



An
Bord
Pleanála

Board Order ABP-317288-23

Planning and Development Acts 2000 to 2022

Planning Authority: Tipperary County Council

Planning Register Reference Number: 22/60300

Appeal by Matty McEniry of Outrath, Cahir, County Tipperary against the decision made on the 25th day of May, 2023 by Tipperary County Council to grant subject to conditions a permission to Caroline Davis care of Michael Keating of Ard Mhuire, Clonmel Road, Cahir, County Tipperary in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a dwellinghouse, garage, effluent treatment system, entrance and all associated site works, all at Outeragh, Cahir, 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.

Reasons and Considerations

Having regard to the location of the site within an 'Area Under Urban Influence' in the Tipperary County Development Plan 2022-2028, and the established 'social need' of the applicant for a rural house, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and would not prejudice the continued agricultural use of the lands in the vicinity. 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, as amended by the further plans and particulars received by the planning authority on the 2nd day of May, 2023, 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. Prior to commencement of development, revised plans and details shall be submitted for the written agreement of the planning authority with the following amendments:

- (a) Windows on the front elevation shall have a vertical emphasis to reflect the dwelling immediately to the north.
- (b) Revised plans removing the bedroom windows at first floor level on the southern elevation.
- (c) The bathroom windows on the first-floor flank elevations shall be in obscured glazing.

Reason: In the interest of visual and residential amenity.

3. (a) The external wall finishes of the proposed dwellinghouse shall have a neutral coloured nap plaster render, using colours such as grey or off white.
- (b) The roof colour of the proposed dwellinghouse shall either be black, blue black or slate grey using tiles or slates. The colour of the ridge tiles shall match the colour of the roof.
- (c) Stonework to external walls shall be constructed of natural stone which shall be sourced locally.
- (d) The finished floor level shall be as shown on the submitted drawings.
- (e) The external materials and finishes to the garage shall match the proposed dwellinghouse.

Reason: In the interest of visual amenity.

4. (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.

5. The use of the garage shall be restricted to private domestic use only and shall not be used for commercial, habitation or agricultural uses.

Reason: In the interest of residential amenity.

6. The site shall be landscaped, using only indigenous deciduous plants and hedging species, in accordance with the details received by the planning authority on the 2nd day of May, 2023. 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 and in the interest of visual amenity.

7. The developer shall enter into a water connection agreement with Uisce Éireann prior to commencement of development and shall adhere to the standards and conditions set out in that agreement.

Reason: In the interest of public health.

8. (a) Domestic effluent from the dwellinghouse shall discharge to a septic tank and percolation area. The wastewater treatment system shall be designed, located and constructed in accordance with the requirements of the EPA Code of Practice 2021 - Domestic Wastewater Treatment Systems.

- (b) The location, construction and commissioning of the permitted treatment system and associated percolation area shall be supervised by a Civil Engineer or appropriately qualified individual who, upon completion of works/commissioning, shall submit to the planning authority certification (to include photographs) that the system has been laid out and constructed in accordance with the EPA Code of Practice 2021 - Domestic Wastewater Treatment Systems, within three months of installation.

- (c) The owners/occupiers of the subject site shall be responsible for the maintenance of the treatment system.

Reason In the interest of public health.

9. All surface water run-off from roofs, driveways and paved areas shall be collected and disposed of within the curtilage of the site by means of soak pits designed in accordance with BRE 365 standards or, in the case of an alternative being proposed, full details of same shall be submitted to the planning authority for written agreement prior to commencement of development. Surface water run-off shall not be allowed to discharge onto the public road or adjoining properties. All surface water run-off from the public road which flows into the site shall continue to be accommodated within the site unless alternative arrangements acceptable to the planning authority are carried out. Full details of any such alternative arrangements shall be subject to the written agreement of the planning authority prior to commencement of development.

Reason: To avoid interference with other properties and to prevent damage to the public road with consequent traffic hazard.

10. The developer shall submit details of the proposed vehicular entrance to the planning authority, including setback, entrance details and any boundary alterations. These shall be agreed in writing prior to commencement of development and thereafter adhered to in the development.

Reason: In the interest of road safety.

11. All public service cables for the proposed development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: To preserve the visual amenities of the area.

12. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting development in the area of the planning authority that is provided or intended to be provided 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.



Stewart Logan

Member of An Bord Pleanála

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

Dated this 12th day of March 2024.