



Planning and Development Acts 2000 to 2016

Planning Authority: Clare County Council

Planning Register Reference Number: P.16/588

Appeal by Joseph Roche care of Michael J. Duffy of 1 Clós na hEaglaise, Kilfenora, County Clare against the decision made on the 7th day of February, 2017 by Clare County Council to refuse permission for the proposed development.

Proposed Development: Construction of a dwelling with on-site wastewater treatment and a garage at Caheraderry, Lahinch, 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

In arriving at its decision to grant permission the Board had regard to the following;

- the provisions of the Clare County Development Plan 2017-2023,
- the pattern of development in the area,
- the nature, scale and setting of the proposed development,
- the plans and particulars and further information submitted,
- the planning authority's decision, and
- the Inspector's report.

It considered that the proposed development, subject to compliance with the conditions set out below, would not give rise to a risk of water pollution or a risk to public health and would not seriously injure the residential or visual amenities of area. The proposed development 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, and having regard to the "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)", issued by the Environmental Protection Agency in 2009, the Board considered, on the basis of the information available in connection with the application and the appeal, that the site is suitable for the safe treatment and disposal of foul effluent emanating from the proposed development. The site specific proposal for the disposal of treated effluent took due cognisance of the topography and ground conditions at the site and generally aligned with the advice contained in the afore-mentioned EPA Code of Practice. Accordingly, it is considered that the proposed development would not give rise to risk of water pollution and would not, therefore, be prejudicial to public health.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 13th day of January, 2017, 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.

3. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 13th day of January 2017, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.
- (b) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the effluent treatment system is working in a satisfactory manner in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

4. 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: To ensure adequate servicing of the development, and to prevent pollution.

5. Surface water from the site shall not be permitted to drain onto the adjoining public road.

Reason: In the interest of traffic safety.

6. Details of the entrance to the proposed house shall be submitted to and agreed in writing with the planning authority, prior to commencement of development.

Reason: In the interest of traffic safety.

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

Reason: In the interest of visual amenity.

8. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

9. The proposed garage shall be used as a private domestic garage and shall not be at any time used for agriculture, industrial or commercial purposes or for human habitation.

Reason: In the interest of residential amenity.

10. The site shall be landscaped generally in accordance with the landscaping scheme received by the planning authority on the 13th day of January, 2017 and in accordance with a landscaping plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

