

An
Bord
Pleanála

Board Order
ABP-313203-22

Planning and Development Acts 2000 to 2021

Planning Authority: Kerry County Council

Planning Register Reference Number: 21/1106

Appeal by Cornelius Christopher Moynihan and others of Lissyvigeen, Killarney, County Kerry against the decision made on the 10th day of March, 2022 by Kerry County Council to grant subject to conditions permission to Nocwerdna Limited care of Reeks Consulting Engineers of Rock Road, Killarney, County Kerry in accordance with plans and particulars lodged with the said Council.

Proposed Development: (i) Removal of rear boundary wall and decommissioning of existing septic tank. (ii) Install new wastewater treatment system and attenuation area for existing tarmacadam yard. (iii) Construct an extension to the rear of the existing garage, ancillary to existing use, with new boundary fence and all associated site works. (iv) Create a hardstand to rear of garage, all at Lissyvigeen, 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.

Reasons and Considerations

Having regard to the design, scale and layout of the proposed development, its relationship to surrounding properties, to the existing commercial garage use on the site, and the pattern of development in the area, 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 or of property in the vicinity, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 15th day of February, 2022, 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The external finishes of the proposed extension shall be the same as those of the existing building in respect of colour and texture. Samples of the proposed materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. 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 adjoining properties.

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

4. The landscaping scheme shown on drawing number 21-053-03, as submitted to the planning authority on the 15th day of February, 2022, shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the proposed 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 the interest of residential and visual amenity.

5. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 6th day of October, 2021 and the 15th day of February, 2022, and in accordance with the requirements of the document entitled “Code of Practice – Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)” – Environmental Protection Agency, 2021. No system other than the type proposed in the submissions shall be installed unless otherwise 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 its installation 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 installation of the treatment system, 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.

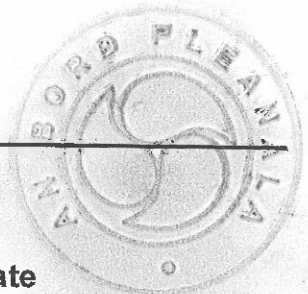
6. Site development and building works shall be carried out only between 0700 hours to 1900 hours Mondays to Fridays, inclusive, between 0900 hours to 1300 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

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.


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



Dated this 22nd day of August 2022.