

An
Bord
Pleanála

Board Order ABP-319315-24

Planning and Development Acts 2000 to 2022

Planning Authority: Tipperary County Council

Planning Register Reference Number: 23/60127

Appeal by John Hayde and Elizabeth Toukabri of Urard, Gortnahoe, Thurles, County Tipperary against the decision made on the 28th day of February, 2024 by Tipperary County Council to grant subject to conditions a permission to Thomas Cummins care of Richard Foley Planning Consultancy Limited of Ballyerk, Moyne, Thurles, County Tipperary in accordance with plans and particulars lodged with the said Council.

Proposed Development: (a) Construction of a single storey detached dwelling; (b) new detached garage; (c) new site entrance; (d) new connections to existing utilities, (e) new wastewater treatment system and percolation area; and (f) all associated site works. (g) Temporary retention of the existing mobile home unit and all associated site works at Urard, Gortnahoe, Thurles, County Tipperary as revised by the further public notices received by the planning authority on the 1st day of February 2024.

Decision

GRANT permission for the above 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 nature and scale of the proposed development and development proposed to be retained, the location of the site, and the provisions of the Tipperary County Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed development and development proposed to be retained would meet an established housing need, would not seriously injure the amenities of residential property in the vicinity, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be retained, 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 26th day of September, 2023, the 24th day of January, 2024, the 1st day of February, 2024 and the 26th day of February, 2024 , 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 retained, carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Within 12 months of the date of this Order, the mobile home on site shall be removed and the site shall be fully restored with the area grassed and landscaped in accordance with the requirements of the planning authority.

Reason: In order to clarify the terms of the permission.

3. (a) The proposed dwelling when completed shall be first occupied as a place of permanent residence by the applicant and shall remain so occupied for a period of at least seven years thereafter.
- (b) Within two months of the occupation of the proposed dwelling, a written statement of confirmation of the first occupation of the dwelling shall be submitted to the planning authority in accordance with paragraph (a) and shall include the date of such occupation.
- (c) This condition shall not affect the sale of the dwelling by a mortgagee in possession or 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 to ensure that development in this rural area is appropriately restricted to meeting essential economic or social need in the interest of the proper planning and sustainable development of the area.

4. (a) Domestic effluent from the dwelling shall discharge to a tertiary treatment system and infiltration/treatment area. The tertiary treatment system and infiltration/treatment area shall be designed, located and constructed in accordance with the requirements of 'EPA Code of Practice 2021 - Domestic Wastewater Treatment Systems'.
- (b) The location, construction and commissioning of the tertiary treatment system and infiltration/treatment 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) A signed maintenance contract in respect of the installed system for a minimum period of three years shall be put in place prior to the occupation of the dwelling and this shall be made available for inspection by the planning authority.
- (d) The owners/occupiers of the subject site shall be responsible for the maintenance of the tertiary treatment system and infiltration/treatment area and shall undertake regular sampling to ensure same adheres to manufacturers guidelines.

Reason: In the interest of public health.

5. Prior to commencement of development, the developer shall submit details of the following for the written agreement of the planning authority:

- (a) Water supply which shall meet the requirements of Uisce Éireann.
- (b) Surface water disposal on the site.
- (c) Landscaping details, including details for the restoration of the site on which the mobile home stands.
- (d) Access details, including setback of the access from the roadside boundary and provision of wing walls.

Reason: In the interests of visual amenity, public health, and traffic safety.

6. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

Reason: In the interest of visual and residential amenity.

7. The proposed garage shall be used solely for purposes incidental to the enjoyment of the dwellinghouse and shall not be used for any residential, commercial, or industrial purpose.

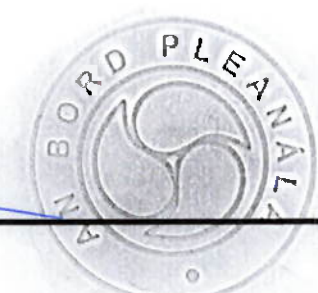
Reason: In the interest of clarity and the proper planning and sustainable development of the area.

8. Upon first occupation of the dwellinghouse, the use of the existing access to the site shall be restricted to agricultural use.

Reason: In the interest of public safety, and the proper planning and sustainable development of the area.

9. 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.



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

Dated this 24th day of September 2024