
An Bord Pleanála



Inspector's Report

Ref.: PL08.247524

Development: Construct a single storey dwelling house c/w septic tank and percolation area and all associated site works.

Cappagh (Knockane), Kilgobnet, Beaufort, Killarney, Co. Kerry.

PLANNING APPLICATION

Planning Authority: Kerry County Council

Planning Authority Ref.: 16/806

Applicant: Danny Breen & Sandra Coffey

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: 23rd January, 2017

1.0 SITE LOCATION AND DESCRIPTION

1.1 The proposed development site is located in the rural townland of Cappagh (Knockane), Co. Kerry, approximately 6km southeast of Killorglin town and c. 450m northwest of the post office in the village of Kilgobnet, where it occupies an 'infill' site situated between Kilgobnet National School to the southeast and a private dwelling house to the northwest. The surrounding area can be described as primarily rural in character, although it is evident that a number of contemporary dwelling houses have recently been developed further north along this particular stretch of roadway. The site itself has a stated site area of 0.38 hectares, is generally rectangular in shape and forms part of a larger agricultural field which is located within a gently undulating landscape. The roadside (southwestern) site boundary is defined by a low-lying hedgerow whilst the site boundaries to the northwest and southeast are bounded in part by existing walling with the remainder of the site perimeter undefined at present.

2.0 DESCRIPTION OF PROPOSED DEVELOPMENT

2.1 The proposed development consists of the construction of a single storey dwelling house with a stated floor area of 196m² and a ridge height of 4.89m. The overall design of the proposed dwelling house is conventional with an asymmetrical front elevation and a shallow pitched hipped roof construction. No specific details of external finishes have been shown on the submitted drawings, although they would appear to include the feature use of stone facing.

2.2 Access to the site will be obtained directly from the adjacent public road to the immediate southwest via a new entrance arrangement and in this respect it is proposed to remove localised vegetative growth in order to maximise the available sight distance. It is also proposed to install a conventional septic tank system which will discharge to a soil polishing filter and to connect to the public watermain.

3.0 RELEVANT PLANNING HISTORY

3.1 On Site:

PA Ref. No. 001746. Was granted on 22nd October, 2001 permitting Michael O'Sullivan permission to construct a two-storey dwelling house with septic tank and percolation area.

3.2 On Adjacent Sites:

PA Ref. No. 021255. Was granted on 25th September, 2002 permitting Marina Jordan outline permission to construct a dormer-type bungalow with septic tank and percolation area at Cappagh, Kilgobnet, Beaufort, Co. Kerry.

PA Ref. No. 03587. Application by Marina Jordan for permission to erect a bungalow, septic tank and percolation area at Cappagh, Kilgobnet, Beaufort, Co. Kerry. This application was withdrawn.

PA Ref. No. 033078. Was granted on 15th January, 2004 permitting Marina Jordan permission to erect a bungalow, septic tank and percolation area at Cappagh, Kilgobnet, Beaufort, Co. Kerry.

PA Ref. No. 063538. Was granted on 21st December, 2006 permitting Kilgobnet National School permission to erect single storey prefabricated accommodation to the rear of the existing school building at Cappagh, Beaufort, Killarney, Co. Kerry.

4.0 PLANNING AUTHORITY CONSIDERATIONS AND DECISION

4.1 Decision:

On 14th October, 2016 the Planning Authority issued a notification of a decision to refuse permission for the proposed development for the following single reason:

- The Planning Authority is not satisfied on the basis of submissions made in relation to the application that a rural housing need has been demonstrated in accordance with Objective RS-10 of the Kerry County Development Plan 2015-2021 having regard to the location of the application site in an area designated a Stronger Rural Area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

4.2 Objections / Observations:

None.

4.3 Internal Reports:

Environment: 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:

- The applicants have 2 No. small children and presently rent a 2-bedroom property in Killorglin town which is too small for their family needs. They have been seeking to purchase a dwelling house in either Killorglin town or the surrounding area for some time, however, they have not been successful to date.
- The development strategy of the Kilgobnet Local Area Plan provides for the modest development of the area as a small rural settlement and local service centre on a scale commensurate with its infrastructural capacity. In this respect the strategy promotes development that is in keeping with the existing scale and settlement pattern of the area, is contiguous with the plan area, and makes provision for detached dwellings that would otherwise be located in rural areas. Accordingly, it is submitted that the subject proposal satisfies the foregoing requirements.
- The proposed development site is located adjacent to Kilgobnet National School and is also within the settlement area for the village of Kilgobnet as outlined in red in the Killorglin Functional Area Local Area Plan, 2010-2016.
- Whilst the CSO figures for 2006 indicate that the population of the Kilgobnet ED increased by over 4% in the intervening period since 2002, it is suggested that these figures are out of date given that the actual number of pupils attending the local primary school has decreased over the last 7-8 No. years.
- Although the proposed development site is located c. 300m northwest of the '*Weaker Rural Area*' that includes the rest of Kilgobnet village, it would appear that the boundary of that '*Weaker Rural Area*' does not follow any townland boundary or development pattern and instead simply extends from the mountainous area to the south. This '*Weaker Rural Area*' does not even include the local primary school which is the largest building in the village. Therefore, the subject site is within the boundary of the settlement as identified in the Local Area Plan, yet it is outside the '*Weaker Rural Area*' as designated in the Kerry County Development, 2015 which contains the vast majority of the village settlement. Accordingly, it is submitted that the aforementioned documents contradict

one another which has effectively placed a restriction on future development within the village settlement.

- There is no reference in the Kilgobnet Local Area Plan to prospective applicants having to satisfy the requirements of the Rural Settlement Policy. Instead, the Plan states the following:

'The strategy therefore will promote development that is in keeping with the existing scale and settlement pattern of the area, is contiguous with the plan area and, makes provision for detached dwellings that would otherwise be located in rural areas'.

- Map 3.1 of the Kerry County Development Plan, 2015 identifies a portion of Kilgobnet village and several other small villages and settlement nodes in the county as 'Stronger Rural Areas', however, the relevant Local Area Plans for these settlements promote small scale development that would otherwise be located in rural areas. If all family applicants seeking permission in these settlement areas were to satisfy the rural housing needs criteria (i.e. a son, daughter, niece or nephew etc. of the landowner) then these settlement nodes would be prevented from future development as the lands within most of the small villages and settlement nodes are owned by only a few individual landowners.
- Section 5.0: *'Housing Strategy: Executive Summary'* of the County Development Plan states the following:

'In order to achieve the projected population and household target the additional housing requirement for Kerry is 3,118 units. The aim of the Housing Strategy is to address these issues and:- 'To help enable the people of Kerry, now and in the future, to have a place to live, suited to their needs, at a price that they can afford'.

- Within the *'Stronger Rural Areas'* population levels are generally stable within a well-developed town and village structure and in the wider rural areas around them. This stability is supported by a traditionally strong rural / agricultural economic base. The key challenge in these areas is to maintain a reasonable balance between development activity in the extensive network of smaller towns and villages and housing proposals in the wider 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.
- ‘*Structurally Weaker Areas*’ generally exhibit characteristics such as persistent and significant population decline over an average of two census periods. These areas have low population density averages and few planning application numbers. Many of these areas, by virtue of their location and topography, are isolated. In these areas, the challenge is to stop sustained population and economic decline with a focus on both key villages and rural areas.

It is an objective of the Council to:

- *RS-12*: Accommodate demand for permanent residential development as it arises subject to good sustainable planning practice in matters such as design, location, wastewater treatment and the protection of important landscapes and environmentally sensitive areas.
- The applicants can establish a rural housing need as follows:
 - Danny Breen was born and raised in the townland of Cloon Lake, Glencar, Co. Kerry, approximately 16km southwest of the application site.
 - Sandra Coffey was born and raised in the townland of Banshagh, Killorglin, Co. Kerry, approximately 6km northwest of the application site.
 - The applicants presently rent a property in Killorglin town and work locally.

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'.

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.

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- 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 areas 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 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.

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

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

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

Killorglin Functional Area Local Area Plan, 2010-2016:-

Section 1: Killorglin Functional Area Local Area Plan:

Section 1.2: Primary Functional Areas:

In the primary functional area the strategy for the smaller settlements (Glencar, Kilgobnet and Rossbeigh) is:

- To ensure that they retain their current level of service provision and develop as attractive settlements while maintaining their existing character.
- To identify strategic settlements for improved infrastructural provision in order to consolidate their role.

Section 1.3: *Strategic Issues:*

Glencar and Kilgobnet:

There are no wastewater treatment plants in these settlements and their dispersed nature makes such a plant technically and financially problematic. In addition, there are no plans to construct wastewater treatment plants for these areas and this will be a constraint on their future development.

- Low density housing developments with each house having its own individual treatment system designed in accordance with EPA standards can be considered in these areas.
- It is an option for developers to propose the design, financing and construction of wastewater collection and treatment infrastructure following consultation with the Water Services Authority. This would entail the preparation of preliminary reports, contract documents, licenses etc.
- Package treatment systems serving individual multi-residential systems are not acceptable.

It is necessary, in order to maintain the services provided within the area and preserve rural communities, to provide focal points throughout the plan area which can act as service centres for their rural hinterland. From a geographic, infrastructural, population perspective, and the need for service centres for the rural population, it is considered that the settlements of Cromane, Glenbeigh, Glencar, Kilgobnet and Rossbeigh will fulfill this role.

Section 1.5: *Overall Development Strategy*

Section 1.6: *Settlement Strategy:*

Section 1.6.1: *Settlement Hierarchy:*

Small Villages/Development Nodes are localities with a scattered development pattern providing a range of local community facilities, such as a primary school, sporting club or a general shop or post office. The settlement pattern is not

cohesive, but they are often characterised by strong geographic communities. Cromane, Glencar, Kilgobnet and Rossbeigh are small villages/development nodes.

Section 1.6.2: Development Strategy:

Cromane, Glencar, Kilgobnet and Rossbeigh will remain as dispersed rural settlements retaining their existing rural character and serving local population needs.

Section 1.6.3: Growth Strategy:

Growth prediction for smaller towns and villages is difficult due to their lower population base . . . It is considered therefore, rather than allocating prescriptive areas of zoned lands for these smaller settlements, that managing the growth in a manner which will retain their character and create functional, attractive and well-designed communities is a preferable approach.

Section 1.6.5: Development Management

Section 2: Kilgobnet Local Area Plan:

Section 1.5: Settlement Form

Section 1.10: Growth and Residential Development

Section 2.0: Development Strategy:

The strategy for Kilgobnet is to provide for the modest development of the area as a small rural settlement and local service centre on a scale commensurate with its infrastructural capacity. The strategy therefore will promote development that is in keeping with the existing scale and settlement pattern of the area, is contiguous with the plan area and, makes provision for detached dwellings that would otherwise be located in rural areas. Ancillary commercial development within the village at a central location will contribute to both the development of services and streetscape and will be facilitated where appropriate.

Section 3.0: Overall Objectives:

- OO-1: Ensure new developments are contiguous with existing traditional development and make effective use of backland and infill sites to achieve a compact and sustainable village core.
- OO-2: Ensure new development shall relate to the rural character and environment of the area by means of sensitive design and siting.

OO-3: Future development in the settlement shall be small in scale and provide for low density cluster type development located in proximity to the existing services and the central crossroads.

OO-4: Residential development in the settlement node shall be regulated in accordance with the provisions of Rural zoning provisions of the current Kerry County Development Plan 2009-2015.

Section 3: Rural Area:

Section 1.0: *Overview:*

Section 1.1: *Introduction:*

The purpose of this section of the plan is to make provision for planning policies in rural areas. The rural area of the Killorglin Functional Area Local Area Plan, shown in Figure 1.1, is defined as all the rural area within the functional area boundary and outside the boundaries of the town (Killorglin) and villages (Glenbeigh and Cromane) that are zoned in this local area plan. The rural area, as defined in this plan, is functionally linked to the urban settlements. The rural area is located on the Iveragh peninsula and includes the settlements of Glencar, Kilgobnet and Rossbeigh, and the rural areas as shown around the settlements of Killorglin, Glenbeigh and Cromane.

Section 2.0: *Overall Objectives:*

Ru 1: Ensure that development in the rural area complies with the objectives of the Kerry County Development Plan 2009-2015.

N.B. The Killorglin Functional Area Local Area Plan, 2010-2016 would appear to have expired in 2016 and, unlike other Local Area Plans in Co. Kerry, it is not referenced on the Kerry County Council website as having had its duration extended pending the preparation of a new Municipal District Plan (the preparation of which is currently underway).

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

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- 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 overall principle of the proposed development it is necessary at the outset to clarify the relevant policy context. In this respect the grounds of appeal have sought to assert that the proposed development site is located within the development boundary for the village of Kilgobnet as set out in the Killorglin Functional Area Local Area Plan, 2010-2016 wherein it is the policy of the Planning Authority to promote development that is in keeping with the existing scale and settlement pattern of the area, is contiguous with the plan area, and makes provision for detached dwellings that would otherwise be located in rural areas. In effect, it has been suggested that there is no requirement for the applicants to demonstrate any compliance with the rural housing policy provisions (and the associated eligibility requirements) set out in the Kerry County Development Plan, 2015 and thus the decision of the Planning Authority to refuse permission on such a basis should be overturned.

9.1.2 With regard to the foregoing, I would advise the Board in the first instance that the Killorglin Functional Area Local Area Plan, 2010-2016, which includes the Kilgobnet Local Area Plan and the 'development boundary' referenced by the applicants in the grounds of appeal, would appear to have expired in 2016 and, unlike other Local Area Plans in Co. Kerry, is not specifically referenced on the website of Kerry County Council as having had its duration extended pending the preparation of a new Municipal District Plan (which is currently underway). Accordingly, I am inclined to suggest that the Killorglin Functional Area Local Area Plan, 2010 is redundant and thus any consideration of the subject application must be undertaken pursuant to the overriding provisions of the County Development Plan.

9.1.3 In the event that the Board wishes to have regard to the provisions of the Killorglin Functional Area Local Area Plan, 2010 in its assessment of the subject proposal, it is of relevance to note that the settlement hierarchy set out in that Plan designates Kilgobnet as one of a series of 'small villages / development nodes' which are defined as comprising localities with a scattered development pattern that provide a range of local community facilities, such as a primary school, sporting club or a general shop or post office. Within these areas, the settlement pattern is not considered to be cohesive, although they are often

characterised by strong geographic communities. Notably, the wider development strategy for villages such as Kilgobnet is to retain their existing rural character and to serve their local population needs, however, the stated growth strategy as set out in the Local Area Plan is that rather than allocating prescriptive areas of zoned lands for such a small settlement, the preferred approach will be the management of growth in a manner which will retain the character of the village whilst creating functional, attractive and well-designed communities. More specifically, the stated development strategy for the village as set out in the 'Kilgobnet Local Area Plan', which is contained within Section 2 of the Killorglin Functional Area Local Area Plan, 2010, aims to provide for the modest development of the area as a small rural settlement and local service centre on a scale commensurate with its infrastructural capacity through the promotion of development that is in keeping with the existing scale and settlement pattern of the area, is contiguous with the plan area and, makes provision for detached dwellings that would otherwise be located in rural areas. However, it is of particular relevance to note that Objective OO-4 of the village local area plan expressly states that '*Residential development in the settlement node shall be regulated in accordance with the provisions of rural zoning provisions of the current Kerry County Development Plan 2009-2015*'. Indeed, further clarity is provided in this respect by reference to Section 3 of the principal Functional Area Local Area Plan wherein it is clearly stated that:

'The rural area of the Killorglin Functional Area Local Area Plan, shown in Figure 1.1, is defined as all the rural area within the functional area boundary and outside the boundaries of the town (Killorglin) and villages (Glenbeigh and Cromane) that are zoned in this local area plan . . . The rural area is located on the Iveragh peninsula and includes the settlements of Glencar, Kilgobnet and Rossbeigh . . .'

9.1.4 Objective Ru 1 of the Functional Area Local Area Plan subsequently confirms that development in the rural area will be required to comply with the objectives of the Kerry County Development Plan, 2009-2015 (since superseded by the Kerry County Development Plan, 2015).

9.1.5 In addition to the foregoing, and for the purposes of further clarity, it is my opinion that the mapping set out in '*Figure 1: Location of Kilgobnet settlement*' of the 'Kilgobnet Local Area Plan' is not intended to be interpreted as identifying a development / settlement boundary for the village and is instead only to be viewed as a locational map.

9.1.6 Therefore, having reviewed the available information, and notwithstanding whether or not the Killorglin Functional Area Local Area Plan, 2010 remains in force, the subject proposal must be assessed having regard to the rural housing policy provisions presently set out in the County Development Plan for the area.

9.1.7 Accordingly, 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.

9.1.8 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'*.

9.1.9 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.

9.1.10 In respect of the subject proposal, from a review of the available information, it is of relevance to note that the applicants are unrelated to the landowner from whom they intend to purchase the subject site and that they do not appear to have any direct connection to the immediate locality. In addition, I would advise the Board that the applicants have indicated in response to Section 3.1 of the planning application form that the proposed development is intended for occupation as a primary and permanent place of residence, however, whilst they have also indicated that the proposed dwelling house is not intended for their own occupation, this would seem to be in error as the grounds of appeal clearly imply that the house is for their own use. In further support of the proposal, it has been submitted that the first co-applicant (Mr. Danny Breen) was born and raised in the townland of Cloon Lake, Glencar, Co. Kerry, approximately 16km southwest of the proposed development site, and that he is presently self-employed as a carpenter with most of his work being undertaken within the South Kerry area, whilst the second co-applicant (Ms. Sandra Coffey) was born and raised in the townland of Banshagh, Killorglin, Co. Kerry, approximately 6km northwest of the application site, and is employed as a hairdresser in Killorglin town (*N.B.* The grounds of appeal have been accompanied by a site location map which identifies the respective family homes of each of the applicants relative to the proposed development site). It has also been confirmed that both applicants are presently residing in rented accommodation in Killorglin town.

9.1.11 Having assumed that the subject site is located within a '*Stronger Rural Area*' and that there is an obligation on the applicants to demonstrate compliance with the provisions of Objective RS-10, I would suggest that it is appropriate to revert to the '*Sustainable Rural Housing, Guidelines for Planning Authorities*' which state that in facilitating housing intended to meet rural-generated needs eligible persons can include those working full-time or part-time in rural areas or persons who are an '*intrinsic part of the rural community*'. Accordingly, given that neither applicant can be considered to be employed either full-time or part-time within the rural area in question (*N.B.* In this regard the Board is advised that the '*Sustainable Rural Housing, Guidelines for Planning Authorities*' suggest that '*such circumstances will normally encompass persons involved in full-time farming, forestry, inland waterway or marine related occupations, as well as part time occupations where the predominant occupation is farming / natural resource related*'), it is necessary to ascertain whether either of the co-applicants can be considered as forming '*an intrinsic part of the rural community*' which the Guidelines define as follows:

‘Such persons will normally have spent substantial periods of their lives, living in rural areas as members of the established rural community. Examples would include farmers, their sons and daughters and or any persons taking over the ownership and running of farms, as well as people who have lived most of their lives in rural areas and are building their first homes. Examples in this regard might include sons and daughters of families living in rural areas who have grown up in rural areas and are perhaps seeking to build their first homes near their family place of residence.’

9.1.12 With regard to the applicants’ individual circumstances, it is regrettable that only very limited details have been provided of their residency histories and thus it is unclear as to how long the applicants actually resided at their respective family homes etc. and whether or not they have ever previously owned a dwelling house or been the recipient of a grant of planning permission for same. Accordingly, I am inclined to suggest that further information is required to verify the applicants housing circumstances. In this respect I would also suggest that the family home of Mr. Danny Breen would appear to be a considerable distance from the rural area wherein the subject site is located and thus it is difficult to accept the proposition that he has an ‘intrinsic’ connection or link to same. Furthermore, in relation to the location of Ms. Coffey’s family home at Banshagh, Killorglin, it is notable that a considerable extent of the townland of Banshagh is actually located within the town boundary of Killorglin and whilst it would appear that her family home is located outside of the town, this is not entirely clear from the scale of the mapping provided with the grounds of appeal. In the event that Ms. Coffey’s family home is actually within Killorglin town, on the basis of the evidence available, I would suggest that she cannot be considered to have links to the rural area in question and thus the submitted proposal could be considered to amount to ‘urban-generated’ housing. In addition to the foregoing, I would advise the Board that following a cursory examination of the planning history of the wider area, it is apparent that a grant of planning permission was previously issued under PA Ref. No. 04146 for the construction of a dwelling house on a site located to the west of Castlemaine to an applicant named as ‘Sandra Coffey’ with an address at ‘Bansha, Killorglin’, and who was identified as the owner of that site. Whilst I would acknowledge the possibility that the aforementioned application may not relate to the co-applicant in the subject proposal, I would suggest that further clarity is required in this regard. In the event that the applicant was previously permitted a dwelling house under PA Ref. No. 04146, the question arises as to whether or not Ms. Coffey has a verifiable housing need and if said dwelling house / site was disposed off. Indeed, if Ms. Coffey (or Mr.

Breen) was previously granted permission for a dwelling house elsewhere, it is clear that they are not building their 'first home' as referenced in *the 'Sustainable Rural Housing, Guidelines for Planning Authorities'*.

9.1.13 Notwithstanding the need for further clarity as regards the applicants' previous places of residency, it is necessary to consider whether their housing need is 'urban' or 'rural' generated. In this regard, it is of particular relevance to note that Ms. Coffey is employed in Killorglin town whilst Mr. Breen would similarly appear to have no particular employment-related reason to reside at the site in question. Accordingly, I am not convinced that a case of genuine rurally generated housing need has been established in this instance with the strongest factor being the fact that both applicants are not employed in the locality, although the absence of any further historical or other family connections to the immediate area would also seem to suggest that the subject proposal is urban-generated.

9.1.14 On balance, whilst I would acknowledge the merits of the case provided by the applicants, on balance, I am inclined to conclude that they have not adequately demonstrated that they satisfy the eligibility criteria set out in the Development Plan or the *'Sustainable Rural Housing, Guidelines for Planning Authorities, 2005'* as regards the construction of a rural dwelling house at the location proposed.

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 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(j) 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.

9.2.2 In a local context, the proposed development site is located along a minor local roadway on the approach to the village of Kilgobnet where it occupies an 'infill' site situated between Kilgobnet National School to the southeast and a private dwelling house to the northwest. The wider site surrounds are predominantly rural and characterised by a gently undulating agricultural landscape.

9.2.3 With regard to the specifics of the actual design of the proposed dwelling house, the submitted proposal involves the construction of a conventionally designed, single storey dwelling house which is generally comparable to the surrounding pattern of residential development.

9.2.4 On balance, whilst I would acknowledge that the proposed development will be visible from the adjacent public road, having regard to the site context, including its infill nature and the site location outside of any visual amenity / high value landscape designation identified in the Development Plan, 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.

9.3 Traffic Implications:

9.3.1 The proposed development will be accessed via a new entrance arrangement onto the adjacent local road to the immediate southwest of the application site and in this respect I am generally satisfied that, given the alignment of the public roadway, adequate sightlines and stopping sight distances are available at this location.

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 300mm of SILT with a gravelly loam overlying 400mm of sandy GRAVEL with a further 2.25m of coarser sandy GRAVEL to the depth of the excavation at 2.95m below ground level. No rock or water ingress were recorded. With regard to the percolation characteristics of the soil a 'T'-value of 32.92 minutes / 25mm was recorded which would constitute a pass in accordance with EPA guidance.

9.4.2 Accordingly, on the basis of the foregoing, and having reviewed the additional supporting documentation supplied by the applicant, it would appear that the subject site is suitable for the proposed installation of a conventional septic tank system discharging to ground, subject to conditions.

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 370m east of the Finglas River which forms part of the Castlemaine Harbour Special Area of Conservation (Site Code: 000343). 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 nearby 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 the location of the site within an “Area Under Strong Urban Influence” as identified in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005 and in a ‘Stronger Rural Area’ where housing is restricted to persons demonstrating local need in accordance with the current Kerry County Development Plan, 2015–2021, it is considered that the applicants have not demonstrated that they come within the scope of the rural-generated 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.

Signed: _____

Robert Speer
Inspectorate

Date: _____