

An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

Kilkenny County

Planning Register Reference Number: 16/27

An Bord Pleanála Reference Number: PL 10.246596

APPEAL by Mai Phelan of Hollymount, Ballaghmore, Borris-in-Ossory, Portlaoise, County Laois against the decision made on the 18th day of April, 2016 by Kilkenny County Council to grant subject to conditions a permission to Lar Sweeney of Ballyspellan, Johnstown, via Thurles, County Kilkenny in accordance with plans and particulars lodged with the said Council.

PROPOSED DEVELOPMENT: Construction of a straw bed sheep house, concrete apron and all associated site works, all at Ballyspellan, Johnstown, via Thurles, County Kilkenny.

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

Having regard to the pattern of development in the area and to the scale, nature and design of the proposed structure, 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 in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment

The Board noted the Appropriate Assessment Screening Report submitted by the applicant and the Appropriate Assessment Screening determination carried out by the Inspector in the initial and addendum reports. The Board concurred with the Inspector's determination, and adopted her conclusions and recommendations in this regard. The Board was therefore satisfied, having regard to the nature, location and scale of the proposed development, that, either individually or in combination with other plans or projects, it would not be likely to have a significant effect on any European site, including Spahill and Clomantagh Hill Special Area of Conservation (Site Code 000849), or any other European site, in view of the site's conservation objectives.

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 on the 24th 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 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. Slurry generated by the proposed development shall be disposed of by spreading on the lands indicated in the aerial photograph submitted to the planning authority on the 24th day of March, 2016. The location, rate and time of spreading (including prohibited times for spreading) and the buffer zones to be applied shall be in accordance with the requirements of the European Communities (Good Agricultural Practice for the Protection of Waters) Regulations, 2014, as amended. No spreading shall occur on any lands within the Spahill and Clomantagh Hill Special Area of Conservation (Site Code 000849).

Reason: To ensure the satisfactory disposal of waste material, in the interest of amenity, public health and to prevent pollution of watercourses.

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

Reason: In the interest of environmental protection, public health and to ensure a proper standard of development.

4. Details of the materials, colours and textures of all the external finishes to the proposed building shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In order to allow the planning authority to assess the impact of these matters on the visual amenity of the area prior to commencement of development.

5. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
- (a) Contoured drawings to scale of not less than [1:500] showing –
 - (i) a survey of all existing trees and hedging plants on the site, their variety, size, age and condition, together with proposals for their conservation or removal
 - (ii) a continuous hedge of indigenous species (for example, holly, hawthorn, beech or field maple) planted for the full length of the eastern boundary
 - (b) Proposals for the protection of all existing and new planting for the duration of construction works on site, together with proposals for adequate protection of new planting from damage until established.

Deciduous trees shall be planted at not less than two metres in height and evergreen species at not more than 750 millimetres in height. Species to be used shall not include either cupressocyparis x leylandii or grisellinia. Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 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.

6. 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.

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

Dated this day of 2016.