



Inspector's Report

PL-500578-KY-26

Development	Construct house and private domestic garage to be served by a mechanical treatment tank and percolation area, new entrance and all associated site works.
Location	Knockeenawaddra , Portmagee , Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	2560594
Applicant(s)	Joseph O'Sullivan
Type of Application	Permission
Planning Authority Decision	Grant Permission + Conditions
Type of Appeal	Third Party Normal Planning Appeal
Appellant(s)	John Griffin
Observer(s)	None
Date of Site Inspection	
Inspector	Natalie de Róiste

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1.0 Site Location and Description

- 1.1. The site is located in a rural area, in the townland of Knockeenawaddra, on the Iveragh peninsula, c. 4.5 kilometres by road from Portmagee to the west, c. 12 kilometres by road from Cahirsiveen to the north-east. It is situated to the south of a boreen with grass in the middle, which is c. 200 metres south of the R565, part of the Wild Atlantic Way. There is an existing bungalow opposite the site to the north of the boreen, one of four bungalows/dormer bungalows on the north side of this boreen. The area is characterised by farmland with some dispersed houses and farm buildings.
- 1.2. The site measures c. 0.27 hectares, and is part of a larger field (c. 4 hectares) under grass. There are ruinous remains of a small stone building on the site. The field is bordered by sod ditch with post-and-wire fencing to the roadside, with a drainage ditch to the field side, with a stream running from east to west. A ditch to the west boundary was dry on the date of the site visit. The levels of the site rise from north to south, with the site at a higher level than the lane. The ground was soft underfoot with puddles throughout and ponding to the lower levels.

2.0 Proposed Development

- 2.1. The development consists of a 4-bedroom part-single-, part-two-storey dwelling house (c. 285 sqm, max ridge height 6.5 metres), a domestic garage (c. 78 sqm), hard and soft landscaping, wastewater treatment system and percolation area, with a new vehicular entrance onto a boreen in private ownership.
- 2.2. A new lay-by is proposed 140 metres to the east of the site, outside the red line boundary.
- 2.3. The buildings are to be finished with plastered walls, blue/black slate roofs, and anthracite pvc fascia, soffit, and doors.

3.0 Planning Authority Decision

- 3.1. **Decision**

3.2. Grant permission, following submission of further information (on the wastewater treatment, and on visual amenity) with no amendments.

3.2.1. Conditions

17 standard conditions, including conditions on occupation of residence and use of garage; landscaping and materials; and technical details on wastewater treatment and road access.

3.3. **Planning Authority Reports**

3.3.1. Planning Reports – two reports, the first (dated 01/09/2025) recommending a request for further information on the waste water treatment plant and on visual impacts, and the second (dated 05/12/2025) recommending a grant of permission.

3.3.2. Other Technical Reports

- Site Assessment Unit – report dated 29 August 2025, further information requested, with new trial hole to be dug and made available for inspection.
- Site Assessment Unit – report dated 4 December 2025, trial hole inspected, positive recommendation, conditions recommended.

3.4. **Prescribed Bodies**

3.5. Referred to Irish Water – no response on file.

3.6. **Third Party Observations**

One received, from the appellant, covering issues as raised in the appeal.

4.0 **Planning History**

4.1. Applications on the appeal site

- ABP-321894-25 (KCC ref 2460778) application for house and wastewater treatment plant.

Refused for two reasons:

1. Notwithstanding the proposal to use a tertiary treatment system and infiltration area and having regard to ground conditions within the site, the Board is not satisfied that it has been adequately demonstrated that effluent arising from the

subject development can be satisfactorily treated and disposed of on the site in accordance with the Environmental Protection Agency's Code of Practice for Domestic Waste Water Treatment Systems (PE <10) (EPA 2021). The proposed development would be at variance with Objective KCDP 13-19 (Water and Waste Management of the Kerry County Development Plan 2022-2028, would be prejudicial to public health and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Notwithstanding the location of the subject site which is approximately 200 metres to the south of an area designated as a 'Visually Sensitive Area', and having regard to the elevated and open nature of the site relative to the nature of the adjoining landscape, to the scale and height of the proposed dwelling and garage, the design of the proposed dwelling which doesn't adhere to the 'Building a house in Rural Kerry Design Guidelines 2009' in terms of siting, mass and building form, and would therefore be at variance with KCDP 5-22 (design of rural houses), and KCDP 1 1-78 (protecting landscapes), it is considered that the proposed development would appear incongruous on the landscape, would seriously injure the visual amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

The following note was appended to the Board Direction:

Based on consideration of the documentation on file, the Board was not satisfied that the applicant has adequately demonstrated an exceptional rural housing need as set out in Objective KC DP 5-15 of the Kerry County Development Plan 2022-2028, however given the substantive reasons for refusal set out above, decided not to pursue this matter further.

- Ref. 24/60494 –Permission for dwelling, septic tank and percolation area.
Withdrawn following request for Further Information.

4.2. Family landholding north of R565 – house to west

- Ref 012029 – outline permission granted to Michael O'Sullivan for dwelling house.
- Ref 0491835 – permission granted to Michael O'Sullivan to erect a dwelling house in compliance with conditions granted in outline planning ref no 2029/01.
- Family landholding north of R565 – house to east

- Ref 97881 – outline permission granted to Michael O’Sullivan to erect a dwelling house, septic tank & develop access road.
- Ref 012027 – permission granted to Michael O’Sullivan to revise site boundaries and house location of outline planning permission.
- Ref 041796 – permission granted to Kathleen O’Sullivan to erect a dwelling house in compliance with conditions granted in outline planning ref no 2027/01 (subject to 14 conditions).

4.3. On site to north-east in Knockeenawaddra:

- Ref 2438, permission granted to renovate and extend single-storey house with attic extension, and new waste water treatment system.

4.4. On site to the east in Knockeenawaddra, cited by applicant

- Ref 22667, permission granted for new dwelling house, garage, waste water treatment unit.

5.0 Policy Context

5.1. Development Plan

5.1.1. Volume 4 Maps

The following designations apply to the appeal site:

- Rural Type Area – the appeal site is located in a rural area designated as ‘Rural Area Under Urban Influence’.
- Visually Sensitive Areas and Views & Prospects – Map L – the appeal site is located in an area designated as ‘Rural General’.

5.1.2. Chapter 5 Rural Housing

➤ Section 5.5.1.2 Rural Areas Under Urban Influence

- This section notes that the key challenge in such areas is to maintain a reasonable balance between development activity in the extensive network of smaller towns and villages and housing proposals in wider rural areas.

Objective KCDP 5-15 – This sets out the criteria which applicants need to satisfy when seeking to build a house in a ‘Rural Area Under Urban Influence’ as follows:

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

- a) Farmers, including their sons and daughters or a favoured niece/nephew where a farmer has no family of their own who wish to build a first home for their permanent residence on the family farm.
- b) Persons taking over the ownership and running of a farm on a full-time basis, who wish to build a first home on the farm for their permanent residence, where no existing dwelling is available for their own use. The proposed dwelling must be associated with the working and active management of the farm.
- c) Other persons working full-time in farming or the marine sector for a period of over seven years, in the local rural area where they work and in which they propose to build a first home for their permanent residence.
- d) Persons who have spent a substantial period of their lives (i.e., over seven years), living in the local rural area in which they propose to build a first home for their permanent residence.
- e) Persons who have spent a substantial period of their lives (i.e., over seven years), living in the local rural area in which they propose to build a first home for their permanent occupation and currently live with a lifelong or life limiting condition and can clearly demonstrate that the need to live adjacent to immediate family is both necessary and beneficial in their endeavours to live a full and confident life whilst managing such a condition and can further demonstrate that the requirement to live in such a location will facilitate a necessary process of advanced care planning by the applicants immediate family who reside in close proximity. Preference shall be given to renovation/restoration/alteration/extension of existing dwellings on the landholding before consideration to the construction of a new house.

Other Relevant Objectives:

KCDP 5-19

Ensure that the provision of rural housing will not affect the landscape, natural and built heritage, economic assets, and the environment of the county

KCDP 5-20

Ensure that all permitted residential development in rural areas is for use as a primary permanent place of residence and subject to the inclusion of an Occupancy Clause for a period of 7 years.

KCDP 5-21

Ensure that all developments are in compliance with normal planning criteria and environmental protection considerations.

KCDP 5-22

Ensure that the design of housing in rural areas comply with the *Building a house in Rural Kerry Design Guidelines 2009* or any update of the guidelines.

5.1.3. **Chapter 10 Tourism & Outdoor Recreation**

➤ Section 10.3.1 Wild Atlantic Way

5.1.4. This section notes the Wild Atlantic Way is Ireland's first long-distance touring route, and the aim of the project is to achieve greater visibility for the west coast of Ireland in overseas tourist markets.

5.1.5. **Chapter 11 Environment**

➤ Section 11.6 Landscape

Section 11.6.3.2 Rural General – Rural landscapes within this designation generally have a higher capacity to absorb development than visually sensitive landscapes however 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 for 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.

The following objectives are relevant:

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.

5.1.6. **Chapter 13 Water & Waste Management**

KCDP 13-18

Ensure that development proposals comply with the standards and requirements of the Irish Water: Code of Practice for Wastewater Infrastructure, (December 2016), and any updated version of this document during the lifetime of the Plan.

KCDP 13-19

Ensure that proposed wastewater treatment system for single rural dwellings are in accordance with the 'Code of Practice Wastewater Treatment and Disposal System Serving Single Houses, EPA 2021' and any updated version of this document during the lifetime of the Plan, and are maintained in accordance with approved manufacturer's specifications and subject to compliance with the Water Framework Directive, the Habitats and Shellfish Waters Directives and relevant Pollution Reduction Programmes.

5.1.7. **Volume 6 Development Management Standards & Guidelines**

Section 1.5.10 Standards for Residential Development in Rural and Non-Serviced Sites

In summary, the following sections and points are relevant:

➤ Section 1.5.10.5 Entrance

- The application must demonstrate safe vehicular access to and from the proposed dwelling, in terms of visibility from the proposed entrance, but also in terms of the impact on traffic safety through the turning and stopping movement of vehicles entering or leaving the site. Should any remedial works be required on land outside the ownership of the applicant, letters of consent from the relevant.

- Entrance gates shall be recessed 4.5m. behind the line of roadside hedgerow, with side boundaries splayed at an angle of 45 degrees to the public road carriageway.
 - The opening of an access shall not interfere with existing roadside drainage.
- Section 1.5.10.6 Screening and Integration
- The design and location of the dwelling shall be influenced by the existing screening on the site. Additional screening and planting may be required to integrate the dwelling into the site and to screen the development from the public road; this shall be clearly demonstrated on a landscaping plan.
 - Regard shall be had to 'Building a House in Rural Kerry – Design Guidelines', Kerry County Council 2009'.
- Section 1.5.10.7 Septic Tank and Proprietary Treatment Systems
- Treatment systems shall be designed, installed and maintained in accordance with the Environmental Protection Agency's 2021 Code of Practice for Domestic Wastewater Treatment Systems or any amending or replacement Code of Practice, standard or legislation. Only one dwelling unit shall be connected to a single septic tank.

5.2. **Natural Heritage Designations**

SAC: 002262 - Valencia Harbour/Portmagee Channel SAC – approx. 515 m to the north.

6.0 **EIA Screening**

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

7.0 The Appeal

7.1. Grounds of Appeal

One third party appeal was received, from the neighbour to the north of the appeal site. The grounds of appeal are summarised as follows:

Compliance with Development Plan Policy

- The applicant has not demonstrated a need or ties to the area covered in the development plan to live in the area.
- The land abutting the site and including the site comprises approx. 3 ha and could not be described as a farm. There is no farmyard complex in any of the land in the family landholding and the land is used for grazing.
- No evidence is provided of local employment and it is submitted that the applicant lives abroad.
- The family home is in Oghermong, Caherciveen approx. 7 mile from the site.
- The proposed dwelling may be used as a holiday home.
- Contrary to agent's assertions, the Board were *not* satisfied with the applicant's rural housing need in the previous application.

Visual Impact

- The site is located to the south of an area designated for 'View and Prospects' and the site fronts onto the Knockeenawaddra Loop public walkway and is adjacent to the highly visible Wild Atlantic Way R565 which links the Ring of Kerry, Caherciveen, Portmagee and Valentia Island. The proposed development does not comply with Development Plan policy on views and prospects. The dwelling constructed under ref 22/667 is not a pertinent precedent, as it is not visible from the public road.

Access

- The site is accessed off a private narrow unsurfaced boreen, which is not taken in charge, and is unsuitable for additional traffic created by the proposed development.

Siting & Topography

- The site is on elevated ground and the location of the dwelling is 3.65 m higher than the level of the passageway at the entrance to the site, resulting in the proposed dwelling being highly visible and obtrusive on the landscape.
- Contrary to the applicant's assertion, the ridge level has not been reduced.

Devaluation of Property

- The proposed dwelling will be approx. 6.0 m above the appellants property which will be overlooked. Privacy would be diminished and property devalued.

Planning History

- Permission refused under P.A. 05/3452 which is located to the west of the appeal site is relevant. The appeal site is more elevated and exposed than the adjoining site. There are no other dwellings located on the southern side of the boreen and if permitted, this development would give rise to precedent.
- The applicant's father has a history of speculative developments for sale as holiday homes.
- The Board has already refused permission for a dwelling on this site, and there is no discernible difference in this application.

Landownership

- It is stated in the application form that the land is in the ownership of the applicant. It is understood that the applicant's father is the owner of the lands.

The appeal includes photographs of the site, the surroundings, and a house said to be the applicant's family home.

7.2. Applicant Response in the case of a 3rd Party Appeal

None received within statutory time period.

7.3. Planning Authority Response

None received.

7.4. Observations

None received.

7.5. Further Responses

None received.

8.0 Assessment

8.1. I have examined the application details and all other documentation on file, including the submission received in relation to the appeal, the reports of the local authority, the material submitted with the application, and the planning history. I have inspected the site, and I have had regard to relevant local/regional/national policies and guidance. I consider the substantive issues to be considered as follows:

- Compliance with Rural Housing Strategy
- Impact on visual amenity
- Access
- Wastewater disposal

8.2. Compliance with Rural Housing Strategy

8.3. The appeal contends that the applicant has not demonstrated a local housing need, and the house would be a holiday home. The site is located in a '*rural area under urban influence*'. Objective KCDP 5-15 sets out that applicants shall satisfy the planning authority that they have an exceptional rural generated housing need based on their social and/or economic links to a particular rural area, in 1 of 5 categories of housing need, (enumerated above under the policy section). I note the Board's comments on the previous refusal regarding the applicant's rural housing need, notwithstanding the inspector's satisfaction with the compliance with the rural housing strategy.

8.4. The applicant has submitted similar information with this application as with the previous one; a letter confirming attendance at primary school in Aghatubrid (9 kilometres from the site); a letter from an agricultural consultant stating the applicant will need to live at the address for livestock management and welfare reasons, and to comply with Department of Agriculture conditions for environmental regulation and sustainability. Part B of the application form states that the applicant is a resident of the rural area, in rented accommodation, moving back home from Australia, and his occupation is plant hire (self-employed). In Section 3, it is stated that the proposed

dwelling is for occupation as a primary permanent place of residence; for occupation by a farmer engaged wholtime in agriculture; for occupation by a member of the family; and for the applicant's own occupation. The cover letter reiterates that the application is for *'a full-time, year-round family home for Mr O'Sullivan and his family'*.

- 8.5. The council planning report states that the *'applicant complies with the rural settlement policy'* but does not provide any further analysis or assessment of their rural housing need, and did not seek further information on the issue. In my view, minimal information has been submitted with the application on the applicant's rural housing need. No details of the location of the family home has been submitted, nor have details on the location or extent of the lands being farmed or details on the type or number of livestock held. The ordnance survey map submitted shows no lands in the vicinity in the applicant's ownership or control (ie, blue line boundary lands). No herd number in the applicant's name has been submitted. No information has been given on the applicant's place of business, or intended place of business in plant hire, or how that occupation corresponds with full-time farming.
- 8.6. In light of the limited information on the file, I have consulted the material provided in the previous application on the site (KCC 2460778), and the response to that appeal (ABP-321894-25). The response contained maps associated with the Department of Agriculture, Food and the Marine, showing the applicant's father's landholding for the purposes of the Basic Payment Income Support Scheme. These lands comprise a total of c. 7.3 hectares of agricultural lands in Knockeenawaddra, two houses previously built on the landholding, and agricultural buildings in Ohermong for sheep during lambing season. The postal address is The Bungalow in Ohermong (opposite the house identified as the applicant's family home by the third party), some 7 kilometres from the site. A folio provided (partly redacted, and without maps) shows the lands are in the ownership of Michael Joseph O'Sullivan and Kathleen O'Sullivan of Ohermong.
- 8.7. In my view, the farmholding in question would not appear to be one which would support, or require, full-time farming, and there is little to connect the applicant to the farm (apart from the letter from the agricultural consultant, which is generic and contains no detail on the proposed farm enterprise). Regarding the categories of rural need, I note that category a) does not require full-time farming, but simply refers to

'farmers, including their sons and daughters...'. As the applicant is the son of a part-time farmer, he complies with this category. Additionally, notwithstanding his time in Australia, he complies with category d) having spent a substantial period of his life living in the local rural area (having an address in Ohermong while attending Aghatubrid National School from 2002-2010).

8.8. I note that the Development Plan states that preference shall be given to renovation/restoration/alteration/extension of existing dwellings on the landholding, in rural areas under urban influence such as this one. No information has been submitted on the current condition or availability of the two houses previously permitted and constructed on the farmholding, or any other dwellings that might be available to the applicant on other lands. In the absence of such information, a grant would be premature, in my view. The Commission may wish to seek further information on the issue. However, given the issues outlined below, it may not be deemed necessary

8.9. **Impact on Visual Amenity**

8.10. The last application was refused due to its proximity to a 'Visually Sensitive Area', and having regard to the elevated and open nature of the site, and the scale and height of the proposed dwelling. The proposed revised design has reduced the height of both the house and the shed. The shed has been reduced in height from 7.1 metres in height to 6.5 metres in height. The two-storey part of the house has been reduced in height from 7 metres to 6.5 metres at the ridge height. There is no change to the maximum floor-to-ceiling heights internally – these remain 2.45 metres both to ground and first floor. The reduction is due to a change in roof pitch (from 45 degrees to c. xx degrees), which has reduced the area of full-height space in the upstairs bedroom, walk-in wardrobe, and ensuite. However, the reduction is not such that it would impact significantly on the useability or amenity of the space. The single-storey element has been reduced from 6.1 metres at the apex, to 5.5 metres, and the roof pitch has been similarly revised.

8.11. Both the house and the shed have been re-sited, shown moved c. 1.3 metres further north on the site layout map (not 2.5 metres as stated in the cover letter). This revised position is shown on the section drawing showing the wastewater treatment

plant revisions, and the section submitted as Further Information. The rationale for this is to 'reduce its overall elevation and to reduce visibility from the R565'. No proposals are made regarding the existing ruin on the site – the site plan shows the house located within 2.6 metres of it, while the site section does not show the ruin.

- 8.12. In my view, the revised location of the house would not have positive impacts. Notwithstanding the downward slope of the site, the cut and fill involved means there would be no meaningful change to the floor level of the dwelling, and it would be closer to, rather than further from, the road. Regarding the reduction in height, I have compared the elevations of the existing and the previous proposal, and considered the drawing submitted with the Further Information request, and do not consider it to be a significantly different proposal from that previously refused. I have consulted the *Building a house in Rural Kerry Design Guidelines 2009*, and I do not consider the design to be compliant, having a deep plan, a complex mix of window styles and shapes, and a complicated roof shape.
- 8.13. The house would be highly visible from the R565 (part of the Wild Atlantic Way), and located on the loop walk. I note the area designated as a visually sensitive area in the Development Plan is to the north of the R565, and the protected views and prospects are in that direction, over the water. However, given the nature of the landscape, the elevated nature of the site, and the impact on the general view, I consider that the proposed dwelling would appear incongruous on the landscape and would unduly impact on surrounding visual amenities. As such, I recommend a refusal.
- 8.14. **Access**
- 8.15. The site is accessed from a boreen, which is straight, narrow and poorly surfaced. A lay-by is proposed (outside the red line boundary, but within the larger field) to allow a car to pull in, to allow opposing traffic to pass. The boreen is lightly trafficked, providing access to three houses on the north side of the road, as well as access to farm gates. The boreen forms part of the Knockeenawaddra and Pound Loop walks.
- 8.16. Given the low level of vehicular traffic on the road, I do not have concerns regarding the carrying capacity of the road, or regarding sightlines from the new entrance.

8.17. Wastewater Disposal

- 8.18. I note that unsatisfactory wastewater disposal was a reason for refusal, and the previous Inspector was not satisfied that the Site Assessment Unit of Kerry County Council had visited the site; was not satisfied with the ponding on the site after a relatively dry period, and the rushes growing on the site; and was not happy with the soil profile shown in the photographs of the trial hole associated with the Site Characteristic Assessment (having mottled soils, partly grey in colour, typically due to impeded drainage, or elevated water table).
- 8.19. The revised proposal includes the site characterisation form and site suitability report as previously submitted (both dated 2024). The drawings have been revised to show a proposal to provide imported topsoil, and a proprietary sand polishing filter. A letter from the provider notes that subject to a minimum of 0.9 metres of unsaturated soil between the underside of the infiltration area and the bedrock and/or water table, the solution complies with the EPA Code of Practice.
- 8.20. As per the Geological Society of Ireland (GSI) data mapping, the site overlies a 'Poor Aquifer' which has a 'Moderate' vulnerability classification, and the Ground Water Protection Response is (GWPR) is R₁, acceptable subject to normal good practice. The soil type of the area is 'AminPD – Mineral poorly drained' and the bedrock of the area is 'Valentia Slate Formation'. The soil grouping in and around the site is mapped as either surface & groundwater gleys or peaty gleys, all determined to be poorly draining soils. This is further supported by the groundwater recharge figures throughout the site with a groundwater coefficient of 22%, essentially stating that only 22% (261mm/yr) of the rainfall at the site makes its way to the aquifer.
- 8.21. Under the EPA Code of Practice 2021, the trial hole in areas of locally important or poor aquifers, should be excavated to a depth of at least 2.1 m where possible. In this regard, the trial hole was dug to 2.0m both times. The trial hole log submitted with the application notes that the water table was encountered at 1.9 metres, and the depth of water ingress was recorded at just 100 mm below ground level (ie, water coming through the walls of the trial hole, which may be indicative of an elevated water table or saturated layers. Clay was recorded from 300 mm to 600 mm BGL, with 'gravel with silt' below 600 mm BGL. The photographs of the British Standard tests are at odds with the description of 'gravel with silt', being more typical of a clay

(which would align with the GSI mapping of surface/groundwater gleys). No surface layer percolation tests were carried out; given the proposed elevation of the sand polishing filter, and its position within the topsoil, the topsoil should have been tested.

- 8.22. The Site Assessment Unit of the Local Authority requested (by means of Further Information) a new trial hole to be excavated near the proposed polishing filter. Their subsequent report noted they visited the site to observe the reopened trial hole on 26 September 2025 and again on 13 October 2025, and noted the ground conditions were solid underfoot, with no signs of ponding. Their report noted that the water table was encountered at 1.9 metres below ground level; and that test results and visual assessment indicates the subsoil has good permeability.
- 8.23. I undertook my site visit on a dry day in March, following a prolonged wet winter and early spring. The ground was soft and wet underfoot throughout the site, with ponding to the lower levels and poaching in evidence adjacent to the entrance. There was disturbed ground at the lower level of the site, evidence of filled in trial holes. There were rushes in evidence, with mature clumps adjacent to the ruin, and adjacent to the stream, and green shoots throughout the lower part of the site. The drainage ditch to the north boundary, adjacent to the road, had flowing water at a depth of c. 800-900 mm lower than the existing adjacent ground level, indicative of the watertable level at the site. In this regard, I have significant concerns regarding the site suitability for the safe and adequate disposal of effluent.
- 8.24. As noted above, the photographs of the trial hole as shown in the site suitability report submitted with the application show mottled soils, grey in colour at c. 250-300 mm BGL. The photographs of the subsequent trial hole also show mottled soils, and the excavated soil is mottled grey in colour, indicating seasonal saturation or impeded drainage, which rules this site out as a suitable one for groundwater discharge. The EPA Code of Practice 2021 states that *'if the bedrock and/or water table are at a level above 500 mm below ground throughout the area of the site, it will usually be unacceptable for discharge to ground.'* Give the high level of mottled soils in the photographs, the reference to water ingress at 100 mm BGL, and the water levels observed in the drainage ditch, the area tested does not meet the EPA Code of Practice standard, with insufficient depth of unsaturated subsoil available to adequately treat effluent arising from the proposed development, and to dispose of it

in a manner that would not be prejudicial to public health, and potentially threaten the condition of surface waters local to the site.

8.25. The documentation submitted fails to mention mottled soils, abundantly evident in the submitted photographs. It also fails to mention the rushes on site, and the stream running along the boundary. The Council SAU report also makes no mention of the above characteristics.

8.26. **Other issues**

8.26.1. The appellant raises the issue of impacts on residential amenity, and devaluation of property. The proposed property is set back some 35 metres from the front boundary. Given the distance between the properties, I have no concerns regarding undue overlooking or overbearing impacts, notwithstanding the level differences between the sites. Given the lack of impacts on residential amenity, I fail to see how the value of the property could be affected.

8.26.2. Regarding issues of land ownership – the appellant states that the applicant’s father is the owner of the lands, not the applicant. The application form stated that the site is in the ownership of the applicant. The folio provided with the response to the previous appeal shows the lands in the ownership of Michael Joseph and Kathleen O’Sullivan. No letter of consent was provided to make the application. I note the Development Management Guidelines 2007 state (*Section 5.13 Issues relating to title to land*) that *‘the planning system is not designed as a mechanism for resolving disputes about title to land or premises or rights over land; these are ultimately matters for resolution in the Courts*. These Guidelines also state that if it is clear that the applicant does not have sufficient legal interest, permission should be refused on that basis, but in the event that there is doubt on the issue, the planning authority may decide to grant permission. In this regard, I note that there is a lack of clarity on the ownership issue, as up-to-date information has not been provided, and the local authority sought no further information on landownership. However, the site is part of a family landholding, no objection has been received from the landholder, and the application is not a frivolous or vexatious one. In the event of a grant of permission, Section 34(13) of the Planning and Development Act 2000 sets out that *‘a person shall not be entitled solely be reason of a permission under this section to carry out*

any development' and the applicant is required to ensure they have sufficient legal interest to implement permission.

9.0 AA Screening

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

The subject site is located over 500 metres from the nearest European site, SAC: 002262 - Valencia Harbour/Portmagee Channel SAC.

The proposed development comprises a house and wastewater treatment system.

No nature conservation concerns were raised in the planning appeal.

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

- Distance from nearest European site, and the nature of that site and its qualifying interests
- Dilution effects

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.

10.0 Water Framework Directive

10.1.1. The subject site is located in a rural area in the townland of Knockeenawaddra, c. 150 metres east of the Knockeenawaddra River, c. 600 m south of the Portmagee Channel, within the Knockeenawaddra_10 sub basin (IE_SW_22K480900). The site is located on top of the ground water body Cahirsiveen (IE_SW_G_022).

10.1.2. The proposed development comprises the provision of a dwelling house and wastewater treatment system.

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

10.1.4. I have assessed the development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & 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, 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.

10.1.5. The reason for this conclusion is as follows:

the small scale and nature of the development

the distance from the nearest water bodies and the lack of hydrological connections

10.1.6. 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.

11.0 Recommendation

11.1. I recommend permission be refused.

12.0 Reasons and Considerations

1. Notwithstanding the location of the subject site which is approximately 200 metres to the south of an area designated as a 'Visually Sensitive Area', and having regard to the elevated and open nature of the site relative to the nature of the adjoining landscape, to the scale and height of the proposed dwelling and garage, the design of the proposed dwelling which doesn't adhere to the 'Building a house in Rural Kerry Design Guidelines 2009' in terms of siting, mass and building form, and would therefore be at variance with KCDP 5-22 (design of rural houses), and

KCDP 1 1-78 (protecting landscapes), it is considered that the proposed development would appear incongruous on the landscape, would seriously injure the visual amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Notwithstanding the proposal to use a tertiary treatment system and infiltration area, having regard to ground conditions within the site, the Board is not satisfied that it has been adequately demonstrated that effluent arising from the subject development can be satisfactorily treated and disposed of on the site in accordance with the EPA's Code of Practice for Domestic Waste Water Treatment Systems (PE <10) (EPA 2021). Therefore, the proposed development would be at variance with Objective KCDP 13-19 of the Kerry County Development Plan 2022-28, would be prejudicial to public health and would therefore be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.”

Natalie de Róiste
Planning Inspector

21 April 2026

Appendix 1: Form 1 EIA Pre-Screening

Case Reference	ABP-500578-KY
Proposed Development Summary	House and wwtp
Development Address	Knockeenawaddra, Portmagee, 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?	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q.2.
	<input type="checkbox"/> No, No further action required.
(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)	
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.	State the Class here
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	

<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold. EIA is Mandatory. No Screening Required	State the Class and state the relevant threshold
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2) OR If Schedule 7A information submitted proceed to Q4. (Form 3 Required)	House – more than 500 units
4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3) [Delete if not relevant]
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3) [Delete if not relevant]

Inspector: _____

Date: _____

Appendix 2: Form 2 - EIA Preliminary Examination

Case Reference	ABP-500578-KY
Proposed Development Summary	House and wwtp
Development Address	Knockeenawaddra, Portmagee, Co. Kerry
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
<p>Characteristics of proposed development</p> <p>(In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>The development has a modest footprint, comes forward as a standalone project, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. Subject to adequate waste water treatment, it presents no risks to human health.</p>
<p>Location of development</p> <p>(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,</p>	<p>The development is situated in a rural area on improved agricultural land which is abundant in the area. The development is removed from sensitive natural habitats and centres of population.</p>

densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	
<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>Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</p>
Conclusion	
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 3: Standard AA Screening Determination Template 2

Test for likely significant effects

Screening for Appropriate Assessment Test for likely significant effects	
Case Reference Number: PL-500578-KY-26	
Step 1: Description of the project and local site characteristics	
Brief description of project	House, garage, and wastewater treatment system
Brief description of development site characteristics and potential impact mechanisms	[include size, scale, land take, proximity to European site, duration of works, measures integral to design – any key issues, e.g. emissions, disturbance,]
Screening report	No.
Natura Impact Statement	No.
Relevant submissions	None received.
Step 2. Identification of relevant European sites using the Source-pathway-receptor model	

European Site (code)	Qualifying interests ¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections ²	Consider further in screening ³ Y/N
SAC: 002262 - Valencia Harbour/Portmagee Channel	The qualifying interests (QI) of the SAC include mudflats and sandflats not covered by seaward waster at low tide (Code: 1140), large shallow inlets and bays (Code: 1160), reefs (Code: 1170). (Annex 1 habitats). The conservation objectives for the above are in summary to conserve the favourable condition of all.	Approx. 515 metres to the north of the appeal site	Possible direct and indirect connections via discharge to groundwater	Yes
Step 3. Describe the likely effects of the project (if any, alone <u>or</u> in combination) on European Sites				

Site name Qualifying interests	Possibility of significant effects (alone) in view of the conservation objectives of the site*	
	Impacts	Effects
<p>SAC: 002262 - Valencia Harbour/Portmagee Channel Qualifying Interests</p> <ul style="list-style-type: none"> • Mudflats and sandflats not covered by seawater at low tide [1140] • Large shallow inlets and bays [1160] • Reefs [1170] 	<p>It is noted that there is a watercourse located approx. 200 m to the west of the appeal site which flows north to the sea (approx. 400 m) and into the SAC. This provides a pathway to the SAC. There is an open roadside drain which runoff from the site likely discharges to. This would likely include groundwater having regard to the depth of the open drain relative to the adjoining boreen to the north, and the ground levels of the site to the south. There is also a drainage ditch on the western boundary of the site which likely discharges to the same water course.</p>	<p>Negative affect on quality/function which would undermine the conservation objectives related to water quality. Identified effects would relate to water pollution via a hydrological connection between the appeal site and the SAC. Construction Phase Temporary effects during ground clearance works and construction may include surface water run-off from the site that contains silt, sediment and/or other pollutants (released hydrocarbons) into the open roadside drain, thereby impacting on water quality downstream in the SAC site. It is not envisaged that direct habitat loss within the SAC would occur. The necessary measures to be employed at construction stage would be standard practices and would be required in order to protect local receiving waters, irrespective of any potential hydrological connections to the SAC site.</p>

		<p>Operational Phase Effects may include surface water run-off from the site including discharges to groundwater arising from the tertiary treatment system proposed to serve the dwelling thereby potentially impacting water quality downstream of the this SAC. Subject to the site being suitable to safely and adequately dispose of foul effluent arising from the proposed dwelling and the installation of the on-site wastewater treatment system in accordance with the EPA Code of Practice for Domestic Waste Water Treatment Systems (PE <10) (EPA 2021), this would be likely to safeguard water pollutants impacting water quality downstream in the European Site (Valentia Harbour/Portmagee Channell SAC)</p>
	<p>Likelihood of significant effects from proposed development (alone): No</p>	
	<p>If No, is there likelihood of significant effects occurring in combination with other plans or projects? No</p>	
<p>Step 4: Conclude if the proposed development could result in likely significant effects on a European site</p>		

I conclude that the proposed development (alone) would not result in likely significant effects on European Site SAC: 002262 - Valencia Harbour/Portmagee Channel. The proposed development would have no likely significant effect in combination with other plans and projects on any European site(s). No further assessment is required for the project].

No mitigation measures are required to come to these conclusions.

WFD IMPACT ASSESSMENT STAGE 1: SCREENING

Step 1: Nature of the Project, the Site and Locality

An Bord Pleanála ref. no.	PL-500578-KY-26	Townland, address	Knockeenawaddra, Portmagee, Co. Kerry			
Description of project	House and wastewater treatment unit					
Brief site description, relevant to WFD Screening,	The site is a rural one, with a proposed mains water connection. It is located on top of a 'Poor Aquifer' which has a 'Moderate' vulnerability classification. It is not in an area of known floodrisk.					
Proposed surface water details	Soakpits					
Proposed water supply source & available capacity	Existing mains connection					
Proposed wastewater treatment system & available capacity, other issues	Packaged waste water treatment system and polishing filter					
Others?	n/a					

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)

Groundwater body	underground	Cahersiveen (IE_SW_G_022)	Good	Not at risk	No pressures	Drainage to ground	
River	250	Knockeenawaddra River (IE_SW_22K480900)	Moderate	Review	No pressures	Runoff	
Step 3: 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.	Component	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening 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.	Groundwater body	Cahersiveen (IE_SW_G_022)	underground	spillages	Standard good construction practices	no	Screened out
2.	River	Knockeenawaddra River (IE_SW_22K480900)	Run off	Pollution and sedimentation	Standard good construction practices	no	Screened out
OPERATIONAL PHASE							

3.	Groundwater body	Cahersiveen (IE_SW_G_022)	Underground	Pollution	WWTS to EPA CoP standards, soakpit, SuDS features	No	Screened out
4.	River	Knockeenawaddra River (IE_SW_22K480900)	Run off	Pollution and sedimentation	WWTS to EPA CoP standards, soakpit, SuDS features	No	Screened out
DECOMMISSIONING PHASE							
5.	n/a						