



An  
Coimisiún  
Pleanála

Commission Order  
ABP-320961-24

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**Planning and Development Acts 2000 to 2024**

**Planning Authority: Kerry County Council**

**Planning Register Reference Number: 22660**

**WHEREAS** by Order dated the 17<sup>th</sup> day of July 2024, An Bord Pleanála, under appeal reference number ABP-314951-22, granted subject to conditions a permission to Barth O'Neill care of Eversheds Sutherland LLP of 1 Earlsfort Centre, Earlsfort Terrace, Dublin for development comprising (1) A new foul sewer to facilitate Irish Water in the completion of the Kilcummin Sewage Scheme and the connection of Páirc Chumin to same, (2) the provision of a turning bay to serve the permitted pumping station (granted under planning reference number 17/97), and (3) construction of 34 number houses by way of modification to the previously permitted permission by An Bord Pleanála under appeal reference PL 08.248967 (Planning Register Reference 16/247). The development will consist of four number Type E two-storey terraced, three-bed dwellinghouses, six number two-storey three bed semi-detached dwellinghouses, and 24 number semi-detached houses that will be interchangeable as to their type, being either a Type B two-storey three bed semi-detached or a type C two and a half storey, four bed semi-detached with home office space and bedroom/TV room in a converted attic, all associated parking and site development works and services at Páirc Chumin, Clashnagarrane, Kilcummin, Killarney, County Kerry:



**AND WHEREAS** condition number 21 attached to the said permission states that -

21. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

**AND WHEREAS** the planning authority required the developer to pay a security contribution of €200,000.00 (two hundred thousand euros) in lieu of the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development in order to comply with the terms of condition number 21 of the permission.

**AND WHEREAS** the planning authority and the developer could not come to an agreement regarding the total of the security contribution and the matter was referred by the developer to An Bord Pleanála on the 2<sup>nd</sup> day of October, 2024 for determination:



**NOW THEREFORE** An Bord Pleanála, in exercise of the powers conferred on it by section 34(5) of the Planning and Development Act, 2000, as amended, and based on the Reasons and Considerations set out below, hereby determines that the financial contribution under condition number 21 of this permission shall be determined under the provisions of the Development Management Guidelines for Planning Authorities, published by the Department of the Environment, Heritage and Local Government (2007 and 2020).

### **Reasons and Considerations**

The Commission had regard to:

- (a) Section 34(5) of the Planning and Development Act 2000, as amended,
- (b) the nature and extent of works covered by condition 21 of planning decision ref: ABP 314951-22, which relate to the whole site as outlined in red in the submitted application details, and
- (c) the Development Management Guidelines for Planning Authorities, published by the Department of the Environment, Heritage and Local Government (2007 and 2020).

Having regard to the foregoing, the Commission determined that security in the amount of €200,000, to ensure satisfactory completion of the proposed development, was appropriate, notwithstanding any previously submitted security regarding separate grants of planning permission. The Commission noted that the developer had not previously appealed the amount of the security required by the planning authority at the time of its decision to grant planning permission for application reference: 22/660 and determined that any refund of previously submitted securities is a matter between the developer and the planning authority, which is not immediately relevant to completion of



the development which is the subject of planning permission reference:  
22/660 (ABP 314951-22).

**Condition 21 as determined:**

Prior to commencement of development, the developer shall lodge with the planning authority a bond of an insurance company, a cash deposit, or other security to secure the provision and satisfactory completion, and maintenance until taken in charge by the local authority, of roads, sewers, watermains, drains, car parks, open spaces and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The security to be lodged shall be as follows –

- (a) an approved insurance company bond in the sum of € 200,000 (two hundred thousand euro), or
- (b) a cash sum of €200,000 (two hundred thousand euro) to be applied by the planning authority at its absolute discretion if such services are not provided to its satisfaction, or
- (c) such other security for the sum of €200,000 as may be specified in writing by the planning authority.

**Reason:** To ensure the satisfactory completion and maintenance of the development until taken in charge.

  
Liam McGree

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



Dated this 27<sup>th</sup> day of AUGUST 2025.