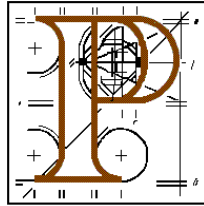

An Bord Pleanála



Inspector's Report

Ref.: PL08. 246106

Development: Construct a dwelling house with attic accommodation served by a septic tank, and percolation area, dwelling to be accessed via an existing vehicular entrance and also to include all associated site works.

Glanbane, Tralee, Co. Kerry.

PLANNING APPLICATION

Planning Authority: Kerry County Council

Planning Authority Ref.: 15/972

Applicant: Seamus Griffin & Caroline Galvin

Type of Application: Permission

Planning Authority Decision: Refusal

APPEAL

Type of Appeal: First Party v. Decision

Observers: None.

INSPECTOR: Robert Speer

Date of Site Inspection: 30th April, 2016

1.0 SITE LOCATION AND DESCRIPTION

1.1 The proposed development site is located in the rural townland of Glanbane, Co. Kerry, approximately 10km southeast of Tralee town and 5.7km north-northwest of the village of Farranfore, to the immediate east of the N22 (Killarney-Tralee) National Primary Road. The surrounding area is typically rural in character with intermittent instances of one-off housing and agricultural outbuildings whilst the prevailing topography allows for open views eastwards over the wider landscape. The site itself has a stated site area of 0.51 hectares, is generally rectangular in shape, and presently comprises an agricultural field which is set as grassland in addition to an existing access arrangement that extends north-eastwards from the national road to serve the adjacent farmyard on the neighbouring lands to the immediate southeast. The westernmost extent of the site falls away steeply from the public road whilst the remainder of the land falls more gradually in a north-eastwards direction. In terms of boundary treatment, the wider site is defined by a combination of post and rail fencing and mature hedgerows / ditches, although a line of crash barriers defines the roadside boundary and the surrounds of the existing agricultural site entrance.

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

2.1 The proposed development consists of the construction of a dormer style dwelling house with a stated floor area of 199m² and a ridge height of 6.45m. The overall design of the proposed dwelling house is generally conventional with an asymmetrical front elevation and a substantial projecting front porch feature although it should be acknowledged that there has been some attempt to incorporate elements of the more traditional vernacular into the proposed construction through the use of features such as the vertically emphasised fenestration and the roof verge detailing. No details have been provided on the submitted drawings of the external finishes of the proposed dwelling house, however, a series of computer-generated illustrations of the construction would appear to indicate a smooth plaster render combined with the feature use of stone cladding and blue/black roof slates.

2.2 Access to the site will be obtained directly from the adjacent public road to the immediate southwest via the upgrading of the existing entrance arrangement serving the neighbouring farmyard. It is also proposed to install a conventional septic tank system which will discharge to a polishing filter and to connect to the public watermain.

3.0 RELEVANT PLANNING HISTORY

3.1 On Site:

None.

3.2 On Adjacent Sites:

PA Ref. No. 15521. Was granted on 15th September, 2015 permitting Jason Kerins permission to retain existing slatted unit as constructed. Permission to (a) construct a new slatted unit (b) demolish an old storage shed and construct a new calf house on same location. All at Glanbane, Gortatlea, Tralee, Co. Kerry.

4.0 PLANNING AUTHORITY CONSIDERATIONS AND DECISION

4.1 Decision:

On 5th January, 2016 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following reasons:

- The proposed development would result in the intensification of the use of an existing access into the N22 National Primary Road at a location where a speed limit of 100km/h applies. Having regard to the location of the site, it is considered that the proposed development by itself or by the precedent it would set for other relevant development, would endanger public safety by reason of traffic hazard and obstruction of road users, would contravene national policy in relation to the control of development on national roads as set out in the Spatial Planning and National Roads Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local government in January, 2012, which seeks to secure the efficiency, capacity and safety of the national road network and would materially contravene Kerry County Development Plan, 2015-2021 Objective RD-17 which seeks to protect the capacity and safety of the national road network in the County and ensure compliance with the Spatial Planning and National Roads Guidelines for Planning Authorities (January 2012) and the National Roads Authority and Traffic and Transport Assessment Guidelines (2007). The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- The Planning Authority is not satisfied on the basis of the particulars received with the application that the effluent arising from the proposed

development could be adequately disposed of on site. The proposed development would, therefore, be prejudicial to public health. Accordingly, the proposed development would be contrary to the proper planning and development of the area.

4.2 Objections / Observations:

None.

4.3 Internal Reports:

County Archaeologist: Notes that the proposed development is located adjacent to the marked zone of archaeological potential associated with Recorded Monument Ref. no. KE039-062 (a ringfort), however, it is considered that there is sufficient distance between the proposal and the monument and thus no mitigation is required.

National Roads Design Office: States that the proposed development does not accord with the objectives of the Kerry County Development Plan, 2015-2021 or the key principles outlined in the '*Spatial Planning and National Roads, Guidelines for Planning Authorities*' published by the Department of the Environment, Community and Local Government in 2012. It is further stated that the intensification of the existing agricultural access onto the N22 National Primary Road would give rise to the generation of additional turning movements which would introduce an additional safety risk to road users and interfere with the free-flow of traffic on the existing national road. Therefore, it is recommended that the proposed development be refused permission.

Environment (Site Assessment Unit): Recommends that the applicant be requested to submit further information in respect of the proposed wastewater treatment arrangements, including the following:

- The excavation of additional trial holes up-gradient and down-gradient of the proposed irrigation area at the required minimum depth of 2.1m for inspection by the Local Authority.

4.4 Prescribed Bodies / Other Consultees:

Irish Water: No objection subject to conditions.

Transport Infrastructure Ireland: States that the proposed development is at variance with official policy in relation to the control of development on / affecting national roads as outlined in the '*Spatial Planning and National Roads,*

Guidelines for Planning Authorities' on the basis that the proposal by itself, or by the precedent which a grant of permission for it would set, would adversely affect the operation and safety of the national road network as follows:

- Official policy in relation to development involving access to national roads and development along such roads is set out in the DoECLG's 'Spatial Planning and National Roads, Guidelines for Planning Authorities' (January, 2012). Section 2.5 of the Guidelines states that the policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60kph apply. The proposal, if approved, would result in the intensification of an existing direct access to a national road contrary to official policy in relation to control of frontage development on national roads.
- The proposed development, located on a national road where the maximum speed limit applies, would endanger public safety by reason of traffic hazard and obstruction of road users due to the movement of extra traffic generated.

4.5 Representations:

A single representation was received from Deputy Michael Healy-Rae TD in support of the subject application.

5.0 GROUNDS OF APPEAL

The grounds of appeal are summarised as follows:

- The Planner's Report has acknowledged that the proposed development is acceptable with the exception of an anticipated intensification in the use of the existing site access onto the N22 National Primary Road.
- It is considered that the construction of the proposed dwelling house will result in a reduction in the use of the existing site access on the basis that it will serve to eliminate traffic presently associated with the applicant's movement between his current place of residence in the family home on the opposite side of the carriageway and his farmholding.
- The applicant is engaged full-time in farming and the existing site entrance is the only means of access to his substantial farmholding.
- The proposed development will not contribute to any increase in traffic volumes and will not give rise to any additional road safety considerations

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- on the basis that the applicant is already living and working in the area and also as the proposal will significantly reduce the number of traffic movements associated with the applicant's farming activities.
- The existing site access is located along a very safe stretch of roadway and benefits from unobstructed sightlines in both directions whilst a central island in the carriageway serves to provide a safe area for turning movements into the site.
 - The subject site was selected on the basis that it seemed to comprise the safest and best planning option available to the applicant given that it could avail of an existing access arrangement thereby avoiding the need to open a new entrance onto the roadway.
 - The applicant is amenable to the submission of a Road Safety Audit and a Traffic and Transport Assessment in order to provide further assurances that the proposed development will not represent a traffic hazard.
 - There is no objection to the imposition of any planning condition which will further assist in maintaining the safety standard of the roadway. In this respect the applicant also commits to the regular maintenance of all those hedgerows and verges in the vicinity of the site entrance.
 - In light of the scale of the development proposed and the associated reduction in overall traffic movements consequent on same, the submitted proposal will not result in any adverse impact on the road network in the area.
 - With regard to the decision of the Planning Authority to refuse permission for the subject proposal on the basis that it was not satisfied that effluent arising from the proposed development could be adequately disposed of on site, the Board is advised that the report of the Site Assessment Unit recommended that the applicant be required to submit further details as regards the proposals for the on-site treatment and disposal of wastewater. In this respect, it can be confirmed that the applicant has no difficulty in providing any such additional information and it is further suggested that such matters could be addressed through the inclusion of a suitable condition in any grant of permission.

6.0 RESPONSE TO GROUNDS OF APPEAL

6.1 Response of the Planning Authority:

None.

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. Notably, the proposed development site would appear to be located in an 'Area under Strong Urban Influence' as indicatively identified by the Guidelines. Furthermore, 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'.

7.2 The '*Spatial Planning and National Roads, Guidelines for Planning Authorities*', 2012 set out the planning policy considerations relating to development affecting national primary and secondary roads, including motorways and associated junctions, outside the 50-60kph speed limit zones for cities, towns and villages. They replace the document, Policy and Planning Framework for Roads, published by the Department in 1985, supplement other policy guidance on roads-related matters in other Ministerial guidelines in relation to retail planning and sustainable rural housing, and replace the National Roads Authority policy statement on national roads published in May, 2006.

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:-

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- 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 3.3.2.1: *Rural General:*

These areas constitute the least sensitive landscapes throughout the County and from a visual impact point of view have the ability to absorb a moderate amount of development without significantly altering their character. Residential development in these areas shall be regulated in accordance with the provisions of Section 3.3.1 and objectives RS-1 to RS-4 and Table 3.7 below.

Table 3.7: *Amenity Zoning Settlement Policy: Rural General:*

The proposed dwelling shall be used as a permanent place of residence.

Chapter 7: Transport and Infrastructure:

RD-1: Seek to protect and safeguard the significant investment made in strategic economic infrastructure, in particular the network of roads, the existing rail line to Tralee and major water and wastewater projects, through the promotion of appropriate development and settlement patterns and the integration of land use and transportation activities.

Section 7.2.1: *Roads:*

Section 7.2.1.1: *National Primary and Secondary Routes:*

It is an overall objective of the Plan to provide for balanced growth throughout the County by promoting the strengthening of rural communities and to provide sustainable infrastructure to facilitate job creation in these areas. The road network throughout the County and particularly the national road network is a vital element of this infrastructure. It is essential that they are maintained to the highest standards possible and that their efficiency, safety and carrying capacity is maximised. The creation of additional entrances onto these roads reduces their carrying capacity and safety and is contrary to the overall objective of improving the infrastructure serving rural areas.

Section 7.2.1.2: *Access onto the National Routes:*

The creation of an access or the intensification of usage of an existing access onto a National Road shall be only considered where it is in compliance with Spatial Planning and National Roads Planning Guidelines (DoECLG January 2012).

In compliance with Section 2.6 of these Guidelines the following “exceptional circumstances” as agreed with the NRA shall pertain in County Kerry whereby new accesses or the intensification of existing accesses will be considered along

the following sections of the National Secondary Network(see Table 7.3) in compliance with the criteria listed.

Criteria:-

- There is no suitable alternative non national public road access available.
- The development otherwise accords with the Development Plan.
- Safety issues and considerations can be adequately addressed in accordance with the NRA's design manual for Roads and Bridges.

RD-17: Protect the capacity and safety of the national road and strategically important regional road network in the County and ensure compliance with the Spatial Planning and National Roads Planning Guidelines (January 2012) and the NRA Traffic & Transport Assessment Guidelines (2007).

Section 7.2.1.3: *Access onto the N69, N70 (Tralee/Killorglin), N72 and N86*

Chapter 10: Natural Environment & Flood Risk Management:

Section 10.3: *Water Quality*

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 12.2.1: *Zoning Designations:*

Rural General:

Rural landscapes within this designation generally have a higher capacity to absorb development than the previous rural designations. It is important that development in these areas be integrated into their surroundings in order to

minimise the effect on the landscape and to maximise the potential for development.

Proposed developments in areas zoned Rural General, 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.

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
- Traffic implications
- Overall design / visual impact
- 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.

9.1.2 Within these '*Stronger Rural Areas*' it is an objective of the Planning Authority, as set out in Section 3.3.1.1 of the Development Plan (with specific reference to Objective Nos. RS-10 & RS-11), to facilitate the provision of dwellings for persons who are an intrinsic part of the rural community in which they are raised (subject to normal planning criteria and environmental protection considerations) and to consolidate and sustain the stability of the rural population and to promote a balance between development activity in urban locations, villages and the wider rural area. It is of further relevance to note that the Planning Authority aims to ensure that all future housing proposals in rural areas accord with the provisions of the '*Sustainable Rural Housing, Guidelines for Planning Authorities, 2005*'.

9.1.3 At this point, it should also be noted that in terms of landscape classification the proposed development site is located within a '*Rural General*' area and that it is an express requirement of Table 3.7 of the Development Plan that any rural housing permitted within such areas is to be used as a permanent place of residence. Furthermore, Objective RS-6 of the Plan states that all residential development permitted in rural areas will be required to be used as a primary and permanent place of residence and will be subject to an occupancy clause for a period of 7 years.

9.1.4 In respect of the subject proposal, from a review of the available information, it is of relevance in the first instance to note that the co-applicant (Mr. Seamus Griffin) is the owner of the proposed development site and that his need for a dwelling house at this location arises from his engagement in the full-time farming of a larger landholding. It has also been submitted that he presently resides in the family home located a short distance away on the opposite side of the N22 National Road and that it is his desire to live close to same in order to provide continuing support / care to his wider family. Mr. Griffin has further indicated that he attended school locally and that the proposed dwelling house is intended for his own occupation with the co-applicant (Ms. Caroline Galvin) as their primary place of residence.

9.1.5 Having reviewed the available information, it is of relevance to note that it is the policy of the Planning Authority to ensure that future housing in rural areas

complies with the *'Sustainable Rural Housing, Guidelines for Planning Authorities, 2005'* and in this respect I would advise the Board that the Guidelines specifically state that housing intended to meet rural-generated needs should be facilitated and that eligible persons will include those working full-time or part-time in rural areas or persons who are an intrinsic part of the rural community. Therefore, having reviewed the available information, I am satisfied that the applicant complies with the relevant eligibility criteria as regards the construction of a rural dwelling house at the location proposed.

9.2 Traffic Implications:

9.2.1 The proposed development site will be accessed via an existing vehicular entrance onto the N22 National Primary Road at a point where a speed limit of 100kph applies and, therefore, it is necessary to assess whether or not the subject proposal is acceptable in terms of traffic safety and whether it accords with accepted policy as regards development management along the national road network. In this respect it is of relevance to note that during the course of the subject application submissions were received from both Transport Infrastructure Ireland and the National Roads Design Office which raised concerns that the submitted proposal would be at variance with official policy to preserve the level of service and carrying capacity of national roads and to protect the public investment in such roads as outlined in the *'Spatial Planning and National Roads, Guidelines for Planning Authorities'* (DoECLG 2012) on the basis that the proposed development would endanger public safety by reason of traffic hazard due to the additional traffic movements that would be generated at an existing direct access onto the N22 National Primary Route at a point where a speed limit of 100kph applies, and as it would also interfere with the free-flow of traffic on the road.

9.2.2 The *'Spatial Planning and National Roads, Guidelines for Planning Authorities'*, which replaced the *'Policy and Planning Framework for Roads'* issued by the Department of the Environment in 1985 and the NRA's *'Policy Statement on Development Management and Access to National Roads'* published in May, 2006, state that Development Plans must include policies which seek to maintain and protect the safety, capacity and efficiency of national roads and associated junctions by avoiding the creation of new accesses and the intensification of existing accesses onto national roads where a speed limit greater than 50kph applies. Section 2.5 of the Guidelines subsequently outlines a series of policy approaches with regard to access to national roads which all development plans and any relevant local area plans must implement. These include lands adjoining national roads to which speed limits greater than 60kph

apply, lands adjoining national roads within 50kph speed limits, and transitional areas where the plan area incorporates sections of national roads on the approaches to or exit from urban centres that are subject to a speed limit of 60kph before a lower 50kph limit is encountered. In this respect it is of relevance to note that the subject site is accessed from an existing direct access arrangement onto a section of national road where a speed limit of 100kph applies and therefore it is appropriate to revert to the provision in the Guidelines that seeks to avoid the intensification of existing accesses onto national roads where a speed limit greater than 50kph applies. Notably, the Guidelines also expressly state that this provision applies to all categories of development, including individual dwelling houses in rural areas, regardless of the housing circumstances of the applicant.

9.2.3 Having considered the foregoing, in the first instance, I would refer the Board to Objective RD-17 of the County Development Plan which states that it is Council policy to protect the capacity and safety of the national road and strategically important regional road network in the County and to ensure compliance with the *'Spatial Planning and National Roads Planning Guidelines'* (January 2012). The inclusion of such a policy position clearly accords with the provisions of the Guidelines, however, it should also be noted that Section 2.6 of the guidance advocates a plan-led approach to development along national roads and states that a planning authority may identify stretches of national roads where a less restrictive approach may be applied (i.e. in the case of developments of national and regional strategic importance or along lightly-trafficked sections of National Secondary Routes) but only as part of the process of reviewing or varying the relevant development plan and having consulted and taken on board the advice of the NRA. In this respect it is of particular relevance to note that Kerry County Council choose to avail of the foregoing provisions in its adoption of the Kerry County Development Plan, 2015-2021 as Section 7.2.1.2: *'Access onto the National Routes'* of the Plan expressly provides for "exceptional circumstances" (as agreed with the National Roads Authority) whereby new accesses or the intensification of existing accesses will be considered along identified sections of the National Secondary Network subject to compliance with certain specified criteria. In addition, Section 7.2.1.3 of the Plan goes even further by stating that the Planning Authority had formed the opinion that *'it is not possible, in relation to the N69, N70 (Tralee / Killorglin), N72 and N86 to implement the policies and objectives of the Minister, as outlined in the Spatial Planning & National Road Guidelines 2012'* and that development resulting in the intensification of an existing access *'will be favourably considered'* where certain specified criteria can be complied with. However, it is of the utmost

importance in the assessment of the subject application to note that the foregoing 'exceptions' (elements of which were previously agreed with the National Roads Authority) relate solely to sections of the national secondary road network and do not apply to national primary routes such as the N22 National Road i.e. that roadway from which it is proposed to access the subject site. Accordingly, on the basis that there is no provision for any 'exceptions' to be made as regards the development of additional access points or the intensification of existing accesses onto national primary roads, the subject proposal is clearly at variance with national policy.

9.2.4 Whilst it has been asserted in the grounds of appeal that the subject proposal does not involve the creation of a new access onto the N22 and will instead utilise an existing established junction arrangement onto the national road which has the benefit of adequate sightlines in both directions, in my opinion, it stands to reason that there will be a corresponding increase in the level of traffic visiting the site via the N22 National Road as a result of the proposed development which would be contrary to national policy. Similarly, whilst I would acknowledge the suggestion put forward by the applicant that the submitted proposal could potentially serve to limit his need to cross the carriageway of the national road in order to travel between his place of residence and his farmholding, I am inclined to conclude that this proposition overlooks the simple fact that the proposed development effectively involves the creation of an additional 'residential' access onto the national road (taken in combination with the present agricultural use of the existing site entrance) and the increased traffic movements associated with same which would be a variance with accepted policy as regards traffic safety.

9.2.5 Therefore, in my opinion, it is clearly apparent that the proposed development will ultimately increase the number of traffic turning movements at this location along a section of national road where a speed limit of 100kph applies. Furthermore, notwithstanding the applicant's connections to the local area, it is my opinion that there are no exceptional circumstances which would warrant a deviation from official policy pertaining to developments accessed from national routes. Accordingly, I am satisfied that the proposed development would conflict with national policy and that it would interfere with the carrying capacity, safety and free-flow of traffic along the N22 National Primary Route.

9.3 Overall Design / Visual Impact:

9.3.1 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 not located within any identified scenic or amenity designation and that the wider area has instead been identified as '*Rural General*' on Map No. 12.1(f) of the County Development Plan. In this respect I would advise the Board that these '*Rural General*' areas are considered to comprise the least sensitive landscapes in the county and generally have a higher capacity to absorb development than other 'amenity' designations. Furthermore, the application site will not be visible from any view or prospect listed for preservation in the Development Plan, although it should be noted that the site is located alongside a major national route and a key tourist route within the Kerry area.

9.3.2 With regard to the specifics of the actual design and siting of the proposed development, the submitted proposal involves the construction of a conventionally designed dormer style dwelling house, that appears to have been modelled on a contemporary interpretation of the traditional vernacular, which will be set back approximately 70m from the public road on lands situated below the level of the carriageway. It is also intended to retain the existing mature hedging at the foot of the slope below the national road in order to screen the proposed construction.

9.3.3 On balance, whilst I would acknowledge that the proposed development will be visible to some extent from the public road, having regard to the site context, I am inclined to conclude that the visual impact of the proposal is within tolerable limits and could be mitigated further through an appropriate scheme of landscaping / planting.

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 approximately 700mm of SILTY CLAY (dark brown) which overlay 2,300mm of CLAY with cobbles (yellow brown) to the depth of the excavation at 3.0m below ground level. Notably, no rock or water ingress were recorded. With regard to the percolation characteristics of the soil a 'T'-value of 40.03 minutes / 25mm and a 'P'-value of 36.44 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 as detailed in the submitted Site Characterisation Form, and the accompanying supplementary information, it would appear that the subject site is suitable for the installation of the septic tank system as proposed subject to conditions, however, having conducted a site inspection, and following consideration of the contents of the report compiled by the Site Assessment Unit of the Local Authority, I would have some reservations as regards the actual suitability of the subject site for the discharge of treated effluent to ground given the apparent variability in ground conditions on site as evidenced by the presence of unfavourable vegetative indicators, including rush & iris growth, and several instances of surface water ponding / waterlogging. Therefore, in the absence of further on-site investigations I am not entirely satisfied that the proposed development does not pose an unacceptable risk to ground and surface waters in the area. Accordingly, the Board may wish to consider if it would be appropriate in this instance to apply the precautionary principle and to refuse permission for the proposed development.

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 5.5km east of the Slieve Mish Mountains Special Area of Conservation (Site Code: 002185). 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 upheld 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 its location alongside and taking access off a heavily trafficked section of the national road network (N22), it is considered that the proposed development would lead to an intensification of traffic turning movements which would endanger public safety as they would be likely to interfere with the safety and free flow of traffic on a section of the national route where a speed limit of 100 km/h applies. The proposed development would, therefore, endanger public safety by reason of traffic hazard and would conflict with the provisions of the Spatial Planning and National Roads Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in January 2012, which seek to preserve the level of service and carrying capacity of the national road network and to protect the public investment therein. The proposed

development would, therefore, be contrary to the proper planning and sustainable development of the area.

Signed: _____

Robert Speer
Inspectorate

Date: _____