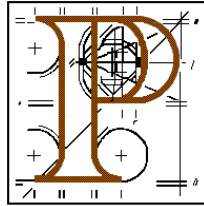

An Bord Pleanála



Inspector's Report

Ref.: PL08. 246033

Development: To construct a dwelling house, domestic garage, septic tank and percolation area and all site development works.

Coolies, Muckcross, Killarney, Co. Kerry.

PLANNING APPLICATION

Planning Authority: Kerry County Council

Planning Authority Ref.: 15/921

Applicant: Edmond Lynne

Type of Application: Permission

Planning Authority Decision: Grant subject to conditions

APPEAL

Type of Appeal: Third Party v. Decision

Appellant: Michael Horgan

Observers: None.

INSPECTOR: Robert Speer

Date of Site Inspection: 29th April, 2016

1.0 SITE LOCATION AND DESCRIPTION

1.1 The proposed development site is located in the rural area of Coolies, Muckross, Co. Kerry, approximately 6km southeast of Killarney town centre and 3.4km east of Muckross House in Killarney National Park, along a minor local roadway which extends eastwards from the N71 (Killarney-Kenmare) National Primary Road. Whilst the surrounding landscape is primarily one of undulating rural countryside, there is a notable concentration of one-off residential development located along the roadways in the wider area with particular reference to those lands to the north and northwest of the site. The site itself has a stated site area of 0.31 hectares, is generally rectangular in shape, and presently comprises part of a larger agricultural field set as pasture / grassland. It is bounded by timber post and rail fencing supplemented by tree planting to the southeast, by post and wire fencing along the roadside (north-eastern) site boundary, and by a stone and sod ditch with mature tree planting / hedgerow atop same to the south / southwest whilst the north-western site boundary is not physically defined at present. There is an existing bungalow-style dwelling house on the adjacent lands to the immediate southeast whilst the lands to south and west / northwest are presently in agricultural use, although there are further examples of recently constructed dwelling houses to the northwest.

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

2.1 The proposed development consists of the construction of a one and a half storey dwelling house with a stated floor area of 184.95m² and a ridge height of approximately 7.5m. The overall design is conventional and based on a principle rectangular plan with a single storey enclosed porch feature positioned centrally within the symmetrical front elevation. The specifics of the external finishes have not been detailed on the submitted drawings, with the exception of a reference to the use of 'thrutone' roof slates. The proposal also includes for the construction of a detached garage structure (floor area: 28m²) which is to be positioned to the rear of the dwelling house.

2.2 Access to the site will be obtained directly from the adjacent public road to the immediate northeast via a new entrance arrangement. It is also proposed to install a conventional septic tank system which will discharge to a percolation area whilst a water supply is available via connection to the public watermain.

3.0 RELEVANT PLANNING HISTORY

3.1 On Site:

None.

3.2 On Adjacent Sites:

PA Ref. No. 92765. Was granted on 6th July, 1992 permitting Patrick & Juli O'Donoghue outline permission to erect a dwelling house.

PA Ref. No. 96695. Was granted on 15th July, 1996 permitting Fred Healy permission to erect a dormer type bungalow at Coolies, Muckross, Killarney, Co. Kerry.

3.3 On Sites in the Immediate Vicinity:

PA Ref. No. 031398. Was granted on 19th January, 2004 permitting John Buckley permission to construct a dormer type dwelling house, garage, septic tank unit and percolation area at Coolies, Muckross, Killarney, Co. Kerry.

PA Ref. No. 091126. Was granted on 26th January, 2010 permitting Mags Buckley permission to construct a dwelling house complete with septic tank and percolation area and associated site works at Coolies, Muckross, Killarney, Co. Kerry.

PA Ref. No. 12591. Application by Denise Buckley for permission to construct a dwelling house, septic tank and percolation area and all site development works at Coolies, Muckross, Killarney, Co. Kerry. This application was withdrawn.

PA Ref. No. 14752. Was granted on 10th February, 2015 permitting Denise Buckley permission to construct a dwelling house, septic tank and percolation area and all site development works at Coolies, Muckross, Killarney, Co. Kerry.

PA Ref. No. 16132. Application by Deirdre Buckley & John Hannon for permission to construct a dormer dwelling house, domestic garage, treatment unit and polishing filter unit and all site development works at Coolies, Muckross, Killarney, Co. Kerry. No decision to date.

3.4 Other Referenced Files:

PA Ref. No. 06/818 / ABP Ref. No. PL08.217994. Was refused on appeal on 31st October, 2006 refusing Michael J. Horgan permission for the construction of a

new dwelling house with entrance, septic tank and percolation area at Gortoramakiery, Muckcross, Killarney, Co. Kerry, for the following reasons:

- It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate at a point where sightlines are severely restricted.
- The proposed development would constitute excessive density of development by virtue of its impact on the landscape and would give rise to an extension of linear development into a substantially unspoiled open area which would interfere with the character of the landscape, designated as Secondary Special Amenity in the current development plan for the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

4.0 PLANNING AUTHORITY CONSIDERATIONS AND DECISION

4.1 Decision:

On 11th December, 2015 the Planning Authority issued a notification of a decision to grant permission for the proposed development subject to 17 No. conditions which can be summarised as follows:

- Condition No. 1 – Refers to the submitted plans and particulars.
- Condition No. 2 – Requires payment of a development contribution in the amount of €343 in respect of community infrastructure, environmental amenities and facilities benefitting the development.
- Condition No. 3 - Requires payment of a development contribution in the amount of €1,840 in respect of roads infrastructure benefitting the development.
- Condition No. 4 - Requires any damage to adjoining roadways as a result of the proposed development to be repaired to the satisfaction of the Planning Authority.
- Condition No. 5 – Refers to the design, construction and external finishes of the proposed dwelling house.
- Condition No. 6 – Refers to connection to the public watermain.
- Condition No. 7 – Refers to the occupancy of the proposed dwelling house.
- Condition No. 8 – Requires the dwelling house to be used as a primary and permanent place of residence and further prohibits its use as a holiday / second home.

-
- Condition No. 9 – Requires the garage to be relocated to the rear of the dwelling house so as not to be visible from the public road. It also specifies that the garage is to be used solely for domestic purposes.
- Condition No. 10 – Refers to the siting of any exempted development.
- Condition No. 11 – Refers to any works to the public road.
- Condition No. 12 – Refers to the design and construction of the proposed site entrance.
- Condition No. 13 – Refers to surface water drainage.
- Condition No. 14 – Refers to external lighting.
- Condition No. 15 – Refers to landscaping.
- Condition No. 16 – Refers to the design, installation and maintenance of the septic tank system.
- Condition No. 17 – Requires the submission of certification that the septic tank system has been installed in accordance with the terms of the grant of planning permission and the EPA Code of Practice.

4.2 Objections / Observations:

A single submission was received from the appellant, the contents of which are reiterated in the grounds of appeal.

4.3 Internal Reports:

Environment (Site Assessment Unit): No objection subject to conditions.

4.4 Prescribed Bodies / Other Consultees:

Irish Water: No objection subject to conditions.

5.0 GROUNDS OF APPEAL

The grounds of appeal are summarised as follows:

- Due to the construction of a considerable number of dwelling houses in recent years, it is considered that the surrounding area has been overdeveloped and that its rural character is being eroded through the progression of suburban ribbon type development along the roadside.
- The proposed development contravenes the EU Water Framework Directive as it will contribute to the proliferation of individual and inadequate wastewater treatment systems located in close proximity to a

tributary of the Lough Guitane catchment area which subsequently flows into the Killarney Lakes.

- The proposed development site is located in an area which has been designated as 'Secondary Special Amenity'.
- There are considerable concerns as regards the 'carbon footprint' associated with the proposed development given its location relative to Killarney town.
- The landowner has already been granted planning permission for 9 No. houses on his landholding with most of the sites having been sold. These dwelling houses (in addition to a crèche) have since been constructed, including that approved under PA Ref. No. 14/752 for the daughter of the landowner which is located within the same field as the proposed development site. Furthermore, there is another dwelling house immediately across the road from the site which is also owned by a Ms. Buckley.
- The accompanying newspaper extracts refer to the impact of urban sprawl on the landscape and instances of 'cheating' with regard to the provision of rural housing in Co. Kerry.

6.0 RESPONSE TO GROUNDS OF APPEAL

6.1 Response of the Planning Authority:

None received.

6.2 Response of the Applicant:

- The submitted proposal provides for the development of a traditionally styled dwelling house which integrates with the locality.
- The applicant is amenable to those conditions imposed by the Planning Authority in the notification of the decision to grant permission and is also willing to exceed the requirements of same as regards the construction of a dry stone wall to the front of the site and to provide more than adequate screening through the planting of native tree species.
- The applicant has long-standing family / ancestral connections to the area and wishes to return to his native townland given that he grew up in the Coolies area and attended the local primary school.
- The applicant's parents house is located just 360m from the proposed development site and it is his intention to construct a dwelling house close to same.
- Contrary to the appellant's assertions, some of the houses built in the surrounding area are in excess of 25 years old and thus cannot be

-
- considered to constitute recent developments. Furthermore, the sites referenced by the appellant were disposed of in or around 1980 and the landowner has not sold any other sites from the landholding since then.
- All wastewater from the proposed development will be suitably treated. In this respect it is submitted that detailed percolation tests were carried out on site and that the results of same were accepted by the Planning Authority.
 - In relation to the appellant's reference to the proximity of the site to a tributary of Lough Guitane, it is submitted that the river closest to the site actually flows away from rather than into the lough.
 - The appellant's comments with regard to the carbon footprint of the proposal could be levelled at any development.
 - References to previous submissions made by An Taisce in respect of other planning applications in the wider area are considered to be irrelevant.
 - The newspaper extracts which accompanied the grounds of appeal are out-dated and not relevant to the subject application.
 - The mapping submitted with the grounds of appeal is misleading as much of the land shown is not in the same ownership as the subject site.
 - The subject site forms part of a wider landholding which has been in the ownership of the landowner (Mr. Danny Buckley) for over 30 No. years during which time he has farmed same. Furthermore, the landowner was born and raised in the immediate locality and has spent most of his life in the area.
 - There is a distance of 80m between those dwelling houses to the southeast and northwest of the application site and in this respect the Board is referred to the legal document submitted as part of the subject application which outlines that neither the landowner (Mr. Danny Buckley) nor any member of his family will ever apply for planning permission on the lands between the two houses (*N.B.* For clarity purposes, I would advise the Board that this seems to be in reference to the area between the subject site and the dwelling house located further northwest).
 - The applicant's parents are personal friends of the landowner and, other than for this site, Mr. Danny Buckley has no intention of selling any further sites in the area.
 - The appellant is incorrect with regard to several assertions in his appeal with regard to the wider family of the landowner whilst other aspects of the grounds of appeal are of no relevance to the subject application.
 - There are concerns that the grounds of appeal may be of a '*vexatious or frivolous*' nature.

7.0 NATIONAL AND REGIONAL POLICY

7.1 The '*Sustainable Rural Housing, Guidelines for Planning Authorities*', 2005 promote the development of appropriate rural housing for various categories of individual as a means of ensuring the sustainable development of rural areas and communities. The proposed development site would appear to be located in an '*Area under Strong Urban Influence*' as indicatively identified by the Guidelines. In accordance with the provisions of the Guidelines, the Kerry County Development Plan, 2015-2021 includes a detailed identification of the various rural area types relevant to the county at a local scale and '*Map 3.1*' of the Plan would appear to indicate that the site is located within a '*Stronger Rural Area*', although it is in close proximity to an '*Area under Strong Urban Influence*'.

8.0 DEVELOPMENT PLAN

Kerry County Development Plan, 2015-2021:-

Chapter 3: Settlement Strategy:

Section 3.2: Housing:

HS-2: Facilitate the housing needs of people in their local communities through actively providing / assisting the provision of housing in settlements and as single rural houses as identified in the Settlement Strategy.

Section 3.3: Rural Settlement Strategy:

Aim: To sustainably manage the development of rural parts of the County; support the creation of employment opportunities for those living and working in the rural area; sustain established rural communities and conserve the qualities of the rural environment.

It is the policy of the Council to:-

- Enhance the vitality and viability of rural towns and villages to strengthen their role as rural service centres and protect existing community uses and services in the villages.
- Maintain a stable population base in the rural areas with a strong network of villages and small towns.
- Protect sensitive landscapes and other environmentally sensitive areas from unsustainable development.

Section 3.3.1: Rural Area Types and Settlement:

There is a tradition of dispersed settlement patterns in the countryside, however it is apparent that the recent rate of housing construction and scale of dispersed rural housing is unsustainable and is uneconomical in terms of infrastructure provision and quality of life.

It is the policy of the Kerry County Council to ensure that future housing in rural areas complies with the Sustainable Rural Housing Guidelines for Planning Authorities, 2005 (DoEHLG) and this will be achieved through greater emphasis on the following:-

- a) Establishing that there is a genuine housing need for permanent occupation.
- b) Giving priority to the reduction of residential vacancy rates in the Rural Areas under Strong Urban Influence and Stronger Rural Areas in preference to new residential development.
- c) The replacement, renovation or modification of existing structures in rural areas for residential use.
- d) Encouraging people who wish to reside in the countryside to live in existing settlements or development nodes where there are services available.

RS-1: Ensure that future housing in all rural areas complies with the Sustainable Rural Housing Guidelines for Planning Authorities 2005 (DoEHLG) and the Development Guidance document of this Plan.

RS-2: Require the design of rural housing to have regard to the “Building a House in Rural Kerry; Design Guidelines” (KCC, 2009).

RS-3: Give favourable consideration to the sustainable development of permanent places of residence on vacant sites within existing cluster developments.

RS-4: Ensure that the provision of rural housing will protect the landscape, the natural and built heritage, the economic assets and the environment of the County.

RS-5: Ensure that future housing in all rural area complies with the EPA’s 2009 Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses (p.e < 10).

RS-6: Ensure that all permitted residential development in rural areas is for use as a primary permanent place of residence. In addition such development shall be subject to the inclusion of an occupancy clause for a period of 7 years.

Section 3.3.1.1: *Identifying Rural Area Types:*

Area 1: Rural Areas under Strong Urban Influence: It is an objective of the Council to:-

RS-7: Ensure that favourable consideration is given to individual one – off house developments for immediate family members (sons, daughters or favoured niece/nephew) on family farms and land holdings; subject to compliance with normal planning criteria and environmental protection considerations.

RS-9: Facilitate the housing requirements of the rural community as identified while directing urban generated housing into the towns and villages.

Area 2: Stronger Rural Areas: It is an objective of the Council to:-

RS-10: Facilitate the provision of dwellings for persons who are an intrinsic part of the rural community in which they are raised, subject to compliance with normal planning criteria and environmental protection considerations.

RS-11: Consolidate and sustain the stability of the rural population and to promote a balance between development activity in urban areas and villages and the wider rural area.

Section 3.3.2: *Development in Amenity Areas:*

Section 3.3.2.2: *Secondary Special Amenity:*

Areas of Secondary Special Amenity constitute sensitive landscapes which can accommodate a limited level of development. The level of development will depend on the degree to which it can be integrated into the landscape. Residential development in these areas shall be regulated in accordance with the provisions of Section 3.3.1 and Table 3.7 below.

The following provisions shall apply:-

-
- Individual residential home units shall be designed sympathetically to the landscape and the existing structures and shall be sited so as not to have an adverse impact on the character of the landscape or natural environment.
 - Any proposal must be designed and sited so as to ensure that it is not unduly obtrusive. The onus is therefore on the applicant to avoid obtrusive locations. Existing site features including trees and hedgerows should be retained to screen the development.
 - Any proposal will be subject to the Development Management requirements set out in this Plan in relation to design, site size, drainage etc.

Table 3.7: *Amenity Zoning Settlement Policy: Secondary Special Amenity:*

- Sons and Daughters of the traditional landowner, or a favoured niece or nephew, the land having been in the ownership of the family for in excess of 10 years while being the location of the principal family residence; or
- The applicant shall demonstrate a genuine rural employment need; or
- The applicants family shall have lived in the immediate locality prior to Jan 2003 with the applicant having been reared in the locality.

Chapter 10: Natural Environment & Flood Risk Management:

Section 10.2: *Environmental Designations:*

NE-11: Ensure that all projects likely to have a significant effect on a Natura 2000 / European site will be subject to Habitats Directive Assessment prior to approval.

NE-12: Ensure that no projects which will be reasonably likely to give rise to significant adverse direct, indirect or secondary impacts on the integrity of any Natura 2000 sites having regard to their conservation objectives, shall be permitted on the basis of this Plan (either individually or in combination with other plans or projects) unless imperative reasons of overriding public interest can be established and there are no feasible alternative solutions.

NE-13: Maintain the nature conservation value and integrity of all Natural Heritage Areas (NHAs), proposed Natural Heritage Areas (pNHAs), Nature Reserves and Killarney National Park. This shall include any

other sites that may be designated at national level during the lifetime of the plan in co-operation with relevant state agencies.

Section 10.3: *Water Quality*

Section 10.3.2: *Groundwater and Source Protection:*

NE-17: Prohibit any form of development within the catchment area of Lough Guitane (including the lake itself) that will have a potentially detrimental effect on water quality (See Map 10.1).

Section 10.4: *Septic Tanks and Proprietary Waste Water Treatment Systems:*

NE-26: Ensure that all waste water treatment systems for single houses are designed, constructed, installed and maintained in accordance with the manufacturers guidelines and the E.P.A. Publication 'Wastewater Treatment Manuals Treatment Systems for single houses' (2010) or any amending/replacement guidance or standards.

Chapter 12: Zoning & Landscape:

Landscape Protection:

ZL-1: Protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to the quality of people's lives.

Section 12.3: *Zoning:*

Section 12.3.1: *Zoning Designations: Rural Secondary Special Amenity:*

The landscape of areas in this designation is sensitive to development. Accordingly, development in these areas must be designed so as to minimise the effect on the landscape.

Proposed developments should, in their designs, take account of the topography, vegetation, existing boundaries and features of the area, as set out in the Building a House in Rural Kerry Design Guidelines (Kerry County Council 2009).

Permission will not be granted for development which cannot be integrated into its surroundings. Development will only be permitted where it is in accordance with the provisions of Chapter 3.3.2.

ZL-4: Regulate residential development in Rural Areas in accordance with the zoned designation of that area and the policies outlined in the Rural Settlement Strategy set out in Section 3.3 of this Plan.

Chapter 13 Development Management - Standards & Guidelines:

Section 13.4: *Standards for Residential Development in Rural and Non-Serviced Sites*

9.0 ASSESSMENT

From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- The principle of the proposed development / rural housing policy
- Overall design / visual impact
- Traffic implications
- Wastewater treatment and disposal
- Appropriate assessment

These are assessed as follows:

9.1 The Principle of the Proposed Development / Rural Housing Policy:

9.1.1 In terms of assessing the principle of the proposed development having regard to the applicable rural housing policy it is of relevance in the first instance to note that whilst the proposed development site is located in an 'Area under Strong Urban Influence' as indicatively identified by the 'Sustainable Rural Housing, Guidelines for Planning Authorities, 2005', the detailed identification of the various rural area types at a county level as outlined in 'Map 3.1' of the Kerry County Development Plan, 2015 indicates that the site in question is actually located within a 'Stronger Rural Area'. In this respect I would advise the Board that the extent of 'Stronger Rural Areas' has purportedly been determined having regard to the generally stable population levels within such areas (both within the well-developed town and village structure and the wider rural surrounds) which are supported by a traditionally strong rural / agricultural economic base. Whilst I would acknowledge that the Development Plan has identified the various rural area types pursuant to the requirements of the 'Sustainable Rural Housing, Guidelines for Planning Authorities', 2005, considering the significant proliferation of one-off rural housing development in the wider area and the evidence of considerable pressure for the development of such housing due to the proximity

of Killarney town and the N71 (Killarney-Kenmare) National Primary Road (i.e. a major transport corridor serving the aforementioned urban centres), I would have serious difficulty in reconciling the designation of the subject location as a 'Stronger Rural Area' when both the immediate site context and the prevailing characteristics of the wider area are, in my opinion, more indicative of an 'Area under Strong Urban Influence'. In this respect I would refer the Board to Section 3.2.1 of the Guidelines which advises Planning Authorities in the identification of specific rural areas within their respective counties that 'every effort should be made to avoid an overly-detailed and prescriptive map that involves abrupt and frequent change of area types' and thus I am inclined to conclude in this instance that whilst the subject site could be described as being located at the interface of two rural area types, having conducted a site inspection, it is my opinion that the site context is more comparable to an 'Area under Strong Urban Influence'. Accordingly, it is necessary to consider whether or not the applicant satisfies the relevant eligibility criteria, with particular reference to Objective RS-7 which states the following:

'Ensure that favourable consideration is given to individual one – off house developments for immediate family members (sons, daughters or favoured niece/nephew) on family farms and land holdings; subject to compliance with normal planning criteria and environmental protection considerations'.

9.1.2 In support of the foregoing, I would also advise the Board that the Planning Authority has previously held that this particular location is within an 'Area under Strong Urban Influence' given that in its assessment of PA Ref. No. 14752 (which is located a short distance away from the subject site) it was determined that those lands were located within a 'Rural Area under Strong Urban Influence' as per the Kerry County Development Plan, 2009-2015.

9.1.3 In addition to the specifics of the 'rural area type', it should also be noted that the proposed development site is located in an area which has been designated as being of 'Secondary Special Amenity' value by reference to Map 12.1(o) of the County Development Plan. These areas are considered to constitute sensitive landscapes which can only accommodate a limited level of development depending on the degree to which it can be integrated into the landscape. Whilst it is the policy of the Planning Authority to permit rural housing in general throughout the county provided the proposed dwelling is intended for use as a permanent place of residence and that the applicant is amenable to an occupancy clause of 7 years, within these 'Secondary Special Amenity Areas' a more restrictive approach is applied. In these amenity areas consideration will

only be given to prospective applicants for rural housing where they can demonstrate eligibility with one of the following criteria:

- Sons and Daughters of the traditional landowner, or a favoured niece or nephew, the land having been in the ownership of the family for in excess of 10 years while being the location of the principal family residence; or
- The applicant shall demonstrate a genuine rural employment need; or
- The applicants family shall have lived in the immediate locality prior to Jan 2003 with the applicant having been reared in the locality.

9.1.4 In the subject case, the applicant has indicated that he has a contract to purchase the proposed development site from his cousin (Mr. Daniel Buckley) and that he has family / ancestral connections to this particular area whilst he has also stated that he grew up in the locality and attended the local primary school. He has further submitted that he is a resident of this rural area and that he is presently renting his current place of residence, although the location of same has not been identified. In further support of the proposal, a site location map was submitted by way of unsolicited additional information on behalf of the applicant which has identified the location of his parent's dwelling house approximately 380m northwest of the subject site. The applicant has also confirmed that the proposed dwelling house is intended for his own occupation as a primary and permanent place of residence.

9.1.5 On the basis of the available information, it would appear that the applicant satisfies the relevant eligibility criteria set out in Table 3.7: *'Amenity Zoning Settlement Policy'* of the Development Plan as regards the development of a rural dwelling house in an area of *'Secondary Special Amenity'* value on the basis that his family has seemingly lived in the immediate area since before January, 2003 and as he was apparently raised in the locality, although it is regrettable that the applicant has not provided any indication as to whether or not he has previously owned any other residential property or if he has ever been the beneficiary of any grant of planning permission for any other residential development in the county. However, notwithstanding the foregoing, and in light of my earlier determination that the application site is actually located within an *'Area under Strong Urban Influence'* as per the *'Sustainable Rural Housing, Guidelines for Planning Authorities'*, I would have serious reservations that the subject application would not accord with the provisions of Objective RS-7 which specifically states that favourable consideration will be given to *'individual one – off house developments for immediate family members (sons, daughters or favoured niece/nephew) on family farms and land holdings; subject to*

compliance with normal planning criteria and environmental protection considerations'.

9.1.6 At this point I would draw the Board's attention to Section 3.3.2 Development in Amenity Areas of the County Development Plan which states that *'Where there is an overlap between the Rural Area types and the Amenity Areas, the policies relating to the Amenity areas shall take precedence*'. Whilst I would acknowledge that the foregoing policy provision would perhaps serve to strengthen the level of protection afforded to 'Stronger Rural Areas' and 'Structurally Weaker Areas' which are also subject to an 'Amenity' designation (i.e. those landscapes which are considered to be of 'Prime' or 'Secondary' special amenity value), I am inclined to suggest that in the case of the subject proposal, the primacy of the eligibility criteria set out in Table 3.7: *'Amenity Zoning Settlement Policy*' over that required by Objective RS-7 could be interpreted as serving to undermine the more restrictive approach to rural housing applicable within 'Areas under Strong Urban Influence'. Such a scenario is regrettable and it seems unlikely that this was the intention of the Development Plan. Accordingly, I would suggest that the site location within both an 'Area under Strong Urban Influence' and an area of *'Secondary Special Amenity*' would warrant the application of the more restrictive policy provisions set out in the Development Plan and the *'Sustainable Rural Housing, Guidelines for Planning Authorities*' and, therefore, it is my opinion that the applicant does not satisfy the rural housing eligibility criteria set out in Objective RS-7.

9.1.7 In further support of the foregoing, I would reiterate to the Board that there is clear evidence of significant development pressure in the immediate surrounds of the application site with several notable instances of roadside linear development. In this respect it is also of relevance to note that several sites would appear to have been previously disposed of from the same landholding as the subject site. The continued pressure for development in this particular area is further evidenced by the recent lodgement of another planning application for the development of an individual dwelling house on those lands opposite the application site under PA Ref. No. 16132 which has yet to be determined by the Planning Authority. I would also have reservations as regards the potential for the proposed development to result in the creation of an 'infill' site between the subject site and the dwelling house to the northwest and in this regard, whilst I would acknowledge that the planning application has been accompanied by correspondence from a solicitor on behalf of the landowner which states that neither he nor his successors in title will seek planning permission in respect of the vacant 'site', I would have concerns that any such assurances may encounter

difficulties in the future given the provisions of Objective RS-3 of the Development Plan which seeks to *'Give favourable consideration to the sustainable development of permanent places of residence on vacant sites within existing cluster developments'*.

(N.B. It is of further relevance to note that the proposed development site forms part of the same landholding identified in PA Ref. No. 14752 which was seemingly detailed in that application as being intended for transfer from Mr. Daniel Buckley to Ms. Denise Buckley).

9.1.8 Given the site location in an *'Area under Strong Urban Influence'* as defined by the *'Sustainable Rural Housing, Guidelines for Planning Authorities'* and as evidenced by its proximity to Killarney town and the significant proliferation of one-off rural housing development in the wider area, in addition to its designation as an area of *'Secondary Special Amenity'* value, I would accept that further housing in this area should be restricted to named persons with a genuine need to reside in the area, however, having reviewed the available information, it is my opinion that the applicant does not satisfy the rural housing eligibility criteria set out in Objective RS-7 of the Development Plan. Furthermore, on balance, it is considered that, when taken in conjunction with existing development in the vicinity, the proposed development would give rise to an excessive density of development in a rural area lacking certain public services and community facilities and would contravene the policy of the planning authority, as expressed in the current Development Plan, to direct residential development to serviced centres, which policy is considered to be reasonable.

9.2 Overall Design / Visual Impact:

9.2.1 In terms of assessing the visual impact of the proposed development it is of relevance in the first instance to note that the subject site is located in an area which has been designated as being of *'Secondary Special Amenity'* value and that Section 12.3.1 of the Plan states that such areas are sensitive to development and that any development proposals will be required to be designed so as to minimise the effect on the landscape. Notably, these provisions are reiterated in Section 3.3.2.2 of the Plan which emphasises that areas of *'Secondary Special Amenity'* constitute sensitive landscapes which can only accommodate a limited level of development and that this will depend on the degree to which the development in question can be integrated into the landscape.

9.2.2 Having conducted a site inspection, and following a review of the submitted plans and particulars, it is clear that whilst the overall design and layout of the proposed dwelling house is generally comparable to the surrounding pattern of development, and although its visual impact will be somewhat limited given the site context, in my opinion, when taken in conjunction existing development in the area, the proposed development represents a further unwarranted erosion of the rural character of this sensitive area which will have a wider impact on the prevailing landscape quality by contributing towards its gradual suburbanisation and resulting in an excessive density of piecemeal development.

9.3 Traffic Implications:

9.3.1 The proposed development site will be accessed via a new entrance arrangement onto an adjacent minor local roadway and whilst I am generally satisfied that adequate sightlines and stopping sight distances are available at this location, I would have some reservations as regards the increasing proliferation of individual site entrances along this particular stretch of roadway and the braking and traffic turning movements associated with same.

9.4 Wastewater Treatment and Disposal:

9.4.1 It is proposed to install a conventional septic tank system on site and, therefore, it is necessary to review the available information in order to ascertain if the subject site is suitable for the proposed disposal of treated effluent to ground. In this respect I would refer the Board in the first instance to the submitted Site Characterisation Form which states that the trial hole encountered 700mm of SILT overlying 2.8m of GRAVEL to the depth of the excavation at 3.5m below ground level. Notably, no rock or water ingress were recorded. With regard to the percolation characteristics of the soil a 'T'-value of 14.94 minutes / 25mm and a 'P'-value of 13.47 minutes / 25mm were recorded which would both constitute a pass in accordance with EPA guidance.

9.4.2 On the basis of the foregoing results, and the accompanying supplementary information, it would appear that the subject site is suitable for the installation of the conventional septic tank system as proposed subject to conditions, although I would have some reservations as regards the increasing concentration of individual wastewater treatment systems in the wider area.

9.4.3 In relation to the concerns raised in the grounds of appeal with regard to the potential impact of the proposed development on water quality in Lough Guitane, I would advise the Board that whilst Objective NE-17 of the Development Plan expressly prohibits any form of development within the

catchment area of Lough Guitane (including the lake itself) that will have a potentially detrimental effect on water quality, it is clear from a review of Map 10.1 of the Plan that the proposed development site is located outside the catchment area of the Lough.

9.5 Appropriate Assessment:

9.5.1 From a review of the available mapping, including the data maps from the website of the National Parks and Wildlife Service, it is apparent that whilst the proposed development site is not located within any Natura 2000 designation it is situated approximately 200m northwest (and also 1.0km east) of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment Special Area of Conservation (Site Code: 000365). In this respect it is of relevance to note that it is the policy of the planning authority, as set out in Chapter 10 of the Kerry County Development Plan, 2015, to conserve, manage and, where possible, enhance the County's natural heritage including all habitats, species, landscapes and geological heritage of conservation interest and to promote increased understanding and awareness of the natural heritage of the County. Furthermore, Objective NE 12 of the Plan states that no projects which would be reasonably likely to give rise to significant adverse direct, indirect or secondary impacts on the integrity of any Natura 2000 sites, having regard to their conservation objectives, will be permitted (either individually or in combination with other plans or projects) unless imperative reasons of overriding public interest can be established and there are no feasible alternative solutions. In effect, a proposed development may only be authorised after it has been established that the development will not have a negative impact on the fauna, flora or habitat being protected through an Appropriate Assessment pursuant to Article 6 of the Habitats Directive. Accordingly, it is necessary to screen the subject proposal for the purposes of 'appropriate assessment'.

9.5.2 Having reviewed the available information, and following consideration of the 'source-pathway-receptor' model, it is my opinion that given the nature and scale of the development proposed, the site location outside of any protected site, the limited ecological value of the lands in question, and the separation distances involved between the subject site and surrounding Natura 2000 designations, the proposal is unlikely to have any significant effect in terms of the disturbance, displacement or loss of habitats or species on the ecology of any Natura 2000 site. Therefore, I am inclined to conclude that the proposed development would not be likely to significantly affect the integrity of Natura 2000 sites and would not undermine or conflict with the Conservation Objectives applicable to same.

9.5.3 Accordingly, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects, would not be likely to have a significant effect on any European site in view of the relevant conservation objectives and that a Stage 2 appropriate assessment (and the submission of a NIS) is not therefore required.

10.0 RECOMMENDATION

Having regard to the foregoing, I recommend that the decision of the Planning Authority be overturned in this instance and that permission be refused for the proposed development for the reasons and considerations set out below:

Reasons and Considerations:

1. Having regard to the location of the site within an 'Area Under Strong Urban Influence' as identified in Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines or the Development Plan for a house at this location. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and 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.
2. Taken in conjunction with existing development in the vicinity, the proposed development would give rise to an excessive density of development in a rural area lacking certain public services and community facilities and would contravene the policy of the planning authority, as expressed in the current Development Plan, to direct residential development to serviced centres (which policy is considered to be reasonable). The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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3. The proposed development site is located within an area designated as secondary special amenity in the Kerry County Development Plan 2015-2021, which sets out a number of provisions to protect such landscape areas from development. These sensitive landscapes can only accommodate a limited level of development and this is dependent on the degree to which the development can be integrated into the landscape. The proposed development, when taken in conjunction with existing development in the area, would constitute an excessive density of development by virtue of its impact on the landscape and would interfere with the character of the surrounding rural landscape, which it is necessary to preserve, in accordance with objective ZL-1 of the Kerry County Development Plan 2015, which seeks to protect the amenity value of the landscape of the county. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Signed: _____

Robert Speer
Inspectorate

Date: _____