



Planning and Development Acts 2000 to 2019

Planning Authority: Clare County Council

Planning Register Reference Number: P18/825

Appeal by Seán and Mary Killeen of 6 Cappa Cove, Cappa, Kilrush, County Clare against the decision made on the 8th day of July, 2019 by Clare County Council to grant subject to conditions a permission to Stephen Heffernan of Ballinaboola, Faithlegg, County Waterford in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a dwellinghouse, entrance, connection to public water and sewage system and all other ancillary site works at Cappagh, Kilrush, County Clare as amended by the revised public notices received by the planning authority on the 11th day of June, 2019.

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 zoning objective for the site, “existing residential” as set out in the Kilrush and Cappagh Settlement Plan, incorporated within the Clare County Development Plan 2017-2023, to the site configuration including the footprint of the proposed dwelling and the separation distances from boundaries and development on adjoining lands, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of adjoining properties by reason of overlooking or overshadowing, would not be visually incongruous or out of character with existing development, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 submitted on the 30th day of May, 2019, 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 following requirements shall be provided for and adhered to in the development:
 - (a) Finished floor levels shall correspond to the levels shown on the site layout plan lodged with the planning authority on the 18th day of October, 2018 and shall not be modified without a prior grant of planning permission.
 - (b) Ground levels as shown on the site layout plan lodged with the planning authority on the 18th day of October, 2018 shall not be altered to facilitate the construction of the proposed development other than to provide for the proposals for the construction of the driveway and hardstanding adjacent to the proposed dwelling.

Reason: In the interest of clarity and the protection of the amenities of the area and adjoining properties.

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within the Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, without a prior grant of planning permission.

Reason: To allow for further planning review in the interests of the protection of the residential amenities of the area.

4. (a) No boundary wall or fence shall be erected on the rear/south-west boundary of the site notwithstanding any “exempted development” provision.
- (b) Any wall or fence erected on the north-west or south-east side boundaries of the site shall not exceed 1.8 metres in height above the existing adjoining ground levels.

Reason: In the interest of the protection of the residential amenities of the area.

5. Details of materials, colours and textures of all external finishes to the proposed development shall include the provision of samples for the proposed new roof and shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

6. Site development and building works shall be carried out only between the hours of 0800 to 1900 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 residential amenities of property in the vicinity.

7. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006.

Reason: In the interest of sustainable waste management.

8. 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.

Maria FitzGerald
Member of An Bord Pleanála
duly authorised to authenticate
the seal of the Board

Dated this day of 2019