

9. 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.

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

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

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

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

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

matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

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

Mary Kennelly
Senior Planning Inspector

24th May, 2021