



The submissions on this file and the Inspector's report were considered at a meeting held on 31st August 2026.

The Commission decided to refuse permission, generally in accordance with the Inspector's recommendation, for the following reasons and considerations.

Planning Commissioner:



Emer Maughan

Date:

1st day of September 2026

DRAFT WORDING FOR ORDER

1. On the basis of the submissions made in connection with the planning application and appeal, it appears to the Commission that the development proposed to be retained relates to a structure which has been extended without the benefit of planning permission and is therefore unauthorised and that the development proposed to be retained would facilitate the consolidation of unauthorised development on this site.

Accordingly, it is considered that it would be inappropriate for the Commission to consider the grant of a retention permission for the development proposed to be retained in such circumstances.

2. Having regard to:

- (i) the location of the site in an area which is at risk of flooding, designated as Flood Zone A according to the Office of Public Works floodmaps;
- (ii) the classification of residential development as 'highly vulnerable' to flooding according to the 'Planning System and Flood Risk Management Guidelines 2009'; and
- (iii) the lack of justification submitted demonstrating that the development is necessary on grounds of wider sustainability through the Justification Test outlined in section 3.9 of the Guidelines,

it is considered that the proposed development and development proposed to be retained would be contrary to the "The Planning System and Flood Risk Management, Guidelines for Local Authorities", and to Policy Objectives KCDP 11-65 and KCDP 11-66 of the Kerry County Development Plan 2022-2028, would set an undesirable future precedent for similar types of development, would be prejudicial to public health, and would be contrary to the proper planning and sustainable development of the area.

3. Having regard to the location of the site within a Rural Area Under Urban Influence as identified in the Kerry County Development Plan 2022-2028, where housing is restricted to persons demonstrating local need in accordance with Objective KCDP 5-15, it is considered that an exceptional rural generated housing need has not been demonstrated by the applicant

for the proposed development and development proposed to be retained at this location. The proposed development and development proposed to be retained in the absence of any identified locally based need, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development and development proposed to be retained would, therefore, be contrary to the proper planning and sustainable development of the area.

4. Having regard to the inadequate depth of trial hole excavated, given that the site is underlain by a regionally important aquifer, and to the undersized polishing filter area proposed, given the site conditions recorded and occupancy of the unit, it is considered that the proposed wastewater treatment system would not be in accordance with the Environmental Protection Agency Code of Practice 2021. Consequently, it has not been adequately demonstrated that wastewater generated by the proposed development and development proposed to be retained can be appropriately disposed of on this site, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development and development proposed to be retained would, therefore, be contrary to KCDP 13-19, which requires that wastewater treatment systems for single rural dwellings are in accordance with the 'Code of Practice Wastewater Treatment and Disposal System Serving Single Houses, EPA 2021' and would be prejudicial to public health.

5. Having regard to the non-compliance of the proposed wastewater treatment system with the EPA Code of Practice 2021 and to the proximity of, and the presence of a hydrological link in the form of an open drain

between, the site and Castlemaine Harbour Special Protection Area (Site Code: 004029) and Castlemaine Harbour Special Area of Conservation (Site Code: 000343), the Commission cannot be satisfied that the proposed development and development proposed to be retained individually, or in combination with other plans or projects, would not result in adverse effects on the integrity of those European Sites, in view of Conservation Objectives of those sites. In such circumstances the Commission is precluded from granting permission under the provisions of Article 6(3) of the Habitats Directive (92/43/EEC).

6. Having regard to the non-compliance of the proposed wastewater treatment system with the EPA Code of Practice 2021, and to the location of the site adjacent to the Castlemaine Harbour IE_SW_230_0200 Transitional Waterbody which is designated a “moderate” status waterbody and underlain by the Laune Muckross IE_SW_G_048 Ground Waterbody, which is designated as a “good” status water body under the Water Framework Directive, the Commission is not satisfied that the proposed development would not give rise to a risk of deterioration in the ecological and/or chemical status of the said water body. The proposed development would therefore be contrary to the requirements of Article 4 of the EU Water Framework Directive (2000/60/EC), as transposed into Irish law by the European Communities (Water Policy) Regulations 2003 (S.I. number 722 of 2003), as amended, and would be inconsistent with the objectives of the Water Action Plan 2024 and the proper planning and sustainable development of the area.

7. The site is located in an exposed coastal area, designated in the Kerry County Development Plan 2022-2028 as a ‘Visually Sensitive Area’ by reason of its landscape quality. Policy Objectives 5-19 and 5-22 of the

development plan seek to ensure that the provision of rural housing will not affect the landscape of the county and that their design will comply with the Building a House in Rural Kerry Design Guidelines 2009. The proposed dwelling to be retained, due to its exposed location and design, particularly its flat roof form and horizontal emphasis windows, would not be in accordance with the Guidelines. The proposed development and development proposed to be retained would, therefore, be contrary to Policy Objectives KCDP 5-19 and KCDP 5-22 KCDP of the Kerry County Development Plan 2022-2028 and to the proper planning and sustainable development of the area.

