



An  
Bord  
Pleanála

## Inspector's Report ABP-300286-17

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<b>Development</b>	Installation of a proprietary waste water treatment system
<b>Location</b>	Laharan, Killorglin, County Kerry
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	17/751
<b>Applicant(s)</b>	John Martin & Deirdre Naughton
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Martin Clifford
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	23 <sup>rd</sup> February, 2018
<b>Inspector</b>	Kevin Moore

## **1.0 Site Location and Description**

1.1. The site of the proposed development is located approximately 1.5km west of the town centre of Killorglin in County Kerry with frontage onto a minor local road just off the N70 National Secondary Road. There is a newly constructed single storey dwelling nearing completion on the site. The location for the proposed waste water treatment system would be in the front garden area of the existing house. There is extensive one-off housing in the immediate vicinity.

## **2.0 Proposed Development**

2.1. The proposed development would comprise the installation of a proprietary waste water treatment system and ancillary site works to serve a dwelling. Details submitted with the application included a completed site characterisation form.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 31<sup>st</sup> October, 2017, Kerry County Council decided to grant permission for the development subject to two conditions.

### **3.2. Planning Authority Reports**

#### **3.2.1. Technical Reports**

The Roads Design Engineer submitted that the application is not affected by any national road project.

The first report from the Environment Section noted the applicants were granted permission for a public sewer connection for their development under P.A. Ref. 15/935 and sought clarification.

### 3.3. Prescribed Bodies

Transport Infrastructure Ireland stated that it had no observations to make.

### 3.4. Third Party Observations

An objection to the proposal was received from Martin Clifford. The grounds of the appeal reflect the concerns raised.

3.5 A request for further information as sought by the planning authority on 22<sup>nd</sup> September, 2017, seeking information as to why the applicants now propose to install a waste water treatment system in lieu of a permitted connection to the public sewer network. A response to this request was received by the planning authority on 4<sup>th</sup> October, 2017, which referred to the cost of the public sewer connection and the site assessment that had been undertaken.

3.6 Following this submission, the reports to the planning authority were as follows:

- The Environment Section undertook a desktop assessment of the proposal and concluded that a positive recommendation was appropriate.
- The Planner noted development plan provisions, reports received and the objection made. It was submitted that the issue of any agreement between the objector and the applicants was a civil matter. A grant of permission was recommended.

## 4.0 Planning History

P.A. Ref. 15/935

Permission was granted for the demolition of a dwelling and construction of a new dwelling. The new dwelling was to be served by a mains sewer.

## 5.0 Policy Context

### 5.1. Kerry County Development Plan 2015-2021

It is noted that the site of the proposed development is outside of the development envelope of the Killorglin Local Area Plan.

#### Development Management

##### *Development Standards/General*

On Sanitary Services, the Plan states:

Where public services are available (or likely to be), development will be required to be connected to these services. Pumping of effluent to the public sewer will generally not be permitted.

##### *Residential Development in Rural and Non-Serviced Sites*

The Plan states:

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.

Treatment systems shall be designed, installed and maintained in accordance with the Environmental Protection Agency Code of Practice "*Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. < 10)*", (2009) or any amending or replacement Code of Practice, standard or legislation.

Only one dwelling unit shall be connected to a single septic tank. 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.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of the appeal may be summarised as follows:

- The applicant was granted permission for a house at the site provided it was connected to the public sewer at Laharn.
- The appellant permitted the applicant to carry out works necessary to connect to the sewer. The appellant was at all times assured there was no issue in connecting to the sewer. All works were arranged by the applicant who has now changed his mind.
- The property is not suitable for the treatment system. Wells had to be drained before the building of the house. All grounds around and underneath the house had to be raised. There would not be good soakage. All water will have to flow to a main drain beside the road and this will cause serious pollution.
- The applicant is in the process of building a wall and drains around the outside of the house to stop the water from the existing wells. This is not a solution to a well rising in the property.

Photographs are attached with the appeal submission.

### 6.2. Applicant Response

The applicants' response to the appeal may be summarised as follows:

- It is refuted that there is any breach of the sale conditions of the site.
- The applicants' Engineer has confirmed the site as being very suitable for the proposed development. His observations and results have been assessed and ratified by the Site Assessment Unit of the planning authority.
- Costs to establish a connection to the public sewer are queried. The applicants only became aware of the prohibitive cost of connection to the public sewer after planning permission was granted, with the length of pipework required being at least 240 metres.

- It is noted that the nearest properties to the site are not connected to the public sewer.
- The proposal is robust and more than achieves minimum standards.

The response includes a letter from the applicant's Engineer who undertook the site characterisation assessment and which included his considerations on the assessment and the planning authority's conclusions.

### 6.3. **Planning Authority Response**

I have no record of any response to the appeal from the planning authority.

## 7.0 **Assessment**

- 7.1. I consider that there are two matters requiring consideration in the assessment of the proposed development, namely connectivity to the public sewerage system and the suitability of the site to accommodate a private waste water treatment system.
- 7.2. Regarding the former, I note that permission was granted for the house on this site under Planning Permission 15/935 subject to the development being serviced by the public sewerage system. The applicant provided details on how it was intended to connect to the sewer and permission was issued, with the applicant having been satisfied, and having satisfied the planning authority, that connection to the public system was viable. I note the very large house that has been, and is being, developed on this site. There can be no acceptance that connectivity to the public sewerage system is prohibitive based on financial grounds and, as the Board will note, this is not a valid planning reason for failing to meet with the requirements of the previously permitted development. Further to this, I submit to the Board that connectivity to the public sewerage system would be a very significant issue in considering whether or not permission for a house should issue at this location. This is an area on the edge of Killorglin where suburban sprawl has been allowed to develop. One would seriously question the environmental sustainability of a continued proliferation of private effluent treatment systems at this location. The serviceability of the house by the public sewerage system would be a very important factor in determining the environmental acceptability of a house at this location.

7.3. The second issue is equally important in environmental and planning terms. It is proposed to provide a private effluent treatment system on an elevated site at a location that falls toward the public roadway on wholly unsatisfactory ground when consideration is given to the soil conditions and drainage characteristics of this site. This site has undergone very extensive alteration to attempt to address the natural drainage of this land. Water has been diverted around the house to the front, rear and along both flanks. There is no understanding of the extent of natural drainage impacts at the location of the house itself and the provisions and alterations that have been made. Suffice to indicate at this time that the drainage of this land raises very great concerns for the suitability of this site to accommodate the disposal of effluent to ground on this site. I also acknowledge that the applicants did not refute the appellant's reference to the need for extensive drainage of this site to allow the house to be constructed, the raising of the finished floor level of the house, and the construction of walls to divert water. Further to these concerns, I note the stockpiling of soils at present at the location of the proposed effluent treatment system to the front of the house. While it is difficult to ascertain the natural soil conditions at this location due to this stockpiling, there was clear evidence of soft rush, which was a reasonable indicator of poor drainage conditions throughout the year at this location. While I acknowledge the findings in the applicants' completed site characterisation form and the report of the planning authority's Site Assessment Unit (which the Board will note was a desktop assessment), it is my forthright submission to the Board that this site is not suitable for the disposal of effluent via a package waste water treatment system and polishing filter. The proposal constitutes a significant pollution threat due to the soil and drainage characteristics of this site.

## 8.0 Recommendation

8.1. I recommend that permission is refused for the following reasons and considerations.

## 9.0 Reasons and Considerations

1. It is considered that the proposed connectivity of the permitted house on this site to the public sewerage system is an integral component of the sustainability of the development of a house at this location on the edge of the

town of Killorglin. Having regard to the available connectivity of the development on the site to the Killorglin public sewerage system, it is considered that the provision of a private effluent treatment system to serve the needs of the permitted house is unnecessary, would contribute to the further proliferation of private effluent treatment systems at this edge of town location, and would, thereby, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the poor soil characteristics of the site, the location of the proposed wastewater treatment system at an elevated location in close proximity to the adjoining public road, and the natural drainage characteristics of the land, it is considered that, notwithstanding the proposed use of a proprietary effluent treatment system and the extensive system of on-site drains to divert water within and bounding the site, the proposed development would constitute an unacceptable risk of pollution and would be prejudicial to public health.

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Kevin Moore  
Senior Planning Inspector

8<sup>th</sup> March 2018