



An
Bord
Pleanála

Inspector's Report PL08.249429

Development	Construction of a dwelling house waste water treatment system and percolation area at
Location	Carhoonahone, Beaufort, Killarney, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	17/121
Applicant(s)	Sharon O'Sullivan
Type of Application	Permission
Planning Authority Decision	Grant subject to Conditions
Type of Appeal	Third Party
Appellant(s)	Padraig O'Sullivan
Observer(s)	n/a
Date of Site Inspection	27 th November 2017
Inspector	Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.28 ha is located in a rural location off a local roadway approx. 4.5km to the south west of Beaufort Village. There are a number of existing dwellings in the surrounding area, including one directly to the rear / west of the appeal site. The site is located in an area zoned Rural General and is designated as a *Stronger Rural Area* in the Kerry County Development Plan 2015 – 21.
- 1.2. A set of photographs of the site and its environs taken during the course of the site inspection is attached. I would also refer the Board to the photographs available to view throughout the appeal file.

2.0 Proposed Development

- 2.1. The application submitted to Kerry County Council on **15th February 2017** was for permission to construct a 3 bed dwelling house (170 sqm), wastewater treatment system and percolation area at Carhoonahone, Beaufort, Killarney, Co Kerry. The application was accompanied by the following
 - Letter from Michael J Healy-Rae T.D. stating that *this is a very genuine case and* he would be grateful if the applicant could be granted permission
 - Letter confirming that the applicant attended Cullina National School, Beaufort in 1997/1998
 - Landscaping proposals
 - Cover letter stating that at a pre-planning meeting with the Council a number of issues were discussed and agreed. This may be summarised as follows:
 - a) Agreed the applicant complied with the Rural Settlement Policy. The site is zoned “Rural General” and therefore the proposal for a private residential dwelling as a primary place of residence on land owned by the applicant’s father since 2011, in the area they grew up, went to school and now works, complies with the zoning objectives for this area.

- b) The site which is quite large will have no negative impact on adjoining properties due to the sites topography, the extensive existing screening, proximity to adjoining properties and design.
- c) The house together with screening has been designed and positioned to minimise the visual impact
- d) The house has been designed having regard to traditional proportions and is in keeping with traditional houses in the area.
- e) In order to provide adequate sight lines the front boundary fence will be removed and set back
 - Site Suitability Assessment recommended a packaged wastewater treatment system and polishing filter to serve the scheme

2.2. In response to a request for further information the applicant submitted the following on **31st July 2017** as summarised:

- Lands in ownership of the applicant or immediate family members
- Revised entrance location from the western boundary of the proposed site to an existing side road that accesses the public road
- Map showing the applicants family homestead
- Special registration map showing the *side road partly within the ownership of the applicant.*

2.3. In response to a letter issued by Kerry County Council on 3rd August 2017 stating that there was an item of **outstanding further information** the applicant submitted the following as summarised on **31st August 2017**:

- Land registry and folio details
- Letter from applicant confirming that the site has not been subject to flooding
- Letter from Geo Environmental together with a drawing showing a separation of 49m between the proposed percolation area and the neighbouring well

2.4. In response to the same letter issued by Kerry County Council on 3rd August 2017 requiring **revised public notices** indicating that significant additional data had been received the applicant submitted revised public notices on **4th September 2017**.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Kerry County Council issued notification of decision to grant permission subject to 15 Conditions. Conditions of note are as follows:

- **Condition No 1** – Development shall be carried out in accordance with the plans and particulars submitted on 15th February 2017, 31st July 2017 and 31st August 2017.
- **Condition No 4** – The dwelling shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or her heirs and shall remain so occupied for a period of seven years.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The **Case Planner** in their first report of **10th April 2017** requested the following further information as summarised:

- Land registry maps and folio details of all lands under the ownership or control of the applicant or immediate members of the applicants family
- Revised site location map indicating the location of the existing family home in relation to the proposed site
- Legal rights agreements to achieve 80m sight distance to the south east
- The request also included the information requested by Environment Section in their report of 11th April 2017 (see below)

3.2.3. Kerry County Council requested **further information**, as set out in the Case Planners Report, on **11th April 2017**. It is noted that the request did not include the requirements of the Environment Section as set out in their report of 11th April 2017

3.2.4. Kerry County Council issued a letter dated **3rd August 2017** states that the further information response did not constitute a complete response. Specifically that the lands registry maps and folio details as per item 1 of the further information request had been omitted. In addition the Planning Authority considered the information

received to contain significant additional data and requested revised public notices setting out same.

3.2.5. The **Case Planner** in their second report of **27th September 2017** and having considered the further information submitted stated that visual impact; amended access via an existing access roadway; effluent disposal; surface water disposal; residential amenity and occupancy / intrinsic links was not an issue. The Planner recommended that permission be granted subject to conditions. The notification of decision issued by Kerry county Council reflects this recommendation.

3.2.6. Other Technical Reports

3.2.7. The **Environment Section** in their first report of 11th April 2017 requested further information summarised as follows:

- Drawings to a suitable scale showing the location of the well relative to the proposed wastewater treatment system
- Certificate from a suitably qualified person confirming that the location of the proposed waste water treatment system relative to the well in question is fully compliant with the relevant separation distance as set out in the EPA Code of Practise.
- Site assessor to confirm that all relevant features, including open drainage channels etc, have been identified in the site characterisation process and that the required separation distances as set out in the EPS Code of Practise can be achieved in all instances.
- Confirmation the site has not previously been subject to flooding

3.2.8. The **Environment Section** in their second report of **27th September 2017** and having considered the further information submitted set out the following as summarised:

1. Water supply will be by means of mains connection
2. The polishing file has been relocated in order to maximise the separation distances available
3. Based on the information available there is no objection to a grant of permission subject to several conditions set out in the report relating to the following:

1. The effluent treatment unit shall be installed operated and maintained in accordance with the EPA Code of Practise Wastewater Treatment and Disposal Systems Serving Single Houses
2. A copy of insurance certificate to be submitted confirming that a qualified person installed and commissioned the proposed effluent treatment system
3. Maintenance / service contract shall be maintained in perpetuity

3.3. **Prescribed Bodies**

- 3.3.1. **Irish Water** in their report of 9th March 2017 has no stated objection to the scheme.

3.4. **Third Party Observations**

- 3.4.1. In response to the application being first received by Kerry County Council there are five observations recorded on the planning file from (1) Reeks Consulting Engineers, Civil & Structural Engineers on behalf of **John Paul Cronin**, Carhoonahone, Beaufort, (2) Reeks Consulting Engineers, Civil & Structural Engineers on behalf of **Padraig O'Sullivan** (owner of dwelling immediately to the south / rear of the site), (3) Reeks Consulting Engineers, Civil & Structural Engineers on behalf of **Jeremiah & David O'Sullivan**, Carhoonahone, Beaufort, (4) Reeks Consulting Engineers, Civil & Structural Engineers on behalf of **Patrick O'Sullivan** and (5) Reeks Consulting Engineers, Civil & Structural Engineers on behalf of **John O'Connor**, Carhoonahone, Beaufort. The issues raised relate to the rural settlement policy, ribbon development, design, revision of adequate sight lines, site flooding, the location of existing well, waste water treatment, architectural heritage and conservation.
- 3.4.2. The observation from **John O'Connor**, Carhoonahone, Beaufort, notes that the proposed application clearly shows the entire front boundary of the site to the east being fully set back to achieve sight lines. It is stated that John O'Connor is the owner of these lands and that he has not given consent or permission for the front boundary of his site to be demolished and set back.
- 3.4.3. In response to the **further information and revised public notices** there are four further observations recorded on the planning file from (1) Reeks Consulting

Engineers, Civil & Structural Engineers on behalf of **John Paul Cronin**, Carhoonahone, Beaufort, (2) Reeks Consulting Engineers, Civil & Structural Engineers on behalf of **Padraig O'Sullivan** (owner of dwelling immediately to the south / rear of the site), (3) Reeks Consulting Engineers, Civil & Structural Engineers on behalf of **Patrick O'Sullivan** and (4) Reeks Consulting Engineers, Civil & Structural Engineers on behalf of **Jeremiah & David O'Sullivan**, Carhoonahone, Beaufort. All four submissions are similar to each other and to the third party appeal in this case; see below. The issues of concern relate to the piecemeal submission of further information, conflicting proposed entrances to the site, compliance with the Rural Settlement Policy and the Rural Design Guidelines for the area, adequate provision of sight lines, sufficient legal interest to carry out development works, loss of mature trees, flooding, location of exiting well in relation to the proposed polishing filter, impact to the architectural heritage of the area, inadequate landscaping proposals and loss of residential amenities.

- 3.4.4. Each submission was accompanied by copies of letters from 10 neighbours stating that access to the site was always directly from / onto the public road via an entrance to the north east of the site and that the applicant or their family have never used the private roadway. It is reiterate that Padraig O'Sullivan (owner of dwelling immediately to the south / rear of the site) has not given consent to the applicant to locate the entrance on the private roadway.

4.0 **Planning History**

- 4.1.1. There is no evidence of any previous planning application or subsequent appeal at this location.

5.0 **Policy Context**

5.1. **Development Plan**

- 5.1.1. The operative plan for the area is the **Kerry County Development Plan 2015 – 2021**. The proposed development is located in an area zoned **Rural General** and is also located in an area designated as **Stronger Rural Area**. Chapter 3, Section 3.3 sets out Rural Development Policies. Objectives RS-1 to RS-6 constitutes the

overall objectives relating to Rural Housing Policy. Table 3.7 states that in areas zoned Rural General, any development permitted shall be for the use as a permanent primary place of residence. Policy relating to areas zoned Rural General in Section 12.3.1 Rural (c) states that *“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”*. Policy ZL-1 states that it is policy to *protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to people’s lives*. Chapter 12 deals specifically with Zoning and Landscape. Policies RS-10 and RS-11 relate to development in Stronger Rural Areas.

- 5.1.2. The **Sustainable Rural Housing - Guidelines for Planning Authorities 2005** states inter alia that where the *“applicant comes within the development plan definition of need”, people who have roots in or links to rural areas, and are part of and contribute to the rural community planning permission will be permitted subject to an occupancy condition, provided they meet the normal requirements in relation to matters such as road safety, proper disposal of waste water and satisfy the “normal planning considerations relating to siting and design”*.

5.2. Natural Heritage Designations

- 5.2.1. The site is not located within a designated Natura 2000 site. The nearest Natura Site is the Castlemaine Harbour SAC (Site Code 000343) to the west and the Killarney National Park, Macgillicuddy's Reeks and Caragh River Catchment SAC (Site Code 000365) and the Killarney National Park SPA (Site Code 004035) to the east.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The third party appeal together with site photos has been prepared and submitted by Reeks consulting Engineers, Civil & Structural Engineers on behalf of Pdraig O’Sullivan, Carhoonahone, Beaufort (owner of dwelling immediately to the west / rear of the site) and may be summarised as follows:

- **Further Information** – The further information was submitted in a piece meal fashion with part submitted on 31st July 2017 and additional information submitted on the 4th September 2017. This is not in accordance with the Planning Guidelines. Further the drawings submitted are misleading as two separate site plans have been submitted. One is a wastewater layout and one is a site layout plan. One shows the entrance onto the public roadway and one shows it on to the private roadway.
- **Rural Settlement Policy** – No details have been submitted in relation to the applicant's home dwelling or any other land holding in the area. Submitted that the site is in excess of 3km away from the applicant's family home and that there are additional lands in the family landholdings. Concern is raised that the site will be put up for sale as it was previously advertised for sale in the last number of years.
- **Ribbon development & Rural Design Guidelines** – The proposed development is not in keeping with the Kerry County Council Rural Design Guidelines. The development is a form of ribbon development that will not integrate into the existing site and landscape by reason of design, massing, proportions and large footprint.
- **Sight Lines & Roadway** – Serious concerns raised in relation to the proposed entrance on an already heavily trafficked, narrow and dangerous roadway. Noted that 80m sightlines have been indicated in both directions and the site layout show road width varying from approximately 4m to 6m. Submitted that the road width is only 3.6m to the west and 4.6m to the east and that the requirements of at least 120m sight lines in both directions cannot be achieved. Applicant proposing to remove the majority of the road side boundary of the adjoining lands to the east however no details of the consent / permission in relation to the removal of the road side boundary have been submitted. Stated that even if the applicant were to use the existing private access road the sight distance would be less than 80m.
- **Ownership** - This access road is solely owned by Pdraig O'Sullivan who did not give consent to the applicant to locate the entrance on the private roadway and there has never been any entrance to the proposed site on this private roadway. Further Kerry County Council did not clarify the applicant

right to use the existing private access road. Road safety has been overlooked by Kerry County Council in this proposal.

- **Existing Mature Trees** – The proposed entrance and setting back of the roadside boundary is going to result in removal of a number of mature and native Irish Oak and Ash trees from the various boundaries. This will have a serious negative impact on the area and result in scarring of the landscape.
- **Flooding** – The site has previously flooded on a number of occasions in the past and therefore unsuitable for development. No reference has been made to this flooding issue in the application form or site characterisation report.
- **Existing Well** – There is an existing well on the adjoining lands to the west that is an important source of water and should be protected. A separation distance of 40m cannot be achieved between the well and the proposed polishing filter.
- **Site Characterisation Report** – The planning application refers to a percolation area and not the proposed polishing filter, accordingly the application should be invalidated. The existing well to the west of the site together with the open drain along the southern and western boundaries have not been clearly or accurately indicated. The site assessor noted that the subsoil was heavily saturated indicating water ingress or a high seasonal water table / mottling. Further submitted that while the site assessor recorded heavy rain on day of testing the appellant remembers the weather being exceptionally dry when testing was carried out.
- **Architectural Heritage & Conservation** – The house on lands to the south (rear) of the site is steeped in local history and dates from the 1800's. Reference is made to the County Development Plan and Architectural Heritage and Conservation objectives H034, H-44 and H45. The proposed development will have a negative impact on the architectural heritage of this building. There is no report on the planning file or in the planners report in relation to Heritage.
- **Landscaping** – The landscaping plan has not been prepared by a suitably qualified horticulturist. A tree survey should have been carried out. The proposed planning will have a negative effect on the existing dwelling and should not have been permitted.

- **Residential Amenities etc** – Loss of residential amenity, overlooking and property values were raised by the planning authority at the pre-planning stage and these issues remain.

6.2. Applicant Response

6.2.1. The first party response to the appeal has been prepared and submitted by Hickey Design & Associates on behalf of the applicant and may be summarised as follows:

- The site previously had a house dating back to 1841. The access road, that is partially in the ownership of the applicant's father, allowed access to this house. The access road serves the existing house to the south / rear of the site for over 170 years.
- The scheme involves the removal of the existing front public road boundary sod and stone fence and replacing it in a setback location in order to further enhance the sight visibility when entering and existing the site via the existing access road.
- The applicant's mother who was born and reared on the farm from which the site was extracted states that they never witnessed any flooding of the site. The site has not been identified as at risk of flooding on the flood risk maps.
- Regarding the applicants need to live in the area it is submitted that extensive pre-planning discussions were held with the Planning Authority and that it was agreed that the applicants complied with the rural settlement policy for the area.
- Letter from the applicants father Patrick O'Sullivan stating that the applicant is a 31 year old single mother whose daughter attends the local national school in Cullina; the site was purchased in 2001 from the applicants uncle and was part of an adjoining farm, the applicant works locally and lives at home and this is the only viable and affordable option open to the applicant.

6.3. Planning Authority Response

6.3.1. There is no response from Kerry County Council recorded on the appeal file.

6.4. Observations

6.4.1. There are no observations recorded on the appeal file.

6.5. Further Responses

6.5.1. There are no further responses recorded on the appeal file.

7.0 Assessment

7.1.1. I note the concerns raised by the appellant regarding the piecemeal submission of further information and the nature and details of the plans submitted. It is not for An Bord Pleanála in this instance to determine whether the application was in breach of the Planning and Development Regulations 2001.

7.1.2. The application submitted to Kerry County Council on **15th February 2017** was for the construction of a single storey 3 bed dwelling house and wastewater treatment plant with a new access from the adjoining public road to the east. In response to a request for further information the applicant submitted amended proposals on **31st July 2017** relocating the proposed entrance to an existing side road along the northern boundary and proximate to the junction with the public road to the east. Further outstanding information was submitted on **31st August 2017** relocating the proposed wastewater treatment plant and percolation area closer to the southern boundary. The plans also indicate the relation of the proposed entrance back to the original position along the eastern boundary with the public road. Revised public notices were submitted on **4th September 2017**. Accordingly, this assessment is based on the plans and details submitted on 15th February 2017 amended on 31st July 2017, 31st August 2017 and 4th September 2017.

7.1.3. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key issues relating to the assessment of the appeal are:

- Principle / Policy Consideration
- Visual Impact
- Traffic Impact
- Drainage

- Appropriate Assessment
- Development Contributions

8.0 Principle / Policy Consideration

- 8.1. This is an application for single one off house and treatment system in a rural area of Co Kerry. Map 3.1 of the Kerry County Development Plan 2015 - 2021 indicates that the site in question is located within an area designated as 'Stronger Rural Area'. It is an objective of the current Development Plan to *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* (Objective RS-10 refers). Therefore the application must be assessed accordingly.
- 8.2. The cover letter accompanying the planning application states that the proposal is for a private residential dwelling to be used as the primary place of residence for the applicant and that the land has been owned by the applicant's father since 2011. It is further stated that the site is in the area where the applicant grew up, where they went to school and where they now work.
- 8.3. In response to the third party appeal where concerns were raised that the appeal site is in excess of 3km away from the applicant's family home, that there are additional lands in the family landholdings and that the site may be put up for sale in the future, the applicant stated that extensive pre-planning discussions were held with the Planning Authority where it was agreed that the applicant complied with the rural settlement policy for the area. Further a letter from the applicants father, Patrick O'Sullivan was submitted in response to the appeal stating that the applicant is a 31 year old single mother whose daughter attends the local national school in Cullina; that the site was purchased in 2001 from the applicants uncle and was part of an adjoining farm, the applicant works locally and lives at home and this is the only viable and affordable option open to the applicant to build their own house.
- 8.4. On the basis of the available information, it is evident that the applicant has spent a substantial period of their life living in this rural area and is building their first home. I am satisfied that the applicant has demonstrated an intrinsic link to the area and

satisfies the relevant eligibility criteria set out in Development Plan as regards the development of a rural dwelling house in this Stronger Rural Area.

- 8.5. Notwithstanding the foregoing I would draw the Boards attention to Section 3.3.2.3 of the Development Plan that states that subject to the provisions of Sections 3.3.4 and 3.3.5 *all residential development in rural areas will be for the use as a primary permanent place of residence and that in addition it shall be subject to the inclusion of an occupancy clause for a period of 7 years.* It is therefore recommended that should the Board be minded to grant permission that a condition be attached requiring that when the proposed dwelling is completed it shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter.

9.0 Visual Impact

- 9.1. As set out previously the proposed development is located in an area zoned Rural General which is covered by Section 3.3.2.1 of the current Development Plan. Policy ZL-1 of the Plan states that it is policy to protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to people's lives. According to the Plan 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. Further the appeal site is under no special protection, neither "Prime Special Amenity", "Secondary Special Amenity" nor "Protected Views and Prospects" as outlined in Zoning and Landscape Map 12.1a of the County Development Plan (2015-2021).

10.0 Heritage Impact

- 10.1. While the appeal site has not been afforded any particular sensitive landscape protection in the current Development Plan the existing dwelling house to the rear is, in my view, of particular vernacular architectural merit. The appellant states that the house on lands to the west (rear) of the site is steeped in local history and dates from the 1800's. Section 11.4 Architectural Heritage of the Development Plan states

that Kerry has a rich architectural heritage which not only comprises buildings of national importance but also more modest structures such as thatched dwellings and farm outbuildings reflecting the development of the County through the ages, linking the past to the present and maintaining an intrinsic aspect of the County's cultural identity. I agree with the Development Plan that the wide variety of building types contributes to the special character of the County that should be treated as an asset that is positively conserved and enhanced.

10.2. While the older house to the rear of the appeal site has clearly been modified with the removal of the thatch and its replacement with galvanise roofing it remains that the dwelling and outbuildings are traditional in their design, layout and setting and that the more recent interventions in the built fabric are minimal, appropriate and respectful. In addition I am of the view that the appeal site, comprising an open field with sod and stone boundary contributes to the visual setting of this vernacular cottage. While the proposed dwelling, the subject of this appeal, in its design has had regard to the requirements of the Development Plan it is architecturally unsympathetic to its context and in particular the traditional cottage to the rear of the site. The proposed development by reason of location and design will detract from the form and setting of the existing vernacular dwelling and that to permit to the proposed house at this location would result in a significant negative impact on the special architectural character and heritage of the area. Refusal is recommended.

11.0 Traffic Impact

11.1. As mention previously the application submitted to Kerry County Council on 15th February 2017 proposed a new access point from the adjoining public road to the east. In the further information submitted on 31st July 2017 the proposed entrance was relocated to an existing side road along the northern boundary and proximate to the junction with the public road to the east. On further plans and details submitted on 31st August the access point appears to have been relocated back to the original position along the eastern boundary with the public road. In the applicants response to the appeal it is indicated that access will be provided *via the existing road access*. Accordingly this assessment is based on the proposed access being provided onto the existing side road along the northern boundary and proximate to the junction with the public road to the east.

- 11.2. Given the location of the appeal site together with the layout of the proposed scheme I am satisfied that the vehicular movements generated by the scheme would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements in the immediate area subject to the proposed roadside boundary works to improve visibility to the south. However the roadside works proposed raise concerns in terms of visual impact.
- 11.3. Notwithstanding the foregoing I consider that the proposed extensive removal of the sod and stone roadside boundary in a southerly direction in order to adequately facilitate safe access / egress from the junction of the private road way onto the public road to be excessive and would result in a high impact development at this sensitive rural location. I consider that such works would interfere with the character of the landscape, which is necessary to preserve, in accordance with Objective ZL-1 of the Kerry County Development Plan 2015 – 2021. Refusal is recommended.
- 11.4. With regard to concerns raised pertaining to consent for the provision of a new access point onto the adjoining “private roadway” I would point out that the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land. These are ultimately matters for resolution in the Courts. In this regard, it should be noted that, Section 34(13) of the Planning Act (as amended) states that a person is not be entitled solely by reason of a permission to carry out any development. Should planning permission be granted and should the appellants or any other party consider that the planning permission granted by the Board cannot be implemented because of landownership or title issue, then Section 34 (13) of the Planning and Development Act 2000 is relevant.

12.0 **Waste Water Treatment**

- 12.1. The development will be served by a wastewater treatment system. I have noted the contents of the Site Characterisation Form and details of proposed wastewater treatment system submitted and as amended. The proposed arrangements, as amended, are considered acceptable subject to compliance with the requirements of the planning authority and the EPA guidelines. On the basis of the information available on file, it would appear that the subject site is suitable for the installation of

the packaged wastewater treatment system and polishing filter as proposed subject to conditions.

13.0 Appropriate Assessment

13.1. From a review of the National Parks and Wildlife Service Map Viewer, it is apparent that whilst the proposed development site is not located within any Natura 2000 designation it is situated proximate to the Castlemaine Harbour SAC (Site Code 000343), the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC (Site Code 000365) and the Killarney National Park SPA (Site Code 004035).

13.2. 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, having regard to the nature and scale of the proposed development, nature of the receiving environment and proximity to the nearest European site, 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.

14.0 Development Contributions

14.1. Kerry County Council has adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended). The proposed development does not fall under the exemptions listed in the "Exemptions from the Payment of Development Contributions" Section of the scheme and it is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

15.0 Recommendation

15.1. Having considered the contents of the application (as amended), the provision of the Kerry County Development Plan 2015 – 2021, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **REFUSED** for the reasons and considerations set out below.

16.0 Reasons and Considerations

1. The appeal site adjoins a small complex of traditional buildings comprising an inhabited dwelling house and associated farm buildings of noted vernacular architectural merit and local interest. The proposed dwelling, is unsympathetic to its context by reason of its design and location. To permit such a development would be unduly visually obtrusive and would detract from the form and setting of the existing vernacular resulting in a high impact development that would militate against the preservation of the architectural heritage of the area. To permit the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed extensive removal of the existing sod and stone roadside boundary in a southerly direction, would be unduly obtrusive by virtue of its visual impact on the landscape and would interfere with the character of the landscape, which is necessary to preserve, in accordance with Objective ZL-1 of the Kerry County Development Plan 2015 – 2021. To permit the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Mary Crowley

Senior Planning Inspector

19th February 2018