



An
Bord
Pleanála

Ordú Boird
Board Order
ABP-307356-20

Na hAchtanna um Pleanáil agus
Forbairt 2000 go 2020

Planning and Development Acts
2000 to 2020

Údarás Pleanála: Comhairle
Contae Chiarraí

Planning Authority: Kerry County
Council

Uimhir Thagartha sa Chlár
Pleanála: 20/91

Planning Register Reference
Number: 20/91

Uimhir Thagartha an Bhoird
Phleanála: ABP-307356-20

An Bord Pleanála Reference
Number: ABP-307356-20

Acomharc ó Máire Uí Shíthigh agus Breannán Ó Beaglaoich, faoi chúram Dhiarmuid Uí Ghráda, Comhairleoir Pleanála as 16 Louvain, Bóthar Roebuck, Baile Átha Cliath in aghaidh an chinnidh a rinne Comhairle Contae Chiarraí ar an 2ú lá d'Aibreán chun cead don fhorbairt bheartaithe a dhiúltú do Bhreannán Ó Beaglaoich.

Appeal by Máire Uí Shíthigh and Breannán Ó Beaglaoich care of Diarmuid Ó Gráda, Planning Consultant of 16 Louvain, Roebuck Road, Dublin against the decision made on the 2nd day of April, 2020 by Kerry County Council to refuse permission to Breannán Ó Beaglaoich for the proposed development.

An Fhorbairt Bheartaithe: (a) Teach soghluaiste atá ann anois a thabhairt ar shiúl, an tslí isteach d'fheithiclí a dhúnadh agus na tailte a chur ar ais sa riocht ina raibh siad (b) teach cónaithe traidisiúnta aon urlár le héadan cloiche nádúrtha a thógáil (c) slí isteach nua d'fheithiclí a thógáil (d) aonad cóireála fuíolluisce branda a shuiteáil (e) teorainn an láithreáin a shuí trí mhéadar ón mbóthar poiblí (R559) le bailchríoch de chloch nádúrtha agus balla fód (f) gach oibreacha gaolmhara láithreáin ag Baile na bPoc, Baile na nGall, Contae Chiarraí.

An Cinneadh

Cead a DHEONÚ don fhorbairt bheartaithe thuas de réir na bpleananna agus sonraí ráite bunaithe ar na cúiseanna agus na cúrsaí faoi agus faoi réir na gcoinníollacha atá leagtha amach thíos.

Proposed Development: (a) Remove existing mobile dwelling house, close off existing vehicular access and restore lands to original state (b) construct a single storey natural stone faced, traditional style dwelling house (c) construct new vehicular access (d) install a proprietary waste water treatment unit (e) construct a three metre set back of site boundary to public road (R559) finished with natural stone and sod wall (f) all associated siteworks at Baile na bPoc, Baile na nGall, Contae Chiarraí

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.

Na Nithe a Cuireadh san Áireamh

Agus a chinneadh á dhéanamh, d'fhéach an Bord do na nithe sin ar ceanglaíodh air, de bhua na nAchtanna um Pleanáil agus Forbairt agus na Rialachán a rinneadh fúthu, féachaint dóibh. Bhí aighneachtaí agus tuairimí a fuarthas de réir na bhforálacha reachtúla san áireamh sna nithe sin.

Cúiseanna agus Ábhair a Cuireadh san Áireamh

Ag féachaint do scála measartha an tí bheartaithe, a threoshuíomh agus an leagan amach beartaithe, na hoibreacha beartaithe ullmhaithe láithreáin agus leibhéal urlár deiridh an tí agus a ghaire atá an suíomh don ghrúpa bunaithe tithe agus foirgneamh eile laistigh de lonnaíocht thraidisiúnta Bhaile na bPoc, meastar nach ndéanfadh an forbairt bheartaithe, faoi réir chomhlíonadh na gcoinníollacha atá leagtha amach thíos, dochar do thaitneamhachtaí amhairc an cheantair, nach gcuirfidís

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 modest scale of the proposed house, its proposed orientation and layout, the proposed site preparation works and finished floor level of the house and the proximity of the site to the established grouping of houses and other buildings within the traditional settlement of Baile na bPoc, it is considered that, subject to compliance with the conditions set out below, the proposed development would not be injurious to the visual amenities for the area, would not unduly impact on views and prospects

isteach go míchuí ar radhairc atá liostaithe lena gcosaint i bPlean Forbartha reatha Chiarraí, agus go mbeadh siad, dá réir, ag teacht le pleanáil chuí agus forbairt inbhuanaithe an cheantair.

Coinníollacha

1. Cuirfear an fhorbairt i gcrích de réir na bpleananna agus na sonraí a taisceadh leis an iarratas, ach amháin nuair is gá a mhalairt a dhéanamh chun na coinníollacha seo a leanas a chomhlíonadh. I gcás ina gceanglaíonn na coinníollacha sin sonraí a aontófar leis an údarás pleanála, aontóidh an forbróir na sonraí sin i scríbhinn leis an údarás pleanála sula dtosóidh an fhorbairt agus cuirfear an fhorbairt i gcrích de réir na sonraí aontaithe.

An chúis: Ar mhaithe le soiléire.

2. (a) Déanfar an teach beartaithe, nuair a bheidh sé críochnaithe, a áitiú ar an gcéad dul síos mar áit chónaithe ag an iarratasóir, ag baill de gharghaolta an iarratasóra nó a oidhrí, agus fanfaidh sé

listed for protection in the current Kerry County Development Plan, and 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, 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

amhlaidh go ceann tréimhse seacht mbliana ar a laghad ina dhiaidh sin, mura bhfaightear cead ón údarás pleanála chun go rachadh daoine eile atá sa chatagóir chéanna ó thaobh riachtanas tithíochta leis an iarratasóir chun cónaithe ann. Sula gcuirfead tús leis an bhforbairt, déanfaidh an t-iarratasóir comhaontú scríofa leis an údarás pleanála faoi alt 47 den Acht um Pleanáil agus Forbairt, 2000 (leasaithe chuige seo).

- (b) Laistigh de dhá mhí d'áitiú an tí bheartaithe, cuirfidh an t-iarratasóir ráiteas scríofa ar fáil don údarás pleanála ina ndeimhneofar gur chomhlíon chéad áitiú an tí paragraf (a) agus dáta an áitithe sin.

Ní dhéanfaidh an coinníoll seo difear ar bith do dhíol an tí ag morgáistí a bhfuil seilbh aige/aici ar an teach nó d'áitiú an tí ag duine ar bith a fhaigheann an teideal ó dhíol den sórt sin.

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, as amended 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

An chúis: Le cinntiú go mbainfear úsáid as an teach le riachtanais ráite tithíochta an iarratasóra a shásamh agus go dteorannófar forbairt sa cheantar tuaithe seo go cuí do riachtanais áitiúla amháin a chomhlíonadh ar mhaithe le pleanáil chúí agus forbairt inbhuanaithe an cheantair.

3. Ní shuífear ach teach amháin ar an láithreán iomlán. Tabharfar an teach cónaithe soghluaiste ata ar an láithreán anois ar shiúl go buan sula n-áiteofar an teach.

An chúis: Le cinntiú go ndéanfar nádúr tuaithe agus taitneamhachtaí radhairc an cheantair a chaomhnú.

4. Déanfar an teorainn leis an mbóthar a shuí siar de réir an phlean leagan amach an tsuímh a cuireadh isteach. Balla fód/cloiche a bheidh sa teorainn bheartaithe chun tosaigh ar aon dul leis an teorainn a baineadh anuas. Déanfar an limistéar idir an teorainn nua suite siar agus imeall an charrbhealaigh a ghrádú go leibhéal

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. Only one house shall be located on the overall site. The existing mobile dwelling house shall be permanently removed from the site prior to the occupation of the house.

Reason: To ensure the preservation of the rural character and visual amenities of the area.

4. The roadside boundary shall be set-back in accordance with the submitted site layout plan. The proposed front boundary shall consist of a sod/stone wall to match the removed boundary. The area between the new set-back boundary and the edge of the carriageway shall be graded to the level of the existing road and shall be finished

an bhóthair atá ann anois agus cuirfear bailchríoch air a bheidh mar an gcéanna leis an dromchla bóthair atá anois ann, agus an t-iarratasóir a íocfaidh as. Cuirfear sonraí na hoibre seo isteach chuig an údarás pleanála agus aontófar iad i scríbhinn, sula n-áiteofar an teach den chéad uair.

An chúis: Ar mhaithe le taitneamhacht amhairc agus sábháilteacht an tráchta.

5. Déanfar an láithreán atá ann anois a chur ó mhaith agus a líonadh isteach de réir na sonraí a aontaíodh i scríbhinn leis an údarás pleanála sula gcuirfear tús leis an bhforbairt.

An chúis: Ar mhaithe le sláinte an phobail.

6. Déanfar an tslí isteach do lucht talmhaíochta ar an láithreán atá ann anois a dhúnadh go buan de réir na sonraí a aontaíodh i scríbhinn leis an údarás pleanála sula gcuirfear tús leis an bhforbairt.

An chúis: Ar mhaithe le sábháilteacht an tráchta.

to match the existing road surface, at the expense of the applicant. The details of this work shall be submitted to, and agreed in writing with the planning authority, prior to first occupation of the dwelling.

Reason: In the interests of visual amenity and traffic safety.

5. The existing well on the site shall be decommissioned and backfilled in accordance with details agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of public health.

6. The existing agricultural entrance to the site shall be closed up permanently, in accordance with details to be submitted to, and agreed in writing with the planning authority, prior to commencement of development.

Reason: In the interest of traffic safety.

7. Cuirfear sonraí na n-ábhar, na ndathanna agus na n-uigeachtaí i gcás gach bailchríche sheachtraigh isteach chuig an údarás pleanála agus aontófar i scríbhinn iad, sula gcuirfear tús leis an bhforbairt.

An chúis: Ar mhaithe le taitneamhacht amhairc.

8. Déanfar gach cábla seirbhíse poiblí, lena n-áirítear cáblaí leictreacha agus teileachumarsáide, a shuí faoin talamh ar fud an láithreáin.

An chúis: Ar mhaithe le taitneamhacht amhairc.

9. Comhlíonfaidh socruithe soláthar agus draenála uisce, lena n-áirítear uisce dromchla a thanú agus a dhiúscairt, riachtanais an údaráis pleanála maidir leis na hoibreacha agus na seirbhísí sin.

An chúis: Ar mhaithe le sláinte an phobail.

7. Details of the materials, colours and textures of all the external finishes to the proposed house shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

Reason: In the interest of visual amenity.

8. 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.

9. 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.

10. (a) Déanfar gach screamhuisce a ghinfear laistigh de theorainneacha an láithreáin a bhailiú agus a dhiúscairt laistigh de chúirtealáiste an láithreáin. Ní scaoilfear aon screamhuisce ó dhíonta, áiteanna pábháilte nó eile amach ar an mbóthar poiblí nó isteach sa sruth a thrasghearrann an láithreán seo.

(b) Déanfar an cabhsán rochtana chuig an fhorbairt bheartaithe a sholáthar le píobáin nó duchtanna atá ar mhéid sách mór le cinntiú nach gcuirfear isteach ar an draenáil cois bóthair atá anois ann. Scaoilfear uisce dromchla isteach i bpoill súite laistigh den láithreán.

An chúis: Ar mhaithe le sábháilteacht tráchta agus chun truailliú sruthchúrsaí a sheachaint.

10. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or to the stream which bisects this site.

(b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage. Surface water shall be discharged to soakways within the site.

Reason: In the interest of traffic safety and to prevent pollution of watercourses.

11. (a) Déanfar an gléasra cóireála agus an scagaire snasaithe a shuí, a thógáil agus a chothabháil de réir na sonraí a cuireadh isteach chuig an údarás pleanála, agus de réir riachtanais an doiciméid “Cód Cleachtais - Cóireáil Fuíolluisce agus Córais Diúscartha ag Freastal ar Thithe Aonair (p.e. ≤ 10)”, a d’eisigh an Ghníomhaireacht um Chosaint Comhshaoil in 2009. Ní shuiteálfar aon chóras seachas an cineál a mholtar sna haighneachtaí ach amháin má aontaítear é i scríbhinn leis an údarás pleanála.

(b) Déanfar deimhniú ó dhéantóir an chórais go bhfuil an córas suiteáilte i gceart a chur isteach chuig an údarás pleanála laistigh de cheithre seachtaine de shuiteáil an chórais.

11. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority, and in accordance with the requirements of the document “Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)”, issued by the Environmental Protection Agency in 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 the installation of the system.

(c) Síneofar conradh cothabhála maidir leis an gcóras cóireála agus íocfar roimh ré as íostréimhse cúig bliana ó chéad áitiú an tí chónaithe agus coimeádfar é i bhfeidhm i gcónaí ina dhiaidh sin. Déanfar cóipeanna sínithe agus dátaithe den chonradh a chur isteach, agus a aontú i scríbhinn, leis an údarás pleanála laistigh den cheithre seachtaine den tsuiteáil.

(d) Laistigh de thrí mhí de chéad áitiú an tí, cuirfidh an forbróir tuarascáil isteach ó dhuine cuícháilithe a bhfuil árachas slánaíochta gairmiúla aici/aige ag deimhniú go ndearnadh an córas cóireála eisiltigh branda a shuiteáil agus a choimisiúnú de réir na sonraí ceadaithe agus go bhfuil sé obair go sásúil agus gur tógadh an scagaire snasaithe de réir na gcaighdeán atá leagtha amach i ndoiciméad na Gníomhaireachta um Chosaint Comhshaoil.

(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 dwellinghouse 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) Within three months of the first occupation of the dwelling, 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.

An chúis: Ar mhaithe le sláinte an phobail.

12. Déanfar an láithreán a thírdhreachtú de réir scéim chuimsitheach tírdhreachtaíthe, agus cuirfear sonraí na scéime sin ar aghaidh chuig an údarás pleanála agus aontófar iad i scríbhinn, sula gcuirfear tús leis an bhforbairt.

An chúis: Ar mhaithe le taitneamhacht cónaithe agus amhairc.

13. Íocfaidh an forbróir leis an údarás pleanála ranníocaíocht airgeadais maidir le bonneagar agus saoráidí poiblí a théann chun leasa forbartha i gceantar an údaráis pleanála a chuirtear ar fáil nó atá ceaptha le cur ar fáil ag nó thar ceann an údaráis de réir théarmaí na Scéime don Ranníocaíocht Forbartha a rinneadh faoi alt 48 den Acht um Pleanáil agus Forbairt 2000, leasaithe. Íocfar an ranníocaíocht sula gcuirfear tús leis an bhforbairt nó ina thráth-íocaíochtaí de réir mar a éascóidh an t-údarás pleanála agus beidh sí faoi réir aon fhorálacha ábhartha innéacsaithe den Scéim ag uair na híocaíochta.

Reason: In the interest of public health.

12. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity.

13. 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

Aontófar sonraí chur i bhfeidhm théarmaí na Scéime idir an t-údarás pleanála agus an forbróir nó, mura ndéantar comhaontú den sórt sin, tarchuirfear an cheist don Bhord Pleanála chun cur i bhfeidhm théarmaí na Scéime a chinneadh.

An chúis: Is riachtanas den Acht um Pleanáil agus Forbairt 2000 (leasaithe) é go gceanglófaí leis an gcead coinníoll trína gceanglófaí ranníocaíocht a íoc de réir Scéim na Ranníocaíochta Forbartha a rinneadh faoi alt 48 den Acht.

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.

Terry Prendergast

Ball den Bhord Pleanála a bhfuil Údarás séala an Bhord a fhíordheimhniú

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

Dátaithe ar an

lá seo de

2020