



An
Bord
Pleanála

Inspector's Addendum Report ABP.312812-21

Development	Construction of a dwelling house, private garage, wastewater treatment system and polishing filter
Location	Killoe, Caherciveen, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	20/823
Applicant(s)	Muiris Brennan
Type of Application	Planning permission
Planning Authority Decision	Grant permission s.t. conditions
Type of Appeal	Third Party
Appellant(s)	Michael & Joan O'Shea Denis Lyons
Observer(s)	Brendan O Caoimh
Date of Site Inspection	8 th June 2021
Inspector	Mary Kennelly

1.0 Introduction

- 1.1.1. This report is on foot of a Board Direction of the 19th April 2022 which had requested an Addendum Report.
- 1.1.2. The Board had made a decision to refuse planning permission under Reference ABP.308787-21, on the 5th July 2021. That decision was quashed by Order of the High Court and the case was remitted back to the Board for a new decision. A new Case File Reference 312812-22 was created. Section 132 Notices were issued to each of the parties to the appeal on the 7th March 2022. Following receipt of those submissions, the Board decided to return the file to the original Inspector for an addendum report.
- 1.1.3. A new development plan has since become the statutory operative plan for the area. The Kerry County Development Plan 2022-2028 came into effect in August 2022 and is now the statutory plan. The Rural Area Types and associated rural settlement policy has been revised in the new plan.

2.0 Responses to S132 Notices served on 7th March 2022

- 2.1.1. Responses were received from the Planning Authority (29/03/22), from the First Party, Muiris Brennan (1/04/22) and from the Third Party appellants Denis Lyons and Michael and Joan O'Shea (4/04/22), and from the Third Party observer, Brendan O'Caoimh (1/04/22). A summary of the main issues raised is set out below.

2.2. Response from Planning Authority

- 2.2.1. The P.A. reiterated that the proposed development was located in a 'Stronger Rural Area' and that the applicant complied with the relevant policies for this area and satisfied the requirements of RS-10 (Rural Settlement policy and Rural Area Types in the 2015 County Development Plan), and that this is in accordance with the Sustainable Rural Housing Guidelines for Planning Authorities.

2.3. Response from First Party (Muiris Brennan)

- 2.3.1. The points made in support of the application and in response to the grounds of appeal were reiterated. Reference was made to the Rural Settlement policies in 2015 Development Plan, which it was considered accorded with both the Sustainable Rural Housing Guidelines and the National Planning Framework. It was reiterated that the area is clearly a Stronger Rural Area and that the applicant complies with the local social and economic housing need criteria. Reference was also made to the Draft CDP and to the OPR's commendation of the evidence-based policy objectives. It was considered that there was no substantial difference in policy between the 2015 Plan and the Draft Plan.
- 2.3.2. It was considered that there was no basis for an argument that the proposed development contravenes the National Planning Framework. In any case, it is argued that the proposed development fully complies with NPO 15 and NPO 20, in addition to NPO 19. It was submitted that the area in which the site is located comes within the definition of a rural area in the NPF, as there is no settlement for over 60km that has a population of 1,500. Notwithstanding this, it is submitted that the Board has no jurisdiction under the Act to apply the policies of the NPF in lieu of giving effect to the County Development Plan.

2.4. Response from Third Party appellants – Michael and Joan O'Shea

- 2.4.1. It is contended that the issues raised in the original grounds of appeal in relation to surface water drainage and visual impact have not been adequately addressed in the decision by the Board or in the Inspector's report.
- 2.4.2. In respect of **surface water drainage**, it was reiterated that in their opinion, the matter of where the overflow will be discharged remains unresolved. It was further disputed that the ground levels slope from the north-west to the south-east (as stated in inspector's report) and stated that the slope is from the north-east to the south-west, which contributes to the problem. Furthermore, the Inspector's view that "It is assumed that any surface water overflow would be taken along this ditch to the drain alongside the access track and/or to the proposed soakaways within the site" (7.5.5) was questioned.

2.4.3. In respect of **visual amenity and landscape**, the appellants remain of the opinion that the proposed house would have a negative visual impact on the landscape as it would be situated behind an established house and that the proposed landscaping mound is unacceptable. The description in the Inspector's report (7.3.3) of a 2-storey dwelling is disputed as it is a dormer dwelling.

2.5. Response from Third Party appellant - Denis Lyons

2.5.1. The main grounds of appeal were reiterated in respect of rural housing policy, impact on visual amenity and landscape and traffic safety. Additional points were made in respect of the following:-

2.5.2. **Ribbon development** – it is claimed that the proposal would result in 5 houses within a 250m stretch of road, which would constitute 'ribbon development' as defined in the Sustainable Rural Housing Guidelines (2005). It is further stated that the said guidelines discourage such ribbon development in favour of clustered development which is well set back from the road, particularly in rural areas under a strong urban influence.

2.5.3. **Sightlines at entrance** – it is stated that the lands over which the applicant was seeking to provide sightlines to the east, and regarding which he had submitted a letter of consent from the adjoining landowner, are currently up for sale. Thus, should the lands be sold, this could present legal difficulties. Furthermore, it is stated that the inadequate sightlines arise from issues other than just the hedgerow to the east of the entrance, and that the submitted drawings misrepresent the layout of the existing entrance.

2.5.4. **Design** – does not comply with Kerry Co. Co. Rural Design Guidelines, which specifically advises against the inclusion of balconies.

2.6. Response from Observer Brendan O'Caoimh

2.6.1. Much of the submission re-iterates points made in the original submission, but also expands on these points. It is pointed out that the demographic evidence from the 2016 census has shown how the area around Cahersiveen has deviated from national trends with a significant decline in population for the Cahersiveen Rural

District. It is further stated that there has been a local campaign to attract people to live in the West Iveragh area as well as seeking to retain local families in the area.

- 2.6.2. Reference is made to the Draft County Plan, which had been published in December 2021. (Please Note the new County Development Plan was since adopted and became effective in August 2022). It was pointed out that the number of Rural Area Types was reduced to 3 and that the site remains outside the area designated as under strong urban influence. It was further noted that the rural settlement policy in the Draft Plan was based on the planning authority's own research and data analysis of demographic trends, which it is submitted is consistent with national policy. Reference is also made to the OPR's comments in support of the planning authority's approach to rural housing policy and in particular, to the criteria used to select and define the three rural area types.

3.0 Kerry County Development Plan 2022-2028

- 3.1.1. Since the appeal was first considered by An Bord Pleanála, a new County Development Plan for Kerry has become operative. The Kerry County Development Plan 2022-2028 was adopted on the 4th July 2022 and became effective on the 15th August 2022. The Rural Housing policy is set out principally in Chapter 5 of the 2022 Plan, and the Core and Settlement Strategy (Chapter 3). Appendix 8 sets out the Rural Area Types and the data analysis that was used to determine the Rural Area Types. Maps showing the location and extent of the Rural Area Types are provided at Map 5.1 (Chapter 5) and Map 8.8. (Appendix 8).
- 3.1.2. There are three Rural Area Types which have been identified for the county. This compares with five Rural Area Types in the 2015 Plan. It is stated in Appendix 8 that the identification of the Rural Area Types was based on the analysis of data on population, housing, employment and commuting trends. All data was derived from the Census at Electoral level (1km² grid cells) and has either been compared against previous years or as a percentage of the total. A weighting system has been used in the analysis of the data to determine the characteristics of each area.
- 3.1.3. The Rural Area Types are
- Rural Areas Under Significant Urban Influence

- Rural Areas Under Urban Influence
- Other Rural Areas

3.1.4. The appeal site is located in **Rural Areas Under Urban Influence**, the relevant policy for which is :-

KCDP 5-15 In **Rural Areas Under Urban Influence** applicants shall satisfy the Planning Authority that their proposal constitutes an exceptional rural generated housing need based on their social (including lifelong or life limiting) and/or economic links to a particular local rural area, and in this regard must demonstrate that they comply with one of the following categories of housing need:

- a) Farmers, including their sons and daughters or a favoured niece/nephew where a farmer has no family of their own who wish to build a first home for their permanent residence on the family farm.
- b) Persons taking over the ownership and running of a farm on a full-time basis, who wish to build a first home on the farm for their permanent residence, where no existing dwelling is available for their own use. The proposed dwelling must be associated with the working and active management of the farm.
- c) Other persons working full-time in farming or the marine sector for a period of over seven years, in the local rural area where they work and in which they propose to build a first home for their permanent residence.
- d) Persons who have spent a substantial period of their lives (i.e. over seven years), living in the local rural area in which they propose to build a first home for their permanent residence.
- e) Persons who have spent a substantial period of their lives (i.e. over seven years), living in the local rural area in which they propose to build a first home for their permanent occupation and currently live with a lifelong or life limiting condition and can clearly demonstrate that the need to live adjacent to immediate

family is both necessary and beneficial in their endeavours to live a full and confident life whilst managing such a condition and can further demonstrate that the requirement to live in such a location will facilitate a necessary process of advanced care planning by the applicants immediate family who reside in close proximity.

Preference shall be given to renovation/restoration/alteration/extension of existing dwellings on the landholding before consideration to the construction of a new house.

4.0 Assessment

4.1.1. It is considered that the main issues arising from the further submission received on the remitted application are as follows: -

- Rural settlement policy
- Visual amenity
- Adequacy of drainage proposals
- Traffic and Transport

4.2. Rural settlement policy

4.2.1. This was the principal issue that formed the basis of the Judicial Review proceedings.

4.2.2. As noted in the previous assessment of this issue, it is necessary to distinguish between areas that are under urban influence or pressure and other rural areas and also to differentiate between urban and rural generated housing need, as required under national guidance as set out in the NPF and in the Sustainable Rural Housing Guidelines. The recently adopted Kerry County Development Plan 2022 identifies three Rural Area Types. The process by which these new Rural Area Types were identified is set out in the rural housing and settlement policies of the new County Development Plan (Chapter 5 and Appendix 8).

- 4.2.3. The Rural Area Types in the current Plan differentiate between 'Rural Areas Under Significant Urban Influence', (such as those in close proximity to larger urban centres), 'Rural Areas Under Urban Influence', (such as those with a strong rural economic base and a well-developed settlement structure) and all 'Other Rural Areas', which are the weaker areas with a low population density and may be in economic decline. These Rural Area Types are broadly similar to those in the previous settlement strategy, namely, 'Rural Areas Under Strong Urban Influence', 'Stronger Rural Areas' and 'Structurally Weaker Areas'.
- 4.2.4. The site is located in a 'Rural Area Under Urban Influence', which is one where the population levels are generally stable, and the key challenge is to maintain a balance between the development activity in the urban areas and housing proposals in the wider rural area. This description is very similar to that for 'Stronger Rural Areas' (which was the relevant rural area type under 2015 CDP). It can be seen from Map 5.1 (or Map 8.8) that this rural area type extends to the north, west, south and east of Cahersiveen. However, the 'Rural Areas Under Significant Urban Influence' category, which I note extends for a considerable distance around most of the larger urban centres, is very tightly drawn around Cahersiveen. These areas are described as exhibiting rapidly rising population levels, evidence of considerable pressure for development of housing and pressure on local infrastructure. Thus, the site is located outside of such a pressure zone, as was the case under the previous Development Plan settlement strategy.
- 4.2.5. The settlement strategy set out in the 2022 CDP has clearly distinguished between areas that are under significant urban influence and other areas, which has been based on a comprehensive analysis of the 2016 census data. Within this framework, the CDP differentiates between rural generated and urban generated housing need and sets out the criteria which must be met by applicants for rural houses. This approach is in accordance with the guidance set out in both the National Planning Framework and in the Sustainable Rural Housing Guidelines.
- 4.2.6. The relevant policy in the current Plan is KCDP 5-15, which requires the applicant to demonstrate an exceptional rural generated housing need by complying with one of five categories of need. It is noted that category (d) which require the applicant to demonstrate that they have spent a substantial period of their lives (i.e. over seven years) living in the local rural area in which they propose to build a first home for their

permanent residence is very similar to the requirement of RS-10 of the 2025 CDP. This had sought to facilitate the provision of dwellings for persons who are an intrinsic part of the rural community.

4.2.7. The applicant has provided evidence to demonstrate that he has spent a substantial part of his life living in this local rural area and that he is an intrinsic part of this rural community. The site is partially owned by his parents, who live on the adjacent site, and partially by his uncle, who owns the surrounding farmland. The site is being gifted to the applicant, who has advised that he wishes to build his first home adjacent to his aging parents and has provided evidence of their health needs and of his long-established links with the rural area. He has also provided evidence of his employment which is based in the local area.

4.2.8. I would accept that there is sufficient evidence to demonstrate that the applicant is an intrinsic part of the community in which he was raised. I would further accept that the applicant has a rural generated housing need for a house at this location in view of his family circumstances and his employment which is based in the locality. It is noted that the applicants have agreed to the conditions restricting occupancy and permanent residence as opposed to a holiday home. It is considered, therefore, that the applicant complies with Policy KCDP 5-15 (d) for Rural Areas Under Urban Influence of the Kerry County Development Plan 2022, which in turn, is in accordance with the national policy as set out in the NPF and the Sustainable Rural Housing Guidelines.

4.3. Visual amenity

4.3.1. Policy KCDP 5-19 of the 2022 CDP seeks to ensure that rural housing will not affect the landscape, natural and built heritage, economic assets and the environment of the county. Policy KCDP 5-22 seeks to ensure that the design of housing in rural areas comply with the 'Building a House in Rural Kerry Design Guidelines' (2009).

4.3.2. The third parties remain of the opinion that the proposed development would have a negative impact on the landscape due to its siting in an elevated position, behind the established building line and that it would fail to comply with the Rural Design Guide for the county. The O'Shea's also disputed the reference to their house a 2-storey house. On the latter point, I would accept that their property is a dormer bungalow and that I had previously referred to it in error as a 2-storey house. However, I

remain of the view that the proposed dwelling would be successfully integrated into the landscape and that it would not be unduly obtrusive in terms of its design and siting.

- 4.3.3. The site is well set back from the public road, is not unduly prominent and the natural vegetative screening would be retained and enhanced as part of the proposed development. Although the site is slightly elevated above the level of the public road, the landscape is mountainous to the rear which forms a backdrop to the site. The design, scale and massing of the house is appropriate to its setting and the proposed landscaping would further soften and help it to integrate into the landscape. It is considered that it generally follows the design guidance in the Kerry Rural Design Guide.
- 4.3.4. The third parties have also asserted that the proposed dwelling would constitute ribbon development and that it would be located behind the established building line. However, the proposed dwelling would be well set back from the road and would form part of a visual cluster of development, which is generally in accordance with the design guidance for rural dwellings. Ribbon development generally refers to a row of houses fronting onto a public road, which is not the case in this instance. The siting of the proposed house behind the existing cluster of houses in the immediate vicinity, but well below the steeply rising mountainous backdrop behind, is considered to facilitate the successful integration of the house, and would be preferable to extending a building line parallel with the public road.
- 4.3.5. It is considered, therefore, that the proposed development would be in accordance with the guidance in the Kerry Rural Design Guide: Building a House in Rural Kerry and with Objectives KCDP 5-19 and KCDP 5-22 of the current Kerry County Development Plan (2022). Furthermore, I would agree with the P.A. that the proposed development would not constitute a highly visible or obtrusive feature in the landscape and would be acceptable in terms of the visual amenities of the area.

4.4. Adequacy of drainage proposals

- 4.4.1. The O'Shea's remain of the view that the surface water that would be generated on the site would flow into their site, which it is claimed occurs at present, and that this would be exacerbated. It is further disputed that the slope of the site is from the

northwest to the southeast, but is instead from the northeast to the southwest and that surface water flow is directed to a drainage ditch on the southern boundary.

- 4.4.2. The first and third parties differ regarding the current source and direction of surface water flow and the gradients within the site. Given that the sites in question are situated in the foothills of a mountain with natural drainage systems flowing in a southerly direction, it is difficult to be definitive about the current surface water flow in the vicinity of the site. It is clear, however, that the gradient of the site falls from north to south and that there are further variations within the site, with a further fall towards the south-easters corner. I can also confirm that there is an existing drainage ditch which separates the larger field from the smaller field to the south, into which much of the surface water drains. These factors would suggest that the surface water tends to flow generally towards the south-east.
- 4.4.3. Notwithstanding these observations, however, the proposed development includes proposals to manage the surface water flow within and from the site, which is likely to improve the overall situation for the appellants. The applicant has stated that all surface water will be directed to existing drains and proposed soakaways within/bordering the site, and that there will be no overflow of surface water onto the appellants' land. It is considered that the surface water drainage within the site can be designed to ensure that no surface water is allowed to flow onto the adjoining lands. This is the subject of Condition no. 12 of the P.A.'s decision.
- 4.4.4. I remain satisfied, therefore, on the basis of the submissions made in connection with the application and appeal and the responses to the notifications following the Judicial Review proceedings, and subject to appropriately worded conditions, that the site can be adequately drained to avoid any adverse impact on adjoining properties and would not be prejudicial to public health.

4.5. Traffic and transport

- 4.5.1. The third-party appellant, Denis Lyons, remains concerned that the sightlines at the entrance from the public road and the layout of the proposed entrance are inadequate and will give rise to a traffic hazard. The main concern relates to sightlines to the east, as the sightlines to the west are facilitated by the recessed boundary and entrance to the adjoining site (parents' site). The appellant considers that even if the applicant has obtained the permission of the landowner to the east to

maintain the visibility splays in this direction, these lands have recently been put up for sale and it may therefore prove problematic to maintain the visibility in the future.

4.5.2. The Board will note that the applicant had provided a letter in response to the grounds of appeal dated 13th December 2020, which had specifically stated that the landowner to the east of the entrance had given the applicant “permission to maintain the hedgerow in this area during the Open Season.” It is considered that sufficient detail was provided at the time of the application/appeal to support his assertion that he has the relevant consent to make the application and to undertake the necessary works. Notwithstanding this, Section 34(13) of the Planning and Development Act 2000 (as amended) states that a person is not entitled solely by reason of a planning permission to carry out any development. Thus, although circumstances may have changed in the meantime, (or perhaps may change in the future), such as the sale of these lands, the onus is on, and will continue to be on, the applicant to ensure that he has sufficient interest to carry out the development as permitted, should the Board be minded to grant permission.

4.5.3. I remain of the opinion, therefore, that the sightlines at the entrance, subject to appropriately worded conditions, are considered to be adequate and would not give rise to a traffic hazard. Concerns regarding the design of the entrance and the adequacy of the access track had been satisfactorily addressed previously.

4.6. Environmental Impact Assessment

4.6.1. The proposed development is for the construction of a single dwelling house, garage and wastewater treatment system, which will involve tertiary treatment of wastewater, on a greenfield site and for the upgrading of an existing access track. The proposed development is not located adjacent to or hydrologically connected to any environmentally sensitive sites. Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

4.7. Appropriate Assessment

4.7.1. The closest European site is Valentia Harbour and Portmagee Channel SAC (Site Code 002262) site which is located approximately 3km to the west. Other European

sites in the vicinity include Iveragh Peninsula SPA (004145) which is approx. 4km to northwest, Killarney National Park, Macgillycuddy Reeks and Caragh Lake Catchment cSAC (000365), which is approx. 6km to the north and Ballinskelligs Bay and Inny Estuary SAC (000335) which is located approx. 6km to the south.

- 4.7.2. Given the small scale and nature of the development, the distances involved, and the absence of any indication of a hydrological link to the European sites, it is considered that Appropriate Assessment can be ruled out at this stage.

5.0 Recommendation

- 5.1. It is recommended that planning permission be granted for the reasons and considerations set out below.

6.0 Reasons and Considerations

Having regard to the location of the site within an area designated as a Rural Area Under Urban Influence in the current Kerry County Development Plan 2022-2028 and to the rural generated housing need of the applicants for a house at this location, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

7.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted to the planning authority on the 16th day of October 2020 and by the further plans and particulars received by An Bord Pleanála on the 23rd of December 2020 and on the 1st day of April 2022, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed

with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. (a) The proposed development, when completed, shall first be 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 unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. Prior to the commencement of development, the applicant shall enter into a written agreement with the planning authority under Section 47 of the Planning and Development Act, 2000, as amended, to this effect.
- (b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3. (a) The external wall finishes of the proposed dwelling house shall have a neutral coloured nap plaster render, using colours such as grey or off-white.

- (b) The roof colour of the proposed dwelling house shall either be black, blue black or slate grey using tiles or slates. The colour of the ridge tiles shall match the colour of the roof.
- (c) White uPVC shall not be used for windows, external doors and rainwater goods.
- (d) Stone work to external walls shall be constructed of natural stone which shall be sourced locally.
- (e) The finished floor level shall be as shown on the submitted drawings.
- (f) The external materials and finishes to the garage shall match the proposed dwelling house.

Reason: In the interest of visual amenity

- 4. The use of the garage shall be restricted to private domestic use only and shall not be used for commercial, habitation or agricultural uses.

Reason: In the interests of residential amenity.

- 5. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

- 6. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 10th of September 2020, and in accordance with the requirements of the document entitled “Code of Practice-Wastewater Treatment and Disposal Systems Serving Single Houses (p.e.< 10) – Environmental Protection Agency, 2009”. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.
- (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwelling house and thereafter shall be kept in place at

all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.

- (d) Surface water soakaways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.
- (e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

- 7. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties and shall be collected and diverted to discharge to existing watercourses or to drains or soakpits.
- (b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

Reason: In the interest of traffic safety and to prevent pollution.

- 8. The water supply to serve the proposed dwelling shall have sufficient yield to serve the proposed development, and the water quality shall be suitable for human consumption. Details demonstrating compliance with these requirements, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the development.

Reason: to ensure that adequate water is provided to serve the proposed dwelling, in the interest of public health.

- 9. The site shall be landscaped, using only indigenous deciduous plants and hedging species, in accordance with details which shall be submitted to,

and agreed in writing with, the planning authority prior to the commencement of development. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting development in the area of the planning authority that is provided or intended to be provided on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under Section 48 of the Planning and Development Act, 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under Section 48 of the Act be applied to the permission.

Mary Kennelly
Senior Planning Inspector

4th April 2023