

An  
Bord  
Pleanála

**Board Order**  
**ABP-315556-23**

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Galway County Council**

**Planning Register Reference Number: 22/397**

**Appeal** by Seamus Walsh care of James O'Donnell Planning Consultancy Services of Suite 3, Third Floor, Ross House, Victoria Place, Eyre Square, Galway against the decision made on the 8<sup>th</sup> day of December, 2022 by Galway County Council to refuse permission for the proposed development.

**Proposed Development:** Construction of a new two-storey dwelling house, a domestic garage, and wastewater treatment system and all associated site works at Cregcarragh Townland, Ballymoneen, Claregalway, County Galway.

## **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 Galway County Development Plan 2022-2028 and the location of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential and visual amenities of the area and would constitute an acceptable form of development at this location. Based on the documentation submitted with the application and appeal, the Board is satisfied that the applicant has demonstrated a rural housing need in compliance with Policy Objective RH 2, and that the proposed development would not materially contravene Policy Objective RH 13 or DM Standard 7 of the development plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board agreed with the Inspector that the applicant has demonstrated a rural housing need based on compliance with Criterion 1(a) of Policy Objective RH 2. The Board also noted that the applicant complies with criterion 1(e) of Policy Objective RH 2. In deciding not to accept the Inspector's recommendation to refuse permission, the Board did not agree with the Inspector's rationale set out in sections 7.9 to 7.17 of the Inspector's report that the applicant's rural housing need could be met by an existing rural dwelling house in his parents' landholding. The Board took into consideration the details on file, specifically in respect of the details submitted pertaining to the ownership as well as current occupancy of existing dwellings and considered that the proposed development did not materially contravene Policy Objective RH 13 of the development plan.

The Board noted and shared the view of the planning authority that, taking account of the site context and location within a Class 1 landscape area outside a designated focal view, the design solution for the dwelling and garage is considered generally acceptable in this instance. The Board shared the view of the planning authority that the proposed development would be capable of assimilating satisfactorily into this "low sensitivity" landscape subject to compliance with conditions.

In consideration of the Inspector's recommended reason for refusal regarding ribbon development, the Board considered the factors outlined in Appendix 4 of the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government (April 2005). Taking into account the specific circumstances of the applicant, including the location of the applicant's agri-business and compliance with Policy Objective RH 2 as outlined above, the Board formed the view that, on balance, the proposed development would be acceptable in the specific circumstances.

## 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 11<sup>th</sup> day of November 2022, 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. The roof colour of the proposed house shall be blue-black, black, dark brown or dark-grey. The colour of the ridge tile shall be the same as the colour of the roof.

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

4. The external walls shall be finished in neutral colours such as grey or off-white.

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

5. The design and layout of the vehicular entrance and front site boundary treatment shall comply with the requirements of the planning authority. Final details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

6. 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.

7. Prior to commencement of development, the developer shall enter into a water connection agreement with Uisce Éireann.

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

8. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details received by An Bord Pleanála on the 12<sup>th</sup> day of January, 2023, 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, 2021. 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.

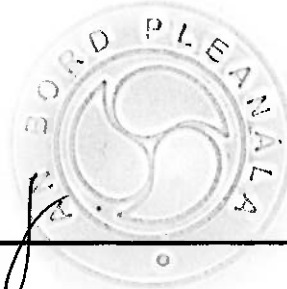
**Reason:** In the interest of public health.

- 9. 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.

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.

**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.



A handwritten signature in black ink, appearing to read "Mary Cregg", is written over a horizontal line.

Mary Cregg

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

Dated this 9<sup>th</sup> day of April 2024.