



An
Bord
Pleanála

Board Order
ABP-304218-19

Planning and Development Acts 2000 to 2019

Planning Authority: Waterford City and County Council

Planning Register Reference Number: 19/37

Appeal by Alex O'Neill care of Michael Tobin Architecture of Haggard, Glenmore, County Kilkenny against the decision made on the 21st day of March, 2019 by Waterford City and County Council to refuse permission for the proposed development.

Proposed Development: The erection of a single storey house, entrance and percolation area at Monamintra, Grantstown, Waterford.

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 applicant's response to An Bord Pleanála's section 137 notice dated the 2nd day of October, 2019, received on the 14th day of October, 2019, the Board noted the changed circumstances regarding the location of the applicant's employment and decided to grant permission.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board had regard to the applicant's response to its section 137 notice received by An Bord Pleanála on the 14th day of October, 2019, including the changed circumstances regarding the change in the applicant's employment and was therefore satisfied that she had demonstrated an economic need to reside at this rural location. Furthermore, the Board considered that the inclusion of condition number 6 of its Order would prevent the encroachment of random rural development on the remainder of its landholding.

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 information received by An Bord Pleanála on the 14th day of October, 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. Water supply and drainage arrangements, including the 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.

3. All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

Reason: In the interest of traffic safety.

4. (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) 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 in accordance with the standards set out in the Environmental Protection Agency document.
- (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 dwelling house 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.

Reason: In the interest of public health.

5. Prior to commencement of development, a detailed Landscape Plan for the site with full works specifications shall be submitted to, and agreed in writing with, the planning authority. This plan shall include detailed specifications relating to boundary treatment, planting and hard surfaces where necessary. The site shall be landscaped in accordance with the agreed scheme. All planting shall be carried out in the first planting season following the commencement of development and shall be permanently retained thereafter. Any tree which dies, decays or is removed within the first five years of being planted shall be replaced with a tree of similar species and size

Reason: In the interest of visual amenity and to protect the rural character of the area.

6. Prior to commencement of development, the developer shall enter into an agreement with the planning authority, pursuant to section 47 of the Planning and Development Act, 2000, agreeing to sterilise the remainder of the land within the blue line as shown on the Land Registry Compliant Map on which the site is located submitted to An Bord Pleanála on the 14th day of October, 2019.

Reason: To prevent encroachment of random rural development and to preserve the rural character and the amenities of the area.

7. (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.

8. 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.

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.

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

Dated this day of 2019