



An  
Bord  
Pleanála

**Board Direction**

**BD-006703-20**

**ABP-307356-20**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 13/10/2020.

The Board decided, by a majority of 2:1, to grant permission generally in accordance with the Inspector's recommendation, for the following reasons and considerations, and subject to the following conditions.

### **Reasons and Considerations**

Having regard to the modest scale of the proposed house, its proposed orientation and layout, the proposed site preparation works and finished floor level of the house and the proximity of the site to the established grouping of houses and other buildings within the traditional settlement of Baile na bPoc, it is considered that, subject to compliance with the conditions set out below, the proposed development would not be injurious to the visual amenities for the area, would not unduly impact on views and prospects listed for protection in the current Kerry County Development Plan, and would be in accordance with the proper planning and sustainable development of the area.

#### **1.0 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 points

of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter, unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. The applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.

(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

**Reason:** To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is

appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3. Only one house shall be located on the overall site. The existing mobile dwelling house shall be permanently removed from the site prior to the occupation of the house.

**Reason:** To ensure the preservation of the rural character and visual amenities of the area.

4. The roadside boundary shall be set-back in accordance with the submitted site layout plan. The proposed front boundary shall consist of a sod/stone wall to match the removed boundary. The area between the new set-back boundary and the edge of the carriageway shall be graded to the level of the existing road and shall be finished to match the existing road surface, at the expense of the applicant. The details of this work shall be submitted to, and agreed in writing with the planning authority, prior to first occupation of the dwelling.

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

5. The existing well on the site shall be decommissioned and backfilled in accordance with details agreed in writing with the planning authority prior to the commencement of development.

**Reason:** In the interest of public health.

6. The existing agricultural entrance to the site shall be closed up permanently, in accordance with details to be submitted to, and agreed in writing with the planning authority, prior to the commencement of development.

**Reason:** In the interest of traffic safety.

7. Details of the materials, colours and textures of all the external finishes to the proposed house shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

**Reason:** In the interest of visual amenity

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

**Reason:** In the interest of visual amenity.

9. Water supply to the house shall comply with the requirements of Irish Water for such works.

**Reason:** In the interest of public health.

10. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or to the stream which bisects this site.

(b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage. Surface water shall be discharged to soakways within the site.

**Reason:** In the interest of traffic safety and to prevent pollution of watercourses.

11. (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 "Wastewater Treatment Manual: Treatment Systems for Single Houses (p.e. less than or equal to 10)", issued by the Environmental Protection Agency in 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 dwelling-house 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) Within three months of the first occupation of the dwelling, 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.

12. 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.

**Reason:** In the interest of residential and visual amenity.

13. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

**Board Member**

**Date:** 13/10/2020

---

Terry Prendergast