



An  
Bord  
Pleanála

## Board Order ABP-312807-22

**Planning and Development Acts 2000 to 2022**

**Planning Authority: Cork County Council**

**Planning Register Reference Number: 21/05630**

**Appeal** by Mary Cronin and others of Dúncronín, Coolcarron, Belgooly, County Cork against the decision made on the 25<sup>th</sup> day of January, 2022 by Cork County Council to grant subject to conditions a permission to Denis Kelly care of Murphy New Homes of Clonmeen, Banteer, County Cork in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of a new dwellinghouse at Coolcarron, Belgooly, County Cork, as revised by the further public notices received by the planning authority on the 22<sup>nd</sup> day of December, 2021.

### 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 the objectives of the Cork County Development Plan 2022-28, and the pattern of development in this rural area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, and 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, the Board considered that the applicant complies with County Development Plan Objective RP 5-4 (d) of the Cork County Development Plan 2022-2028 which refers to 'persons who have spent a substantial period of their lives (i.e. over 7 years) living in the local rural area in which they propose to build a first home for their permanent occupation.' The Board also noted that Section 5.3.6 of the Cork County Development Plan 2022-28 states that the rural housing policy in the development plan is based specifically on the Rural Housing Guidelines 2005 and not the National Planning Framework.

## 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 26<sup>th</sup> day of November, 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. Prior to commencement of development, the developer shall enter into an agreement with the planning authority, pursuant to section 47 of the Planning and Development Act 2000, as amended, agreeing to sterilise, for a period of seven years free from any future residential development and any non-agricultural development, the lands outlined to the planning authority as part of the further plans and particulars received on the 26<sup>th</sup> day of November 2021.

**Reason:** To ensure the preservation of the rural character and the amenities of the area.

3. (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 dwelling 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.



4. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details received by the planning authority on the 26<sup>th</sup> day of November, 2001, and in accordance with the 2021 EPA Code of Practice. 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) 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 in accordance with the standards set out in the EPA document.

**Reason:** In the interest of public health.

5. (a) 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.
- (b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.
- (c) Soakaways, if utilised, shall be designed in accordance with BRE DG 365:2016.

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



6. (a) The sight distance at the entrance to the development shall remain unobstructed by vegetation in perpetuity. Trees and shrubs shall not be placed within three metres back from the edge of the visibility splay. Where applicable, all utility poles shall be set back from the edge of the public road and outside the sight triangles at the developer's own expense.
- (b) The site entrance shall be constructed in accordance with the requirements of the TII Publication Geometric Design of Junctions [DN-GEO-03060 June 2107].

**Reason:** In the interest of road and traffic safety.

7. (a) The construction of the site entrance shall tie in to the existing public road and any modifications to the existing storm water drainage network on the public road shall be carried out to the satisfaction of the Area/Municipal Engineer.
- (b) Prior to commencement of development, a drainage pipe (minimum of 300 millimetres) shall be provided across the site entrance and maintained by the applicant in perpetuity. No stormwater run-off shall issue onto the public road, and existing drainage paths through the site and serving the public road shall be preserved.
- (c) The minimum 'Aco type ' drainage channel shall be 150 millimetres in diameter

**Reason:** To preserve the integrity of the existing roadway and to prevent flooding/water inundation.

8. (a) The site, including site boundaries, 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.
- (b) The existing hedgerow along the northern boundary of the site shall be retained in its entirety and shall be retained to form a feature of the proposed development.

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

9. All public service cables associated with the proposed development (such as electrical, television, telephone and broadband cables) shall be located underground within the site.

**Reason:** In the interest of visual amenity and proper planning and sustainable development.

10. 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 all 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.



11. 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.



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Joe Boland

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

Dated this 29<sup>TH</sup> day of June 2023.