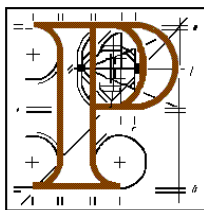


An Bord Pleanála Ref.: PL 08.246539

An Bord Pleanála



Inspector's Report

Development: Permission to (a) renovate and extend existing dwelling (b) install new wastewater treatment plant and sand polishing filter and (c) all associated site works all at Brackaharagh, Castlecove, Caherdaniel, Co. Kerry.

Planning Application:

Planning Authority: Kerry County Council
Planning Authority Reg. Ref.: 15/650
Applicant: Frances & Patrick Lynch
Type of Application: Permission
Planning Authority Decision: Refuse permission

Planning Appeal:

Appellant(s): Frances & Patrick Lynch
Type of Appeal(s): First Party against refusal
Observers: None
Date of inspection: 25th July 2016
Inspector: A. Considine

1.0 THE SITE

- 1.1 The proposed development site is located in the rural townland of Brackaharagh, Co. Kerry, along the southern coastline of the county, approximately 3km to the southeast of the village of Caherdaniel. The site is accessed off the N70 'Ring of Kerry' route and approximately 0.8km from the N70 off a local road. The site is located in a position which is set back approximately 100m from the public road and offers views over Cove Harbour to the north of the site. The site has a stated area of 0.22ha and is currently occupied by a two storey cottage with outbuildings. The house is in a state of disrepair and is clearly uninhabitable at present.
- 1.2 The site the subject of the proposed development includes the house and attached outbuildings and part of the fields to the front (north and west) of the house. There is an additional outbuilding located to the east of the house and accessed via the route which also provides access to the house. The existing access route is currently under grass and it would appear from my site inspection that the route / buildings are not regularly in use.
- 1.3 The existing structures on the site include a single storey store area, two storey house which provides for a kitchen / living room and bedroom at ground floor level with two further bedrooms and landing at first floor level, as well as a single storey garage and store. All of these buildings are attached and form an L shape. The plans would suggest that the area to the front of the buildings comprised a walled garden. The existing stores are generally constructed with stone while the house has a plaster finish. The roofs include a mixture of metal cladding and slate.

2.0 PROPOSED DEVELOPMENT

- 2.1 Permission is sought to (a) renovate and extend existing dwelling (b) install new wastewater treatment plant and sand polishing filter and (c) all associated site works all at Brackaharagh, Castlecover, Caherdaniel, Co. Kerry.
- 2.2 The proposed development will see the use of the existing store to the east of the dwelling being included as accommodation associated with the house while the storage area to the west of the house will be used

as a garage. The development will result in the enlargement of the kitchen / living room area at ground floor area with the inclusion of a WC and bedroom. At first floor area, the existing two bedrooms will be retained and a shower room will be provided. Amendments to the elevations will see the removal of the door to the storage area and its replacement with a window to match the size and style of the existing windows and the introduction of three velux windows to the southern elevation of the house.

3.0 REPORTS ON PLANNING AUTHORITY FILE

3.1 There are 3 no. interdepartmental reports from on the Local Authority file from the following:

Environment Department - Site Assessment Unit: The report notes that the site has failed the site assessment process and requires that further information be sought with regard to the proposed development in terms of site suitability for the safe and adequate disposal of treated waste water.

Biodiversity Officer: The report notes that the proposed site is outside, but close to the Kenmare River cSAC. The report further notes that the site is within an area of high potential for bat activity and the type of vernacular buildings on site may be used by bats. It is required that a bat survey be submitted in order to assess the significant effects, if any, of the proposed development on local bat species. Further information is required.

Flood Risk Assessment Officer: The EP who deals with flooding has advised that the site has been identified as being immediately adjacent to an area at risk of flooding as part of the Irish Coastal Protection Strategy Study (ICPSS). Given the topography of the site, no issues of flooding arise and the report advises no concerns in terms of flooding.

3.2 There are no third party observations noted on the planning file.

3.3 There is 1 external report noted on the planning file from Irish Water. This report advises no objections to the proposed development and advises that a connection to the public water mains is available.

3.4 There is no real Planning Report on the Kerry County Council file in terms of initial assessment of the proposed development. There is however, a recommendation for further information in relation to the following items:

1. Bat survey
2. Confirmation that T-tests failed and some indication as to the likely T-value encountered.
3. Excavate new trial holes for inspection.

3.5 Following receipt of the response to the further information request, there were 2 no. further interdepartmental reports from on the Local Authority file from the following:

Environment Department - Site Assessment Unit: The report advises that the trial holes had been backfilled before the site inspection was carried out but following the site assessment, it is recommended that permission be refused.

Biodiversity Officer: The report acknowledges the Bat Survey submitted and concludes that subject to the inclusion of conditions, there is no objection to the proposed development.

3.6 Following receipt of the response to the further information request, the Planning Report on the Kerry County Council file considered the proposed development in terms of the information submitted in support of the proposed development, the reports and other information available and concludes that permission should be refused on the basis of site suitability and that the development would be prejudicial to public health.

4.0 DECISION OF THE PLANNING AUTHORITY

The Planning Authority decided to refuse planning permission for the following reason:

1. Having regard to the soil conditions on site, the Planning Authority is not satisfied on the basis of submissions made in relation to 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. Therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.

5.0 RELEVANT PLANNING HISTORY

There is no relevant planning history associated with the subject site. The following is the planning history associated with the lands immediately to the north of the subject site:

PA ref. 07/1357: Permission was sought for the construction of a house. This application was withdrawn prior to a decision issuing.

PA ref. 08/297: Permission granted for the construction of a dwelling house on the site to the north east of the current site subject to conditions. This house is under construction but does not appear occupied.

A similar type of development is noted in the vicinity of the site as follows:

PA ref. 07/1391: Permission was granted for the erection of a one and half storey extension and to install a sewage treatment unit in place of an existing septic tank to existing house. This site is located approximately 0.5km to the east of the current site and is surrounded by the coast to the north and east. It is noted that this proposal sought to replace an existing septic tank system.

6.0 POLICY CONTEXT

County Development Plan, 2015-2021:

- 6.1 The Kerry County Development Plan 2015 – 2021 is the statutory Development Plan for County Kerry. The subject site is located within an area which has been designated as a Rural Secondary Special Amenity area. It is the stated policy of the PA, ZL-1 refers, to ‘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 of the Plan deals with Zoning Designations and provides in terms of Rural Secondary Special Amenity areas, that

‘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.

- 6.2 In addition to the above, Chapter 3 of the CDP deals with the settlement strategy and section 3.3 sets out the rural development policies. Of particular note, is Policy RS-5 which deals with Waste Water Treatment systems and advises that it is the policy of Kerry County Council to ‘Ensure that future housing in all rural areas comply with the EPAs 2009 Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. <10).

Section 3.3.2.2 of the Plan deals with areas zoned Rural Secondary Special Amenity. It is advised that:

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.

6.3 Section 3.3.4 of the Plan deals with Holiday / second homes and it is noted that:

One-off holiday / second homes will not be permitted in rural areas. The replacement, renovation and restoration of existing premises will be considered and encouraged where appropriate.

Further to the above, Section 3.3.5 of the Plan deals with Renovation and Restoration of Existing & Vacant Buildings Situation in Rural Areas. It is the intention of the plan:

‘to give positive consideration to the renovation and restoration of existing structures and to the completion of derelict and vacant buildings in the rural countryside for use as permanent primary residences and as holiday home accommodation.’

The Plan does however require that the site:

‘be assessed in terms of acceptable site suitability in terms of access, car parking, open space, wastewater disposal and maintaining the setting and amenities of the main structure.’

6.4 Chapter 13 of the Plan deals with Development Management where section 13.4 deals with Residential Development in Rural and Non-Serviced Sites. The following is considered relevant in relation to the proposed development:

Topic	Standards / Guidelines
Sewage	Where a connection to the public sewerage system is not available, sewage shall be adequately treated on-site in such a manner that it will not cause environmental pollution, be prejudicial to public health, or cause residential amenity problems such as odour or ponding of effluent.

<p>Septic Tank and Proprietary Treatment Systems</p>	<p>Treatment systems shall be designed, installed and maintained in accordance with the Environmental Protection Agency Code of Practice “<i>Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. < 10)</i>”, (2009) or any amending or replacement Code of Practice, standard or legislation.</p> <p>Only one dwelling unit shall be connected to a single septic tank.</p> <p>All areas within 1km of a public drinking water source will be regarded as Nutrient Sensitive Areas and the effluent from any onsite waste water treatment system proposed within these areas must comply with all the parameters listed in Table 5.1 of the EPA Code of Practice.</p>
---	--

Sustainable Rural Housing Guidelines:

6.5 The National Spatial Strategy identified categories of rural area types requiring differing settlement policies for rural housing. The Sustainable Rural Housing guidelines issued by the Department of the Environment Heritage and Local Government, April 2005 are based on the presumption that people who are part of the rural community should be facilitated by the planning system in all rural areas. All new house in rural areas should be sited and integrated well with their physical surroundings and should be generally compatible with inter alia, the protection of water quality in the arrangements made for on-site wastewater disposal facilities.

6.6 The guidelines also refer to developments in “Important Landscapes” and provides that:

Careful siting and location are central to sensitive development in the landscape. The capacity of a particular landscape to absorb change without significantly changing its character can be directly related to the quality of location and siting of a development within that landscape.

The location and siting of rural housing should be informed by landscape character, quality and distinctiveness. Proposals for housing in rural areas should be assessed having regard to the extent to which they:

- Complement the landscape and avoid unacceptable visual intrusion;
- Introduce incongruous landscape elements;
- Help to maintain landscape elements and features that contribute to local landscape character, quality and distinctiveness (e.g. topographical features, geological features, cultural features, or ecological resources which are characteristic of that landscape type).”

6.7 Section 3.2.2 of the Guidelines deal with Holiday and Second Home Development and state that an unstructured approach in some areas to such development has led to concerns about the effects of such development on certain coastal and lakeside rural areas and on some small towns with relatively limited environmental capacity to accommodate very significant numbers of new holiday and second homes. Concerns have also been expressed that such development can in some cases have adverse effects on affordability for permanent rural dwellers. However, the Guidelines also provide that:

In the areas experiencing significant demand for holiday and second home development, development plans might include objectives and policies to the effect that:

- *Proposals to reinstate, conserve and or replace existing, ruinous or disused dwellings will be looked on favourably by the planning authority subject to satisfying normal planning considerations relating to the provision of safe access and the design and provision of any necessary wastewater disposal facilities.....*

7.0 GROUNDS OF APPEAL

This is a first party appeal against the decision of Kerry County Council to refuse planning permission. The grounds of appeal are summarised as follows:

- It is considered that the fact that there is an existing dwelling on the site has not been given sufficient credit when making the decision on this application.

- A significant environmental gain would be achieved through the proposal.
- While site conditions are acknowledged as not being ideal, it is submitted that proposals have been made which severely limit the possibility of pollution through the use of a secondary treatment unit, tertiary treatment via a sand polishing filter and UV filtration which will reduce faecal coliforms levels by 99%.
- It is common practice for Kerry Co. Co. to accept best achievable solution and overall environmental gain when dealing with waste water issues.
- The proposed alterations to the house are minor and will not increase the number of bedrooms.
- The applicant does not wish to detract from the scenic amenity of the area and fully agree with the development standards as set out in the CDP. It is intended to return the house to its former state while improving the environmental impact created through the installation of a high standard WWTP.
- The house has been neglected over the number of years due to bitter legal proceedings.
- The property has been recognised as a dwelling house and it is unjust for the Council to acknowledge the dwelling on one hand and to fail to do so when assessing it for planning.

It is requested that permission be granted for the proposed development.

The appeal includes a letter from the applicant advising as to why the house has fallen into a state of disrepair.

8.0 RESPONSES

Planning Authority:

The Planning Authority has not responded to this appeal.

9.0 OBSERVERS TO APPEAL

There are no observers noted in relation to this appeal.

10.0 ASSESSMENT

Having regard to the nature of the proposed development and the details submitted with the planning application and appeal documents, I conclude that issues arising for consideration should be addressed under the following headings:

- The principle of the development
- Site suitability issues
- Other Issues
- Appropriate Assessment

10.1 The principle of the development.

10.1.1 The Kerry County Development Plan 2015 – 2021 is the statutory Development Plan for County Kerry. The subject site is located within an area which has been designated as a Rural Secondary Special Amenity area. It is the stated policy of the PA, ZL-1 refers, to ‘Protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to the quality of people’s lives.’ Chapter 3 of the CDP deals with the settlement strategy and section 3.3 sets out the rural development policies and Section 3.3.2.2 of the Plan deals with areas zoned Rural Secondary Special Amenity. The Plan provides that such areas constitute sensitive landscapes which can accommodate a limited level of development and that residential development in these areas shall be regulated. The Board will note that the proposal in this instance is not for a new build, rather a renovation of an existing house and the installation of a WWTP to service same.

10.1.2 The provisions of Section 3.3.1 and Table 3.7 are applicable in terms of the proposed development as follows:

- 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. –

No issues arising in that the proposal is for the redevelopment of an existing house and structures.

- 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.

No issues arising in that the proposal is for the redevelopment of an existing house and structures. The proposal does not seek to affect existing site features and this matter could be dealt with by condition. There are no proposals provided with regard to the upgrading of the access track, but should the Board be minded to grant permission in this instance, this matter could be dealt with by way of condition.

- Any proposal will be subject to the Development Management requirements set out in this Plan in relation to design, site size, drainage etc.

Matters relating to site suitability and drainage will be dealt with further below in section 10.2 of this report.

10.1.3 Section 3.3.4 of the Plan deals with Holiday / second homes and it is noted that one-off holiday / second homes will not be permitted in rural areas. The replacement, renovation and restoration of existing premises will be considered and encouraged where appropriate. Further to the above, Section 3.3.5 of the Plan deals with Renovation and Restoration of Existing & Vacant Buildings Situation in Rural Areas. It is the intention of the plan ‘to give positive consideration to the renovation and restoration of existing structures and to the completion of derelict and vacant buildings in the rural countryside for use as permanent primary residences and as holiday home accommodation.’ The Plan does however require that the site ‘be assessed in terms of acceptable site suitability in terms of access, car parking, open space, wastewater disposal and maintaining the setting and amenities of the main structure.’

10.1.4 In addition to the above, I note that section 3.2.2 of the Rural Housing Guidelines, in its commentary regarding Holiday and Second Home

Developments, specifically provide that *proposals to reinstate, conserve and or replace existing, ruinous or disused dwellings will be looked on favourably by the planning authority subject to satisfying normal planning considerations relating to the provision of safe access and the design and provision of any necessary wastewater disposal facilities.....* In terms of the Guidelines, I consider that the principle of the proposed development, to renovate the original existing cottage on the site is acceptable in principle, and is in accordance with the principles of the Guidelines. In light of the above, I consider it wholly reasonable that, in principle, the development can be considered as being in accordance with the policy requirements of the Kerry County Development Plan, 2016 and the Rural Housing Guidelines, and is acceptable. Matters of site suitability however are required to be addressed.

10.2 Site Suitability Issues:

10.2.1 It is proposed that the development will connect to public water main in the vicinity of the site. Irish Water has advised that there is no objection to the proposed development and a connection to the water supply is available.

10.2.2 In terms of Waste Water Treatment and Disposal, the Board will note that the applicant, following a request for further information, has submitted a detailed proposal regarding the provision of a packaged waste treatment system and a sand polishing filter, as well as UV filtration tertiary system to service the proposed development. The SAU of Kerry County Council has considered the information provided and has concluded that the site is not capable of accommodating the proposed treatment system noting that the development, if permitted would result in a distinct risk of environmental pollution.

10.2.3 The site conditions show gravelly clay soils with loam comprising the top 300mm of the trial hole. Devonian Old Red Sandstone comprises the bedrock, which was not encountered at 1.6m below ground level. The Site Characterisation Report noted no water table during the first assessment in April, 2015, although mottling was noted at 0.6m bgl. No

*T value was recorded and a *P value of 22.81 was achieved¹. In response to the findings, it is proposed to install a packaged waste water treatment system to service the house, which will include a Tricel P6 WWT System in conjunction with a Sandcel sand polishing filter with an area of 15m² to a distribution area of 67.5m² before discharge to groundwater. The Site Characterisation Report implies a hydraulic loading rate of 60l/m²/day proposed.

10.2.4 I refer the Board to the 2009 EPA Manual in this regard, and notably, page 44 which provides that, on the basis of the information provided including the pumping of discharge to the sand polishing filter in an area where a *P value of 22.81 was recorded, a loading rate of ≤ 10 and a minimum area of $\geq 90\text{m}^2$ is required to serve a house of 5 persons. Clearly the proposed development does not provide for such requirements and in terms of the proposed servicing of the site, I have a real concern. That said, I am satisfied that the subject site would have the required area to accommodate the necessary waste water treatment system in accordance with the requirements of the EPA Code of Practice: Wastewater Treatment and Disposal Systems Servicing Single Houses (p.e ≤ 10).

10.2.5 However, following a request for further information, further trial holes were dug on the site, November, 2015². The water table was recorded at 0.45m bgl. In order to achieve the required separation distances from the proposed sand polishing filter to the water table, the new proposal is to provide a mound of approximately 2.2m in height. The details show that most of the proposed Tricel unit, UV filtration unit and the pump will be located below the water table mark. The SAU has recommended that permission be refused for the development on the basis that the site is not suitable to accommodate any proposed waste water treatment system. The first party has submitted that having regard to the fact that there is an existing house on the site, it has been common practice for the Council to accept best achievable solutions. It is submitted that the proposal severely limit the possibility of pollution through the use of a secondary treatment unit, tertiary treatment via a sand polishing filter and UV filtration which will reduce coliform levels by 99%. There is no doubt in my mind that the proposal put forward

¹ The Board should note that the documentation submitted from the manufacturer / supplier of the proposed WWTP submits that the *T value of 90 is assumed and a *P value of 22.81 was recorded.

² The report indicated that the date of examination was 02/11/2016 which is clearly an error.

would represent a significant effort to minimise environmental pollution. However, given the level of the water table, together with the impermeability of the subsoil, the primary concern arising relates to the disposal of the treated effluent.

10.2.6 In terms of the Kerry County Development Plan, is Policy RS-5 is particularly relevant in that it deals with Waste Water Treatment systems and advises that it is the policy of Kerry County Council to 'Ensure that future housing in all rural areas comply with the EPAs 2009 Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. <10). Chapter 13 of the Plan deals with Development Management where section 13.4 deals with Residential Development in Rural and Non-Serviced Sites. In terms of sewage, the plan requires that where a connection to the public sewerage system is not available, sewage shall be adequately treated on-site in such a manner that it will not cause environmental pollution, be prejudicial to public health, or cause residential amenity problems such as odour or ponding of effluent. Given the on-site conditions, and notwithstanding the fact that there is an existing house on the site, unfortunately I am not satisfied that the proposed development can be adequately serviced in terms of waste water treatment and disposal or that a grant of permission in this instance, would not result in environmental pollution, would not be prejudicial to public health, or not cause residential amenity problems such as odour or ponding of effluent.

10.3 Other Issues

10.3.1 In terms of other issues, having regard to the site levels and topography, I am satisfied that there are no issues in relation to flooding arising.

10.3.2 With regard to bats, I am satisfied that the first party has adequately and appropriately dealt with this issue. A single Lesser Horseshoe Bat was found to be roosting in the house and as such, should the Board be minded to grant planning permission in this instance, a derogation licence will be required from the NPWS to undertake works to the building.

10.3.3 The subject site accesses onto a local road which is lightly travelled. I do not consider that there are any roads or traffic issues arising in relation to the proposed development.

10.4 Appropriate Assessment:

10.4.1 The subject site is located at a distance of less than 100m, north of the nearest SAC, Kenmare River Special Area of Conservation (Site Code: 002158), within a rural area. The site itself can be considered a rural brownfield site, given the presence of the existing house and associated outbuildings. However, given that a Natura 2000 site is located within 15km of the site, the Board will be required to consider the potential effects of the proposed development on the identified SAC. The site must be subject to AA regarding its implications for the Natura 2000 site in view of the site's conservation objectives *"if it cannot be excluded, on the basis of objective information, that it will have a significant effect on that site, either individually or in combination with other plans or projects"* (EC, 2006). In other words, where doubt exists about the risk of a significant effect, an Appropriate Assessment must be carried out.

10.4.2 An Bord Pleanála, as the competent authority is responsible for obtaining the information necessary to enable an AA screening to be undertaken, and if required, obtain from the proponent, a Natura Impact Statement. Integral to the AA process, is the consideration of alternatives. This issue will be discussed further below. The purposes of AA screening will determine whether appropriate assessment is necessary by examining:

- whether a plan or project can be excluded from AA requirements because it is directly connected with or necessary to the management of the site, and
- the potential effects of a project or plan, either alone or in combination with other projects or plans, on a Natura 2000 site in view of its conservation objectives, and considering whether these effects will be significant.

10.4.3 AA Screening:

1. Description of the project and local site: This is an application to renovate an existing cottage in the rural area and to install a proprietary waste water treatment system to service same. Site conditions have shown to be problematic in terms of high water table and poor permeability in the soils.

2. Is the proposed development directly connected with or necessary to the nature conservation management of a Natura 2000 site: No.

3. Identification of relevant Natura 2000 sites, within 15km of the subject site:
 - Kenmare River Special Area of Conservation (Site Code: 002158)

 - Iveragh Peninsula SPA

 - Deenish Island & Scariff Island SPA

 - Killarney National Park, McGillicuddy Reeks & Caragh River Catchment SAC

 - Ballinskelligs Bay & Inny Estuary SAC

4. Key Natura 2000 site with regard to the subject site and proposed development is the Kenmare River Special Area of Conservation (Site Code: 002158), which is located within 100m of the subject site, to the south. The Board should note at this point that due to the site topography and having regard to the source/pathway/receptor principle of risk assessment, I consider that the likelihood of the proposed development having a significant effect on the conservation objectives of the Kenmare River Special Area of Conservation (Site Code: 002158) is low.

5. Existing expert reports, advice or guidance: The PAs Biodiversity Officer has considered that as the development relates to renovations to a derelict structure and outbuildings, the installation of a new WWTP which will improve water quality, there is no objection to

the proposed development. In addition, it is considered that all issues relating to bats has been adequately addressed.

6. The potential for significant impacts on Natura 2000 sites, having regard to potential significance indicators and to qualifying interests and conservation objectives for the site. Where doubt exists, it should be assumed that effects could be significant. In terms of the relevant Natura 2000 site in this instance, the Conservation Objectives for Kenmare River Special Area of Conservation (Site Code: 002158), states as follows:

Objective 1: To maintain or restore the favourable conservation status of the Annex 1 habitat(s) and / or the Annex 11 species for which the SAC has been selected:

[1160] Large Shallow Inlets and Bays

[1170] Reefs

[1220] Perennial Vegetation of Stony Banks

[1230] Vegetated Sea Cliffs

[1330] Atlantic Salt Meadows

[1410] Mediterranean Salt Meadows

[2120] Marram Dunes (White Dunes)

[2130] Fixed Dunes (Grey Dunes)*

[4030] Dry Heath

[6130] Calaminarian Grassland

[8330] Sea Caves

[1014] Narrow-mouthed Whorl Snail (*Vertigo angustior*)

[1303] Lesser Horseshoe Bat (*Rhinolophus hipposideros*)

[1355] Otter (*Lutra lutra*)

[1365] Common (Harbour) Seal (*Phoca vitulina*)

Potential significance indicators³:

Any impact on an Annex I habitat:

Causing interference with, reduction, erosion or fragmentation of the Natura 2000 site: Not likely

Causing direct or indirect damage to the physical quality of the environment (e.g. water quality and supply, soil compaction) in the Natura 2000 site: Not likely

Causing serious or ongoing disturbance to species or habitats for which the Natura 2000 site is selected (e.g. increased noise, illumination and human activity): Not likely

Causing direct or indirect damage to the size, characteristics or reproductive ability of populations on the Natura 2000 site: Not likely

Interfering with mitigation measures put in place for other plans or projects: Not likely.

Causing the introduction or spread of exotic or invasive species: Possible in terms of potential landscaping of site.

Causing a cumulative impact and other impacts: Possible.

7. Assessment of likely effects - direct, indirect and cumulative – undertaken on the basis of available information as a desk study or field survey or primary research as necessary: Having considered the above potential significance indicators, together with the reports and submissions on the file, I consider that the development, if permitted, is likely to have little or no impact on the adjacent Natura 2000 site, subject to compliance with appropriate conditions attached to a grant of permission, should the Board be so minded.
8. Screening Statement with conclusions: The safeguards set out in Article 6(3) and (4) of the Habitats Directive are triggered not by certainty but by the possibility of significant effects. Thus, in line with the precautionary principle, it is unacceptable to fail to undertake an appropriate assessment on the basis that it is not certain that there are

³ Using the Appropriate Assessment of Plans and Projects in Ireland - Guidance for Planning Authorities, DoEHLG, 2009 I consider that the potential significant indicators should include as presented. There is no defined list of indicators, with each site potentially generating a different list.

significant effects. As such, having regard to the restricted nature and scale of the development proposed and to the nature of the receiving environment, and particularly the proposal to renovate an existing disused house in the rural area, together with the topography of the site in terms of the proposed WWTP notwithstanding the site conditions, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

11.0 Conclusions and Recommendations

11.1 Conclusion:

Having regard to the provisions of the current Kerry County Development Plan and the Sustainable Rural Housing Guidelines, the pattern of existing and permitted development in the vicinity and having regard to the information submitted as part of the planning application, and appeal, I consider that the proposal to renovate the existing house and outbuildings on the site accord with the principles of the policies of the County Development Plan, together with the Rural Housing Guidelines.

However, given the very poor site conditions, the high water table and the impermeability of the soils, together with the details submitted in support of same, I am not satisfied that the proposed development can be adequately serviced in terms of waste water generated by the reinstatement of the cottage.

As such, a grant of planning permission in this instance would be contrary to the proper planning and sustainable development of the area.

11.2 Recommendation:

I recommend that planning permission be **Refused** for the proposed development for the following stated reasons & considerations.

REASONS AND CONSIDERATIONS

1. Notwithstanding the intended use of a proprietary wastewater treatment system, or the fact that there is an existing house on the site, having regard to the on-site conditions, the Board is not satisfied that the proposed development can be adequately serviced in terms of waste water treatment and disposal or that a grant of permission in this instance, would not result in environmental pollution, would not be prejudicial to public health, or not cause residential amenity problems such as odour or ponding of effluent. It is therefore considered that the development, if permitted, would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

A. Considine

Planning Inspector

5th August 2016