

An  
Bord  
Pleanála

Board Order  
ABP-311378-21

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## Planning and Development Acts 2000 to 2021

**Planning Authority: Kerry County Council**

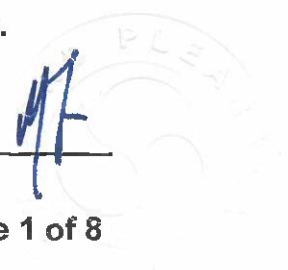
**Planning Register Reference Number: 21/711**

**Appeal** by Katherine Cremin of Killarney Nature Conservation, Headford Post Office, Killarney, County Kerry and by James Cremin of Tomies, Beaufort, Killarney, County Kerry against the decision made on the 20<sup>th</sup> day of August, 2021 by Kerry County Council to grant subject to conditions a permission to Tara Duggan and Brian Doherty care of Simply Architecture of 18A Washington Street, Cork in accordance with plans and particulars lodged with the said Council

**Proposed Development:** Demolish existing single storey dwelling house and detached single storey garage, to construct a new single storey replacement dwelling, new proposed wastewater treatment system to replace existing septic tank and associated site works at Tomies East, Beaufort, 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 existing dwelling and septic tank on the site and to the nature and extent of the proposed replacement dwelling and effluent treatment system, it is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely impact on the visual amenities of the area or of property in the vicinity and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.



## Appropriate Assessment

The Board completed an Appropriate Assessment Screening exercise in relation to the potential effects of the proposed development on designated European Sites, taking into account the nature, scale and location of the proposed development and the Inspector's report and submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that the proposed development, individually or in combination with other plans or projects, would not be likely to have significant effects on any European Sites in view of the sites' conservation objectives, and that an Appropriate Assessment (and submission of a Natural Impact Statement) is not, therefore, required.

## 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 applicants, members of the applicants' immediate family or 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 applicants. Prior to commencement of development, the applicants shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.
- (b) Within two months of the occupation of the proposed dwelling, the applicants 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 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. Details of the external finishes to the proposed dwelling including samples shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

4. 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.

5. Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works. No surface water shall discharge onto adjoining lands.

**Reason:** To ensure adequate servicing of the development, and to prevent pollution.

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.  $\leq 10$ )" – 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 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) 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 Environmental Protection Agency document.

**Reason:** In the interest of public health.



7. The landscaping scheme shown on the Landscape Plan drawing number 020-13-100 as submitted to the planning authority on the 28<sup>th</sup> day of June, 2021 shall be carried out within the first planting season following substantial completion of external construction works. In addition to the proposals in the submitted scheme, a continuous hedge of indigenous species (e.g. holly, hawthorn or beech) shall be planted for the full length of the eastern site boundary. 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.

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

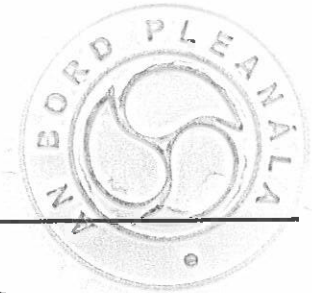
**Reason:** In the interests of public safety and residential amenity.

9. 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.



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



Dated this 26<sup>th</sup> day of January 2022.