



An
Bord
Pleanála

Inspector's Report

ABP-316200-23

Development	House and associated site works.
Location	Dromcunnig, Abbeydorney, Co Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	221057
Applicant(s)	Catriona Donovan
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Catriona Donovan
Observer(s)	None
Date of Site Inspection	3 November 2023
Inspector	Claire McVeigh

1.0 Site Location and Description

- 1.1. The 0.3ha site is located in the townland of Dromcunnig to the east of the R556 Tralee to Abbeydorney regional road. The subject site is approximately 3km from Abbeydorney and 7km from Tralee town centre. The local road running along the northern boundary of the site is relatively narrow and straight with long views either side. The road is characterised by ribbon development. There are a number of houses already constructed along the roadway to the northern side, which are located closer to the roadway than those built along the southern side.
- 1.2. The ground levels of the subject site rise from the roadway on the northern boundary. The subject site sits within a larger field, in the northeastern corner. The larger field contains an existing single storey house to the southwest of the subject site. There is a vehicular access to the dwelling house and adjacent separate gateway access to the field. It is stated in the application documentation that this existing dwelling belongs to the applicant's sister. The Site Characterisation Form confirms that the field is used for cattle and silage.
- 1.3. The front boundary of the subject site is double lined by mature sod hedgerow with a few trees. A drainage ditch runs within this boundary and there is another hedgerow and ditch delineating the eastern boundary of the site.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a dormer bungalow with attic with the installation of a mechanical wastewater treatment unit with a 'Sandcel sand filter' and soil polishing filter and all associated site works. A new connection to the public mains water supply is proposed.
- 2.2. I note that there is proposed a new vehicular entrance, driveway and parking area to front and side of the proposed dormer bungalow shown on the site layout plan.
- 2.3. The planning authority accepted unsolicited further information, submitted on the 4 November 2022, comprising folio details and map to evidence the ownership of the applicant's sister's property at Upper Dromcunnig, Abbeydorney, Tralee. These details have not altered the proposed development.

3.0 Planning Authority Decision

3.1. Decision

On the 30 March 2023 the planning authority decided to refuse permission for one reason relating to site suitability for an on-site drainage wastewater treatment system (DWWTS).

Reason: Having regard to the soil conditions on site, the Planning Authority is not satisfied on the basis of submissions made in relation to the application, that the effluent arising from the proposed development could be adequately disposed of on site. The proposed development would, therefore, be prejudicial to public health. The proposed development would, therefore, be contrary to the proper planning and development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Notes in respect to the rural settlement policy that that applicant is the daughter of a farmer and lives in the family home with her mother and sister. The applicant is proposing to build on family land.
- Sightlines, 150m in each direction, are noted as being shown on a map submitted.
- Considers that the proposed development will not negatively impact upon residential amenity given the distance between neighbouring dwellings. There are no concerns relating to overlooking or invasion of privacy.
- The proposed development would not have a negative visual impact and that the proposed development complies with the 'Building a House in Rural Kerry – Kerry County Council Rural Housing Design Guidelines'.
- Notes the Natura 2000 sites within 15km of the proposed site as Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA, Lower River Shannon SAC and Tralee Bay Complex SPA. Concludes the

Appropriate Assessment (AA) screening that there is no likely potential for significant effects to Natura 2000 sites.

- The proposals are not one which require EIA Screening or EIA and there is no real likelihood of significant effects on the environment arising from the proposed development.
- Seeks further information in respect to effluent treatment and clarification on surface water proposals to drain to watercourse. Recommends a refusal following receipt of the SAU report in respect to their conclusions on further information received.

3.2.2. Other Technical Reports

Environment Department – Site Assessment Unit (SAU) requested further information:

- A detailed section drawing, to an appropriate scale, showing the proposed layout for the treatment system and all relevant levels.
- Confirmation that the gravel distribution layer underlying the Sandcel system has been sized and designed in accordance with table 10.1 of the EPA Code of Practice, 'Domestic Waste Water Treatment Systems (population equivalent <10)'.
- To excavate a new trial hole near the proposed polishing filter for inspection.

Following receipt of further information and, taking into account, the findings from the site inspection the SAU noted that they cannot make a positive recommendation on this site due to the unacceptable risk to the groundwater aquifer, risk to public health and unacceptably high risk of environmental pollution that a new wastewater treatment system would pose.

3.3. Prescribed Bodies

Uisce Éireann have no objection to the proposed development subject to conditions relating to connection agreement and that all development shall be carried out in compliance with Irish Water standard codes and practices, noting that in the interest

of public health and environmental sustainability, proposed connections will be subject to the constraints of the Irish Water Capital Investment Programme.

3.4. **Third Party Observations**

None.

4.0 **Planning History**

Relevant history for site within approximately 20 m east of the subject site

Planning register reference 06/476 planning permission refused (April 2006) for the construction of a bungalow served by envirocare treatment unit and percolation area including all ancillary site works. The reasons for refusal related to:

- (1) Having regard to the soil conditions on site, the Planning Authority is not satisfied on the basis of submission made in relation to the application, that the effluent arising from the proposed development could be adequately disposed of on site. The proposed development would, therefore, be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.
- (2) Having regard to the location of the proposed dwelling on an open and exposed rural site and the proposed extension of development into an unspoiled rural landscape, it is considered that the proposed development would be visually obtrusive and would seriously injure the amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- (3) The proposed erection of a dwelling at this location 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 11-1 of the Kerry County Development Plan 2003-2009. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Relevant history for site 270m to the southeast of the subject site.

Planning register reference 07/3849 planning permission refused (December 2007) for the construction of dwelling house with an advanced treatment unit and raised soil polishing filter and all ancillary site works. The reasons for refusal related to:

(1) The Planning Authority is not satisfied on the basis of submissions made in relation to the application, that the effluent arising from the proposed development could be adequately disposed of on site. The proposed development would, therefore, be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Development Plan

5.1.1. Under the Kerry County Council Development Plan 2022-2028 the site is unzoned but within a rural area designated as 'Rural Area Under Urban Influence' and just outside of the area designated 'Rural Areas Under Significant Urban Influence'.

5.1.2. Rural Housing

Chapter 5 set out the policies required for the continued sustainable development of rural County Kerry, in a manner that is consistent with the guidance, strategies and policies at National and Regional level and are based on the following important principles:

1. The specific land use requirements of agricultural activity will be accommodated as a first priority.
2. A focus on supporting vibrant rural communities centred on a network of rural village settlements is a cross cutting theme of this Plan.
3. Rural Kerry is an important national and international tourism and heritage asset, and its environmental and socio-cultural assets will be protected.
4. Encouragement and support for restoration and refurbishment of the existing built fabric in rural areas.
5. The requirement to transition to a low carbon and climate resilient society, necessitates consideration of the spatial pattern of development focusing

on elimination of unnecessary trips, more efficient use of resources and opportunities to provide centralised and communal public services.

Section 5.5 outlines that: It is the policy of the Council to ensure that future housing in rural areas complies with all National Policy documents including the National Planning Framework (NPO 15 & 19), the Sustainable Rural Housing Guidelines for Planning Authorities, 2005 (DoEHLG), RSES and Circular PL 2/2017 and this will be achieved through greater emphasis on the following:

- (a) Establishing that there is a genuine economic or social need for permanent occupation.
- (b) Prioritising the reduction of residential vacancy rates in all the Rural Areas in preference to new residential development.
- (c) The renovation or modification of existing structures in rural areas for residential use.
- (d) Encouraging people who wish to reside in the countryside to live in existing villages or small village settlements where there are services available.

Section 5.5.2.1 outlines in respect to Rural Areas Under Urban Influence that: In these areas, population levels are generally stable within a well-developed town and village structure and in the wider rural areas around them. This stability is supported by a traditionally strong rural/agricultural economic base. The key challenge in these areas is to maintain a reasonable balance between development activity in the extensive network of smaller towns and villages and housing proposals in wider rural areas.

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.

Relevant policies include:

KCDP 5-4 Ensure that future housing in all rural areas complies with the Sustainable Rural Housing Guidelines for Planning Authorities 2005 (DoEHLG), circular PL2/2017, National Planning Framework (NPOs 15 & 19) and the Development Management Guidance of this Plan.

KCDP 5-19 Ensure that the provision of rural housing will not affect the landscape, natural and built heritage, economic assets, and the environment of the county.

KCDP 5-20 Ensure that all permitted residential development in rural areas is for use as a primary permanent place of residence and subject to the inclusion of an Occupancy Clause for a period of 7 years.

KCDP 5-21 Ensure that all developments are in compliance with normal planning criteria and environmental protection considerations.

KCDP 5-22 Ensure that the design of housing in rural areas comply with the Building a house in Rural Kerry Design Guidelines 2009 or any update of the guidelines.

Volume 6 of the Kerry County Development Plan 2022-2028 contains development standards for residential development on rural and non-serviced sites, section 1.5.10.1-1.5.10.10 relate.

Wastewater Facilities

13.2.2.4 Individual Private Wastewater Facilities in Rural Areas

KCDP 13-19 Ensure that proposed wastewater treatment system for single rural dwellings are in accordance with the 'Code of Practice Wastewater Treatment and Disposal System Serving Single Houses, EPA 2021' and any updated version of this document during the lifetime of the Plan, and are maintained in accordance with approved manufacturer's specifications and subject to compliance with the Water Framework Directive, the Habitats and Shellfish Waters Directives and relevant Pollution Reduction Programmes.

Landscape

The subject site is located within Landscape Character Area 5 Listowel and The Cashen River. Overall sensitivity defined as 'Medium' where some of the key characteristics and qualities of the landscape are sensitive to change.

There are two types of landscape designation:

1. Visually Sensitive Areas
2. Rural General

The subject site is located within the 'Rural General' designation:

11.6.3.2 Rural General

Rural landscapes within this designation generally have a higher capacity to absorb development than visually sensitive landscapes. Notwithstanding the higher capacity of these areas to absorb development, it is important that proposals are designed to integrate into their surroundings in order to minimise the effect on the landscape and to maximise the potential for development.

- 5.2. **Sustainable Rural Housing Guidelines for Planning Authorities (2005)** These guidelines outline a key objective for the local planning system to deliver sustainable rural settlements. The guidelines differentiate between Urban Generated Housing and Rural Generated Housing. This distinction acknowledges the fact that demands for housing in rural areas arise in different circumstances and also differentiates between the development needed on rural areas to sustain rural communities and development tending to take place in the environs of villages, towns and cities which would be more appropriately located in these places.

For applications in areas under significant urban influence section 4.1 of the guidelines sets out how applicants should outline how their proposal is consistent with the rural settlement approach in the development plan and should supply supporting information where appropriate.

5.3. **National Planning Framework**

- 5.3.1. **National Policy Objective 15** Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.
- 5.3.2. **National Policy Objective 19** makes a distinction between areas under urban influence and elsewhere. It seeks to ensure that the provision of single housing in rural areas under urban influence on the basis of demonstrable economic and social housing need to live at the location, and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.4. **Natural Heritage Designations**

The proposed development site is not located in or immediately adjacent to any natural heritage sites.

The closest European site is:

(Site Code: 004161) Stacks to Mullaghareirk Mountain, West Limerick Hills and Mount Eagle SPA within approximately 2km

Other European sites within proximity include:

(Site Code: 004188) Tralee Bay Complex SPA within approximately 7km

(Site Code: 002070) Tralee Bay and Magharees Peninsula, West to Cloghane SAC within approximately 7km

(Site Code: 002165) Lower River Shannon SAC within approximately 7km

(Site Code: 002112) Ballyseedy Wood SAC within approximately 8km

(Site Code 000332) Akeragh, Banna and Barrow Harbour SAC within 10km

(Site Code: 002185) Slieve Mish Mountains SAC within 10km

Proposed Natural Heritage Areas (pNHA) include:

(Site Code: 002070) pNHA Tralee Bay and Magharees Peninsula, West to Cloghane within approximately 7km

(Site Code: 001341) pNHA Church Hill, Tralee within approximately 10km

(Site Code: 00332) pNHA Akeragh, Banna and Barrow Harbour within 10km

5.5. **Environmental Impact Assessment (EIA) - Preliminary examination**

See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The grounds of appeal as submitted on behalf of the applicant are as follows:

- The site was inspected by the planning authority in January 2023 during a particularly wet winter. The land is falling towards the soil polishing filter at a relatively flat fall of 1/30 and the surface water significantly added to the creation of the wet soil at the time of inspection.
- The Site Assessment Unit (SAU) have not appeared to take into consideration the proposed uphill interceptor drain which would have trapped this uphill surface rainfall and diverted it to the open drain on the eastern boundary. Soil conditions would be 'relatively dry and the tertiary treated effluent could be adequately disposed of' on the site.
- Any field with a large area of uphill draining rainwater would be equally wet in January.
- An additional trial hole was excavated at the request of the SAU on 25 January 2023. This trial hole was 2.5m deep and there was no sign of groundwater when excavated. The soil was dry and no sign of mottling. Unlabelled photograph attached dated 25/01/2023 09:36.
- This additional trial hole was examined two days later by the SAU and there was water up to a depth of approximately one metre below ground level and the sides of the trench were wet. It is argued that the SAU should have inspected the trial hole on both the 25 and 27 January 2023 and not have waited for 48 hours, when it was disturbed by the ingress of rainwater, to determine a true picture of the subsoil conditions.
- The proposal is to provide a Tricel Tertiary Treatment system consisting of a Tricel Nov IE6 Tank followed by a Tricel Sandcel 900 sand filter followed by a raised imported soil polishing filter. The agent on behalf of the applicant states that 'it is proposed not to allow for the extra treatment of the in situ soil polishing and provide for a raised soil polishing filter with a minimum depth of imported soil placed and tested in accordance with paragraph 6.7 of the EPA COP March 2021 as explained in Section 5.0 of the SCF'.
- It is argued that effluent arising from the proposed development could be adequately disposed of on site. The agent is of the opinion that it is inconceivable that effluent treated for a three bedroomed house would be

prejudicial to public health and the reason to refuse on these grounds is grossly unfair.

6.2. Planning Authority Response

- None

6.3. Observations

- None

7.0 Assessment

7.1. I consider the main issues in determining this appeal are as follows:

- Principle of development - Rural Settlement Policy
- Site Suitability
- Appropriate Assessment

7.2. Principle of development - Rural Settlement Policy

7.2.1. The site for the proposed development is on land that is unzoned in the current Kerry County Development Plan 2022-2028 and falls within rural housing category 'Rural Areas under Urban Influence' and is just outside the designated rural housing category 'Rural Areas Under Significant Urban Influence'. Within the rural designated area the development plan states that applicants must 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.

7.2.2. I consider it important in undertaking the assessment of 'exceptional rural generated housing need' to have regard to the five principles that provide the framework for the policies relating to the sustainable development of rural County Kerry, as outlined in section 5.0 of this report, these principles include a focus on supporting rural communities centred on a network of rural village settlements and the principle of transitioning to a low carbon and climate resilient society and recognition of the

necessary consideration of the spatial pattern of development focusing on elimination of unnecessary trips and more efficient use of resources.

- 7.2.3. There are five categories (a-e) of rural housing need applicable to Rural Areas Under Urban Influence set out in the development plan (KCDP 5-15). The documentation submitted with the application, including the 'Supplementary Information' form, and appeal indicates that the applicant seeks to demonstrate compliance with Objective KCDP 5-15 (a). The submitted 'Right to Build' statement prepared by the agent on behalf of the applicant states that as the applicant has also spent a substantial period of her life (over seven years) living in the local rural area in which she proposes to build her first home for her permanent occupation and, therefore, contends she also complies with Objective KCDP 5-15 (d).
- 7.2.4. The planning authority considered in the planner's report that the applicant meets the exceptional rural generated housing need test as the applicant "...is a daughter of a farmer" and will be building on family land. I note the 'right to build' letter confirms that the applicant lives with one of her two sisters and her mother in the family farmhouse in Ballybroman, Abbeydorney. Documentary evidence has been submitted to support these statements, i.e., birth certificates, letters from local schools confirming attendance and a Student Credit Card Statement (dated 2022) addressed to the applicant at the home address at Ballybroman.
- 7.2.5. The applicant's brother has taken over the ownership and management of the family farm, following the passing of his father. I note that the application site is separate from the family farmstead, approximately a 7km drive, which is to the northeast of the subject site. The applicant's brother has submitted a letter consenting to his sister, the applicant, applying for planning permission to construct a dwelling house on the subject lands. I note also that the applicant's other sister owns the existing dwelling house on the subject site (positioned to the southwest of the proposed house). I am of the opinion that Objective KCDP 5-15 (a) does not apply to the applicant given the change in ownership of the farm.
- 7.2.6. On the basis of the information provided, I consider that the applicant has provided evidence to substantiate their compliance with criteria for social need (Objective KCDP 5-15 (d) sufficient to meet the test of 'exceptional rural generated housing need' for this Rural Area Under Urban Influence.

7.3. Site suitability

7.3.1. From the Site Characterisation Form (SCF) I note the following characteristics of the subject site:

- The bedrock aquifer is identified as locally important with low vulnerability, with a subsequent R1 groundwater protection response. Groundwater flow is shown on the submitted Site Layout Plan to be in a north/north easterly direction.
- From the initial two trial holes the depth to the ground water in TH1 was recorded at 2.35m at TH2 the water ingress occurred at 2.20m.
- Soil/sub soil conditions at TH1 and TH2 are shown as silt and silt/clay.

7.3.2. The SCF submitted with the application indicates that the subsoils are blocky and compact. I noted during my site inspection the ground conditions were quite heavy underfoot with some ponding/vehicular ruts evident. Both the eastern and northern ditches appeared to have water in these, and I could hear water flowing along the northern boundary in between the double hedgerow/sod wall. Furthermore, significant amounts of rushes were evident on the lands immediately east of the subject site on the opposite side of the eastern hedgerow (Section 4.0 refers to previous planning history for these lands). I note that given the 'T' test percolation value of the site it is unsuitable for wastewater treatment by septic tank as the value is outside the acceptable range as outlined in Table 6.4 of the EPA Code of Practice Domestic Waste Water Treatment Systems ('EPA Code of Practice').

7.3.3. To address this issue the applicant proposes to provide a tertiary treatment system which pumps upgradient to a constructed soil polishing filter. This mechanical arrangement requires a constant supply of electricity.

7.3.4. The site assessor of the SAU in the Environment Department, having considered the submitted SCF, identified that further information was required. The planning authority sought further information on the proposed effluent disposal in respect to the design details, including a detailed section drawing showing the proposed layout for the treatment system, details of the proposed gravel distribution layer and a new trial hole to be excavated for inspection.

7.3.5. The Environment Department SAU visited the site on the 27 January 2023 (48 hrs after trial hole opening) to carry out a visual inspection of the site. Key findings in this investigation included:

- Saturated ground holding water on the surface,
- Mottling evident in the trial hole at 250mm-300mm below existing ground level indicating a seasonal high-water table and very low permeable subsoil on site, and
- Water in the trial hole indicating water table on site.

Based on these findings the SAU concluded that a new waste water treatment system would pose an unacceptable risk to the groundwater aquifer, would pose an unacceptable risk to public health and would lead to an unacceptability high risk of environmental pollution in the area.

7.3.6. The design of the tertiary treatment system has been altered, as part of and following the further information request, in response to the finding of groundwater levels being closer to the ground level than shown originally. The proposed development, as altered, would be serviced by a Tricel Tertiary Treatment system consisting of a Tricel Nov IE6 Tank followed by a Tricel Sandcel 900 sand filter followed by a raised imported soil polishing filter ('Tertiary System'). It is unclear from the SCF that a 'P' Test has been carried out to determine the suitability of the upper ground surface, as is required to establish a percolation value for soils that are being considered to be used for constructing a raised polishing filter (section 5.4.3 of the EPA Code of Practice).

7.3.7. The agent, on behalf of the applicant, has raised in the grounds of appeal that the trial hole should have been inspected both on the first day of excavation, the 25 January, and on the 27 January 2023. When first excavated it is put forward, by the agent on behalf of the applicant, that the trial hole was 2.5m deep with no ground water evident and the sides of the trench were dry. The agent acknowledges that when the SAU inspected the trial hole there was water up to approximately one metre from the ground level and that the sides of the trench were wet. The agent asserts that this was a result of surface water seeping down the sides and into the trial hole. It is put forward by the agent that the SAU should not have waited for 48 hours later when it was disturbed by the ingress of rainwater. From the submitted documentation I am unable to determine whether the trial hole was covered over to

prevent the ingress of surface water or rainwater as recommended in section 5.4.2 Trial Hole Assessment in the EPA's Code of Practice. I note the EPA Code of Practice recommend that the trial hole should remain open for a minimum period of 48 hours to allow the water table (if present) to establish itself. As such, I am of the opinion that the site inspection of the trial hole by the SAU on the 27 January 2023 was appropriate.

- 7.3.8. The agent for the applicant puts forward the argument that the uphill interceptor drain, as proposed would have trapped the uphill surface rainwater and diverted it into the open drain on the eastern site boundary, resulting in relatively dry soil conditions for the soil polishing filter. It is the opinion of the agent that the SAU have not adequately considered the role of the interceptor drain in the proposal.
- 7.3.9. It has not been established that the water level found is not reflective of groundwater conditions or alternatively that the trial hole filled with surface water/rainwater and that an interceptor drain would address these issues. I note the relevant planning history of sites within the immediate vicinity (see section 4.0) which indicate that the issues relating to the ground conditions, as found on the subject site, are common.
- 7.3.10. The submitted plans show the proposed WWTP located upgradient of the proposed dwelling house. Key considerations framing my assessment include:
- Several recorded depths of groundwater on the site which makes it difficult to satisfactorily demonstrate that there is no risk to the groundwater aquifer.
 - In heavy rain fall there is potential for surface water to sluice effluent towards the existing drain and proposed house.
- 7.3.11. As already noted, there is a drain which runs alongside the eastern boundary of the site and a further drain along the roadside (northern) boundary. It was further noted, during my site inspection that the ground was saturated and there was some ponding visible within the site, which would be indicative of poor drainage characteristics. The viability of the proposed wastewater treatment system is, therefore, questionable and it is considered that it would pose a potential pollution risk, notwithstanding the proposal to install an interceptor drain.
- 7.3.12. Having regard to the planning authority's Site Assessment Unit report I am not satisfied based on: - the poor percolation qualities of the surface found on site; the

direction of groundwater flow (to the north/north-east) towards the drain/watercourse alongside the eastern boundary of the site; mottling evident in the trial hole indicating a seasonal high-water table; and, the low permeable subsoil on site that the proposed development would not pose a pollution risk to groundwater and surface water. I note the grounds of appeal, but I consider that it has not been demonstrated sufficiently, having regard to the lack of surface percolation tests evidenced in the SCF, that these measures would mitigate pollution risk to fundamentally alter the reason for refusal. It is considered that the proposed development would, therefore, be prejudicial to public health. It is considered that the proposed development should be refused on these grounds.

7.4. Appropriate Assessment

7.4.1. The closest European site is (Site Code: 004161) Stacks to Mullaghareirk Mountain, West Limerick Hills and Mount Eagle SPA, within approximately 2km. There are no known hydrological links or other pathways to the protected site.

7.4.2. Given the small scale and nature of the development and the separation from sensitive sites it is considered that no appropriate assessment issues are likely to arise. It is considered that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on the Natura 2000 network and appropriate assessment is not therefore required.

8.0 **Recommendation**

8.1. I recommend that permission is refused in accordance with the following reasons and considerations.

9.0 **Reasons and Considerations**

1.	Having regard to the poor percolation qualities of the soil surface found on site; the direction of groundwater flow (to the north/north-east) towards the drain/watercourse alongside the eastern boundary of the site; mottling evident in the trial hole indicating a seasonal high-water table; and the low permeable subsoil it is considered that the proposed development would pose a pollution risk to groundwater and surface water. Therefore, the
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	Board is not satisfied, that effluent from the development can be satisfactorily treated and disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health.
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I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Claire McVeigh

Planning Inspector

13 December 2023

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	316200-23		
Proposed Development Summary	House and associated site works		
Development Address	Dromcunnig, Abbeydorney, Co. Kerry		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	√
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	√		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
			Conclusion
No		N/A	
Yes	√	Class/Threshold Part 2 Class 10 (b) Construction of more than 500 dwelling units	The proposal for one dwelling unit is significantly below threshold.
			Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	√	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____

Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	316200-23	
Proposed Development Summary	House and associated site works	
Development Address	Dromcunnig, Abbeydorney. Co. Kerry	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposed development is for the construction of a one-off rural dwelling house and wastewater treatment system, on a greenfield site and for works to the roadside hedgerow boundary and access.</p> <p>The proposal is for the development of a detached house and site works. No significant waste, emissions or pollutants are likely.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>The size of the proposed development is notably below the mandatory thresholds in respect of a Class 10 Infrastructure Projects of the Planning and Development Regulations 2001 as amended.</p> <p>There is no real likelihood of significant cumulative considerations having regard to other existing and/or permitted projects in the adjoining area.</p>	No
Location of the	The application site is not located in or immediately adjacent to a European site. The closest European	No

<p>Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>site is (Site Code: 004161) Stacks to Mullaghareirk Mountain, West Limerick Hills and Mount Eagle SPA within approximately 2km.</p> <p>There are no ecological sensitive locations in the vicinity of the site.</p> <p>It is considered that, having regard to the limited nature and scale of the development, there is no real likelihood of significant effect on other significant environmental sensitivities in the area.</p>	
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)