

An  
Bord  
Pleanála

**Board Direction**  
**BD-017962-24**  
**ABP-319859-24**

The submissions on this file and the Inspector's report were considered at a Board meeting held on 15/10/2024.

The Board decided to grant permission, for the following reasons and considerations, and subject to the following conditions.

### **Reasons and Considerations**

Having regard to the nature of the proposed development, its siting and design, its separation from adjoining residential properties, the applicant's compliance with the Rural Development Strategy of the Clare County Development Plan 2023-2029, it is considered that subject to the conditions set out below, the proposed development would be acceptable and in accordance with the Clare County Development Plan 2023-2029 and the Sustainable Rural Housing Guidelines for Planning Authorities (2005), and the proposed development would not negatively impact on the established residential or rural amenities of the area and would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that, based on the documentary evidence submitted by the applicant regarding his historic and ongoing social and economic connections with the area, including an active involvement in agriculture, the applicant met the necessary criteria for positive consideration for the development of a new single house in an 'Area of Special Control' as set out at section 4.2.6 of the Clare County Development Plan.

## Conditions

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

**Reason:** In the interest of clarity.

2. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.

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

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

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

**(a)** The wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this application and shall be in accordance with the standards set out in the document entitled "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$ )" – Environmental Protection Agency, 2021.

**(b)** Treated effluent from the wastewater treatment system shall be discharged to a percolation area/ polishing filter which shall be provided in accordance with the standards set out in the document entitled "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$ )" – Environmental Protection Agency, 2021.

**(c)** Within three months of the first occupation of the dwelling, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the septic tank/ wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.

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

- 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 prior to commencement of development. 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 five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

- 5. (a)** All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site.
- (b)** The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing drainage channels.


**Reason:** In the interest of flood prevention and pollution control.



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

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

Board Member



Liam McGree

Date: 23/10/2024