

An
Coimisiún
Pleanála

Commission Order

ABP-321077-24

Planning and Development Act 2000, as amended

Planning Authority: Kerry County Council

Planning Register Reference Number: 24/60523

Appeal by Michael Hegarty care of Padraig Murphy of Weir Side, Riverview, Bandon, County Cork against the decision made on the 27th day of September, 2024 by Kerry County Council to grant permission, subject to conditions, to Tim Lyne care of Reeks Consulting Engineers of Reeks Gateway, Killarney, County Kerry in accordance with plans and particulars lodged with the said Council.

Proposed Development: (a) Demolition of existing dwellinghouse and outbuildings, and (b) construction of two new detached dwellinghouses, inclusive of all associated drainage, ancillary site works and landscaping all at Park Road, 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 provisions of the Kerry County Development Plan 2022-2028, to the nature and scale of the proposed development and to the existing pattern of development in this suburban location, 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 and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment – Screening

The Board noted that the proposed development is not directly connected with or necessary to the management of a European site. In completing the screening for Appropriate Assessment, the Board accepted and adopted the screening assessment and conclusion carried out in the Inspector's report in respect of identification of the European sites which could potentially be affected, and the identification and assessment of the potential likely significant effects of the proposed development, either individually or in combination with other plans and projects, on these European sites in view of the site's conservation objectives, and concluded that a Stage 2 Appropriate Assessment is not required.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 front boundary wall shall be set back a distance of two metres to allow for the provision of footpaths and cycle lanes, in accordance with Kerry County Council proposals for Park Road approved under Part VIII of the Planning and Development Act 2000, as amended.
- (b) The opening across the front boundary shall be reduced to a maximum of six metres. A front boundary wall shall be suitably capped and finished in a material that matches the external finish of the adjacent boundary walls. A revised layout plan showing same shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

- (c) Screen walls 1.8 metres in height of concrete block construction, capped and rendered, shall be provided to the side and rear boundaries of each dwelling, behind the front building line. Boundary fences to the front of the building line shall be of concrete block construction capped and rendered and shall be a maximum of 1.2 metres in height.

Reason: In the interests of orderly development and visual and residential amenity.

3. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
- (a) A plan to scale of not less than 1:200 showing –
- (i) the species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species and which shall not include prunus species,
 - (ii) a one metre wide planted area inside the front boundary wall and perimeter planting to front side boundary walls, and
 - (iii) hard landscaping works, specifying surfacing materials, and finished levels.
- (b) A timescale for implementation.

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 the interests of residential and visual amenity.

4. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Roof colour shall be blue-black, black, or dark grey in colour only. Stone finish to be used shall be the same as that used in the adjoining residential area.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

5. Prior to commencement of works, the developer shall submit to, and agree in writing with the planning authority, a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, noise and dust management measures and off-site disposal of construction and demolition waste.

Reason: In the interests of public safety and amenity.

6. Prior to the commencement of development, the developer shall enter into a Connection Agreements with Uisce Éireann (Irish Water) to provide for service connections to the public water supply and wastewater collection network.

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

7. All site works shall be in accordance with the Department of Environment and Local Government publication 'Site Development Works for Housing Areas' (October 1998) and the details submitted with the application.

Reason: In the interests of traffic and public safety.

8. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to the commencement of development, the developer shall submit details for the disposal of surface water from the site for the written agreement of the planning authority.

Reason: In the interest of public health.

9. Appropriate measures shall be installed during the construction phase to prevent construction vehicles and plant from depositing debris and dirt on the public road. During construction, all site vehicles shall be parked within the boundary of the development site.

Reason: In the interests of environmental protection and public safety.

10. Good site management practices shall be employed by the developer during construction to prevent discharge of contaminated waters. Silt traps and/or interceptors shall be maintained at regular intervals during the course of construction work.

Reason: In the interest of environmental protection.

11. Any damage to the adjoining public footpath/roadway as a result of the proposed development shall be made good at the developer's expense to the satisfaction of the planning authority.

Reason: In the interest of public safety.

12. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness, these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. 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 public health and to prevent pollution.

13. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1300 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

14. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

15. Notwithstanding the provisions of Article 10(4) of the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, no part in the proposed houses shall be used for the purpose of providing overnight paying guest accommodation without a prior grant of planning permission.

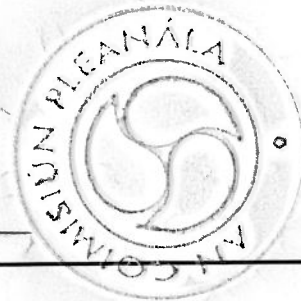
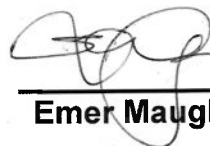
Reason: In order to prevent overdevelopment of the site in the interest of residential amenity.

16. The glazing to all first-floor bathroom, en-suite and landing windows in the side elevations of the dwellings shall be manufactured opaque or frosted glass and shall be permanently maintained. The application of film to the surface of clear glass is not acceptable.

Reason: In the interest of residential amenity.

17. 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 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.



Emer Maughan

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

Dated this 10th day of September 2025.