



Planning and Development Acts 2000 to 2017

Planning Authority: Clare County Council

Planning Register Reference Number: P17/810

Appeal by Seamus and Susan Guinnane of Fountain Cross, Ennis, County Clare against the decision made on the 12th day of December, 2017 by Clare County Council to grant subject to conditions a permission to John McGrath and Teresa O’Gorman care of Hassett Lydon and Associates of 4 Bindon Street, Ennis, County Clare in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a new extension to private dwellinghouse, replacement of existing septic tank/soakpit with new packaged wastewater treatment system and polishing filter along with all associated site works and services at Shallee Townland, Kilnamona, 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 presence of an existing dwelling on the proposed development site with an existing vehicular access onto the N85 National Road and the single storey nature of the proposed extension to the rear of the dwelling, and having regard to Section 2.5 of the Spatial Planning and National Roads Guidelines for Planning Authorities issued by the Department of the Environment, Community and Local Government in January, 2012 which provides that the policy of the planning authority will be to avoid the generation of increased traffic from existing accesses, and having regard to the location of the proposed development within the Western Corridor Working Landscape in the Clare County Development Plan 2017-2023, the Board considered that, subject to compliance with the conditions set out below, the proposed development would not result in a significant intensification of the use of the existing vehicular access and would not have a

significant visual impact on the Western Corridor Working Landscape. The Board considered that the proposed development would, therefore, be acceptable in terms of traffic safety and convenience and would not seriously injure the visual amenities of the 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 on traffic grounds, the Board noted the Inspector's concerns about restricted sightlines at the existing entrance but were cognisant that the entrance was an existing entrance serving the dwelling and did not consider that the extension would result in a significant intensification of use.

The Board also noted the Inspector's concerns that the proposed development by reason of the elevated site and the scale of the extension to the rear would have a negative impact on the landscape character, however, the Board did not consider that the landscape in this area was particularly sensitive and noted that the extension was single storey and to the rear of the dwelling and considered, therefore, that the proposed development would not seriously injure the visual amenities of the area.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application and on the 27th day of October, 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. 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.

3. All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

Reason: In the interest of traffic safety and to prevent pollution.

4. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 20th day of October, 2017, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. \leq 10)" - Environmental Protection Agency, 2009. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.
- (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.
- (d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.

- (e) 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 proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the Environmental Protection Agency document.

Reason: In the interest of public health.

5. The site shall be landscaped as follows: A line of native hedgerow species trees shall be planted 10 metres west of the dwelling extending from the entrance to the rear boundary of the site. Native broadleaf trees (minimum size: heavy standard 12-14 centimetres girth) shall be planted in informal clusters throughout the site. This landscaping shall be implemented not later than the first planting season after commencement of the development. Any planting that is diseased or fails within two years of planting shall be replaced.

Reason: In the interest of visual amenity and to protect the character of the area.

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 the 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.

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

Dated this day of 2018.