



An  
Bord  
Pleanála

**Board Order**  
**ABP-314873-22**

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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Cavan County Council**

**Planning Register Reference Number: 22/310**

**Appeal** by Brian and Fiona Comaskey of Tullygullion, Kilcogy, County Cavan against the decision made on the 21<sup>st</sup> day of September, 2022 by Cavan County Council to refuse permission for the proposed development.

**Proposed Development:** The erection of a fully serviced part single storey/part two-storey dwelling, detached domestic garage, new site entrance, install waste water treatment system and percolation area and all ancillary site works at Tullygullion, Kilcogy, County Cavan.

## **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 Cavan County Development Plan 2022 - 2028, in particular objective SRA 01 which states that in stronger rural areas, rural generated, social or economic housing needs will be facilitated, subject to good planning practice, to the provisions of the "Sustainable Rural Housing Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government in April, 2005, to the National Planning Framework, and to the location of the application site opposite the applicant's family home and within the family farm holding which the applicant farms, it is considered that, subject to compliance with the conditions set out below, the proposed development would not result in the creation of a road safety hazard, would not have a detrimental impact on the efficient operation of the N55 and would, therefore, be in accordance with the proper planning and sustainable development of the area

## 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 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. Water supply and surface water drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services, details of which shall be agreed in writing prior to the commencement of development.

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

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4. The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice – Domestic Wastewater Treatment Systems (Population Equivalent  $\leq 10$ )" – Environmental Protection Agency, 2021.

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

5. 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 and public holidays. Deviation from these times will 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.

6. 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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**Stewart Logan**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**

**Dated this 2 day of November 2023.**