



An  
Bord  
Pleanála

Board Order  
ABP-320144-24

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## **Planning and Development Acts 2000 to 2022**

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

**Planning Register Reference Number: 22/25**

**Appeal** by Bryan Smyth of Castle View, Castleroberts, Adare, County Limerick against the decision made on the 12<sup>th</sup> day of July, 2022 by Limerick City and County Council to grant subject to conditions a permission to Christine Lane care of Hutch O'Malley Consulting Limited of The Railway Station, Attyflin, Patrickswell, County Limerick in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of one number two-storey dwelling house, a new site entrance which includes the boundary ditch to be set back to provide adequate site distance, new front entrance pillars, new fenced/hedged site boundaries, a new wastewater treatment system and all associated site works at Castleroberts, Adare, County Limerick.

## **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 provisions of the Limerick Development Plan 2022-2028, the pattern of development in the area and to the nature and scale of the proposed development, 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 and would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. 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 to the planning authority on 20<sup>th</sup> day of June 2022, 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. Prior to the commencement of development, the details of the proposed boundary treatment shall be submitted to the planning authority for written agreement.

**Reason:** In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

4. The site shall be landscaped, using only indigenous deciduous plants 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. All existing trees and hedgerow be retained except the extent that its removal is necessary to provide for the site entrance and sightlines. 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.

5. (a) The effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 27<sup>th</sup> day of January 2022, and in accordance with the requirements of the document "Code of Practice – Domestic Wastewater Treatment Systems (Population Equivalent  $\leq$  for Single Houses", Environmental Protection Agency (2021). Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority within six months of the date of this Order.

- (b) 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 proprietary effluent treatment system and associated works has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner 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.

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

**Reason:** To ensure adequate servicing of the development and to prevent pollution.

7. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.
- (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 roadside drainage.

**Reason:** In the interest of traffic safety and to prevent pollution.

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

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

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

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

10. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 hours 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.

11. 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 02<sup>nd</sup> day of October 2024