

An  
Coimisiún  
Pleanála

**Commission Order  
PL-500392-CE-25**

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**Planning and Development Act 2000, as amended**

**Planning Authority: Clare County Council**

**Planning Register Reference Number: 2560399**

**Appeal** by Louise Hennessy against the decision made on the 13<sup>th</sup> day of November 2025 by to grant, subject to conditions, a permission to Kevin O'Reilly and Jennifer O'Donoghue in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** The construction of a new dwelling house and garage, complete with a new entrance, private well, sewage treatment system and ancillary works at Ballynacally, 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.**

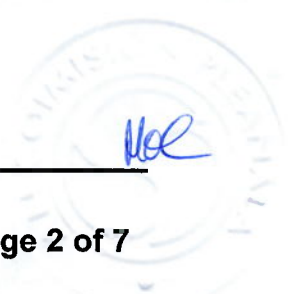
## Reasons and Considerations

Having regard to the location of the infill site in an Area of Special Control, the provisions of the Clare County Development Plan 2023-2029 including Objectives CDP 4.14 (New Single Houses in the Countryside within the 'Areas of Special Control') and CDP 4.16 (New Single Houses on Infill Sites in the Countryside) 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 appropriate in terms of design, scale and layout and would not seriously injure the amenities of the area or of neighbouring residential properties or result in a traffic hazard. 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 received by the planning authority on the 8<sup>th</sup> day of October 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 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 in the interest of the proper planning and sustainable development of the area.

3. The proposed development shall be amended as follows:
  - (a) The finished floor level of the house shall be reduced by 0.5 metres.
  - (b) The house shall be sited a further 0.5 metres in an eastern direction.

Prior to the commencement of development, the developer shall submit a revised site layout plan providing for the above for the written agreement and approval of the planning authority.

**Reason:** In the interest of residential amenity and protection of the rural character of the area.

4. (a) The roof colour of the proposed house shall be blue-black, black, dark brown or dark grey. The colour of the ridge tile shall be the same as the colour of the roof.
- (b) The external walls shall be finished in neutral colours such as grey or off white.
- (c) All stone shall be local and natural with no reconstituted stone or brick permitted.

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

5. The garage shall not be used for human habitation, or any commercial activity or for any other purpose other than a purpose incidental to the enjoyment of the dwelling house.

**Reason:** In the interest of residential amenity and the orderly development of the area.

6. The site shall be landscaped, using only indigenous deciduous trees and hedging species in accordance with details submitted. 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.

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 flooding or pollution.

8. (a) The wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this application on and shall be in accordance with the standards set out in the document entitled "Code of Practice – Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$ )" – Environmental Protection Agency, 2021.

- (b) Treated effluent from the 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 Waste Water Treatment Systems (Population Equivalent  $\leq 10$ )” – 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 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. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Friday inclusive, between 0800 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.

10. 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.

  
Marie O'Connor

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



Dated this 30<sup>th</sup> day of March 2026