

An
Bord
Pleanála

Board Order ABP-319859-24

Planning and Development Acts 2000 to 2022

Planning Authority: Clare County Council

Planning Register Reference Number: 24/60078

Appeal by James K Smith of Derryfadda, Clonlara, County Clare against the decision made on the 24th day of May, 2024 by Clare County Council to grant subject to conditions a permission to John Hickey care of OBB Consulting Engineers of O'Briens Bridge, County Clare in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a detached two-storey dwelling, new entrance, on-site wastewater treatment system, bored well, together with all associated ancillary and incidental site works, all at Derryfadda, Clonlara, County Clare.

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 nature of the proposed development, its siting and design, its separation from adjoining residential properties, and the applicant's compliance with the Rural Development Strategy of the Clare County Development Plan 2023-2029, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable and in accordance with the Clare County Development Plan 2023-2029 and the Sustainable Rural Housing Guidelines for Planning Authorities (2005), would not negatively impact on the established residential or rural amenities of the area, and would, therefore, 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, based on the documentary evidence submitted by the applicant regarding his historic and ongoing social and economic connections with the area, including an active involvement in agriculture, the applicant met the necessary criteria for positive consideration for the proposed development of a new single house in an 'Area of Special Control' as set out in section 4.2.6 of the Clare County Development Plan 2023-2029.



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 30th day of April, 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 proposed 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, 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.

3. (a) The wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with the application and shall be in accordance with the standards set out in the document entitled "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)" – Environmental Protection Agency, 2021.
- (b) Treated effluent from the wastewater treatment system shall be discharged to a percolation area/polishing filter which shall be provided in accordance with the standards set out in the document entitled "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)" – Environmental Protection Agency, 2021.
- (c) Within three months of the first occupation of the dwelling, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the septic tank/wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.

Reason: In the interest of public health and to prevent water pollution.



4. 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. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the proposed 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 the interest of residential and visual amenity.

5. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site.
- (b) 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 drainage channels.

Reason: In the interest of flood prevention and pollution control.

6. 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.



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

Reason: In the interest of visual and residential amenity.


8. The construction of the proposed 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 all intended construction practice for the proposed development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and residential amenity.


A handwritten signature in black ink, located in the bottom right corner of the page, above the page number.

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



Dated this 30 day of October 2024.