



An
Bord
Pleanála

Inspector's Report ABP 309477-21

Development	Construct Guest house accommodation and all associated site works
Location	Demesne, Ross Road, Killarney, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	20/667
Applicant	Pat & Jill Duggan
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellants	John King Joe Scally
Observers	None
Date of Site Inspection	9 th June 2021
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1.1. The site is located on Ross Road which is largely an established and mature residential road. Ross Road branches off Flesk Road/Muckcross Road and provides access to several small housing estates, the racecourse and the National Park, including Ross Castle and the associated demesne. The site is located on the northern side of Ross Road which is mainly characterised by detached houses on large plots which are generally screened from the road by high stone walls. The site is located between two such dwelling houses. There is a cul-de-sac residential development to the west of the site, known as 'Demesne', the entrance to which is separated from the site by two existing houses.
- 1.1.2. The site area is given as 0.253ha. The site is a large vacant plot with a centrally located gravel driveway leading to two large, detached houses at the northern end. There is a lawn on either side of the driveway which is bordered by a tall mature hedgerow that runs along the full length of the eastern and western boundaries of the site. There is a row of newly planted trees alongside the western boundary and a sub-station part-way along this boundary. The southern (front) boundary is defined by a high stone wall with a winged entrance/gateway but is not gated. The northern boundary is more open in character with a low-level stone wall defining the boundary with the house at the eastern end. The gravel driveway continues to the north-west where there is a further house and garage and

2.0 Proposed Development

- 2.1.1. The proposed development comprises a two-storey building with a stated floor area of 530sq.m which is to be used as a commercial guest house. The proposed accommodation would consist of 6 no. guest bedrooms (all ensuite) and 3 no. private bedrooms (also ensuite) and associated private living space. The guest bedrooms would be located at the southern end of the building with 3 rooms on each floor. The total floor area for the guest accommodation is given as 306m² and for the private residential element as 225m². The building is contemporary in design with a flat roof. The first floor is recessed at the northern end and at the southern end. The windows are primarily located on the southern and northern elevations with mainly ground

floor windows on the eastern and western elevations, apart from Guest bedroom 4 with one first floor window on the western elevation at the front.

- 2.1.2. The proposed structure is sited on the eastern side of the site. The footprint of the proposed building is long and narrow with a depth at ground floor level of c.41 metres and a width of c.11.3 metres. The first floor is recessed by approx. 8.5m at the front (south) and by approx. 12 metres at the rear. The recessed areas are shown as flat roofs, with an additional FF amenity area on the western elevation and they are to be covered with synthetic grass. The building envelope is set back from the roadside boundary by c.12 metres and from the rear boundary by c. 8.5m. The setback from the eastern side boundary is shown as 2.785m. The proposed layout includes 13 no. parking spaces (increased to 14 spaces by FI) which would be sited along the western side of the driveway.
- 2.1.3. Unsolicited Further Information was submitted on 11/09/20 which included some revisions to the submitted drawings, mainly relating to the parking and layout of the development and to the entrance. In addition, clarification was provided regarding matters raised by the third parties in relation to the registration of a guest house and drainage issues. Further information and clarification of FI was submitted during the course of the application, the content of which will be discussed below.

3.0 Planning Authority Decision

3.1. Decision

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

Condition 2: Special contribution of €2,500 in respect of cost of dropping footpath in front of the site to facilitate development.

Condition 3: Development contribution of €21,450.00.

Condition 4: Requirements to enter connection agreement with IW and no development to commence until connection agreement signed in respect of public water and public sewerage.

Condition 5: Materials and finishes to be agreed.

Condition 6: No overnight commercial guest accommodation in private residential element of proposed development.

Condition 7: Finished floor levels as submitted plans.

Condition 13: Implement Stage 1/2 Road Safety Audit

Condition 14: Stage 3 Road Safety Audit to be carried out at the completion of the proposed development with the recommendations to be acted upon.

Condition 15: Entrance to be constructed in accordance with Drg. No. D1176-A050-f dated 30/11/20 and received on 07/12/20. The new wing walls to be constructed in native stone to match the existing walls along Ross Road.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's initial report noted that the site is zoned existing residential and that a guest house would be an acceptable use in this zone. It was further noted that there are existing guest houses on Ross Road and that it is very close to the town centre. There was no objection to the inclusion of 3 private residential rooms and did not consider that this needed to be identified in the public notices. The contemporary design with a flat roof was considered to be appropriate. However, additional 3D images were considered necessary to indicate the relationship with adjoining properties. It was also considered that the proposed first floor balconies on the southern elevation should be omitted in the interests of the visual and residential amenities of the area.

3.2.2. It was requested that **further information** (16th September 2020) be provided in respect of the following

- Revised 3D images from Ross Road in an easterly and westerly direction.
- Revised drawings showing the FF balconies omitted.
- Clarification on details of the treatment of all surface water and shall include SUDS.
- Measures to address the recommendations of the Road Safety Audit.

- Details of residual turning bays and how it is proposed to address Universal Design across the site, disabled parking and pedestrian facilities.

3.2.3. The **Further Information Response (14th October 2020)** was considered to constitute significant additional information and republication was required. The re-advertisement took place on 30th October 2020. Further submissions were received from two third parties on the 10th and 12th November 2020. Submissions included separate letters from the third-party appellants.

The FI was considered to be satisfactory by the Area Planner. However, it was considered that the design of the proposed entrance was still unsatisfactory, and clarification was requested regarding the stopping distance for the design speed of Ross Road.

3.2.4. **Clarification** request sent **25/11/20** and a further submission in **response** was made on the **7th of December 2020**. The response included a revised site layout showing a new (relocated) entrance to the site which addressed the sight distances required. The FI (7/12/20) was considered to be significant and republication was required. One further submission was made by one of the third parties.

The Area Planner considered that the applicant had addressed all of the issues in the FI request and clarification request and was satisfied that the proposed development of a guest house at this location was appropriate. It was considered that the proposed relocation of the entrance would address the traffic hazard issues and that the proposal would not be visually obtrusive and that the issues regarding residential amenity had been satisfactorily addressed.

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

3.3. **Other Technical Reports**

3.3.1. **Municipal District Engineer's Report (16/09/20)** – It was requested that the applicant should provide a detailed report with detailed drawings to address the recommendations of the Road Safety audit (MHL 20/07/20). Furthermore, revised drawings were required to provide a Residual Turning Bay (in accordance with the Recommendations for Site Development Works for Housing Areas), as well as details of measures to provide for Universal Design across the site, proposed pedestrian crossing points and locations for disabled access.

3.3.2. **Biodiversity Officer (20/08/20)** – It was noted that the site is located close to but lies outside of the Killarney National Park, Macgillycuddy Reeks and Caragh river Catchment SAC. It was further noted that the site forms part of the grounds of an existing house, that the said grounds are disturbed and partially landscaped and as such, not impacts on the adjoining SAC/Killarney house were considered likely. Furthermore, as the lands are serviced and there are no works proposed to any trees or buildings that would be likely to support bat species (including foraging for Lesser Horseshoe Bat) would be impacted. The location of the site close to the town where public lighting and domestic lighting are established also means that no impacts on commuting bats would be anticipated. In conclusion, having regard to the scale, nature and location of the proposed development, no significant effects on the nearby SAC are considered likely.

3.3.3. **Fire Services (12/08/20)** – Fire Safety Certificate and disability Access Certificate required.

3.4. **Prescribed Bodies**

3.4.1. **Irish Water (27/08/20)** stated that no objection was raised in respect of the proposed development. 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.

3.5. **Third Party Observations**

Objections received (from the two third party appellants) by the planning authority are on file for the Board's information. The issues raised are comparable to those set out in the 3rd Party appeals received and summarised in section 6 below. The concerns raised related to the following issues

- Guest house contrary to residential zoning and established residential area.
- Excessive scale of building and inappropriate design and materials. Out of character with pattern and scale of development in area.

- Concern regarding overlooking and overshadowing. Inappropriate nature of south facing balconies and west facing amenity area.
- Failure to address recommendations in Road Safety Audit. Obstructed sight lines at entrance and lack of pedestrian connectivity on footpath on Ross Road. Parking inadequate.
- Lack of road drainage proposal.
- Concern regarding registration of guest houses. Errors in submitted drawings.

4.0 Planning History

06/204604 – planning permission granted for a detached dwelling house and garage and to retain and complete service road. This permission was granted an extension of duration until 24th July 2017.

17/483 – permission granted to make elevational changes to dwelling granted under 06/4604 and to increase overall height of dwelling to 7.0m and FFL to 300mm above FFL of existing house to west.

5.0 Policy Context

5.1. Kerry County Development Plan 2014

Chapter 5 Tourism and Recreation

5.16 – It is considered appropriate to maintain, improve and increase the provision of good quality accommodation in order to encourage longer term stays within the County. Managing the provision of tourist accommodation is essential to ensuring the delivery of a sustainable tourism strategy.

T-5 – Promote the sustainable development of tourist related infrastructure such as transport, access, appropriate facilities and high-quality tourist accommodation, in appropriate locations where proposals are in accordance with the provisions of this Plan.

T-70 – Ensure that where the development of facilities for commercial accommodation for tourists and visitors is proposed, that these facilities are

encouraged to locate within settlements. Such proposals will be required to be of an appropriate scale to the settlement in which it is to be located in order to retain the vibrancy and sustainability of the settlement when such accommodation is not occupied.

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.

Parking Standards for hotels/guest houses – Double bedroom or two single bedrooms – 1 space

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

Killarney Town Development Plan was extended by Variation 4, which was adopted in December 2018. The site is zoned as 'Existing Residential' (R2). The objective for Existing Residential Areas is to protect and improve these areas and to provide facilities and amenities incidental to those areas.

Chapter 7 – Tourism Development sets out the tourism strategy and policies for the area. Policy TOUR-01 includes the following objectives

- a. To support the implementation of the Regional Tourism Plan for the Southwest 2008-2010 with the aim of increasing visitor numbers, increasing spend per visitor, and reducing issues of seasonality.
- b. To promote the sustainable development and enhancement of Killarney and the Killarney-Tralee area, as major tourism and transport centres in the Southwest, focussing on Killarney's role as an important business,

accommodation and heritage centre with ready access to numerous activities and outdoors based amenities.

- c. To enhance and expand the tourism function of the Town to ensure it maintains its key role as an economic driver in the area while maintaining a balance between economic success and protection of the local environment.

Section 12.26 Infill development – requires that such schemes pay attention to the local character of the area in terms of blocks, plots and buildings. Infill development will be required to maintain established building lines, roof lines and proportions. Development will only be considered where it does not detract from the character of the area, will not be detrimental to the amenities of the area and will not be prejudicial to the proper planning and sustainable development of the area. However, contemporary infill developments will be considered on their own merits.

Section 12.64 Commercial Guesthouses - states that commercial guest houses will normally be allowed in residentially zoned areas subject to the proviso that the residential amenities of existing properties are preserved and improved. Such accommodation shall be provided with amenity open space exclusive of car parking spaces. One space per guest bedroom shall be provided and one space for private use.

5.3. **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 local residents. The submissions can be summarised as follows:

- **Zoning** – the site is zoned Existing Residential, and it is inappropriate to allow a guest house in an established residential area, in view of the potential

negative impacts in terms of noise, disturbance, traffic, hours of operation and servicing. It would be more appropriate to develop this site for non-tourism residential development given the need for housing as identified in the Core Strategy. Section 12.64 of the Killarney Town Development Plan states that where guest houses are proposed in residential areas, the amenities of existing houses should be preserved and improved. This is not the case here.

- **Design and scale of building** – the proposed building is out of character with the pattern, design and scale of development in the vicinity. It will be a discordant feature in the landscape.
- **Access and parking** – The parking arrangement is overcrowded and does not allow for traffic to move safely through the site. The RSA recommendations still have not been met. The sightlines to the west are inadequate and the turning heads are unorthodox. The application should therefore be refused. The development does not take account of the need to provide for the needs of people with disabilities in the design.
- **Surface water and foul drainage** – adequate details have not been provided of the surface water drainage proposals which must comply with SUDS. It is not clear whether a pre-connection enquiry has been made to Irish Water.
- **Registration of Guest House** – Bord Failte requires all guest houses to be registered but there is no indication that this has happened. It is considered that it would not fulfil the very specific requirements of Bord Failte for registration.
- **Overall design** – it represents an over intensification of use. There are no details of bin storage. The proposed balconies will be visible from Ross Road and will have a detrimental effect on the residential amenities of the area. The design of the flat roof structure is completely out of character with the development on the road and could establish an unwanted precedent for similar features along the road. It would be overbearing and cause overshadowing and would seriously devalue the adjoining properties.
- **Right of access** – Joe Scally (9 Demesne, which is the property to the north-west of the site) claims that the proposed development impinges on his right to access and egress his property. The wayleave over the subject site to his

property is not shown on the submitted plans. This matter has been the subject of court proceedings between the parties. The proposed development would alter the location of the entrance which would be contrary to the Court Order and would also provide for a pedestrian crossing across the line of the wayleave. In addition, there are 13 proposed parking spaces which would impinge on his wayleave and have the potential to create a traffic hazard.

- **Insufficient interest** – the applicants do not have sufficient interest in the lands on which the ancillary facilities are located – entrance, access road, parking, pedestrian crossing and turning circles – which are necessary for the operation of the guest house. No approval for these facilities has been granted by the appellant.

6.2. Response from first party

The first party responded to the grounds of appeal on the 16th of March 2021. The submission from the applicant's agent includes a letter from the applicant setting out the background to the legal dispute over the right-of-way. It would appear that the right-of-way by the appellant (J. Scally) over part of the site has been the subject of a court order, but it is claimed that the proposed development does not impinge on this right-of-way. It is emphasised that this matter is a civil one and that the onus is on the developer to ensure that he has sufficient interest to carry out the development in accordance with Section 34(13) of the P&D Act 2000 (as amended).

The response primarily refutes all of the grounds of appeal. It is submitted that the site is suitable for a guest house and for a contemporary design due to its location and size, and there is nothing in the development plan which prevents such a use in a residential area. It is refuted that the proposal has not addressed all of the matters outlined in the Road Safety Audit and that there are any outstanding issues that would give rise to a traffic hazard. It is pointed out that the balconies were removed, and it is reiterated that the proposed flat roofs will not be used as amenity space. The response concludes that there would be no loss of amenity to the adjoining properties and that the design of the building is entirely suitable for this site.

6.3. Planning Authority Response

The P.A. responded to the grounds of appeal on the 10th of March 2021. The points made may be summarised as follows:

1. The issues raised in the grounds of appeal were raised by the appellants during the course of the application and have been fully addressed in the planner's reports.
2. In relation to the appeal received from Joe Scally, it is stated that the planning authority will not adjudicate on legal issues around a right-of-way that may be an issue between the parties.

7.0 Assessment

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

- Principle of development
- Appropriateness of design and layout
- Residential amenity of adjoining properties
- Traffic, access and parking
- Environmental Impact Assessment
- Appropriate Assessment

7.1. Principle of development

- 7.1.1. The site is located in an established residential area and is within walking distance of the town centre and the wide range of facilities on offer there. The site is zoned in the Killarney Town Development Plan as 'Established Residential', which permits the development of guesthouses. There are a range of policies in the County Development Plan (T5, T70) and in the Killarney Town Development Plan (TOUR-01) which are supportive of promoting sustainable development of tourist related infrastructure, including the provision of high-quality accommodation, which should be located within settlements with ready access to activities and amenities.
- 7.1.2. There are a number of guest houses along Ross Road and on nearby Muckross Road. These facilities are located with easy walking distance of several tourist

attractions as well as the amenities provided in the town Centre and in the nearby National Park. It is considered that the general location is ideally suited to the provision of tourist accommodation in terms of sustainable development. The KTDP (12.64) makes provision for guest houses in residential areas provided that the residential amenities of neighbouring houses are protected. Given that the site is a substantial infill site with road frontage, it is considered that the provision of a guesthouse at this location is acceptable in principle subject to compliance with normal planning criteria.

7.2. Appropriateness of design and layout

- 7.2.1. The proposed development represents infill development in an established and mature residential area. Kerry County Development Plan is supportive of infill development provided that it respects the character and amenities of neighbouring development. Killarney TDP (12.26) requires that such schemes pay attention to the local character of the area and maintains established building lines, roof lines and proportions. Development will only be considered where it does not detract from the character of the area, will not be detrimental to the amenities of the area and will not be prejudicial to the proper planning and sustainable development of the area. However, contemporary infill developments will be considered on their own merits.
- 7.2.2. The site is an unusually large infill site (stated area of 2,530m²) with a regular shape and generous road frontage along Ross Road. The pattern of development in the immediate vicinity is characterised by large (and often substantial) detached dwellings on generously sized plots with mature landscaping. The design of the dwellings in the surrounding plots varies considerably from small bungalows and dormer bungalows to substantial 2-storey houses with large footprints. The site is bounded on three sides by either a tall masonry wall or tall mature laurel hedges. As such, it is considered that there is considerable scope for a building of the scale proposed (530m²) to be accommodated on this site without detracting from the character of the area.
- 7.2.3. The layout of the proposed development is constrained by the route of a right-of-way which travels through the centre of the site. Thus, despite the c.40m width of the site, the proposed building is located alongside the eastern boundary with an elongated footprint (c.41m x c.11.3m). However, the scale, mass and bulk of the building is

minimised by the provision of most of the accommodation at ground floor level with the footprint of the first floor being c.20m x 11.3m. The large, recessed areas to the north and south comprise flat roof areas which are to have green roofs. Due to the robust and substantial screening along the roadside and side boundaries, the scale of the building will be largely hidden from outside the site. The scale will be more obvious when viewed from the north and from the driveway/right-of way. However, it is indicated that the house to the north-east is owned by the applicant. The house to the north-west is owned by one of the appellant's who has a right-of-way through the appeal site. However, the views from this property are at an oblique angle and at a considerable distance from the proposed building and would not be visually obtrusive. It is considered, therefore that the design and layout optimises the development potential of the site in view of the restrictions imposed by the route of the right-of way and the benefits provided by the large size and availability of robust screening.

- 7.2.4. The design is contemporary with its flat roofs and use of materials, which consist of natural stone, synthetic burned timber cladding and polished concrete as well as the use of dark timber poles for additional privacy screening. The windows are largely confined to the northern and southern elevations and the previously proposed balconies have been omitted. It is considered that the clean lines and flat roofs, combined with the proposed materials, would make a positive contribution to the architectural character of the area. The visibility of the building from Ross Road would largely be confined to the upper floor which would be set back from the roadside boundary and screened by means of the stone wall and trees along this boundary.
- 7.2.5. It is considered, therefore, that the proposed building, in terms of its scale, bulk, mass, height, design and siting, would be readily absorbed into the existing built form within the overall site and on adjoining lands. It is further considered that the proposal would not result in overdevelopment of the site or in a visually obtrusive element in the streetscape and would not injure the visual amenities of the area.

7.3. Residential amenity

- 7.3.1. One of the appellants (Mr. Scally) resides in the house to the north-west and it is not clear from the submissions which property is that of the other appellant (Mr. King).

Each of the appellants has raised the issue of impact on residential amenity in terms of overlooking, overshadowing and noise and disturbance arising from the use as a guest house. The applicant has pointed out that there have been no objections from the residents on either side of the site. However, it is considered that the siting and design of the proposed building, as revised, would not result in any significant degree of overlooking. This is due to the fact that there are no windows on the upper floor of the eastern elevation, which is the closest one to an adjoining residence. The western elevation has one window which would overlook the POS and car parking area, but it is sited well over the 22m recommended limit from the house to the west, which is a single-storey bungalow and is very effectively screened by the mature hedging and trees along this boundary. The windows on the northern elevation would face the applicant's own dwelling and would be at an oblique angle and a considerable distance from the appellant's dwelling.

- 7.3.2. The windows on the southern elevation at first floor level face Ross Road which is recessed approx. 10m behind the front building line, which in turn is also set back from the roadside boundary. The proposed development has been revised to omit the balconies that had been proposed on this elevation and a screening wall has been proposed within the flat roof to prevent any further overlooking. The flat roof is not intended to be used as a garden/amenity area. There is however a proposed amenity area on the western elevation which is above the site of the proposed bin/bike store. I would accept that this area could result in overlooking and loss of privacy to adjoining residents and should be omitted. This can be addressed by condition should the Board be minded to grant permission.
- 7.3.3. The siting and design of the proposed building would not give rise to any overshadowing of the adjoining properties due to the relative orientation, setback at first floor level and distances from existing properties, together with the height of the screening along the site boundaries. The proposed use as a guest house is unlikely to result in any significant level of disturbance to neighbouring residents due to the secluded nature and size of the appeal site. It is considered, therefore, that the residential amenities of adjoining properties would not be unduly affected by the proposed development.

7.4. Traffic Access and Parking

- 7.4.1. The application was accompanied by a Road Safety Audit but not all of the recommendations were incorporated into the design and layout of the development. These matters were subsequently addressed in unsolicited further information on 11th September 2020 and in response to a request for Further Information on 14th October 2020. The initial proposal (27th July 2020) showed the proposed entrance at the westernmost point of the road frontage with the driveway sweeping off to the northeast and travelling in a curved fashion through the centre of the site towards the north-west corner (in line with the right-of-way). The RSA identified the lack of an adequate visibility envelope as the recommended sight stopping distances of 45m in either direction could not be met. The entrance was revised in the subsequent submissions, but the planning authority remained dissatisfied until a new entrance was proposed in the final submission of 7th December 2020.
- 7.4.2. The revised proposal involved relocating the entrance further to the east, removing the wing walls and constructing new wing walls to provide for adequate sight lines. In addition, the new entrance addressed other matters identified in the RSA such as provision of a 2m path for pedestrians from the entrance to the proposed building, provision of road markings, and a drainage channel at the entrance. A dished footpath will also be provided to provide continuity for pedestrians. Within the site provision has been made for pedestrians by means of footpaths and a pedestrian crossing and two disabled parking spaces have been provided. It is considered, therefore, that the issue of adequate sightlines and the other matters raised in the RSA have now been addressed and, if implemented, would not be likely to give rise to a traffic hazard.
- 7.4.3. One of the appellants (Mr. Scally) considers that the relocated entrance will impinge on his right-of-way which is required to be at a certain location by court order. The planning authority declined to become involved in a dispute between third parties on a legal matter such as this. I would concur with this approach on the basis that a party shall not be entitled to carry out development solely on the basis of a grant of planning permission in accordance with Section 34(13) of the Planning and Development Act 2000 (as amended). Thus, the onus is on the applicants to ensure that they have sufficient legal interest to implement the development as proposed

and if this turns out not to be the case, the applicant will have to apply for a fresh planning permission.

- 7.4.4. It is noted that the proposed layout includes provision for 13 parking spaces including 2 disabled bays. This results in a row of parking along the majority of the western boundary. It is noted however that the development plan requires one space per guest bedroom (of which it is proposed to provide 6). The proposal includes 9 bedrooms in total, of which 3 are designated as residential. There is no justification, therefore, for the provision of 13 off-street parking spaces, which results in a poor-quality layout at the north-western end of the site. It is considered that a maximum of 9 spaces (including 2 disabled bays) should be provided, which should be located to the south of the pedestrian crossing. This would provide adequate space for visitors, residents and staff on site. Should the Board be minded to grant permission, a condition requiring a revised layout to this effect should be attached to any such permission.

7.5. Other matters

- 7.5.1. **Impingement of right-of-way** – In addition to the issue of the relocation and redesign of the entrance, Mr Scally considered that the proposed development and layout would impinge on his right-of-way by reason of traffic safety. The applicant has pointed out that notwithstanding Mr. Scally's right to utilise the right-of-way through the site, his property also has the benefit of access directly from the cul-de-sac serving Demesne housing estate to the west. It is considered that the applicant has gone to considerable lengths to accommodate Mr. Scally's right-of-way and to ensure that appropriate measures would be taken to ensure the safety of vehicles and pedestrians using both the site and the right-of-way. The civil matters relating to the use of the right-of-way and associated entitlements are considered to be outside the scope of the application/appeal. Notwithstanding this, it is considered that subject to the implementation of the road safety measures contained in the revised proposal together with the suggested revisions to the parking area discussed in 7.4 above, it is unlikely that the proposed development would result in a traffic hazard to the users of the right-of-way.
- 7.5.2. **Drainage and water** – these matters have been addressed by the applicant and by the planning authority in the submitted document, drawings and reports. Any

outstanding matters can be addressed by way of condition should the Board be minded to grant permission.

- 7.5.3. **Registration of guest house** – this is not a planning matter and is outside the scope of this application and appeal.

7.6. **Environmental Impact Assessment**

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

7.7. **Appropriate Assessment**

- 7.7.1. The site is located within 30m of Killarney National Park, Macgillycuddy Reeks and Caragh River Catchment SAC (site code 000365) and within approx. 250m of Killarney National Park SPA (Site code 004038). The site is an infill site which is fully serviced and lies within the grounds of an existing house and has previously been disturbed. The site has an open character and does not contain any mature trees or old buildings that would be suitable habitat for bats. It is located within an established urban residential area which is frequented by traffic and is served by street lighting. 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 policy objectives to encourage the provision of high-quality tourist accommodation 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 11th day of September 2020, the 14th day of October 2020 and on the 7th day of December 2020 and by the further plans and particulars received by An Bord Pleanála on the 16th day of March 2021, 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 amenity area on the flat roof on the western elevation shall be omitted and access to the flat roof shall be restricted to maintenance purposes only.
 - (b) The number of parking bays shall be reduced to a maximum of 9 spaces including 2 no. disabled bays and the parking layout shall be revised such that the parking bays are located to the south of the pedestrian crossing. The area to the north of the pedestrian crossing and to the west of the driveway shall be landscaped.

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 proposed wing walls shall consist of natural local stone, the exact height and location of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. Prior to the commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water. The building shall not 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 room in the proposed residential element of the guest house 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. 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.

9. 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.

10. The landscaping scheme as submitted to the Planning Authority on the 27th day of July 2020, shall be carried out within the first planting season following substantial completion of external construction works.
All planting shall be adequately protected from damage until established.
Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development or until the development is taken in charge by the local authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interests of residential and visual amenity.

11. The internal road network serving the proposed development including turning bays, junctions, parking areas, footpaths and kerbs shall comply with the detailed standards of the planning authority for such road works.
Reason: In the interests of amenity and of traffic and pedestrian safety.
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. 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.

15. 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.

16. The developer shall pay the sum of € 2,500 (two thousand five hundred 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 the cost of dropping the public footpath to facilitate this 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.

Mary Kennelly
Senior Planning Inspector

13th June, 2021