



An
Coimisiún
Pleanála

Inspector's Report

ABP-322752-25

Development	Retention permission to retain existing dwelling on site and full planning permission to complete existing single storey dwelling on site and build a private single storey extension at side and all associated site works
Location	Dromatoor, Ballyheigue , Co.Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	25/60226
Applicant	Ivan O'Brien
Type of Application	Permission for retention and permission
Planning Authority Decision	Refuse permission for retention and permission
Type of Appeal	First party v Refusal of permission for retention and permission
Appellant	Ivan O'Brien
Observer(s)	None

Date of Site Inspection

26th August 2025

Inspector

Anthony Kelly

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1.0 Site Location and Description

- 1.1. The site is located on the north side of the local coast road, approx. 1.2km west of Ballyheigue in north west Co. Kerry, and on the opposite side of the road from a pier area on Ballyheigue Bay.
- 1.2. The site is occupied by a single-storey house which is at an advanced stage of construction/re-construction. The site is fenced off with construction materials and a storage container remaining within the site. There are a number of existing houses in the area and there is a bend in the road adjacent to the west.
- 1.3. The site has an area of 0.49 hectares according to Q.11 of the application form. However, the correct area appears to be 0.049 hectares, as per the submitted site location map.

2.0 Proposed Development

- 2.1. Permission is sought to retain the existing house on site and to complete the house and construct a single-storey side extension with all associated site works.
- 2.2. The floor area to be retained is stated as 139.26sqm and the proposed floor area is stated as 12.6sqm. The house has a maximum height of 5.7 metres.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On 21st May 2025 Kerry County Council (KCC) refused to grant the application for four reasons. The first reason related to a breach of building line standards, the second reason related to the loss of character of the original house on site, the third reason stated that the development would be visually obtrusive and would unduly impact on the scenic value of the area, and the fourth reason for refusal stated that the development would seriously injure the amenities of the exposed site and seriously interfere with the character of the coastal area and landscape, forming a discordant

feature in the landscape. I separately assess each reason for refusal in sub-sections 7-2 – 7-5.

3.2. Planning Authority Reports

- 3.2.1. One Planning Report¹ was prepared by KCC. It contained, inter alia, a site location and description, site photographs, the planning policy context, and a summary of the Site Assessment Unit report. The Planning Report considered that the application did not require appropriate assessment (AA) or environmental impact assessment (EIA) screening. There are a number of sub-headings set out in the 'Assessment' section of the report, some of which are summarised as follows:

Principle of the proposed development – The works to be retained are unacceptable and insensitive to the existing structure and landscape and the character of the vernacular rural house has been lost. The works to be retained cannot be integrated into the open and exposed landscape as the site offers no natural screening and proximity to the public road reinforces the visual obtrusiveness.

Visual impact – Significant impact envisaged that is unacceptable.

Water/soil/effluent disposal (site assessment) – No information submitted relating to the capacity of the existing septic tank.

Residential amenity – No significant loss envisaged.

- 3.2.2. Refusal was recommended for the four reasons set out in the KCC decision.

3.2.3. Other Technical Reports

Environmental Assessment Unit – In the context of works undertaken without the benefit of a planning permission, neither appropriate assessment (AA) nor environmental impact assessment (EIA) would have been required. Therefore, the provisions of section 34 (12) of the Planning & Development Act, 2000 (as amended) do not apply².

¹ The date of the Planning Report as signed by the Planning Officer is 20th May 2025 and the date it is signed by the SEP is 5th June 2025. However, the date of the decision to refuse is 21st May 2025.

² Although this report is dated 30th April 2025 it is not included under 'Reports and referrals' on page 7 of the Planning Report nor is it referred to in the consideration of AA and EIA on page 7.

Environment (Site Assessment Unit) – Further information should be sought in relation to the on-site wastewater treatment system (WWTS).

3.3. Prescribed Bodies

3.3.1. None.

3.4. Third Party Observations

3.4.1. None.

4.0 Planning History

4.1.1. There has been no recent planning application on site. An older application, which is referenced within the Assessment in section 7 of this report, is as follows³.

P.A. Ref. 1382/94 – In 1994 permission was granted on site for the retention of a septic tank.

5.0 Policy Context

5.1. Kerry County Development Plan (KCDP) 2022-2028

5.1.1. Section 5.7 (Renovation and Restoration of Existing and Vacant Buildings Situated in Rural Areas) of volume 1 (Written Statement) of the Plan is relevant. It includes objectives KCDP 5-26 and 5-27 contained within the reasons for refusal.

5.1.2. The site is located within an area identified as a 'Visually Sensitive Area' on map B of section 4 of volume 4 (Maps) of the Plan. There are 'Views and Prospects' also identified on this map. At the site location there is a view/prospect in a southerly direction across the bay.

³ The KCC Planning Report refers to two historic applications, P.A. Ref. 1382/94 and P.A. Ref. 97/1229, in the 'Planning History' sub-section. The report mixes up the reference numbers and development descriptions. 1382/94 is as set out in paragraph 4.1.1. 97/1229 applies to the adjacent property to the east.

5.1.3. The first reason for refusal states that the proposed development materially contravenes section 1.20.1 of the Plan. This refers to section 1.20.1 (Building Line in Rural Areas) of volume 6 of the Plan. This outlines the required set back building lines from public roads and cites a minimum of 20 metres for non-national roads. It is stated 'It is desirable that all developments are set back as far as possible from roads to minimise their impact. In certain instances, the building line will be established by reference to the adjacent structures'.

5.1.4. The reasons for refusal include four objectives of the KCDP 2022-2028. These are:

- 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.
- KCDP 5-27 – Facilitate the sensitive restoration and conversion to residential use of disused vernacular or traditional buildings as permanent places of residence.
- KCDP 11-77 – Protect the landscapes of the County as a major economic asset and an invaluable amenity which contributes to the quality of people's lives.
- KCDP 11-78 – Protect the landscapes of the County by ensuring that any new developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of their area. Any development which could unduly impact upon such landscapes will not be permitted.

5.2. Listowel Municipal District Local Area Plan (LAP) 2020-2026

5.2.1. The site is also within this LAP area.

5.3. Natural Heritage Designations

5.3.1. The nearest designated area of natural heritage is Kerry Head special protection area (SPA) (site code 004189) immediately adjacent to the north west/west of the site. The nearest special area of conservation (SAC) is Akeragh, Banna and Barrow Harbour SAC (site code 000332) approx. 2.5km to the south east. This is also a proposed natural heritage area (pNHA) and Tralee Bay Complex SPA (site code 004188) is also at this location.

5.4. Environmental Impact Assessment (EIA) Screening

- 5.4.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning & Development Regulations, 2001 (as amended). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Appendix 1 to this report.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The main issues raised in the first party grounds of appeal can be summarised as follows:
- Prior to submission of the application extensive renovation was being carried out on the existing cottage. It consisted of a single-storey three bedroom house, rear and side extensions, and a turf shed. The roof was being repaired but was severely damaged in a storm at the end of 2024. The damaged roof was removed. When it was removed the neighbours objected to the renovated new roof and it was lowered by 1 metre. The east side gable of the cottage was damaged and it was decided to build an extension for stability and sea views. The existing extension to the west was not damaged so work continued. The applicant was going to retain the cottage when works were complete but time was of the essence to protect the cottage. The Council contacted the applicant and stated the works were unauthorised. Work continued as if it did not the structure would deteriorate more due to the open elements.
 - In relation to the first reason for refusal the cottage is existing and cannot be set back as the site itself is less than 20 metres in depth. Section 1.20.1 cannot be accepted for the existing site. Two applications granted permission (P.A. Refs. 21/204 and 24/60725), and many more, are 3-4 metres from a road.
 - In relation to the second reason for refusal it is queried how the character of the existing cottage is being lost. The cottage is retained and renovated. When the roof was affected it had to be protected.

- In relation to the third reason for refusal character, integrity, and scenic value is being achieved by renovating the existing cottage. The cottage is not on the sea side of the road and scenic views are not being obstructed.
- The fourth reason for refusal is not a constructive reason. While this is an exposed site on a road bend the road will be slightly wider after construction. The single-storey extension to the east side is behind the building line. It is disputed that this is a truly rural area given the number of houses in the area and apparent plans for the pier on the opposite side of the road.
- The grounds of appeal are accompanied by, inter alia, two photographs of works that have taken place and documentation relating to the two other permissions cited in the grounds of appeal.

6.2. Planning Authority Response

6.2.1. None.

6.3. Observations

6.3.1. None.

7.0 Assessment

Having examined the application and appeal details and all other documentation on file, and having inspected the site, I consider that the substantive issues in this appeal are as follows:

- Development Description – New Issue
- The Planning Authority's First Reason for Refusal
- The Planning Authority's Second Reason for Refusal
- The Planning Authority's Third Reason for Refusal
- The Planning Authority's Fourth Reason for Refusal
- Wastewater Treatment System – New Issue

7.1. Development Description – New Issue

- 7.1.1. The development description as per the public notices and the planning application form is 'Retention permission to retain existing dwelling on site, full planning permission to complete existing single storey dwelling on site, and permission to build a private single storey extension at side of dwelling and all associated site works'.
- 7.1.2. The house on site has been largely re-constructed and the application states that it is proposed to retain this. Permission is sought to complete the house. In this regard I note that certain features of the house had not been provided at the time of my site inspection, such as aluminium cladding to parts of the exterior. The development description as regards these elements can therefore be considered acceptable. However, the application also includes for permission for a single-storey extension to the side of the house. The extension is identified on drawing sheet numbers 01 and 02 submitted with the application. On my site inspection it was evident that this single-storey side extension was already constructed and therefore the development description is not accurate. I note from photographs included on page 4 of the KCC Planning Report that it had been constructed at the time of the site inspection carried out for that report, although no mention of it was made in the report. Given that the development description is not accurate I consider that it would be inappropriate for the Commission to consider the grant of a permission for the development in such circumstances.
- 7.1.3. This is a new issue and the Commission may wish to seek the views of the parties. However, having regard to the substantive reasons for refusal set out below (reason 1), it may not be considered necessary to pursue the matter.

7.2. The Planning Authority's First Reason for Refusal

- 7.2.1. The first reason for refusal in the KCC decision is as follows.

'The proposed development materially contravenes Section 1.20.1 of the Kerry County Development Plan 2022-2028, which requires new building line in rural areas shall be setback 20 minimum from public roads. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area' [sic].

- 7.2.2. As per paragraph 5.1.3, section 1.20.1 outlines the required set back building lines from public roads in rural areas and cites a minimum of 20 metres for non-national roads. The section states 'It is desirable that all developments are set back as far as possible from roads to minimise their impact. In certain instances, the building line will be established by reference to the adjacent structures'.
- 7.2.3. The grounds of appeal refer to two other permissions granted by KCC, though they are a significant distance from the subject site. Permission was granted in 2021 under P.A. Ref. 21/204 for, inter alia, extensions and alterations to a house approx. 12.3km to the south east with a porch permitted 3 metres from a regional road. Permission was granted in 2025 under P.A. Ref. 24/60725 for, inter alia, renovations and extensions to a house approx. 16.7km to the east with a building line approx. 6.2 metres from a regional road. I do not consider this latter example to be comparable to the subject application because the building line of the original house was maintained in the application. It did not encroach closer to the road.
- 7.2.4. The original house on the subject site did not have a setback of 20 metres from the public road. The distance shown on the site layout plan associated with 1382/94 is 10 metres from the eastern side of the house to the roadside boundary and the site layout plan submitted with the current application gives a distance of 6.71 metres to the roadside boundary from a more central position on the house footprint. The porch/seating area associated with the extension to be retained has further reduced the setback by 2.25 metres and the setback to the roadside boundary is 4 metres.
- 7.2.5. This reason for refusal states that the development materially contravenes the development plan. However, I consider that the term 'materially contravene' has been used inappropriately by the planning authority in the reason for refusal and it could not be considered to be justified in terms of normal planning practice.
- 7.2.6. There are three houses along this road within 500 metres of the subject site which have building lines within 10 metres of the public road and a further six houses which have building lines within 20 metres. Two of these houses (approx. 160 metres to the east of the site on the same side of the public road and approx. 500 metres to the east on the opposite side of the road) have building lines similar to that of the house subject of the current application.

- 7.2.7. While the building line has further encroached closer to the public road as a result of the front extension, the wording of section 1.20.1 allows that 'In certain instances, the building line will be established by reference to the adjacent structures'. While not immediately adjacent, there are houses in the vicinity with a similar building line. Given the circumstances with this particular planning application I do not consider that section 1.20.1 is sufficiently specific so as to justify the use of the term 'materially contravene' in terms of normal planning practice. The Commission should not, therefore, consider itself constrained by section 37 (2) of the Planning & Development Act, 2000 (as amended).
- 7.2.8. Therefore, having regard to the original building line of the house on site and the existing pattern of development in the vicinity of the site, and notwithstanding that the structure is 4 metres from the roadside boundary, I do not consider that the development comprises a material contravention of section 1.20.1 of volume 6 of the KCDP 2022-2028 and I do not consider the planning authority's first reason for refusal to be warranted in this instance.

7.3. The Planning Authority's Second Reason for Refusal

- 7.3.1. The second reason for refusal in the KCC decision is as follows.

'The proposed retention of the development undertaken, and the proposed development would result in the loss of character of the existing dwelling on the site and would contravene Objective KCDP 5-26 and Objective KCDP 5-27 of the Kerry County Development Plan 2022-2028. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area' [sic].

- 7.3.2. The terminology used in both the KCC Planning Report and decision, and in the grounds of appeal, is misleading. The original cottage on site that has been subject of the works is repeatedly referred to as the existing cottage/existing structure/existing dwelling. However, the existing structure on site is that subject of this planning application and the cottage that was on site prior to the works is the original cottage/structure/house. The basis for the reason for refusal therefore is that the works that have been carried out to the original house have resulted in the loss of its

character, contrary to objectives in the KCDP 2022-2028. Objectives KCDP 5-26 and 5-27 are as follows.

- 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.
- KCDP 5-27 – Facilitate the sensitive restoration and conversion to residential use of disused vernacular or traditional buildings as permanent places of residence.

7.3.3. The original cottage on site is illustrated on page 1 of the KCC Planning Report and some photographs of the exterior and interior of it were submitted with the planning application. These show a traditional cottage with what appears to be a small extension to the west side and a lean-to extension area to the rear as well as an attached turf shed to the north west. I agree with the KCC Planning Report that the original cottage was an example of a vernacular dwelling in a rural area.

7.3.4. Pages 7 and 8 of the KCC Planning Report state, in relation to the works that have been carried out, 'The proposed works to be retained are considered unacceptable to the existing structure ... The works to be retained are insensitive to the structure on the site. The character of this vernacular rural dwelling has been lost due to the works undertaken. The existing roof profile has been completely distorted ... The proposal to retain the renovation works to a traditional cottage has changed the structure's appearance beyond recognition. The works undertaken are insensitive, resulting in the loss of character of the existing dwelling on the site ... The works undertaken to the traditional vernacular of the previous structure has been significantly lost to the degree that the previous structure is unrecognizable'.

7.3.5. The appellant disputes that the character of the original cottage is being lost.

7.3.6. The works that have been carried out to the original structure on site include new flat-roofed single-storey extensions to both sides of the house and to the rear, alterations to the original front façade including removal of the external features and the front door location, and a new roof with rooflights which do not reflect the positions shown on the front elevation drawing.

- 7.3.7. I agree with the conclusion reached by the planning authority in relation to objective KCDP 5-26, as set out in paragraph 7.3.4. The current house on site is not a traditional vernacular house, but rather it is reflective of a contemporary architectural style with a slightly complex footprint, flat roofs, and aluminium cladding. While I have no issue with the house design in itself, the core issue is that, as a result of the development that has been carried out, the original vernacular house has completely lost its original character and its upgrade/restoration has been carried out without any sensitivity to the original character. These works have been carried out without the benefit of planning permission. Given the content of the KCC Planning Report and the decision made I consider it likely that had a planning application been made in the first instance, the development as constructed would not have been permitted.
- 7.3.8. Notwithstanding the provisions of the previous paragraph, I do not consider that objective KCDP 5-27 is relevant. That objective refers to sensitively restoring and converting to residential use disused vernacular or traditional buildings as permanent places of residence. I am satisfied that the original structure was in use as a house until the subject works were carried out. Therefore, I do not consider that that objective applies to this application.
- 7.3.9. Having regard to the foregoing, I consider that, as the development is contrary to objective KCDP 5-26, a refusal of permission on this basis is warranted.

7.4. The Planning Authority's Third Reason for Refusal

- 7.4.1. The third reason for refusal in the KCC decision is as follows.

'The proposed development to be retained and the proposed development contravene Objectives KCDP 11-77, KCDP 11-78 of the Kerry County Development Plan 2022-2028, which is 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 or materially effect on views designated in the Development Plan. The development at this location, a designated Visually Sensitive Area and Views and Prospects, would be visually obtrusive and unduly impact upon the scenic value of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area' [sic].

7.4.2. Objectives KCDP 11-77 and 11-78 are as follows.

- KCDP 11-77 – Protect the landscapes of the County as a major economic asset and an invaluable amenity which contributes to the quality of people's lives.
- KCDP 11-78 – Protect the landscapes of the County by ensuring that any new developments do not detrimentally impact on the character, integrity, distinctiveness or scenic value of their area. Any development which could unduly impact upon such landscapes will not be permitted.

7.4.3. Pages 7 and 8 of the KCC Planning Report state 'the works to be retained cannot be integrated into this scenic open and exposed landscape. The site offers no natural screening in order to reduce any visual impact that inevitably will be generated ... (the proposal) cannot be integrated into this coastal scenic landscape ... The proximity of the proposal to the public road reinforces the visual obtrusiveness ... The proposed works are visually obtrusive and cannot be integrated into a designated Visually Sensitive Area and a designated Views and Prospects ...'

7.4.4. The appellant states that character, integrity, and scenic value is being achieved by renovating the existing cottage. The cottage is not on the sea side of the road and scenic views are not being obstructed.

7.4.5. The objectives cited in the reason for refusal relate to protecting the landscape of the county. The house on site is at an advanced stage of completion. Therefore its impact on the landscape can be assessed. When viewed from the west the house is visible. Its position on a bend in the local road and its proximity to the road increases its visibility. However, the house is at a low ground level and there are a number of other single-storey houses to the north and east at much higher ground levels that are equally, if not more, visible in the landscape than the subject house. In my opinion, the house sits quite comfortably in the landscape when viewed from the road to the west and it must be taken into consideration that there was an original house at this location prior to the works that have been carried out. In immediate proximity to the west, the house it is visually very obvious, but this is only from a localised position. From immediately in front of the house it presents as a standard house. When viewed from the east it is just another house along the roadside in an area with a substantial number of individual houses.

- 7.4.6. The site is located within an area identified as a 'Visually Sensitive Area' on map B of section 4 of volume 4 (Maps) of the KCDP 2022-2028. The 'Visually Sensitive Area' also includes the existing houses to the north and east. There are 'Views and Prospects' also identified on this map. At the site location there is a view/prospect in a southerly direction across the bay, so it is directed away from the group of houses of which the subject house forms part. I do not consider it a significant issue that the site is located within a Visually Sensitive Area or adjacent to the Views and Prospects.
- 7.4.7. Having regard to the foregoing, I do not agree with the reason for refusal that the development would contravene objectives KCDP 11-77 or 11-78 or that the development would be visually obtrusive and would unduly impact on the scenic value of the area. There would be an adverse visual impact from a localised location close to the house to the west, which is on a bend in the road where there is no particular scenic value, but it would otherwise sit comfortably at a low ground level within the group of existing houses to the north and east. Therefore, I do not consider that the third reason for refusal is warranted.

7.5. The Planning Authority's Fourth Reason for Refusal

- 7.5.1. The fourth reason for refusal in the KCC decision is as follows.

'The proposed development to be retained and the proposed development by itself and by reason of the precedent that a grant of permission would set, would seriously injure the amenities of this open and exposed site and would seriously interfere with the character of the coastal area and the landscape by reason of the visual obtrusiveness and prominence as a consequence of the scale and design. The proposed development would consequently form a discordant feature in the rural landscape and interfere with attractive countryside pertaining to the area, which it is necessary to preserve. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area'.

- 7.5.2. In my opinion, this reason for refusal is essentially the same as the third reason for refusal. Its core concern relates to the impact of the proposed development on the character of the coastal area and landscape. It is considered the development would form a discordant feature on the landscape.

- 7.5.3. The appellant states that the fourth reason for refusal is not a constructive reason. While this is an exposed site on a road bend the road will be slightly wider after construction. The single-storey extension to the east side is behind the building line. It is disputed that this is a truly rural area given the number of houses in the area and apparent plans for the pier on the opposite side of the road.
- 7.5.4. This reason is, effectively, the same as the previous refusal reason. I have addressed the impact of the development on the visual amenities of the area in paragraphs 7.4.5 – 7.4.7. In my opinion, apart from a localised area immediately to the west of the site, the development sits comfortably within the group of houses of which it forms part and it would not/does not interfere with the character of the rural or coastal landscapes. Therefore, I do not consider that the fourth reason for refusal is warranted.

7.6. Wastewater Treatment System (WWTS) – New Issue

- 7.6.1. Q.20 of the planning application form states that wastewater disposal is to a septic tank system. In 1994 permission was granted on site for the retention of a septic tank under 1382/94. A report dated 19th May 2025 was prepared by the Site Assessment Unit for this application. The report stated that further information should be sought confirming that the existing WWTS is fully compliant with both the original grant of planning permission and the requirements of S.I. No. 223 of 2012 (Water Services Acts 2007 and 2012 (Domestic Waste Water Treatment Systems) Regulations 2012) and confirming that the existing WWTS is capable of treating and disposing of wastewater from the subject development without causing environmental pollution. Although this report was referenced in the KCC Planning Report, plus a statement on page 8 that ‘The applicant has not submitted any information relating to the capacity of the existing septic tank on the site’, no further mention was made of this issue.
- 7.6.2. I also have a number of other concerns in relation to wastewater treatment on site. These are:
- The permission on site for the septic tank dates back to 1994 and that was for retention permission. The tank may have been in place for years prior to 1994. It may not be in adequate condition.
 - The site layout plan for 1382/94 shows the soakaway associated with the septic tank within the footprint of the eastern extension of the house.

- The site layout plan for the current application shows the existing percolation area in a different location to the soakaway shown in the 1382/94 application.
- The site layout plan for the current application illustrates that the eastern extension of the house has been constructed over the pipe connecting the existing septic tank to the existing percolation area.
- The site layout plan for the current application shows the existing percolation area partially under the driveway and immediately adjacent to the public road.
- Page 2 of the grounds of appeal states that the project that was being carried out on site included 'make good existing Septic tank on site' [sic]. No other information is provided as to what this entailed.
- The site size is extremely limited at 0.049 hectares, and it may be difficult to achieve the required separation distances.

7.6.3. There is a vacuum of information in the application in relation to wastewater treatment and the issues set out above, both in the Site Assessment Unit report and in the bullet points, raise a number of concerns. In my opinion I consider it reasonable to include a reason for refusal on the basis that it has not been satisfactorily demonstrated that wastewater treatment can be adequately carried out on site and that the development would not be prejudicial to public health. While there may be satisfactory responses to the concerns I consider it important that they are addressed prior to any grant of permission.

7.6.4. This is a new issue and the Commission may wish to seek the views of the parties. However, having regard to the substantive reason for refusal set out below (reason 1), it may not be considered necessary to pursue the matter.

8.0 Appropriate Assessment (AA) Screening

8.1. AA screening was carried out in appendix 2 to this report.

8.2. In accordance with section 177U of the Planning & Development Act, 2000 (as amended), and on the basis of the information considered in this AA screening, I conclude that the development individually or in combination with other plans or

projects would not be likely to give rise to significant effects on Kerry Head SPA or any other European site, in view of the conservation objectives of those sites, and AA (and submission of a NIS) is not therefore required.

8.2.1. This determination is based on:

- the nature, scale, and location of the development.
- the habitat of the subject site i.e. a small residential site, is not particularly suitable ex-situ nesting or foraging habitat for the SPA SCI species.
- the absence of any possibility of noise or nuisance disturbance to SPA SCIs during construction or operation.

9.0 Water Framework Directive (WFD)

9.1. The provisions of appendix 3 apply to this section.

9.2. There is a single-storey house on site at an advanced stage of construction/re-construction. The site is on the north side of a local road with Ballyheigue Bay on the opposite side of the road.

9.3. No water deterioration concerns were raised in the planning appeal.

9.4. I have assessed the development and have considered the objectives as set out in Article 4 of the WFD which seek to protect and, where necessary, restore surface and ground water 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, and having regard to the provisions of sub-section 7.6, I am not satisfied that effluent from the development can be satisfactorily treated and disposed of on site, and the development could therefore adversely affect groundwater quality.

10.0 Recommendation

10.1. I recommend that permission for retention and permission be refused.

11.0 Reasons and Considerations

1. Objective KCDP 5-26 of the Kerry County Development Plan 2022-2028 promotes the viable re-use of vernacular dwellings without losing their character and supports applications for the sensitive restoration of traditional dwellings as permanent places of residence. The development that has been carried out on site has resulted in the complete loss of character of the original vernacular cottage. The development is therefore contrary to the provisions of objective KCDP 5-26 of the Kerry County Development Plan 2022-2028 and is contrary to the proper planning and sustainable development of the area.
2. The Commission is not satisfied that effluent from the development can be satisfactorily treated and disposed of on site. The proposed development would, therefore, be prejudicial to public health.
3. The planning application includes for planning permission for a single-storey extension to the side of the subject house. On site inspection it was noted that the extension for which permission is sought has already been constructed and the development description is therefore misleading. Accordingly, it is considered that it would be inappropriate for the Commission to consider the grant of a permission for the development in such circumstances.

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.

Anthony Kelly

Senior Planning Inspector

19th September 2025

Appendix 1 – Environmental Impact Assessment (EIA) Pre-Screening

Case Reference	ABP-322752-25
Proposed Development Summary	Permission to retain an existing house and permission to complete the house and construct a single-storey side extension with all associated site works
Development Address	Dromatoor, Ballyheigue, 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)	☒ Yes, it is a ‘Project’. Proceed to Q2. ☐ No. No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning & Development Regulations, 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1.	
☒ 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 & 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?

☒ 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.

No Screening required.

☐ Yes, the proposed development is of a Class and meets/exceeds the threshold.

☐ Yes, the proposed development is of a Class but is sub-threshold.

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 ☐

No ☒

Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: _____

Date: _____

Appendix 2 – Appropriate Assessment (AA) Screening

Screening for Appropriate Assessment (AA) Test for likely significant effects Case file – ABP-322752-25	
Step 1: Description of the project and local site characteristics	
Brief description of project	Permission to retain an existing house and permission to complete the house and construct a single-storey side extension with all associated site works
Brief description of development site characteristics and potential impact mechanisms	There is a single-storey house on site at an advanced stage of construction/re-construction. The site is on the north side of a local road with Ballyheigue Bay on the opposite side of the road. There is no watercourse on site. Surface water is discharged to a soakpit and foul effluent is to an existing septic tank. The nearest European site is Kerry Head SPA effectively adjacent to the west/north west of the site. The nearest SAC is Akeragh, Banna and Barrow Harbour SAC approx. 2.5km to the south east.
Screening Report	None submitted
Natura Impact Statement (NIS)	None submitted
Relevant submissions	None. The KCC Planning Report considered that AA was not required having regard to the nature of the development and the distance of the site from any SAC or SPA. A report was prepared by the KCC Environmental Assessment Unit

		which concluded that in the context of works undertaken without the benefit of a planning permission, AA would not have been required.		
Step 2: Identification of relevant European sites using the source-pathway-receptor model				
In my opinion there is only one European site within a potential zone of influence of the development.				
European site (code)	Special conservation interests (SCIs)	Distance from proposed development	Ecological connections	Consider further in screening Y/N
Kerry Head SPA (004189)	Fulmar [A009] Chough [A346]	Effectively adjacent to the west / north west of the subject site	Proximity	No
Step 3: Describe the likely effects of the project (if any, alone or in combination) on European sites				
In my opinion the development would not have any potential direct or indirect impact on the SCIs of Kerry Head SPA, or on any other European site. Notwithstanding the proximity of the subject site to the SPA, the limited nature and extent of the residential development, during the construction and operational phases, would have no likely significant effect on the SCI species of the SPA. There was an original house on site and there are a number of other houses in the vicinity. The SPA is designated for two SCI species, fulmar and chough. The development would have no effect on the attributes, measures, and targets as outlined for these species in the Conservation Objectives Series document for the SPA published by the National Parks & Wildlife Service on 28 th March 2025. The construction and operational phases would have had / would have no likely significant impact on the SCIs given their preferred nesting sites and foraging areas. Disturbance is not likely				

given the small scale of the development outside of the SPA boundary. The site is a small residential site and is not likely to be an ex-situ site of any importance.

The development is limited in scale. There are no planning permissions for development of note in close vicinity of the subject site which could act in combination to have a likely significant effect on this, or any other, European site.

Having regard to the foregoing, I do not consider that there is any possibility that the proposed development could have a likely significant effect on Kerry Head SPA, or on any other European site, alone or in combination.

Step 4: Conclude if the proposed development could result in likely significant effects on a European site

I conclude that the proposed development (alone or in combination with other plans and projects) would not result in likely significant effects on any European site. No further assessment is required for the project. No mitigation measures are required to come to these conclusions.

Screening Determination

Finding of no likely significant effects

In accordance with section 177U of the Planning & Development Act, 2000 (as amended), and on the basis of the information considered in this AA screening, I conclude that the development individually or in combination with other plans or projects would not be likely to give rise to significant effects on Kerry Head SPA or any other European site, in view of the conservation objectives of those sites, and AA (and submission of a NIS) is not therefore required.

This determination is based on:

- the nature, scale, and location of the development.
- the habitat of the subject site i.e. a small residential site, is not particularly suitable ex-situ nesting or foraging habitat for the SPA SCI species.
- the absence of any possibility of noise or nuisance disturbance to SPA SCIs during construction or operation.

No mitigation measures aimed at avoiding or reducing impacts on European sites were required to be considered in reaching this conclusion.

Appendix 3 – Water Framework Directive (WFD)

WFD IMPACT ASSESMENT STAGE 1: SCREENING			
Step 1: Nature of the Project, the Site, and Locality			
An Coimisiún Pleanála Ref. No.	ABP-322752-25	Townland / Address	Dromatoor, Ballyheigue, Co. Kerry
Description of project?		Permission to retain an existing house and permission to complete the house and construct a single-storey side extension with all associated site works	
Brief site description, relevant to WFD screening		There is a single-storey house on site at an advanced stage of construction/re-construction. The site is on the north side of a local road with Ballyheigue Bay on the opposite side of the road. There is no watercourse on site. The soil is mapped as 'Brown Podzolic: Well drained acid mineral soil' by the EPA.	
Proposed surface water details		Surface water is discharged to a soakpit.	
Proposed water supply source and available capacity		Water supply is an existing supply from the public main.	
Proposed wastewater treatment system and available capacity and any other issues		Foul water is to an existing septic tank.	
Others?		No	
Step 2: Identification of Relevant Water Bodies and Step 3: Source-Pathway-Receptor (S-P-R) Connection			

Identified water body	Distance (metres from the main residential parcel of the site)	Water body name (code)	WFD status (2016-2021)	Risk of not achieving WFD status i.e. at risk, review, not at risk	Identified pressure on that water body	Pathway linkage to water feature e.g. surface water runoff, drainage, groundwater
River waterbody	The closest EPA waterbody to the site is approx. 40 metres to the west.	Doonamontane_010 (IE_SH_23D160380)	Moderate	Review	None identified	No realistic pathway. There is no existing surface water outflow from the site.
Coastal waterbody	Approx. 50 metres to the south	Outer Tralee Bay (IE_SH_040_0000)	Good	Review	None identified	No realistic pathway. Surface water is to a soakpit. There is a public road between the site and the coastal waterbody.
Groundwater waterbody	Underlying site	Kerry Head (IE_SH_G_118)	Good	Not at risk	None identified	Discharge to groundwater
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						

No	Component	Water body receptor (EPA code)	Pathway (existing and new)	Potential for impact / what is the possible impact	Screening stage mitigation measures	Residual risk? Y/N Detail	Determination to proceed to Stage 2. Is there a risk to the water environment? If 'screened in' or 'uncertain' proceed to Stage 2
Construction Stage							
1.	Construction works	Doonamontane_010 (IE_SH_23D160380) Outer Tralee Bay (IE_SH_040_0000)	None	Deterioration of surface water quality from pollution of surface water run-off	No particular mitigation is required. The development area is approx. 40 metres from a surface water body.	No. The limited scale of development and distances from surface waterbodies would be such that it would not materially affect the risk of not achieving the WFD objective.	Screened out.

2.	Groundwater	Kerry Head (IE_SH_G_118)	Drainage to ground	Reduction in groundwater quality from pollution of surface water run-off	No particular mitigation required. The development involves the renovation of and extensions to an existing house with no significant groundworks.	No.	Screened out
Operational Phase							
1.	Surface water runoff	Doonamontane_010 (IE_SH_23D160380) Outer Tralee Bay (IE_SH_040_0000)	None. Surface water discharge is to an on- site soakpit.	Deterioration of surface water quality	None	No residual risk. This is a standard residential development.	Screened out

2.	Impact on groundwater	Kerry Head (IE_SH_G_118)	Drainage to ground	Deterioration of groundwater quality	None	Yes. I have set out in sub-section 7.6 the issues relating to the WWTS on site.	I recommend in sub-section 7.6 that a reason for refusal be included to the effect that it has not been demonstrated that effluent from the development can be satisfactorily treated and disposed of on site. There are WFD implications from this. This is a 'New Issue'.
Decommissioning							
Decommissioning is not anticipated as this is a permanent residential development.							