



---

**Planning and Development Acts 2000 to 2018**

**Planning Authority: Kerry County Council**

**Planning Register Reference Number: 17/1289**

**APPEAL** by Michael J. Horgan of Lakes and Rivers of Kerry Salmon and Trout Conservation and Protection Association, 2 Upper Cloonbeg, Tralee, County Kerry against the decision made on the 18<sup>th</sup> day of October, 2018 by Kerry County Council to grant subject to conditions a permission to Trabeag Teoranta Limited care of Rory McGillicuddy, 95 New Street, Killarney, County Kerry.

**Proposed Development** (1) Retention permission to retain partially reclaimed lands and permission for a waste management facility for the recovery of inert waste material for the purpose of land reclamation. Retention of as constructed stone tower. (2) Planning permission to: (a) further develop existing visitors centre with the construction of the following: famine village, play areas, falconry area, fairy village, construction of walks and paths around existing lake; (b) construction of storage shed; (c) reconfigure front boundary and parking area, (d) new signage; (e) new bus parking area; (f) decommission existing waste water treatment system and install a new wastewater treatment system and all associated site works, all at Emlagh, Ballineesteenig and Clooncurra, Lispole, County Kerry, as revised by the further public notice received by the planning authority on the 21st day of September, 2018.

## **Decision**

**REFUSE permission for the above proposed development in accordance with the reasons and considerations 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**

The subject application includes for, inter alia, retention permission to retain partially reclaimed lands, involving some 0.53 hectares of wetlands. Development consisting of the carrying out of drainage or reclamation of wetlands, where more than two hectares of wetlands would be affected, is included in Part 2 of Schedule 5 to the Planning and Development Regulations, 2001, as amended, being a class of development in relation to which environmental impact assessment is required under Section 176 of the Planning and Development Act, 2000, as amended. Having regard to this fact, and to the extent of the area concerned, being in excess of 25 per cent of the applicable threshold, it is considered that the proposed development and the development proposed for retention should be subject to an environmental impact assessment within the meaning of Part X of the Planning and Development Act 2000, as amended. The proposed development would therefore, require an Environmental Impact Assessment Report, which should contain the information, as set out in Schedule 6 of the Planning and Development Regulations, 2001, as amended. In these circumstances, the Board is precluded from giving the application further consideration.

In coming to its decision, the Board had regard to all of the material on the planning application and appeal file, including the Inspector's report, and all submissions to the planning authority and to the Board.

In deciding not to accept the Inspector's recommendation to grant permission, the Board had specific regard to the land reclamation works relating to reclaimed land, for which retention permission is sought and to the provisions of Section 34(12) of the Planning and Development Act 2000, as amended.

---

**Chris McGarry**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**

**Dated this            day of            2019.**