

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Kerry County

Planning Register Reference Number: 15/650

An Bord Pleanála Reference Number: PL 08.246539

APPEAL by Francis and Patrick Lynch of Scarriff House, Ballyaukeen, Tralee, County Kerry against the decision made on the 7th day of April, 201 by Kerry County Council to refuse permission in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: (a) Renovation and extension of existing dwelling, (b) installation of new wastewater treatment plant and sand polishing filter and (c) all associated site works to facilitate this development at Brackaharagh, Castlecove, Caherdaniel, County Kerry.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the nature of the proposed development, which is to bring an existing neglected vernacular dwelling into occupation, the limited scale of the proposed dwelling, the landscape character of the area and the visual screening available on the site, and the comprehensive proposals included to address wastewater treatment, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in compliance with the policies and objectives of the Kerry County Development Plan 2015-2021 and would be acceptable in terms of protection of the environment and public health.

In deciding not to accept the Inspector's recommendation to refuse permission on the basis of unsuitable ground conditions for effluent disposal, the Board considered that the applicant had put forward a considered proposal that was satisfactory to address the challenging site conditions. Given that the scale of proposed dwelling is modest and it does not increase occupancy levels of the original farmhouse, it was considered that, subject to compliance with planning conditions, the proposed wastewater treatment and disposal measures would be acceptable for the proposed refurbishment and re-occupation of the existing cottage.

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 14th day of March, 2016, 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. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 14th day of March, 2016 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 dwellinghouse 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 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.

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.

Reason: Having regard to the challenging conditions for disposal of effluent, it is considered that the scale and occupancy of the refurbished dwelling needs to be carefully controlled in the interests of protecting public health and the environment.

4. The recommendations of the specialist bat report submitted to the planning authority on the 14th day of March, 2016 shall be implemented in full.

Reason: In the interest of ecological protection.

5.
 - (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 adjoining properties.
 - (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.

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

6. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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 order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2016.