

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Clare County

Planning Register Reference Number: P15/408

An Bord Pleanála Reference Number: PL 03.245428

APPEAL by Deirdre Hehir care of Michael J. Duffy of 1 Clós na hEaglaise, Kilfenora, County Clare against the decision made on the 5th day of August, 2015 by Clare County Council to grant subject to conditions a permission to Patrick J. Egan and James J. Burke care of McKenna Consulting Engineers of Miltown Malbay, County Clare in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Construction of five number dwellinghouses and connection to existing site services along with associated site works. This will consist of two number two-storey semi-detached dwellings and three number single storey dwellings. The dwellings will be constructed on site numbers 34, 35, 36 and 37 as granted permission under planning register reference number P04/29; all at Beal an Inbhir, Shanakyle Road, Leadmore West, Kilrush, County Clare.

DECISION

GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

MATTERS CONSIDERED

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

REASONS AND CONSIDERATIONS

Having regard to the planning history of the subject site which included a prior grant of planning permission for four number dwellings, to the uncompleted nature of the development as originally envisaged and to the zoning objective for the lands as set out in the Kilrush Town and Environs Development Plan 2014-2020, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the amenities of property in the area, would not be prejudicial to public health 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 had regard to the planning history of the site, to the relatively modest scale of the proposal in terms of the overall catchment of the town and environs of Kilrush and to the absence of objection from Irish Water and considered that the proposed development would not be such as to warrant refusal on the grounds indicated.

CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

4. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and residential amenity.

5. Site development and building works shall be carried out only between the hours of 0800 to 1800 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

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

6.
 - (1) Garden walls two metres high shall be provided along the rear garden boundary of each dwelling and along both side boundaries extending from the rear boundary to the front building line. The rear/side garden boundary walls shall be capped.
 - (2) The development shall be open plan and no front boundary walls/fences shall be erected notwithstanding any exempted development provision. Details in this regard shall be included in the sales agreement of each dwellinghouse.

Reason: In the interest of orderly development, privacy and residential amenity.

7. All footpaths shall be concrete bayed, slabbed or tiled. They shall be dished at all road junctions and at all entrances, and shall be level with the carriageway at such points.

Reason: To facilitate pedestrian access in the interest of traffic safety and the orderly development of the area.

8. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual and residential amenity.

9. Public lighting shall be provided in accordance with a scheme, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interest of amenity and public safety.

10. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

11. 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.

**Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board.**

Dated this day of 2016.