



An
Bord
Pleanála

Board Order ABP-322026-25

Planning and Development Acts 2000 to 2022

Planning Authority: Clare County Council

Planning Register Reference Number: P24/60623

Appeal by Michael Frawley of Knockerska, Kilshanny, County Clare against the decision made on the 10th day of February, 2025 by Clare County Council to grant permission, subject to conditions, to Eoin Frawley care of Jamie Vaughan Design of Deerpark West, Ennistymon, County Clare for the proposed development.

Proposed Development: Construction of a dwelling house, entrance, wastewater treatment system and all associated site works at Knocknaskeagh, Kilshanny, 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

The board considered that the proposed development, subject to compliance with the conditions set out below, would not be out of character with the surrounding area, would not give rise to undue negative impacts upon the residential amenity of the surrounding area, would comply with the provisions of the Clare County Development Plan 2023-2029 and 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.
- (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 to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3. The finished floor level of the proposed dwelling shall be as specified on the site layout plan received on the 9th day of December 2024, and shall not be modified in any way without the prior written consent of the planning authority.

Reason: To reduce the impact of the proposed house on the landscape, in the interest of visual amenity.

4. The developer shall enter into a water/wastewater connection agreements with Uisce Éireann.

Reason: In the interest of public health.

5. 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.

Reason: In the interest of public health.

6. 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.

7. (a) The entrance to serve the dwelling shall be as per the site layout plan submitted to the planning authority on the 9th day of December, 2024.
- (b) The existing road boundary shall be retained in its entirety except where its removal is required for the construction of an entrance to serve the dwelling. Side walls and piers of proposed entrance shall be tied into the existing roadside boundary, all to the satisfaction of the planning authority.

Reason: To preserve the rural amenities of the area and in the interests of traffic safety and visual amenity.

8. (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 [date] 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.

9. The developer shall pay to the planning authority a financial contribution of 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. The application of any indexation required by this condition 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.

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.



Patricia Calleary

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this 16th day of June 2025