

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

**Wicklow County**

**Planning Register Reference Number: 15/1335**

An Bord Pleanála Reference Number: PL 27.246287

**APPEAL** by Madeleine Scally care of Frank O’Gallachóir and Associates Limited of 94 Rathdown Park, Greystones, County Wicklow against the decision made on the 17<sup>th</sup> day of February, 2016 by Wicklow County Council in relation to an application by the said Madeleine Scally for permission for development comprising change of use (the removal of condition number 2 of a previous grant of permission, planning register reference number 05/3547), from the permitted use as a rural dwellinghouse, septic tank, entrance and associated works, which restricted its use to use as a dwelling by the applicant Sabine Smullen (the daughter of the current applicant) or to other persons primarily employed or engaged in agriculture in the vicinity, or to such class or persons as the planning authority may agree to in writing, to use by all classes of persons. Retention of dwellinghouse as constructed and associated site works on site number 1 Timmore, Newcastle, County Wicklow in accordance with the plans and particulars lodged with the said Council (which decision was to grant subject to conditions a permission for the said retention of dwellinghouse as constructed and associated site works on site number 1 and to refuse permission for the said change of use (the removal of condition number 2 of a previous grant of permission, planning register reference number 05/3547), from the permitted use as a rural dwelling house, septic tank, entrance and associated works, which restricted its use to use as a dwelling by the applicant Sabine Smullen (the daughter of the current applicant) or to other persons primarily employed or engaged in agriculture in the vicinity, or to such class or persons as the planning authority may agree to in writing, to use by all classes of persons).

## **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.**

### **MATTERS CONSIDERED**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

### **REASONS AND CONSIDERATIONS**

The “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April, 2005 indicate in Appendix 1 that seven years would be an appropriate period for a planning condition restricting the occupancy of rural houses. The subject house was constructed in excess of seven years and though the said house was not occupied, it specifically was not occupied by persons other than those authorised under condition number 2. Having regard to the time period lapsed since the permission under planning register reference number 05/3547 was enacted, the period of time since completion of construction and the period of time since the burden was registered on the title of the site, it is not considered reasonable that occupancy be further restricted beyond seven years. Furthermore, it is considered that, subject to compliance with the conditions set out below, the development proposed to be retained would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, would be acceptable in terms of traffic safety and convenience, would not set a precedent for similar such development, and would not be contrary to the proper planning and sustainable development of the area.

## CONDITIONS

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application, and by the further plans and particulars received by An Bord Pleanála on the 11<sup>th</sup> day of March, 2016, 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 and the development shall be retained and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

**Reason:** To ensure adequate servicing of the development, and to prevent pollution.

3. In all other regards, the development shall comply with the conditions attached to the permission granted under planning register reference number 05/3547, with the exception of condition number 2 of that permission.

**Reason:** In the interest of clarity.

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**Member of An Bord Pleanála  
duly authorised to authenticate  
the seal of the Board.**

**Dated this            day of            2016.**