

An  
Bord  
Pleanála

Board Order  
ABP-315028-22

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Kerry County Council**

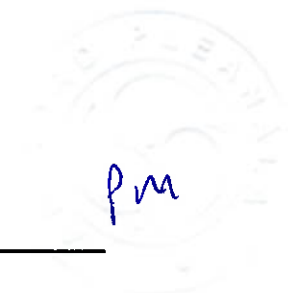
**Planning Register Reference Number: 22/915**

**Appeal** by Denis Lyons of Prison North, Balla, County Mayo against the decision made on the 25<sup>th</sup> day of October, 2022 by Kerry County Council to grant subject to conditions a permission to Laura and David O'Shea care of 3DS Designs of 5 West Main Street, Caherciveen, County Kerry in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construct a dwellinghouse served by a mechanical treatment plant and polishing filter, entrance and all associated site works at Killoe, Cahersiveen, 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.**



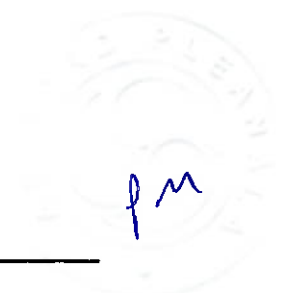
## Reasons and Considerations

Having regard to the location of the site within an area designated as a Rural Area Under Urban Influence in the Kerry County Development Plan 2022-2028 and to the rural generated housing need of the applicants for a house at this location, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area, 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 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 17<sup>th</sup> day of October 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 development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

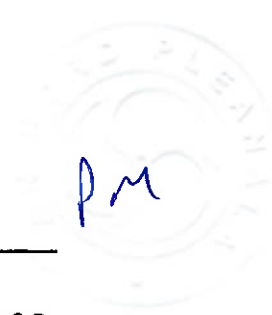


2. (a) The proposed development, when completed, shall first be occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the 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 dwelling by any person deriving title from such a sale.

**Reason:** To ensure that the proposed house is used to meet the applicants stated housing need 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. (a) All external finishes to the proposed development shall be neutral in colour tone and texture. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) The colour of the ridge tiles shall match the colour of the roof.



- (c) White uPVC shall not be used for windows, external doors and rainwater goods.
- (d) Stonework to external wall shall be constructed of natural stone which shall be sourced locally.
- (e) The finished floor level shall be as shown on the submitted drawings.

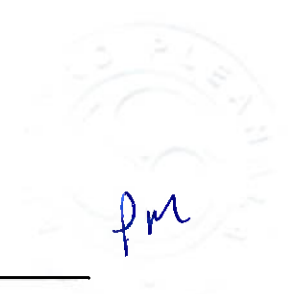
**Reason:** In the interest of visual amenity.

- 4. The existing roadside boundary shall be retained except for where removal is necessary to construct the proposed vehicular entrance to the site. The vehicular entrance shall be located as shown on the site layout plan submitted to the planning authority and constructed, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

- 5. 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 and shall be collected and diverted to discharge to existing watercourses or to drains or soakpits.

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



6. The water supply to serve the proposed dwelling shall have sufficient yield to serve the proposed development, and the water quality shall be suitable for human consumption. Details demonstrating compliance with these requirements, shall be submitted to, and agreed in writing with the planning authority prior to commencement of the development.

**Reason:** To ensure that adequate water is provided to serve the proposed development, in the interests of public health.

7. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority maintained in accordance with the details submitted to the planning authority on the 31<sup>st</sup> day of August 2022, 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, 2021. 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 installed properly 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 installation.



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- (d) Surface water soakaways shall be located such that drainage from the dwelling and paved areas shall be diverted away from the location of the polishing filter. A land drain shall be constructed along the northern boundary of the site discharging to the drain along the western site boundary to prevent the ingress of surface water into 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 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.

- 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. All external lighting shall be adequately cowled so as not to cause overspill onto public road or adjacent property.

**Reason:** To control light pollution in the rural environment.



10. The site shall be landscaped using indigenous plants and hedging species, in accordance with details to be submitted to, and agreed in writing with, the planning authority prior to commencement of development. 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.

11. 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.

*Peter Mullan*



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**Peter Mullan**

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

Dated this *7th* day of *March*, 2024.