

An
Coimisiún
Pleanála

Commission Order
ABP-319911-24

Planning and Development Act 2000, as amended

Planning Authority: Kerry County Council

Planning Register Reference Number: 23836

Appeal by Mike and Beryl Woodyard care of Michael Casey and Associates of 9 Main Street, Listowel, County Kerry against the decision made on the 17th day of May 2024, by Kerry County Council to grant, subject to conditions, a permission to Sam and Miranda Foley care of Fergus Flanagan Architects Limited of Crescent Quay, Wexford Town, County Wexford in accordance with plans and particulars lodged with the said Council.

Proposed Development: 1. Demolish existing dwelling, 2. Construct new replacement dwelling, 3. New on-site treatment system and all associated site works, at Littor, Asdee, Listowel, County Kerry as amended by the further public notices received by the planning authority on the 22nd day of April 2024.

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 provisions of the Kerry County Development Plan 2022-2028, particularly objective KCDP 5-22 which seeks compliance with the 'Building a House in Rural Kerry Design Guidelines 2009' and objective KCDP 11-78 which seeks to protect the County's landscapes, 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 the proposed development, subject to compliance with the conditions set out below, 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.

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 received by the planning authority on the 2nd day of April 2024, 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) The proposed western facing full-height window to the first-floor TV room shall be replaced with a high-level window, with a cill height of no less than 1.8 metres.
- (b) A privacy screen of opaque glazing, to a minimum height of 1.8 metres, shall be installed on the western side of the first-floor terrace, attached to the rear of the pitched roof part, of the proposed dwelling house.

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 interests of neighbouring residential amenity.

- 3. (a) The wastewater treatment system hereby permitted shall be installed in accordance with the recommendations set out within the Site Characterisation Report submitted with this application and with the plans and particulars received by the planning authority as further information on the 2nd day of April 2024, and shall be in accordance with the standards set out in the document entitled "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)" – Environmental Protection Agency (EPA), 2021.
- (b) Treated effluent from the wastewater treatment system shall be discharged to a polishing filter which shall be provided in accordance with the report received by the planning authority as further information on the 2nd day of April 2024, titled 'Design of a 90 square metre Low Pressure Pipe Distribution Network' and the

standards set out in the document entitled "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)" – Environmental Protection Agency, 2021.

- (c) Within three months of the first occupation of the dwelling, the developer shall submit a report to the planning authority from a suitably qualified person, with professional indemnity insurance, certifying that the wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the EPA document referred to above.

Reason: In the interest of public health and to prevent water pollution.

- 4. Upon completion of the proposed wastewater treatment system, the existing septic tank on site shall be removed or backfilled with inert material.

Reason: To prevent groundwater contamination.

- 5.
 - (a) The roof colour of the pitched roof part of the proposed house shall be blue-black, black or dark grey. The colour of the ridge tile shall be the same as the colour of the roof.
 - (b) The external walls of the pitched roof part of the dwelling shall be finished in neutral colours such as grey or off-white.
 - (c) Samples of the stone and timber cladding to be used as external finishes on the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. The facing material of the proposed front boundary wall shall consist of natural local stone, samples of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. The entrance gates to the proposed house shall be set back not less than four metres and not more than six metres from the edge of the public road. Wing walls forming the entrance shall be splayed at an angle of not less than 45 degrees and shall not exceed one metre in height. The entrance gates and front boundary walls shall not exceed 1.2 metres in height.

Reason: In the interest of traffic safety.

8. Prior to commencement of development, a final Resource Waste Management Plan (RWMP) as set out in the Environmental Protection Agency's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) shall be prepared and submitted to the planning authority for written agreement. As part of the preparation of the RWMP, a survey shall be undertaken by a suitably competent person/company to determine the possible presence of Asbestos Containing Material (ACM) or any other hazardous materials within the structures to be demolished/removed, and a report on same shall be included as part of the RWMP. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of reducing waste and encouraging recycling.

9. Prior to the commencement of development, the developer shall enter into a Connection Agreement with Uisce Éireann to provide for a service connection to the public water supply network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

10. (a) 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 lands.
- (b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

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

11. 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:
- (a) the location of the site and materials compound(s) including area(s) identified for the storage of construction refuse,
- (b) the location of areas for construction site offices and staff facilities,
- (c) the details of site security fencing and hoardings,

- (d) the details of on-site car parking facilities for site workers during the course of construction,
- (e) the details of the timing and routing of construction traffic to and from the construction site,
- (f) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network,
- (g) the details of appropriate mitigation measures for noise, dust and vibration, and monitoring of such levels, and
- (h) the containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be available for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety and environmental protection.

12. Site development and building works shall be carried out between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 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 agreement has been received from the planning authority.

Reason: To safeguard the amenity of property in the vicinity.

13. The developer shall make good any damage caused to the public road as a result of their works, to the satisfaction of the planning authority.

Reason: In the interest of traffic safety.

14. A revised landscaping scheme shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. The revised scheme shall include the following:
- (a) Details of the proposed fence on the rear boundary of the site.
 - (b) Existing boundary screening and natural woodland on the site shall be retained in full and shall be suitably strengthened with native hedge species indigenous to the area.
 - (c) The eastern and western site boundaries shall be provided with thick native hedges and tree planting.
 - (d) 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 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.

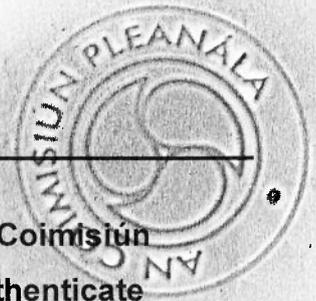
15. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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 Coimisiún 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.



Liam McGree

**Planning Commissioner of An Coimisiún
Pleanála duly authorised to authenticate
the seal of the Commission.**



Dated this 19th day of DECEMBER 2025.