



Planning and Development Acts 2000 to 2018

Planning Authority: Cork County Council

Planning Register Reference Number: 19/00002

Appeal by Mark and Tanya Rodgers care of O'Flynn Exhams Solicitors of 58 South Mall, Cork against the decision made on the 28th day of February, 2019 by Cork County Council to refuse permission for the proposed development.

Proposed Development: (a) retention and completion of (a) dwelling house, (b) retention of stable/feed store, (c) retention of log store, (d) retention of mobile home for a period of one year, (e) retention of existing site entrance, (f) retention of house, stable/feed store, mobile home, log store, wastewater treatment system, well, site entrance and driveway within revised side boundaries, and (g) construction of a workshop at Dunboy, Castletownbere, 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 location of the site within lands designated in the current Cork County Development Plan 2014 as a greenbelt around Castletownbere, and taking account of the planning history of the site, the considerable passage of time since the development was permitted and erected, and that the current proposal seeks to complete and finish the development for occupation as habitable dwelling, as well as National Policy Objectives 19 and 21 of the National Planning Framework (2018) and the policies and objectives of the Cork County Development Plan 2014 and of the West Cork Municipal District Local Area Plan 2017, it is considered that, subject to compliance with the conditions set out below, the development proposed to be retained and completed would generally be in accordance with the rural settlement and rural job creation objectives of the National Planning Framework and with the Development Plan designation of the area as a greenbelt, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience, particularly in light of the lightly trafficked nature of the local road and the use of the existing entrance, and would not be prejudicial to public health. The proposed development and the development proposed to be retained would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board noted that the planning authority had decided to refuse permission because it was considered that the proposed development would constitute material contravention of the Development Plan. However, having regard to the provisions of Section 37(2)(b)(iv) of the Planning and Development Act, 2000, as amended, and in particular, the pattern of development and permissions granted in the area since the making of the Development Plan, the Board considered that planning permission should be granted for the proposed development.

Conditions

1. The development shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application, as amended by further plans and particulars submitted to An Bord Pleanála on the 26th day of March 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 retained, carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The workshop shall be used solely as a commercial workshop ancillary to a domestic house, with the stable/feed store for recreational use. A change of use or intensification of this use shall not take place without the benefit of a further planning permission, notwithstanding the exempted development provisions of the Planning and Development Regulations 2001, as amended. The development shall not be separated from the main house by way of sale or letting or otherwise independently used as offices or commercial activities, including the

repair and/or storage of motor vehicles, or by any other user apart from the occupiers of the main dwellinghouse.

Reason: In the interest of orderly development and to safeguard the amenities of the area.

3. (a) The workshop equipment which currently occupies the ground floor of the dwellinghouse shall be removed in its entirety and the interior of the dwellinghouse shall be completed and finished for occupation as the applicant's residence within six months of the date of this order.
- (b) The existing mobile home shall be removed in its entirety from the site within 12 months of the date of this order.

Reason: In the interest of orderly development.

4. The external walls of the dwellinghouses shall be finished in a neutral coloured nap plaster render, using colours such as grey or off-white. Details in this regard shall be agreed in writing with the planning authority.

Reason: In the interest of visual amenity.

5. The workshop shall not be used for any commercial activity outside the hours of 0800 to 1900 Monday to Friday inclusive and 0800 to 1400 on Saturdays and shall not be used at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: To safeguard the residential amenities of property in the vicinity.

6. Receptacles for waste shall be provided and available for use at all times on the premises, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of construction works on the workshop. No goods, raw materials or waste products shall be placed or stored outside the building, other than in receptacles approved by the planning authority.

Reason: In the interests of public health and of the amenities of the area.

7. The noise level from activities carried out within or in the vicinity of the workshop shall not exceed 55 dB(A) rated sound level, as measured at the nearest occupied dwelling. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development of the workshop.

Reason: To protect the amenities of property in the vicinity of the site.

8. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected within the curtilage of the site unless authorised by a further grant of planning permission.

Reason: In the interest of visual amenity.

9. The stable/feed store shall be used only in strict accordance with a management schedule which shall be submitted to, and agreed in writing with, the planning authority within one month of the date of this order. The management schedule shall be in accordance with the European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2017 and with the Department of Agriculture 'Specification S156 Jan 2016: Minimum Specification for Horse Facilities and Fencing' and shall provide for the following:
- (a) details of the number of horses to be housed,
 - (b) the arrangements for the collection, storage and disposal of effluent and soiled bedding, and
 - (c) arrangements for the cleansing of the structure.

Reason: In order to avoid pollution and protect residential amenity.

10. 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. In this regard –
- (a) uncontaminated surface water run-off shall be disposed of directly into a sealed system,
 - (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, and

- (c) No surface water shall be discharged onto the public road or adjoining properties.

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

- 11. (a) The entrance gates to the proposed access track serving the development 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. The layout of the road access arrangements to the development proposed to be retained and the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to two months of the date of this order.
- (b) 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.
- (c) The access driveway to the development proposed to be retained and the proposed development shall be provided with adequately sized pipes and ducts to ensure that no interference will be caused to existing roadside drainage.

Reason: In the interest of traffic safety.

- 12. All public service cables for the development proposed to be retained and the proposed development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

13. The site shall be landscaped, using only indigenous deciduous plants 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.

14. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting 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.

Dave Walsh

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

Dated this day of 2019.