



An
Coimisiún
Pleanála

Commission Order

PL-501110-KY-26

Planning and Development Act 2000, as amended

Planning Authority: Kerry County Council

Planning Register Reference Number: 25/60038

Appeal by Richard Chute and by others against the decision made on the 11th day of March, 2026 by Kerry County Council to grant, subject to conditions, a permission to OFSolutions Limited in accordance with plans and particulars lodged with the said Council.

Proposed Development: (1) Demolish existing dwellinghouse (2) construct 16 number terrace dwellinghouses, (3) construct 26 number of semi-detached dwellinghouses, (4) construct Apartment Block A containing 19 Residential units (11 by one-Bed, eight by two-Bed), (5) construct Apartment Block B containing five Residential units (five by two-Bed), (6) construct Apartment Block C containing 11 Residential units (11 by two-Bed), (7) construct Apartment Block D containing 11 Residential units (11 by two-Bed), (8) construct Apartment Block E containing five Residential units (five by two-Bed), (9) construct Preschool, (10) construct Refuse and Bicycle stores and all associated roads and site services, all at "The Parsonage", Bell Height, Kenmare, County Kerry, as amended by the further public notice received by

the planning authority on the 15th day of January, 2026 which revised the number of units to 85 number residential units.

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 residential land use zoning of the site, the nature and scale of the proposed development, and the provisions of the Kerry County Development Plan 2022-2028 and Kenmare Municipal District Local Area Plan 2024-2030 including Figure 3.32b and Objective KENMD-KE-5 which seeks to encourage and facilitate appropriate development at the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would contribute to the provision of new residential development in an appropriately zoned site, would constitute a satisfactory mix and quantum of residential development, would provide acceptable levels of residential amenity for future residents, would not detract from the character and setting of the area, would not seriously injure the residential amenities of the area or of property in the vicinity, would not have an adverse impact on the environment and would be acceptable in terms of traffic and pedestrian safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Stage 1

The Commission considered the documents submitted with the application, and all the other relevant submissions on file, and carried out an Appropriate Assessment in relation to the potential effects of the proposed development on designated European sites. The Commission agreed with the screening assessment and conclusion carried out in the Inspector's Report that the Kenmare River Special Area of Conservation (Site Code 002158) is the only European Site in respect of which the proposed development has the potential to have a significant effect in view of the conservation objectives for the site 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 Kenmare River Special Area of Conservation (Site Code 002158) in view of this site's 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 site's 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 Site,

- (ii) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, and
- (iii) 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 Site. In overall conclusion, the Commission were satisfied that the proposed development would not adversely affect the integrity of the European Site in view of the site's conservation objectives and that there is no reasonable scientific doubt as to the absence of such effects.

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 to the planning authority the 2nd day of January, 2026 and the 15th day of January 2026, 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 number of units granted under this permission is 85 number residential units.

Reason: In the interest of clarity.

3. The mitigation measures contained in the submitted Natura Impact Statement (NIS), shall be implemented.

Reason: To protect the integrity of a European Site.

4. Notwithstanding the provisions of Article 10 (4) of the Planning and Development Regulations 2001, no room 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 the interests of residential amenity and traffic safety and convenience.

5. 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 1:500 showing: -

- (i) The provision of clearly defined public open space and clearly defined communal open space.

- (ii) The provision of a small play space suitable for the specific needs of toddlers and children under six years of age.
 - (iii) Existing trees and hedgerows, specifying which are proposed for retention as features of the site landscaping as per the revised arboricultural tree survey.
 - (iv) The measures to be put in place for the protection of these landscape features during the construction period.
 - (v) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder.
 - (vi) Hard landscaping works, specifying surfacing materials, furniture, play equipment, and finished levels.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
- (c) A timescale for implementation including details of phasing.

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, or until the development is taken in charge by the local authority, whichever is the sooner, 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.

6. (a) A revised arboricultural tree survey of the site, which shall be carried out by an arborist, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The survey shall show the location of each tree on the site, together with the species, height, girth, crown spread and condition of each tree, distinguishing between those which it is proposed to be felled and those which it is proposed to be retained.
- (b) Measures for the protection of those trees which it is proposed to be retained shall be submitted to, and agreed in writing with, the planning authority before any trees are felled.

Reason: To facilitate the identification and subsequent protection of trees to be retained on the site, in the interest of biodiversity and visual amenity.

7. All groundwork and/or soil stripping associated with the proposed development should be archaeologically monitored, under licence from the National Monuments Service, and a report on the results submitted to the planning authority on completion.

Reason: To ensure the continued preservation, either in situ or by record, of places, caves, sites, features or other objects of archaeological interest.

8. All roads, footpaths and cycleways, where applicable, shown to adjoining lands shall be constructed up to the boundaries to provide access to adjoining lands with no obstruction including the erection of any structure which would otherwise constitute exempted development under the Planning and Development Regulations 2001, as amended. These areas shall be shown in a drawing which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of permeability and the proper planning and sustainable development.

9. (a) The open spaces, including hard and soft landscaping, car parking areas and access ways, communal refuse/bin storage and all areas not intended to be taken in charge by the local authority, shall be maintained by a legally constituted management company.
- (b) Details of the management company contract, and drawings/particulars describing the parts of the development for which the company would have responsibility, shall be submitted to, and agreed in writing with, the planning authority before any of the residential units are made available for occupation.

Reason: To provide for the satisfactory future maintenance of this development in the interest of residential amenity.

10. (a) Prior the commencement of demolition or felling works, trees and buildings with bat roosting potential shall be surveyed by a suitably qualified ecologist who is appropriately qualified and experienced in undertaking bat surveys and in line with best practice at the appropriate time of year to confirm the absence of roosting bats. In the event that a previously undetected bat roost is identified and is likely to be disturbed, the applicant shall acquire a derogation under Regulation 54 of the European Communities (Bird and Natural Habitats) Regulations 2011 prior to the commencement of the relevant works. Prior to the removal of trees and/or works to building, the bat survey results, methodologies for felling/works and any derogations shall be submitted for the written agreement of the planning authority.
- (b) Works on the building proposed to be demolished including ivy removal shall not take place between March 31st and September 30th.

Reason: In the interests of clarity, orderly development and the proper planning and sustainable development of the area.

11. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of any development.

Reason: To ensure the timely provision of services, for the benefit of the occupants of the proposed dwellings.

12. Details of the materials, colours and textures of all the external finishes to the proposed buildings 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 high standard of development.

13. Details of signage, waste management and hours of operation of the proposed creche shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of clarity, orderly development and the proper planning and sustainable development of the area.

14. (a) Public lighting shall be provided as outlined in the Outdoor Lighting Report received by the planning authority on the 2nd day of January 2026, unless otherwise agreed in writing with the planning authority.
- (b) All external lighting shall be fitted and maintained with 'warm white spectrum' bulb type lighting, with 2700K or lower and with 0% tilt and uplift.

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

15. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a detailed Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority. The CEMP shall incorporate details for the following: collection, recovery and disposal of construction waste, surface water run-off from the site, on-site road construction, and environmental management measures during construction including noise control, dust and vibration control and monitoring of such measures. A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the development.

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

16. 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 Environmental Protection Agency'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 proper planning and sustainable development.

17. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays and between 0800 and 1400 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 residential amenities of property in the vicinity.

18. 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 and wastewater collection network.

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

19. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority.

Reason: In the interest of public health and surface water management.

20. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs shall be in accordance with the detailed construction standards of the planning authority for such works and design standards outlined in Design Manual for Urban Roads and Streets (DMURS).

Reason: In the interests of amenity and of traffic and pedestrian safety.

21. 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. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

22. The childcare facility shall be finished to an operational standard prior to the occupation of the residential units unless otherwise agreed with the planning authority.

Reason: To ensure that childcare facilities are provided in association with residential units, in the interest of residential amenity.

23. A plan containing details for the management of waste within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed

waste facilities shall be maintained and waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

24. Prior to commencement of development, the developer or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Coimisiún Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the plan of the area.

25. (a) Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house or duplex unit), pursuant to Section 47 of the Planning

and Development Act 2000, that restricts all relevant houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each specified house or duplex unit for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

26. 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 Coimisiún Pleanála for determination.

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

27. 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 Contribution Scheme made under section 48 of the Act be applied to the permission.

Mary Gurrie

Mary Gurrie

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



Dated this *24* day of *July* 2026.