



Development

Staff accommodation within the grounds of Powerscourt Hotel comprising of 29 no. staff accommodation rooms (56 no beds), a communal kitchen/dining/living room and laundry room, alterations to existing car parking and associated site development works.

Location

Powerscourt Hotel, Powerscourt, Co. Wicklow

Planning Authority

Wicklow County Council

Planning Authority Reg. Ref.

22598

Applicant(s)

Wicklow Hotel Partnership

Type of Application

Permission

Planning Authority Decision

Grant with Conditions

Type of Appeal

Third Party v. Grant

Appellant(s)

1. Scalaheen Limited
2. Tom Phillips

Observer(s)

None

Date of Site Inspection

19th November 2023

Inspector

Susan McHugh

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1.0 Site Location and Description

- 1.1. Powerscourt Hotel is located in the attendant grounds of Powerscourt Demesne. Powerscourt House (RPS 07-11) and Eagle Gate (RPS 03-29), the entrance to the demesne are protected structures. The demesne is located off the R760, immediately south of Enniskerry Village. A second hotel, Summerhill House Hotel is located on the junction.
- 1.2. The demesne has been redeveloped over the last three decades and includes the Eagle valley housing estate, golf course and conversion of the house and gardens to a visitor destination, Powerscourt Estate and Gardens, which includes shops, café, wedding venue and a distillery. The Powerscourt Demesne includes two proposed Natural Heritage Areas (site code 1767 and 1768). Powerscourt Waterfall and Powerscourt Woodland.
- 1.3. Powerscourt Hotel is located to the east of the entrance road, largely hidden from view by the woodland and within a hollow. The hotel consists of 198 bedrooms.
- 1.4. The site forms part of the car park and is a two-level structure, 1,142 square metres in area. It provides 108 car parking spaces. The site area is stated as 0.255 ha.

2.0 Proposed Development

- 2.1. The proposed development will consist of a staff accommodation development within the grounds of Powerscourt Hotel comprising 29 no. staff accommodation rooms (56 no. beds), a communal kitchen/dining/living room and laundry room. The stated floor area is 723 square metres.
- 2.2. Alterations to the car parking includes.
 - 267sqm new parking spaces on 'upper western car park'.
 - 187sqm for rearranged upper deck parking.
 - 202sqm for rearranged existing parking on 'lower western car park'.
- 2.3. The existing water supply connection and existing wastewater treatment system will serve the development.
- 2.4. The application was accompanied by;

- Planning Report
- Engineering Services Report
- Architectural Design Statement
- Staff Accommodation Support letter (confidential)

3.0 **Planning Authority Decision**

3.1. **Decision**

- 3.1.1. The decision to grant permission is subject to 7 no. conditions. Condition no. 2 requires that the applicant enter into a Section 47 agreement that the accommodation shall be used for short term staff accommodation only and not as a permanent residence and shall not be used for tourist accommodation at any time.

3.2. **Planning Authority Reports**

3.2.1. Planning Report

Basis for planning authority decision. Include:

- The report notes the contents of the submissions received from the current appellants and the response from the applicant's solicitors in relation to legal matters. Section 34 (13) applies – i.e. a grant of planning permission does not confer the right to develop. The application has been deemed valid by the planning authority.
- The provision of staff accommodation within the hotel complex is considered acceptable and in accordance with development policy T5, where ancillary uses to the primary tourist facility use, adjacent to the tourist facilities may be provided to ensure the long-term viability of the facility.
- Enniskerry has limited suitable accommodation and the applicants state that there are chronic staff shortages, which will continue for the medium to long term. The accommodation is intended to be temporary for new staff, seasonal staff and work placement students.

- There are 56 no. bedspaces within 29 no. staff accommodation rooms. The rooms are 17.5 square metres with an en-suite facility. A communal kitchen, dining, living room with access from both courtyard areas and a laundry room is proposed. The courtyard areas provide communal open space.
- The use is considered acceptable, but the long-term use of the premises by staff is not considered appropriate, due to the small size of the rooms and lack of private open space. A 6-month limit is proposed.
- Any use of the hotel bedrooms for staff accommodation can be referred to the enforcement section for determination.
- Visual impact is limited.
- The current car parking is 389 no. spaces. This will reduce to 336 spaces. The hotel considers this level of parking adequate. The car parking numbers far exceed the development plan standards.

3.2.2. Other Technical Reports

- **Roads:** No objection.
- **Fire Service:** No objection subject to requirements.

3.3. Prescribed Bodies

- **Irish Water:** Report recommends no objection subject to requirements.

3.4. Third Party Observations

A third-party submission was received by the PA and raises similar issues to those raised by the third-party appellant summarised below.

4.0 Planning History

PA Reg. Ref. 21/1026 Permission **granted** for removal of existing unauthorised helipad, carrying out of hard landscaping works including the installation of an amphitheatre, laying of Astro grass over in location of former unauthorised helicopter landing pad, construction of path around astra grass and all associated site works

including planting and landscaping. The development also includes the retention of construction of a playground and a chess board area.

Section 5 Referral

PA Ref EX03/19 ABP -303958-19 Section 5 Referral to the Board by Wicklow PA Determination concluded that the landscaped amphitheatre space, is development is development and is not exempted development dated 30th March 2021.

Parent Permissions

PA Reg. Ref. 05/4365 and 05/4366 Permissions **granted** for internal changes and extensions respectively to the permitted hotel.

PA Reg. Ref. 05/2920 Extension of time **granted** of PA Reg. Ref. 99/107.

PA Reg. Ref. 99/107 Permission **granted** for material alterations to previously approved hotel.

5.0 Policy Context

5.1. Development Plan

5.1.1. Wicklow County Development Plan 2022-2028 came into effect on 23rd October 2022. An amendment to the WCDP was subsequently adopted and came into effect November 2023, but is not relevant to the current appeal.

5.1.2. **Chapter 4** Settlement Strategy

Level 10 The rural area (open countryside)

5.1.3. **Chapter 6** Housing

Housing in the Open Countryside

CPO 6.41 seeks to ‘facilitate residential development in the open countryside for those with a **housing need** based on the core consideration of **demonstrable functional social or economic** need to live in the open countryside in accordance with the requirements set out in Table 6.3.’

Economic Need

‘The Planning Authority recognises the rural housing need of persons whose livelihood is intrinsically linked to rural areas subject to it being demonstrated that a

home in the open countryside is essential to the making of that livelihood and that livelihood could not be maintained while living in a nearby settlement.

In this regard, persons whose livelihood is intrinsically linked to rural areas may include:

(c) Other such persons as may have definable economic need to reside in the open countryside, as may arise on a case by case basis.'

5.1.4. **Chapter 11** Tourism and Recreation

Section 11.3 Tourism and Recreation Objectives

CPO 11.5 - The Planning Authority recognises that certain tourist facilities that are located in rural areas may be provided as standalone development, and that ancillary uses (e.g. club house, café, restaurant, shop etc) may be required in order to ensure the long term viability of the tourist facility. Additional uses will only be permitted in cases where the additional use is integrated with and connected to the primary use of the site as a tourist facility, and in cases where the Planning Authority is satisfied that the additional use is ancillary to the primary use of the site as a tourist facility. The additional use shall be located adjacent to the tourist facility, and avail of shared infrastructure and services, insofar as possible. (Note this replaces T5 under the previous County Development Plan).

CPO 11.19 - To give sympathetic consideration to the improvement of, and extension to, existing tourist accommodation related developments, subject to the proper planning and sustainable development of the area, and subject to compliance with all other objectives of this plan. (Note this replaces T18 under the previous County Development Plan).

5.1.5. **Chapter 17** Natural Heritage and Biodiversity

The Mountain and Lakeshore **Area of Outstanding Natural Beauty** (AONB).

1(d) - The North Eastern Valley/Glenree This area is situated along the northern extremities of the County and is based around the drainage pattern of the Glenree and Dargle Rivers and the surrounding road network. This area is very scenic, with attractive views and number of tourist attractions such as Powerscourt House and Demesne, Charleville Demesne and Glenree Drive. This landscape provides for extensive forested areas made up of both coniferous and deciduous woodlands.

5.2. Sustainable Urban Housing : Design Standards for New Apartments

- 5.2.1. A further amendment to these Guidelines December 2022 was made in **July 2023** in relation to certain Transitional Arrangements for Build-to-Rent developments (Sections 5.10 & 5.11 refer).

Chapter 5 – Build-To-Rent and Shared Accommodation/Co-living Sectors

Section 5.12 - Shared Accommodation (now also known as ‘co-living’) is identified as a distinct format within the overall residential sector, which, due to its specific nature, has a limited, ‘niche’ role to play in the provision of the new residential accommodation within Ireland’s cities.

Section 5.13 The shared accommodation/co-living format comprises professionally managed rental accommodation, where individual rooms are rented within a commercial development that includes access to shared or communal facilities and amenities. For clarity, these Guidelines do not apply to established forms of accommodation with a shared or communal element, including hotels, aparthotels, hostels, student accommodation or house or flat share arrangements.

Section 5.14 When introducing the shared accommodation/co-living format, the previous version of these Guidelines stated that given the relatively new nature of this form of accommodation, the Department will monitor the emerging shared accommodation sector and may issue further additional technical updates to this document as appropriate. In this context and further to Ministerial review, prior to issuing these Guidelines it was determined that there is a sufficient quantum of shared accommodation/co-living units either permitted or subject to consideration within the planning system, that may be built out to demonstrate and prove this concept, without impacting the housing system.

Section 5.15 - Accordingly, it is a Specific Planning Policy Requirement (SPPR) of these Guidelines that shared accommodation/co-living developments will not generally be permitted:-

Specific Planning Policy Requirement 7 – states ‘There shall be a presumption against granting planning permission for shared accommodation/co-living development unless the proposed development is required to meet specific demand

identified by a local planning authority further to a Housing Need and Demand Assessment (HNDA) process.

Section 5.16 - Given that this form of accommodation remains new and unproven, the Department will continue to monitor the emerging shared accommodation/co-living sector and in particular the delivery of any permitted developments and may issue further additional technical updates to this document as appropriate.

5.3. Natural Heritage Designations

- 5.3.1. The appeal site is not located within the immediate vicinity of a Natura Site.
- 5.3.2. Powerscourt Demesne includes two proposed Natural Heritage Areas (NPWS Site No. 1767 and 1768) Powerscourt Waterfall and Powerscourt Woodland. The appeal site is located within the later.

5.4. EIA Screening

- 5.4.1. I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development is not necessary in this case (See Preliminary Examination EIAR Screening Form).

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. Two third parties have appealed the decision to grant planning permission. Scalaheen Limited are the successors in title to Powerscourt Estates and are the first of the two Third Parties. Tom Phillips is the second and has a leasehold interest in a suite in the hotel. The appeal grounds are summarised as set out below.
 - The proposed development is in fact, co-living /shared accommodation which has been prohibited by ministerial guidance, notwithstanding the description of development as staff accommodation.

- An unauthorised change of use has occurred without the benefit of planning permission (use of hotel rooms for staff accommodation). Wicklow County Council recognises that this is an enforcement matter. Previously staff were bussed from their living accommodation to the site.
- Insufficient legal interest to make the application. The applicant is only a leaseholder and not owner as described in the planning application form. No written consent has been provided from the landowner.
- Car parking inadequate and number of spaces remaining are uncertain (53 car parking spaces to be removed). The public notice is misleading in only referring to alterations to the car park.
- The red line of the site should encompass the entire hotel complex as the reduction in car parking affects the hotel operation itself.
- The tourism policy T5, does not support shared accommodation.
- Unsolicited additional information submitted in response to the submission by the Third Party and this was accepted by the council.
- The standard of accommodation for 58 occupants is not acceptable, without access to recreational facilities, public transport and inadequate storage and communal living and kitchen facilities. One double room is 17.5 square metres where 18 square metres is required. The noise associated with the common room would make sleep in certain rooms impossible. The aspect is below ground level with a north-east aspect and limited daylight. Shared living accommodation schemes have been refused by An Bord Pleanála on these grounds.
- Deletion of the time limit for staff staying the staff quarters from the draft condition (time limit was 6 months).

6.2. Applicant Response

6.2.1. The applicant's response is summarised below.

- There are some 350 employees on staff in the hotel.

- The proposed development provides for bedroom units with dedicated ensuite, storage area with windows (2.3 metres in height) to maximise daylight.
- Two accessible rooms for Part M purposes are provided.
- There have been significant difficulties attracting staff to the hotel, given its location, which is poorly served by public transport and lack of affordable housing. Employees are often from abroad, so live-in facilities have become essential. Hotel rooms are currently being used for this purpose, which is not sustainable in the long term. Buses are being used to collect staff from Bray, but these are not sufficient.
- The permission has been granted with a condition limiting the use of the accommodation.
- Policies in the new county development plan support the existing and new tourist related development.
- The seasonality of the sector makes staff accommodation harder to obtain.
- Staff accommodation is not a new concept and has been permitted elsewhere (examples cited from the Europe Hotel and Ashford Castle). The Apartment Guidelines specifically exclude hotels as being shared accommodation and states at 5.19:

“The shared accommodation /co-living format comprises professionally managed rental accommodation, where individual rooms are rented within a commercial development that includes access to shared or communal facilities or amenities. For clarity, these Guidelines do not apply for established forms of accommodation with a shared or communal element, including hotels, aparthotels, hostels, student accommodation or house or flat share arrangements.”

- The proposed development is part of a long establish tourist facility complex. The draft development plan recognises (CPO 11.5) that ancillary uses may be required to ensure the long-term viability of the facility and where this is accepted, the additional use should be located adjacent to the tourist facility to avail of shared infrastructure and services. The proposed development comes

within the scope of this policy. COPO 11.19 resolves to give sympathetic consideration to the improvement of and extension to existing tourist accommodation related facilities.

- The use of the hotel bedrooms for staff accommodation is not unauthorised use. It is not a change of use and does not constitute a material change of use. Buses do not provide the answer when accommodation is the issue.
- A solicitor's letter is included, which states that a sub-leasehold interest in a suite is not equivalent to that as owner and the applicant is the landlord to this sub-lease. The sub-lease expressly provides for the lessor (the applicant) to 'demolish, rebuild or renovate any part of the hotel' without reference to the holder of the sub-lease.
- Consent from Scalaheen Ltd. is not required either and Section 34(13) applies in this instance.
- Staff have their own canteen in the hotel, which has dedicated chefs and where free food is provided. The kitchen in the proposed development is in effect a tea station. Photos are provided, which show both eating and space for relaxation (256 square metres in area).
- The quality of the communal space will be high, as shown in the CGIs submitted. The internal partitions will have the same acoustic rating as hotel bedrooms (i.e. 57dB). A daylight report is included, which shows that the rooms achieve high levels of illumination (in excess of 300 lux over 50% of floor area). The grounds of the hotel are extensive, so there will be adequate open space.

6.3. Planning Authority Response

None received.

6.4. Observations

None

6.5. Further Response from Appellants

6.5.1. A further response was submitted to the Board by Tom Phillips and Associates on behalf of both third-party appellants.

6.5.2. The response is set out as a rebuttal to the applicant's response to the third party appeals and is summarised below. It is accompanied by drawings from similar developments at Ashford Castle Hotel in Cong, County Mayo, and Europe Hotel in Killarney, Co. Kerry. An extract from Chapter 9 from the original EIS on the parent permission for the Hotel at Powerscourt, Co. Wicklow is also attached. The response can be summarised as follows;

- Proposed development constitutes shared accommodation and is contrary to Ministerial Guidelines on 'Shared Accommodation.
- Residential Amenity – Accommodation is not appropriate. Hotel staff accommodation provided in two hotel examples provided is superior to current proposal.
- Disputes reference to accommodation solution of providing more buses.
- Insufficient legal interest – Accepts issue of legal interest has another forum for determination.
- Inadequacy of statutory notices.
- Provides wording for 8 no. reasons for refusal.

7.0 Assessment

7.1. The main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise. The issues are addressed under the following headings:

- Principle of Development
- Compliance with Ministerial Guidelines
- Standard of Accommodation
- Car Parking

- Drainage
- Other Matters
- Appropriate Assessment

7.2. Principle of Development

- 7.2.1. The existing Powerscourt hotel and car park are located within the grounds of Powerscourt Demesne and associated Powerscourt House. The estate is in a rural area, designated as being within the Mountain and Lakeshore Area of Outstanding Natural Beauty (AONB) in the Wicklow County Development Plan 2022-2028.
- 7.2.2. It is proposed to remodel an existing split level car park adjacent to the hotel to provide accommodation for hotel staff. The applicant outlines that the Hotel is an employer, with an estimate no of employees of 350 within the permitted 200 bed plus 78 no. suites, and that the proposed accommodation is intrinsically linked to the main hotel.
- 7.2.3. The applicant submits that the provision of staff accommodation within the hotel complex is in accordance with development plan policy, where ancillary uses to the primary tourist facility use, adjacent to the tourist facilities may be provided to ensure the long-term viability of the facility. This was accepted by the PA and were satisfied that the proposed development was in accordance with objective T5. CPO11.5 of the current County Development Plan (CDP) 2022-2023 refers.
- 7.3. CPO 11.19 of the CDP 2022-2023 seeks to give sympathetic consideration to the improvement of, and extension to, existing tourist accommodation related developments, subject to the proper planning and sustainable development of the area, and subject to compliance with all other objectives of this plan.
- 7.4. I accept that the provision of short-term staff accommodation would help attract and retain hotel staff and reduce commuter journeys and is in line with the proper planning and sustainable development of the hotel and tourism industry in the general area.
- 7.4.1. I am satisfied that the principle of providing staff accommodation in the grounds of the existing hotel is in accordance with CPO11.5 and CPO 11.19 of the County Development Plan 2022-2023 and is therefore, acceptable in principle.

7.5. Compliance with Ministerial Guidelines

- 7.5.1. The appellants submit that the proposed staff accommodation constitutes 'co-living/shared accommodation' and that that this type of accommodation has been prohibited by Ministerial Guidelines on Shared Accommodation, and as such the Planning Authority were precluded from granting planning permission.
- 7.5.2. The application of these guidelines to the assessment of this application is disputed between the applicant and the third parties. The applicant submits the proposed development provides hotel staff accommodation, and that the guidelines do not apply to hotels. The appellants contend that the proposal is more akin to shared accommodation and therefore the guidelines are applicable. This in my opinion is the crux of the appeal.
- 7.5.3. The Sustainable Urban Housing: Design Standards for New Apartments guidelines referred to in the application and by third parties in the appeal are the 2020 guidelines. These have been superseded by the 2023 guidelines (hereafter apartment guidelines 2023). In the interests of clarity, I will base my assessment on the current apartment guidelines 2023.
- 7.5.4. Specific Planning Policy Requirement 7 (SPPR 7) of the apartment guidelines 2023 states 'There shall be a presumption against granting planning permission for shared accommodation/co-living development unless the proposed development is required to meet specific demand identified by a local planning authority further to a Housing Need and Demand Assessment (HNDA) process.
- 7.5.5. The case is made by the applicant that the proposed accommodation is required to meet a specific demand for accommodation. Accommodation arrangements in place currently are outlined in the application as is the requirement to provide alternative accommodation for staff.
- 7.5.6. Powerscourt Hotel Resort and Spa is a luxury 5 star destination, it has 198 bedrooms, and employs over 350 employees.
- 7.5.7. The application notes that the majority of the hotel staff are currently accommodated within the hotels guest bedrooms. It is argued that the current arrangement is unsustainable as there is a large number of rooms that cannot be booked by potential guests, and that this situation negatively affects the hotel's day to day

operations, as well as reducing tourism revenue in the wider Wicklow area. The proposed development essentially seeks to resolve this issue for the hotel by providing dedicated on-site staff accommodation, thereby freeing up the hotel bedrooms for guests.

- 7.5.8. The Planning Report prepared by McGill Planning further outlines the need for staff accommodation noting that ‘post-pandemic, the hospitality industry in Ireland has experienced chronic staff shortages,’ and that ‘this factor is more acute in the Enniskerry area given the relatively remote location, minimal service by public transport networks and the lack of high-density residential catchment areas’. The current housing crisis is referred to as is the availability of affordable housing nearby Powerscourt which has resulted in the hotel having great difficulty in attracting employees. The recruitment of employees from ‘close-haul European Markets’ all require accommodation and that in order to service the business, live in staff have become essential.
- 7.5.9. The applicant outlines how the proposed accommodation will serve seasonal staff, more permanent staff prior to securing their own rental accommodation, and hospitality college students from international institutions on work placement programs.
- 7.5.10. The applicant notes that the hotel already operates a service to facilitate staff living further afield by providing staff transportation to and from the closest major public transportation hub in Bray, which is serviced by Irish Rail Dart Services. The applicant indicates that Buses are 17-seater vehicles, but also notes that the number of staff requiring transportation to the hotel is significantly higher.
- 7.5.11. The applicant clearly states that the proposed accommodation will not be sold or let independently and their willingness to accepting a condition limiting the use of the development as staff accommodation associated with the hotel only. I have had regard to the confidential statement on file from staff setting out their needs for onsite accommodation, which I consider to be ‘bone fides’.
- 7.5.12. Condition no. 2 of the notification of decision to grant permission issued by the PA requires the applicant enter into a Section 47 Agreement. Condition no. 2 agreement requires that the proposed development be used for short term staff accommodation purposes only for staff of the existing hotel and not be used as a

permanent place of residence, by any person and that it not be used as tourist accommodation at any time.

- 7.5.13. I am satisfied that the applicant has presented a strong case in terms of the specific requirement for hotel staff accommodation at this location given the nature of the tourism business, and operational requirements.
- 7.5.14. I am reasonably satisfied that the development can be managed in a sustainable manner into the future, and that the applicant has demonstrated a social and economic need for hotel staff accommodation, which is strictly limited to and directly related to this tourism development.
- 7.5.15. If the Board are minded granting planning permission, I recommend a similarly worded occupancy condition be attached limiting the occupation of the units to 6 months only.
- 7.5.16. I am satisfied therefore, that the proposed development is not contrary to SPPR7 of the Ministerial Guidelines on Sustainable Urban Housing: Design Standards for New Apartments (2023).

7.6. Standard of Accommodation

- 7.6.1. The third-party appellants contend that the proposed shared accommodation is substandard. The applicant submits that the accommodation proposed does not constitute 'shared accommodation', and in this case I suggest to the board that this is the crux of the appeal.
- 7.6.2. Chapter 5 of the apartment guidelines refers to shared accommodation/co-living sectors. Section 5.19 of the guidelines (now Section 5.13 of the apartment guidelines 2023) states that they 'do not apply to established forms of accommodation with a shared or communal element, including hotels, aparthotels, hostels, student accommodation or house or flat share arrangements.
- 7.6.3. An Bord Pleanála acknowledges that the apartment guidelines 2023 in relation to 'Shared Accommodation Developments' are not definitive and allow for various formats of this typology. In this regard I have considered the format of the accommodation proposed.

- 7.6.4. The appeal site comprises an existing two-level car park to the northwest of the existing hotel complex. The lower western car park provides 65 no. spaces, 45 no. of which are located beneath the upper western car park structure.
- 7.6.5. It is proposed to insert two large lightwells in the upper-level car park creating two sunken landscaped courtyards on the lower level. Staff accommodation units will front onto both courtyards allowing bedroom units to have natural daylight as well as providing privacy and amenity space.
- 7.6.6. The proposed new finished floor level for the accommodation units will be set just below the existing parking surface level. The level of the landscaped courtyards will be below the finished floor levels.
- 7.6.7. The proposed accommodation units are arranged around three courtyard spaces which function as amenity spaces for the occupants. The units are not provided with private open space. The apartment guidelines 2023 indicate a minimum private amenity space requirement of 4sqm for a studio apartment.
- 7.6.8. Each bedroom unit contains a dedicated ensuite, storage area and natural light. Window and door heads are taller than standard to maximise daylight into the bedroom.
- 7.6.9. A laundry room and large common area with dedicated kitchen, seating and games area for staff to socialise is provided within the development. A bin storage area is also proposed. Finishes to elevations will comprise grey, white brick, and nap render finish, RAL/powder coated window frames, panels and louvres.
- 7.6.10. In terms of room sizes, a typical bedroom has a sated floor area of 17.5sqm proposed to be shared by 2 people, whereas the apartment guidelines 2023 indicate that a studio apartment should have a minimum overall floor area of 37sqm.
- 7.6.11. In terms of storage each room is provided with two wardrobes each measuring approx. 0.75m. I note the apartment guidelines 2023 indicate a minimum storage space requirement of 3sqm for a studio apartment.
- 7.6.12. In terms of day light and sunlight the appellants submit that the proposed units given their orientation and single aspect configuration will not receive sufficient day light. I have had regard to the Daylight Analysis Report prepared by Cobbe Architecture submitted by applicant in response to third party appeal. In this regard the extent of

fenestration window and door heads provided to each bedroom is illustrated and clarifies that all courtyard fronted units will be provided with 2.11sqm of glazing with 5 no. units facing the entry courtyard (southeast) having 1.81sqm of glazing. It is also acknowledged that 38% of the rooms face northeast and will get no direct sunlight.

- 7.6.13. The Daylight analysis uses BIM modelling software, (Velux Daylight Visualizer). It selects two individual rooms (Room no. 3 & 12) each on either side of courtyard no. 1 the larger of the two courtyards, for the assessment of the Daylight Factor. In both cases it has been demonstrated that the European Standard¹ of 2% has been exceeded. The analysis found an average daylight factor of 3.01% for Room no. 3 and 2.98% for Room no.12. In this regard I note these rooms are to be used as bedrooms and there will be limited overshadowing given the single storey nature of the development.
- 7.6.14. In terms of noise the appellant raises concern in relation to noise from the communal common room onto the courtyards and adjoining accommodation units. The applicant states that the 10 no. car parking spaces at the upper level surrounding the sunken courtyards are intended to be only used by valet/supervised parking and as such will be used infrequently.
- 7.6.15. The applicant has also stated in their response to the third part appeal that internal partitions will have the same acoustic rating as hotel bedrooms (i.e. 57dB). I am satisfied that the potential for noise from vehicular traffic/movements at the upper level will be largely mitigated.
- 7.6.16. I am satisfied that this proposal does not set an undesirable precedent primarily as the units themselves are not self-contained/studio apartments and are proposed as short-term accommodation only.

Open Space and Landscaping

- 7.6.17. It is proposed to maintain 16 no. parking spaces on the Lower Western Car Park level. Screening to the Lower Western Carpark will be provided by a planted hedge behind a timber and mesh fence approx. 1.6m high. A line of trees will run to the

¹ EN 17037 it supersedes BS 8206-2:2008 – Lighting for Buildings – Part 2: Code of Practice for Daylighting’.

western boundary of the subject site (refer to Landscape drawings PL-109 and PL-110.)

- 7.6.18. Access from this car park to the staff accommodation will be via gates on the eastern side, beyond these gates is an entry to the courtyard. There is access to bicycle parking. A paved route leads through the undercroft to both sunken courtyards 1 and 2, access to which can be controlled separately with gates.
- 7.6.19. Both sunken courtyards consist of linear areas of soft landscaping with perimeter pathways of hard landscaping. Trees, large rocks, shrubs and benches make up the soft landscaped central strips. At the upper level the lightwell openings will be fringed with trailing plants that drape into the courtyards on all sides to help soften the edges of the lightwells and enhance the space.
- 7.6.20. The positioning and arrangement of the sunken courtyards will require a reconfiguration of the upper-level car park. The number of car parking spaces will be reduced, and two large areas of the remaining surface will be inaccessible to cars. It is proposed to landscape these areas with a mixture of hard and soft landscaping.
- 7.6.21. There is an established ornamental courtyard associated with the hotel located to the northeast of the appeal site. The applicant makes the case that this sunken garden is a good example of how to provide privacy and at the same time separate the guest parking element and the staff accommodation element so that the amenity of the staff accommodation is protected.
- 7.6.22. The application was accompanied by an Architectural Design Statement prepared by Cobbe Architecture. I have reviewed the existing and proposed photomontages submitted as part of the Architectural Design Statement which I consider to be a realistic representation of the existing site and proposed works.
- 7.6.23. I am satisfied that the simple palette proposed to the external elevations, in addition to hard and soft landscaping will complement and respect the neighbouring structures of the hotel. It is also noted that the proposed development which reuses an existing car park structure is not visible from any public road due to the nature scale, topography of the site and location of the hotel to the south. I can also confirm that the proposed development as viewed from the hotel building is acceptable.

7.6.24. I am satisfied that the proposed development will not have a negative effect on the surrounding landscape of Northeastern Valley/Glenree Area designated as an Area of Outstanding Natural Beauty in the Wicklow County Development Plan.

Precedent

7.6.25. The third party has included details of an application for hotel staff accommodation in a standalone single storey building on the grounds of another hotel, which was granted planning permission by Mayo County Council in 2017. Reference is also made to another application for hotel staff accommodation in Hotel Europe, Killarney. In both cases the appellant contends that these are superior to the current proposal before the Board.

7.6.26. The hotel staff accommodation in Ashford Castle granted under PA Reg. Ref. 16/854 provided for 25no. single rooms 15sqm, 15no. twin rooms 17sqm and 5no. executive rooms 22sqm. A total of 45no. rooms arranged in a quadrant with an internal open courtyard overall floor area of 1,345sqm. in a single storey building.

7.6.27. I have examined the application for staff accommodation at Hotel Europe, Fossa, Killarney granted planning permission by Kerry County Council in 2008 under PA Reg.Ref.07/3247. This permission provided for 68 no. hotel staff accommodation rooms with ancillary communal and services accommodation arranged in three no. separate 2 storey buildings.

7.6.28. The proposed development is considered 'de novo' by the board and in my opinion the examples given are not directly comparable to the current proposal. In relation to the matter of precedent I would note that each application is assessed on its own merits, having regard to the relevant planning considerations and site context. I am satisfied that the proposed development in this instance does not set an undesirable precedent.

7.6.29. I do not consider the proposal to constitute shared accommodation/co living units, on the basis that the proposal is not intended as a long-term housing option, and occupancy of the units can be limited to a period of 6 months. Communal kitchen/dining/living room and laundry room are proposed in addition to the existing staff facilities provided in the hotel as both are intrinsically linked

7.6.30. In conclusion, I am satisfied that the proposed development provides an acceptable standard of accommodation having regard to the nature of the accommodation

directly associated with the existing hotel and quality of the existing and proposed environment. The proposal therefore is acceptable in terms of residential amenity.

7.7. Car Parking

- 7.7.1. The appellant raises concern in relation to the inadequate provision of car parking spaces which it is submitted seeks to remove 53 no. car parking spaces.
- 7.7.2. The applicant refers to the demographics and hotels specific need to provide accommodation for some of its staff, it is not envisioned that car parking associated with the development will be required. The hotel provides a regular bus service for staff which takes them to Bray for shopping and to connect with bus and rail public transport.
- 7.7.3. The realignment of the upper-level car park to include the lightwell openings reduces the number of car parking spaces provided at this level from 38 no. to 10 no. However, it is proposed to convert the northern end of the Upper Western Carpark, which is currently infrequently used for bus parking, to include an additional 24 no. car parking spaces. This will result in an overall reduction at this level of 4 no. spaces.
- 7.7.4. It is proposed to designate the 10 no. spaces on the upper-level structure for hotel use in the form of valet/supervised parking, as it is envisaged that these will be largely overflow spaces used infrequently.
- 7.7.5. At the Lower Western Carpark level, it is proposed to maintain 16 no. car parking spaces to the front of the subject development. The current provision at this level is 65no. spaces, a loss of 49 no. spaces is envisaged.
- 7.7.6. The overall reduction of spaces to the hotel as a result of this development will be 53 no. from an original total of 389. The applicant states that hotel management are satisfied that the remaining 336 spaces are sufficient to cater for their requirements. Table 1 below sets out existing and proposed car parking to Upper and Lower Western car parks.

Level	Existing	Proposed	Reduction
Upper	38	34	4

Lower	65	16	49
Total	103	50	53

- 7.7.7. A total of 20 no. covered bicycle parking spaces will be provided beneath the undercroft to the western end of the entry courtyard.
- 7.7.8. I can confirm from my site visit mid-morning on a Sunday when the hotel was busy that the car parking areas were close to capacity. Notwithstanding, on the basis that the proposal itself will reduce demand for onsite car parking, as staff will not need to travel to and from work on a daily basis, and that the hotel is already served by a significant no. of car parking, I consider the proposal to be acceptable from a car parking perspective. I also note that the Roads Section of the PA had no objections to the alteration to the car parking arrangements.
- 7.7.9. I would also note that the route from the main entrance gate to Powerscourt Demesne does have a footpath on both sides of the access road however it has no public lighting.
- 7.7.10. I am satisfied therefore, that the proposed tourism related development is acceptable in terms of carparking serving the overall hotel.

7.8. Drainage and Water Supply

- 7.8.1. The application was accompanied by an Engineering Services Report prepared by JJ Campbell & Associates Consulting Civil and Structural Engineers, with associated layout drawings.
- 7.8.2. Foul effluent will be collected in separate foul pipes and flow by gravity into the existing line. These will be connected to the existing foul water pipe in the service yard and discharge to the holding tank located on the south side of the hotel and pump to the Enniskerry Sewage Treatment Works.
- 7.8.3. The subject site is served by an existing storm water drainage system constructed in 2006/2007, which discharges to the River Dargle having passed through an oil interceptor. The proposed surface water drainage introduces SuDS measures including permeable paving, infiltration trenches, planters/green areas and an existing petrol interceptor.

- 7.8.4. The hotel receives its water supply from groundwater supply wells which are located 200m apart and 500m due east of Powerscourt House. It is proposed to supply potable water to the proposed staff bedrooms from pipework installed in the hotel.
- 7.8.5. I note the report from Irish Water which has no objections subject to requirements.
- 7.8.6. The proposals are acceptable subject to standard conditions.

7.9. Other Matters

- 7.9.1. *Unauthorised Development* – The grounds of appeal raise concern in relation to the use of existing hotel bedrooms for the accommodation of hotel staff, which was not provided for in the original permissions for the hotel. It is asserted that this use is an unauthorised use and is contrary to the parent and amending permissions. The applicant has provided floor plans identifying each of the bedrooms currently in use by hotel staff and makes the point that many hotels provide temporary accommodation on behalf of the state and that a change of use to permitted developments does not arise.
- 7.9.2. I do not consider that the use of hotel bedrooms dispersed among various floor levels within a hotel of this size for use by hotel staff can be considered to constitute a change of use. Notwithstanding, matters of enforcement are outside the remit of this appeal and are dealt with by the Planning Authority.
- 7.9.3. *Built Heritage/ Public Notices* – The appeal site forms part of the curtilage of a protected structure Powerscourt House (RPS 07-11) and associated Powerscourt Entrance gates (RPS 03-29).
- 7.9.4. Under the provisions of Article 18(1) of the Planning and Development Regulations, 2001 (as amended) states that a notice published in accordance with article 17(1)(a) of the Regulations shall be published in a newspaper. Article 18(1)(d)(iii) provides that where the application relates to development which would consist of or comprise the carrying out of works of a protected structure, an indication of that fact.
- 7.9.5. The public notices submitted with the application do not mention the protected structures. The applicant was requested on 12th December 2022, under section 132

of the Planning and Development Act 2000 (as amended) to submit revised public notices in accordance with section 142(4) of the Act.

- 7.9.6. The applicant responded 15th December 2022, and contends that the subject site is not located within the curtilage or attendant ground of Powerscourt House (Protected Structure) and that Powerscourt House is a separate property. The case is made by the applicant that previous applications within the grounds of Powerscourt Hotel made no reference (on planning notices) to the site being within the curtilage of Powerscourt House (Protected Structure). This response to notices was circulated by the Board to the third parties to the appeal. No further response was received.
- 7.9.7. I am satisfied that the appeal site is located some distance from the protected sites and that the public notices did not prevent the concerned party from making representations.
- 7.9.8. *Validity* – The issue was raised by the appellants in relation to the validity of the application in respect to the red line boundary. It is asserted that the proposed development which results in a reduction in the number of car parking spaces has an impact on the overall hotel site as outlined in blue in the application.
- 7.9.9. In this regard it may be noted that the Board will consider and decide upon the application ‘de novo’ and has no supervisory function in relation to how the planning authority carries out its planning functions.
- 7.9.10. *PA Procedures* - The matters raised relate to unsolicited additional information submitted to the planning authority and the planning authority’s procedures in accepting it. These are not matters on which the Board can adjudicate. The appeal before the Board is valid and the third party’s right to participate is given full effect.
- 7.9.11. *Sufficient Legal Interest* – The grounds of appeal suggest the applicant has insufficient legal interest in the lands in question to carry out the proposed development. I note the letter submitted by applicant in response to third party appeal from AMOSS Solicitors which details particulars. In terms of the legal interest, I am satisfied that the applicants have provided sufficient evidence of their legal interest for the purposes of the planning application and decision.
- 7.9.12. If there are disputes in respect of legal interest this in my view should not preclude the Board from considering granting planning permission. I refer the Board Section

34(13) of the Planning and Development Act 2000 (as amended) which reads ‘A person shall not be entitled solely by reason of a permission under this section to carry out development’. Therefore, the Board could grant planning permission for the proposed development and any subsequent legal disputes which arise in respect of landownership can be addressed prior to carrying out the development.

7.10. **Appropriate Assessment**

Site Location and Description

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

Designated Site and Qualifying Interests

7.10.2. The appeal site is not located within the immediate vicinity of a Natura Site.

7.10.3. Powerscourt Demesne includes two proposed Natural Heritage Areas (NPWS Site No. 1767 and 1768) Powerscourt Waterfall and Powerscourt Woodland. The appeal site is located within the later.

Assessment

7.10.4. The site is not within any designated Natura 2000 sites. No direct impacts will arise. No source/pathway receptor route between this site and any designated site exists. The site is located within an already developed site and is serviced.

Screening Statement and Conclusions

7.10.5. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out screening for appropriate assessment, it has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have significant effects on any other European site, and appropriate assessment is not therefore required.

7.10.6. The determination is based on the location of the site within an existing development and serviced area.

7.10.7. In making this screening determination no account has been taken of any measures intended to avoid or reduce the potentially harmful effects of the project on the European Sites.

8.0 Recommendation

- 8.1. I recommend that that permission be **granted** for the following reasons and considerations.

9.0 Reasons and Considerations

- 9.1. Having regard to the existing development on the site, to existing and permitted development in the area and to:

(a) The policies and objectives set out in the Wicklow County Development Plan 2022-2028 which support tourism and employment in the rural area (Policies 11.5 and 11.19),

(b) The nature, scale and design of the proposed development which provides accommodation for hotel staff directly associated with the Powerscourt Hotel.

(c) The Guidelines for Planning Authorities on Sustainable Urban Housing Design Standards for New Apartments,

it is considered, subject to compliance with the conditions set out below, the proposed development would not be visually obtrusive or out of character with the surrounding area, would not seriously injure the amenities of adjoining properties and would provide satisfactory standards of amenity for the future occupants of the development, and would be acceptable in terms of pedestrian and traffic safety. 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 on 2nd June 2022, 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 when completed shall be occupied by hotel staff (directly associated with the Powerscourt Hotel) on a 6 month basis only. No room in the proposed development shall be used for the purpose of providing overnight paying guest accommodation.

Reason: To ensure that the proposed accommodation is used to meet the hotels needs and that development in this rural area is appropriately restricted in the interest of the proper planning and sustainable development of the area.

3. Details of the materials, colours and textures of all external finishes to the proposed development 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. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. 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 five years from the completion of the development 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 interest of visual amenity.

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. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Eireann.

Reason: In the interest of public health.

7. A minimum of 10% of all car parking spaces shall be provided with EV charging stations/points, and ducting shall be provided for all remaining car parking spaces to facilitate the installation of EV charging points/stations at a later date. Where proposals relating to the installation of EV ducting and charging stations/points has not been submitted with the application, in accordance with the above noted requirements, the development shall submit such proposals shall be submitted and agreed in writing with the Planning Authority prior to the occupation of the development.

Reason: To provide for and/or future proof the development such as would facilitate the use of Electric Vehicles.

8. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable within the development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

9. The construction of the development shall be managed in accordance with a Construction Management Plan which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide, inter alia, details of intended construction practice for the development, including noise management measures, measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network, and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and amenity.

10. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted

management company. A management scheme, providing adequate measures for the future maintenance of open spaces, roads and communal areas, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To provide for the satisfactory future maintenance of this development in the interest of visual amenity.

11. Prior to the commencement of development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each accommodation unit), pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all accommodation units permitted, to occupation by hotel staff only i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

Reason: To restrict the development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

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.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Susan McHugh
Senior Planning Inspector

28th November 2023

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	314433-22			
Proposed Development Summary	Staff accommodation within the grounds of Powerscourt Hotel comprising of 29 no. staff accommodation rooms (56 no beds), a communal kitchen/dining/living room and laundry room, alterations to existing car parking and associated site development works.			
Development Address	Powerscourt Hotel, Powerscourt, Co. Wicklow.			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)	Yes	✓		
	No	No further action required		
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?				
Yes		Class.....	EIA Mandatory EIAR required	
No	✓		Proceed to Q.3	
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?				
		Threshold	Comment (if relevant)	Conclusion
No	✓	N/A		No EIAR or Preliminary Examination required
Yes		Class/Threshold.....		Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	✓	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____