

An
Bord
Pleanála

Board Order
ABP-311434-21

Planning and Development Acts 2000 to 2021

Planning Authority: Clare County Council

Planning Register Reference Number: 21/376

Appeal by Virginia Browne and Julia Walters of Suiamhneas, Lecarroe, Feakle, County Clare against the decision made on the 31st day of August, 2021 by Clare County Council to grant subject to conditions a permission to Anthony and Rachel Guilfoyle care of Tony O'Leary of Whitegate, County Clare in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a dwelling house, domestic garage, installation of a wastewater treatment system with percolation area and associated site works at Lecarrow Lower, Feakle, 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.

Reasons and Considerations

Having regard to national policy for rural housing, as set out in the National Planning Framework (2018) and the Sustainable Rural Housing Guidelines for Planning Authorities (2005), together with the provisions of the Clare County Development Plan 2018-2023 (as varied), and the demonstrable need for a dwelling house as part of the farming of the associated lands in the applicants' ownership, it is considered that, subject to compliance with the conditions set out below, the proposed development of the site for residential use ancillary to the farming activity would be acceptable in principle.

Furthermore, it is considered that the additional residential traffic likely to be generated by the addition of a dwelling house for the applicants would be negligible and that, subject to the proposed upgrading works prior to commencement of construction of the dwelling house, and in accordance with the requirements of the planning authority, the proposed development would not constitute a traffic hazard and would otherwise be acceptable in terms of residential amenity. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed 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 5th day of August, 2021, 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (a) The proposed development when completed shall be first occupied as a place of permanent residence by the applicants, members of the applicants' immediate family or their heirs, and shall remain so occupied for a period of least seven years thereafter. Prior to commencement of development, the applicants shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act 2000, as amended, to this effect.
- (b) Within two months of the occupation of the proposed dwelling, the applicants shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) above and the date of such occupation.

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

Reason: To ensure that the proposed house is used to meet the applicants' stated housing need and that development in this rural area is appropriately restricted in the interest of the proper planning and sustainable development of the area.

3. No development shall commence on site until the access road serving the site has been upgraded to the satisfaction of the planning authority. Full details of all proposed road upgrade works (which shall be carried out in conjunction with the Killaloe Municipal District Office) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of traffic safety and orderly development.

4. The site shall be landscaped using only indigenous deciduous trees and hedging species in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
 - (a) Retention of trees and hedges as indicated in the submitted site layout plan received by the planning authority on the 5th day of August, 2021 and measures to ensure same.
 - (b) The establishment of a hedgerow along all side and rear boundaries.

Any plants which die, are removed, or become seriously damaged or diseased within a period of five years of the completion of the proposed development shall be replaced within the next planting season with others of a similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape in the interest of visual amenity.

5. At least one month prior to commencement of development, the developer shall prepare and submit a detailed survey and, if required, a management plan to deal with Invasive Weed Species identified as being present in the vicinity of the site access road. The Invasive Weed Species Management Plan shall be prepared by a relevant competent environmental consultant and shall be submitted to the planning authority for written agreement.

Reason: To prevent the spread of invasive species in the interest of biodiversity.

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

Reason: In the interest of visual amenity.

7. The construction of the proposed 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 proposed development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

8. (a) The proposed effluent septic system shall be 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. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) Treated effluent from the septic tank system shall be discharged to a raised percolation area which shall be provided 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.

- (c) Within three months of the first occupation of the dwelling, the developer shall submit to the planning authority a report from a suitably qualified person with professional indemnity insurance certifying that the raised percolation area has been constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

9. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. In this regard, details for the protection of ground and surface water from contamination by run-off from the site shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of environmental protection.

10. 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.

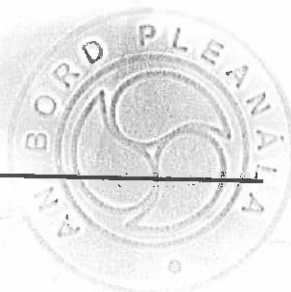
Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.



Mick Long

Member of An Bord Pleanála

duly authorised to authenticate
the seal of the Board.



Dated this 20 day of February 2023.