



An
Bord
Pleanála

Inspector's Report ABP-309592-21

Development	To construct a dwelling house with a waste water treatment unit, puraflo modules and polishing filter including all necessary site works.
Location	Minard East, Annascaul, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	20/1170
Applicant(s)	Cian & Michelle O'Sullivan
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party -v- Decision
Appellant(s)	Cian & Michelle O'Sullivan
Observer(s)	None
Date of Site Inspection	30 th April 2021
Inspector	Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located 5km to the south-west of Anascaul and 3.7km to the south-east of Lispole. The N86 runs between these two settlements and the site is accessed off the local road network to the south of this national secondary road. The local road, which passes, at a short remove, to the north-east of the site forms part of the Dingle Way walking route. The site lies in rolling countryside close to the coastline. Minard Castle and Beach lie to the east of this site, along with the headland known as Acre's Point and an accompanying shapely hill.
- 1.2. The site itself is of rectangular shape and it extends over an area of 0.303 hectares. This site occupies the north-western corner of its host field and it is accessed off a local road via a farm gate in this corner. Its northern and western boundaries are defined on the ground by hedgerows/timber post and wire fencing. The site is subject to gentle downward gradients generally from the west to the east.
- 1.3. The curtilage of an existing one-and-a-half storey dwelling house abuts the site to the north and two single storey dwelling houses lie on the opposite side of the local road from this site. Elsewhere, the surrounding countryside is punctuated by dwelling houses and farmsteads.

2.0 Proposed Development

- 2.1. The proposed dwelling house would be of single storey form with a first floor in its roofspace. This dwelling house would provide two-bed/four-person accommodation over a floorspace of 265 sqm. Its first floor would include a mezzanine and two large storage rooms.
- 2.2. The dwelling house would be sited centrally in the northern half of the site. The main body of this dwelling house would be of rectangular form under a double pitched roof with its principal elevations facing north/south. Subsidiary gabled elements would project to the front and to the rear. The roof would display a series of rooflights. Different planes within the elevations would be, variously, rendered and stone faced.
- 2.3. The dwelling house would be served by the existing access point from the local road to the west of the site. A driveway would lap round the dwelling house, apart from on its eastern side where a screen mound would be formed. Existing hedgerows would

be retained, and new tree planting would be introduced along the southern boundary along with a sod and stone fence.

- 2.4. The dwelling house would also be served by the public water mains, soakaways, and a packaged waste water treatment system and polishing filter, which would be laid out towards the south-western corner of the site.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was refused for the following reason:

The proposed development, which is located in an area designated as Secondary Special Amenity in the Kerry County Development Plan 2015 – 2021, would seriously injure the visual and scenic amenities of the area and would interfere with the natural beauty of the area, as it would constitute a highly visible and obtrusive feature in the landscape, which is necessary to preserve, in accordance with Objective ZL-1 of the Kerry County Development Plan 2015 – 2021. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Notwithstanding the lowering of the proposed ground floor finished level by 1m in comparison with its predecessors, the proposal was refused for the reason cited above.

3.2.2. Other Technical Reports

- Irish Water: Standard notes.
- Kerry County Council:
 - Biodiversity: No significant effects on the SPA identified.
 - Water Services: See Irish Water.
 - Environment – Site Assessment Unit: No objection, subject to conditions.

4.0 Planning History

- 19/647: Similar proposal to current one: Withdrawn.
- Pre-planning consultation: Two potential sites around Cian's family home discussed.
- 20/545: Similar proposal to current one: Refused: First reason is the same as the reason for the Planning Authority's refusal of the current proposal, and second reason related to concerns over whether, given soil conditions, effluent could be adequately disposed of.

5.0 Policy and Context

5.1. Development Plan

Under the Kerry County Development Plan 2015 – 2021 (CDP), the site is shown as lying within a Stronger Rural Area and in a Rural Secondary Special Amenity Zone. Objective RS-10 states:

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.

Section 3.3.2.2 addresses Secondary Special Amenity Zones: It states that the following provisions shall apply:

- *Individual residential home units shall be designed sympathetically to the landscape and the existing structures and shall be sited so as not to have an adverse impact on the character of the landscape or natural environment.*
- *Any proposal must be designed and sited so as to ensure that it is not unduly obtrusive. The onus is therefore on the applicant to avoid obtrusive locations. Existing site features including trees and hedgerows should be retained to screen the development.*
- *Any proposal will be subject to the Development Management requirements set out in this Plan in relation to design, site size, drainage, etc.*

Table 3.7 addresses Secondary Special Amenity Zoning Settlement Policy as follows:

- *Sons and Daughters of the traditional landowner, or a favoured niece or nephew, the land having been in the ownership of the family for in excess of 10 years while being the location of the principal family residence, or*
- *The applicant shall demonstrate a genuine rural employment need, or*
- *The applicant's family shall have lived in the immediate locality prior to Jan 2003 with the applicant having been reared in the locality.*

The CDP highlights that “Where there is an overlap between the Rural Area Types and the Amenity Areas, the policies relating to the Amenity Areas shall take precedence.”

5.2. National Planning Framework and national planning guidelines

- National Planning Framework

NPO 19 states:

Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- *In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;*
- *In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.*

- Sustainable Rural Housing Guidelines

5.3. Natural Heritage Designations

Dingle Peninsula SPA (004153)

6.0 The Appeal

6.1. Grounds of Appeal

The applicants begin by providing an overview of the proposal, a description of the site, a summary of the site's planning history, and a citation of relevant national and County planning policies/objectives. They then proceed to set out the following grounds of appeal:

- Cian is from the locality and he works full-time in farming. He, therefore, has a rural generated housing need, as defined by the Sustainable Rural Housing Guidelines and the CDP.
- While the site lies in a Stronger Rural Area, it also lies in a Rural Special Secondary Amenity Zone. Where a conflict arises between these two designations and their outworking the latter takes precedence over the former.
- Cian's farm lies entirely within the said Zone and suitable alternative sites within it would be visually more sensitive than the selected site.
- The Zone does not preclude dwelling houses, providing the following principles are adhered to:
 - The proposal shall be sited as close as possible to the existing farm structure or family home,
 - Its design shall be sympathetic to existing structures and the character of the landscape,
 - Existing trees and hedgerows shall be retained on the site,
 - It shall be sited and designed to be unobtrusive, and
 - It shall meet standard Development Management requirements.

The applicants have sought to meet these principles in their proposal.

- As issues of siting and design are central to the assessment of the current proposal, the applicants' landholding needs to be considered with respect to whether a more suitable site for the proposal exists.

- The Planning Authority considers that lands highlighted in yellow would be more suitable than the selected site for the applicants' proposal. However, these lands lie outside their landholding and the owners, Cian's parents, are unwilling to consent to an application being made against them by the current applicants.

Additionally, the said lands may pose challenges with respect to the satisfactory handling of effluent.

Consequently, these lands do not represent an alternative to the subject site.

- Lands highlighted, under Figure 3 of the applicants' submission, in the townland of Acre are prominent and unspoilt, and so they are visually vulnerable.
- Lands highlighted under Figure 4 were examined with respect to their road frontages. The south western frontage is relatively prominent, and it is peppered with springs that would militate against the achievement of satisfactory effluent disposal. The south eastern frontage is lower lying, and so less prominent, but it, too, would pose challenges with respect to effluent disposal, due to a high-water table.
- Lands highlighted under Figure 5 include the subject site. Previous concerns over effluent disposal have been allayed and so visual concerns remain the only outstanding issue. Nevertheless, as the above cited lands would not provide satisfactory alternative sites, a site within these lands remains the applicants only option.
- The following visual considerations arise:
 - The proposed dwelling house would be of modest size and its design would incorporate traditional and modern elements,
 - It would be sited within an existing cluster of dwelling houses with ones on either side and another one opposite it,
 - It would have a finished ground floor level in excess of 500mm lower than its predecessor and it would be accompanied by re-contouring, too, which was not previously proposed,

- Existing hedgerows would be retained and augmented by new sod and stone boundaries planted with indigenous species,
- The said re-contouring would screen the dwelling house from the north east with only its roof being visible,
- With the lower floor level and the said landscaping, the proposed dwelling house would not break the skyline from public vantage points to the east along the local road to Minard Castle, the visually most sensitive route, and
- The proposed dwelling house would be lower than the existing dwelling houses and it would be seen from the east against the backdrop of mature trees and hedgerows.

In the light of these considerations, the critique of the proposal in the Planning authority's reason for refusal is refuted. Instead, this proposal would be consistent with the zoning of the site and it would comply with Objective ZL-1 of the CDP.

6.2. Planning Authority Response

Section 12.2.1 of the CDP states that "permission will not be granted for development which cannot be integrated into its surroundings" in Secondary Amenity Zones. The proposal would fail to integrate into this Zone insofar as:

- It would be sited on seaward side of the local road with good views over the Dingle Bay coastline,
- It would be very prominent from Dingle Way, and
- It would represent an extension of development into a substantially undeveloped scenic rural area, and as such it would set an undesirable precedent.

6.3. Observations

None

6.4. Further Responses

None

7.0 Assessment

7.1. I have reviewed the proposal in the light of the National Planning Framework (NPF), the Sustainable Rural Housing Guidelines, the Kerry County Development Plan 2015 – 2021 (CDP), relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Local rural housing need,
- (ii) Landscape and visual impacts,
- (iii) Residential amenity and access,
- (iv) Water, and
- (v) Appropriate Assessment.

(i) Local rural housing need

7.2. Under the CDP, the site is located in a Stronger Rural Area and in a Rural Secondary Special Amenity Zone. Table 3.7 of the CDP addresses Settlement Policy within this Zone. The applicants have submitted a letter from Cian's father who states that he has "handed over the farm" to him, i.e. the lands highlighted in pink on the accompanying extract from the Land Registry. (These lands include the application site). They have also completed a supplementary information form in which they state that Cian farms the said lands full-time and the proposed dwelling house would be their primary place of residence.

7.3. One of the categories of local rural housing need cited in Table 3.7 is that the applicant has demonstrated a genuine rural employment need. Working full-time as a farmer would qualify in this respect.

7.4. I conclude that the applicant, Cian O'Sullivan, has, as a full-time farmer, a qualifying local rural housing need under the CDP and so he is a candidate for a dwelling house on his farm or in the surrounding rural area.

(ii) Landscape and visual impacts

- 7.5. Under Map 12(1)(i) of the CDP, the site is shown as lying in a Secondary Special Amenity Zone. Lands to the south and to the east are shown as lying within a Primary Special Amenity Zone. Elsewhere, to the north, lands lie outside these Zones. This Map also shows a walking route, the Dingle Way, passing along a laneway to the north-east of the site and, further to the north-east, a stretch of the N86, which is identified as having southerly views and prospects.
- 7.6. Under Section 12.2.1 of the CDP, Prime and Secondary Special Amenity Zones are distinguished insofar as the former are landscapes, “which are very sensitive and have little or no capacity to accommodate development”, while the latter are landscapes, which are sensitive to development and so development “must be designed to minimise the effect on the landscape” by being integrated into it.
- 7.7. The Planning Authority refused the proposal on the grounds that it would constitute a highly visible and obtrusive feature in the landscape, which, in accordance with Objective ZL-1 of the CDP, it is necessary to preserve. Under this Objective, the Planning Authority undertakes to “Protect the landscape of the County as a major economic asset and an invaluable amenity which contributes to the quality of people’s lives.” The natural beauty of the area would be interfered with and its visual and scenic amenities would be seriously injured.
- 7.8. In the applicants’ grounds of appeal, they draw attention to their local rural housing need and to Section 3.3.2.2 of the CDP, the three provisions of which are relevant to proposals for dwelling houses in the Secondary Special Amenity Zone. For ease of reference, these provisions are set out below:
- *Individual residential home units shall be designed sympathetically to the landscape and the existing structures and shall be sited so as not to have an adverse impact on the character of the landscape or natural environment.*
 - *Any proposal must be designed and sited so as to ensure that it is not unduly obtrusive. The onus is therefore on the applicant to avoid obtrusive locations. Existing site features including trees and hedgerows should be retained to screen the development.*
 - *Any proposal will be subject to the Development Management requirements set out in this Plan in relation to design, site size, drainage etc.*

7.9. In the light of the above provisions, the applicants address the question of their site selection process by referring to alternative sites within their landholding. They begin by explaining that the land highlighted in yellow in the submitted extract from the Land Registry is, as stated in a letter from Cian's father, not available to him. *Prima facie* this land, which is near to the applicant's farm yard and outside either the Prime or Secondary Special Amenity Zones, would afford a suitable site. However, it is not under the applicants' control and consent to apply thereon has been withheld. Consequently, this site is not an alternative.

7.10. The applicants discuss three further sites, which are within their landholding.

- Figure 3 depicts lands to the east of the application site, which lie within the Prime Special Amenity Zone and which are prominent and unspoilt and so visually vulnerable.
- Figure 4 depicts lands to the north of the application site, which lie outside either the Prime or Secondary Special Amenity Zones: These lands enjoy road frontage. To the south-west, such frontage is relatively prominent, while, to the south-east, less so. Lands abutting both frontages experience a high-water table and so effluent disposal would be challenging.
- Figure 5 depicts the application site and its host field, which lie in the Secondary Special Amenity Zone. While effluent disposal issues were previously identified on this site, these would be capable of being resolved, as discussed under the fourth heading of my assessment. The outstanding issue is that of the visual impact of the proposed dwelling house.

7.11. During my site visit, I observed the sites depicted under the above cited Figures. I consider that, given the designation and visibility of the Figure 3 lands, they should be excluded from consideration. The Figure 4 lands present as having drainage issues. In this respect, I noted that works have been undertaken to open-up a ditch along the south-western frontage of these lands, presumably with a view to improving drainage. I also noted that it is this frontage that is the more prominent one and it lies alongside the route of the Dingle Way, which presently enjoys views across it to mountains to the north. I, therefore, consider that the applicants have explained why their selection process came down to the Figure 5 lands in which to locate the site of their proposed dwelling house.

7.12. The appellants discuss the visual impact of their proposal. They draw attention to the following factors:

- The site adjoins or it is adjacent to three existing dwelling houses, and so the proposed dwelling house would add to an existing cluster of development.
- The proposed dwelling house would be of modest size and low-rise.
- The proposed dwelling house would be accompanied on its exposed eastern side by a mound.
- Consequently, from public vantage points to the east along the Dingle Way, only the roof of the proposed dwelling house would be seen and this feature would be lower than that of adjacent dwelling houses and below the skyline formed by retained trees and hedgerows.

7.13. The Planning Authority has responded to the applicants' grounds of appeal by drawing attention to the site's position on the seaward side of the adjoining local road to the west of the site and to the fine views that are available "over the farm gate to the site" of the Dingle Bay coastline. During my site visit, I witnessed these attractive views. The proposal would obstruct them. While they are not formally protected, these views are over lands comprised in Prime and Secondary Amenity Areas. If these Areas are to be enjoyed by recreational users, then it is clearly important that views of them be available. In this respect, while I did witness similar views from other viewing points along the local road to the south of the site, these were less obvious, and they entailed looking between trees and over post and wire fences.

7.14. During my site visit, I observed that the site's host field is the subject of gentle downwards gradients in an easterly direction, to the field's eastern boundary with the Dingle Way. This boundary is denoted by means of a mature hedgerow, which affords substantial screening of the field behind it. I also observed the site from the local road that climbs upwards from Minard Beach further to the east. This road, too, forms part of the Dingle Way. Viewing points along it of the site are accurately described by the appellants under the fourth bullet point above.

7.15. Critically, the applicants propose to screen their dwelling house by means of a 3m mound to the east and a sod and stone fence to the south, which would be accompanied by sycamore, ash, holly, and whitethorn. These measures would

impinge upon the views that would be available from this dwelling house and so there would be a tension between their full realisation and retention, in practise, and the amenities available to future occupiers. Regardless of this tension, whether these measures would be successful in ensuring that the dwelling house would integrate with the landscape is the key emerging issue. The mound, in particular, would be visible and locally conspicuous. It would rise to a height of 3m and, while its exposed eastern side would be at a milder gradient than its more discrete western side, it would still present as a man-made feature without precedent within its context. I am, therefore, not persuaded that it would be a convincing form in the landscape that would allow the proposal to be successfully integrated.

- 7.16. The CDP is clear that “Where there is an overlap between the Rural Area Types and the Amenity Areas, the policies relating to the Amenity Areas shall take precedence.” I, therefore, take the view that, notwithstanding the absence of alternative sites for the proposed dwelling house on the applicants’ landholding, the adverse impact of the proposal on the character of the landscape and its visibility within the same warrant objection.
- 7.17. I conclude that the proposal would fail to integrate satisfactorily with the landscape and that this would be apparent from public vantage points. Its landscape and visual impacts would, therefore, contravene the relevant provisions of Section 3.3.2.2 of the CDP.

(iii) Residential amenity and access

- 7.18. The proposed dwelling house would be of single storey form and it would be sited centrally in the northern half of the site. Its design would incorporate gables to each elevation, the use of render and natural stone finishes, and an abundance of habitable room openings in the walls and rooflights in the roof planes. While the dwelling house would provide two-bed/four-person accommodation, it would also have a first floor in the roofspace with two large storage rooms within it. The total floorspace would be 265 sqm, i.e. 191 sqm on the ground floor and 74 sqm on the first floor.
- 7.19. The size and design of the proposed dwelling house would be such that it would afford a satisfactory standard of amenity to future occupiers. The site itself would

extend over an area of 0.303 hectares and so accompanying private open space would be available to future occupiers, too.

- 7.20. The retention of trees and hedgerows along the site's northern and eastern boundaries would safeguard neighbour privacy and lighting at the nearest adjacent dwelling houses. The front elevation of the nearest dwelling house to the west would be 32m away from the presenting side elevation of the proposed dwelling house. This dwelling house is raised in relation to the adjacent road (TBM 52.24m by the access point to the site), while the proposed dwelling house (finished floor level 49.5m) would be lower than this road. These relative heights would ease somewhat the loss of view experienced by the existing dwelling house as a result of the proposed one.
- 7.21. The proposal would entail the reuse of the existing agricultural access as a residential one, presumably with its associated reconfiguration. Details in this respect have not been submitted but could, if the board is minded to grant, be conditioned.
- 7.22. The local road network between the site and the N86 to the north is, in places, of single lane width and variable vertical and horizontal alignment. Nevertheless, the additional traffic generated by the proposal would be capable of being handled by this network and the critical junction between the N86 and the L12104 has recently been improved to afford a good standard of visibility to road users.
- 7.23. I conclude that the proposal would afford a satisfactory standard of amenity to future occupiers and it would be compatible with the residential amenities of existing, adjacent, dwelling houses. No access issues would arise.

(iv) Water

- 7.24. The proposal would be served by a new connection from the public water mains under the adjoining local road. Irish Water has raised no objection in this respect.
- 7.25. The proposal would be served by two soak pits that would handle surface water run-off from hard surfaces. These soak pits would be installed beside the entrance in the north-western corner of the site and towards the south-eastern corner.
- 7.26. The proposal would be served by a waste water treatment system, which would incorporate two puraflo modules on a gravel distribution layer. The applicants have

submitted a completed site characterisation form (SCF): Details contained therein are summarised below:

- The aquifer is locally important and of high vulnerability. The Response Matrix is thus R1.
- The direction of flow of ground water is south-easterly paralleling the fall in the site.
- A stream runs along the eastern boundary of the field, 110m to the east of the site: A depth of 10mm of water was observed by the assessor in this stream on the day of his inspection (19th May 2019).
- The trial hole was dug to a depth of 3m: Water ingress was detected at a depth of 1.5m and traces of iron pan at a depth of 1.75m. (The applicant advises that the host field was cultivated in recent years and that soils to a depth of c. 0.6m would have been disturbed thereby). The initial depth of 0.8m was composed of silt/clay and, thereafter, clay sandy, gravelly cobbles.
- The T-test holes yielded an average result of 56.08 min per 25mm and the P-test holes yielded an average result of 39.28 min per 25mm. Under Table 6.3 of the EPA's relevant Code of Practice (CoP), the latter result indicates that the "site is suitable for a secondary treatment system with polishing filter at ground surface or over ground."
- The assessor comments on the iron pan traces to the effect that it should be broken-up prior to the installation of the WWTS. He outlines the following methodology as to how this could be satisfactorily achieved:

Even though I only found traces of iron pan I am still recommending that the iron pan should be broken prior to installing the modules and gravel distribution layer. This can be done by use of a subsoiler being pulled through the area at a depth of 2m below ground level. If it's done by excavating, the area around the modules and gravel distribution layer proposed location can be excavated to a depth below the level of the iron pan and re-laid. Do not excavate the area directly under the modules and gravel as this could lead to settlement issues in the future.

Significantly, this aspect of the SCF is new, i.e. it did not appear in the previous SCF that accompanied application 20/545.

- 7.27. The applicants propose to install a packaged WWTS for a PE of 6. This WWTS would comprise a Novo IE6 with the effluent being pumped to two puraflo modules on a gravel bed (0.3m in depth). These modules would be sited above the existing ground level towards the south-western corner of the site.
- 7.28. During my site visit, I observed the presence of vegetation consistent with poor drainage conditions. The incidence of this vegetation increased in an easterly direction and so I concur with the applicants proposed siting of the two puraflo modules in the western portion of the site.
- 7.29. The above cited methodology identified by the assessor would entail significant excavation works around the siting of the proposed puraflo modules. He recommends that the ground underneath this siting be left undisturbed and so it would need to be protected during these works. I consider that the works envisaged need, if the Board is minded to grant, to be the subject of a condition, which requires the detailed application of the stated methodology to a site-specific scheme, thereby ensuring that it could be verified.
- 7.30. Under the OPW's flood maps, the site is shown as not being the subject of any identified flood risk.
- 7.31. I conclude that, subject to a site-specific approach to the removal of iron pan traces from the vicinity of the proposed WWTS, the proposal would not raise any insurmountable water issues.

(v) Appropriate Assessment

- 7.32. The site lies within the outer reaches of the Dingle Peninsula SPA (004153). The applicant has not submitted a Stage 1 Screening. Kerry County Council's Biodiversity Officer advised the Planning Authority at the application stage of her screening and she concludes that "I have not identified significant effects on the SPA from the proposed development." At the appeal stage, the Board consulted the Development Applications Unit, the Heritage Council, and An Taisce, flagging in each case that the proposed development might have significant effects in relation to the Dingle Peninsula SPA. No responses have been received.
- 7.33. I consider that the proposal, which would be sited on a site within the Dingle Peninsula SPA, requires to be the subject of Stage 1 Screening. The test for such

screening is as follows: “Is the project likely to have a significant effect individually or in combination with other plans and projects on a European Site(s).

Step 1

- 7.34. The project would entail the construction of a single storey dwelling house, which would be served by an on-site WWTS, the provision of vehicular access facilities and landscaping, which would include the retention of existing hedgerows to the northern and western boundaries, the formation of a mound to the eastern boundary, and indigenous tree planting to the southern boundary.

Step 2

- 7.35. The site lies within the Dingle Peninsula SPA. There are other European sites on the Dingle Peninsula and in Dingle Bay, but I am not aware of any source/pathway/receptor routes between the subject site and these sites.

Step 3

- 7.36. The Qualifying Interests/Special Conservation Interests of the Dingle Peninsula SPA are as follows: Fulmar, Peregrine, and Chough. The Conservation Objective for this SPA is “To maintain or restore the favourable conservation condition of the bird species listed as Special Conservation Interests for this SPA”. The favourable conservation status of a species is achieved when:

- *Population dynamics data on the species concerned indicate that it is maintaining itself on a long-term basis as a viable component of its natural habitats, and*
- *The natural range of the species is neither being reduced nor is likely to be reduced for the foreseeable future, and*
- *There is, and will probably continue to be, a sufficiently large habitat to maintain its populations on a long-term basis.*

Step 4

- 7.37. The proposal would entail development within the Dingle Peninsula SPA and so the habitat of this SPA would be affected and, potentially, its Qualifying Interests.
- The first of these interests, the Fulmar, nests in cliffs and forages at sea.

- The second of these interests, the Peregrine, nests in cliffs and, as a raptor, forages there and inland. The site forms part of the area within which Peregrine forage and over which it commutes.
- The third of these interests, the Chough, nests in cliffs and old buildings and forages on adjoining grasslands.

7.38. Kerry County Council's Biodiversity Officer assessed any effects that the proposal would have upon the qualifying interests. She stated that in the case of the Fulmar there would be no effect and in the case of the Peregrine there would be a negligible effect, due to the small proportion of its area for foraging that would be affected. In the case of the Chough, she stated the following:

Chough within the SPA are associated with coastal sand dune habitats and coastal grasslands with a tight sward...this development is just inside the SPA designation and I believe it is unlikely to affect Chough populations as the site is semi-improved grassland. Also, suitable Chough foraging habitat is abundantly found within the SPA boundaries and extends over an extensive area, specifically along cliffs and sand dune habitat.

7.39. The NPWS's site synopsis discusses Chough at some length. Here is what it says:

The site supports some of the highest densities in Ireland of breeding Chough, a Red Data Book species that is listed on Annex I of the E.U. Birds Directive. The abundance of Chough on the Dingle Peninsula was first noted in the 1800s. When the first modern survey of Chough was undertaken in 1982 the species was seen to be still abundant there. Since then the high importance of the site for Chough has been demonstrated by surveys in 1992 and 2002/03 when 107 and 105 breeding pairs respectively were recorded within the SPA.

The topography of the Dingle Peninsula, with its mosaic of grazed semi-improved and improved pastures, extensive well-drained uplands, and sand dune systems in close proximity to breeding cliffs, favours Chough. Particularly high densities of Chough occur at Reenbeg in the south of the site, The Three Sisters in the north-west and Ballydavid Head in the north. Large post-breeding flocks gather, particularly in the autumn, at the dune systems at Castlegregory and Inch (which is included in an adjacent SPA). Marked individuals have provided evidence that young birds converge in these flocks from throughout the peninsula and it is possible that Chough gather in the dunes here from even further afield. Known roost sites within the SPA include a site on the Magharees Peninsula and a number of inland locations such as the cliffs at Anscaul Lough, Arraglen and Lough Doon. Flocks of up to 80 birds form in the mountains during the summer

months. Studies have shown that Chough forage mainly within 300 m inland of the cliff tops used for breeding and these areas have been included in the site.

- 7.40. In reviewing the commentary of the Biodiversity Officer, I concur with her assessment of the effects of the proposal upon the Fulmar and Peregrine. With respect to the Chough, I note the tension between her view that the loss of the semi-improved grassland of the site would be unlikely to affect Chough populations and the citation in the site synopsis of such grassland as contributing to the habitat that favours Chough. I note, too, that this synopsis states that Chough forage mainly within 300m of cliff tops. The site is c. 300m from the nearest cliffs.
- 7.41. According to the website of the Department of the Environment, Local Government and Heritage, it has commissioned a national survey of Chough around the Irish coastline, to take place from April to July 2021. Thus, up to date information on Chough populations is likely to be available in the near future.
- 7.42. In the light of the above, I consider that the proposal would have direct and indirect effects upon the Dingle Peninsula SPA.
- The former effect would be the permanent loss of 0.303 hectares of semi-improved grassland from the SPA. This grassland may be used by Chough to forage. While it is greater than 300m from nearby cliff tops to the south-east, the grassland in the site is continuous with its host field which would be within this distance.
 - The latter effect would be the environmental impact during the construction and operational phases of the proposal upon the SPA. During the construction phase, this impact would entail noise, vibration, and fumes, from plant and machinery used in earth/construction works. During the operational phase, this impact would entail noise from all-year round human activities and greater illumination from external lighting. During my site visit, I observed that the majority of the existing dwelling houses in the vicinity of the site appeared to be holiday homes and so their occupation could be assumed to be on a seasonal basis.

Step 5

- 7.43. I am not aware of any other projects that could in combination with the currently proposed one give rise to likely significant effects upon the Dingle Peninsula SPA.

Step 6

- 7.44. In the light of my discussion under Step 4, in the absence of best available scientific information on the site, which would normally be presented in a Stage 1 Screening prepared by an ecologist on behalf of the applicant and potentially in a Natura Impact Statement, should one be needed, I am not in a position to determine whether the predicted impacts of the project that I have identified could undermine the conservation objective of the Dingle Peninsula SPA and give rise to significant effects.
- 7.45. I conclude that there is insufficient information before me to complete a Stage 1 Screening of the project. In these circumstances, the Board may wish to request that the applicant submit a Stage 1 Screening of this project under further information and a Natura Impact Statement, should one be needed.

8.0 Recommendation

- 8.1. That permission be refused.

9.0 Reasons and Considerations

1. Having regard to the location of the site within a Secondary Special Amenity Area and the Provisions for such areas set out in Section 3.3.2 of the Kerry County Development Plan 2015 – 2021 and in particular the precedence that is given to these Provisions over other Policies in the Development Plan, the Board considers that the proposed dwelling house would, due to its elevated siting and the size and the atypical form of the landscape mound proposed to screen it, fail to integrate successfully with the existing scenic landscape. Consequently, the landscape and visual impacts of the proposal would adversely affect the character of the Secondary Special Amenity Area and obstruct views of this landscape, thereby eroding its value to recreational users. The proposal would thus contravene the Provisions of Section 3.3.2 of the Development Plan and so it would be contrary to the proper planning and sustainable development of the area.

2. Insufficient information has been submitted with the application and appeal to enable the Board to carry out a Stage 1 screening of the project for the purpose of Appropriate Assessment. Consequently, the Board cannot be satisfied that the proposed development would not be likely to have a significant effect either individually, or in combination with other plans or projects, on European site No. 004153, in view of the Site's Conservation Objective. In such circumstances, the Board is precluded from granting approval/permission.

Hugh D. Morrison
Planning Inspector

17th June 2021