



An  
Bord  
Pleanála

## Inspector's Report ABP-319554-24

<b>Development</b>	Construction of a dwelling, wastewater treatment system and all associated site works.
<b>Location</b>	Gortnaboul Lower, Kenmare, County Kerry
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	23/60172
<b>Applicant(s)</b>	Sandra Downing
<b>Type of Application</b>	Planning Permission
<b>Planning Authority Decision</b>	Notification to Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Timothy O'Reilly
<b>Observer(s)</b>	Cosmo & Araminta Duff Gordon
<b>Date of Site Inspection</b>	5 <sup>th</sup> February 2025
<b>Inspector</b>	Gary Farrelly

## 1.0 Site Location and Description

- 1.1. The subject site has a stated area of 0.302 hectares and is located within the rural townland of Gortnaboul Lower, County Kerry, which is located approximately 5km northeast of the town of Kenmare. Access to the site is via a single carriage private laneway which is accessed off the public road L-11766. This roadway extends from the public road to the subject site for a total length of approximately 400 metres.
- 1.2. The subject site is characterised by agricultural grassland. The topography of the site ranges from +163.730 along the northern boundary to +156.788 along the southern boundary of the site. The site is bounded by an existing dwelling to the north, the private laneway to the east, beyond which is the Cummeenboy stream, and agricultural lands to the south and west.

## 2.0 Proposed Development

- 2.1. Permission is sought for the construction of a 4-bedroom dwelling. The design of the proposed dwelling is single storey to a ridge height of 5.9 metres. The floor area of the dwelling will measure 202sqm. External finishes have not been specified on the submitted drawings.
- 2.2. A new septic tank and percolation area is proposed to be installed. The application is accompanied by a site characterisation form which recorded a subsurface percolation value of 32.31 min/25mm. Surface water is proposed to be treated via an onsite soakaway. Water is proposed to be sourced via a well within the northwest corner of the site.
- 2.3. The application is also accompanied by a letter from the applicant, a supplementary information form and a cover letter from the applicant's agent (*both submitted as part of the further information response*) which outline details of the applicant's rural housing need and family landholding in the area.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority (PA) decided to grant permission by Order dated 28<sup>th</sup> March 2024, subject to 14 no. conditions.

- Condition no. 3 restricted the occupancy of the dwelling to the applicant and family for a period of seven years.
- Condition no. 4(b) prohibited the use of the dwelling as a holiday home or second home.
- Condition no. 9 required the installation of the wastewater treatment unit in accordance with the 2021 EPA Code of Practice.
- Condition no. 14 required the landscaping of the site with native trees and hedges within 6 months of commencement of the development.

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

#### Planning Reports

There are a total of 2 no. area planner (AP) reports on file which assessed the proposed development in terms of rural housing need, visual impact, access (including issues regarding the right of way), wastewater treatment and residential amenity. Further information was requested in the form of the rural housing needs application form, future intentions of the landowner on the landholding and whether any further family members would need accommodation, details of any sites sold previously and details of upgrade works to the existing access track. After submission of the further information, the AP was satisfied with the applicant's rural housing need due to the family farm being located adjacent to the site. Whilst the further information response confirmed that the access track was not proposed to be upgraded, it was proposed to upkeep and improve the road with landowners and provide a layby/passing area.

An environmental impact assessment (EIA) preliminary screening was undertaken and concluded that there was no real likelihood of significant effects on the environment. An appropriate assessment (AA) screening was also undertaken and

determined that AA was not required as there was no likely potential for significant effects to Natura 2000 sites. The AP recommended a grant of permission which was endorsed by the Senior Executive Engineer.

#### Other Technical Reports

Environment Section (report dated 13/11/23) – The site assessment unit examined the submitted site characterisation form and had no objection to the development subject to conditions in relation to wastewater management.

### **3.3. Prescribed Bodies**

None on file.

### **3.4. Third Party Observations**

There were 2 no. third party observations from 1. Timothy O'Reilly and 2. Cosmo and Araminta Duff Gordan, who objected to the development due to traffic safety concerns in relation to the access track, rights regarding the use of the access track, administrative errors in the application, the location of an existing wastewater treatment system being upgradient of the proposed well and the impact of the development on residential amenity and property values. A report from a consulting engineer was also provided by Timothy O'Reilly which assessed the impact of the development on the access track.

## **4.0 Relevant Planning History**

#### PA ref. 21/1491 (site approximately 80 metres northwest of subject site)

On 13<sup>th</sup> May 2022, permission was granted to Kevin Downing (*applicant's brother*) to construct a dwellinghouse and wastewater treatment unit. As part of this application, the applicant stated that he resided in the family home in Blackwater but required a residence on the landholding in order to maintain the land and livestock.

#### PA ref. 21/1035 (site approximately 16km west of the subject site)

On 12<sup>th</sup> October 2021, permission was granted to Denis Downing (*applicant's brother*) to construct a dwellinghouse and wastewater treatment system at Direen Upper,

Blackwater. This application illustrated the family home and a substantial landholding and farm sheds at this location.

## 5.0 Policy Context

### 5.1. Kerry County Development Plan 2022-2028

The subject site is located within the rural area type of 'Area Under Significant Urban Influence' as identified by the Development Plan Map Browser<sup>1</sup>. This rural area type exhibits characteristics such as proximity to the immediate environs or close commuting catchment of larger towns and villages, rapidly rising population, evidence of considerable pressure for development of housing due to proximity to such urban areas, or to major transport corridors with ready access to the urban area, and pressures on infrastructure such as the local road network.

It is an objective of the Council to ensure that:

#### KCDP 5-14

In Rural Areas under Significant 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 condition) 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.

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<sup>1</sup>

<https://kerry.maps.arcgis.com/apps/instant/interactivelegend/index.html?appid=a5c286d636c444a28c0f1d00931977ed>

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 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.

#### KCDP 11-1

Ensure that the requirements of relevant EU and national legislation, are complied with by the Council in undertaking its functions, including the requirements of the EU Birds and Habitats Directives.

#### KCDP 11-2

Maintain the nature conservation value and integrity of Special Areas of Conservation, Special Protection Areas, Natural Heritage Areas (NHAs) and proposed Natural Heritage Areas (pNHAs).

#### KCDP 11-25

Support projects such as the swift nesting project (that are compatible with protection of our architectural heritage); pollinator friendly initiatives, tree planting, nature based sustainable urban drainage systems and other actions that seek to enhance urban wildlife.

#### KCDP 11-77

Protect the landscapes of the County as a major economic asset and an invaluable amenity which contributes to the quality of people's lives.

## KCDP 11-78

Protect the landscapes of the County by ensuring that any new developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of their area. Any development which could unduly impact upon such landscapes will not be permitted.

### **5.2. National Policy**

- Project Ireland 2040 – National Planning Framework (2018) and National Development Plan 2021-2030

#### National Policy Objective 19

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.

### **5.3. National Guidelines**

- Sustainable Rural Housing, Guidelines for Planning Authorities (April 2005)

### **5.4. Natural Heritage Designations**

The subject site is not located within any designated site. The nearest designated site is the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment Special Area of Conservation (SAC) (Site Code 000365) which is located approximately 250 metres northwest of the subject site. This is also a proposed

Natural Heritage Area (pNHA). Killarney National Park Special Protection Area (SPA (Site Code 004038) is located approximately 1.7km north of the subject site.

### **5.5. Environmental Impact Assessment (EIA) Screening**

Having regard to the nature, size and location of the proposed development, comprising the construction of a single house and wastewater treatment system, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. I refer the Board to Appendix 1 regarding this preliminary examination.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

On 19<sup>th</sup> April 2024, a third-party appeal was lodged to the Board by Timothy O'Reilly. The grounds of appeal are summarised as follows:

- There are a number of concerns with the standard of the road to access the proposed development including the low number of laybys, the structural integrity of the road, the existence of a sharp bend in the road, the steep drop alongside the road and the high amount of traffic using the road.
- A number of photographs are provided by the applicant illustrating his concerns.

### **6.2. Observations**

On 23<sup>rd</sup> April 2024, an observation from Cosmo & Araminta Duff Gordan was received by the Board. The grounds of this observation are summarised as follows:

- It is respectfully requested that the application is refused by the Board on consideration of the appeal.
- The application form lodged is incorrect and the application should be invalid. There is an updated application form dated 15<sup>th</sup> September 2023 which captures a large number of additional key information, and the planning authority was in error in considering the application. The correct application form is attached.



- The supplementary information required by the updated application form for a house in a rural area is absent from the application.
- It was known by the PA under application ref. 21/1409 that the applicant's father had plans to retire and hand over the operation of the farm to his son Kevin Downing.
- The applicant does not fall within categories a, b, c or d of objective KCDP 5-14 of the Kerry County Development Plan. The dwelling is not associated with a working farm that would require full-time care.
- Reference is made to application 22/172 in which the PA refused permission based on the rural housing need test and upheld by the Board (Ref. 314678-22).
- The site is in an area of scenic beauty and borders two special areas of conservation (SAC). The application form answered that the site was not close to a European site. An Appropriate Assessment should have been carried out. Objectives KCDP 11-1, 11-2, 11-3, 11-4, 11-5, 11-6, 11-7, 11-8 and 11-9 of the Core Strategy are recited.
- There are disused buildings in the area that are used by Swifts for nesting which was never considered or addressed. Objective KCDP 11-25 seeks to support swift nesting projects. There has been a decline in Swifts in recent decades and their reliance on buildings makes them vulnerable to human interference.
- The site is close to the Cleady River which is unspoilt and newts, hares and otters are all in this locality and are protected.
- The application does not provide for bore holes and no examination of any possible run-off or pollution is addressed as no AA has taken place.
- There is interference with constitutional property rights including in relation to significant overlooking into the observers property.
- There is no report from the Roads Section of the PA. A detailed expert engineering report is on the file stating that the access road is in poor condition and dangerous. It is questioned how heavy machinery will safely access the site without significant road blockages and inadequate turning spaces.

- Access to the site is the subject matter of litigation and this appears not to have been interrogated.

### 6.3. Applicant Response

On 16<sup>th</sup> May 2024, the applicant issued a response to the contents of the appeal and observation which is summarised as follows:

- There is a contradiction in the appeal regarding the stated condition of the road not being suitable to access a house, yet the same road will be used for his future dwelling the appellant is seeking to construct.
- The road is continuously used by the family and there have been no issues with its structural integrity. The concerns were addressed with the PA at further information stage.
- All the requirements of the PA were addressed in the application and the grounds of appeal are separate matters to the planning process.
- The applicant states that she is married and is a parent, and that this should support the application for a house.

A response from the applicant's agent is also provided which is summarised as follows:

- The assertion that the applicant has no genuine farming connection to the land is incorrect as the applicant has been deeply involved in sheep farming throughout her life and the applicant's father has been farming for over 50 years.
- Sheep farming requires intensive labour and the farm around the site extends to over 124 acres. The applicant's farming activities include feeding livestock, caring for sheep, shearing wool and dipping of the sheep. Suckler cattle also form part of the family farm enterprise which the applicant tends to.
- It is common for many farmers to hold secondary jobs alongside their farming duties.
- It is clear that the applicant meets the criteria set out in KCDP 5-14 (a) and/or (b).

- A letter from Kenmare Mart is provided stating that the applicant's family has been supplying sheep and cattle since the Mart opened in 1996.
- The application was submitted online, and the submitted application form was generated from this online submission. The supplementary information was also submitted as part of the application.
- The applicant has been informed by local experts that there are no swifts nesting in the building and no evidence of swifts being there at all. The structure is located over 50 metres north of the proposed site and there are no plans to amend or change the current state of the building. However, the applicant has offered to integrate swift blocks into the proposed development to address any concerns.
- The access road is not inadequate, in poor condition or dangerous.

#### **6.4. Planning Authority Response**

The PA did not issue a response to the grounds of appeal or observation.

## 7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local, regional and national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Rural Housing Need
- Traffic Safety
- Visual Amenity
- Biodiversity

### Rural Housing Need

7.2. The observer has suggested that the applicant does not have a rural housing need and does not meet any of the four criteria of objective KCDP 5-14. I note that the PA was satisfied that the applicant complied with Section 5.5.2 'Area Under Significant Urban Influence' of the Kerry County Development Plan 2022-2028 (CDP). I also note the applicant's response to the observer's comments.

### Relevant Planning History

7.3. The Board should note that the observer has referenced statements provided under application ref. 21/1491, where permission was granted by the PA for a dwellinghouse for the applicant's brother Kevin Downing (KD). I noted on the date of my site inspection that this development has been completed and is located approximately 80 metres northwest of the subject site, within the same landholding.

7.4. It is my view that the information provided as part of application ref. 21/1491 is relevant in the assessment of this application in terms of rural housing need. Having reviewed the documentation provided as part of 21/1491, the Board should note that the parents of KD (*same parents as subject applicant*) stated that the farm was to be transferred to KD to "*enable him to take over full operation of the farm and to facilitate their retirement*". Furthermore, KD stated that he intended to intensify the farm by increasing the stocking rate with a dedicated wintering facility on the landholding.

- 7.5. It should also be acknowledged that 21/1491 was granted permission under the previous development plan (i.e. Kerry County Development Plan 2015-2021) which I note did not account for National Policy Objective 19 of the National Planning Framework (NPF).

#### Rural Housing Need Assessment

- 7.6. It is stated under Section 5.5 of the CDP that it is the policy of the Council to ensure that future housing in rural areas complies with all National Policy documents including, inter alia, the NPF with greater emphasis on “*establishing that there is a genuine economic or social need for permanent occupation*”. Objective KCDP 5-14 of the CDP requires the applicant to meet one of the four categories in order to satisfy an exceptional rural generated housing need based on their social and/or economic links to the area. The applicant has submitted that she complies with categories (a) and/or (b) of KCDP 5-14.

#### *Category (a)*

- 7.7. This category relates to farmers or their children who wish to build a first home on the family farm. The applicant has stated that she works as a public nurse for the HSE in the Kenmare area and that she also works on the family farm.
- 7.8. Having inspected the site, whilst I observed a number of sheep traversing the laneway I observed no evidence of a farmyard or established agricultural operation within the landholding. I also noted that the wintering facility that KD intended to develop had not been constructed to date. It should also be noted that the family home farm has been identified by the applicant at Blackwater (*section 3 of further information response cover letter*) which is some 16km from the subject site and which is located within the ‘Rural Area under Urban Influence’ rural area type.
- 7.9. Notwithstanding this, the Board should note that it has been previously stated under application ref. 21/1491, that the landholding and farm at Gortnaboul Lower was to be transferred to the applicant’s brother KD. This was a material consideration in the granting of permission. I also note that this development has since been completed and, therefore, KD has implemented this permission.
- 7.10. Therefore, having regard to the above, to the planning history of the landholding and on the basis of the information submitted with the application and appeal, I am not

satisfied that it has been adequately demonstrated by the applicant that she complies with category (a) of objective KCDP 5-14 in this regard.

*Category (b)*

- 7.11. I note that Section 3 of the submitted supplementary information form states that the intended use of the proposed dwelling is not for a farmer engaged wholetime in agriculture. Furthermore, as previously stated, the farm was to be transferred to KD. Therefore, I am not satisfied that it has been adequately demonstrated by the applicant that she complies with category (b) of objective KCDP 5-14 in this regard.

*Category (c)*

- 7.12. The applicant has stated that she works as a public health nurse in the Kenmare area and has done so since 2019 and she intends to continue assistance on the family farm. Therefore, on the basis of the information submitted I consider that the applicant has not demonstrated that she has worked full time in farming for a period of over seven years and therefore does not comply with category (c) of objective KCDP 5-14.

*Category (d)*

- 7.13. I note that the applicant has not indicated that she lives with a lifelong or life limiting condition. Furthermore, no information has been provided by the applicant that shows that she has lived in the local rural area of Gortnaboul Lower for a substantial period of her life. Therefore, on the basis of the information submitted, I consider that the applicant does not comply with category (d) of objective KCDP 5-14.

*Overall Conclusion of rural housing need*

- 7.14. Having regard to the information submitted by the applicant as part of the application and appeal and to my assessment above, I consider that the applicant has not demonstrated an exceptional rural generated housing need within this 'Rural Area under Significant Urban Influence' in accordance with objective KCDP 5-14 of the CDP. It is therefore my recommendation to the Board that permission should be refused on this basis.

**Traffic Safety**

- 7.15. I note the concerns of the appellant and observer regarding the standard of the access track/road that will serve the proposed dwelling. I also note the engineering report on file which provided a visual assessment of the access track.

- 7.16. The Board should note that I have had regard to the access considerations set out in the development management standards in Section 1.20 of Appendix 1 (Volume 6) of the CDP. Having inspected the site I did observe that the private access track was narrow and did comprise of a sharp bend. There were only a few places where the track would support two-way vehicle movements.
- 7.17. Notwithstanding this, I also observed that the track was not heavily trafficked, was designed for a low-speed and comprised of a cul-de-sac. Furthermore, at the location of the proposed entrance I noted that there were adequate sightlines in both directions. I also note that the proposed development will provide an additional layby at the proposed entrance.
- 7.18. Having regard to the above and to the nature of the development which in my view would not generate a significant amount of additional traffic using the track or the local road network, I consider that the proposed development would not endanger public safety by reason of a traffic hazard.

#### Right of Way

- 7.19. I note that concerns have been raised by the observation regarding the right to use the access track. The Board should note that the applicant's solicitor provided a response to this issue at further information stage and noted that the road was previously subject to litigation (Equity Civil Bill E360/2007), however, the outcome was that there was a right of way along the road which may not be reflected on the registered maps. I note that the observation does not dispute this but only states that it has not been interrogated by the PA. Having regard to the provisions of Section 34(13) of the Planning and Development Act 2000, as amended, I consider this issue to have been adequately addressed by the applicant for the purposes of this application.

#### **Visual Amenity**

- 7.20. With regards to the submission from the observer describing the location of the site as visually sensitive, I note that the site is located within the Kenmare landscape character area (no. 37 of the Landscape Review, Appendix 7, Volume 1 of CDP) with the overall sensitivity of the area rated as medium / high. Additionally, I note that there are no views & prospects in proximity to the site, having reviewed Volume 4 of the CDP.

- 7.21. Having regard to the above, to the scale of the proposed development comprising a single storey dwelling measuring 202sqm to a ridge height of 5.9 metres, I am satisfied that the proposed development would not result in an adverse impact on the visual amenities of the area.

### **Biodiversity**

- 7.22. The observation has also raised a number of biodiversity concerns in terms of nesting swifts in disused buildings and newts, hares and otters in the locality. I note the response from the applicant outlining that there is no evidence of swifts in the buildings and the proposals to provide swift blocks within the development.
- 7.23. I note that the subject buildings are located approximately 50 metres north of the subject site and that the proposed development does not include any works to these buildings. Having regard to this, and to the distance, limited nature and duration of construction works associated with a development of this nature, I consider that the proposed development would not significantly impact on any swifts potentially nesting in the buildings.
- 7.24. With regards to the impact on otters, newts and hares in the locality, I note that the subject site is located approximately 30 metres west of the Cummeenboy Stream which is a tributary of the Cleady River. The proposed development does not propose any works in proximity to this waterbody and surface water is proposed to be treated via an onsite soakaway. Having regard to this, to the nature and scale of the proposed development and to the temporary and limited nature of construction works, I have no significant concerns with the impact of the development on local biodiversity.

### **Other Issues**

- 7.25. I note the administrative issues raised by the observer regarding the application form and supplementary information. The Board should note that the supplementary information form was submitted at further information stage after a request by the PA. I also note the comments that the application form used was due to the online submission of the application which I consider acceptable.
- 7.26. With regards to the observer's concerns regarding overlooking, having regard to the separation distance from the proposed development, to the single storey nature of the



proposed dwelling and to the topography of the surrounding lands, I am satisfied that the issue of overlooking does not arise.

## **8.0 Appropriate Assessment (AA) Screening**

- 8.1. I have considered the project in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. The proposed development seeks to treat wastewater via a septic tank and percolation area. Surface water is proposed to be treated via a soakaway located onsite.
- 8.2. The subject site is located approximately 250 metres east of the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment Special Area of Conservation (SAC) (Site Code 000365) and approximately 1.7km south of the Killarney National Park Special Protection Area (SPA (Site Code 004038). The nearest watercourse to the site is the Cummeenboy Stream approximately 30 metres east of the site, which is a tributary of the Cleady River. This watercourse flows southwards for approximately 5km where it connects to the Roughty River. The Roughty River discharges into the Kenmare River SAC (Site Code 002158) a further c. 4km downstream.
- 8.3. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:
- Having reviewed the Environmental Protection Agency's AA Mapping Tool and having inspected the site, I note that there are no direct hydrological connections between the subject site and any designated site.
  - Having regard to the c. 30 metre separation distance to the Cummeenboy Stream.
  - Having regard to the separation distance from the European Sites regarding any other potential ecological pathways and intervening lands.
  - Having regard to the screening determination of the PA.
- 8.4. I conclude that on the basis of objective information, that the development would not likely have a significant effect on any European Site, either alone or in combination with other plans or projects. Likely significant effects are excluded and therefore

Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

## 9.0 Recommendation

I recommend to the Board that permission is **Refused**, for the reasons and considerations set out below.

## 10.0 Reasons and Considerations

1. Having regard to the location of the site within an "Area Under Significant Urban Influence", as identified in the Kerry County Development Plan 2022-2028, and on the basis of submissions made in relation to the planning application and appeal, it is considered that a rural housing need has not been satisfactorily demonstrated by the applicant. It is considered that the proposed development would contravene Objective KCDP 5-14 of the Kerry County Development Plan 2022-2028 and would, therefore, be contrary to the proper planning and sustainable development of the area.

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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.

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Gary Farrelly  
Planning Inspector

18<sup>th</sup> February 2025

## Appendix 1

### (a) Form 1: EIA Pre-Screening

<b>An Bord Pleanála</b> <b>Case Reference</b>	ABP-319554-24			
<b>Proposed Development Summary</b>	The construction of a dwelling house, installation of wastewater treatment system and associated site works			
<b>Development Address</b>	Gortnaboul Lower, Kenmare, County Kerry			
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> (that is involving construction works, demolition, or interventions in the natural surroundings)			Yes	X
			<del>No</del>	<del>No further action required</del>
<b>2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?</b>				
Yes	X	Part 1, Class 13: Wastewater treatment plants with a capacity exceeding 150,000PE  Part 2, Class 10(b)(i): Construction of more than 500 dwelling units.  Part 2, Class 11(c): Wastewater treatment plants with a capacity greater than 10,000PE	Proceed to Q.3	
<del>No</del>			<del>No further action required</del>	
<b>3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?</b>				
<del>Yes</del>				<del>EIA Mandatory</del> <del>EIAR required</del>
No	X			Proceed to Q.4
<b>4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?</b>				

Yes	X	<ul style="list-style-type: none"> <li>The development is for a single dwelling unit.</li> <li>The development is for a domestic wastewater treatment unit for a capacity of 6PE.</li> </ul>	Preliminary examination required (Form 2)
<b>4. Has Schedule 7A information been submitted?</b>			
No	X	Pre-screening determination conclusion remains as above (Q1 to Q4)	
Yes		<del>Screening Determination required</del>	

### (b) Form 2 - EIA Preliminary Examination

<p><b>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. This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b></p>	
<p><b>Characteristics of proposed development</b> (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The development site measures 0.302 hectares. The size of the development is not exceptional in the context of the existing environment.</p> <p>The development is for a single dwellinghouse within a rural area. Localised construction impacts expected, topsoil removal etc.</p> <p>Wastewater treatment unit proposed; subsurface percolation value calculated at 32.31min/25mm in accordance with EPA Code of Practice.</p> <p>There is no real likelihood of significant cumulative effects with existing and permitted projects in the area.</p>
<p><b>Location of development</b> (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The subject site is not located within any designated site and is located approximately 250 metres from the Killarney National Park, Macgillycuddy's Reeks and Caragh River Catchment SAC and approximately 1.7km from the Killarney National Park SPA. My appropriate assessment screening above concludes that the proposed development would not likely result in a significant effect on any European Site.</p> <p>The subject site is located outside Flood Zones A and B for coastal or fluvial flooding.</p>

<b>Types and characteristics of potential impacts</b> (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Having regard to the scale of the proposed development (i.e. a single dwelling unit and domestic wastewater treatment system) and limited nature of construction works associated with the development, to its location removed from any environmentally sensitive sites, to the absence of any cumulative effects with existing or permitted projects in the area, there is no potential for significant effects on the environment.	
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	
There is no real likelihood of significant effects on the environment.	EIA is not required.	X
<del>There is significant and realistic doubt regarding the likelihood of significant effects on the environment</del>	<del>Schedule 7A Information required to enable a Screening Determination to be carried out.</del>	
<del>There is a real likelihood of significant effects on the environment.</del>	<del>EIAR required.</del>	

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Gary Farrelly

Planning Inspector

18<sup>th</sup> February 2025