

An  
Bord  
Pleanála

**Board Direction**  
**BD-015543-24**  
**ABP-316521-23**

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The submissions on this file and the Inspector's report were considered at a Board meeting held on 26/02/2024.

The Board decided to grant permission (by majority decision 2:1), for the following reasons and considerations, and subject to the following conditions.

#### **Reasons and Considerations**

Having regard to the provisions of the Laois County Development Plan 2021-2027, the pattern of development in the area and to 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 not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board noted, *inter alia*, the traffic report titled 'Existing Entrance at Ballylehane Lower, Ballylinan, Co. Laois', dated January 2023, prepared by TPS M Moran & Associates – Traffic and Transportation Planning Consultants and the assessment and conclusions contained therein. The Board also noted the established entrance at this location, the established use on the application site and the limited trip generation arising. The Board considered that, subject to condition, the retention of the existing entrance would not pose an unacceptable risk to traffic safety on the adjacent local road.

## 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. Visibility sightlines of minimum distance 90 metres shall be provided and maintained at the site entrance as indicated on the 'Site Layout Plan' (drg. No. BW/PLN-002) and 'Access Arrangements & Visibility Sightlines' (DWG. No. 122-A59-LP01, Appendix 2.0 to report titled 'Existing Entrance at Ballylehane Lower, Ballylinan, Co. Laois – Traffic Report', prepared by TPS M Moran & Associates) received by the planning authority on the 13<sup>th</sup> day of February 2023.

**Reason:** In the interests of traffic safety.

3. The existing front boundary hedge shall be retained except to the extent that its removal is necessary to provide for the visibility sightlines subject of condition no. 2 of this Order.

**Reason:** In the interest of visual and rural amenities.

4. The proposed dwelling 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 from the date of this Order [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]. Within 3 months of the date of this Order, 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. 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.

5. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority and in accordance with the requirements of the document entitled "Code of Practice – Domestic Waste Water Treatment Systems (p.e. ≤ 10)" – Environmental Protection Agency, 2021. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) Within three months of the date of this Order, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

**Reason:** In the interest of public health.

6. 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.

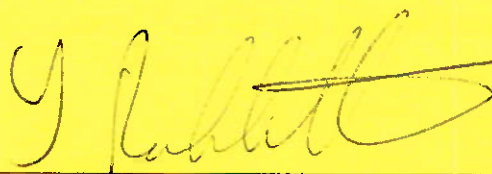
7. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

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

8. 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.

**Board Member**



Tom Rabbette

**Date:** 26/02/2024