

An
Coimisiún
Pleanála

Commission Order
ACP-322925-25

Planning and Development Act 2000, as amended

Planning Authority: Kerry County Council

Planning Register Reference Number: 24/60977

Appeal by Eileen Cahill of Rossbeigh, Glenbeigh, County Kerry against the decision made on the 9th day of June, 2025 by Kerry County Council to grant subject to conditions a permission to Con and Darren O'Sullivan care of DMA Architects of Room 4, Collis Sandes House, Kileen, Tralee, County Kerry in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of two number two-bedroom two-storey ancillary staff accommodation to Ross Point. Two number two-bedroom two-storey residential dwellings and a single storey yoga centre, connect all to existing water mains and public sewage and all associated site works, all at Rossbeigh, Glenbeigh, County Kerry as revised by further public notices received by the planning authority on the 15th day of April, 2025.

Decision

GRANT permission (subject to conditions) for the yoga centre and all associated works' for the reasons and considerations marked (1) under and subject to the conditions set out below, and

REFUSE permission for works comprising two-storey ancillary staff accommodation dwellings to Rosspoint and two two-storey residential dwellings and all associated site works for the reasons and consideration marked (2) set out below.

Reasons and Considerations (1)

Having regard to the provisions of the Kerry County Development Plan 2022-2028, including KCDP 10-67 (which promotes opportunities for enterprise and employment creation in rural-based tourism where it can be demonstrated that the development will not have a negative impact on the rural environment) and RPO 50 of the Regional Spatial and Economic Strategy for the Southern Region 2020-2032, the location of the site in Rossbeigh, which is recognised as a 'Discovery Point' on the Wild Atlantic Way, the nature, scale and design of the proposed yoga centre and its position within a rural cluster, it is considered that, subject to compliance with the conditions set out below, this element of the proposed development would not be visually obtrusive or out of character with the surrounding area and would not seriously damage the amenities of the adjoining residential properties or generate a traffic hazard. This element of the proposed development would be in accordance with the provisions of the development plan and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment: Stage 1:

The Commission agreed with the screening assessment and conclusion carried out in the Inspector's Report that the Castlemaine Harbour Special Area of Conservation (Site Code: 000343) and the Castlemaine Harbour Special Protection Area (Site Code: 004029) are the only European Sites in respect of which the proposed development has the potential to have a significant effect in view of the Conservation Objectives for the sites and that Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment: Stage 2:

The Commission considered the Natura Impact Statement, and all the other relevant submissions on file, and carried out an Appropriate Assessment of the implications of the proposed development on the Castlemaine Harbour Special Area of Conservation (Site Code: 000343) and the Castlemaine Harbour Special Protection Area (Site Code: 004029) in view of the sites' Conservation Objectives. The Commission considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' Conservation Objectives using the best scientific knowledge in the field. In completing the assessment, the Commission considered, in particular, the following:

- (i) the site-specific Conservation Objectives for the European Sites,
- (ii) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, and
- (iii) the mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Commission accepted and adopted the Appropriate Assessment carried out in the Inspector's Report in respect of the potential effects of the proposed development on the aforementioned European Sites.

In overall conclusion, the Commission was satisfied that the proposed development would not adversely affect the integrity of the European Sites in view of the sites' Conservation Objectives and that there is no reasonable scientific doubt as to the absence of such effects:

Conditions

1. This element of the proposed 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 25th day of March, 2025 and the 15th day of April, 2025, 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 this element of the proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. This permission relates to the proposed yoga centre and associated works only. Revised site layout and landscaping drawings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development showing the following:

- (a) a revised parking layout to serve the yoga centre, comprising of 10 number car parking spaces in total, including one number disabled space and one number EV charging space; and
- (b) the provision of four number bicycle parking spaces.

Reason: To ensure that adequate off-street parking and bicycle parking provision is available to serve the proposed development.

- 3. (a) The mitigation measures contained in the submitted Natura Impact Statement (NIS) relevant to the permitted development (yoga centre and associated works) shall be implemented in full.
- (b) Any excavated soil/subsoil temporary storage area to be located on site shall be located on flat terrain a minimum of 10 metres from any watercourse.
- (c) No soiled water run-off shall be permitted to leave the site during the construction works.

Reason: In the interest of clarity and to protect the integrity of the European Sites.

- 4. Prior to commencement of development, the developer shall carry out an evaluation and quantification of all construction, demolition and excavation waste (including hazardous waste) likely to arise during all phases of development/construction and shall develop a waste management and disposal plan for all such waste arisings. A copy of this plan shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of environmental protection and reducing waste.

5. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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

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

7. The disposal of surface water shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development, the developer shall submit details for the disposal of surface water, including hydrocarbon interceptors, as appropriate, for the written agreement of the planning authority.

Reason: In the interest of achieving a sustainable disposal of surface water.

8. Site development and building works shall be carried out only between the hours of 0800 and 1900 Mondays to Fridays, inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or 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.

9. Any damage to the adjoining roadways arising from the proposed development shall be made good at the developer's expense, to the satisfaction of the planning authority.

Reason: In the interest of orderly development and public safety.

10. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting in this regard shall be provided to facilitate broadband infrastructure.

Reason: In the interests of visual and residential amenity.

11. The yoga centre building shall only be used between 0700 hours and 2200 hours on any day of the week, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential amenity.

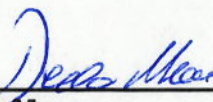
12. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the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

Reasons and Considerations (2)

Having regard to the location of the site within a Rural Area Under Significant Urban Influence, as identified in the Kerry County Development Plan 2022-2028, where housing is restricted to persons demonstrating local need in accordance with Objective KCDP 5-15 of the development plan, it is considered that an exceptional rural generated housing need has not been demonstrated for the proposed development of four houses at this location. The proposed development, in the absence of any identified locally based need, would contribute to the encroachment of random rural development in the area, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.


Declan Moore

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



Dated this 22nd day of October 2025.