



An
Coimisiún
Pleanála

Inspector's Report PL-501443-KY-26

Development	Retention of house as constructed within revised site boundaries and all associated site works
Location	Coomatloukane , Caherdaniel , Co Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	2561166
Applicant(s)	Mark O'Shea
Type of Application	Retention
Planning Authority Decision	Grant Permission + Conditions
Type of Appeal	Third Party Normal Planning Appeal
Appellant(s)	Hillary McCarthy
Observer(s)	None
Date of Site Inspection	25 th August 2026
Inspector	Irené McCormack

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
4.0 Planning History.....	5
5.0 Policy Context.....	5
6.0 EIA Screening.....	Error! Bookmark not defined.
7.0 The Appeal	7
8.0 Assessment	9
9.0 AA Screening.....	13
10.0 Water Framework Directive	13
11.0 Recommendation	14
12.0 Reasons and Considerations.....	14
13.0 Conditions	14

1.0 Site Location and Description

- 1.1. The site is located in a rural location off a local public road, c. 280m south of the N70 between Waterville and Caherdaniel. The site is located on a U-bend in the roadway and there is a newly constructed dwelling on site. The site has a stated site area of 0.203ha. The site is relatively level with the public road to the east and falls steeply to the south. There are a number of existing dwelling houses in the surrounding area.

2.0 Proposed Development

- 2.1. The development comprises:
- Retention permission to retain house as constructed within revised site boundaries with all associated site work.
- 2.2. The dwelling to be retained in a 172sqm in area and reflects a contemporary dormer dwelling with traditional finishes.

3.0 Planning Authority Decision

3.1. Decision

On 5th May 2026 Kerry County Council issued notification of the decision to grant planning permission subject to seven conditions.

3.1.1. Conditions

Condition no .4 relates to use a permanent residence and not a holiday home

Condition no. 7 replates to landscaping.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The original planning report dated 12/02/206 notes the principle of development is acceptable and the dwelling to be retained is similar to what was granted under planning register reference number 20/569. Further information was requested wastewater treatment system compliance and a geotechnical site investigations report which shall assess the stability of the slope and surface water runoff to ensure that are no rockfall or landslide incidents that may adjacent properties.

A response was received on 08/04/2026. The planning reported concluded that compliance with the Rural Settlement Policy was assessed under the previous

application on the site. The proposed development is acceptable in terms of design and orientation. The dwelling is similar to what was granted under Planning Register Number 20/569. It will not cause concerns in relation to visual impact. The issues raised in the further information request have been addressed. The on-site wastewater treatment system has been installed in accordance with the previous grant of permission. A Geotechnical Report carried out following a detailed site survey concludes that the ground slope is stable. Landscaping works yet to be carried out will enhance stability.

Grant of planning permission recommended.

3.2.2. Other Technical Reports

Site Assessment Unit: Further to RFI response and no objection to permission with no specific conditions recommended to be attached.

Levy Calculation: Levies were not paid under the previous grant of planning permission under Planning Register Number 20/569.

Environmental Assessment Unit – The application relates to minor works. A Notional Screening Exercise under Section 34 (12) of Planning and Development Act 2000 was carried out by the Biodiversity Officer – no issues were raised.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

The PA notes that a submission was received from Hilary McCarthy c/o Ger o Keffe. The issues raised included:

- Cut and fill for the development.
- Existing site gradient.
- Overlooking.
- Concern re. rockfall from development.
- geotechnical site investigations to assess the stability of the slope.

4.0 Planning History

Site

KCC Enforcement ref no. 10219 - PA report notes that this a current case open on this site due to the southern gable over hanging and concern re slope gradient.

KCC 20/569 - Permission granted to erect a one and a half storey house with septic tank and wastewater treatment system.

KCC 98/2865 - Permission applied to install septic tank and percolation area to service existing dwelling house. Further information requested in relation to the above application was never submitted.

5.0 Policy Context

5.1 Development Plan

Kerry County Development Plan 2022-2028

Landscape

Section 11.6 sets out policies and objectives in relation to Landscape

Objective 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.

Objective 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.

11.6.3 Landscape Designations

- The appeal site is located in a Visually Sensitive Areas

11.6.3.1 Visually Sensitive Areas

Visually sensitive landscape areas comprise the outstanding landscapes throughout the County which are sensitive to alteration. Rugged mountain ranges, spectacular coastal vistas and unspoilt wilderness areas are some of the features within this designation. These areas are particularly sensitive to development. In these areas, development will only be considered subject to satisfactory integration into the landscape and compliance with the proper planning and sustainable development of

the area. The County enjoys both a national and international reputation for its scenic beauty. It is imperative in order to maintain the natural beauty and character of the County, that these areas be protected.

- The N70 to the north of the site identifies *View and Prospects* looking south/southwest towards the site and the Atlantic Ocean beyond.

11.6.5 Views and Prospects

County Kerry contains views and prospects of outstanding natural beauty which are recognised internationally. There is a need to protect and conserve these adjoining public roads throughout the County. Any development which hinders or materially affects these views/prospects will not be permitted. The Wild Atlantic Way has a number of existing viewing points along its route. In order to maximise the potential of the Wild Atlantic Way these existing viewing points will be protected. The Council will work with Fáilte Ireland in the sustainable development of these viewing points, and the identification of additional viewing locations along the route.

Views and Prospects -It is an objective of the Council to:

KCDP 11-79 Preserve the views and prospects as defined on Maps contained in Volume 4.

KCDP 11-80 Facilitate the sustainable development of existing and the identification of new Viewing Points along the route of the Wild Atlantic Way in conjunction with Fáilte Ireland, while ensuring the protection of environmental attributes in the area through the implementation of environmental protection objectives, standards and guidelines of this Plan.

KCDP 11-81 Prohibit developments that have a material effect on views designated in this plan from the public road or greenways towards scenic features and/or public areas

5.4 Natural Heritage Designations

5.1.1. The site is not located within or adjacent to any designated Natura 2000 site. The nearest Natura 2000 site(s) are as follows:

- Special Area of Conservation: Kenmare River SAC (Site Code 002158) at c. 245m

- Special Protection Area: Iveragh Peninsula SPA (Site Code 004154) at c. to 245m.

6.0 EIA Screening

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 no. appeal received from Hiliary McCarthey c/o Margaret McCarthy. The following concerns were raised:

- The site is located in a visually sensitive area and is steeply sloping, concern is raised regarding a rockfall incident in 2024 and a soil slippage in 2025 from the appeal site which have caused damage to the rear footpath and rear wall of the appellants property (photographs included)
- As a result, concerns is raised about the stability of the slope, cut and fill operations undertaken as part of the development, overlooking and surface water run-off.
- Concerns is raised about the Slope Stability Report submitted and the assessment of the cumulative impacts of the development work and the long term stability of the embankment during periods of prolonged rainfall.
- No evidence has been submitted as regards the ongoing /future maintained of the slope to ensure the “*minimum factory of safety against sliding of 1:8*” is maintained.
- The report also makes assumptions in relation to soil properties and water table level without evidence.
- Concerns is raised that the site levels identified as part of the original application (KCC 20/569) and the current appeal are inaccurate and that the existing gradient is much steeper resulting is the appeal site being more prominent and obtrusive relative to the appellants property.

- The site is located in a Visually Sensitive Area and combined with the steep and unstable topography is contrary to proper planning and sustainable development.

7.2. Applicant Response

A response was received on 24th June 2026. The response was prepared by Frank Curran Consulting Engineers and sets out the following:

Slippages

- It is set out that the cause of slippages is not due to an unstable slope but as a result of excessive water from the public road washing material that was stored on site down the existing embankment. The excessive water was a result of the existing local authority drain being blocked. This has been resolved.

As constructed embankment and slope stability

- It is argued that the slope has been checked and reviewed by a competent structural/civil engineer. The assessment considered the geometry of the slope, the proposed ground levels, the nature of the material and the general site conditions.
- Concerns raised about levels were addressed in the topographical survey.
- Soil properties were determined from the on-site percolation water table test hole.
- The slope stability analysis was undertaken on the tiered embankment as constructed on site using specialised GeoStru Slope Analysis software. It is set out that the factors of safety for the analysis conducted on the four cross sections were in excess of the required minimum factor of safety of 1.5.
- It is stated that the foundation on the southern side of the house have a formation of approx. 3.0 to 3.5m below FFL. The house has been designed to avoid surcharging the embankment from the house foundations.
- The engineering assessment confirmed that the slope as constructed is stable.
- It is set out that the slope has been monitored since June 2025 until June 2026 with no further slip of material occurring (photographic evidence submitted).
- The embankment has been planted with natural vegetation which will further prevent any slippages and enhance stability. In addition, a sod and stone fence

has been formed along the southern boundary providing further protection to the appellants property.

- It is set that the enforcement file is also now closed.

Visual concerns

- It is set out that under the previous application KCC 20/269 the house was located 2m further south and was moved to accommodate the existing slop which is less prominent.
- The site levels where the dwelling is constructed is broadly consistent with the existing natural ground level of the old ruin and similar to the ground levels of KCC 20/569. The dwelling is read within the context of the slope.
- It is further argued that there was always a structure located on the site.

7.3. Planning Authority Response

None

7.4. Observations

None

8.0 Assessment

8.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local and national policies and guidance, I consider that the substantive issues in this case to be considered are as follows:

- Principle of Development
- Slope Stability
- Visual Impact and Impact on Residential Amenity

8.2. Principle of Development

8.2.1. Permission is sought for the retention of as constructed contemporary three bedroom dormer dwelling within revised site boundaries. The principle of a dwelling on the site was permitted under KCC 20/569 and the design of the dwelling is generally consistent

with the permitted KCC 20/569. The dwelling was repositioned 2m further north.

- 8.2.2. Having regard to the planning history on the site, I am satisfied that the principle of the dwelling on the site is acceptable.

8.3. Slope Stability

- 8.3.1. The primary concern raised in this appeal relates to the impact of the construction works to accommodate the development to be retained namely the embankment works. Concern is raised about the stability of the slope, cut and fill operations undertaken as part of the development and surface water run-off. In addition to damage caused to the appellants property by slippages from the appeal site in 2024 and 2025.
- 8.3.2. As regards the 2024 and 2025 slippages, the applicant does not dispute the matter but sets out that the cause of slippages was not due to an unstable slope but as a result of excessive water from the public road washing material that was stored on site down the existing embankment. The excessive water was a result of the existing local authority drain being blocked and that this issue has been resolved. I note the PA raised no concerns as regards blocked drains in their assessment.
- 8.3.3. Regarding slope stability, the appellant raised concerns about the Slope Stability Report submitted and the assessment of the cumulative impacts of the development work and the long term stability of the embankment during periods of prolonged rainfall. It is submitted that no evidence has been submitted as regards the ongoing /future maintained of the slope to ensure the “*minimum factory of safety against sliding of 1:8*” is maintained. Concern is also raised that the report also makes assumptions in relation to soil properties and water table level without evidence.
- 8.3.4. I refer the Commission to the Slope Analysis Design Check report dated 25/11/2025 submitted in response to the RFI and accompanying the appeal response. The applicant states that the report was carried out by a competent structural/civil engineer and that the assessment considered the geometry of the slope, the proposed ground levels, the nature of the material and the general site conditions. It is further stated that soil properties were determined from the on-site percolation water table test hole carried out as part of KCC 20/269 and that no water table was evident on site. I am satisfied that this approach was reasonable in the context of the site and utilised the information ascertained from site assessment and analysis.

- 8.3.5. I further note that a slope stability analysis was undertaken on the tiered embankment as constructed on site using specialised GeoStru Slope Analysis software. It is set out that the factors of safety for the analysis conducted on the four cross sections were in excess of the required minimum factor of safety of 1.5. (GeoStru Slope analysis is generally considered acceptable if it is greater than 0.3 to 1.5 and the threshold for a permanent slope account for uncertainties in the embankment, soil parameters and ground water changes). It is set out that the tiered embankment was constructed having regard to good engineering practices, including suitable grading of the slope and that the constructed slope is stable and that the slope profile is considered appropriate for the site conditions and does not presents an unacceptable risk of instability, slippage or failure under normal services conditions. In addition, it is set out that the foundations on the southern side of the house have a formation of approx. 3.0 to 3.5m below FFL and that the house has been designed to avoid surcharging the embankment from the house foundations.
- 8.3.6. Regarding concerns raised about the monitoring of the embankment, the applicant states that the slope has been monitored from June 2025 until June 2026 with no further slip of material occurring. While this is noted having regard to the concerns raised and to allow for a settlement period, in the event that the Commission is minded to grant planning permission I recommend a condition requiring further monitoring for a period of three years and subject to appropriate certification by a suitably qualified engineers be attached grant of permission.
- 8.3.7. On balance, I am satisfied that the embankment has been designed and constructed in accordance with engineering best practice and that slope stability analysis was undertaken using specialised GeoStru Slope Analysis software which determined that the four cross sections analysed were in excess of the required minimum factor of safety of 1.5. The embankment stability is further enhanced by natural vegetation planting and a sod and stone fence along the southern boundary with the appellants property.
- 8.3.8. With regards to concerns raised about surface water run-off, surface water runoff from the dwelling and hard standing areas will drain to a soakaway, located away from the embankment. Subject to adherence to best practice standards in construction the use of a soakaway is a common and acceptable practice in a domestic context and I am satisfied that this approach is acceptable. In addition, the appeal states that it is

proposed to build a stone wall on the eastern (roadside) boundary of the site which will reduce surface water going down the field at the point where it did in 2024. The surface water will be directed down the road and into the drains as designed. In the event the Commission is minded to grant planning permission it is recommended a condition be attached required this work to be completed within 6 months of the grant of planning permission and photographic evidence submitted for the written agreement of the Planning Authority.

- 8.3.9. I am further satisfied that cut and fill operations carried out as part of the development works were a direct, necessary and temporary consequence of developing the site and any damage caused to third party property as a result is not a matter that can be addressed by the Commission and is ultimately a civil matter between the two parties.

8.4. Visual Impact and Impact on Residential Amenity

- 8.4.1. The appellant contends that the site levels identified as part of the original application (KCC 20/569) and the current appeal are inaccurate and that the existing gradient is much steeper resulting in the appeal site being more prominent and obtrusive relative to the appellants property.
- 8.4.2. The applicant states that site levels were addressed in the topographical survey submitted. As this is a retention application and the works have been completed and as such I am not in a position to determine any discrepancies with predevelopment site levels. However, I note the site layout plan submitted and the topographic survey accompanying the Slope Analysis Design Check report identify site levels.
- 8.4.3. As regard the increased prominence and visual impact of the development, in the first instance the Commission will note that prior to the application there was an existing structure on the site. In any case contrary to the appellants statement, site inspection determined that while the site is elevated above the southern and western approaches, the tiered embankment works have been completed and vegetation for the most part has taken cover on the embankment resulting in the embankment appearing like a natural feature in the landscape and successfully navigating the steep incline, in my opinion. Furthermore, the appellants property is located c. 35m from the appeal property and at a significantly lower level, the combined effect being that appeal site does not overlook the appellants property.

8.4.4. The applicant states that under the previous application KCC 20/269 the house was located 2m further south and was moved to accommodate the existing slop which is less prominent. In any case, as set out above the design reflects a contemporary modest dwelling of traditional proportions and design and is of a scale not uncommon in the area. Similarly, in a wider context the dwelling is consistent with the general pattern of development in the area as the landscape falls towards the sea to the south and west of the site. In this regard, I am satisfied that the development is acceptable in this Visually Sensitive Area as defined in the KCDP and is consistent with Section 11.6.3.1 Visually Sensitive Areas of the KCDP and the development 'satisfactorily integrates into the landscape'.

8.4.5. I am satisfied that the development is acceptable in terms of visual impact and does not represent a negative impact on the residential amenity of the appellants property.

9.0 AA Screening

9.1. I have considered the appeal in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. The appeal site is located c. 245m north of Special Area of Conservation: Kenmare River SAC (Site Code 002158) and c. 245m east of Special Protection Area Iveragh Peninsula SPA (Site Code 004154).

9.2. Having considered the nature, scale and location of the proposed development, I am satisfied that it can be eliminated from further assessment as it could not have any effect on a European Site. The reason for this conclusion is as follows:

- The nature and extent of the proposed development.
- The distance to the nearest European Site.

9.3. 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.

9.4. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) under Section 177V of the Planning and Development Act 2000 is not required.

10.0 Water Framework Directive

10.1. An assessment of the proposed development has been undertaken with regard to the objectives set out in Article 4 of the EU Water Framework Directive.

- 10.2. Having considered the nature, scale, and location of the proposed development, it is concluded that the proposal will not result in any risk of deterioration in the status of any water body, including surface waters (rivers and lakes), groundwater, transitional waters, or coastal waters. This applies to both qualitative and quantitative status, and in respect of temporary and permanent effects.
- 10.3. In addition, the proposed development will not adversely affect the achievement of established environmental objectives, including the protection, maintenance, and improvement of water body status, as required under the Directive.

Accordingly, the proposed development is considered to be compliant with the requirements of Article 4

11.0 Recommendation

I recommend that planning permission is granted for the proposed development in accordance with the following reasons and considerations

12.0 Reasons and Considerations

Having regard to the planning history on the site and the provisions of the Kerry County Development Plan 2022-2028, to the nature and scale of the proposed development and to the pattern of existing development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

13.0 Conditions

1. The development shall be retained out and completed in accordance with the plans and particulars lodged with the application received by the planning authority, on the 12th December 2025 and 8th April 2026, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The applicant shall comply with the relevant conditions attached to the parent planning permission KCC 20/569.

Reason: In the interest of proper planning and orderly development.

3. The structural stability of the embankment shall be monitored for a period of three years from the date of this permission. An annual report on the structural stability of the embankment shall be prepared by a suitably qualified engineer and a copy forwarded to the Planning Section of Kerry County Council for their written approval.

Reason: In the interest of proper planning and development.

4. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority within two months of the grant of planning permission. This scheme shall include the following:

(a) A plan to scale of not less than 1:500 showing –

(i) The roadside boundary shall be provided with a natural stone boundary wall.

(ii) Proposals to provide the western site boundary with hedgerow screening and native tree planting. Details of screen planting [which shall not include cupressocyparis x leylandii] shall be submitted.

(iii) The species, variety, number, size and locations of all proposed trees and shrubs [which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder] [which shall not include prunus species]

(b) All works shall be carried out within 6 months of the grant of planning permission and the applicant shall submit a certificate of compliance prepared by a suitably qualified person with professional indemnity insurance stating that all landscaping conditions pertaining to the grant of planning permission have been complied with. Photographic evidence shall also be submitted.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a

period of 5 years from the completion of the development [or until the development is taken in charge by the local authority, whichever is the sooner], shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

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

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

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

Irené McCormack
Senior Planning Inspector
31st August 2026

