



An
Bord
Pleanála

Board Order
ABP-319000-24

Planning and Development Acts 2000 to 2022

Planning Authority: Galway County Council

Planning Register Reference Number: 2361148

Appeal by Transport Infrastructure Ireland of Parkgate Business Centre, Parkgate Street, Dublin against the decision made on the 17th day of January, 2024 by Galway County Council to grant subject to conditions a permission to Barry Kinsella and Claire Kelly care of Clarke Construction Design Limited of Kendal House, Abbey Street, Loughrea, County Galway.

Proposed Development: Construction of a new dwellinghouse, domestic garage, sewage treatment system, with access through the existing entrance of the adjacent dwellinghouse to create a shared access and all associated site development works, all at Carrowshanbally, Gurtymadden, Loughrea, 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 established rural need of the applicant in currently farming the landholding in which he intends to build his permanent home, and to the provisions of the Galway County Development Plan 2022-2028, in particular Policy Objective RH 15 which sets out that residential development along National Roads will be restricted outside the 50-60 kilometres per hour speed zones in accordance with the Department of Environment Community and Local Government Spatial Planning and National Road Guidelines (2012), and having also set out that consideration shall be given to the need of farm families to live on the family holding on a limited basis and a functional need to live at this location must be demonstrated, the Board was satisfied that documentary evidence on file is sufficient to justify the proposed development on the basis of the circumstances of the applicant who is evidently intending to build a house on a farm in which he carries out the farming activities and it is reasonable to conclude that a functional need to live at this location has been demonstrated. The Board was also satisfied that the existing house on the landholding is not available as an alternative, given the right of residency for a different family member that has been presented with documentary evidence. The Board was also satisfied that the sharing of the access with the existing house access meets the preferred access arrangements as set out in Policy Objective RH 15 of the development plan.

Accordingly, the Board considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of traffic safety and convenience and would be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that, having regard to the particular circumstances of the applicant, who evidently farms the landholding and has provided documentary evidence of the farming activity, the proposal is

PC

acceptable when considered against Policy Objective RH 15 (Direct Access to National Road) as an exception to the general provision of restricting such access along national roads as is provided for in RH 15.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further plans and particulars submitted to the planning authority on the 14th day of December 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. Sight distance triangles shall be adequately maintained and kept free from vegetation or other obstructions that would reduce visibility below the minimum required. Prior to the occupation of the dwellinghouse hereby permitted, works relating to the improvements of existing access arrangements and roadside boundaries shall be carried out to the satisfaction of the planning authority.

Reason: In the interest of traffic safety.

4. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. 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, in the interest of visual amenity.

P.C.

5. 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.

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

Reason: In the interest of public health.

7. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of visual and residential amenity.

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

Reason: In the interest of visual amenity.

9. The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021.

Reason: In the interest of public health.

P.C.

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities facilitating development the area of the planning authority that is provided or intended to be provided by or on behalf of an 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.



Patricia Calleary

Member of An Bord Pleanála

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

Dated this 3 day of September 2024.