

An
Bord
Pleanála

Board Order
ABP-316241-23

Planning and Development Acts 2000 to 2022

Planning Authority: Cork County Council

Planning Register Reference Number: 23/04085

Appeal by Humphrey Lynch care of Trevor Geary of Currabeha, Fermoy, County Cork against the decision made on the 20th day of March, 2023 by Cork County Council to refuse permission for the proposed development.

Proposed Development: Construction of a dwelling, foul water treatment system, garage, site entrance and associated site works, at Knockdromaclogh, Fermoy, 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

The Board noted that the subject site is located within a medium sensitivity landscape where an existing vehicular entrance is proposed, where existing field boundaries will be maintained, and where the proposed development would not detract from the rural character of the area, would not lead to undesirable suburbanisation, would appropriately fit into its receiving environment as well as the pattern of development of the area, would not create a traffic hazard and would not be injurious to public health or the amenities of the area. The Board was also satisfied that the applicant had sufficiently demonstrated economic links and a rural need to live in the area. The proposed development would, therefore, subject to compliance with the conditions set out below, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment

Having carried out a Screening for Appropriate Assessment, the Board concluded that the project individually or in combination with other plans or projects would not be likely to give rise to significant effects on the Blackwater River Special Area of Conservation (Site Code: 002170) or any other European site, in view of the site's Conservation Objectives, and Appropriate Assessment (and submission of a Natura Impact Statement) is not therefore required.

This determination is based on the following:

The distance of the proposed development from the European Site and the nature and scale of the proposed development.

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 the 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 proposed development shall be amended as follows:
 - (a) The entrance details shall be amalgamated with the revised entrance details approved under planning register reference number 236630 providing a shared entrance with minimum sight distance of 60 metres, in both directions, at a point 2.4 metres back from the edge of the public road in the centre of the vehicular entrance. No vegetation or structure shall exceed one metre in height within the sight distance triangle.
 - (b) Having regard to the guidance contained in the Cork County Council's Rural Housing Design Guide a revised landscaping plan shall be submitted to the planning authority, including the planting of a semi-mature hedgerow of indigenous species along the roadside boundary and driveway, additional planting and soft landscaping close to the front of the house to reduce/minimise the hard landscape zone by removing vehicular access around the front of the house to avoid the 'platform effect'. The revised landscaping plan shall include proposals for the protection of all existing and new planting for the duration of construction works on site, together with proposals for adequate protection of new planting from damage until established.

- (c) Access to the adjoining agricultural lands, within the entire holding outlined in blue, to the north/northeast of the subject site clearly indicated, taking into account the landscaping requirements of (b) above.

Revised drawings showing compliance with these requirements 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.

4. The external finishes of the proposed dwelling house shall be as per the schedule of finishes with external walls in neutral painted render finish and locally sourced natural stone indigenous to the vicinity of the site and the roof shall be blue black slate. The colour of the ridge tiles shall match the colour of the roof. White uPVC shall not be used for any of the proposed windows, external doors and rainwater goods.

Reason: In the interest of visual amenity.

5. The garage shall not be used for human habitation or for commercial purposes or for any purposes other than for purposes incidental to the enjoyment of the dwelling.

Reason: To protect the residential amenities of the area.

6. All public service cables for the development, including electrical and telecommunication cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

7. (a) The wastewater treatment system and polishing filter shall meet all the requirements of the document entitled “Code of Practice- Domestic Wastewater Treatment Systems (p.e.< 10) – Environmental Protection Agency, 2021” and shall be installed and maintained in accordance with the manufactures instructions. No system other than the type proposed in the submission shall be installed unless agreed in writing with the planning authority.
- (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 wastewater 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.

8. 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 and shall be collected and diverted to discharge to existing watercourse or to drain or soak pits.

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.

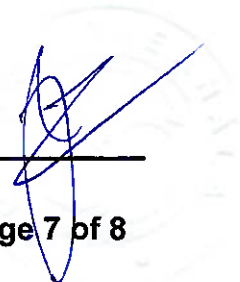
9. The developer shall ensure the provision of an adequate supply of potable water to serve the development.

Reason: In the absence of a public supply, it is the developer's responsibility to provide an adequate water supply.

10. Potable water supply shall be provided from a private well which shall be constructed so as to prevent contamination and, thereafter water shall be tested and treated as necessary to meet the requirements of The European Communities (Quality of Water Intended for Human Consumption) (Amendment) Regulations 2000.

Reason: In the interest of public health.

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.



Joe Boland

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this *23rd* day of *April* 2024.