



An  
Bord  
Pleanála

**Board Order**

**PL 09.249052**

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## **Planning and Development Acts 2000 to 2017**

**Planning Authority: Kildare County Council**

**Planning Register Reference Number: 16/796**

**Appeal** by Fergal O'Neill care of BPS Planning Consultants of 23 Saval Park Road, Dalkey, County Dublin against the decision made on the 21<sup>st</sup> day of July, 2017 by Kildare County Council to grant subject to conditions a permission to Gerard Walsh care of Brian Connolly Associates of The Studio, Woods Way, Clane, County Kildare in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Remove condition number 3 of planning file register reference number 93/1212 relating to sterilisation of lands, construction of a bungalow, detached domestic garage, septic tank with percolation area and all ancillary site works at Barrettstown, Clane, 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 provisions of the Kildare County Development Plan 2017 – 2023 and compliance with Local Needs Policy, to the single storey nature, form, scale and design of the proposed development, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the visual or residential amenities of the area, would be acceptable in terms of traffic safety and convenience and 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, as amended by the further plans and particulars submitted on the 15<sup>th</sup> day of February, 2017 and the 26<sup>th</sup> day of June, 2017, 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. This grant of permission allows for the amendment of condition number 1 of Kildare County Council planning register reference number 93/1212 in order to permit the proposed development on behalf of the applicant. The lands remain sterilised on foot of the previous permissions and all agreements entered into thereunder.

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

3. (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, 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. 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.

4. The proposed development shall be amended as follows:
  - (a) Relocate the proposed entrance to the south-west corner of the site.

Revised drawings showing compliance with this requirement shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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 hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

6. The proposed road improvements shall be in accordance with the detailed requirements of the planning authority for such works and shall be carried out at the developer's expense. Details in this regard shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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

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

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

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

9.
  - (a) The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.
  - (b) Treated effluent from the septic tank system shall be discharged to a raised percolation area which shall be provided in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.
  - (c) 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 raised percolation area is constructed in accordance with the standards set out in the EPA document.

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

10. A detailed proposal for retaining in situ Borehole 4 (BH4) located 15 metres from the proposed dwelling, and for undertaking bi-annual landfill gas monitoring in accordance with the parameters detailed in Table 2 of the report titled Generic Quantitative Risk Assessment: Proposed Dwelling adjacent to Digby Bridge Refuse Depot, Barrettstown, County Kildare (Report Number:1667255.R01.A1) submitted to the planning authority on the 26<sup>th</sup> day of June, 2017 shall be submitted to, and agreed in writing with the planning authority prior to commencement of development.

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

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

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

12. The existing front boundary hedge shall be retained except to the extent that its removal is necessary to provide for the entrance to the site.

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

13. The landscaping scheme shown on drawing number P1446/03 shall be carried out within the first planting season following substantial completion of external construction works. All planting shall be adequately protected from damage until established. 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 the interest of residential and visual amenity.

