

An
Coimisiún
Pleanála

Commission Order
PL-500891-CE

Planning and Development Act 2000, as amended

Planning Authority: Clare County Council

Planning Register Reference Number: 24/60667

Appeal by Michael Duffy against the decision made on the 3rd day of February, 2026 by Clare County Council to grant subject to conditions a permission to Custy Construction Limited and John Talty Construction Limited in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of 55 dwellinghouses consisting of eight number four-bedroom detached two-storey houses, eight number four-bedroom semi-detached two-storey houses, five number three-bedroom detached two-storey houses, 26 number three-bedroom semi-detached two-storey houses, eight number three-bedroom detached bungalows, car parking, vehicular and pedestrian access, including roads, footpaths, cycle paths, public lighting, landscaping and construction of bat house together with all site development works and connections to public services, all at Ballymaley and Ballycorey, Ennis, County Clare, as revised by the further public notices received by the planning authority on the 1st day of December, 2025.

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 and character of the residential zoned lands and surrounding area, together with the provisions of the Clare County Development Plan 2023-2029, including the Ennis Municipal Plan and the LDR14 land use zoning of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would be appropriate in terms of density, scale and layout, would provide a satisfactory level of residential amenity, would provide for efficient use of zoned lands, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment: Stage 1:

The Commission agreed with the screening assessment and conclusion carried out in the Inspector's Report that the Ballyallia Lake Special Area of Conservation (Site Code: 000014), the Ballyallia Lough Special Protection Area (Site Code: 004041), the Lower River Shannon Special Area of Conservation (Site Code: 002165) and the River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077) are the only European Sites in respect of which the proposed development has the potential to have a significant effect in view of the Conservation Objectives for the sites and that Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment: Stage 2:

The Commission considered the Natura Impact Statement, and all the other relevant submissions on file, and carried out an Appropriate Assessment of the implications of the proposed development on the Ballyallia Lake Special Area of Conservation (Site Code: 000014), the Ballyallia Lough Special Protection Area (Site Code: 004041), the Lower River Shannon Special Area of Conservation (Site Code: 002165) and the River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077) in view of the sites' Conservation Objectives. The Commission considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' Conservation Objectives using the best scientific knowledge in the field. In completing the assessment, the Commission considered, in particular, the following:

- (i) the site-specific Conservation Objectives for the European Sites,
- (ii) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, and
- (iii) the mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Commission accepted and adopted the Appropriate Assessment carried out in the Inspector's Report in respect of the potential effects of the proposed development on the aforementioned European Sites.

In overall conclusion, the Commission was satisfied that the proposed development would not adversely affect the integrity of the European Sites in view of the sites' Conservation Objectives and that there is no reasonable scientific doubt as to the absence of such effects.

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 18th day of November, 2025, the 26th day of November, 2025, the 29th day of January, 2026 and the 30th day of January, 2026, 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. The mitigation measures contained in the submitted Natura Impact Statement shall be implemented in full.

Reason: To protect the integrity of European Sites.

3. The removal and disturbance of bats and the removal of the existing outbuilding on the site shall be carried out in accordance with the Bat Derogation License submitted with the planning application, or any subsequent license issued by the National Parks and Wildlife Service. No works shall occur on the site in the absence of a valid license. The location of bat boxes shall be provided to the planning authority prior to the occupation of any residential unit.

Reason: In order to protect Lesser Horseshoe Bats.

4. All finished floor levels, external materials and finishes and all boundary treatments shall comply with the details received by the planning authority on the 18th day of November, 2025.

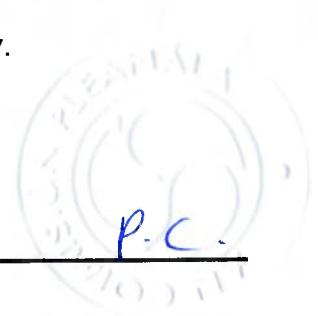
Reason: In the interest of visual and residential amenity.

5. The landscaping scheme shown on drawing number DCJT 03 07 24_F1 received by the planning authority on the 18th day of November, 2025 shall be carried out within the first planting season following substantial completion of external construction works. In addition to the proposals in the submitted scheme, the following shall be carried out:

- (a) The existing hedgerows to the rear of proposed unit numbers 1-18 shall be retained and enhanced.
- (b) Details of the success of planting and mammal corridor features shall be reviewed during a period of at least three years post construction with adaptive management to be implemented, as required, and findings shall be submitted to the planning authority.
- (c) A pre-construction tree survey shall be undertaken prior to commencement of tree felling and the results shall be submitted to the planning authority.

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.

Reason: In the interest of residential and visual amenity.



6. Proposals for an estate/street name, house numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

7. Prior to commencement of development, the developer shall enter into a connection agreement(s) with Uisce Éireann to provide for a service connection(s) to the public water supply and/or wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

8. (a) The developer shall install the storm water network, hydrocarbon interceptors, soakaways, infiltration basins, permeable paving and all other proposed SUDS measures in accordance with the designer's requirements and the manufacturer's instructions. The developer shall employ a suitably qualified engineer to certify that the storm water network, permeable paving and all other proposed SUDS measures have been adequately installed and a record of same shall be submitted to the planning authority.

- (b) The developer's design team shall set out the maintenance requirements and schedules for the storm water network, hydrocarbon interceptors, soakaways, infiltration basins, permeable paving and all other proposed SUDS measures in the proposed development and the operator of the proposed development shall undertake to carry out the maintenance as per the schedule.

Reason: In the interest of public health.

9. (a) The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths, and kerbs, shall comply with the detailed construction standards of the planning authority for such works and design standards as outlined in the Design Manual for Urban Roads and Streets (DMURS).
- (b) Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of all locations and materials to be used shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of amenity and of traffic and pedestrian safety.

10. All in-curtilage car parking spaces serving the residential units 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 shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

11. 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.
Reason: In the interest of visual and residential amenity.

12. Public lighting shall be provided in accordance with drawing number DCJT 03 05 24_FI, the Lighting Compliance Statement and Lighting Design Report, as received by the planning authority on the 18th day of November, 2025. Such lighting shall be provided prior to the making available for occupation of any residential unit.
Reason: In the interest of amenity and public safety.

13. Prior to the commencement of any works associated with the development hereby permitted, the developer shall submit a detailed Construction Environmental Management Plan (CEMP) for the written agreement of the planning authority. The CEMP shall incorporate details for the collection and disposal of construction waste, surface water run-off from the site, on-site road construction, and environmental management measures during construction, including traffic management, noise control, dust and vibration control and monitoring of such measures as well as biodiversity measures. A record of daily checks that the construction works are being undertaken in accordance with the CEMP shall be kept at the construction site office for inspection by the planning authority. The agreed CEMP shall be implemented in full in the carrying out of the proposed development. The Traffic Management section shall include deliveries, construction vehicles, and that associated staff shall not park on the R458 Gort Road, and all transportation to and from the site of bulky materials using articulated or tipper trucks shall be routed via the R458 directly to Junction 14 of the

M18 motorway unless prior written approval is received from the planning authority.

Reason: In the interest of environmental protection, residential amenities, public health and safety.

14. Prior to commencement of development, the developer shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021), including a demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on file and retained as part of the public record. The RWMP shall be submitted to the planning authority for written agreement prior to commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

15. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays, inclusive, between 0800 to 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.

16. The development hereby permitted shall be carried out and completed at least to the construction standards as set out in the planning authority's Taking In Charge Standards. In the absence of specific local standards, the standards as set out in the 'Recommendations for Site Development Works for Housing Areas' issued by the Department of the Environment and Local Government in November 1998 shall apply. Following completion, the development shall be maintained by the developer, in compliance with these standards, until taken in charge by the planning authority.

Reason: To ensure that the development is carried out and completed to an acceptable standard of construction.

17. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the planning authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure the satisfactory completion and maintenance of the development.

18. (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.


19. 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 transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall 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.

20. 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.

21. 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.


Patricia Calleary

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

Dated this 29th day of June 2026.