



An
Bord
Pleanála

Inspector's Report

ABP-321088-24

Development	Construction of a house and garage and all associated site works.
Location	Ballyenaghty, Tralee, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	24/60092
Applicant(s)	Philomena and James O'Donnell
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Philomena and James O'Donnell
Observer(s)	None
Date of Site Inspection	18 th February 2025
Inspector	Phillippa Joyce

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1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Ballyenaghty, c.2.7km (crow flies) to the northwest of Tralee town centre. The site is in a rural location, proximate to the outer edge of the built-up area of Tralee, surrounded by fields, agricultural buildings, and detached residences.
- 1.2. The site is rectangular in configuration and measures c.0.22ha. The site is located in the northwest corner of an agricultural field, and is bound to the west by public road, R558 and to the north by a private laneway serving a dwelling. The eastern and southern site boundaries are formed by the remainder of the field.
- 1.3. The topography of the site is relatively level, with ground levels rising from the public road (west) in an easterly direction across the site.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a detached dwelling with a garage, an on-site treatment system, and all associated site works. The proposed dwelling is two storey in design, with floor plans indicating habitable accommodation of c.208sqm. The detached garage structure is double door in design and indicated as measuring c.56sqm.
- 2.2. The proposal includes a new vehicular entrance, sited in the northwest corner of the site onto the public road/ western site boundary. The proposed dwelling is sited centrally within the site, and the garage is located to the north of the dwelling. The proposal includes a water supply connection to the public watermains, an on-site treatment plant, and a surface water soakaway.
- 2.3. The application was subject to a Further Information (FI) request and a Clarification of FI request. The proposal was amended in terms of increased landscaping along the boundaries and a reduction in hardstanding/ paving.

3.0 Planning Authority Decision

- 3.1. **Summary of the Decision**

3.1.1. The planning authority refused permission for the proposed development on 27th September 2024. The proposal was refused for one reason, as follows:

1. *The Planning Authority is not satisfied on the basis of submissions made in relation to the application, that a rural housing need has been demonstrated in accordance with Objective KCDP 5-14, Rural Housing Policy of the Kerry County Development Plan 2022-2028 having regard to the location of the application site in an area designated as a Rural Area Under Significant Urban Influence. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. The application, lodged on 19th February 2024, was subject to a Further Information (FI) request on 12th April 2024. A FI response was received by the planning authority on 10th July 2024. Clarification of FI was requested on 18th July 2024, a response to which was received on 2nd September 2024. As such, there are a sequence of planning and other technical reports on the case file.

3.2.2. Planning Reports

The key issues in the planning reports can be summarised as follows:

- Planning history, PA Ref. 23/1033 and the FI request on same, referred to which included a request for the applicant to demonstrate compliance with the CDP Rural Settlement policy.
- Application site considered to not be too open and/ or exposed, and that the proposal would not have an adverse visual impact on same.
- Residential amenity of the area is not considered to be adversely affected by the proposal.
- Traffic components (new entrance, sightlines) are considered to be acceptable.
- FI requested in relation to on-site treatment plant and drainage details, and additional landscaping for increased screening.
- Clarification of FI requested on outstanding flood risk information and landscaping proposals.

- Final planning assessment considers the applicant's qualification under the CDP Rural Settlement Policy (there does not appear to be a specific assessment of the Clarification of FI response in relation to drainage and landscaping).
- Highlights the applicant states they are living in an existing dwelling on the landholding and that the costs associated with renovation are unviable.
- Finds the applicant's position has not been demonstrated and is not consistent with CDP policy. Considers that a renovation/ extension or replacement dwelling in situ would be consistent with CDP policy.
- Refusal of permission is recommended on that basis.
- Requirements for appropriate assessment and environmental impact assessment are screened out.

3.2.3. Other Technical Reports

Tralee Municipal District Office: No objection subject to condition.

Site Assessment Unit: FI requested, CFI requested, conditions recommended.

3.3. Prescribed Bodies

Uisce Eireann: No objection to water supply connection.

3.4. Third Party Observations

3.4.1. None received.

4.0 Planning History

Appeal Site

None.

Lands to the South

PA Ref. 23/1033

Applicant applied for permission on 5th October 2023 for a dwelling, garage, onsite treatment plant and all associated works.

FI requested on 28th November 2023 relating to sightlines, on-site treatment plant and drainage, compliance with the CDP Rural Settlement Policy, and visual impact. FI response not received, application deemed withdrawn on 7th June 2024.

Lands to the Southeast

ABP 300334-17, PA Ref. 16/1123 (not implemented at the time of site inspection)

Permission granted on 22nd October 2018 to Terra Solar Ltd for a solar PV energy development and associated works with revised conditions.

5.0 Policy Context

5.1. National Context

- 5.1.1. National policy context for new dwellings in rural areas is set by the applicable planning guidelines and National Planning Framework.

Sustainable Rural Housing Guidelines for Planning Authorities, 2005

- 5.1.2. The Rural Housing Guidelines outlines the planning context for applicants seeking dwellings in rural areas, including those areas under urban influence, defines 'rural generated housing', and identifies the different categories of persons which can demonstrate a rural housing need.
- 5.1.3. Section 3.2.3 of the guidelines refer to 'Persons who are an intrinsic part of the rural community' and 'Persons working full-time or part-time in rural areas'.
- 5.1.4. Appendix 4 of the guidelines describe occurrences of ribbon development as: '...where 5 or more houses exist on any one side of a given 250 metres of road frontage'. The guidelines recommend against the creation of ribbon development for a variety of reasons relating to road safety, future demands for the provision of public infrastructure as well as visual impacts.

National Planning Framework: First Revision, April 2025

- 5.1.5. The National Planning Framework (NPF, as revised) postdates the guidelines and maintains the established policy that applicants for new rural dwellings in locations under urban influence demonstrate a functional economic or social requirement for housing need.

5.1.6. The relevant National Policy Objective (NPO) is NPO 28 (previously NPF NPO 19).

NPO 28:

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 settlement

5.2. Local Context

Kerry County Development Plan 2022-2028

5.2.1. Chapter 5 of the Kerry County Development Plan 2022-2028 (CDP) outlines the applicable rural housing policy framework for new dwellings (Section 5.5) and policy for the renovation and restoration of vernacular rural dwellings (Section 5.7).

5.2.2. Of relevance to the proposed development include:

- The appeal site is located within the 'Rural Area under Significant Urban Influence' associated with Tralee town (Map 5.1: Rural Area Types, pg. 99).
- **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 5-5** Ensure the careful and sustainable management of the countryside/ rural areas in order to adapt to and mitigate the effects of climate change.

- **KCDP 5-14** Ensure that 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 of 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.

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 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 5-22** 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.
- **KCDP 5-25** Seek to preserve traditional or vernacular rural houses in order to protect the varied types of housing stock in the County and to preserve the rural built heritage.
- **KCDP 5-26** Promote the viable re-use of vernacular dwellings and buildings without losing their character and to support applications for the sensitive restoration of disused vernacular or traditional dwellings as permanent places of residence.

5.3. Natural Heritage Designations

- 5.3.1. The appeal site is not located in or immediately adjacent to a European site, a Natural Heritage Area (NHA) or a proposed NHA (pNHA).
- 5.3.2. The European site designations in proximity to the appeal site include (as measured at closest proximity between boundaries):
 - Tralee Bay Complex SPA (site code: 004188) is c.1.67km to the southwest.
 - Tralee Bay and Magharees Peninsula, West To Cloghane SAC (site code: 002070) is c.1.67km to the southwest.
 - Slieve Mish SAC (site code: 002185) is c.4.85km to the south.
- 5.3.3. The pNHA designations in proximity to the appeal site include:
 - Tralee Bay and Magharees Peninsula, West To Cloghane pNHA (site code: 002070) is c.1.67km to the southwest.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. This is a first party appeal against the decision of the planning authority to refuse permission for the proposed development. The appeal grounds include the following:

- Applicant manages the family farm while also working fulltime in Tralee.
- Resides in an existing farmhouse (inherited from a granduncle) on the family farm.
- Farmhouse is in a severe disrepair (lists construction and air quality issues).
- Applicant seeks to construct a new dwelling on the farm for health reasons and due to the prohibitive costs of renovating the farmhouse.
- Refusal reason has not taken into account the applicant's unique circumstances; owns a house in poor condition, seeks to build a new home, renovation is impractical due to financial limitations.
- Lands owned by the applicant are identified (Figures 2 and 3,, several fields in the townland of Ballyenaghty, totalling c.30.55ha). Includes the appeal site and a centrally located farmhouse residence with several outbuildings (to the southeast of the appeal site).
- Current dwelling conditions are outlined with photographs and associated descriptions (e.g., damp walls, sagging ceilings, stains, plaster damage, cracks in walls).
- Cost breakdowns are provided for the farmhouse renovation (€603,800) versus the new dwelling construction (€398,117).
- Compliance with the component parts of CDP Objective 5-14 includes:
 - a) applicant is a farmer, important to have a dwelling close to the farm, requires a new home due to the poor conditions of the existing farmhouse.
 - b) applicant oversees the farm and while there is an existing dwelling, the costs of renovating same is prohibitive, and the only option is to build a new home.
 - c) applicant has lived in the area all of his life and works in the farming sector.
 - d) applicant and applicant's son suffer from asthma and chest infections and require a modern home suitable for their well-being.

- Of the CDP policy preference to be given to restoration of existing dwellings over construction of new dwellings, the costs of the latter are prohibitive, and it is not financially viable for the applicant.
- States there are discrepancies in the planning authority decision making; cites other planning applications considered to be similar scenario to the applicant's which have been permitted.
- Concludes that a new house is more suitable and cost-effective – refers to costs, energy efficiencies, design flexibility, avoiding hidden costs in renovation projects, and the applicant's health conditions (letter from doctor outlines same).

6.2. **Planning Authority Response**

6.2.1. No response has been received from the planning authority on the appeal.

6.3. **Observations**

6.3.1. None received.

7.0 **Assessment**

7.1. Having reviewed the appeal, examined the documentation on the case file, inspected the site, and had regard to the relevant policy context and planning guidance, I consider that the main issues in the appeal to be as follows:

- Rural Housing Policy
- Vernacular Housing Policy
- Siting and Design
- Water Services and Flood Risk

I propose to address each item in turn below.

7.2. **Rural Housing Policy**

7.2.1. The planning authority's refusal reason for the proposed development relates to the applicant failing to demonstrate compliance with the Council's Rural Housing Policy. The appeal site is located within the 'Rural Area under Significant Urban Influence' associated with Tralee town.

- 7.2.2. Within this area, the applicable CDP objective for an applicant seeking to build a new dwelling is KCDP 5-14. The objective has four categories (a-d, see section 5.0 of this report above) which constitute an 'exceptional rural generated housing need'. An applicant is required to demonstrate compliance with one of these categories to qualify for a new rural dwelling. The objective ends by stating the preference shall be given to the renovation/ restoration/ alteration/ extension of an existing dwelling on the landholding rather than the construction of a new house.
- 7.2.3. The four categories include:
- a) farmers who wish to build a first home 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 where no existing dwelling is available for their own use.
 - c) other persons working full-time in farming or the marine sector for a period of over seven years who wish to build a first home in the local rural area.
 - d) persons who have spent over seven years living in the local rural area in which they wish to build a first home, currently live with a lifelong or life limiting condition, and can clearly demonstrate that the need to live adjacent to immediate family.
- 7.2.4. From the information available in the case file, the applicant states he has inherited a farm with a farmhouse from a grand uncle (land folio details provided, landholding measures c.30ha). The applicant states that he manages the family farm whilst also being in full-time employment with the Department of Agriculture, Food and the Marine in Tralee.
- 7.2.5. The appeal site is located in the northwest corner of the landholding. The applicant and his family currently reside in the existing farmhouse. From the land folio details, the farmhouse is located c.170m to the southeast of the site, is accessed via a private laneway from the public road and is surrounded by a complex of buildings.
- 7.2.6. In its decision, the planning authority notes that the applicant is living in an existing dwelling on the landholding, and that the costs associated with renovation are claimed by the applicant to be unviable. The planning authority states this position has not been demonstrated, is not consistent with CDP policy, considers a

renovation, extension or replacement dwelling to be the preferable option which does comply with CDP policy, and refuses permission accordingly.

7.2.7. In the appeal grounds, the applicant outlines the ways in which he qualifies for a new rural dwelling under objective KCDP 5-14 (see section 6.0 of this report above). I consider the applicant's position in respect of the four categories in turn below.

- i. Of category a) and the applicant's claim to be a farmer wishing to build on the family farm, I have not identified any verifiable information provided on the farming operation that the applicant states he is managing (e.g., type of farm, tillage, vegetable, livestock), or any documentary evidence demonstrating that the farm is operating as a viable business in which the applicant would be involved in managing on a full or part-time basis.
- ii. Of category b) and the applicant's claim that he is overseeing the farm and the cost of renovating the existing dwelling is prohibitive, I reiterate that there is no documentary evidence presented that the applicant has taken over the required 'running of a farm on a full-time basis'. Further, there is an existing dwelling on the landholding available for use, in which the applicant is currently residing.
- iii. Of category c) and the applicant's claim that he has lived in the area all of his life and works in the farming sector, again, I have not identified any evidence in the case file that the applicant works on the farm or in the wider farming sector. While the applicant states that he is employed on a full-time basis in the Department of Agriculture, Food and the Marine in Tralee, the type of employment/ role in the Department is not specified or evidenced.
- iv. Of category d) and the applicant's claim that he suffers from health conditions which require a modern home, I note that in the appeal correspondence has been provided from a medical practitioner, outlines the health conditions, and sympathises with the applicant's desire to build a more suitable long-term house. I consider there to be limitations to/ in the documentation submitted as there is correspondence from only one practitioner, the health conditions are not of nature that would require a new two storey dwelling, and the medical practitioner does not expressly state that the applicant requires a new dwelling.

- v. Finally, of the CDP policy for preference to be given to restoration of existing dwellings over construction of new dwellings, and the applicant's claim that the costs of the latter are prohibitive and not financially viable, I note that the costs are estimates provided from only one consultant. Further, as discussed in the following subsection, policy in CDP Section 5.7 guides that decisions to replace vernacular dwellings with new dwellings will only be in exceptional circumstances and based on best conservation practices. There is no reference to financial matters being a relevant planning consideration in such decisions.

7.2.8. From the above, I concur with the planning authority and consider that the applicant does not qualify under any of the categories for a new rural dwelling at the appeal site. Nor does the applicant's case to construct a new dwelling instead of restoring/renovating the existing farmhouse satisfy the policy relating to same.

7.2.9. In conclusion, I find that the applicant has failed to adequately demonstrate an exceptional rural generated housing need and thereby fails to comply with the applicable rural housing policy in the Rural Housing Guidelines, NPF: First Revision, and CDP. Of the latter, this is specifically in relation to objectives KCDP 5-4 and KCDP 5-14.

7.3. Vernacular Housing Policy

7.3.1. In addition to the rural housing policy in Section 5.5 of the CDP, I note that Section 5.7 outlines the policy context for the renovation and restoration of vernacular rural dwellings, such as the existing farmhouse on the landholding in which the applicant and his family currently reside.

7.3.2. The planning authority's decision does not refer to this section of the CDP or objectives therein (i.e., KCDP 5-25 and KCDP 5-26). While the Board may consider this to be a new issue, I am satisfied that the policy and these objectives align with/expand on KCDP 5-14 (i.e., the preference for renovation of existing dwellings instead of new builds). As such, I consider the policy and objectives therein to be applicable to the appeal assessment and not a new issue per se.

7.3.3. The CDP highlights that a key component of the county's rural landscape are traditional structures, many of which have been neglected in preference for new dwellings. To preserve the county's vernacular architecture and protect its built

heritage, the CDP states priority will be given to the renovation and restoration of existing buildings in the countryside for use as permanent primary residences (as per objectives KCDP 5-19, KCDP 5-25 and KCDP 5-26).

- 7.3.4. Importantly, the CDP indicates the replacement of an existing dwelling may be considered in limited circumstances where the renovation or restoration of the building is not feasible given best conservation practices. I note the policy restriction is to best conservation practices as opposed to, for example, financial considerations and the viability of a renovation project when compared with a new build project, which is the focus of the applicant's appeal grounds.
- 7.3.5. In the case file, I have not been able to identify/ the applicant has not indicated the future intent for the existing farmhouse, e.g., to be demolished, left unused, used for agricultural purposes, or maintained in residential use to be rented or sold.
- 7.3.6. In conclusion, in the absence of same, I consider that permitting a new rural dwelling on a landholding which has an existing farmhouse, which has not been shown or demonstrated to be unsuitable for renovation/ restoration, is contrary to stated CDP policy in Section 5.7, and specifically to objectives KCDP 5-19, KCDP 5-25, and KCDP 5-26. Further, I consider that the proposal would be contrary to objective KCDP 5-5 by not constituting the most sustainable environmental option in terms of managing the existing resources of the countryside and climate change.

7.4. Siting and Design

- 7.4.1. The appeal site is located in the northwest corner of the applicant's landholding, addressing the public road, R558. The proposed development comprises a two storey dwelling, garage, and new vehicular entrance. In its decision, the planning authority found the siting and design of the proposal to be acceptable (following FI and CFI responses which supplemented landscaping and reduced hardstanding).
- 7.4.2. While I note the planning authority's position, I have reservations regarding the siting of the proposed development. From a review of the folio details of the applicant's landholding, I consider there to be more suitable locations for a new dwelling (if granting permission for the proposal is under consideration).
- 7.4.3. The existing farmhouse on the landholding is accessed via an entrance from the public road and a private laneway. I consider that it would be preferable for the

proposed dwelling to be sited so as to directly access onto the private laneway, to use the existing entrance at the public road, and to be set back from the public road. A revised choice of site location would avoid a proliferation of vehicular entrances and prevent any loss of existing hedgerow along the public road.

- 7.4.4. Further, I note that Appendix 4 of the Rural Housing Guidelines describe occurrences of ribbon development as: ‘...*where 5 or more houses exist on any one side of a given 250 metres of road frontage*’. The guidelines recommend against the creation of ribbon development for a variety of reasons relating to road safety, future demands for the provision of public infrastructure as well as avoiding visual impacts.
- 7.4.5. As sited, the proposed development would be the fifth detached dwelling in a row along the eastern side of the R558 (there are also three detached dwellings on the opposite/ western side of the road at this location). I have measured the road frontage (northern boundary of the property of the first dwelling in the row and the southern boundary of the appeal site) and estimate the distance to be c.250m. That being, I consider that permitting the proposed development would result in the creation of, contribute to, and/ or exacerbate ribbon development, which is contrary to the Rural Housing Guidelines.
- 7.4.6. The planning authority’s decision did not consider the creation/ occurrence/ exacerbation of ribbon development at this location, nor discuss the definition or guidance included in the Rural Housing Guidelines. While the Board may consider this to be a new issue, I am satisfied that the potential for ribbon development to be formed by new rural dwellings is a well-known and understood concept, as are the adverse planning impacts associated with same.
- 7.4.7. In relation to the design of the proposed dwelling, while I note that the elevational treatment is relatively streamlined and modest, I consider the dwelling and garage structures to be comparatively large in design and principal dimensions (two storey house, height c.9.45m, two-door garage, height c.5.6m).
- 7.4.8. I have reviewed the planning authority’s ‘Building a House in Rural Kerry: Design Guidelines’ (Rural Housing Design guide) and consider that the chosen design for the proposed dwelling does not wholly accord with the provisions of same. For example, the choice of two storey design when adjacent to a row of predominantly single storey dwellings; the positioning of the dwelling and garage structure at an

elevated level to the road; and the dwelling and garage structure fronting onto the public road instead of being set back from the road and gables of the structures facing the road.

- 7.4.9. In conclusion, I do not consider the siting and design of the proposed development to be acceptable. I find that the proposal does not accord with best practice outlined in the planning authority's Rural Housing Design guide, thereby being contrary to KCDP 5-22, and that permitting the proposal would result in the creation of, contribute to, and/ or exacerbate ribbon development at this location, which would be which is contrary to the Rural Housing Guidelines and in turn to KCDP 5-4.

7.5. Water Services and Flood Risk

- 7.5.1. The proposed development is to be serviced by an on-site wastewater treatment plant and a stormwater soakaway. The water supply is via a connection to the public main (Uisce Eireann indicates acceptance of same). Technical details associated with the treatment plant and potential flood risk were subject of the planning authority's FI and CFI requests.
- 7.5.2. I have reviewed the water services related details in the case file. These include the details submitted initially with the application (site characterisation form (albeit of the site associated with PA Ref. 23/1033, details of the treatment plant), assessment of same by the planning authority (Site Assessment Unit (SAU) report), FI request, applicant's FI response (confirmation of reopened trial pits and on-site inspection by planning authority staff), assessment of same by the SAU, CFI request, applicant's response (pervious flood incident associated with a blocked drain which has been cleared out), and assessment of same by the SAU (no objection to proposal subject to conditions). I note the processing and assessment of the proposed development by the SAU of the planning authority and acceptance of site suitability for the treatment plant.
- 7.5.3. In respect of flood risk, I have reviewed available sources (www.floodinfo.ie, www.catchments.ie). There is no watercourse in or adjacent to the appeal site. Pinure River is the closest watercourse, located c.168m to the north of the site (crow-flies). I confirm there are no records of any flooding events at or in proximity to the appeal site.

8.0 Appropriate Assessment

8.1. Stage 1 – Screening Determination for Appropriate Assessment

8.1.1. In accordance with section 177U(4) of the Planning and Development Act 2000, as amended (2000 Act), and on the basis of objective information, I conclude that the proposed development would not have a likely significant effect on any European site either alone or in combination with other plans or projects. It is therefore determined that Appropriate Assessment (Stage 2) under section 177V of the 2000 Act is not required (see Appendix 1 of this report below).

8.1.2. This conclusion is based on:

- Objective information presented in the case file and from verified sources (e.g., EPA, NPWS, planning authority).
- Qualifying interests and conservation objectives of the European sites.
- Absence of any meaningful pathways to any European site.
- Distances from European sites.
- Standard pollution controls and project design features that would be employed regardless of proximity to a European site and the effectiveness of same.

8.1.3. No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.

9.0 Environmental Impact Assessment

9.1. The proposal is of a class of development identified in Part 2 of Schedule 5 of the Planning and Development Regulations 2001, as amended (2001 Regulations) for the purposes of Environmental Impact Assessment (EIA). Accordingly, I have undertaken a pre-screening exercise and preliminary examination of the proposed development (see Appendix 2 and Appendix 3 respectively of this report below).

9.2. By taking into account the nature and scale of the proposed development, the location of the site outside of any sensitive and/ or designated locations, the existing pattern of development in the vicinity, the information and reports submitted as part of the application and appeal, and the criteria set out in Schedule 7 of the 2001

Regulations, I have concluded that there is no real likelihood of significant effects on the environment arising from the proposed development, and that the need for an EIA and the submission of an EIAR is not required.

10.0 Water Status Impact Assessment

10.1. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive (WFD) which seek to protect and, where necessary, restore surface water and ground waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration.

10.2. I conclude that the proposed development will not result in a risk of deterioration on any waterbody (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively, or on a temporary or permanent basis, or otherwise jeopardise any waterbody in reaching its WFD objectives and consequently can be excluded from further assessment (see Appendix 4 of this report below).

10.3. This conclusion is based on:

- Objective information presented in the case file and from verified sources (e.g., EPA, planning authority).
- Absence of/ distance to closest surface watercourses.
- Lack of any meaningful hydrological connection to any waterbody including the groundwater body.
- Use of best practice construction practices during construction phase.

11.0 Recommendation

Following from the above assessment, I recommend that permission be REFUSED for the proposed development for the reason and considerations set out below.

12.0 Reasons and Considerations

1. Having regard to the location of the site within a 'Rural Area under Significant Urban Influence', as identified in the Kerry Development Plan 2022-2028, and

on the basis of the information submitted with the planning application and appeal, it is considered that the applicant has failed to adequately demonstrate a rural generated housing need. Accordingly, permitting the proposed development would contravene Objectives KCDP 5-4 and KCDP 5-14 of the Kerry Development Plan 2022-2028 and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development seeks the construction of new rural dwelling on the landholding instead of the renovation and restoration of an existing vernacular farmhouse in which the applicant currently resides. Policies and objectives in the Kerry Development Plan 2022-2028 seek to preserve the county's rural vernacular architecture, protect its built heritage, and give preference to the renovation and restoration of existing rural buildings for use as permanent primary residences. On the basis of the information submitted with the planning application and appeal, it is considered that the applicant has failed to adequately demonstrate that it is not feasible to or that the existing farmhouse is unsuitable for renovation and restoration. Accordingly, permitting the proposed development would contravene Objectives KCDP 5-19, KCDP 5-25 and KCDP 5-26 of the Kerry Development Plan 2022-2028 and would, therefore, be contrary to the proper planning and sustainable development of the area.
3. The siting and design of the proposed development fail to sufficiently accord with best practice outlined in the planning authority's 'Building a House in Rural Kerry: Design Guidelines'. Further, the siting of the proposed development would result in the creation of, contribution to, and/ or exacerbation of ribbon development at this rural location. Accordingly, permitting the proposed development would contravene Objectives KCDP 5-22 and KCDP 5-4 of the Kerry Development Plan 2022-2028 and would, therefore, be contrary to the proper planning and sustainable development of the area.

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.

Phillippa Joyce

Senior Planning Inspector

9th September 2025

Appendix 1: Appropriate Assessment – Screening

I have considered the project (proposed development) in light of the requirements section 177U of the Planning and Development Act 2000 as amended.

The project is a single dwelling with associated site works on a greenfield site (part of an agricultural field) within a rural area. The project includes an on-site wastewater treatment plant and a soakaway for the disposal of stormwater run-off from paved/ roofed areas. There are no watercourses at or adjacent to the site. Pinure River is the closest watercourse, located c.168m to the north of the site (crow-flies).

The project is located inland of two European site designations associated with Tralee Bay (Tralee Bay Complex SPA (site code: 004188) and Tralee Bay and Magharees Peninsula, West to Cloghane SAC (site code: 002070) are located c.1.67km to the southwest of the site. The QIs of the SPA include several bird species, wetland (habitat) and waterbirds, and those of the SAC include estuaries, lagoons, reefs, mudflats, sandflats, salt meadows, dunes, vegetation, forests, otter and petalwort.

The project includes an on-site wastewater treatment plant and soakaway for the disposal of stormwater. The soakaway ensures a level of on-site attenuation and initial treatment prior to discharge to ground. The site is part of an agricultural field with no evidence of habitats or species with links to any European sites (i.e., no ecological connections). Due to the absence of/ proximity to watercourses, there are no meaningful direct hydrological connections to any European sites. The planning authority screened out the need for appropriate assessment, and no nature conservation concerns are raised in the planning appeal.

In 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. This conclusion is based on the:

- Objective information presented in the case file and from verified sources (e.g., EPA, NPWS, planning authority).
- Qualifying interests and conservation objectives of the European sites.
- Absence of any meaningful pathways to any European site.
- Distances from the European sites.
- Standard pollution controls and project design features that would be employed regardless of proximity to a European site and the effectiveness of same.

I conclude that the project would not have a likely 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.

Inspector: _____

Date: _____

Appendix 2: Environmental Impact Assessment – Pre-Screening

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	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	✓	Class 10(b) Infrastructure Projects	Proceed to Q3
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	✓	Class 10(b)(i)	Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	✓	Relevant thresholds arising from Classes: - Class 10(b)(i): more than 500 dwelling units.	Preliminary Examination required
5. Has Schedule 7A information been submitted?			
No	✓	Pre-screening determination conclusion remains as above (Q1 to Q4)	
Yes			

Inspector: _____

Date: _____

Appendix 3: Environmental Impact Assessment – Preliminary Examination

The Board carried 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.

Characteristics of proposed development

(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).

Project comprises a single dwelling with associated site works on a greenfield site (part of an agricultural field) within a rural area. The project includes an on-site wastewater treatment plant and a soakaway for the disposal of stormwater run-off from paved/ roofed areas. Project differs marginally from the surrounding area, but the differences are not considered to be significant in terms of character or of scale.

Project would cause physical changes to the appearance of the site during the construction and operation (occupation) works, and these would be within acceptable parameters for the receiving area.

No significant use of natural resources is anticipated, and the project would connect into the public water supply which has sufficient capacity to accommodate demands, and on-site drainage services systems.

Construction phase activities would result in the use of potentially harmful materials, and cause noise and dust emissions. These would likely be typical of similar construction sites. Conventional waste produced from construction and operational activities would be managed.

Project would not cause risks to human health through water contamination/ air pollution through the design of the scheme, connection to public/ on-site water services systems, and scale of residential activity arising.

Location of development

(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/ capacity of

Project is not located in, on, or adjoining any European Site, any designated or proposed Natural Heritage Area, or any other listed area of ecological interest or protection.

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).	No evidence of protected habitats, plants, or fauna species. No direct hydrological connections identified between the site and Tralee Bay waterbodies. There are no landscape designations, archaeological or architectural heritage designations (protected structures, architectural conservation area) pertaining to/ recorded at the site.	
Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	Amelioration of environmental impacts have been incorporated into the project's design. Mitigation measures would include those required by conditions attached to a grant of permission in relation to construction and operation phases. There are no likely significant effects identified or anticipated in terms of cumulative and/ or transboundary effects.	
Conclusion		
Likelihood of Significant Effects	Conclusion in respect of EIA	Yes or No
There is no real likelihood of significant effects on the environment.	EIA is not required.	Yes
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	Schedule 7A Information required to enable a Screening Determination to be carried out.	No
There is a real likelihood of significant effects on the environment.	EIAR required.	No

Inspector: _____ **Date:** _____

DP/ ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)

Appendix 4: Water Status Impact Assessment – Screening

The project is a single dwelling with associated site works on a greenfield site (part of an agricultural field) within a rural area. The project includes an on-site wastewater treatment plant and a soakaway for the disposal of stormwater run-off from paved/ roofed areas. The soakaway ensures a level of on-site attenuation and initial treatment prior to discharge to ground.

There are no watercourses at or adjacent to the site. Pinure River is the closest watercourse, located c.168m to the north of the site (crow-flies). The river is part of the Pinure_010 waterbody (EPA: IE_SH_23P160880), which has a Water Framework Directive (WFD) status of 'moderate', an environmental objective of 'good', an under 'review' risk of not achieving its WFD objective, and no identified pressures on the waterbody. The underlying groundwater body is Tralee (EPA: IE_SH_G_226), which has a WFD status of 'good', an environmental objective of 'good', a 'not at risk' of not achieving its WFD objective, and no identified pressures on the waterbody.

Due to the absence of and/ or proximity to watercourses, there are no direct hydrological connections to any surface water bodies. There is a hydrological connection to groundwater via the stormwater disposal and treated wastewater discharge.

I have assessed the project and have considered the objectives as set out in Article 4 of the WFD which seek to protect and, where necessary, restore surface water bodies and ground waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. 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 surface water and/ or ground waterbodies either qualitatively or quantitatively.

The reason for this conclusion is as follows:

- Objective information presented in the case file and from verified sources (e.g., EPA, planning authority).
- Absence of/ distance to closest surface watercourses.
- Lack of any meaningful hydrological connection to any waterbody including the groundwater body.
- Use of best practice construction practices during construction phase.

Conclusion

I conclude that on the basis of objective information, the project would not result in a risk of deterioration on any waterbody (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively, or on a temporary or permanent basis, or otherwise jeopardise any waterbody in reaching its WFD objectives and consequently can be excluded from further assessment.

Inspector: _____ Date: _____