

An
Coimisiún
Pleanála

Commission Order
PL-501320-KY-26

Planning and Development Act 2000, as amended

Planning Authority: Kerry County Council

Planning Register Reference Number: 2660138

Appeal by Michael Curtin against the decision made on the 16th day of April 2026, by Kerry County Council in relation to an application for (a) to construct a single storey dwelling house, installation of a mechanical aeration unit and polishing filter system and construction of a new vehicular entrance and entrance walls with all associated site works, and (b) retention permission to retain existing domestic garage and existing storage building to serve proposed dwelling house along with all associated site works at Knockafreaghaun, Brosna, County Kerry in accordance with the plans and particulars lodged with the said council (which decision was to grant permission for the construction a single storey dwelling house, installation of a mechanical aeration unit and polishing filter system and construction of a new vehicular entrance and entrance walls with all associated site works and refuse permission for retention permission to retain existing domestic garage and existing storage building to serve proposed dwelling house along with all associated site works), in accordance with the plans and particulars loided with the said Council.

Decision

GRANT permission for the construction of a single storey dwelling house, installation of a mechanical aeration unit and polishing filter system and construction of a new vehicular entrance and entrance walls with all associated site works and retention permission for the existing Building A on Site Layout Drawing Number 03 (79.8 square metres) to serve the proposed dwelling house in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below. REFUSE permission for the retention of the existing Building B on Site Layout Drawing Number 03 (95.3 square metres) to serve the proposed dwelling house for the reasons and considerations marked (2) below.

Reasons and Considerations (1)

Having regard to the planning history of the site, to the location of the site within the landscape designation 'Rural General', to the nature, scale and design of the proposed development and to the provisions of the Kerry County Development Plan 2022 - 2028, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual or residential amenities of the area and would be acceptable in terms of traffic safety, convenience and public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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, 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. This permission relates to the proposed dwelling, mechanical aeration unit and polishing filter system, new vehicular entrance and entrance walls, associated works and the retention of 'Existing Building A' (79.8 square metres), as set out in Site Layout Plan Drawing Number 03 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:

- (a) the driveway realigned to provide access to the proposed dwelling and 'Existing Building A' only;
- (b) the provision of a solid boundary wall of not less than 1.8 metres in height between 'Existing Building A' and 'Existing Building B'; and
- (c) the provision of screen hedge and tree planting to the south and west sides of 'Existing Building A'.

Reason: In the interests of clarity and of visual amenity.

3. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter, unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.
- (b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need, in the interest of the proper planning and sustainable development of the area.

4. (a) The wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the Site Characterisation Report received by the planning authority on the 23rd day of February 2026 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, 2021.

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- (b) Treated effluent from the wastewater treatment system shall be discharged to a polishing filter which shall be provided 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, 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 Environmental Protection Agency document referred to above.

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

- 5. 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.

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

- 6. (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 properties.
- (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.

7. (a) The roof colour of the proposed house shall be blue-black, black, dark brown or dark-grey. The colour of the ridge tile shall be the same as the colour of the roof.
- (b) The external walls shall be finished in neutral colours such as grey or off-white.
- (c) Stone work to the external walls shall be of natural stone which shall be sourced locally.

Reason: In the interest of visual amenity.

8. (a) The existing front boundary hedge shall be retained except to the extent that its removal is necessary to provide for the entrance to the site.
- (b) The entrance wing walls shall be constructed in sod and stone or native stone. Wing walls forming the entrance shall be erected to a height of not more than one metre over existing road level and shall be splayed at an angle of 45° to the line of the front fence.

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

9. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with the (Landscaping Layout Drawing Number 03) received by the planning authority on the 23rd day of February 2026, as revised in accordance with the requirements of Condition Number 2 above.

Any plants, trees or hedging 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.

10. Site development and building works shall be carried out only between the hours of 0700 and 1900 from Mondays to Friday inclusive, between 0800 and 1400 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 residential amenities of property in the vicinity.

11. The existing storage building (Shed B) to be retained shall be used for private domestic use only and shall not be used for human habitation or for any commercial purpose.

Reason: To safeguard the residential amenities of adjoining properties.

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.

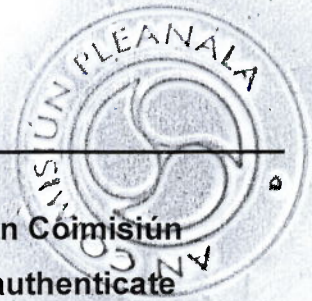
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Reasons and Considerations (2)

Section 1.5.10.9 of Volume 6 (Development Management Standards and Guidelines) of the Kerry County Development Plan 2022-2028, states that the cumulative floor area of all garages, sheds and other ancillary structures serving a rural dwelling house shall not exceed 70 square metres for private domestic use and storage only. 'Building B', as per Site Layout Plan Drawing Number 03 which is proposed to be retained, due to its floor area of 95.3 square metres, both singularly and in combination with the proposed 'Building A' to be retained, would significantly exceed the maximum allowable floor area for such structures. The proposed development would, therefore, contravene the Development Management Standards of the Kerry County Development Plan 2022 - 2028, would set an undesirable precedent for similar developments and would be contrary to the proper planning and sustainable development of the area.


Marie O'Connor

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



Dated this 09th day of September 2026.