



An
Coimisiún
Pleanála

Inspector's Report ABP-322313-25

Development	Construction of 7 short term tourist accommodation with all associated site works.
Location	Castlelawn, Ballyheigue, Co. Kerry.
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	2460854
Applicant(s)	HRP Construction Limited
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Jean & Aiden Keyes Eileen McNamara Mary Harty John T. & Anne Quill.
Observer(s)	None.
Date of Site Inspection	15 th July 2025

Inspector

Jennifer McQuaid

Contents

1.0 Site Location and Description	5
2.0 Proposed Development	5
3.0 Planning Authority Decision.....	5
3.1. Decision.....	5
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies.....	8
3.4. Third Party Observations	8
4.0 Planning History	9
5.0 Policy Context	9
5.1. Development Plan	9
5.2. National and Regional Policy	10
5.3. Natural Heritage Designations	11
5.4. EIA Screening.....	11
5.5. Water Framework Directive	11
6.0 The Appeal.....	12
6.1. Grounds of Appeal.....	12
6.2. Applicant Response	14
6.3. Planning Authority Response.....	14
6.4. Observations	14
6.5. Further Responses	15
7.0 Assessment.....	15
8.0 AA Screening	22
9.0 Recommendation	23

10.0	Reasons and Considerations	23
	Appendix A: Form 1 - EIA Pre-Screening	25
	Appendix A: Form 2 - EIA Preliminary Examination.....	27
	Appendix B: Water Framework Directive Screening	29

1.0 Site Location and Description

- 1.1. The proposed site (0.163ha) is located approximately 500 metres north of Ballyheigue Village, Co. Kerry. The proposed site is within the curtilage of Ballyheigue Castle, a Protected Structure (RPS KY-21301401-A) and a Recorded Monument (RMP KY014-100). There are a number of derelict buildings on site including single storey and two storey unit. Ballyheigue Golf Course is located to the north and south of the subject site. The golf clubhouse is sited to the east of the site. The site is accessed via a private road known as Castlelawn Road.

2.0 Proposed Development

- 2.1. The proposed development consists of:
- Change of use of an existing vacant residential structure and a vacant/derelict outbuilding to short-term tourist accommodation of 7 no. self-catering apartments (4no. 2 bed units and 3no. 1 bed units).
 - Construction of a single storey extension consisting of 24sqm
 - Demolition (32.7sqm) to the existing structures.
 - Provision of 9 car parking spaces, bike parking, bin storage, shared open space, connection to public sewer and all associated ancillary site works.
 - All works within the curtilage of Ballyheigue Castle, a Protected Structure (RPS KY-21301401-A) and a Recorded Monument (RMP KY014-100).

3.0 Planning Authority Decision

3.1. Decision

Grant subject to 10 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The structures on site are derelict, abandoned and disused and visually detract from the nearby castle. Any development is welcome having regard to the setting and surroundings and would seek to enhance the visual amenity of the curtilage of Ballyheigue Castle and adjoining golf course.
- Further information required to determine the impact of the proposed development on the castle. An Architectural Heritage Assessment (AHIA) is required.
- Further information required in relation to car parking, private amenity space, natural light in units 1 and 2, existing buildings, fire hydrants, evidence of legal right of way over Castlelawn private road, sightlines, stopping distances, safe traffic and pedestrian movements, surface water management, public lighting and signage.
- A Construction and Demolition Resource Waste Management Plan is required.

Further Information Report.

- The further information requests have been answered, and appropriate conditions shall be applied. A schedule of accommodation and housing quality assessment has been submitted. It is noted that storage area is below the Apartment Guidelines Standards, however the apartments are for short term tourist accommodation and not permanent living.

3.2.2. Other Technical Reports

- Conservation Officer: Further Information Requested in relation to an Architectural Heritage Impact Assessment (AHIA), advise the applicant to consider the impact of the proposed development on the historic fabric of the structure in terms of construction, conservation, consolidation and ongoing maintenance. A conservation led construction methodology should inform this AHIA. The principle of loss or damage, or the incorporation of existing historic garden walls as a structural element of the development is not considered appropriate. This includes proposals to incorporate a series of opes into same. Revised proposals to amend the design should therefore be submitted. The AHIA should also refer to the historic designed landscape and should

include an appraisal carried out by a competent person of the impact of the development on the broader designed landscape associated with Ballyheigue Castle.

Further information received: No report on file. It was requested from Kerry County Council; no response received to date. The Planning Report notes “The assessment submitted has been forwarded to the Conservation officer. The conclusions of the assessment should be conditioned”.

- Council Archaeologist: any required demolition of existing upstanding features or structures and any excavations or ground disturbance within the site should be monitored by a suitably qualified archaeologist, under licence from the National Monuments Service, and a report submitted to the Planning Authority on completion.
- Listowel Municipal Roads Office: Recommend a grant of permission subject to conditions.
- Fire Service Department: Advise the applicant that a Fire Safety Certificate and a Disability Access Certificate (DAC) are required.
- Housing Estates Unit: Request further information in relation to sightlines, access & car parking spaces, red line boundary, stop sign/line (internal junctions), pedestrian connectivity, lateral clearance, access road surface, fire hydrants

3.2.3. Conditions

- Condition 4:
 - a. Proposed development shall be in accordance with the design drawing received on 31/10/2024 and 27/02/2025.
 - b. Prior to commencement of development, precise details of all materials, colours and textures of the elevations, roofs, windows, doors and footpaths shall be submitted for the written approval of the Planning Authority.

- c. Any external lighting associated with the proposed development shall be submitted for the written approval of the planning authority prior to the commencement of development.
- d. The balconies shall not be used for the erection of satellite dishes, clothes lines or for any other domestic reasons.
- e. No signage shall be erected on the building without prior written approval of the planning authority.
- f. Existing stone walls shall be retained in full and protected during construction works.

Reason: To integrate the structure into the surrounding area.

- Condition 8:
 - a. Details of the surface finish for the parking areas shall be submitted for the written approval of the Planning Authority.
 - b. An EV charging point shall be installed and shall be clearly indicated.

Prior to commencement of development, revised planning drawings shall be submitted for the written approval of the Planning Authority.

Reason: To regulate and control the layout of the development.

3.3. Prescribed Bodies

- None

3.4. Third Party Observations

A number of third-party observations were received. The issues raised are:

- Impact on the Castlclawn road, already in poor condition, no ownership of part of Castlclawn access road, sightlines are restricted, no maintenance to the private access road, no footpaths, lighting etc
- Impact on the old walls of the Castle, works already carried out.
- Over development
- Proposed car parking interferes with pedestrians.

- No surface water measures for surface water on the private access road.
- The potential amenity area shown on the drawing is a golf course.

4.0 Planning History

PA Ref: 2360375: Permission refused for the construction of a single storey building comprising of two apartments, connection to public sewer and all associated ancillary site works for the following reasons:

1. It is considered that the proposed development would constitute a substandard residential development by reason of lack of adequate private open space and car parking and would seriously injure the amenities of the occupants of the proposed dwellings and property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The Planning Authority is not satisfied based on the detail submitted with the application that the proposed development would not impact negatively on Ballyheigue Castle, a designated Protected Structure, (RPS-KY-0121 and RPS-KY-0122) and the Ballyheigue Walls which adjoin the proposed site. It is considered that the proposed development would therefore contravene Objectives KCDP 8-40 and KCDP 8-50 of the Kerry County Development Plan 2022-2028. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Development Plan

Kerry County Development Plan 2022-2028

The subject site is zoned as M4 – Built up Area which caters for a mix of uses.

Section 1.6 refers to Architecture, Archaeology and Culture

Section 1.6.1 refers to Protected or Proposed Protected Structures.

KCDP 8-40: Ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting including designed landscape features and views, is compatible with the special character of that structure.

KCDP 8-41: Support owners of protected structures to carry out conservation-led repair and rejuvenation of their protected structures.

KCDP 8-42: Prohibit demolition or inappropriate alterations and replacement of elements of protected structures where they would adversely affect the essential character of a protected structure.

KCDP 8-50: require that proposals for development within historic designed landscapes be sensitive to and respect the built heritage elements and green space values of the site.

Volume 6, section 1.5.6.1 refers to Extensions to Dwellings – Rear/Side Extensions.

Development Management Standards and Guidelines, Section 1.12.1 refers to Tourism Infrastructure Development.

Volume 2 Listowel Municipal Local Area Plan 2020-2026 – Ballyheigue Settlement.

BE-GO-04: Protect buildings which form part of the Ballyheigue's architectural heritage.

BE-GO-07: Preserve, protect and enhance existing stone walls.

The Listowel Municipal District Local Area Plan 2020-2026 includes a map which shows that it is the objective of the Council to preserve stone walls and fences associated with the former walled garden of the castle.

5.2. National and Regional Policy

- Project Ireland 2040: National Planning Framework, 2018
- Regional Spatial and Economic Strategy for the Southern Region, 2019
- Design Manual for Urban Roads and Streets, 2019 ('DMURS')
- Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities, 2009
- Urban Design Manual: A Best Practice Guide, 2009

- Quality Housing for Sustainable Communities – Best Practice Guidelines, 2007
- Sustainable Residential Development and Compact Settlement Guidelines for Planning Authorities.
- Sustainable Urban Housing: Design Standards for New Apartments (July 2023).

5.3. **Natural Heritage Designations**

The subject site is not located within a designated site. The nearest site is:

- Akeragh, Banna and Barrow Harbour SAC & pNHA (site code: 000332) located approximately 1.2km south of the subject site.
- Tralee Bay Complex SPA (site code: 004188) is located approximately 1.2km south of the subject site.
- Kerry Head SPA (site code: 004189) is located approximately 1.6km west and north of the subject site.
- Lower River Shannon SAC (site code: 002165) is located approximately 3.8km north and west of the subject site.

5.4. **EIA Screening**

- 5.4.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2, in the Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of the potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

5.5. **Water Framework Directive**

- 5.5.1. The subject site is located within zoned lands in the settlement of Ballyheigue town. The site is surrounded by Ballyheigue Golf Course to the north, west and south. There are no streams or rivers in close proximity to the site. The site is existing and

consists of derelict buildings associated with Ballyheigue Castle (protected structure). No water deterioration concerns were raised in the planning appeal. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seeks to protect and, where necessary, restore surface & ground water body in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively. The reason for this conclusion is as follows:

- Nature of works consists of a change of use of existing buildings to 7 no. self-catering apartments.
- Connection to public water and public sewer.
- Separation distance to the nearest European site at 1.2km north of Akeragh, Banna and Barrow Harbour SAC & pNHA & 1.2km north of Tralee Bay Complex and lack of connections to the European site.

I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal were received from local residents. The concerns raised are:

- Protected Structure and Recorded Monument: the proposed development is within the curtilage of Ballyheigue Castle which is a protected structure and recorded monument. The proposal has the potential to materially affect the character, setting and landscape of Ballyheigue Castle. Archaeological sites such as this are of national significance, and developments within or adjacent

to them should be subject to rigorous consultation with statutory bodies. The proposal will contravene objectives KCDP 8-40 and KCDP 8-50 of the CDP. Architectural Heritage Impact Assessment submitted was prepared by John Cronin & Associates but does not appear to hold formal Architectural Conservation Accreditation and do not appear in the List of Registered Architects RIAI.

- Traffic: Revised parking plan submitted as part of FI and access impacted for the residents of the apartments within the castle, decreases accessibility for emergency vehicles, creating potential health and safety concerns. Condition 7(i) cannot be implemented as it requires all construction vehicles to park within the site and due to site constraints, this is not possible. Query the maintenance and upkeep of Castlelawn access road. The road has not been taken in charge by the council. Sightlines at the junction of Castlelawn road with Coast Road are restricted, in particular for vehicles turning right from the Coast Road up onto the Castlelawn Road. The car park is inadequate and will generate traffic parking along Castlelawn Road. Car parking is available in the existing large golf club car park. The revised accessible car park space appears to block off a well-established right of way frequently used by many Ballyheigue locals and visitors.
- Design & Visual: The revised car parking arrangement reduces public open space. The development of 7 no. apartment is excessive. Access from the south in front of Ballyheigue Castle is inappropriate and will have a detrimental effect on the Castle. The castle is a highly important vista on the Wild Atlantic Way. The Golf Club walls share a boundary with appellant on the eastern boundary and not clear on what is going to be developed in this location.
- Appropriate Assessment: pathways exist to Dingle Peninsula SPA and Castlemaine Harbour SPA potential loss of bird species namely the Chough. Similar application 21438 by Board for AA.
- Procedures: Request An Coimisiún Pleanála to engage with appropriate bodies including: The Department of Housing, Local Government and Heritage, The Heritage Council, An Taisce and National Inventory of

Architectural Heritage (NIAH). Drawings are inconsistent and a number of errors noted. The Further information request included significant changes to the red and blue line, and it was not re-advertised.

- Planning History: previous refusal under planning reference 2360375 and reason stated as “The proposed design and siting of this development would materially affect the character of the Protected Structure and its setting... It would contravene Kerry County Council’s Development Plan Objectives KCDP 8-40 and KCDP 8-50 in relation to built heritage”.

Unauthorised works: Works including demolition were underway in November 2023 prior to submitting a planning application. Two historic walls appear to have been damaged. Retention permission should have been applied for the unauthorised works along with the appropriate assessment including an Architectural Heritage Impact Assessment.

- Building Regulations/Fire Safety Regulations: The buildings do not appear to comply with important building and fire safety regulations. The inner rooms fail to meet fire safety requirements, the inadequate provision of windows in all rooms to meet lighting requirements and the inadequate size of some rooms to meet minimum size requirements.
- Sewer: the pipework will be rerouted and passes directly under a protected castle stone wall

6.2. Applicant Response

- None

6.3. Planning Authority Response

- None

6.4. Observations

- None

6.5. Further Responses

- None

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the report/s of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered as follows:

- Architectural Heritage
- Design, Layout & Visual
- Traffic
- Other issues (planning history, unauthorised development, sewer line, building regulations)
- Procedural issues (landownership, advertisement, consultation)
- Appropriate Assessment

7.2. Architectural Heritage

7.3. The proposed development is within the curtilage of Ballyheigue Castle Protected Structure (RPS KY-21301401-A) and Recorded Monument (RMP KY014-100) and is listed in the National Inventory of Architectural Heritage where it is given a “regional” rating. The subject buildings do not contain any elements of the structure of Ballyheigue Castle but relates to associated service buildings and the stone-built garden wall. The proposed development contains a variety of buildings ranging from 19th century stone-walled house and shed, high stone walls that once defined a walled orchard and a yard as well as a house of mid-20th century date, later concrete block infill and foundations of older buildings converted as garden features. The proposal will refurbish the associated service buildings and garden walls. The ruins of Ballyheigue Castle are 40m to the southeast, the converted service wing is 13.5m to the southeast.

- 7.4. The grounds of appeal state the proposed development is within the curtilage of Ballyheigue Castle which is a protected structure and recorded monument. The proposal has the potential to materially affect the character, setting and landscape of Ballyheigue Castle. Archaeological sites such as this are of national significance, and developments within or adjacent to them should be subject to rigorous consultation with statutory bodies. The proposal will contravene objectives KCDP 8-40 and KCDP 8-50 of the CDP (Kerry County Development Plan).
- 7.5. I have assessed the proposed development, and I note the applicant proposes to renovate and extend an existing derelict building and historic garden walls in order to provide seven self-catering units. While I welcome the renovation of a derelict building within an urban setting, I do have concerns regarding the historic setting of the site and the historic garden walls. I note the conservation officer of KCC (Kerry County Council) had concerns in relation to the principle of loss or damage, and the incorporation of existing historic garden walls as a structural element of the development. The proposals incorporate a number of openings along the historic garden walls in order to provide windows/doors to the proposed apartments. As part of a further information request by the Planning Authority, an Architectural Heritage Impact Assessment (AHIA) was undertaken and all new openings along the western wall of the property were omitted. The AHIA concluded that the impact on the setting of Ballyheigue Castle is considered a minor positive impact. I note the Conservation Officer or County Archaeologist of KCC had no further comments and I note no comments were received from Department of Housing, Local Government and Heritage, An Taisce, The Heritage Council, Failte Ireland, An Comhairle Ealaíon, Arts Council of Ireland.
- 7.6. Having visited the site and assessed the historic garden walls, I noted works have taken place on site prior to a grant of permission, a number of proposed openings along the historic walls along with cuts to the walls were noted. I reviewed the further information drawings submitted and the applicant has removed the openings along the western wall and retained the new proposed openings along the eastern historic garden wall. I have serious concerns that the historic significant and value of the garden walls within the curtilage of Ballyheigue Castle, a protected structure will be lost and damaged. It is my opinion that the historic garden walls should be retained in full with little intervention and potentially reverted back to their former use. I also

note that the Planning Authority conditioned the applicant under condition 4(f) stating that all existing stone walls shall be retained in full and protected during the construction works. I too, am of the opinion, that the historic garden walls shall remain in tact and shall be protected, therefore permission shall be refused as it contravenes objective KCDDP 8-40 which ensures that any development, modification, alteration, or extension affecting a protected structure and/or its setting including designed landscape features and views, is compatible with the special character of that structure.

7.7. Having regard to the proposed works to historic garden walls within the curtilage of Ballyheigue Castle Protected Structure (RPS KY-21301401-A) and Recorded Monument (RMP KY014-100) and is listed in the National Inventory of Architectural Heritage where it is given a “regional” rating, permission shall be refused as the works proposed will negatively impact the setting and views of Ballyheigue Castle and its features and will contravene objective KCDDP 8-40 of the CDDP.

7.8. Design, layout & Visual

7.9. The subject site is located within the curtilage of Ballyheigue Castle ruins, a protected structure. The proposal consists of the conversion of an existing dwelling and outbuildings into 7 no. short term let accommodation. The buildings on site are derelict and in need of repair, the buildings have a faux battlement feature. There are no protected views or scenic routes within close proximity to the subject site.

7.10. The grounds of appeal state the revised car parking arrangement reduces public open space. The development of 7 no. apartment is excessive. There is inadequate provision of windows in all rooms to meet natural lighting requirements, and the size of some rooms do not meet minimum size requirements. The proposal to access from the south in front of Ballyheigue Castle is inappropriate and will have a detrimental effect on the Castle. The castle is a highly important vista on the Wild Atlantic Way. The Golf Club walls share a boundary with appellant on the eastern boundary and not clear on what is going to be developed in this location.

7.11. I note the applicant has supplied a schedule of accommodation housing quality assessment, there are 3 of the 7 units slightly below the recommended gross floor area by between 2 and 3 square metres. However, I have concerns regarding the usable space for the kitchen space for Unit 7, it is below the recommended standard.

The storage areas are well below the required standards for apartments, however, as the proposed units are for short term let, there is no requirement for storage areas. The apartments comply with the minimum standards for Faile Ireland minimum requirements. The proposed private open space exceeds the minimum standards for apartments; however, I note the site layout refers to private open space as “if required”, therefore I query if private open space will be provided. The appellant has raised concerns regarding public open space, as the apartment are proposed as short term let, there is no requirement for public open space, therefore, I consider the proposed open space is adequate. I do have serious concerns regarding the lack of natural light for some apartments as highlighted by the appellants, a number of rooms do not have an external window and roof lights are proposed instead along the western boundary and as I have mentioned in the previous section, the Planning Authority have conditioned the applicant to remove all openings proposed along the historic garden walls, this will mean that the windows proposed along the eastern boundary to units 1 and 2 will lose the proposed windows and this will result in insufficient natural light. The apartment guidelines do require dual aspect apartments but note for refurbishment schemes this can be relaxed in part, but the daylighting and orientation of living spaces is the most important objective. Therefore, given the layout of the proposed apartments and the further amendments required to retain the historic garden wall, I consider the proposed apartments will be substandard and do not allow for adequate natural light to living spaces.

- 7.12. I note the appellant also have concerns regarding the density of 7 units on a site with an area of 0.13hectares, this equates to 53 units per hectare, this is high for a district settlement of Ballyheigue, however, it does involve the renovation of an existing structure and could be considered if designed appropriately.
- 7.13. I note concerns were raised in relation to further development on the eastern boundary adjacent to the appellants property, the development proposed relates to the confined red line boundary and no plans were submitted as to further developments for the remainder of the site.
- 7.14. In regard to the visual impact of the proposed development on Ballyheigue Castle setting and vistas from the Wild Atlantic Way, I have concerns regarding the proposed design and layout, the buildings as they stand are not attractive and do not

offer any historic or visual attractiveness to the surrounding area, there are faux battlement features on the existing buildings, I consider the features detract from the historic setting and a new revised design could address these. In addition, the car parking proposed to the front of the subject site along the access road will also add to the visual clutter of the area and impact the visual setting of the subject site. The proposed design and layout are not sensitive to the built heritage of the area. Therefore, I consider the proposed development does not comply with objective KCDP 8-50 which requires proposals within historic designed landscapes to be sensitive and respect the built heritage elements and green space values of the site.

- 7.15. Having regard to the proposed layout and internal spaces proposed, I consider that the proposed development is substandard and will negatively impact any future residents in particular in terms of adequate natural light. In addition, the proposed design and layout is not sympathetic to setting of this historic landscape and fails to comply with objective KCDP 8-50 of the CDP.

7.16. Traffic

- 7.17. The subject site will be accessed off the Castlawn road from Cliff Road junction.

The applicant has submitted a land registry map and folio details. As part of the further information request, the applicant relocated part of the car parking proposed from the main entrance to a green open space to the east of the subject building.

- 7.18. The grounds of appeal have concerns that the revised car parking plan submitted as part of further information will impact access for the residents of the apartments within the castle and decrease accessibility for emergency vehicles, creating potential health and safety concerns. Condition 7(i) cannot be implemented as it requires all construction vehicles to park within the site and due to site constraints, this is not possible. Query the maintenance and upkeep of Castlawn access road. The road has not been taken in charge by the council. Sightlines at the junction of Castlawn road with Coast Road are restricted, in particular for vehicles turning right from the Coast Road up onto the Castlawn Road, as the view of oncoming traffic is restricted and only come visible as the vehicle is turning up onto Castlawn Road. The car park is inadequate and will generate traffic parking along Castlawn Road. Car parking is available in the existing large golf club car park.

- 7.19. I have assessed the proposed car parking in accordance with Volume 6 Development Management Standards and Guidelines of the CDP which states one car parking space per bedroom is required for apartments. Therefore 11 spaces are required, the applicant is proposing 10 car parking spaces plus a disability space, I consider adequate car parking has been provided and is compliant with the CDP.
- 7.20. In regard to the sightlines at the junction of Castlelawn and Cliff Road, the applicant has indicated 70 metres sightlines are possible. The design speed for Cliff Road is 60km/h and in accordance with DMURS forward visibility of 59 metres is recommended, therefore, the proposed sightlines of 70 metres in both directions is acceptable and I am satisfied that the applicant has provided in excess of the required sightlines.
- 7.21. I note the applicant concerns that the existing open space will be used as a car park and may impact the access for the residents of the apartments within the castle, decreases accessibility for emergency vehicles, creating potential health and safety concerns. I note from the further information submitted as part of the planning application; the applicant submitted an auto track for a fire track to access the site to the rear of the existing apartments and submitted an auto track for a refuse track. In addition, an auto track drawing was submitted for each car parking space including the proposed car parking on the open space. The drawings submitted do not indicate any issues arising and clearly indicate that large vehicles and cars can easily access the subject site. No concerns were raised by the Housing Unit section of KCC. Therefore, I do not consider that the proposed car parking location will impact the existing residents.
- 7.22. In relation to condition 7 which requires all construction traffic to be contained within the site, I note the site area within the land ownership is 0.39hectares and the application site boundary is 0.13 hectares, I consider given the size of the subject site and surrounding lands within the applicant's ownership that the applicant can provide parking for construction vehicles within the site.
- 7.23. In relation to the access road, it is noted as an existing shared surface with tarmac finish, the applicant has shown a legal right of way to use this access road. No issues were raised by the Housing Estates Unit or Listowel Roads Office. The maintenance of the private road will be a matter for the legal landowner.

- 7.24. Having regard to the proposed car parking numbers, the sightlines proposed at the junction with Cliff Road, the evidence submitted by the applicant regarding a right of way to use Castlelawn Road, the auto-track details submitted and the size of the site to accommodate construction traffic if required, I consider the proposal will not have a negative impact on traffic safety in the area.
- 7.25. **Other issues (planning history, unauthorised development, sewer line, building regulations)**
- 7.26. I note the appellants raised concerns in relation to the planning history on site, in particular previous refusal under planning reference 2360375 and reason stated as “The proposed design and siting of this development would materially affect the character of the Protected Structure and its setting... It would contravene Kerry County Council’s Development Plan Objectives KCDP 8-40 and KCDP 8-50 in relation to built heritage”. I have reviewed this file, and the proposed development was significantly different to the current proposal, therefore, the proposals cannot be compared and should be assessed on their own merits.
- 7.27. In regard to the unauthorised works carried out, I note works have taken place on site in the past, but on the day of my site visits, no works were being undertaken. The Planning Authority have not raised any concerns and any works that have or potentially will take place is a matter for the Planning Authority and not for the Commission.
- 7.28. The appellant also raised concerns regarding sewer pipework as it is noted on the drawings that it will be rerouted and pass directly under a protected castle stone wall. As noted above, no works or damage to the historic garden walls shall occur, in the event of a grant of permission, I suggest a condition shall be attached, to agree the sewer pipeline location with the Planning Authority prior to commencement.
- 7.29. In regard to Building Regulations, this is a subject matter and not a concern for the Commission, I note the Fire Officer of KCC did not raise any concerns in relation to fire safety.
- 7.30. **Procedural issues (landownership, advertisement, consultation)**
- 7.31. I note the appellants concerns in relation to the drawings submitted and the inconsistencies along with the error noted. I note the drawings were considered

acceptable by the Planning Authority. In regard to the further information submitted, the Planning Authority did not consider the information to be significant, and no new advertisement was required. In relation to the public body consultation, I note the Planning Authority did consult with the relevant bodies and no comments were received from the public bodies. I am satisfied that this did not prevent the concerned party from making representations. The above assessment represents my de novo consideration of all planning issues material to the proposed development.

8.0 AA Screening

8.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The subject site is located within zoned lands in the settlement of Ballyheigue town. The site is surrounded by Ballyheigue Golf Course to the north, west and south. The site is an existing site of derelict buildings associated with Ballyheigue Castle (protected structure). The site is located approximately 1.2km north of Akeragh, Banna and Barrow Harbour SAC & pNHA & 1.2km north of Tralee Bay Complex and lack of connections to the European site.

The proposed development comprises of change of use of existing buildings to 7 no. self-catering apartments and all ancillary site works.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.

The reason for this conclusion is as follows:

- Nature of works consists of a change of use of existing buildings to 7 no. self-catering apartments.
- Connection to public water and public sewer.
- Separation distance to the nearest European site at 1.2km north of Akeragh, Banna and Barrow Harbour SAC & pNHA & 1.2km north of Tralee Bay Complex and lack of connections to the European site.

I conclude, on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

- 9.1. I recommend that planning permission should be refused for the reasons and considerations as set out below.

10.0 Reasons and Considerations

1. Having regard to the existing character and the prevailing pattern of development, the site location within the curtilage of Ballyheigue Castle Protected Structure (RPS KY-21301401-A) and Recorded Monument (RMP KY014-100) and is listed in the National Inventory of Architectural Heritage where it is given a “regional” rating and having regard to objective KCDP 8-40 of the Kerry County Development Plan 2022-2028 which shall ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting including designed landscape features and views, is compatible with the special character of that structure and objective KCDP 8-50 of the Kerry County Development Plan 2022-2028 which require that proposals for development within historic designed landscapes be sensitive to and respect the built heritage elements and green space values of the site. It is considered that the proposed development, by reason of its overall layout, design and proposed amendments and removal of parts of the historic walls, would seriously detract from the architectural character and setting of Ballyheigue Castle and of the vista generally. The proposed development would, therefore, materially and adversely affect the character of this Protected Structure, would seriously injure the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the layout of the proposed development, it is considered that the proposed development would result in the poor disposition and quantity of natural daylight entering the proposed apartments. The proposed development would thereby constitute a substandard form of development which would seriously injure the residential amenities of the future residents and be contrary to the proper planning and sustainable development of the area.

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.

Jennifer McQuaid
Planning Inspector
22nd July 2025

Appendix A: Form 1 - EIA Pre-Screening

Case Reference	ABP-322313-25
Proposed Development Summary	Construction of 7 short term tourist accommodation with all associated site works.
Development Address	Castlelawn, Ballyheigue, Co. Kerry
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2. <input type="checkbox"/> No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

development under Article 8 of the Roads Regulations, 1994. No Screening required.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	Schedule 5, Part 2, Class 10b(i) Construction of more than 500 dwelling units.

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____ Date: _____

Appendix A: Form 2 - EIA Preliminary Examination

Case Reference	ABP-322313-25
Proposed Development Summary	Construction of 7 short term tourist accommodation with all associated site works.
Development Address	Castlelawn, Ballyheigue, Co. Kerry
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	<ul style="list-style-type: none"> • The proposal consists of 7 no. short-term letting holiday homes within the urban area of Ballyheigue town. • The development will consist of alterations and renovations and extension to an existing dwelling and will include typical construction and related activities and the site works. The works are within the curtilage of a protected structure – Ballyheigue Castle. The works will include utilising the existing stone walls associated with Ballyheigue castle, however, the works to the walls will be kept to a minimum and the walls will be retained. It is not envisaged that the works will result in the production of significant waste, emissions or pollutants. • Surface water will be discharged to an onsite soakaway. • Wastewater will be discharged to public wastewater system.
Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	Given the urban nature of the proposal with connection to public services for wastewater and water and the disposal of surface water to an on-site soakaway, there are no significant sensitivities in the immediate area. The subject site is not located within a designated site, the closest are: <ul style="list-style-type: none"> • Akeragh, Banna and Barrow Harbour SAC & pNHA (site code: 000332) located approximately 1.2km south of the subject site. • Tralee Bay Complex SPA (site code: 004188) is located approximately 1.2km south of the subject site. • Kerry Head SPA (site code: 004189) is located approximately 1.6km west and north of the subject site.

	<ul style="list-style-type: none"> Lower River Shannon SAC (site code: 002165) is located approximately 3.8km north and west of the subject site. <p>My Appropriate Assessment Screening concludes that the proposed development would not likely have a significant effect on any European Site.</p> <p>The subject site is located outside any flood risk area for coastal and fluvial flooding.</p>
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	<ul style="list-style-type: none"> The site size measures 0.163ha. The size of the development is not exceptional in the context of an urban environment. The proposal involves the conversion and renovation of an existing derelict dwelling, and the proposal is sufficient distance from neighbouring properties. There is no real likelihood of significant cumulative effects within the existing and permitted projects in the area.
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)

Appendix B: Water Framework Directive Screening

WFD IMPACT ASSESSMENT STAGE 1: SCREENING**Step 1: Nature of the Project, the Site and Locality**

An Bord Pleanála ref. no.	ABP-322313-25	Townland, address	Castlelawn, Ballyheigue, Co. Kerry.
Description of project		Construction of 7 number short term lets and all associated site works.	
Brief site description, relevant to WFD Screening,		The site is located within the urban area of Ballyheigue town; the site is zoned and connection to public wastewater and water are required. On site soakaways are proposed to deal with surface water on site. The site consists of an existing derelict dwelling and outbuildings, and it is proposed to renovate and extend the dwelling in order to provide 7 no. individual short term let units. There are no water features on site or adjacent the subject site. The site is not within a flood zone area.	
Proposed surface water details		Surface water will be disposed of onsite soakaways.	
Proposed water supply source & available capacity		Public water supply.	

Proposed wastewater treatment system & available capacity, other issues			Public wastewater.			
Others?						
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body.	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
e.g. lake, river, transitional and coastal waters, groundwater body, artificial (e.g. canal) or heavily modified body.	Groundwater below the subject site.	The site is located within groundwater Body Kerry Head IE_SH_G_11 8	Groundwater status is described as Good (period for GW 2016-2021).	Groundwater is described as Not at Risk.	None identified	Potential surface water run-off

		Coastal located appropriately 230 metres southwest.	Outer Tralee Bay IE_SH_040_0000	Coastal water status is described as Good.	Coastal water risk is under review.		
Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.							
CONSTRUCTION PHASE							
No.	Component	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.
1.	Coastal	Outer Tralee Bay IE_SH_040_0000	Possibly surface water run off	Siltation, pH (Concrete), hydrocarbon spillages	Standard construction practice CEMP	No - due to distance	Screened out

2.	Ground	Groundwater r Body Kerry Head IE_SH_G_1 18	Pathways exist through bedrock	Spillages	Standard constructio n practice CEMP	No	Screened Out
OPERATIONAL PHASE							
4.	Ground	Groundwater r Body Kerry Head IE_SH_G_1 18	Pathways exists	Spillages	SuDs features – on site soakaways to be installed.	No	Screened Out
5.	Coastal	Outer Tralee Bay IE_SH_040 _0000	Possibly existing drainage ditches	hydrocarbon spillages	Suds features	No	Screened out
DECOMMISSIONING PHASE							

5.	N/A						
----	-----	--	--	--	--	--	--