



An
Bord
Pleanála

Inspector's Report ABP-314136-22.

Development	Permission to demolish building and construct a new building containing a medical health centre, shop/retail and offices.
Location	Main street, Cahersiveen, Co Kerry.
Planning Authority	Kerry County Council.
Planning Authority Reg. Ref.	21/1118.
Applicant(s)	CARAF Property Development Ltd.
Type of Application	Permission.
Planning Authority Decision	Grant.
Type of Appeal	Third Party
Appellant(s)	Jimmy Sugrue
Observer(s)	None
Date of Site Inspection	23/09/2022.
Inspector	A. Considine.

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1.0 Site Location and Description

- 1.1. The site is located to the north of Main Street, Cahersiveen, Co. Kerry. The site currently comprises two buildings which front onto Main Street, both of which are three storeys in height, but of differing heights and scales. The buildings occupy a mid-terrace location, and the site extends towards the north with frontages onto the large public car park in the town centre. Both units appear to be currently unoccupied. A third building which comprises part of the subject appeal site is located in the eastern area of the public car park and the overall site area is stated to be 0.88ha.
- 1.2. The site lies within the Architectural Conservation Area associated with the town of Cahersiveen and the adjacent buildings to the east are noted to be protected structures. The buildings include pitched roofs onto Main Street and notable chimney stacks. At first floor level on the more eastern building, there are projecting Oriel windows at first floor level and both buildings include traditional forms, scale and detailing. The existing windows are not original and both buildings include traditional style shopfronts.
- 1.3. The rear of the site extends to a land which lies adjacent to the large public car park. The third building which comprises part of the appeal site is an almost flat roofed two storey structure which is finished in stone and appears to be used as a storage space. The rear of the buildings fronting onto Main Street rise to two storeys and are also finished in stone. There is a railing around the top of the building which suggests that there is a roof garden. The eastern elevation of the building has an unkempt look and fronts onto a rear access to the properties to the east of the subject site.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices, to
 - (1) Demolish old building containing shop, supermarket, stores and private accommodation,

(2) construct a new building containing health and medical centre, shop/retail unit and offices all with associated site development works, all at Main Street, Cahersiveen, Co. Kerry.

2.1. The application included a number of supporting documents including as follows:

- Plans, particulars and completed planning application form.
- Cover letter which sets out car parking details and advises that there is a balance of 13 spaces to be provided for via a levy.

2.2. In terms of the proposed development, the initial proposals did not clearly provide for the proposed use at second floor level, with the plans identifying 'office/restaurant' uses. Restaurant use was not specified in the public notices.

2.3. Following the request for further information, the applicant submitted proposals to address the issues raised by the PAs request. The submission notes that discussions were had with the Conservation Officer and the proposed restaurant use at second floor level has been omitted. The floor area of the second floor was also reduced, reducing the car parking requirement by 17 spaces.

2.3.1. The response to the FI request was deemed significant and revised public notices were provided.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority, following the submission of the response to the FI request, decided to grant planning permission for the proposed development subject to 10 conditions.

3.1.1. Planning Reports

Planning Officers Report:

The initial Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, third party

submission and the provisions of the relevant plan policies and objectives. The report also includes a section on EIA and AA.

The Planning Report raises concerns regarding the proposed use at second floor level and the potential impact on existing residential amenity. The negative report from the Conservation Officer and An Taisce are also considered with the report concluding that further information is required, recommending the input of a qualified conservation architect.

Following the submission of the response to the FI request, the planning officers report noted the proposal to retain the entire front façade, minimising the potential negative impact on the ACA and streetscape as well as the internal technical reports in relation to same. In terms of the third-party submission, it is considered, by virtue of the town centre location and the established use of the premises, that the development is in accordance with the proper planning and development of the town. The final report concludes that proposed development is acceptable and recommends that permission be granted for the proposed development, subject to 10 conditions. The SEE and SP noted and endorsed the planning officers report.

This Planning Report formed the basis of the Planning Authority's decision to grant planning permission.

3.1.2. **Other Technical Reports**

Archaeologist Report: The site is located adjacent to the zone of notification around the recorded monument Ke097-142 listed as a church. It is submitted that there is sufficient distance between the church and the proposed development. No mitigation required.

National Road Design Office: No observations to make. The application should be referred to the relevant Municipal District Roads Engineer for a response.

Fire Officer: No objection subject to the applicant being advised regarding Building Control Regulations and the need to obtain a Fire Safety Certificate and Disability Access Certificate.

Conservation Officer: The report notes the detail of the application, including features of the existing buildings. Local and national policy with regard to Architectural Heritage and Conservation are noted.

In terms of the proposed development, the Conservation Officer considers the material effect the proposed demolition may have on the ACA and concludes that there would be a material effect in terms of proportioning, roofscape, elevational detailing, plot pattern and will interrupt the architectural rhythm of the street. The special interest of the ACA would be diminished and there is no evidence that the extent of the potential impact has been minimised and the incorporation of the structure into the new development has not been satisfactorily addressed.

The report raises serious concerns regarding the proposed development, by itself and by precedent and it is recommended that permission be refused.

Following the submission of the response to the FI request, the Conservation Officer notes that the application has been revised to incorporate the retention of the existing buildings as part of the overall design. Conditions are recommended in the event of a grant of permission.

3.1.3. **Prescribed Bodies**

HSE: Report advises that the development must comply with Regulation SI 369 of 2006 EC (Hygiene of Foodstuffs) Regulations 2006 and Regulation (EC) No 852/2004 of the European Parliament and the Council of 29th April 2004 on the hygiene of foodstuffs and Regulation (EC) No 853/2004 if applicable.

An Taisce: The report submits that it should be a general policy to maintain and restore buildings in an Architectural Conservation Area with appropriate rear extension. One of the buildings has an interesting social history and has projecting bay windows to the first floor of the property, now

with poor quality modern glazing. Most buildings with similar windows have previously been listed as protected structures.

It is recommended that a revised application be sought to accommodate the proposed uses and retain the street front buildings.

Irish Water: No objection but advises that existing connections will need to be checked that they are adequately sized for the new development.

TII: Requires that the PA abide by official policy in relation to development on/affecting national roads. The Authority refers to official policy including chapter 3 of the DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (January 2012) in particular.

Following receipt of the response to the FI request, a further letter advised that the position of the Authority remains as set out in the letter of 28th April 2022.

3.1.4. **Third Party Submissions**

There was 1 third party submission noted in terms of the initial planning application submitted. The issues raised are summarised as follows:

- It is submitted that the proposed primary care centre is something that would be of immense value to the community of South Kerry.
- Ease of access should be given the highest priority and it is noted that parking to the front is limited, with no parking directly outside the premises. With the large car park to the rear of the site, the rear entrance to the medical centre should be always accessible while open.
- The rear entrance to the retail premises should not be the main route access to the medical centre.

Following the submission of the response to the FI request, a further objection is noted on the PAs files. This objection is submitted from the adjoining property owner to the east of the subject site. The submission is summarised as follows:

- The design, scale and bulk in close proximity to the protected structure would materially and detrimentally affect the setting of the PS and would diminish light into the building, contrary to policies and objectives of the 2015 CDP.
- Impact on the residential amenity of the property due to height, bulk and overbearing design.
- The development is contrary to objective SC-42 of the 2015 CDP which refers to applications for change of use from residential to health care facilities / surgeries.
- Roads, traffic and parking impacts associated with the development.

It is requested that the development be refused permission.

4.0 **Planning History**

No relevant history associated with this site.

5.0 **Policy and Context**

5.1. **Architectural Heritage Protection Guidelines for Planning Authorities (Department of Arts, Heritage and the Gaeltacht 2011).**

5.1.1. The proposed development involves works to a protected structure and as such, 'Architectural Heritage Protection, Guidelines for Planning Authorities' are considered relevant. These guidelines are issued under Section 28 and Section 52 of the Planning and Development Act 2000. Under Section 52(1), the Minister is obliged to issue guidelines to planning authorities concerning development objectives:

- a) for protecting structures, or parts of structures, which are of special architectural, historical, archaeological, artistic, cultural, scientific, social, or technical interest, and
- b) for preserving the character of architectural conservation areas.

5.1.2. The guidelines provide guidance in respect of the criteria and other considerations to be taken into account in the assessment of proposals affecting protected structures. The guidelines seek to encourage the sympathetic maintenance, adaption and re-use of buildings of architectural heritage.

5.1.3. Chapter 13 deals with Curtilage and Attendant Grounds and Section 13.5 relates to Development within the Curtilage of a Protected Structure and Section 13.8 of the Guidelines relate to Other Development Affecting the Setting of a Protected Structure or an Architectural Conservation Area. The following sections are considered relevant:

- Section 13.8.1
- Section 13.8.2
- Section 13.8.3

5.2. Kerry County Development Plan 2022-2028

5.2.1. The Board will note that the subject application was considered under the West Iveragh Local Area Plan 2019 – 2025 and the previous Kerry County Development Plan 2015 - 2021. In the interim, the Board will note that the Elected Members of Kerry County Council adopted the Kerry County Development Plan 2022-2028 at a full Council Meeting on the 4th of July 2022. The Plan came into effect on the 15th of August 2022 and incorporates the Planning and Development (Kerry County Development Plan 2022-2028) Direction 2022, dated 5th December 2022. Therefore, the 2022 CDP is the relevant policy document pertaining to the subject site. The West Iveragh Local Area Plan 2019 – 2025, and other LAPS, are to be reviewed within 12 months of the adoption of the 2022 CDP.

5.2.2. Cahersiveen is identified as a regional town which is described as ‘economically vibrant and vary in terms of scale of retail provision and size of catchment.’ The site lies within the Cahersiveen ACA, and adjacent to protected structures and as such, the following policy objectives are considered relevant:

KCDP 8-44: Ensure developments in an ACA have a positive impact on the intrinsic character of the area, respect the existing streetscape and layout, and are compatible in terms of design, materials, traffic, views, and intensity of site use.

KCDP 8-45: Resist demolition in an ACA and avoid the removal of structures and distinctive elements including boundary detailing, historic street furniture, cobblestones, flagstones, post boxes, water pumps and ensure new elements are respectful of the character of the historic ACA environment.

5.3. West Iveragh Local Area Plan 2019 – 2025

5.3.1. Section 3 of the LAP deals with settlements within the area and Part A notes that ‘The strategy for the West Iveragh LAP is dependent on the growth of Cahersiveen as the regional town and to a lesser extent on the district town of Waterville.’ The following objectives are particularly relevant to Cahersiveen:

Objective WI-RT-01: It is an objective of the council to ensure that Cahersiveen, as a regional town, is a driver of county and regional prosperity by harnessing its strategic location and position on the Ring of Kerry; its strong urban structure, existing tourism, retail, service and accommodation base; and other competitive advantages.

Objective WI-RT-02: It is an objective of the council to promote a vibrant, culturally-rich and revitalised town centre with enhanced social inclusion, sustainable neighbourhoods and a high level of environmental quality to ensure an excellent quality of life for all.

5.3.2. Section 3, Part B deals specifically with Cahersiveen, and the site is located within the Town Centre on lands zoned M1 – Mixed Use, General Development, Opportunity Site. Medical services, retail and office uses are all permitted in principle on such zoned lands.

- 5.3.3. The subject site is also located within Cahersiveen's Architectural Conservation area which is described as retaining 'many of its historic fabric, including ruled and lined rendered finish, double height oriel windows, a neo-classical courthouse, timber sliding sash windows and cast-iron rainwater goods. The variety of building form and architectural styles, along with traditional decorative plasterwork are core elements of the area's special character. The use of colour to emphasize architectural features and individual plots is also a distinctive feature of the town. Traditional shopfront glazing and signage should be retained where it remains.'
- 5.3.4. While the subject site is not identified as a protected structure, the two properties immediately to the east of the site are.

5.4. Natural Heritage Designations

- 5.4.1. The site is not located within any designated site. The closest Natura 2000 site is the Iveragh Peninsula SPA (Site Code: 004154) which is located approximately 800m to the north west of the site. The Valencia Harbour/Portmagee Channel SAC (Site Code: 002262) lies approximately 1.9km to the west of the site. The Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (Site Code: 000365) lies approximately 3.5km to the north east of the site. The Ballinskelligs Bay and Inny Estuary SAC (Site Code: 000335) lies approximately 10.1km to the south of the site.

5.5. EIA Screening

- 5.5.1. The application was submitted to the Board after the 1st September 2018 and therefore after the commencement of the European Union (Planning and Development) (Environmental Impact Assessment) Regulations 2018.
- 5.5.2. Item (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:
- Construction of more than 500 dwelling units

- Urban development which would involve an area greater than 2ha in the case of a business district, 10ha in the case of other parts of a built-up area and 20ha elsewhere.

(In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

5.5.3. The proposed development seeks to demolish an existing building on Main Street Cahersiveen, Co. Kerry and construct a 3-storey over part lower ground floor level, building which will include retail, medical and office uses on a site of 0.088ha. The site is located on zoned lands on Main Street within the town centre of Cahersiveen and within the ‘business district’. As such, I am satisfied that the site area is substantially below the 2ha threshold for ‘business district’. It is therefore considered that the development does not fall within the above classes of development and does not require mandatory EIA.

5.5.4. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

5.5.5. Having regard to:

- (a) the nature and scale of the development,
- (b) the location of the site within the development boundaries of Tralee,
- (c) the location of the development outside of any sensitive location specified in article 109(3) of the Planning and Development Regulations 2001 (as amended),

It is concluded 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.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. This is a third-party appeal, submitted by Andrew Hersey Planning on behalf of his client Mr. Jimmy Sugrue, against the decision of the Planning Authority to grant planning permission for the proposed development. The grounds of appeal are summarised as follows:

- Issues in terms of the principle of the development and the loss of retail floorspace. Main Street is identified as the retail core area and the West Iveragh LAP states that 'it is imperative that the vitality and viability of this area is protected.' The proposed development contravenes the plan objectives.
- The principle of the proposed use as a medical facility at the subject location is also questioned, with particular reference to car parking requirements, traffic and access.
- The first and second floors of the adjacent property were in residential use and the proposal will have serious and detrimental impact on the adjacent, and other properties by reason of overlooking and overshadowing.
- There will be 22 windows over three floors facing the appellants property including windows and private balcony. Whether the proposed obscure glazing will prevent overlooking or not is not clear.
- The proposed 3 storey return, with a height of 10m will block westerly and south westerly sunlight and will cast shadow over the rear of the appellants

property for much of the day from noon. This matter, although raised at FI stage, was not addressed by the applicant.

- The appeal references precedents where the Board has refused permission for extensions to buildings at upper levels due to the impact on adjacent residential amenity. The current proposal will rise 5m above the height of the existing building on the site.
- The development is located in an ACA and it is submitted –
 - That the plot ratio of 1.98 is excessive and does not respect the pattern of development or character of the area.
 - The development does not respect the scale, character and pattern of the existing built fabric of the area and represents overdevelopment.
 - The development is not of sufficient architectural standard to comply with LAP policy CH-ACA-04.
 - While there is merit in retaining the front elevation of the existing building, no method statements or structural reports have been submitted.
 - Issues with the three-storey rear return design. The PA should have strived for a higher standard of design at this important urban location.
 - The site lies within the setting of protected structure.

It is requested that permission be refused on the grounds that the design of the building fails to integrate with the context of the site, fails to protect the visual setting of the adjacent protected structure and would generally detract from the visual amenities of the area which is designated as an ACA.

6.2. Planning Authority Response

None.

6.3. First Party Response to Third Party Appeal

6.3.1. The first party submitted a response to the third-party appeal via Frank Curran Consulting Engineers Ltd. The response is summarised as follows:

- The issue of non-compliance with SC-42 refers to residential areas only and not town centres. The proposed development complies with a number of objectives of the Plan.
- With regard to the ACA, it is submitted that the Conservation Office was satisfied with the amended proposals. A Method Statement and design will be provided to show the retention of the front elevation, will be forwarded to the PA and CO prior to any construction works and will be designed by a qualified structural engineer.
- The proposed development will remove a building which is in extremely poor condition and will improve the streetscape. The proposed use will increase footfall in the town centre.
- Existing retail developments in the town – Aldi referred to – is more than adequate to meet the retail needs of the town.
- The site is deemed suitable to the Health Board for a medical centre and there is adequate parking available.
- The previous owners of the building had a garden/yard at first floor level which overlooked all adjoining properties. The proposed development will remove this and the obscured windows proposed will mean that there will be no overlooking onto adjoining properties.
- Town centre developments normally have an element of overlooking and overshadowing. While the removal of overlooking will lead to an element of overshadowing, it is considered that the existing buildings overshadow each other. The height of the building and overshadowing has been exaggerated in the appeal.

- The proposed development complies with all relevant policies and objectives in the Plan, including the zoning objective for the site.

The response submits that the benefits of the proposed development significantly outweigh the minor issue of overshadowing, which will always be an issue with town centre development. the development will bring benefits to Cahersiveen and South Kerry.

6.4. Observations

No valid observation was received within the appropriate period.

7.0 Planning Assessment

7.1. Introduction

7.1.1. Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the development the subject of this application and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Impacts to Character of Protected Structure
3. Residential Amenity Issues
4. Other Issues
5. Appropriate Assessment

7.2. Principle of the Development:

7.2.1. The proposed development comprises the demolition of the existing 2 buildings on the site and the construction of a new building containing a medical health centre,

shop/retail and offices, at Main Street, Cahersiveen, Co. Kerry. Following a request for further information, the applicant amended the proposal to provide for the retention of the existing front elevation.

- 7.2.2. The subject site lies within the Architectural Conservation Area of Cahersiveen – which extends from Main Street to the car park to the rear of the proposed development site - and is within the curtilage of a protected structure. In terms of the principle of the proposed development, the Board will note that both national and local planning policy seek to protect architectural heritage, with the *'Architectural Heritage Protection, Guidelines for Planning Authorities'* providing guidance in respect of the criteria and other considerations to be taken into account in the assessment of proposals affecting protected structures and Architectural Conservation Areas.
- 7.2.3. Chapter 6 of the guidelines relate to development control, including within Architectural Conservation Areas. The guidelines advise seek to encourage the sympathetic maintenance, adaption and re-use of buildings of architectural heritage, and notes that it is generally recognised that the best method of conserving a historic building is to keep it in active use. Section 6.8.1 of the guidelines deals with extensions and notes that in urban areas, careful consideration needs to be given to proposals for the construction of rear extensions to protected structures and buildings within ACAs.
- 7.2.4. In addition, the guidelines state that planning authority should discourage the infilling of gardens, lanes or courtyards of architectural or historical interest. Open spaces such as these have a function in the natural illumination and ventilation of a densely developed urban area. Where surviving plot-divisions remain in the older areas of towns, these can be of historic interest as indicators of the original layout of the area.
- 7.2.5. While I propose to consider the detailed proposal before the Board further below, I consider that the principle of the proposed development might reasonably be considered acceptable and in accordance with both national and local policy. However, given the significant lack of any real conservation assessments by the applicant, I have significant concerns with regard to the proposed development.

7.3. Impacts to Character of Protected Structures & ACAs

- 7.3.1. In the first instance I would advise the Board that I consider that there are a number of issues with the application in terms of what was provided for consideration. In particular, I am concerned about the way the applicant has approached the proposed development of this urban centre site with no apparent regard to the location of the site within the Architectural Conservation Area of the town of Cahersiveen, or the fact that the site lies immediately adjacent to protected structures.
- 7.3.2. The planning application itself includes a number of inaccuracies in this regard, with the applicant completing question 17 of the planning application form erroneously. The proposed development seeks the demolition of a structure which lies within the curtilage of a protected structure and consists of works to the exterior of a structure (originally proposed to be demolished) which is located within an ACA. The Board will note that the ACA extends to the rear of the buildings which front onto Main Street, including the rear of the buildings, facing onto the public car park.
- 7.3.3. I would also note that there has been no input to the proposed development from a qualified conservation architect, as requested by the PA at further information stage. The PAs Conservation Officer did input to the amended proposals. However, no Conservation Report, Design Statement, Architectural Heritage Impact Assessment Report, Method Statement or even contiguous elevations were submitted in support of the proposed development which, given the location of the site within Main Street, Cahersiveen, is wholly inappropriate. I acknowledge the applicants' submission as part of the response to the third-party appeal, which indicates that while the front elevation will be preserved, the rest of the building is in a poor state of repair and has no architectural merit but suggest that no evidence to this effect has been presented to the Board. I refer again to the extent of the ACA to the rear of the building. I further acknowledge that a method statement and design is to be provided to show the retention of the front elevation prior to any construction works commencing. I find this to be wholly unacceptable.
- 7.3.4. I refer the Board to the provisions of the Architectural Heritage Protection Guidelines for Planning Authorities in terms of the documentation required to accompany an

application for developments within the curtilage of a protected structure or within an ACA. As indicated in the 2001 Regulations, a planning application for works to a protected structure or proposed protected structure must include (in addition to the normal requirements to supply maps and drawings) 'such photographs, plans and other particulars as are necessary to show how the development would affect the character of the structure (Article 23(2) refers). The same requirements also apply to applications for permission for works to the exterior of a structure which is located within an ACA or an area it is proposed to designate as an ACA.

7.3.5. With regard to the façade retention element, I note that the Guidelines provided that 'façade retention, or the demolition of the substantive fabric of a protected structure behind the principal elevation, is rarely an acceptable compromise, as only in exceptional cases would the full special interest of the structure be retained'. Such proposals can be favourably assessed 'subject to receiving adequate assurances on how the historic fabric would be protected during the works'. This information has not been provided in the application details.

7.3.6. Proposals for demolition within an ACA, which includes proposals to demolish behind a retained façade, the onus should be on the applicant to make the case for demolition. Consideration of the material effect that the proposed demolition may have on the character of the ACA is required. I am not satisfied that adequate justification has been presented for the proposed demolition in this case. Should the Board be minded to grant permission for the redevelopment of this urban site, for which I have no objection in principle, matters relating to the proposed works to the building within the ACA require to be addressed and considered in the first instance, and before a positive decision issues.

7.3.7. In addition to the above, I refer the Board to Section 8.4.3 of the Kerry County Development Plan 2022-2028 where it relates to ACAs. In the absence of clear information and details as to the extent and nature of the proposed works to the buildings, I do not consider that if permitted, the development as proposed would ensure that the development will have a positive impact on the intrinsic character of the area. The development does not respect the existing streetscape in terms of scale, height and layout, and would not be compatible in terms of design, materials,

traffic, views and intensity of site use as required in policy objective KCDP 8-44. In addition, policy objective KCDP 8-45 seeks to resist demolition in an ACA. The proposed development would, in the absence of clear information and detail, therefore, be contrary to the policy objectives of the Kerry County Development Plan 2022 as it relates to developments within ACAs and with the guidance contained in the Architectural Heritage Protection Guidelines.

7.4. Residential Amenity Issues

Having regard to the urban location, the density of development is high and the potential impact of the proposed three storey return to the rear of the existing building has been raised as a concern by an adjoining property owner. The concern is compounded by the number of windows proposed on the side elevations and the lack of contiguous elevations or sunlight/daylight assessment.

In the absence of any real consideration or assessment in terms of the potential impact of the development on the residential amenities of adjacent properties, or adequate details for the Board to undertake such an assessment, I do not consider that the applicant has adequately demonstrated that the proposed development, would not unduly impact on the existing residential amenities of adjacent properties. The affected properties include the rear of homes on O'Connell Street and the adjacent small laneway which provides access to the rear of adjacent properties.

The Board will note that in the response to the third-party appeal, the applicant has sought to suggest that 'the benefits of the proposed development significantly outweigh the minor issue of overshadowing, which will always be an issue with town centre development'. I would generally be inclined to agree with this idea in principle, but in the absence of any real data to establish the extent of the impact, I consider that the development is unacceptable in the context of overlooking, overshadowing and visual impact, and would be contrary to the proper planning and sustainable development of the area.

7.5. Other Issues

7.5.1. Roads, Traffic & Car Parking

The proposed development is to be accessed via the local road network in the area, and the Board will note the location of the public car park immediately to the rear of the site. The applicants' initial application included an assessment of car parking need to facilitate the development and following the request for further information, with the omission of the restaurant use, the parking needs were reduced.

While I acknowledge the issues around car parking that were raised during the PAs assessment of the proposed development, given the location of the site immediately adjacent to the town's public car park, I would not consider this a reason to refuse permission. I have no objections to the proposed development in terms of roads and traffic.

7.5.2. Archaeological Impacts

The Board will note that the site is located adjacent to the zone of notification around the recorded monument Ke097-142 listed as a church. I note that the County Archaeologist submitted that there is sufficient distance between the church and the proposed development, and that no mitigation required.

Given the location of the subject site, should the Board be minded to grant planning permission in this instance, I would recommend that a condition requiring Archaeological Monitoring be included during demolition and ground works phase associated with the development.

7.5.3. Water Services

In terms of site suitability, the Board will note that the application advises that the proposed development is to be served by the existing connections to the public water mains and sewer which are currently present in the existing building. I note that Irish Water has advised no objection to the proposed development but advises

that existing connections will need to be checked that they are adequately sized for the new development.

While I acknowledge the location of the subject site within the town of Cahersiveen, and the availability of public services, I am concerned at the lack of any details provided by the applicant in this regard. That said, I have no objections to the development in terms of the provision of water services.

7.5.4. Third-party Issues

The Board will note that the third-party appellant raised a concern in terms of the proposed development, and the loss of retail floorspace. In this regard, I note that the existing building is currently vacant and that the proposed development will provide for a retail floor space at ground floor level. I am satisfied that the development is acceptable in this regard.

I have addressed other third-party concerns in the body of my assessment above.

7.5.5. Development Contribution

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

7.6. Appropriate Assessment

7.7. The site is not located within any designated site. The closest Natura 2000 site is the Iveragh Peninsula SPA (Site Code: 004154) which is located approximately 800m to the north west of the site. The Valencia Harbour/Portmagee Channel SAC (Site Code: 002262) lies approximately 1.9km to the west of the site. The Killarney National Park, Macgillicuddy's Reeks And Caragh River Catchment SAC (Site Code: 000365) lies approximately 3.5km to the north east of the site. The Ballinskelligs Bay and Inny Estuary SAC (Site Code: 000335) lies approximately 10.1km to the south of the site. There are no other Natura 2000 sites noted within 15km of the site.

7.8. I have considered the NPWS website, aerial and satellite imagery, the scale of the proposed works, the nature of the Conservation Objectives, Qualifying and Special

Qualifying Interests, the separation distances and I have had regard to the source-pathway-receptor model between the proposed works and the European Sites.

- 7.9. Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal development would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development, separation distances involved to adjoining Natura 2000 sites and the location of the site within the built-up area of the town of Cahersiveen. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 Recommendation

- 8.1.1. Having regard to the information submitted in support of the appeal and development the subject of the appeal, I would accept that the principle of the proposed development, including the change of use and extension of an existing building within the Cahersiveen ACA is generally acceptable.
- 8.1.2. However, I consider that the scale of the proposed demolition works and the detailed designs of the proposed replacement building, particularly to the rear of the site which is also located within the designated ACA for Cahersiveen, do not complement the original structure or the adjoining structures, and would, if permitted, significantly affect the intrinsic character and scale of the streetscape. As such and having regard to the lack of any detailed Conservation Report, I do not consider that if permitted, the development as proposed would ensure that the historic character of the ACA would be respected and that the proposed works would adversely affect the setting of the adjacent protected structures.
- 8.1.3. I recommend that permission for the proposed development be refused for the following stated reason.

9.0 Reasons and Considerations

1. Having regard to the location of the subject site within the Cahersiveen Architectural Conservation Area, it is considered that the proposed works, by virtue of their extent, nature and level of intervention which includes the demolition and removal of the majority of the subject building, and in the absence of any clear conservation assessment, would not have a positive impact on the intrinsic character of the area, respect the existing streetscape and layout, and would not be compatible in terms of design, materials, views, and intensity of site use.

It is further considered that the proposed development, by reason of its overall layout, and its scale, height massing and design to the rear, would be out of scale with its surroundings, would seriously detract from the architectural character of the ACA and adjacent protected structures. The proposed development would, therefore, be contrary to the policy objectives KCDP 8-44 and KCDP 8-45 of the Kerry County Development Plan 2022 and with the guidance contained in the Architectural Heritage Protection Guidelines and would be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed development, by reason of its layout, height, proximity to existing properties and orientation, and in the absence of any data or assessment by the applicant, would overlook and overshadow the residential amenities of adjacent properties, would be visually obtrusive and would seriously injure the residential amenities of adjoining properties. The proposal would detract from the amenities of adjoining properties, would be out of character with, and fail to respect the established pattern of development in the vicinity, and would set an undesirable precedent for similar type of development in the area. The proposed development would seriously injure the residential amenity of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

A. Considine
Planning Inspector
30th January 2023