

An
Bord
Pleanála

Board Order
ABP-312410-22

Planning and Development Acts 2000 to 2021

Planning Authority: Clare County Council

Planning Register Reference Number: P.21/485

Appeal by Sean and Deirdre Fitzgerald care of Leahy Planning Limited of Mill Road House, Mill Road, Ennis, County Clare against the decision made on the 3rd day of December, 2021 by Clare County Council to refuse outline permission for the proposed development.

Proposed Development: Construction of a dwellinghouse, access roadway and ancillary site works together with proprietary treatment system at Brickhill West, Cratloe, County Clare.

Decision

GRANT outline 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 the provisions of Clare County Development Plan 2017-2023 (as varied), the location of the site, and the nature and scale of the proposed development, it is considered that the proposed development, subject to compliance with the conditions set out below, 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.

Conditions

1. Details of the design of the house shall be submitted by way of a separate application for permission consequent and shall incorporate the following requirements:
 - (a) the house shall be single storey of low profile and shall not be of dormer construction,
 - (b) the finished floor level shall not be higher than 36.50 metres O.D.,
 - (c) the total floor area of the house shall not exceed 150 square metres, and
 - (d) the roof pitch shall be finished with slate of blue-black, black, dark brown or dark grey colour,

Reason: In the interest of visual amenity.

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. 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.

4. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

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

5. Prior to commencement of development, the developer shall enter into a water connection agreement with Irish Water.

Reason: In the interest of public health.

6. (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 18th day of May, 2021, 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. 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 EPA document.

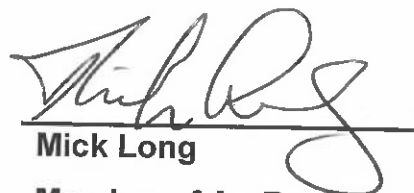
Reason: In the interest of public health.

- 7. The landscaping of the development shall incorporate a continuous hedge of indigenous species (for example, e.g. holly, hawthorn or beech), which shall be planted for the full length/eastern side of the proposed accessway.

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

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.



Mick Long

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



Dated this 14 day of March 2023.

