

An
Bord
Pleanála

Board Direction
BD-015803-24
ABP-316126-23

The submissions on this file and the Inspector's report were considered at a Board meeting held on 11/03/2024.

The Board decided to grant permission, for the following reasons and considerations, and subject to the following conditions.

Reasons and Considerations

Having regard to the provisions of the Tipperary County Development Plan 2022-2028, including Policy 8-5 (support and facilitate small-scale start up rural enterprise in the countryside and or adjoining the owner's home subject to criteria set out) and to the submissions received in relation to the application, it is considered that, subject to compliance with the conditions set out below, the proposed development would not be visually obtrusive or out of character with the surrounding area and would not seriously damage the amenities of the adjoining residential properties or generate a traffic hazard. The effluent likely to be generated would be capable of being satisfactorily treated by an on-site wastewater treatment system and soil polishing filter prior to discharge of treated effluent to ground. The proposed development would be in accordance with the provisions of the current Development Plan and would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board did not accept the inspector's reasons for recommending refusal of planning permission based on the following:

In respect of the inspector's recommended reason number one, the Board concluded that having regard to the unique nature of the proposed development and use as a retreat/wellness centre, it was suited to a rural location and is supported by policy, including of particular relevance policy 8-5 of the Tipperary County Development Plan 2022-2028, and that it met the required criteria set out in this policy.

Furthermore, based on the low volume of traffic that currently exists at this location and the low level of additional traffic that would be likely generated by reason of the proposed development and the proposals for parking provision for all vehicles within the site boundary, the Board was satisfied that the proposed development could not reasonably be considered as endangering public safety by reason of a traffic hazard and/or an obstruction to road users. Accordingly, the Board did not share the inspector's contrary findings set out in recommended reason number one of the inspector's report.

In respect of the inspector's recommended reason number two, the Board noted the inspector was of the view that the subsurface percolation test revealed a subsurface percolation/T-value of 181.30 and found that this was an indication of a slow percolation rate ($T > 120$), a finding that formed the basis of recommending refusal as set out in recommended reason number two. On a review of the documentation on file, specifically Section 3.3a (Subsurface percolation test for subsoil) of the site characterisation form received by the planning authority on the 7th day of February 2023, the value of 181.30 referenced in that form is not the percolation value, but is instead the average T_{100} , being the collective average time taken for the water level to drop by 100 millimetres in each of three subsurface percolation test holes (Step 3 of the test method). The required subsurface percolation value is obtained by dividing the T_{100} value by 4 in accordance with Step 4 of the test method. The submitted site characterisation revealed a subsurface percolation value of 47.96 min/25mm. This subsurface percolation value is the applicable value rather than the value of 181.30 referred to in the inspector's report and of relevance the value lies within the allowable ranges of percolation values (3-120) for the acceptability of the soils to receive treated effluent as set out in Table 6.4 of the 'EPA Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)' – Environmental Protection Agency, 2021. The Board was satisfied that it has been

demonstrated by the applicant, through the site characterisation details on file including the subsurface percolation values obtained from the percolation testing, that the site is suitable for treatment followed by disposal of effluent on-site. Accordingly, the Board did agree with the contrary finding of the inspector that the effluent could not be satisfactorily treated and disposed of on site.

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 submitted to the planning authority on the 7th day of February 2023, 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. The northern entrance shall be permanently and effectively closed off and the roadside boundary shall be setback to achieve the required sight triangle, details of which shall be submitted to and agreed in writing with the planning authority prior to commencement of the development.

Reason: In the interest of traffic safety.

3. The proposed parking bays shall be clearly delineated in thermoplastic markings on the ground prior to the occupation and the area shall be reserved solely for the parking of vehicles and shall not be used for any other purpose.

Reason: In the interest of orderly development.

4. Site development and building works shall be carried out only between the hours of 0700 to 1900 Monday to Friday inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviations 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.

5. The construction of the development shall be managed in accordance with a Construction 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 development, including noise management measures and off-site disposal of construction/demolition waste.

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

6. (a) The on-site wastewater treatment system including the percolation area/soil polishing filter hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted to the planning authority on 7th day of February 2023 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 and the relevant sections of Code of Practice – Treatment Systems for Small Communities, business, leisure centres and hotels.

(b) The location, construction and commissioning of the wastewater treatment system and percolation area shall be installed under the supervision of a

civil engineer or appropriately qualified professional, who upon completion of works/commissioning shall submit to the planning authority certification supported by photographs that the system has been laid out and constructed in accordance with the relevant codes of practice.

- (c) The owners/occupiers of the site shall be responsible for the maintenance of their waste water treatment system.

Reason: In the interest of public health and to prevent water pollution.

7. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

Reason: In the interests of visual and residential amenity.

8. The developer shall provide and arrange for the continuous and indefinite maintenance of an adequate supply of potable water for the domestic and sanitary needs of the development. Should connection to the public water supply become available, this shall be carried out in a technically satisfactory manner to the requirements of Uisce Éireann.

Reason: In the interest of public health.

9. Arrangements for the attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: In the interests of orderly development and public health.

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 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.

Reasons for disagreeing with the inspector's findings.

The Board did not accept the inspectors reasons for recommending refusal of planning permission based on the following:

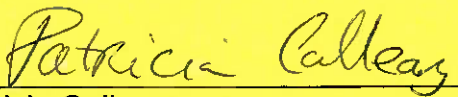
In respect of the inspector's recommended reason number one, the Board concluded that having regard to the unique nature of the proposed development and use as a retreat/wellness centre, it was suited to a rural location and is supported by policy, including of particular relevance policy 8-5 of the Tipperary County Development Plan 2022-2028, and that it met the required criteria set out in this policy.

Furthermore, based on the low volume of traffic that currently exists at this location and the low level of additional traffic that would be likely generated by reason of the proposed development and the proposals for parking provision for all vehicles within the site boundary, the Board was satisfied that the proposed development could not reasonably be considered as endangering public safety by reason of a traffic hazard and/or an obstruction to road users. Accordingly the Board did not share the inspector's contrary findings set out in recommended reason number one of the inspector's report.

In respect of the inspector's recommended reason number two, the Board noted the inspector was of the view that the subsurface percolation test revealed a subsurface percolation/T-value of 181.30 and found that this was an indication of a slow percolation rate ($T > 120$), a finding that formed the basis of recommending refusal as

set out in recommended reason number two. On a review of the documentation on file, specifically Section 3.3a (Subsurface percolation test for subsoil) of the site characterisation form received by the planning authority on 7th day of February 2023, the value of 181.30 referenced in that form is not the percolation value, but is instead the average T₁₀₀, being the collective average time taken for the water level to drop by 100mm in each of three subsurface percolation test holes (Step 3 of the test method). The required subsurface percolation value is obtained by dividing the T₁₀₀ value by 4 in accordance with Step 4 of the test method. The submitted site characterisation revealed a subsurface percolation value of 47.96 min/25mm. This subsurface percolation value is the applicable value rather than the value of 181.30 referred to in the inspector's report and of relevance the value lies within the allowable ranges of percolation values (3-120) for the acceptability of the soils to receive treated effluent as set out in Table 6.4 of the 'EPA Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)' – Environmental Protection Agency, 2021. The Board was satisfied that it has been demonstrated by the applicant, through the site characterisation details on file including the subsurface percolation values obtained from the percolation testing, that the site is suitable for treatment followed by disposal of effluent on-site. Accordingly, the Board did agree with the contrary finding of the inspector that the effluent could not be satisfactorily treated and disposed of on site.

Board Member


Patricia Calleary

Date: 11/03/2024