



An
Bord
Pleanála

Board Order ABP-312699-22

Planning and Development Acts 2000 to 2022

Planning Authority: Kerry County Council

Planning Register Reference Number: 21/650

Appeal by Seamus Hobbins care of Reeks Consulting Engineers of Rock Road, Killarney, County Kerry against the decision made on the 14th day of January, 2022 by Kerry County Council to refuse permission for the proposed development.

Proposed Development: Fill land with inert waste along with associated site works, for the purpose of land reclamation at Nantinan, Killorglin, County Kerry. The development is a development related to an activity requiring an application for a waste permit.

Decision

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations set out below.

Reasons and Considerations

Having regard to the policies and provisions of the Kerry County Development Plan 2022 - 28, which seek to support the sustainable development of agriculture, and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area and would not be likely to have significant effects on the environment, or the ecology of the area. 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 10th day of December 2021, 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) All of the environmental and construction mitigation measures, as set out in the Environmental Impact Screening Report and the Natura Impact Statement received by the planning authority on the 16th day of June, 2021 shall be implemented by the developer, except as may otherwise be required in order to comply with the conditions of this Order.

(b) Prior to the commencement of development on site, the following shall be submitted for the written agreement of the planning authority: -

- (i) details of appropriate measures to pipe and fill the open drain along the northern boundary of the site, and
- (ii) details of an ecologist or suitably qualified person to supervise and monitor the works and to ensure appropriate implementation of the mitigation measures.

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

3. The importation of fill and operation of associated machinery shall be carried out only between the hours 0800 and 1800 from Mondays to Fridays inclusive. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In the interest of good traffic management and to protect amenities of the area.

4. All trees and hedgerows on the boundaries of the site shall be retained and maintained with the exception of those necessary to provide for the proposed entrance.

Reason: In the interests of visual and rural amenity.

5. (a) Prior to commencement of development, a system of advanced warning signs shall be erected along the access road to the site. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) The public roadway shall be kept clean and tidy at all stages of the development.

Reason: In the interest of traffic safety.

6. The final use of the lands after the completion of the importation of fill materials shall be for agricultural purposes only.

Reason: In the interest of clarity.

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 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.



Eamonn James Kelly

Eamonn James Kelly

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this *25th* day of *October*, 2023.