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**Planning and Development Acts 2000 to 2019**

**Planning Authority: Wexford County Council**

**Planning Register Reference Number: 20191559**

**Appeal** by Brian Cousins of The Fairy Lane, Tomsilla Lower, Gorey, County Wexford against the decision made on the 20<sup>th</sup> day of March, 2020 by Wexford County Council to grant subject to conditions a permission to Jake O'Shea care of Molloy Architecture and Design Studio, 9 McCurtain Street, Gorey, County Wexford in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Erection of a bungalow with garage under roof and with services and ancillary works at Boley and Bolinready, Ballycanew, County Wexford.

**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, siting and design of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of property in the vicinity or the visual amenities or cultural heritage of the area. The proposed development would, therefore, be in accordance with the proper planning and development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board did not consider that the proposed development would have an adverse or disproportionate visual impact or erode the rural character of the area. It considered the siting and design of the proposed development would be acceptable in the context of the surrounding landscape and the pattern of development 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 25<sup>th</sup> day of February, 2020, 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. The access to the site shall be constructed in accordance with the submitted plans. The works to provide the required sightlines shall be carried out prior to works commencing on the proposed dwelling house. The planning authority shall be notified in writing two weeks in advance of the access works commencing.

**Reason:** To ensure site access during construction with the provision of the required sightlines in the interest of traffic safety.

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 [to meeting essential local need] in the interest of the proper planning and sustainable development of the area.

4. The dwelling shall be used as a permanent residence only.

**Reason:** In the interest of appropriately controlling development in this rural area.

5. All new side and rear boundaries shall be hedged with a mix of deciduous shrubs suitable for hedging and common to the locality (e.g. holly, hawthorn, blackthorn, field maple). The hedging shall be planted continuously in double rows at 400 millimetres intervals along the boundaries of the site. A minimum of six deciduous trees (not dwarfed) species shall be included in the hedgerow or elsewhere in the landscaping of the site. Suggested species include field maple, sycamore, silver birch, rowan, white beam, and space permitting, oak, beech or chestnut. The hedging plants and trees shall be maintained indefinitely and replaced if failures occur. All landscaping shall take place in the first planting season upon commencement of development.

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

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

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

7. Surface water from the site shall not be permitted to drain onto the adjoining public road.

**Reason:** In the interest of traffic safety.

8. 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, demonstrating 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, in the interest of public health.

9. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority 25<sup>th</sup> day of February, 2020, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. 10)" – Environmental Protection Agency, 2009. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.
- (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (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 dwellinghouse 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.

- (d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.
- (e) 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 and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

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

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.

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

**Dated this            day of            2020.**