



An
Coimisiún
Pleanála

Inspector's Report

ABP-321147-24

Development

Demolition of house and construction of replacement house with family flat including a new wastewater treatment unit and all associated site works.

Location

Treanoughtragh, Glenbeigh, Co. Kerry

Planning Authority

Kerry County Council

Planning Authority Reg. Ref.

24/66

Applicant(s)

Eddie & Sue Nicholson

Type of Application

Planning Permission

Planning Authority Decision

Grant Permission

Type of Appeal

First Party – Conditions only

Appellant(s)

Eddie & Sue Nicholson

Observer(s)

None

Date of Site Inspection

21st October 2025

Inspector

Niall Haverty

1.0 Site Location and Description

- 1.1. The appeal site, which is roughly rectangular in shape with a stated area of 0.21 ha, is located in a rural coastal area at Treanoughtragh, Glenbeigh, Co. Kerry. The site is located between a private road to the east and the sea to the west, and it extends to the high water mark. Another road, which runs along the southern edge of the site appears to be a public road.
- 1.2. The site is currently occupied by a single storey chalet-style dwelling house with a stated gross floor space of c. 150 sq m. The house has 4 No. bedrooms and has an almost flat roof, with a maximum height of 2.9m.
- 1.3. The house is oriented at an angle within the site, with its front elevation facing north east. The footprint of the house is stepped and finishes are primarily painted render.
- 1.4. There are a considerable number of one-off rural houses along the coastline in this area, particularly to the north of the appeal site.

2.0 Proposed Development

- 2.1. The proposed development is described as follows:
 - demolish existing dwelling house;
 - construct a new dwelling house with family flat;
 - decommission the existing tank and construct a new wastewater treatment unit; and
 - associated site works.
- 2.2. The proposed replacement dwelling house has a stated gross floor space of 217 sq m. It is a part single storey, part two storey house with a ground floor of 180 sq m and a first floor of 37 sq m. It incorporates a family flat, with an internal connection to the main house. There are 3 No. bedrooms at ground floor level (2 No. of which are within the family flat) and a further 2 No. bedrooms at first floor level. The maximum height of the proposed house is 3.775m for the single storey element and 6.845m for the two storey element.

- 2.3. The proposed house is located generally on the footprint of the existing house to be demolished but is larger and is oriented with its front elevation facing east, parallel to the road.
- 2.4. The western (rear) elevation includes expansive glazing to avail of the coastal views and other finishes include natural stone, render and composite dark timber cladding.
- 2.5. A new wastewater treatment unit and sand polishing filter is proposed, with the existing septic tank to be decommissioned.
- 2.6. The application was accompanied by photomontages, a Site Characterisation Form, details of the proposed wastewater system, and an engineer's report in relation to the condition of the existing house.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority decided to **grant** permission, subject to 13 No. conditions. The following conditions are the subject of this appeal:

4. (a) Proposed dwelling house shall be in accordance with the design drawing received on 15/02/2024 except for the following modification:

(i) First floor section to building shall be omitted in its entirety.

Revised elevations and floor plans in compliance shall be submitted for the written approval of the Planning Authority within 4 weeks of receipt of this decision.

(b) All external finishes shall be neutral in colour, tone and texture. Prior to commencement of construction of the house, details of the materials, colours and textures of all the external finishes to the proposed house shall be submitted to the planning authority for written agreement.

(c) Stonework to the external walls shall be constructed of natural stone which shall be sourced locally.

Reason: To integrate the structure into the surrounding area.

11. Existing boundary screening shall be retained in full.

Reason: In order to integrate the development into its setting and in the interests of biodiversity and the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

3.2.2. The initial Planner's Report can be summarised as follows:

- This is a sensitive coastal environment with the building on site situated between the adjoining access road and the sea. The land is zoned Rural General as per the CDP.
- No record of planning permission for a dwelling on the site.
- Existing vehicular access is to be used. The site is located on a private cul de sac road.
- Proposal is not likely to impact negatively on residential amenities in the area.
- Visual impact is concerning. The existing dwelling and its flat roof single storey integrates well when viewed from the approach road. The proposed first floor will have a negative visual impact.
- Proposed development would not be likely to have a significant effect on any European Sites, in view of the sites' Conservation Objectives and Stage 2 AA is not required.
- Proposal does not require EIA screening or EIA. There is no real likelihood of significant effects on the environment.
- Further information to be sought.

3.2.3. A request for further information was subsequently issued, with regard to the planning history and status of the existing structure on site and matters relating to construction waste management, including asbestos containing materials. The FI request advised the applicant that the Planning Authority had serious concerns in relation to the visual impact of the first floor of the proposed dwelling and its ability to integrate into the very sensitive coastal setting.

The subsequent Planner's Report can be summarised as follows:

- Applicant has submitted a statement that the dwelling house was constructed prior to planning legislation in 1959. It is difficult to determine if the entire structure was constructed at that time.
- Applicant has not made any modifications to the scale of new building proposed on foot of concerns outlined at FI request stage.
- A new dwelling house reflective of the scale of the existing dwelling house on site can be considered. It is accepted that the dwelling house on site is a holiday home with a family flat extension.
- The two storey section of the proposed dwelling at 6.8m high would not integrate satisfactorily into this sensitive coastal setting, at almost 4m higher than the existing structure. The site is between the sea and the road and very sensitive to development. Dwellings in the vicinity are mainly single storey.
- In order to ensure the integration of the new dwelling house with family flat into the surrounding scenic coastal rural environment it is recommended that the first floor section be omitted.

3.2.4. Other Technical Reports

- **Environment Section:** No objection, subject to conditions (relating to wastewater treatment system and waste management).

3.3. **Prescribed Bodies**

3.3.1. None.

3.4. **Third Party Observations**

3.4.1. None.

4.0 **Planning History**

4.1. No recorded planning history on site.

5.0 Policy Context

5.1. Kerry County Development Plan 2022 – 2028

5.1.1. The appeal site is located in a ‘Rural Area under Urban Influence’. Section 5.5.1.2 states 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.”

5.1.2. Objective KCDP 5-15 sets out the rural settlement policy for such areas.

5.1.3. The following rural housing Objectives are noted:

- **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 5-21:** 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.

5.1.4. The appeal site is not within a designated ‘Visually Sensitive Area’ but is located within the ‘Rossbeigh and Cromane’ LCA, an area identified as being of ‘Medium / High visual sensitivity’.

5.2. Natural Heritage Designations

5.2.1. The appeal site abuts the Castlemaine Harbour SAC and SPA (Site Codes 000343 and 004029, respectively) and is close to the Castlemaine Harbour pNHA, all to the west of the site.

5.3. EIA Screening

5.3.1. The proposed development has been subject to preliminary examination for Environmental Impact Assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for Environmental Impact Assessment screening and an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first party condition-only appeal in relation to condition Nos. 4 and 11 was submitted on behalf of the applicants by David Mulcahy Planning Consultants Ltd. It can be summarised as follows:

- The area is characterised by holiday homes displaying a variety of built forms and building heights.
- Site is not within a 'Visually Sensitive Area' as designated in the CDP but is in a sensitive area from a visual perspective due to location on a coastline.
- The existing dwelling dates from the 1950s and is notably dated and energy inefficient. The proposed dwelling will provide a modern energy efficient dwelling, including a family flat for the applicants' daughter who has an intellectual disability.
- The new dwelling will be broadly located at the same location as the existing dwelling but with a slightly larger footprint and different orientation.
- Modern wastewater treatment system will eliminate the risk of ground pollution from the dated current tank.
- Photomontages submitted with application show views from the side, rear and adjoining road.

- Photomontages from Castlemaine Bay were submitted with the FI response but are not shown on the planning file or referenced in the Planner's report. This raises concerns about whether they were considered and assessed. They are resubmitted with the appeal.
- The initial Planner's report refers to the visual impact from the approach road. No reference is made to concerns about views from the bay. However the RFI and the second Planner's report suggest that the view from the bay is important and a material consideration.
- The approach road is a private road, not a public road. The scale, size, mass and volume of the first floor element is relatively modest and not a dominant feature in the landscape. It is of high quality and will make a positive contribution to the landscape.
- Dwellings in the vicinity are not mainly single storey as claimed in the Planner's report but a combination of two storey and single storey dwellings.
- Some of the single storey dwellings are at a notably elevated height compared to the proposed dwelling and are more prominent in terms of visibility from the bay. They all contain pitched roofs with substantial roofing mass, compared to the relatively small massing of the first floor element of the proposed development.
- A number of two storey dwellings in the vicinity are very prominent in terms of visibility from the bay. The PA recently granted retention permission for an extension and alteration to a dwelling which is very visually prominent from the bay (Reg. Ref. 2460280). The PA considered that the changes would not have a significant visual impact.
- Another two storey dwelling is current under construction very close to the appeal site. Its height is notably higher than the proposed development. The photomontages provide a comparison of ridge levels relative to the dwelling. The Planner's report for that dwelling considered that no visual impact was envisaged due to screening.
- Another recent grant of permission (Reg. Ref. 23/402) is noted for a two storey dwelling to the east of the subject site. It is another example of the PA

granting permission for a two storey dwelling at this location and it will help absorb the visual impact of the first floor element when viewed from the bay.

- Condition No. 11 seeks for the existing boundary treatment to be retained in full. The applicant's have no objection to same but should the Board consider that new planting of native species is also required on the sea side of the dwelling to improve screening, we invite the Board to amend the condition to require same.
- The holiday home is now housing its 4th generation of the family and the applicants find it difficult to comprehend that newcomers appear to be facilitated yet they cannot replace theirs to include a modest first floor element.
- The PA's assessment of the application is notably light in terms of a justification for the omission of the first floor element.

6.1.2. The appeal was accompanied by an email from the applicant's agent showing the documents submitted in response to the RFI and a CD including the photomontages.

6.2. **Planning Authority Response**

The Planning Authority's response can be summarised as follows:

- The PA on receipt of further information submitted have accepted that the structure as a whole/uses within may have been built pre-1964.
- This is a sensitive coastal rural environment and consideration for a new dwelling house is only considered due to the existing structure on site.
- The footprint of the replacement structure if single storey will be larger than that presently on site, however this is acceptable.
- The proposal for a first floor will significantly increase the visual impact of the structure on the landscape, notwithstanding the low floor area of the first floor.
- The PA made the correct decision in omitting the first floor due to the impact on this sensitive coastal and rural landscape.

- The photomontages referred to in the appeal were not submitted at FI stage. The submission, or not, of said photomontages does not alter the decision or the reasoning behind the decision.

6.3. Observations

6.3.1. None.

6.4. Further Responses

6.4.1. None.

7.0 Assessment

7.1. Introduction

7.1.1. This is a first party appeal against conditions. Section 139 of the Planning and Development Act 2000, as amended, allows the Commission to restrict its determination to the condition only and not carry out a de novo assessment of the proposed development.

7.1.2. Having regard to the nature of the proposed development, which comprises the demolition of an existing dwelling and the construction of a replacement dwelling and associated works including the installation of a modern wastewater treatment system to replace an existing septic tank, I am satisfied that the proposed development is otherwise in accordance with the proper planning and sustainable development of the area and that a de novo determination by the Commission would not be warranted.

7.1.3. My assessment is therefore limited to matters raised in relation to the terms of Condition Nos. 4 and 11, as set out in Section 3.1 above.

7.2. Condition No. 4: Omission of First Floor Element of Proposed Dwelling

7.2.1. The proposed house is primarily located on the footprint of the existing single storey building and it is mostly single storey (180 sq m) with a small, centrally located, two storey element (37 sq m).

7.2.2. The design of the proposed house is contemporary and of reasonably high quality in terms of proposed materials and detailing. I note that both the single storey and two storey elements have flat roofs, with a maximum height of 6.845m. Poles located on the site, which are visible in my site photographs, are stated to have been erected to indicate the maximum height of the proposed development.

7.2.3. As noted in the appeal, there are a wide variety of house types, forms and heights in the vicinity, ranging from small single storey houses with pitched roofs to large two storey houses with flat roofs.

7.2.4. The appeal site is accessed from a narrow private road and on the opposite (eastern) side of the road, a two storey house was under construction at the time of my site inspection.

7.2.5. There is a difference of opinion between the appellants and the PA regarding whether photomontages from Castlemaine Bay were submitted with the response to the RFI. The appeal includes screenshots of the files submitted, while the PA state that no photomontages were received and I note that they are not on the planning file submitted to the Commission. Regardless, the photomontages were enclosed with the appeal (refer to CD appended to appeal) and the PA in their response to the appeal state that the submission or non-submission of the photomontages does not alter their reasoning or decision.

7.2.6. In terms of the visual impact from the private road to the east, the public road to the south and the surrounding landward area, I do not consider that the proposed first floor element would be unduly impactful, noting the presence of numerous other two storey houses in the vicinity and the small scale of the first floor element relative to the main form of the house. I consider that the site characteristics and the built environment locally would readily accommodate the proposed development without undue visual impacts or impacts on residential amenities.

7.2.7. Therefore, I consider that the crux of the potential landscape and visual impacts are the impacts on the visually sensitive coastline and the views across Castlemaine Bay. While the site is not within a designated 'Visually Sensitive Area', it is within an LCA of medium/high visual sensitivity.

7.2.8. While the ground floor of the proposed development would not be readily visible from the adjacent shoreline, due to its position on an elevated bank, the upper portion of

the first floor element would be visible and the entirety of the proposed development would be visible in long range views from the shoreline on the opposite side of Castlemaine Bay.

- 7.2.9. I consider that the submitted photomontages are instructive in understanding the nature and significance of the visual impact. These panoramic views demonstrate that the topography of the area is undulating, such that the appeal site sits at a lower level than houses to the north and south. The photomontages demonstrate that the ridge or parapet level of the proposed first floor level is lower than the ridge/parapet level of other properties in the vicinity. In particular, the large two storey dwelling to the south of the appeal site, which has a similar flat-roofed contemporary design, has a significantly higher height (15.525m vs 13.795m) due to its elevated positioning.
- 7.2.10. While the appeal site is closer to the coastline, the relative set backs of the houses along the coastline are not readily apparent in the long-range views. It is also of note that the two storey house currently under construction opposite the appeal site is not shown in the submitted photomontages, although the roof of the previous single storey house on the site is visible.
- 7.2.11. While the coastline is sensitive from a visual and landscape perspective, as I have noted above the site is not within a designated 'Visually Sensitive Area'. I consider that the replacement of an existing single storey house with a house that has just c. 17% of its floor area at first floor level would be acceptable, given the undulating topography of the landforms in the area, the consequently higher ridge lines of other dwellings along this part of the coastline and the established pattern of development of varied house types and sizes in the area, including numerous two storey dwellings.
- 7.2.12. I therefore recommend that the PA be directed to amend condition No. 4 to remove part (a) of the condition. I consider that parts (b) and (c) of the condition should be attached, in the interests of integrating the structure into the surrounding area.

7.3. **Condition No. 11: Landscaping**

- 7.3.1. Having come to the conclusion that the omission of the first floor element is not warranted and that it would not have an unacceptable impact on landscape and visual amenity, I do not consider that the appellants' invitation to amend Condition

No. 11 to include for additional boundary planting on the western (sea side) of the dwelling to improve screening is necessary.

- 7.3.2. I consider that the interests of visual amenity and environmental protection would be best served by Condition No. 11 as formulated by the PA, that is, that existing boundary screening be retained in full.
- 7.3.3. I therefore recommend that Condition No. 11 be attached with no amendments.

8.0 AA Screening

- 8.1. Having regard to the nature of the conditions that are the subject of this condition-only appeal, and having determined that a de novo determination by the Commission would not be warranted, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

Having regard to the nature of the conditions the subject of the appeal, the Commission is satisfied that the determination by the Commission of the relevant application as if it had been made to it in the first instance would not be warranted and, based on the reasons and considerations set out below, directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to:

(a) AMEND condition number 4 as follows:

4. (a) All external finishes shall be neutral in colour, tone and texture. Prior to commencement of construction of the house, details of the materials, colours and textures of all the external finishes to the proposed house shall be submitted to the planning authority for written agreement.

(b) Stonework to the external walls shall be constructed of natural stone which shall be sourced locally.

Reason: To integrate the structure into the surrounding area.

(b) ATTACH condition number 11 and the reason therefor.

10.0 Reasons and Considerations

- 10.1. It is considered that the proposed first floor element of the replacement house, by reason of its limited scale, nature and design, its elevation with respect to nearby properties, and noting the topography of the area and the pattern of development in the area, would not detract from the character of the proposed dwelling and would not seriously injure the visual or landscape amenities of the area or the residential amenities of property in the vicinity. The planning authority's condition number 4(a) requiring the omission of the proposed first floor element is, therefore, not warranted and condition number 4 should be amended accordingly.
- 10.2. It is further considered, having regard to the acceptability of the proposed first floor element, that the planning authority's condition number 11 should be attached and not amended.
- 10.3. 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.

Niall Haverty
Senior Planning Inspector

26th November 2025

Form 1 - EIA Pre-Screening

Case Reference	ABP-321147-24
Proposed Development Summary	Demolition of house and construction of replacement house with family flat including a new wastewater treatment unit and all associated site works
Development Address	Treanoughtragh, Glenbeigh, Co. Kerry
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?	
<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2. <input type="checkbox"/> No, No further action required.	
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> Yes, it is a Class specified in Part 1. <input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. <input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2)	Class 10 (b)(i) - > 500 dwellings.
4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____

Date: _____

Form 2 - EIA Preliminary Examination

Case Reference	ABP-321147-24
Proposed Development Summary	Demolition of house and construction of replacement house with family flat including a new wastewater treatment unit and all associated site works
Development Address	Treanoughtragh, Glenbeigh, Co. Kerry
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).	<p>The appeal is a condition-only appeal relating to the omission of the first floor of the proposed house and boundary planting. I consider that a de novo assessment is not warranted in this instance.</p> <p>The elements of the proposed development that are the subject of this condition-only appeal, by virtue of their scale, design, location and characteristics do not pose a risk of major accident and/or disaster, climate change vulnerability or significant risks to human health.</p>
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 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>The subject site is located in a rural area and there is an existing house on the site to be demolished and replaced. There is extensive existing one-off rural housing in the area. The receiving environment is coastal and close to the Castlemaine Harbour SPA, SAC and pNHA but is at a remove from designated sites of historic, cultural or archaeological significance.</p> <p>The appeal is a condition-only appeal relating to the omission of the first floor of the proposed house and boundary planting. I consider that a de novo assessment is not warranted in this instance.</p>
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).	<p>While the development is within a visually sensitive coastal landscape close to European Sites, such matters can be addressed through a planning assessment. Having regard to the scale, nature and characteristics of the elements of the proposed development that are the subject of this condition-only appeal, the likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the</p>

	environmental factors listed in section 171A of the Act.
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.

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)