



An  
Bord  
Pleanála

**Board Order**  
**ABP-318254-23**

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Waterford City and County Council**

**Planning Register Reference Number: 23/179**

**Appeal** by Monika Dudekova and Stanislav Dudek care of Patricia O'Neill Architects of Lismore Business Park, Lismore, County Waterford against the decision made on the 18<sup>th</sup> day of September, 2023 by Waterford City and County Council to refuse permission for the proposed development.

**Proposed Development:** Construction of a single storey dwellinghouse, domestic well, wastewater treatment system and percolation area, new site entrance and all associated site works at Coolnacreena, Cappoquin, County Waterford, as revised by the further public notices received by the planning authority on the 24<sup>th</sup> day of August, 2023.

## **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 proposed development, to the local housing need demonstrated by the applicants in compliance with Policy H28 of the Waterford City and County Development Plan 2022-2028 and to the existing pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of the policy requirements of the development plan, would not seriously injure the visual amenities of the area and would not be prejudicial to public health nor pose a threat to the natural habitat of the area. The proposed development 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 as amended by the further plans and particulars submitted on 11<sup>th</sup> day of August, 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 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 vehicular entrance shall be from the private lane to the south of the site as shown in the plans and particulars lodged with the application on the 7<sup>th</sup> day of June 2023 (and not as indicated on the plans and particulars received by the planning authority on the 11<sup>th</sup> day of August 2023). Details of this entrance shall be agreed with the planning authority in writing prior to the commencement of development.

**Reason:** In the interests of clarity, traffic safety and protecting biodiversity (hedge retention).

4. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise, dust and vibration management measures, rock breaking/excavation methodologies and offsite disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

5. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0700 to 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. (a) The proposed treatment plant and sand polishing filter shall be located, constructed and maintained in accordance the requirements of the document entitled "Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses (p.e.  $\leq 10$ )" – 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 soakaways shall be located such that 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.

7. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

8. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

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

9. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
  - (a) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
  - (b) 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) A timescale for implementation, including details of phasing, which shall provide for the planting to be completed before the dwelling is first made available for occupation.

**Reason:** In order to screen the development and assimilate it into the surrounding rural landscape 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 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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Tom Rabbette

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

Dated this 8<sup>th</sup> day of July 2024