



An  
Bord  
Pleanála

Board Order  
ABP-314418-22

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Cork County Council**

**Planning Register Reference Number: 22/5358**

**Appeal** by DJ Barry of Killaminogue, Innishannon, County Cork, and by Damien Coleman of P.O Box 3, W O'Brien Storage, Bandon Road Roundabout, Bishopstown, County Cork against the decision made on the 27<sup>th</sup> day of July, 2022 by Cork County Council to grant subject to conditions a permission to Darren and Rosie Linham care of Gearoid Hayes and Associates Limited of 13 Oliver Plunkett Street, Bandon, County Cork, in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of a dwelling house, installation of a small treatment plant and associated siteworks at Killaminoge, Innishannon, County Cork.

### **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 provisions of the Cork County Development Plan 2022-2028, and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the character of the area or the amenities of property in the vicinity and would be acceptable in terms of pedestrian and traffic safety and convenience. The proposed development 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, in relation to Recommended Refusal Reason number 1, the Board had regard to the specific information provided by the applicants, during the application, in respect of the applicants continuing to reside in the area, close to the subject holding, their involvement in agricultural enterprise, and the applicants' engagement and contribution to the local rural area. The Board concurred with the planning authority's assessment in relation to rural generated housing and the applicants' compliance with Objective RP 5-2 and Objective RP 5-4(d) of the Cork County Development Plan 2022-2028 in this instance. In relation to Recommended Refusal Reason number 2, having accepted that the proposed dwelling constituted rural generated housing, and also having regard to the vernacular, low-profile, single-storey design of the dwelling, and subject to a landscaping condition, the Board considered that the proposed development would not have an adverse impact on the rural landscape character and would not conflict with Objective GI 14-9 of the Cork County Development Plan 2022-2028.

## Conditions

1. The 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 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 applicants, members of the applicants' 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 applicants 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 mortgage 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 applicants' stated housing needs and that development in this rural area is appropriately restricted in the interest of the proper planning and sustainable development of the area.

3. The construction of the site entrance, including: the setting back of the existing roadside site boundary; the provision of a new roadside boundary; provision of adequate sight lines in both directions from the entrance; the treatment of the area between the new boundary and edge of the roadway; the tie-in to the public road, and surface water drainage proposals for the site frontage, shall comply with the requirements of the planning authority for such works. Prior to the commencement of development, the developer shall submit to, and agree in writing with, the planning authority, detailed design proposals to comply with this condition.

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

4. (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.

5. (a) The on-site wastewater treatment system proposed shall be constructed in accordance with the recommendations of the Environmental Protection Agency's 'Code of Practice - Domestic Wastewater Treatment Systems (EPA, 2021). Prior to installation, the planning authority may, in the interest of public health and to facilitate best practice, agree in writing certain EPA compliant variations to the wastewater treatment system approved under this application. Such agreement shall be placed on file and deemed to officially substitute/vary the original granted system. Certification that the complete wastewater treatment unit and polishing filter have been satisfactorily installed in accordance with Environmental Protection Agency's 'Code of Practice - Domestic Wastewater Treatment Systems (EPA, 2021) shall be submitted to the planning authority priority occupation of the dwelling. The certificate shall be completed by a suitably qualified indemnified person and shall include a site specific 'as constructed' layout plan and cross-sectional drawing through the effluent treatment system and associated percolation area. Proof of indemnification insurance should be submitted with the certificate.
- (b) The complete on-site wastewater treatment system shall be installed and maintained in accordance with the manufacturer's instructions.

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

6. 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.

7. 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 establishment of a hedgerow along all side and rear boundaries of the site, and planting of trees along the boundaries of the site.

Any plants which die, are removed, or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of 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.

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.



**Tom Rabbette**

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

Dated this 20<sup>th</sup> day of Dec. 2023.