

An
Bord
Pleanála

Board Order
ABP-310566-21

Planning and Development Acts 2000 to 2020

Planning Authority: Kerry County Council

Planning Register Reference Number: 21/345

Appeal by Derek O'Connell and Kay O'Connell care of Niall Lyne Architectural Design Studio of Countess Grove, Killarney, County Kerry against the decision made on the 26th day of May, 2021 by Kerry County Council to grant subject to conditions a permission to Rachel and Cathal Flood care of Oliver Daly Architects of 6 Church Street, Castleisland, County Kerry in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construction of a new dwelling house, connection to a mechanical aeration unit, sand polishing filter and all associated site works at Tonbwee, Castleisland, 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 Kerry County Development Plan 2015 – 2021 and the Killarney Municipal District Local Area Plan 2018 – 2024, it is considered that, subject to compliance with the conditions set out below, the proposal for a dwelling house on the site would be appropriate from a land use perspective and it would be compatible with the visual and residential amenities of the area. The dwelling house would afford an acceptable standard of accommodation and it would be capable of being accessed satisfactorily. No water or Appropriate Assessment issues would arise. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

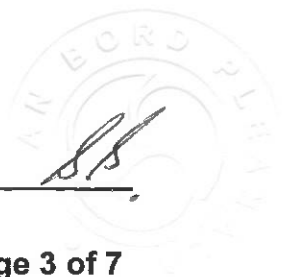
1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer 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. The proposed development shall be amended as follows:
 - (a) A detailed design of the proposed access shall be prepared.
 - (b) The first-floor window in the northern side elevation of the dwelling house shall be respecified as a high-level window.

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 residential amenity.



3. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
- (a) the establishment of a hedgerow along the northern boundary of the site, and
 - (b) the erection of a temporary timber fence along the northern boundary from the front building line of the dwelling house to the north-western corner of the site. A timetable for the removal of this fence in conjunction with the anticipated establishment of the accompanying hedgerow shall be stated.

Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

4. The roof colour of the proposed house shall be blue-black, black, dark brown or dark-grey. The colour of the ridge tile shall be the same as the colour of the roof.

Reason: In the interest of visual amenity.

5. The external walls shall be finished in neutral colours such as grey or off-white.

Reason: In the interest of visual amenity.

6. (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 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 the 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 soakways 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 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.


Reason: In the interest of public health.

7. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

Reason: In the interest of public health.

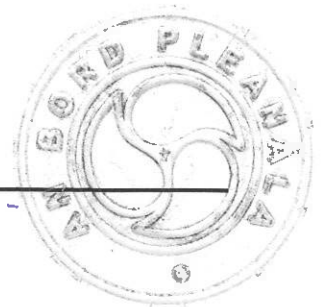
7. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to 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.



Stephen Bohan

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



Dated this 18th day of October 2021