



An
Bord
Pleanála

Board Order PL 08.248904

Planning and Development Acts 2000 to 2017

Planning Authority: Kerry County Council

Planning Register Reference Number: 16/1080

Appeal by Gerald and Maryanne McGill care of Michael O'Connor of Longfield, Furies, Killarney, County Kerry against the decision made on the 23rd day of June, 2017 by Kerry County Council to grant subject to conditions a permission to Daniel O'Mahony and Brian McCarthy care of Mosca McGillicuddy and Associates of 95 New Street, Killarney, County Kerry in accordance with plans and particulars lodged with the said Council.

Proposed Development: (i) Construct a commercial shed for oyster processing including an office, (ii) install a wastewater treatment system and percolation area, (iii) upgrade existing access road and (iv) all associated site works, all at Ardcost, Caherciveen, County Kerry as amended by the revised public notice received by the planning authority on the 22nd day of May, 2017.

Decision

Having regard to the nature of the condition the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to AMEND condition number 8 so that it shall be as follows for the reason set out.

8. (1) The layout of the vehicular access to the development and the concrete apron shall be revised so as to minimise interference with the existing access road and associated drainage in the vicinity of the site. The revised layout shall incorporate the following:-

- (a) taking account of the proposed finished floor level of the processing shed and the proposed level of the concrete apron vehicular access to be formed north of the development where the levels of the road and the adjacent field are similar. The access shall be a maximum of six metres in width. The roadside drain shall be piped only insofar as is necessary to facilitate construction of the access,
- (b) the concrete apron shall be set back a minimum of five metres from the western edge of the access road or such further distance as is required so as to ensure no interference with the existing road structure or roadside drain.

Prior to commencement of development, revised drawings showing compliance with the above requirements shall be submitted to, and agreed in writing with, the planning authority.

- (2) Proposed upgrade works to the access road as far as the public road shall be carried out prior to the commencement of construction of the processing shed.

Reason: In the interest of clarity and to minimise impacts on the environment.

Reasons and Considerations

Having regard to the limited scope of the works the subject of condition number 8 and to the terms of the grounds of appeal, it is considered that the amended wording to the said condition is an appropriate response and brings sufficient clarity to the matter raised. Subject to compliance with the amended condition, it is considered that the proposed development would be in accordance with the proper planning and sustainable development of the area.

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.

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

Dated this day of 2018