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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Tipperary County Council**

**Planning Register Reference Number: 2260193**

**Appeal** by Dorothy Molloy of Sliabh Haven House, Ballywilliam, Nenagh, County Tipperary against the decision made on the 13<sup>th</sup> day of June, 2022 by Tipperary County Council to grant subject to conditions a permission to John O'Brien and Emma O'Connor care of Mike Lyons of 14 Bellewood, Ballyneety, County Limerick in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of a vehicular entrance, dwelling house, garage, private well, domestic wastewater treatment system with polishing filter, together with all associated site works at Ballywilliam, Nenagh, County Tipperary.

**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.**

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## Reasons and Considerations

Having regard to the policies and objectives, as set out in the Tipperary County Development Plan 2022 - 2028 in respect of rural residential development, to the nature, scale and design of the proposed development, and to the pattern of existing and permitted development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing visual character of the area and would be acceptable in terms of traffic safety and convenience. 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, 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 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, as amended, 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.

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3. (a) The roadside boundary shall be set back behind the required sight triangle. The sight triangle shall be taken from a point 2.4 metres back from the road edge at the centre of the proposed access to a point as shown on the drawings submitted, in both directions at the nearside road edge. The sight triangle shall be achieved prior to further construction on site.
- (b) Where the roadside hedge is removed, a new roadside boundary hedge shall be constructed. The new roadside boundary shall be composed of an earthen bank to a consolidated height of 1.2 metres that shall be planted with shrubs suitable for hedging and common to the locality (for example holly, hawthorn, blackthorn, ash, elder, bramble). All landscaping and planting shall take place in the first planting season following occupation of the dwelling.
- (c) Alternatively, the new front boundary fence shall be of stone and sod, stone-faced masonry or dry stonewall. The stone used shall be indigenous to the area. The wall shall not be more than 1.2 metres in height over road level. A post and rail type fence shall not be permitted.
- (d) The area between the new road fence and road carriageway shall be trimmed and rolled level with the carriageway, top soiled, seeded with grass and thereafter maintained without obstruction.

**Reason:** In the interests of traffic safety and visual amenity.



4. (a) The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.
- (b) Treated effluent from the septic tank system shall be discharged to a raised percolation area which shall be provided in accordance with the standards set out in 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 a report from a suitably qualified person with professional indemnity insurance certifying that the raised percolation area is constructed in accordance with the standards, as 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.

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

6. The water supply to serve the proposed dwelling shall have sufficient yield to serve the proposed development, and the water quality shall be suitable for human consumption. Details showing compliance with these requirements, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure that adequate water is provided to serve the proposed dwelling in the interest of public health.

7. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

8. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

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**Reason:** In the interests of visual and residential amenity.

9. Site development and building works shall be carried out only between the hours of 0800 and 1900 from Mondays to Fridays, inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

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 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.

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**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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**Oonagh Buckley**

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



Dated this *3<sup>rd</sup>* day of *August* 2023.