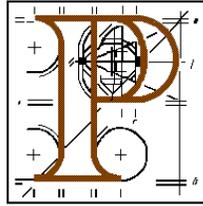

An Bord Pleanála



Inspector's Report

Ref.: PL08. 244612

Development: (A) Demolish the extensions to the original dwelling, (B) construct extensions to & renovate the existing dwelling (C) decommission the existing septic tank & percolation area and to construct a mechanical aeration unit served by a sand polishing filter (D) make alterations to the road boundary, on-site services, and associated site works.

Ballylongane, Ballyheigue, Co. Kerry.

PLANNING APPLICATION

Planning Authority: Kerry County Council

Planning Authority Ref.: 14/885

Applicant: Mr. Patrick Lynch

Type of Application: Permission

Planning Authority Decision: Refusal

APPEAL

Type of Appeal: First Party v. Decision

Observers: None.

INSPECTOR: Robert Speer

Date of Site Inspection: 20th May, 2015

1.0 SITE LOCATION AND DESCRIPTION

1.1 The proposed development site is located in the rural townland of Ballylongane, Co. Kerry, approximately 3.4km northwest of the village of Ballyheigue and 500m southeast of Glenderry National School, on the seaward side of the coastal road that extends westwards from Ballyheigue thereby providing significant views southwards over Ballyheigue Bay. The surrounding landscape is predominantly rural in character, although there is a significant prevalence of one-off housing in the wider area with notable instances of piecemeal and linear-type development along the inland side of the coast road. The site itself has a stated site area of 0.14 hectares, is irregularly shaped, and is presently occupied by a typical two-storey dwelling house with single storey annexes / returns to the side and rear of same, in addition to an associated outbuilding to the rear of the property. The dwelling house is positioned alongside the public road in the more elevated northernmost corner of the site whereas the remainder of the land generally falls southwards towards the cliff face and the shoreline beyond. The site is bounded by agricultural fields to the immediate southeast and southwest whilst the westernmost site boundary abuts a noticeable drop to a steep ravine through which a watercourse flows towards the sea.

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

2.1 The proposed development consists of the renovation and extension of an existing dwelling house (total floor area: 192m²) which will involve the complete demolition of a series of single storey annexes (combined floor area: 98m²) constructed to the side and rear of same with the subsequent construction of a primarily single storey extension incorporating additional living accommodation and associated amenities which will envelop the north-western (side) and south-western (rear) elevations of the property. It is also proposed to construct a new single storey garage structure attached to the south-eastern elevation of the existing dwelling house. With regard to the overall design of these elements of the proposal (floor area: 141m²) it is of relevance to note that whilst the roadside additions will adopt a conventional pitched roof construction, the extension to the rear of the property will utilise a flat-roof and will incorporate an external balcony area.

2.2 In addition to the foregoing, it is proposed to change the internal layout of the existing two-storey construction to be retained and to make a series of alterations

to the exterior of the property including the relocation of the front doorway and the insertion of a new window at first floor level within the rear elevation.

2.3 Further works to be undertaken on site include the decommissioning of an existing septic tank system and the replacement of same with a proprietary wastewater treatment plant served by a sand polishing filter. It is also proposed to construct a new roadside boundary wall, to alter the existing site entrance / access, and to undertake various associated site development works.

3.0 RELEVANT PLANNING HISTORY

3.1 On Site:

None.

3.2 Other Relevant Files:

PA Ref. No. 10/873 / ABP Ref. No. PL08. 237943. Was granted on appeal on 24th March, 2011 permitting Sara Browne and Eamonn Barry permission to renovate and carry out split level, single-storey extension to existing house and install new sewerage treatment unit at Ballylongane, Ballyheigue, Co. Kerry.

4.0 PLANNING AUTHORITY CONSIDERATIONS AND DECISION

4.1 Decision:

On 17th February, 2015 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following single reason:

- The proposed development would be located within an area zoned Prime Special Amenity in the Kerry County Development Plan, 2009-2015 where it is the policy of the Planning Authority as per Section 12.2.7 that *'In these areas all development will be prohibited, other than exempted development in accordance with Schedule 2 of the Planning and Development Regulations, 2001-2007'*. Furthermore, as per Section 3.9.2 of the Kerry County Development Plan 2009-2015 *'In Prime Special Amenity Areas, renovation or restoration will be confined to dwellings which are to be occupied by a person as their primary place of residence and who are sons and daughters of traditional landholders, the landholding having been in the applicant's or applicant's family's ownership for a period in excess of ten years while being the location of the principal family residence'*. The proposed development would

contravene these policies and would therefore be contrary to the proper planning and sustainable development of the area.

4.2 Objections / Observations:

None.

4.3 Internal Reports:

Biodiversity Officer: States that although the application site is partially located within the Kerry Head Special Protection Area, it has historically been disturbed by the existing dwelling house whilst the area in question does not contain any supporting or breeding habitats associated with the species of special conservation interest for which the SPA has been designated (i.e. fulmar and chough). Accordingly, it is considered that no significant effects are likely on the SPA consequent on the proposed development.

Environment (Site Assessment Unit): No objection subject to conditions.

4.4 Prescribed Bodies / Other Consultees:

An Taisce: States that the existing dwelling house adjoins a scenic route which encircles Kerry Head and that due to its positioning on the seaward side of same any extension and renovation of the property should not increase the visual impact of the dwelling whilst every effort should be made to ensure that the new building integrates with its surroundings.

5.0 GROUNDS OF APPEAL

The grounds of appeal are summarised as follows:

- Section 3.9.2 of the Kerry County Development Plan, 2009-2015, states the following:

'In Prime Special Amenity Areas the renovation or restoration will be confined to dwellings which are to be occupied by a person as their permanent residence and who are sons and daughters of traditional landholders, the landholding having been in the family's ownership for a period in excess of ten years while being the location of the principal family residence. In the case of refurbishment and extension proposals, the scale and architectural treatment of proposed works shall be sympathetic to the character of the original structure and the surrounding area including adjoining or nearby developments. Restored or renovated

dwellings shall be located where safe access, acceptable wastewater disposal arrangements can be put in place'.

In view of the foregoing, the Board is advised that prior to the applicant's acquisition of the site in question, the property was owned by an elderly farmer who inherited same from his late aunts who had previously resided alone in the dwelling house. In this respect it should also be noted that none of these previous owners had any children and that the former owner of the property is the last surviving member of that family. Therefore, it is submitted that on the basis of an absolute reading of Section 3.9.2 of the Development Plan, no individual is in a position to satisfy the eligibility criteria set out under that provision. Instead, the applicant complies with all of the relevant criteria other than not having owned the property for in excess of a ten year period.

(N.B. For clarity purposes, I would advise the Board that the aforementioned 'quotation' of Section 3.9.2 is not strictly accurate although it serves to summarise certain key points of that policy provision).

- The existing building comprises three main elements (i.e. the two-storey dwelling house, the barrel-roofed structure, and the single storey extension to the rear of the property), all of which pre-date the Planning and Development Acts, save for a small toilet annex which was probably constructed c. 1970. In this respect it is submitted that the proposal to refurbish and extend the property will only result in an increase of 28.7m² of floorspace to the rear of the existing buildings in addition to the construction of a garage structure with a floor area of 25m².
- The applicants are amenable to accepting any alteration / amendment to the proposal under consideration as detailed in the submitted drawings.
- It is the applicant's intention to extend and renovate the existing vacant property to such an extent that it will 'sustain' a modern standard of living with good insulation and heat retention qualities etc. whilst also maintaining the general aesthetic appearance of same.

Having regard to the foregoing, it should also be noted that Section 12.3.1 of the Kerry County Development Plan, 2009 states the following:

'County Kerry contains areas of outstanding natural beauty which are recognised internationally. There is a need to protect and conserve views and prospects adjoining public roads throughout the county for future

generations. In assessing views and prospects it is not proposed that this should give rise to the prohibition of development along these routes, but development, where permitted, should not seriously hinder or obstruct these views and should be designed and located to minimise their impact'.

Accordingly, it is submitted that the subject proposal will reinvigorate an existing building whilst maintaining its character and avoiding a derelict scar on the landscape.

- A property that is both occupied and maintained is preferable to a vacant derelict / dilapidated building.
- The redevelopment and upgrading of the existing property accords with the principles of sustainable development.
- Given the site location adjacent to a 'Weak Rural Area' which has been affected by persistent population decline and where it is important to facilitate in-migration in order to encourage population growth and to provide for the future sustainability of communities, it is submitted that proposals involving the renovation and maintenance of older buildings by people like the applicants should be encouraged.
- Section 3.10.5 of the County Development Plan states that '*The replacement, renovation and restoration of existing premises will be considered and encouraged where appropriate*'.
- If the existing buildings on site were to be renovated then there would be no requirement to obtain planning permission, however, the subject application has been lodged in order to provide for the following:
 - The upgrading of the existing septic tank and percolation area;
 - The provision of on-site car parking;
 - The creation of a buffer between the front elevation of the dwelling house and the public road through the construction of a low wall with a garden area inside of same. This will provide a safe space to the front of the building and will also avoid vehicles having to park on the public roadway whilst also ensuring an aesthetically pleasing façade to the property;
 - It is more cost-effective to demolish those areas identified in the planning application and to rebuild same using modern materials than it would be to renovate same; and
 - The proposed extended area to the rear of the property would equate to 28.7m² and thus would be exempted development.

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- The subject proposal satisfies the applicant's housing needs and thus there is merit in approving same.
 - There are wider policy considerations in the County Development Plan that far outweigh the provisions of Section 3.9.2.
 - The submitted proposal involves the sympathetic redevelopment of an existing property which is in danger of becoming neglected and derelict.
 - The applicants will make a positive contribution to the local community and the surrounding area.

6.0 RESPONSE TO GROUNDS OF APPEAL

6.1 Response of the Planning Authority:

None.

7.0 RESPONSE TO SECTION 131 NOTIFICATION:

7.1 Department of Arts, Heritage and Local Government:

No response.

8.0 DEVELOPMENT PLAN

Kerry County Development Plan, 2015-2021:-

Chapter 3: Settlement Strategy:

Section 3.3: Rural Settlement Strategy:

Section 3.3.1: Rural Area Types and Settlement:

It is the policy of the Kerry County Council to ensure that future housing in rural areas complies with the Sustainable Rural Housing Guidelines for Planning Authorities, 2005 (DoEHLG) and this will be achieved through greater emphasis on the following:-

- a) Establishing that there is a genuine housing need for permanent occupation.
- b) Giving priority to the reduction of residential vacancy rates in the Rural Areas Under Strong Urban Influence and Stronger Rural Areas in preference to new residential development.
- c) The replacement, renovation or modification of existing structures in rural areas for residential use.
- d) Encouraging people who wish to reside in the countryside to live in existing settlements or development nodes where there are services available.

Section 3.3.2: *Development in Amenity Areas:*

Section 3.3.2.3: *Prime Special Amenity*

Section 3.3.5: *Renovation and Restoration of Existing and Vacant Buildings Situated in Rural Areas.*

The Planning Authority shall give positive consideration to the renovation and restoration of existing structures and to the completion of derelict and vacant buildings in the rural countryside for use as permanent primary residences and as holiday home accommodation. Consideration will be related to the specific location and condition of the structure and the scale of any works required to upgrade the structure to modern standards.

Replacement of an existing dwelling house will also be considered where the renovation or restoration of the building is not feasible for structural reasons. The Planning Authority will require a Structural Engineers Report to support this position.

In Prime Special Amenity Areas, however, the renovation or restoration will be confined to dwellings which are to be occupied by a person as their primary place of residence and who are sons and daughters of traditional landholders, the landholding having been in the applicant's or applicant's family's ownership for a period in excess of ten years while being the location of the principal family residence.

The following provisions shall apply:-

- The structure to be restored/renovated shall constitute an identifiable dwelling, with the walls being generally intact.
- In the case of refurbishment and extension proposals, the scale and architectural treatment of proposed works shall be sympathetic to the character of the original structure and the surrounding area including adjoining or nearby development.

Restored or renovated dwellings shall be located where safe access, acceptable wastewater disposal arrangements can be put in place and where specific development objectives outlined in the County Development Plan are not contravened. Where necessary, surveys on protected species may need to be undertaken in order to assess the impact of restoration and renovations on these protected species.

RS-16: Give favourable consideration to applications for the conversion and reuse of existing traditional farm buildings or rural houses. These properties should be structurally intact and exhibit essential physical characteristics of a dwelling house.

RS-17: Resist the demolition and replacement of traditional or vernacular rural housing, whose character merits retention.

Chapter 12: Zoning & Landscape:

ZL-1: Protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to the quality of people's lives.

Section 12.3: *Zoning:*

Section 12.2.1: *Zoning Designations: Rural Prime Special Amenity:*

Rural Prime Special Amenity Areas are those landscapes which are very sensitive and have little or no capacity to accommodate development. In these areas all development will be prohibited, other than normally exempted development in accordance with Section 4, Planning and Development Act 2000-14, Schedule 2 of the Planning & Development Regulations 2001-2013 and Chapter 3.3.2, which will be open to consideration, subject to satisfactory integration into the landscape and compliance with the proper planning and sustainable development in the area.

Section 12.4: *View and Prospects:*

ZL-5: Preserve the views and prospects as defined on Map No's 12.1, 12.1a – 12.1u.

Chapter 13: Development Management – Standards & Guidelines:

Section 13.2: *Development Standards/General*

Section 13.4: *Residential Development in Rural and Non-Serviced Sites*

9.0 ASSESSMENT

From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development / rural housing policy

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- Overall design and layout / visual impact
 - Wastewater treatment and disposal
 - Traffic implications
 - Appropriate assessment

These are assessed as follows:

9.1 The Principle of the Proposed Development / Rural Housing Policy:

9.1.1 The proposed development involves the renovation and extension of an existing dwelling house and whilst it would appear that the property in question is presently vacant and perhaps in need of modernisation, in my opinion, it is clear that the dwelling itself remains intact and in a habitable condition (having been occupied up until some time in 2014) and that the overall principle of the subject proposal must therefore be considered acceptable. In support of the foregoing, I would draw the Board's attention to Section 3.3.5: *'Renovation and Restoration of Existing and Vacant Buildings Situated in Rural Areas'* of the Kerry County Development Plan, 2015-2021 wherein it is stated that the Planning Authority will give positive consideration to the renovation and restoration of existing structures in the rural countryside for use as both permanent residences and holiday home accommodation. In addition, it is of relevance to note that Objective RS-16 of the Plan specifically states that favourable consideration will be given to applications for the conversion and reuse of existing traditional farm buildings or rural houses provided the properties in question are structurally intact and exhibit the essential physical characteristics of a dwelling house. Accordingly, it would seem that the subject proposal which seeks to renovate and extend an existing intact dwelling house in the open countryside would generally accord with the wider policy provisions set out in the County Development Plan in addition to the overall principles of proper planning and sustainable development, however, it is readily apparent from the decision of the Planning Authority that difficulties arise in this respect as a direct result of the site location within an area which has been designated as being of *'Prime Special Amenity'* value. In this regard I would refer the Board to Section 3.3.5 of the Development Plan which states that within the *'Prime Special Amenity Areas'* the renovation or restoration of dwellings will be confined to properties which are to be occupied by the sons or daughters of traditional landholders as their primary place of residence whilst the landholding in question must also have been in the applicant's or applicant's family's ownership for a period in excess of ten years while being the location of the principal family residence.

9.1.2 Having reviewed the available information, it is clear that the subject site is indeed located in an area which has been designated as being of *'Primary Special Amenity'* value by reference to Map No. 12.1(b) of the Development Plan and that these areas constitute the most sensitive landscapes within the county in that they have little or no capacity to accommodate development. Indeed, it is of particular relevance to note that Section 12.2.1 of the Plan expressly states that all development within such areas will be prohibited (other than development exempt under the provisions of Section 4 of the Planning and Development Act, 2000, as amended, and Schedule 2 of the Planning & Development Regulations, 2001, as amended, in addition to appropriate proposals for rural housing permissible under Section 3.3.2 of the Development Plan). Accordingly, I would accept that the restrictions detailed in Section 3.3.5 of the Development Plan with regard to proposals for the renovation and restoration of existing and vacant buildings within *'Prime Special Amenity Areas'* would seem to apply to the subject proposal. However, whilst I would accept that there is a clear rationale in adopting an increasingly restrictive approach to development within those areas which warrant a higher level of landscape protection in order to preserve their particular scenic or amenity qualities, I would have concerns that an excessively strict application of the aforementioned policy provision could have unforeseen consequences as regards the principles of sustainable development. In this respect I would suggest that an overtly rigid interpretation of the restriction pertaining to the extension and renovation of existing dwellings within *'Prime Special Amenity Areas'* could ultimately serve to be unworkable and counter-productive in that it could effectively prohibit the modernisation of otherwise habitable dwellings in circumstances where no person is in a position to comply with the relevant eligibility criteria thereby potentially giving rise to a 'worst-case' scenario in which the property would remain uninhabited and perhaps fall into a state of dereliction. Such a loss of housing stock and the associated detrimental impact on the visual amenity of the wider area, particularly in light of the site location within a *'Prime Special Amenity Area'* alongside a roadway where the views / prospects from same are also listed for preservation in the Development Plan, could not be construed as according with proper planning and sustainable development.

9.1.3 In the case of the subject proposal it would seem that the applicant purchased the existing dwelling house from an elderly farmer who in turn had inherited it from his late aunts who had previously resided alone in same. In this respect it is of particular relevance to note that the applicant has asserted that none of the previous owners of the property in question had any children and that the gentleman from whom he purchased it is the last surviving member of that

family. Accordingly, it has been submitted that no person can now satisfy the relevant eligibility criteria set out in the Development Plan.

9.1.4 Clearly, the applicant does not satisfy the requirements of Section 3.3.5 of the Development Plan with regard to the renovation or restoration of dwellings within areas of *'Prime Special Amenity'* value, however, it is noteworthy that comparable issues arose in the Board's previous determination of ABP Ref. No. PL08.237943 which concerned a proposal to extend and renovate an existing dwelling house located a short distance away from the subject site and also in Ballylongane, Ballyheigue, Co. Kerry. In that instance the applicants did not satisfy the relevant eligibility criteria set out in Section 3.9.2 of the Kerry County Development Plan, 2009 in that they were not sons / daughters of the traditional landholders, the landholding had not been in their or their family's ownership for a period in excess of ten years, and the cottage in question was not the location of the principle family residence. However, whilst the reporting inspector recommended that permission be refused on the basis that the applicants did not come within the scope of the rural housing need criteria set out in Section 3.9.2 of the then Development Plan, the Board did not accept this recommendation and opted to grant permission having regard to the existing residential use on site.

9.1.5 In my opinion there are clear parallels to be drawn between the circumstances of the applicants in the case of ABP Ref. No. PL08.237943 and those of the applicant in the subject proposal given that the relevant eligibility criteria in the previous Development Plan is identical to that set out in the current Kerry County Development Plan, 2015. Accordingly, notwithstanding the fact that the subject applicant does not satisfy the requirements of Section 3.3.5 of the Development Plan with regard to the renovation or restoration of dwellings within areas of *'Prime Special Amenity'* value, having regard to the established residential use of the site and the Board's previous determination of ABP Ref. No. PL08.237943, in addition to my concerns as regards an excessively rigid adherence to Section 3.3.5 of the Plan which could serve to undermine the wider benefits associated with the sustainable re-use of existing habitable housing stock, it is my opinion that the applicant's proposal to renovate and extend the existing dwelling house on site is acceptable in principle. Indeed, I would further suggest that such a conclusion would accord with Section 3.2.2 of the *'Sustainable Rural Housing, Guidelines for Planning Authorities, 2005'* which suggest that development plans should include policies and objectives to the effect that *'Proposals to reinstate, conserve and / or replace existing, ruinous or disused dwellings will be looked on favourably by the planning authority subject*

to satisfying normal planning considerations relating to the provision of safe access and the design and provision of any necessary wastewater treatment facilities’.

9.2 Overall Design and Layout / Visual Impact:

9.2.1 From a review of Map 12.1(b) of the County Development Plan I would advise the Board that the proposed development site is located in an area which has been designated as being of ‘*Prime Special Amenity*’ value and that Section 12.3.1 of the Plan states that such areas are considered to constitute very sensitive landscapes with little or no capacity to accommodate development. Furthermore, it is of relevance to note that the views in both directions from the coastal road which passes immediately alongside the site have been listed for preservation in the Development Plan pursuant to Objective No. ZL-5, although Section 12.4 of the Plan clarifies that the need to protect and conserve these views is not to be interpreted as prohibiting development along these routes i.e. development proposals will be considered provided the design and location of same minimises the visual impact and avoids seriously hindering or obstructing the protected view.

9.2.2 The proposed development consists of the renovation and extension of an existing dwelling house and will involve the complete demolition of a series of single storey annexes constructed to the side and rear of same with the subsequent construction of a primarily single storey extension which will envelop the north-western (side) and south-western (rear) elevations of the property. It is also proposed to construct a new single storey garage structure attached to the south-eastern elevation of the existing dwelling house and to carry out some minor alterations to the exterior of the property including the relocation of the front doorway and the insertion of a new window at first floor level within the rear elevation. With regard to the overall design of the proposed additions, it is of relevance to note that whilst the roadside additions will adopt a conventional pitched roof construction, the extension to the rear of the property will utilise a flat roof and will include an external balcony area.

9.2.3 Having considered the submitted information, it is clear that the subject site is located within a landscape of high amenity value which is particularly sensitive to change and thus warrants protection, however, I am inclined to agree with the Planning Authority’s assessment of the subject proposal that the overall design of the development is in keeping with the two-storey element of the existing dwelling house which is to be retained whilst the scale and massing of the proposal remains subservient to the main residence and is somewhat

comparable to the existing construction proposed for demolition. Therefore, I am satisfied that the subject proposal would not be unduly visually intrusive and would not contravene the provisions of the County Development Plan as regards the control of development in areas of primary special amenity value.

9.3 Wastewater Treatment and Disposal:

9.3.1 The proposed development involves the decommissioning of an existing septic tank system (and an associated percolation area the extent of which is unknown) and the replacement of same with a new wastewater treatment system which will discharge treated effluent to ground via a sand polishing filter. Accordingly, it is necessary to review the available information in order to ascertain if the proposal to install a mechanical aeration unit with pumped discharge to a sand polishing filter is acceptable and if the subject site is suitable for the disposal of treated effluent to ground. In this respect I would refer the Board to the submitted Site Characterisation Form which details that the trial hole recorded 200mm of topsoil overlying 800mm of gravelly SILT / CLAY with gravelly SILT present to the depth of the excavation at 1.8m below ground level when bedrock was encountered. Notably, the water table was not present nor was any water ingress observed. With regard to the percolation characteristics of the subsoil a 'T'-value of 43.63 min / 25mm and a 'P'-value of 26.58 min / 25mm were recorded.

9.3.2 On the basis of the submitted information, it would appear that the application site is suitable for the installation of the wastewater treatment system proposed subject to compliance with the requirements of the EPA's Code of Practice: '*Wastewater Treatment and Disposal Systems Serving Single Houses (p.e.<10)*' and in this respect it should also be noted that the Environment Section (Site Assessment Unit) of the Local Authority has also indicated that it has no objection to the proposal. Furthermore, I would suggest that cognisance must be taken of the established residential use of the application site and that the subject proposal amounts to an improvement over the existing septic tank system and thus the proposed development should be viewed in this context.

9.4 Traffic Implications:

9.4.1 Whilst there is presently an existing vehicular access serving the proposed development site, this gateway does not appear to be in regular use and the likelihood is that vehicles instead park in the open area to the front of the dwelling house alongside the public road. Accordingly, the subject proposal has sought to address this matter by including for the construction of a replacement splayed entrance arrangement of increased width which will provide access to a new

driveway incorporating parking and turning areas within the site curtilage thereby negating the current need for cars to park along the roadside. In my opinion, this revised arrangement represents an improvement and is acceptable in terms of its contribution to traffic safety.

9.5 Appropriate Assessment:

9.5.1 From a review of the available mapping, including Map No. 10.2(a) of the Kerry County Development Plan, 2015 and the data maps available from the website of the National Parks and Wildlife Service, it is apparent that the proposed development site is partially located within the Kerry Head Special Protection Area (Site Code: 004189). In this respect it is of relevance to note that it is the policy of the planning authority, as set out in Chapter 10 of the Kerry County Development Plan, 2015, to conserve, manage and, where possible, enhance the County's natural heritage including all habitats, species, landscapes and geological heritage of conservation interest and to promote increased understanding and awareness of the natural heritage of the County. Furthermore, Objective NE 12 of the Plan states that no projects which will be reasonably likely to give rise to significant adverse direct, indirect or secondary impacts on the integrity of any Natura 2000 sites, having regard to their conservation objectives, will be permitted (either individually or in combination with other plans or projects) unless imperative reasons of overriding public interest can be established and there are no feasible alternative solutions. In effect, a proposed development may only be authorised after it has been established that the development will not have a negative impact on the fauna, flora or habitat being protected through an Appropriate Assessment pursuant to Article 6 of the Habitats Directive. Accordingly, it is necessary to screen the subject proposal for the purposes of 'appropriate assessment'.

9.5.2 Having reviewed the available information, including the screening report prepared by the Planning Authority in respect of the subject proposal, and following consideration of the 'source-pathway-receptor' model, I am satisfied that given the nature and scale of the development proposed, the established residential use of the site in question, the site location on lands of limited ecological value in terms of the site synopsis for the relevant Natura 2000 designation, and as the proposed works will generally be confined to an area of previously disturbed land, the proposal is unlikely to have any significant effect, in terms of the disturbance, displacement or loss of habitats or species, on the ecology of the Kerry Head Special Protection Area, and therefore I am inclined to conclude that the proposed development would not be likely to significantly affect

the integrity of said site and would not undermine or conflict with the Conservation Objectives applicable to same.

9.5.3 Accordingly, it is reasonable to conclude that, on the basis of the information available, which I consider adequate in order to issue a screening determination, the proposed development, individually and in combination with other plans or projects, would not be likely to have a significant effect on any European site and, in particular, specific Site Code: 004189, in view of the relevant conservation objectives, and that a Stage 2 appropriate assessment (and the submission of a NIS) is not therefore required.

10.0 RECOMMENDATION

Having regard to the foregoing I recommend that the decision of the Planning Authority be overturned in this instance and that permission be granted for the proposed development for the reasons and considerations set out below:

Reasons and Considerations:

Having regard to the existing residential use on site, to the proposal to install a new sewage treatment unit on site, and to the size and design of the proposed extensions, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of the area, or of property in the vicinity, would not be prejudicial to public health, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. Details of the materials, colours and textures of all the 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.

3. The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: To restrict the use of the extension in the interest of residential amenity.

4. Details of the roadside boundary wall and the new site entrance shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and traffic safety.

5. Water supply and drainage arrangements, including the 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 and to ensure a proper standard of development.

6. All service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

7.
 - a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. No system other than the

type proposed in the submissions shall be installed unless agreed in writing with the planning authority.

- b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the development and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.
- d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.
- e) Within three months of the first occupation of the development, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

- 8. 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. The scheme shall include a timescale for its implementation. 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.

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9. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

10. 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.

Signed: _____

Robert Speer
Inspectorate

Date: _____