



Planning and Development Acts 2000 to 2018

Planning Authority: Kerry County Council

Planning Register Reference Number: 18/434

Appeal by Michael Horgan of 2 Upper Cloonbeg, Tralee, County Kerry against the decision made on the 3rd day of December, 2018 by Kerry County Council to grant subject to conditions a permission to Farran Plan Hire Limited care of Hickey Design and Associates of 10 Prior Paddocks, Muckcross Road, Killarney, County Kerry in accordance with plans and particulars lodged with the said Council.

Proposed Development: Filling of lands with inert waste such as clay, stone, soil and concrete (construction and demolition waste), along with associated site works for the purpose of land reclamation. The development comprises an activity which will be subject to an application for a waste facility permit. All at Cloontarriv, Gortatlea, Tralee, 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 existing condition of the site and the proposal to remediate the site and restore it to beneficial agricultural use, it is considered that, subject to compliance with the conditions set out below, the proposed temporary use for the importation of soil and stone to fill the ground would be in accordance with the provisions of the current Kerry County Development Plan, would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 28th day of September, 2018 and the 6th day of November, 2018, 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 plan for the staged filling and reseedling of the fill material shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. (a) The developer shall maintain a 10-metre buffer from any watercourses or land drains with appropriately graded slopes to the fill body to prevent sedimentation and collapse of materials into the watercourses/drains. The fill material shall be reseeded as quickly as possible and in stages to minimise run off from bare soil.
- (b) To prevent soil disposal/machinery movement within the riparian area, watercourses shall be fenced at a minimum of five metres from the top of river banks.
- (c) Mitigation measures to control silt emissions shall be in place prior to the commencement of site works to include the control of contaminated run-off from access roads.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

4. The Japanese Knotweed shall be managed in accordance with the management plan submitted to the planning authority on the 6th day of November, 2018. An annual update report to include photographs shall be submitted to the planning authority for their written agreement.

Reason: In the interest of clarity and the protection of the environment during the operational phases of the development.

5. The hours of operation shall be limited to between 0800 hours and 1700 hours Mondays to Fridays and between 0800 hours and 1300 hours on Saturdays. No works shall take place on Sundays or public holidays.

Reason: In the interest of residential amenity.

6.
 - (a) Prior to commencement of development, a system of advanced warning signs shall be erected along the access road to the site which shall be agreed in writing with the planning authority.
 - (b) A wheel wash facility shall be installed at the exit of the site.
 - (c) The public roadway shall be kept clean and tidy at all stages of the development.

Reason: In the interest of traffic safety.

7. The final use of the lands after the completion of the in-filling or importation of materials shall be for agricultural purposes only.

Reason: In the interest of clarity.

8. 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 the 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.

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

Dated this day of 2019.