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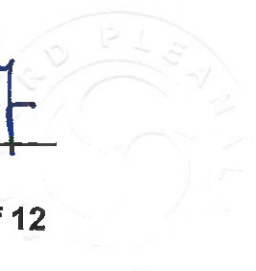
**Planning and Development Acts 2000 to 2020**

**Planning Authority: Kildare County Council**

**Planning Register Reference Number: 20/819**

**Appeal** by Karen Brownlee care of Hughes Planning and Development Consultants of 70 Pearse Street, Dublin and by Michael John Ryan Limited care of Hughes Planning and Development Consultants of 70 Pearse Street, Dublin and by Michael O'Callaghan Racing Limited care of David Mulcahy Planning Consultants Limited of 67 Old Mill Race, Athgarvan, Newbridge, County Kildare against the decision made on the 15<sup>th</sup> day of January, 2021 by Kildare County Council to grant subject to conditions a permission to Michael O'Callaghan Racing Limited in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** Retention for the improvements to the existing vehicular entrance and existing earth works at the location of the proposed stable yard. Planning permission is sought for (1) Alterations to existing earthworks (2) Stable shed including 32 stables, tack room, meal store, staff kitchen, staff changing areas with shower and toilet facility (3) Six bay shed for hay/straw store and one bay dedicated to farm machinery store facility (4) Two number horse walkers (5) Roofed manure pit (6) Underground soiled water tank (7) Wastewater treatment system including polishing filter and



percolation area (8) Associated parking spaces (9) Two-storey dwelling including two car garage (10) Installation of a water well (11) Septic tank and percolation area (12) All associated site works including, internal access roads, horse paddocks, galloping track, surface water drainage, and all hard and soft landscaping, all at Park Lane (L-6061), Grange Beg, Dunlavin, County Kildare.

## 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.



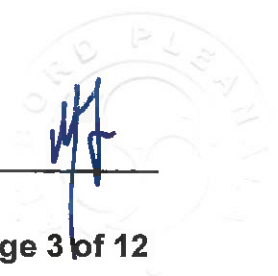
## Reasons and Considerations

Having regard to the nature and scale of the proposed development and the development proposed to be retained, it is considered that, subject to compliance with the conditions set out below, the proposed development of an equine enterprise and a house would comply with rural housing and rural development policies of the Kildare County Development Plan 2017- 2023, including Policy RH18 of the Development Plan addressing the requirements for a rural house based on the establishment of a full-time viable commercial equine enterprise, would not seriously injure the visual or residential amenities of the area or of property in the vicinity, would feature an appropriate means of vehicular access that would not result in traffic hazard, would not result in the deterioration of water quality or local ecology and would be in accordance with the provisions of the Kildare County Development Plan 2017 - 2023. 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.

## Conditions

1. The development shall be carried out, retained and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 16<sup>th</sup> day of December, 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 the 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 applicants, the stated applicant company owners, Michael O'Callaghan and Siobhan O'Callaghan, members of the applicants' 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. The development shall be carried out on a phased basis, in accordance with a phasing scheme which shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of any development. The phasing scheme shall require the necessary road improvement works along the L-6061 local road to be in situ prior to the operation of the equine enterprise facility and shall require the operation of the proposed equine enterprise in advance of the occupation of the proposed house.

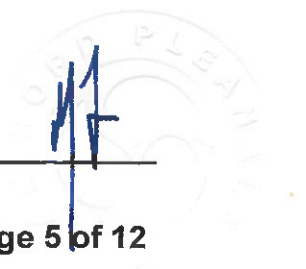
**Reason:** To ensure an orderly form of development in the interest of the proper planning and sustainable development of the area.

4. Details of the materials, colours and textures for the house and equine structures, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the development.

**Reason:** In the interest of the visual amenities of the area.

5. The water supply to serve the house shall have sufficient yield to serve the 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 the occupation of the house.

**Reason:** To ensure that adequate water is provided to serve the proposed house, 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

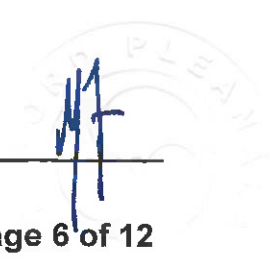
(b) all soiled waters shall be directed to storage tanks. Drainage details shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development.

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

7. (a) The site shall be landscaped with indigenous deciduous trees and hedging species within the first planting season following the completion of the development in accordance with the landscaping plan submitted to the planning authority on the 27<sup>th</sup> day of July, 2020.

(b) 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.



8. (a) The wastewater treatment plants and percolation areas shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 27<sup>th</sup> day of July 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 types proposed in the application shall be installed unless agreed in writing with the planning authority.
- (b) Certification by the system manufacturers that the systems have been properly installed shall be submitted to the planning authority within four weeks of the installation of the systems.
- (c) A maintenance contract for the treatment systems shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the equine facility and 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 installations.
- (d) Surface water soakways shall be located such that the drainage from the dwelling, equine facility and hardstanding areas of the site shall be diverted away from the location of the polishing filters.

- (e) Within three months of the first occupation of the dwelling and the equine facility, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the respective effluent treatment systems have been installed and commissioned in accordance with the approved details and are working in a satisfactory manner and that the percolation areas are constructed in accordance with the standards set out in the EPA Code of Practice.

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

- 9. The stables shall be used only in strict accordance with a management schedule, which shall be submitted to, and agreed in writing with, the planning authority, prior to commencement of development. The management schedule shall be in accordance with the European Union (Good Agricultural Practice for Protection of Waters) Regulations 2017, as amended by S.I. 65 of 2018 and S.I. 40 of 2020, and shall provide at least for the following:
  - (a) Details of the number and types of animals to be housed.
  - (b) The arrangements for the collection, storage and disposal of slurry.
  - (c) Arrangements for the cleansing of the buildings and structures.

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



10. All foul effluent and slurry/manure generated by the proposed development shall be conveyed through properly constructed channels to the proposed storage facilities and no effluent or slurry/manure shall discharge or be allowed to discharge to any stream, river or watercourse, or to the public road.

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

11. All uncontaminated roof water from buildings and clean yard water shall be separately collected and discharged in a sealed system to adequate soakpits and shall not discharge or be allowed to discharge to the foul effluent drains, foul effluent and soiled water storage tanks or to the public road.

**Reason:** In order to ensure that the capacity of effluent and storage tanks is reserved for their specific purposes.

12. Slurry/manure 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 Union (Good Agricultural Practice for Protection of Waters) Regulations 2017, as amended by S.I. 65 of 2018 and S.I. 40 of 2020.

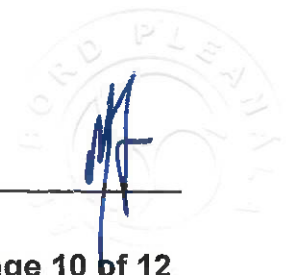
**Reason:** To ensure the satisfactory disposal of water material, in the interest of amenity, public health and to prevent pollution of watercourses.

13. A minimum of 16 weeks storage shall be provided in the storage tanks. Prior to commencement of development, details showing how it is intended to comply with this requirement shall be submitted to, and agreed in writing with, the planning authority.

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

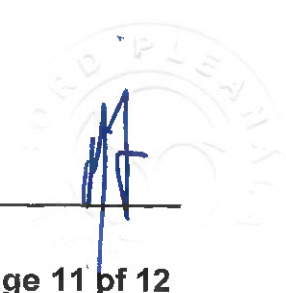
14. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the 'Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects', published by the Department of the Environment, Heritage and Local Government in July 2006.

**Reason:** In the interest of sustainable waste management.



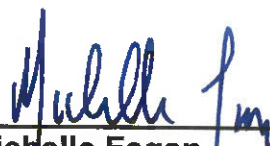
15. The developer shall pay the sum of €40,000.00 (forty thousand euro) (updated at the time of payment in accordance with changes in the Wholesale Price – Building and Construction (Capital Goods), published by the Central Statistics Office), to the planning authority as a special contribution under section 48(2)(c) of the Planning and Development Act 2000, as amended, in respect of the provision of three inter-visible passing bays to NRA technical advice specification along the western section of the local road L-6061 connecting the site with the R412 regional road. This contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority might facilitate. The application of indexation required by this condition 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.

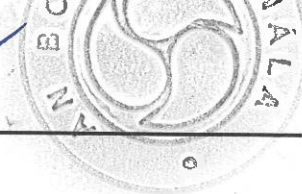
**Reason:** It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority, which are not covered in the Development Contribution Scheme and which benefit the proposed development.



16. The developer shall pay to the planning authority a financial contribution of €26,622 (twenty-six thousand, six-hundred and twenty-two euro) 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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**Michelle Fagan**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**



Dated this *22<sup>nd</sup>* day of *October* 2021.