



Planning and Development Acts 2000 to 2018

Planning Authority: Wicklow County Council

Planning Register Reference Number: 18/1173

Appeal by Justin Byrne of Kilcarra, Arklow, County Wicklow against the decision made on the 26th day of February, 2019 by Wicklow County Council to grant subject to conditions a permission to Ciara Garvey and Jason Corr care of Alphaplan Design of Suite 14, Block 1, Broomhall Business Park, Rathnew, County Wicklow in accordance with plans and particulars lodged with the said Council:

Proposed Development: Dwelling, waste water treatment system to EPA 2009 standards, stables and associated works, all at Mongan, Kilcarra, Arklow, County Wicklow.

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 proposed development within a rural cluster, as designated in the Wicklow County Development Plan 2016-2022, to the suitability of the site for the safe disposal of domestic effluent and the lightly trafficked nature of the local road network, it is considered that the proposed development would not give rise to surface or ground water pollution, would not endanger public safety by reason of traffic hazard and would, therefore, be in accordance with the settlement strategy, as set out in the current Development Plan for the area and 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 7th day of February, 2019, 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 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. Prior to commencement of development revised plans and particulars shall be submitted for the written agreement of the planning authority providing for the following:
 - (a) The repositioning of the effluent pipe from the proposed dwelling house to the domestic waste water treatment system to avoid it passing under the proposed stable block.
 - (b) The repositioning of the proposed surface water percolation area from within the curtilage of the adjoining site to the east to within the curtilage of the application site.

Reason: In the interest of public health.

4.
 - (a) The roof colour of the proposed house and stables shall be blue black, black, dark brown or dark-grey. The colour of the ridge tile shall be the same as the colour of the roof.
 - (b) The external walls shall be finished in neutral colours such as grey or off-white.

Reason: In the interest of visual amenity.

5. The water supply to serve the proposed dwelling shall have sufficient yield to serve the proposed development and the water quality shall be suitable for human consumption. Details showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate water is provided to serve the proposed dwelling and in the interest of public health.

6. 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. In this regard-
 - (a) uncontaminated surface water run-off shall be disposed of directly in a sealed system, and
 - (b) all soiled waters shall be directed to a storage tank. Drainage details shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of environmental protection and public health.

7.
 - (a) The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled “Wastewater Treatment Manual – Treatment Systems for Single Houses” – 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 “Wastewater Treatment Manual – Treatment Systems for Single Houses” – 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.

- 8. Slurry generated by the proposed development shall be disposed of by spreading on land, or by other means acceptable in writing to the planning authority. 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, 2017(S.I. Number 605 of 2017).

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

- 9. 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. This scheme shall include the following:
 - (a) the establishment of a hedgerow along all side and rear boundaries of the site, and

- (b) planting of trees at metre intervals along the roadside boundary of the site.

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 assimilate the proposed development into the surrounding rural landscape, in the interest of visual amenity.

10. 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.

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

Dated this day of 2019.