



An
Bord
Pleanála

Inspector's Report ABP-322100-25

Development	House with new septic tank and secondary treatment "puraflow" peat filters over a soil polishing filter and all associated site works.
Location	Ballymalis, Beaufort, Killarney, Co. Kerry.
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	24449
Applicant(s)	Barry Keane
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Padraig and Norma Kelly.
Observer(s)	Ellen Scully.
Date of Site Inspection	20 th May 2025.
Inspector	Jennifer McQuaid

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1.0 Site Location and Description

- 1.1. The subject site is located in the townland of Ballymalis, Beaufort, Co. Kerry. The site area is 0.369ha. The site is accessed off a local road (L11000) off the N72 Ring of Kerry. The site is flat with extensive views to the south of the Macgillycuddy Reeks and Ballymalis Castle. Ballymalis Castle (currently under renovation) is located 400 metres southwest of the subject site. There are no dwellings directly adjacent to the subject site. The subject site is relatively flat with open views across the countryside, there are little to no natural hedgerows or boundaries around the site apart from the front boundary along the roadside.

2.0 Proposed Development

- 2.1. The proposed development consists of:
- Dwelling
 - Septic tank and secondary treatment “puraflow” peat filters over a soil polishing filter.
 - All associated site works.

3.0 Planning Authority Decision

3.1. Decision

Grant subject to 15 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- It is noted the proposed design is acceptable and the objectors’ raised concerns in relation to the proximity of the castle, it is noted as a good distance from the site with little or no impact on its immediate grounds.
- The site is located in “Area Under Urban Influence”, the applicant is receiving the site from his uncle, applicant’s family home is close to the site.

3.2.2. Other Technical Reports

- Site Assessment Unit: No objection subject to conditions.

3.2.3. Conditions

- Condition 4: (a) The use of the proposed dwelling shall be as a primary permanent all year-round private residence. (b) The proposed dwelling shall not be used as a holiday home or second home.

Reason: In the interest of the proper planning and sustainable development of the area.

- Condition 6: No part of any exempted structure shall be erected within 4.5metres of the centre of any divisional boundary or adjoining property on either side of the proposed dwelling house.

Reason: To regulate and control the layout of the development.

3.3. Prescribed Bodies

- None

3.4. Third Party Observations

A number of third-party submissions were received. The following concerns were raised:

- Condition of the road and increased traffic during the summer months.
- The area is of special historical significance.
- Too many houses on the laneway.
- Ballymalis Castle is currently being restored, and this will bring more traffic to the area.
- Environmentally sensitive area.

4.0 Planning History

None

5.0 Policy Context

5.1. Development Plan

Kerry County Development Plan 2022-2028 (KCDP)

Objective KCDP 5-15 Rural Areas under Urban Influence.

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

1. 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.
2. Persons taking over 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.
3. 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.
4. Persons that have spent a substantial period of their lives (i.e. Over seven years) living in the rural area in which they propose to build a first home for their permanent residence.
5. 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 will be given to renovation/restoration/alteration/extension of existing dwellings on the landholding before consideration to the construction of a new home.

Section 11.6.3 Landscape Designation refers to the Amenity Areas and policies designed to protect the landscape of the county. The proposed site is zoned as Rural General. Rural landscapes within this designation generally have a higher capacity to absorb development than visually sensitive landscapes. Notwithstanding the higher capacity of these areas to absorb development, it is important that proposals are designed to integrate into their surroundings in order to minimise the effect on the landscape and to maximise the potential of development. Proposed developments should, in their designs, take account of the topography, vegetation, existing boundaries and features of the area. Permission will not be granted for development which cannot be integrated into its surroundings.

5.2. Natural Heritage Designations

The subject site is not located within a designated site. The closest protected site are:

- Castlemaine Harbour SAC (Site Code: 000343) is located c.300 metres to the east and c.350 metres to the south.
- Killarney National Park, Macgillicuddy Reeks and Caragh River Catchment SAC & pNHA (Site Code: 000365) are located 5.7km southeast.
- Killarney National Park SPA (Site Code: 004038) is located 5.7km southeast.
- Castlemaine Harbour pNHA (Site Code: 000343) is located 5.2km west.
- Lough Yganavan and Lough Nambrackdarrig SAC & pNHA (Site Code: 000370) is located 12km west.
- Slieve Mish Mountains SAC (Site Code: 002185) is located 12km north.
- Anna More Bog NHA (Site Code: 000333) is located 18.5km northeast
- Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code: 004161) is located 23km northeast.

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 the Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of the 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.

5.4. Water Framework Directive

- 5.4.1. The subject site is located in the rural townland of Ballymalis, River Laune is located approximately 400 metres to the south of the subject site. The proposed development comprises of a one-off dwelling with connection to onsite wastewater treatment system and soakaway. The grounds of appeal raised concerns that the Planning Authority did not assess the potential impact on water quality and that the applicant should have proven beyond reasonable doubt that the proposal would not have any impact upon the water quality of the river.

I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seeks to protect and, where necessary, restore surface & ground water body 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 and/or groundwater water bodies either qualitatively or quantitatively. The reason for this conclusion is as follows.

- The nature of the proposed development of a single dwelling due to size and scale.
- The location of the nearest water bodies is over 450 metres north of the River Laune.
- Lack of hydrological connections, site characterization assessments states groundwater flow southwest.

- The topsoil is reasonably drained; the site is generally suitable for discharge to groundwater as per Site Characterisation Assessment carried out in accordance with the EPA Guidelines.

Taking into account WFD screening report (see Appendix 2) I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment

6.0 The Appeal

6.1. Grounds of Appeal

Third party submission from a neighbouring property. The concerns raised are:

- Principle of Development: Applicant currently has a dwelling available to him adjacent to the proposed development and is currently rented out. A derelict cottage is within the family ownership and could be renovated. The site is being gifted from an uncle. It is accepted the applicant's family live close to the proposed site and that the applicant grew up in the locality.
- Traffic Safety: The local road (L11000) is a cul de sac, the road is in poor repair and requires resurfacing and currently serves 14 houses, 4 farms and Ballymalis Castle. The road is also used by anglers and local walkers. The planner only assessed sightlines and stated they are acceptable. No carrying capacity assessment was undertaken. The junction with the N72 was not assessed, the junction is not suitable for 2 cars and no turning lane on the N72 for the laneway.
- Appropriate Assessment: The proposed development is located 400 metres to the north and 300 metres to the west of Castlemaine Harbour SAC (site code: 000343) (River Laune). The planner screened out any potential impacts on the SAC, however, the land where the site is located falls downwards towards the river and the SAC. Drainage channels and ditches within the agricultural lands and groundwater flows towards the river. There is a risk that there will

be an impact to the SAC from treated effluent. The river flows into the Killarney lakes which again are designated Natura 2000 sites. A Stage 2 Natura Impact Assessment should have been carried out.

- Ecology: Further ecological studies should have been undertaken given the proximity of the SAC to identify local habitats and species and in particular those species associated with the SAC.
- Water Framework Directive: The river is noted as having a good status in terms of water quality. No Water Framework Directive Assessment was submitted.
- Archaeology: The proposed development is located to the north of Ballymalis Castle which is designated as a National Monument (site code: KE057-076001). The castle is visible from the road of the proposed development and from the N72. The proposal will contravene policy KCDP 8-27.
- Other issues: A gap site is created between the proposed dwelling and the nearest house to the east (which is the house belonging to the applicant's mother and rented). A gap site will allow planning for another dwelling.

6.2. Applicant Response

The applicant has made the following response:

- Principle of Development: The applicant currently lives in the family home adjacent to the subject site and has done so all his life. He attended the local school and participated in local sporting organisations. He is a nephew of the landowner. The applicant complies with KCDP5-15, part d). In regard to the rented property within the family ownership, the applicant's parents intend to provide this dwelling for the applicant's brother and to provide additional open space in the garden to the west of the rented property and east of the subject site. In relation to the derelict property, this is in the ownership of a company in which the applicant's father has an interest, and it is not possible to transfer this site to the applicant. There are limited properties for sale within the town boundary and these for sale in the rural area require local need.

- **Traffic:** The applicant currently lives in the family home and therefore there will be no additional traffic movement on the roadway. The entrance is designed in accordance with Design Manual for Roads and Bridges (DMRB). The site fronts onto a local minor road leading to the N72. There are four viable passing points from the proposed site entrance onto the junction with the N72. The road is narrow but there is ample visibility in both directions along the road. The junction at the N72, is a three handed junction and access/egress from the local road to the N72 is via a Y shaped junction with two points of access which in effect facilitates access and egress for left turning movements. Sightline visibility is satisfactory.

In regard to the reference to a right-hand turn lane from the N72 onto the local road, this is a matter for the Transport Infrastructure Ireland (TII).

- **Appropriate Assessment:** The subject site was subject to a detailed ground survey for the site characterisation report. No waterbody or watercourse was identified within 250 metres. The nearest European site is Castlemaine Harbour SAC at over 400 metres; the applicant has examined the Conservation Objectives and site synopsis report and relevant flood risk and Water Framework Directive data.
- **Ecology:** The site was surveyed as part of the site characterisation assessment and there is an absence of source, pathway and receptor in the area and to the Natura 2000 site, the site is not within a flood risk area. Any effluent arising from the development will be treated in accordance with the Site Assessment Report.
- **Water Framework Directive:** The site is within the river sub basin Laune_0_40 and in terms of risk the sub basis according to the EPA data is not at risk and the status is good. An examination of the EPA data for the Catchment Laune-Maine-Dingle Bay sub catchment Laune_SC_020 does not identify a pressure in relation to the river sub basin Laune_0_40. There is nothing therefore to suggest that the development as proposed represents any risk or adverse impact on water quality.
- **Archaeology:** Ballymalis Castle is not visible from the N72 and confirmed by a site visit in March 2025. The structure is visible from the subject site at over 350 metres and the roadway from the site leading to the castle. Some degree

of loss of this view will arise with the construction of the proposed dwelling but ample views will remain along the road and views will remain westwards along the road. There is no evidence based on archaeological surveys or the terrain to suggest any archaeological potential is impacted given the appeal site's lack of proximity to the castle. The proposed development will not adversely affect the setting of the castle in the landscape or impact the character of the castle and therefore would not contravene objective KCDP 8-27.

6.3. Planning Authority Response

The Planning Authority Response is as follows:

- The local road serving the site is a public road which caters for a number of dwellings, farms and Ballymalis Castle. A Roads Report was not received in relation to the application however it is considered that the traffic that will be generated from the proposed dwelling would not have a significant impact on the capacity of the local roadway or on the N72 National Secondary Road to the north.
- It is considered that the applicant meets the criteria as set out in the Rural Settlement Policy. The site is located within an area designated as a "Area under Urban Influence" in the Rural Settlement Policy as set out in Section 3.3 of the KCDP. The applicant is receiving the site from his uncle. Applicant's family home is located close to the site. The dwelling will be his permanent place of residence.

6.4. Observations

An observation has been received from a local resident. The following concerns were raised:

- Traffic issues: The local road is not suitable for additional traffic, it is a small narrow lane which serves 14 homes, and tourists, fishermen and walkers.
- Castlemaine SAC: The proposed site is surrounded by a sensitive ecological zone, the Castlemaine SAC and River Laune.

- Archaeology: The proposed development will negatively impact Ballymalis Castle. Encourage the board to engage with the Department of Housing, Local Government and Heritage to fully assess the potential implications of this development on the historic site.
- Surface Water: No details submitted in relation to drainage; a full plan is required incorporating SuDs principles.
- Ecology: An EIA or at least an ecological survey should be conducted to determine the impact of the proposal on local habitats and species as per Planning and Development Act, 2000.
- Principle of development: It is acknowledged that the applicant is from the area but has the option of living in his parent rented Airbnb property, therefore an exceptional rural housing need has not been established. Has the applicant looked to buy a dwelling?
- Ribbon development: The proposal will create a disorderly form of ribbon development in a rural area and would constitute an excessive density of suburban type development in a rural area.
- Visual Impact: The site is prominent and is within the line of Views and Prospects from the regional road to the north. The landscaping plan will not integrate the proposed development.

6.5. Further Responses

- None

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 report/s of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development

- Traffic
- Archaeology
- Visual and Design
- Other Issues (Ecology, Gap Site, Surface water)
- Appropriate Assessment

7.2. Principle of Development

- 7.3. The subject site is located in an area identified as “Rural Areas under Urban Influence” and Objective KCDP 5-15 relates to the subject site. The applicant must demonstrate an exceptional rural generated housing need based on their social (including lifelong or life limiting) and/or economic links to a particular local area, and in this regard, must demonstrate that they comply with one of the categories of housing need. It should also be noted that preference will be given to renovation/restoration/alteration/extension of existing dwellings on the landholding before consideration to the construction of a new home.
- 7.4. The grounds of appeal state that the applicant currently has a dwelling available to him located adjacent to the proposed site and is currently rented out and another derelict cottage is available within the family ownership. The site is being gifted from an uncle. The planner did not assess the local need. No details submitted as to why the derelict cottage cannot be renovated as per policy KCDP5-15. It is accepted the applicant’s family live close to the proposed site and that the applicant grew up in the locality. The observation received reiterates that the applicant has a dwelling available to him.
- 7.5. I note the applicant has completed the Supplementary Information Form and has outlined that the site is being acquired from the applicant’s uncle. It is noted that the applicant’s family home is located approximately 200 metre east from the proposed site. I note the applicant has stated that he works in Killorglin approximately 6km from the subject site. In order to comply with Objective KCDP 5-15. the applicant must demonstrate an exceptional rural generated housing need based on their social (including lifelong or life limiting) and/or economic links to a particular local area, and in this regard, must demonstrate that they comply with one of the categories of housing need. I note that the applicant has demonstrated that he is from the area

and lives adjacent to the subject site in the family home, the applicant has also demonstrated that he works locally and is acquiring the subject site from a family member (uncle). In addition, the applicant complies with category four of the objective as he is a person that has spent a substantial period of their lives (i.e. over seven years) living in the rural area in which they propose to build a first home for their permanent residence. In my opinion, I am satisfied that the applicant has demonstrated a requirement for a new dwelling at this location as the family home is located adjacent to the subject site and the applicant works locally.

- 7.6. I note the grounds of appeal, do not dispute that the applicant is a local resident or that the family home is adjacent to the subject site, they are outlining that a rented cottage in the family ownership and a derelict dwelling is available to the applicant rather than building a new dwelling. I note the cottage which is located to the front of the family home and adjacent to the subject site, the applicant has responded to the appeal and stated this property is currently rented on short term basis but it will be made available to the applicant's brother in the future, therefore it is not available to live in by the applicant.
- 7.7. In relation to the derelict cottage, I note that objective KCDP 5-15 does state that preference will be given to renovation/restoration/alteration/extension of existing dwellings on the landholding before consideration to the construction of a new home. The applicant has responded to the appeal and has outlined that the derelict property is in a company ownership and his father has an interest in it, but it is not available to the applicant to develop.
- 7.8. Having regard to the information submitted by the applicant, whereby he states that he lives in the family home adjacent to the subject site and has done so all his life, he attended the local schools and participates in local sporting events and works locally and has demonstrated that no other viable options are available to him. I consider the applicant has demonstrated a local need to reside at this rural area, given the subject site is taken from the applicant's uncles land and adjacent to the family home. Based on the information submitted in the appeal response, I am satisfied that the applicant has no alternative site or dwelling available to him and that the proposal complies with KCDP policy objective KCDP 5-15 category 4 of the KCDP.

7.9. Traffic

- 7.10. The subject site is located along a narrow local cul de sac (L11000), this is a public roadway and serves approximately 14 dwellings and farm buildings. The roadway is in good condition with a tarred surface. The roadway is narrow with limited areas for cars to pass but the road has good forward visibility.
- 7.11. The grounds of appeal state that the local road (L11000) is a cul de sac, the road is in poor repair and requires resurfacing and currently serves 14 houses, 4 farms and Ballymalis Castle. The road is also used by anglers and local walkers. No carrying capacity assessment was undertaken. The junction with the N72 was not assessed, the junction is not suitable for 2 cars. The observation further outlines the unsuitability of the local road.
- 7.12. The Planning Authority submitted a response in relation to the appeal and have stated the local road serving the site is a public road which caters for a number of dwellings, farms and Ballymalis Castle. A Roads Report was not received in relation to the application however it is considered that the traffic that will be generated from the proposed dwelling would not have a significant impact on the capacity of the local roadway or on the N72 National Secondary Road to the north.
- 7.13. I have visited the subject site, and I note the roadway is narrow, but it is in relatively good condition with good forward visibility. I note areas for passing cars is limited, however, I consider given the sightlines on the roadway, any passing cars will have adequate time to pull in safely to allow a car to pass. In this regard, I consider that the roadway is suitable for additional traffic and can accommodate the development of an additional dwelling.
- 7.14. I note the appellants have concerns regarding the junction of the L11000 with the N72, the junction has a Y layout with 2 separate entrance or exits, therefore, there is sufficient capacity at this junction and cars can exit or enter the local road safely. In my opinion, I have no concerns regarding the ability for cars to enter or exit the junction in a safe manner as the sightlines are adequate and given the low volumes of traffic using the local road.
- 7.15. Having regard to the standard of the local road/cul de sac in public ownership and the limited number of users along this local road along with good visibility and

adequate areas to allow passing cars, I consider that the local road is suitable for an additional dwelling and will not negatively impact traffic safety.

7.16. Archaeology

- 7.17. Ballymalis Castle is listed as a National Monument, RMP KE057-076 and NM No. 364, and is currently under renovation. The castle is on the northern bank of the Laune River, adjacent to a fording point across the river. The castle is a four-storey rectangular tower.
- 7.18. The grounds of appeal state that the proposed development is located to the north of Ballymalis Castle which is designated as a National Monument (site code: KE057-076001). The castle is visible from the road of the proposed development. The proposed development could restrict views to the said monument from the adjacent public road and more importantly from the N72 which is an important tourist route. The proposal will impact the castle and contravene policy KCDP 8-27.
- 7.19. I note the concerns raised by the appellant, the proposed development is located appropriately 400 metres northeast of Ballymalis Castle, the castle is a national monument and is currently undergoing renovation. There are no protected views to or from the castle as per KCDP. The proposed development of one dwelling will slightly impact views to castle from the local road directly to the front of the proposed dwelling for a short period of time, however due to the distance of the castle from the proposed dwelling and the location southwest of the proposed dwelling, I do not consider that the proposed dwelling will negatively impact the views from the local road at the subject site to the castle and any visual impact will be minimal and will not significantly alter the setting of the castle and its grounds.
- 7.20. I have review objective KCDP 8-27 which was referred to by the appellant, this objective ensures that development (including forestry, renewable energy developments and extractive industries) within the vicinity of a recorded monument, zone of archaeological potential or archaeological landscape does not detract from the setting of the feature and is sited and designated appropriately and sympathetically with the character of the monument/feature/landscape and its setting. I consider that the proposed development will not detract from the setting of Ballymalis Castle, due to the separation distance, the absence of protected viewpoints and the angle of the proposed development which is not situated directly

in front of the castle and the extensive landscaping proposed. At present the proposed site is exposed and views are extensive to the south; the proposed landscaping will ensure the proposal is integrated into the landscape and provide much need landscaping in the area.

7.21. Having regard to the location of the proposed development situated over 400 metres northeast of Ballymalis Castle and given the proposed landscaping plan and the absence of protected views or scenic route associated with Ballymalis Castle, I do not consider that the proposed development will negatively detract from Ballymalis Castle and its setting.

7.22. Visual and Design

7.23. The subject site is located within an area described as “Rural General”, objective KCDP 11.78 states to 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. A section of N72 is a protected route with views & prospects, this protected section is not directly adjacent or within close proximity to the proposed site. The proposed development consists of a two-storey dwelling with a floor area of 283.3sqm. The two-storey section is traditional in style with an overall height of 8 metres, two single storey sections are proposed on the gable ends with an overall height of 5.3metres.

7.24. The observation received, outlined concerns in relation to ribbon development and excessive density of suburban type development in a rural area. There were concerns also raised in relation to the design of the proposed dwelling, as the site is prominent and is within the line of views and prospects from the road to the north. Despite the landscaping plan, the proposal will have a materially negative impact on the protected views and on the rural landscape of the area.

7.25. I have assessed the proposed site location in terms of visual sensitivities; the site is located within a rural area described as “Rural General” as opposed to “Visually Sensitive Area”. The site is not located adjacent to or in close proximity to a scenic route or protected viewpoint. A section of the N72 is a protected route with views & prospects which is located approximately 1km to the northeast of the subject site. During my site visit, I note there are no views from the protected route towards the

subject site, therefore I do not consider that the proposed development will negatively impact the protected route along the N72. In regard to the location of the site, it is noted in the KCDP that these areas generally have a higher capacity to absorb development than visually sensitive landscapes.

7.26. The proposed development consists of a two-storey dwelling with a floor area of 283.3sqm. The two-storey section is traditional in style with an overall height of 8 metres, two single storey sections are proposed on the gable ends with an overall height of 5.3metres. The proposed dwelling is set back 20 metres from the public road. It is proposed to retain the existing hedgerow and to plant additional trees around the site. The site is relatively flat. I consider that the proposed development will integrate into its surrounding and will not have a negative impact on the landscape due to the proposed landscaping plan and the absence of sensitive landscape, protected views and scenic routes in close proximity to the proposed development.

7.27. Having regard to the location of the site along a local road, within a Rural General area as defined in the KCDP 2022-2028, given the flat nature of the site, the proposed house design and the proposed landscaping plan, I consider that the proposed development is acceptable and will not negatively impact the visual setting of the area.

7.28. **Other Issues (Ecology, Gap Site)**

7.29. Ecology

The appellant and observer have raised concerns in relation to the proximity of the subject site to the SAC and state that ecological studies should have been undertaken to identify local habitats and species and in particular those species associated with the SAC. I note the subject site is not located within the SAC, the Castlemaine Harbour SAC (Site Code: 000343) is located c.300 metres to the east and c.350 metres to the south of the subject site. During my site visit, I noted the site as improved agricultural grassland, there were hedgerow along the front boundary only and there was no evidence of any watercourse or drainage. There are no significant habitats or species noted on site or in close proximity to the subject site. The EIA and AA screening were carried out in addition to a Water Framework Screening and none of the assessments identified any issues or likely impacts with

the proposed development. Therefore, I do not consider that an ecological assessment is required.

7.30. Gap Site

I note the appellant has referred to a gap site between the proposed dwelling and the nearest house to the east (which is the house belonging to the applicant's mother and rented). I note from the site layout plan submitted, that the applicant has outlined that the green area between the proposed site and the existing dwelling is the garden for the existing dwelling. In the event of a new planning application for this "gap site", it will be assessed on its own merits. However, in terms of this current planning application, I consider the location is acceptable.

7.31. Surface Water

7.32. The observation submitted, raised concerns in relation to surface water and stated no details submitted in relation to drainage and that a full plan is required incorporating SuDs principles. I note the applicant has proposed soakaway on site to the front and rear of the proposed dwelling. I consider that surface water has been dealt with, and a condition will be attached to any grant of permission stating that any surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties. The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage. Therefore, in my opinion, surface water has been dealt with adequately and in accordance with BRE 365 Soakaway standards.

8.0 **AA Screening**

8.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.

The proposed site is not located within a designated site, Castlemaine Harbour SAC (Site Code: 000343) is located c.300 metres to the east and c.350 metres to the south.

The proposed development comprises of one dwelling and all associated site works.

The grounds of appeal stated that the planner screened out any potential impacts on the SAC, however, the land where the site is located falls downwards towards the river and the SAC. Drainage channels and ditches within the agricultural lands and groundwater flows towards the river. There is a risk that there will be an impact to the SAC from treated effluent or in the event that the treatment plant fails, untreated effluent. The river flows into the Killarney lakes which again are designated Natura 2000 sites.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European Site.

The reason for this conclusion is as follows:

- Scale and size of the proposed development of a single dwelling
- Distance to the nearest European site at c.300 metres to the east and c.350 metres to the south.
- The lack of connections, it is noted the groundwater status at the site is good and at risk. However, the groundwater flow is in southwest direction and over 300 metres from the River Laune.
- The Site Characterisation Form states the subject site is suitable for a wastewater treatment system which will be installed and maintained as per EPA Guidelines.
- Soakaways will be installed as per BRE soakaway standards.

8.2. I conclude, on the basis of objective information, 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. Likely significant effects are excluded and therefore Appropriate Assessment (under Section 177V of the Planning and Development Act 2000) is not required

9.0 Recommendation

I recommend that planning permission should be granted, subject to conditions as set out below.

10.0 Reasons and Considerations

- 10.1. Having regard to the location of the subject site within a rural area defined as “Area under Urban Influence” as per Kerry County Development Plan 2022-2028, it is considered that the applicant has demonstrated a compliance with local need criteria for a dwelling at this location and it is considered that the proposed development would not negatively affect the visual amenity or historical landscape of the area or negatively affect the traffic safety. The EIA, AA and WFD screening assessment have confirmed that the proposed development will not likely negatively impact the environmental surroundings of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 19th day of December 2024, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at

least seven years thereafter, unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.

(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

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

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

- 3 (a) The use of the proposed dwelling shall be as a primary permanent all year-round private residence. (b) The proposed dwelling shall not be used as a holiday home or second home.

Reason: In the interest of the proper planning and sustainable development of the area.

4. (a) The roof colour of the proposed house shall be blue-black, black, dark brown or dark grey. The colour of the ridge tile shall be the same as the colour of the roof.
(b) The external walls shall be finished in neutral colours such as grey or off-white.

Reason: In the interest of visual amenity.

5. (a) The septic tank/wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this application on 19th December 2024 and shall be in accordance with the standards set out in the document entitled “Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) ” – Environmental Protection Agency, 2021.
- (b) Treated effluent from the septic tank/ wastewater treatment system shall be discharged to a percolation area/ polishing filter which shall be provided in accordance with the standards set out in the document entitled “Code of Practice - Domestic Wastewater Treatment Systems (Population Equivalent ≤ 10)” – Environmental Protection Agency, 2021.
- (c) Within three months of the first occupation of the dwelling, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the septic tank/ wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.

Reason: In the interest of public health and to prevent water pollution.

6. No part of any exempted structure shall be erected within 4.5metres of the centre of any division boundary or adjoining property on either side of the proposed dwelling house.

Reason: To regulate and control the layout of the development.

7. The entrance gates to the proposed house shall be set back not less than four metres and not more than six metres from the edge of the public road. Wing walls forming the entrance shall be splayed at an angle of not less than 45 degrees and shall not exceed one metre in height.

Reason: In the interest of traffic safety.

8. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the [residential] amenities of property in the vicinity.

9. Prior to commencement of works, the developer shall submit to and agree in writing with the planning authority a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the development, including hours of working, noise and dust management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and amenity.

10. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

(b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

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

11. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details submitted as per landscaping plan dated 19th December 2024.

Any plants, trees or hedging which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the

development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

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

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

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

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.

Jennifer McQuaid
Planning Inspector
17th June 2025

Appendix 1 Form 1 - EIA Pre-Screening

Case Reference	ABP-322100-25
Proposed Development Summary	Construction of a house with new septic tank and secondary treatment "puraflow" peat filters over a soil polishing filter and all associated site works
Development Address	Ballymalis, Beaufort, Killarney, Co. Kerry.
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes, - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<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. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<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 checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed	

<p>type of proposed road development under Article 8 of the Roads Regulations, 1994.</p> <p>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>Schedule 5, Part 2, Class 10b(i) Construction of more than 500 dwelling units.</p>

<p>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)?</p>	
<p>Yes <input type="checkbox"/></p>	<p>Screening Determination required (Complete Form 3)</p>
<p>No <input checked="" type="checkbox"/></p>	<p>Pre-screening determination conclusion remains as above (Q1 to Q3)</p>

Inspector: _____ Date: _____

Form 2 - EIA Preliminary Examination

Case Reference	ABP-322100-25
Proposed Development Summary	Construction of a house with new septic tank and secondary treatment "puraflow" peat filters over a soil polishing filter and all associated site works
Development Address	Ballymalis, Beaufort, Killarney, 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).	The proposed development consists of the construction of one number dwelling. The development will consist of typical construction and related activities and site works. This will not result in the production of significant waste, emissions or pollutants. Surface water will be discharged to an on-site soakaway. Wastewater will be discharged to an on-site wastewater treatment system.
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).	The proposed site is located within a rural area, there are no significant sensitivities in the immediate area. The subject site is not located within a designated site, the nearest are as follows: <ul style="list-style-type: none"> • Castlemaine Harbour SAC (Site Code: 000343) is located c.300 metres to the east and c.350 metres to the south. • Killarney National Park, Macgillycuddy Reeks and Caragh River Catchment SAC & pNHA (Site Code: 000365) are located 5.7km southeast. • Killarney National Park SPA (Site Code: 004038) is located 5.7km southeast. • Castlemaine Harbour pNHA (Site Code: 000343) is located 5.2km west. • Lough Yganavan and Lough Nambrackdarrig SAC & pNHA (Site Code: 000370) is located 12km west. • Slieve Mish Mountains SAC (Site Code: 002185) is located 12km north. • Anna More Bog NHA (Site Code: 000333) is located 18.5km northeast • Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code: 004161) is located 23km northeast

	<p>My appropriate assessment screening concludes that the proposed development would not likely have a significant effect on any European Site.</p> <p>The subject site is located outside any flood risk area for coastal and fluvial flooding</p>
<p>Types and characteristics of potential impacts</p> <p>(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>	<p>The site size measures 0.369ha. The size of the development is not exceptional in the context of a rural environment.</p> <p>There are existing dwellings located along the access road. No concerns were raised in relation to the location of the proposed dwelling to the existing dwellings.</p> <p>The proposal is a relatively small development in the rural context. There is no real likelihood of significant cumulative effects within the existing and permitted projects in the area.</p>
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)

Appendix 2: Water Framework Directive Screening

WFD IMPACT ASSESSMENT STAGE 1: SCREENING			
Step 1: Nature of the Project, the Site and Locality			
An Bord Pleanála ref. no.	ABP-322100-25	Townland, address	Ballymalis, Beaufort, Killarney, Co. Kerry
Description of project		Construction of a dwelling and all associated site works.	
Brief site description, relevant to WFD Screening,		<p>The site is located within the rural area of Ballymalis townland, the site is located along a rural cul de sac and there are a number of dwellings on this route. The applicant is proposing an onsite wastewater treatment system and a soakaway to dispose of surface water. The site is flat with little to no natural boundaries.</p> <p>There are no water features on site or adjacent the subject site.</p> <p>The site is not within a flood zone area.</p>	
Proposed surface water details		Surface water will be disposed of on-site via a soakaway.	

Proposed water supply source & available capacity	Public mains available					
Proposed wastewater treatment system & available capacity, other issues	An onsite wastewater treatment system is proposed.					
Others?						
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body.	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
e.g. lake, river, transitional and coastal waters,	The site is appropriate	The site is in the Laune-Maine-Dingle	Groundwater status is described as	Groundwater is described as At Risk.	Agriculture	Potential surface water run-off

groundwater body, artificial (e.g. canal) or heavily modified body.		ly 500 metres north of River Laune_30	Bay Catchment 22 and sub catchment Laune_SC_010 Groundwater Body is Laune Muckross (code: SW_G_048)	Good (period for GW 2016-2021)			
Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.							
CONSTRUCTION PHASE							
No.	Componen t	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screenin g Stage Mitigation Measure*	Residual Risk (yes/no) Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or

							'uncertain' proceed to Stage 2.
1.	Surface	River Laune_30	Located appropriately 500metres south of subject site. No noted drainage ditches to river and the ground water flow direction is generally to the south-west.	Spillages	Standard Construction practice	No due to separation distance	Screened Out
2.	Ground	Laune Muckross (code: SW_G_048)	Pathways exist through drainage underground	Spillages	Standard Construction practice	No	Screened Out
OPERATIONAL PHASE							
3.	Surface	River Laune_30	Located appropriately	Spillages	SuDs features	No	Screened Out

			500metres south of subject site. No noted drainage ditches to river and the ground water flow direction is generally to the south-west.				
4.	Ground	Laune Muckross (code: SW_G_048)	Pathways exist through drainage underground & seepage from percolation area for wastewater treatment system & soakaway	Spillages/seepage	SuDs Features and installation of wastewater treatment system to EPA guidelines	No	Screened Out
DECOMMISSIONING PHASE							

5.	N/A						
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