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**Planning and Development Acts 2000 to 2018**

**Planning Authority: Cork County Council**

**Planning Register Reference Number: 18/06492**

**Appeal** by Brian Collins care of John MacCarthy of 16 Mary Street, Cork against the decision made on the 3<sup>rd</sup> day of December, 2018 by Cork County Council to grant subject to conditions a permission to Robert O'Mahony care of Dan O'Brien of Ballinamona, Mourne-Abbey, Mallow, County Cork in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Construction of a dwellinghouse, on-site waste water treatment system and all associated site works at Bridgestown, Bridgestown (Townland), Inniscarra, County Cork.

**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 relevant provisions of the Cork County Development Plan 2014, to the pattern of development in the area and to the demonstration of a genuine economic and social need to live in this rural area under strong urban pressure, 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 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 considered that the additional information submitted by the applicant on foot of the section 137 notice issued by the Board provided sufficient evidence of an economic and social need to live in 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 22<sup>nd</sup> day of November, 2018, 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, 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, as amended, 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 to meeting essential local need, in the interest of the proper planning and sustainable development of the area.

3. The external walls shall be uniformly finished in a neutral shade of painted plaster.

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

4. 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.

5. Sight distances of 90 metres to the east and west of the site entrance shall be provided from the centre point of the site entrance, three metres back from the edge of the public road. Sightlines are to be measured to the nearest roadside edge in both directions and no vegetation or structure shall exceed one metre in height within the sight distance triangle.

**Reason:** To provide proper sightlines for emerging traffic and in the interest of traffic safety.

6. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. 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.

7. (a) A proprietary effluent treatment and disposal system shall be provided, which shall be designed, constructed and maintained in accordance with the requirements of the planning authority. Details of the system to be used, and 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 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.

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

8. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

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

9. 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.

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**Dave Walsh**

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

**Dated this            day of            2019.**