



An  
Bord  
Pleanála

**Board Direction**  
**BD-010755-22**  
**ABP-312254-21**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 24/05/2022.

The Board decided 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 provisions of the Kerry County Council Development Plan 2015-2021, the pattern of development in the area and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area, would not result in a traffic hazard and 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 as amended by the further plans and particulars submitted on the 04<sup>th</sup> day of November, 2021 and the 17<sup>th</sup> day of November 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the Planning Authority, the developer shall agree such details

in writing with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. The use of the house shall be as permanent all year round private residence. The house shall not be used as a holiday home or second home.

**Reason:** In the interest of proper planning and sustainable development.

3.

- a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the initial occupant 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 initial occupant. Prior to commencement of development, the initial occupant 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 initial occupant 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 initial occupants housing needs and that development in this rural area is appropriately restricted in the interest of the proper planning and sustainable development of the area.

4. 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.

5. 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.

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

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

7. Water supply and drainage arrangements, including the disposal of surface water which shall provide for appropriate Sustainable Urban Drainage Systems (SuDS), shall comply with the requirements of the Planning Authority for such works.

**Reason:** To ensure adequate servicing of the development, and to prevent pollution.

8. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the Planning Authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

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 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 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.

**Board Member**

Patricia Calleary  
Patricia Calleary

**Date:** 24/05/2022

**Note:**

The Board noted the inspector's recommended condition no.2 (related to the original road access as granted under the parent permission for the overall development). However, the Board also noted that this is an established road and that no enforcement or related proceedings appear to apply in relation to the road as constructed. Furthermore, the Board noted the relevant provisions of section 34(13) of the Planning and Development Act 2000, as amended, whereby a person shall not be entitled solely by reason of a permission under this section to carry out any development. The Board therefore determined that condition no. 2 as recommended would be warranted in this instance.

