



An
Bord
Pleanála

Board Order
PL 08.248358

Planning and Development Acts 2000 to 2017

Planning Authority: Kerry County Council

Planning Register Reference Number: 16/1041

Appeal by Michael Horgan of 2 Upper Cloonbeg, Tralee, County Kerry against the decision made on the 22nd day of March, 2017 by Kerry County Council to grant subject to conditions a permission to Sean and Geraldine Pierce care of Michael Shanahan and Associates of 8 Michael Collins Road, Clonakilty, County Cork in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construction a new dwelling with installation of septic tank treatment system and associated site works, Gortagullane, Muckross, Killarney, 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 provisions of the Kerry County Development Plan, 2015–2021, the location of the site and the pattern of existing and permitted development in the vicinity, together with the information submitted as part of the planning application, and the appeal, the Board is satisfied that the proposed development, subject to compliance with the conditions set out below, would be acceptable in terms of design and scale, would not adversely impact the residential amenities of existing adjacent properties, or the visual amenities of the area, and would be acceptable in terms of traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment

The Board noted that the proposed development is not directly connected with or necessary to the management of a European Site.

In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of the identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans or projects, on these European sites in view of the site's Conservation Objectives. The Board was satisfied that the proposed development, either individually or in combination with other plans or projects, would not be likely to have

a significant effect on the Killarney National Park, Magillicuddy's Reeks and Caragh River Catchment Special Area of Conservation (Site Code 000365) and the Killarney National Park Special Protection Area (Site Code 004038) or any other European site, in view of the site's Conservation Objectives.

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 to the planning authority on the 28th day of February, 2017 and by the further information received by An Bord Pleanála on the 14th day of August, 2017 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 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. Prior to commencement of development, 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. The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.

Reason: In the interest of public health.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works. No surface water shall be permitted to flow onto the public footpath or public road from the site.

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

5. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with the details of the landscaping scheme submitted to the planning authority on the 28th day of February, 2017. The existing boundaries shall be retained in full and the landscaping plan shall be implemented in the first growing season following the occupation of the house.

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.

6. Prior to commencement of development, the developer shall engage a suitably qualified person to:
 - (a) conduct a survey to determine, map and mark on the ground, any Japanese Knotweed on the site,
 - (b) draw up and implement a control programme for the elimination of any Japanese Knotweed from the site. The control programme shall include treatment methodology, time scale, measures to prevent spread and disposal methods, and
 - (c) prepare a validation report confirming that the remediation has been effective and that the site is free of Japanese Knotweed.

All surveys and reports shall be submitted to the planning authority prior to the commencement of any development on site.

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

7. Site development and building works shall be carried out only between the hours of 0800 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 and general amenities of property in the vicinity.

8. Details of all external finishes, including the roof finish, shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

9. 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.

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 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.

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

Dated this day of 2017