



An
Bord
Pleanála

Board Order
ABP-320182-24

Planning and Development Acts 2000 to 2022

Planning Authority: Clare County Council

Planning Register Reference Number: 2460188.

Appeal by Padraig Hogan of Newhall, Tiermaclane, Ennis, County Clare against the decision made on the 19th day of June 2024, by Clare County Council, to refuse a permission for the proposed development.

Proposed Development: Permission for the construction of a new dwelling house and garage complete with a new entrance, sewage treatment system and ancillary works, Killerk West, Darragh, Ennis, 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.

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Reasons and Considerations

Having regard to the location of the site in a 'Rural Area under Strong Urban Pressure' and the Western Corridor Working Landscape within the Clare County Development Plan 2023-2029; and with regard to a proposal for a single house in this area, the applicant has demonstrated compliance with Category B (Social Need) and meeting the necessary criteria set out in Objective CDP 4.14 in respect of rural housing need; and to the nature, scale and design of the proposed development, and the pattern of existing and permitted development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be an appropriate form of development in terms of scale, design, form and layout. It is also considered that the proposed development would not seriously injure the visual amenity of the area or be visually prominent, exacerbate ribbon development or result in a deterioration of the environment and that it would be in accordance with the relevant provisions of the Clare County Development Plan 2023-2029 including that of CDP14.3 with respect to the Western Corridor Working Landscape. The proposed development would, therefore, be in accordance with proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission on the basis that it would contribute to the build-up of ribbon development in an open rural area, the Board did not agree with this finding. Having regard to the specifics of this case, and by reference to Appendix 4 (Ribbon Development) of the Sustainable Rural Housing Guidelines for Planning Authorities 2005, the Board was satisfied that the proposed development is an infill development, on a site located between developed houses, and would not reasonably contribute to, or exacerbate, ribbon development in the area accordingly.

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The Board was satisfied that otherwise, noting that the site falls within an area under strong urban influence, the applicant has demonstrated falling within Category B (Social Need) and meeting the necessary criteria set out in Objective CDP 4.14 in respect of rural housing need and CDP14.3 in respect of the Western Corridor Working Landscape.

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 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 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. 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.

- (c) 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 in the interest of the proper planning and sustainable development of the area.

3. Site development and building works shall be carried out between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

Reason: To safeguard the amenity of property in the vicinity.

4. (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 flooding or pollution.

5. The existing front boundary hedge/wall shall be retained except to the extent that its removal is necessary to provide for the entrance to the site.

Reason: In the interest of visual amenity.

6. (a) The wastewater treatment system and infiltration area hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this 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) 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 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.

7. 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.


Marie O'Connor

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

Dated this 27 day of January 2025.