



An
Coimisiún
Pleanála

Commission Order
ABP-322462-25

Planning and Development Act 2000, as amended

Planning Authority: Clare County Council

Planning Register Reference Number: P24/60622

Appeal by Margaret and Kevin Scanlan of Church Road, Tulla, County Clare and by Michael O'Halloran of The Rectory, Tulla, County Clare against the decision made on the 15th day of April, 2025 by Clare County Council to grant subject to conditions a permission to Woodhaven Developments Limited care of Cyril O'Reilly Architecture of Parting Glass, Quin, County Clare in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of (a) 32 number two-storey semi-detached dwellinghouses, (b) two number two-storey detached dwellinghouses, (c) four number single storey semi-detached dwellinghouses, (d) one number detached single storey dwellinghouse (total number of 39 dwellinghouses) and (e) all ancillary site works and connection to public services, all at Church Road (R462), Tulla Townland, Tulla, 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 location of the site within the 'existing built up area' of Tulla on zoned and serviced lands, the provisions of the Sustainable Residential Development and Compact Settlements – Guidelines for Planning Authorities (2024), specifically Table 3.7 (Areas and Density Ranges for Rural Towns and Villages), the Clare County Development Plan 2023-2029, specifically Policy Objective 4.2.3 regarding settlement hierarchy and strategy, Policy Objective 4.6 which seeks investment in the sustainable development of new homes in small towns, including Tulla, and Policy Objective 5.8 in terms of securing the development of a mix of house types to meet the needs of the likely future population, and 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 be consistent with the Core Strategies of the development plan, the proposed density of development would be appropriate, would not result in the creation of a traffic hazard, would not seriously injure the amenities of neighbouring residential properties within the area, and would be well connected to local services and facilities. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Commission agreed with the planning authority that the requirement to provide a vehicular connection to the mixed-use lands north of the site, as contained within the Development Plan, is not currently achievable given private ownership of the laneway which had been incorrectly identified as a (public) local road in the Development Plan, and was satisfied that provision for future pedestrian and cyclist connectivity to Main Street had been made within the site, in the event that access to, or ownership of, the laneway should change.

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 19th day of March, 2025, 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. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

3. The developer shall enter into water and/or wastewater connection agreement(s) with Uisce Éireann prior to commencement of development. Specifically, details in relation to the rerouting of the public foul sewer shall be agreed in writing with Uisce Éireann prior to commencement of development.

Reason: In the interest of public health.

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

Reason: In the interests of visual and residential amenities.

5. (a) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs and car parking bay sizes, shall comply with the requirements of the Design Manual for Urban Roads and Streets. In particular, carriageway widths and corner radii within the proposed development shall be in accordance with the guidance provided in the National Cycle Manual.
- (b) The materials used in any roads/footpaths provided by the developer shall comply with the standards of the planning authority for such road works.

Revised drawings and particulars showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of pedestrian, cyclist, and traffic safety.

6. All roads and footpaths shown to adjoining lands shall be constructed up to the boundaries to provide access to adjoining lands with no obstruction including the erection of any structure which would otherwise constitute exempted development under the Planning and Development Regulations 2001, as amended. These areas shall be shown in a drawing which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of permeability and proper planning and sustainable development.

7. (a) Final details of the setting back of the site along the western boundary of the site along Church Road and reconstruction of the public footpath at this location shall be submitted for the written agreement of the planning authority prior to commencement of development.
- (b) The developer shall apply for and be issued with a road opening licence from the planning authority prior to commencement of any works along the perimeter of Church Road.

Reason: In the interests of public safety and sustainable transportation.

8. Details of all boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development, noting that between points D-E-F as part the Site Layout - General arrangement drawing number WDT2-01-PL24 treatment shall comprise a 1.8 metres high block wall with natural stone face on the southern side between points D-E and on the western side between points E-F.

Reason: In the interests of visual and residential amenity.

9. Proposals for a naming and numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all signs, and numbers shall be provided in accordance with the agreed scheme.

Reason: In the interests of amenity and of the proper planning and sustainable development of the area.

10. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

Reason: In the interests of visual and residential amenity.

11. The landscape and tree planting plan, as set out on drawing number TAH-TPP-1-24, shall be implemented within the first planting season following substantial completion of external construction works. 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 development or until the development is taken in charge by the planning authority, whichever is the sooner, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority. The existing mature trees on site, as identified in drawing number TAH-TPP-1-24, shall be adequately protected with the use of Harras type fencing or other suitable protective fencing for the full duration of the construction works.

Reason: In the interests of residential and visual amenity.

12. All of the communal/visitor parking spaces serving the residential units shall be provided with functional electric vehicle charging points to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

13. All of the houses with on-curtilage parking shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements, including details of design of and signage for the electrical charging points, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

14. Site development and building works shall be carried out only between the hours of 0700 and 1900 Mondays to Fridays, inclusive, between 0800 and 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

15. The construction of the proposed development shall be managed in accordance with a Construction Traffic and Environmental Waste 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 intended construction practice for the proposed development, management of construction waste and materials on site, environmental control measures, including noise, dust and vibration management measures, construction traffic and parking, management of laying of independent foul sewer line, liaisons with neighbours during the construction period, measures for managing construction sediment run-off and off-site disposal of construction/demolition waste.

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

16. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority full details of the proposed public lighting along Church Road and throughout the residential scheme, including the lighting levels within the public open space areas of the proposed development.

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

17. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority full details of the proposed connection to the storm waste sewer, including details of the re-routing of the network and upsizing of the piped network up until its discharge point. The upgrading and re-routing costs shall be borne by the developer and at no cost to the planning authority, unless otherwise agreed.

Reason: In the interest of public health.

18. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and 3 (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Coimisiún Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

19. (a) Prior to the commencement of the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house) pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all relevant residential units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.

- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

- 20. The developer shall engage a suitably qualified archaeologist to carry out an Archaeological Impact Assessment (AIA) in advance of any site preparation works and groundworks, including site investigation works/topsoil stripping/site clearance/dredging and/or construction works. The AIA shall involve an examination of all development layout/design drawings, completion of documentary/cartographic/photographic research and fieldwork, the latter to include, where applicable, geophysical survey, metal detection survey and archaeological testing (consent/licensed as required under the National Monuments Acts).

The archaeologist shall prepare a comprehensive report, including an archaeological impact statement and mitigation strategy, to be submitted for the written agreement of the planning authority in advance of any site preparation works, groundworks and/or construction works.

Where archaeological remains are shown to be present, preservation in-situ, establishment of 'buffer zones', preservation by record (archaeological excavation) or archaeological monitoring may be required and mitigatory measures to ensure the preservation and/or recording of archaeological remains shall be included in the AIA. Any further archaeological mitigation requirements specified by the Local Authority Archaeologist, following consultation with the National Monuments Service, shall be complied with by the developer. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any subsequent archaeological investigative works and/or monitoring following the completion of all archaeological work on site and the completion of any necessary post-excavation work. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation either in situ or by record of places, sites, features or other objects of archaeological interest.

21. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Coimisiún Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

22. 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 Coimisiún 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.



Declan Moore

Planning Commissioner of An Coimisiún
Pleanála duly authorised to authenticate
the seal of the Commission.

Dated this 8th day of September 2025.

