

# An Bord Pleanála



PLANNING AND DEVELOPMENT ACTS 2000 TO 2015

**Kildare County**

**Planning Register Reference Number: 16/250**

An Bord Pleanála Reference Number: PL 09.246639

**APPEAL** by William Donohoe care of Brian Watchorn of 25 Tonlegee Lawns, Athy, County Kildare and by Philip Moore care of Dean Moore of 5 Thomas court, Thomas Street, Dublin against the decision made on the 6<sup>th</sup> day of May, 2016 by Kildare County Council to grant subject to conditions a permission to the said Philip Moore in accordance with plans and particulars lodged with the said Council.

**PROPOSED DEVELOPMENT:** Demolition of an existing derelict former dwelling and garage, and the provision of a new detached split-level four bedroom house with attached garage with a new wastewater treatment system and soil filter with ancillary and associated site works at Killeel, Naas, County Kildare.

## **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 location of the site within the settlement of Killeel, to the planning history and 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 result in detrimental visual or landscape impacts, would not seriously injure the amenities of the area or of property in the vicinity of the site, would not seriously injure the cultural or archaeological heritage of the area, would not be prejudicial to public health and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## **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. (a) The proposed dwelling, when completed, 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 thereafter. Prior to commencement of development, 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.
- (b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

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 in the interest of the proper planning and sustainable development of the area.

3. 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.

4. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 14<sup>th</sup> day of March, 2016, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.

- (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.
- (d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.
- (e) Within three months of the first occupation of the dwelling, 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 and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

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

- 5. (a) The entrance gates to the proposed house shall be set back not less than four metres and not more than six metres from the edge of the public road. Wing walls forming the entrance shall be splayed at an angle of not less than 45 degrees and shall not exceed one metre in height.
- (b) The wing walls to the vehicular entrance shall consist of natural local stone.

**Reason:** In the interest of traffic safety and visual amenity.

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

**Reason:** In the interest of visual amenity.

7. Prior to commencement of development, details of the materials, colours and textures of all external finishes to the proposed development shall be submitted to and agreed in writing with the planning authority.

**Reason:** In the interest of visual amenity.

8. 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 roadside boundary, and
  - (iii) any hard landscaping works, including car parking layout, enclosed areas, lighting and outdoor seating, specifying surfacing materials.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.
- (c) 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.
- (d) A timescale for implementation

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 griselinia. Any plants which die, are removed or become seriously damaged or diseased, within a period of five 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.

9. No development shall take place until details of earthworks have been submitted to, and agreed in writing with, the planning authority. These details shall include the following:
  - (a) Soil and subsoil cross-sections.
  - (b) Plans and sections showing the proposed grading and mounding of land areas, including the levels and contours to be formed.
  - (c) The relationship of the proposed mounding to the existing vegetation and surrounding landform, including adjoining residential properties to the north and south.

Development, including landscaping required by condition number 8 of this order, shall be carried out in accordance with the approved earthworks plan.

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

10. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
  - (b) employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and
  - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove.

In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

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

**Dated this            day of            2016.**