

An
Coimisiún
Pleanála

Direction
ABP-320123-24

The submissions on this file and the Inspector's report were considered at a meeting held on 26/11/2025.

The Commission decided, as set out in the following Order, that -

WHEREAS a question has arisen as to whether the construction of a new extension at side of an existing dwelling at Scart, Castlecove, County Kerry, is or is not development or is or is not exempted development;

AND WHEREAS Michael O'Leary care of Reeks Consulting Engineers of Rock Road, Killarney, County Kerry requested a declaration on this question from Kerry County Council, and the Council issued a declaration on the 11th day of June 2024 stating that the matter is development which does not constitute exempted development;

AND WHEREAS Michael O'Leary referred this declaration for review to An Coimisiún Pleanála on the 8th day of July 2024;

AND WHEREAS An Coimisiún Pleanála, in considering this referral, had regard particularly to:

- (a) Sections 2, 3 and 4 of the Planning and Development Act, 2000, as amended,
- (b) Article 6(1) and article 9(1) of the Planning and Development Regulations, 2001, as amended,

- (c) Class 1, Part 1 of Schedule 2 of the Planning and Development Regulations, 2001, as amended,
- (d) the provisions of the Kerry County Development Plan 2022-2028 as they apply to the referral site,
- (e) the documentation on file, including submissions from the referrer and the planning authority;
- (f) the planning history of the referral site;
- (g) relevant precedent referrals and judgements; and
- (h) the pattern of development in the area, and
- (i) the Natura Impact Statement received by the Commission on the 19th day of November 2025 in response to the Commission's Section 132 request for information dated 23rd day of October 2025.

AND WHEREAS An Coimisiún Pleanála has concluded that:

- (a) having regard to the location of the porch and front door on the south facing elevation, and the orientation of the front of houses in the surrounding area towards the south, that the front of the dwelling is south facing, and the rear of the dwelling is north facing, and the proposed extension is to the rear of the existing dwelling;
- (b) the question should be amended as to whether the construction of a new extension at the rear of an existing dwelling at Scart, Castlecove, County Kerry, is or is not development or is or is not exempted development,
- (c) the construction of the extension to the rear of the house:
 - (i) would constitute the carrying out of works which comes within the meaning of development in Section 3(1) of the Planning and Development Act, 2000;
 - (ii) would come within the scope of Class 1, Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, and

- (iii) would accord with the conditions and limitations of Class 1, Part 1 of Schedule 2 to the Planning and Development Regulations, 2001;
- (d) however, having regard to the Natura Impact Statement completed by the referrer, received by the Commission on the 19th day of November 2025 in response to the Commission's Section 132 request for information dated 23rd day of October 2025, which concluded that the proposed development may have a significant adverse impact on the Kenmare River SAC (Site Code 002158); the proposed extension would not be exempted development as it comprises development which requires an appropriate assessment because it would be likely to have a significant effect on the integrity of a European site, as set out in Regulation 9(1)(a)(viiB) of the Planning and Development Regulations 2001 (as amended).

NOW THEREFORE An Coimisiún Pleanála, in exercise of the powers conferred on it by Section 5 (3)(a) of the Planning and Development Act, 2000, as amended, hereby decides that the single-storey extension to the rear of a house at Scart, Castlecove, County Kerry IS development and IS NOT exempted development.

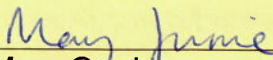
In deciding not to accept the inspector's recommendation that the proposed extension was exempted development the Commission considered that having regard to the condition of the existing dwelling on site, the addition of two bedrooms, the lack of information on the file in relation to the arrangement for the treatment and disposal of waste water from the site, and the proximity to the Kenmare River SAC, that it was necessary, for the purposes of determining the question referred, to require the referrer to submit an Appropriate Assessment Screening Report and accordingly the Commission issued a request for information under Section 132 of the Planning and Development Act 2002 (as amended) on 23rd October 2025. The Commission noted that the Appropriate Assessment Screening Report, attached to the Natura Impact Statement received by An Coimisiún Pleanála on the 19th November 2025 in response to the Commission's request for information, did not

adequately address the question of the treatment of wastewater from the facility, but in any event the screening report concluded that the proposed development may have a significant adverse impact on the Kenmare River SAC (Site Code 002158) and that a Stage 2 appropriate assessment was required. The Natura Impact Statement completed by the referrer and received on 19th November 2025 identified the presence of a roost of lesser horseshoe bats (a species afforded strict protection in Ireland) in the existing dwelling and concluded that the potential for negative effects on the conservation objectives of the Kenmare River SAC could not be ruled out. The Commission decided therefore that the proposed extension was not exempted development as it is a development which requires an appropriate assessment. Any such development is not exempted development as set out in Regulation 9(1)(a)(viiB) of the Planning and Development Regulations 2001 (as amended).

Planning

Commissioner:

Date: 01/12/2025



Mary Gurrie