



Planning and Development Acts 2000 to 2020

Planning Authority: Kerry County Council

Planning Register Reference Number: 20/80

Appeal by Charles Bigham care of McCutcheon Halley, Chartered Planning Consultants of 6 Joyce House, Barrack Square, Ballincollig, County Cork against the decision made on the 24th day of March, 2020 by Kerry County Council to refuse permission for the proposed development.

Proposed Development: (a) retain as constructed a dwelling house and all associated site works, (b) permission to construct a new wastewater treatment system consisting of a mechanical aeration unit, intermittent filter and polishing filter to serve the dwelling house being retained at Derreen, Lauragh, 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 character and location of the appeal site and to the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005 and the National Planning Framework – National Policy Objective 19, to the nature and horticulture related function of the development, and to the design and nature of the works proposed for retention and completion, it is considered that, subject to compliance with the conditions as set out below, the proposed development would be in accordance with the objectives of the Sustainable Rural Housing Guidelines for Planning Authorities and National Policy Objective 19, would not seriously injure the amenities of the area or be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application, 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 and the development shall be retained carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Other than the current occupancy, the dwelling shall be 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. The dwelling shall not be sold, let or otherwise transferred or conveyed, save as part of the main dwelling on the site.

Reason: To restrict the use of the dwelling in the interest of residential amenity.

3. Water supply and drainage arrangements, including the disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and to ensure a proper standard of development.

4. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to An Bord Pleanála on the 2nd day of June 2020, 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 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 dwelling house 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 soakaways 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 date of this Order, 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.

5. 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 within three months of the date of this Order 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.

Stephen Bohan
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board

Dated this day of 2020