



An
Bord
Pleanála

Board Order ABP-321797-25

Planning and Development Acts 2000 to 2022

Planning Authority: Clare County Council

Planning Register Reference Number: P24/60561

Appeal by Paul Mullane care of Leahy Planning Limited of Mill Road House, Mill Road, Ennis, County Clare against the decision made on the 10th day of January, 2025 by Clare County Council to grant permission, subject to conditions, to Keith and Tracey Molony care of LOD Architects of 13 Garrán Na Coille, Shanaway Road, Ennis, County Clare for the proposed development.

Proposed Development: Proposed private dwelling house, outbuilding to accommodate carer's accommodation, home office, stable and garden storage, widen existing site entrance, new site access road, new wastewater treatment system and all associated site works at Cragaweelcross, Barefield, 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.

Reasons and Considerations

Having regard to the sites location in a rural area under strong urban influence and the applicant's demonstrated need for rural housing in accordance with the criteria set out in Objective CDP 4.14 (New Single Houses in the countryside within the "Areas of Special Control") and Category B – Social Need ii (Exceptional Health Reasons), together with the nature, scale and design of the development it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenity of the area, would not result in the creation of a traffic hazard or be injurious to public health or the environment, and would be an acceptable form of development at this location. 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, 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. The proposed Ancillary Living Accommodation Unit shall be occupied by a carer or a member of the family of the occupier of the principal dwelling on the site. The structure shall not be let, sold, leased, or otherwise used as a separate dwelling unit.

Reason: To protect the amenities of the area and to control the intensity of the use of the site.

- 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. This scheme shall include the following:

- (a) The establishment of a hedgerow along both sides of the access road serving the dwelling with native hedgerow species interspersed with native trees at five metre intervals.

- (b) Any plants, trees or hedging 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 entrance gates to the proposed house shall be set back not less than 2.4 metres from the edge of the public road. Wing walls forming the entrance shall be splayed at an angle of not less than 45 degrees and shall not exceed 1.1 metres in height.
- (b) The existing front boundary 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 traffic safety and visual amenity.

- 6. (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.

- 7. (a) The septic tank/wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this application on 11th

November 2024 and shall be in accordance with the standards set out in the document entitled "Code of Practice - Domestic Wastewater Treatment Systems (Population Equivalent ≤ 10)" – Environmental Protection Agency, 2021.

- (b) Treated effluent from the septic tank/ 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 Wastewater 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.

8. 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.




Declán Moore

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

Dated this 15th day of May 2025