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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Meath County Council**

**Planning Register Reference Number: NA/200404**

**Appeal** by David O'Connell care of Ger Fahy Planning of Mulhussey, Maynooth, County Kildare against the decision made on the 25<sup>th</sup> day of May, 2021 by Meath County Council in relation to an application made by Sinead Norman care of O'Daly Architects of 1<sup>st</sup> Floor, Unit 13B Mullaghoy Industrial Estate, Navan, County Meath for permission for (1) change of use of ground floor of existing dwelling to use as a café, construction of a new single storey, glazed seating area extension to new café to south and west elevations of existing dwelling, (2) construct a new one-and-a-half storey domestic extension to the east of the existing dwelling, (3) construct six number "A - Frame" camping huts along with general tent camping area for occasional use and toilet/shower building to west of Bective Mill (a protected structure), (4) install new wastewater treatment system to serve all existing and proposed development on site, (5) new car parking and associated works along with provision of traffic signals at existing entry and Bective Bridge (a protected structure) in conjunction with the local authority and (6) removal of a number of unauthorised structures from site at Bective, Navan, County Meath in accordance with the plans and particulars lodged with the said Council (which decision was to grant subject to conditions permission for (1) change of use of ground floor of existing dwelling to use as a café, construction of a new single storey, glazed seating area extension for new café to south and west

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elevations of existing dwelling, (2) construct a new one-and-a-half storey domestic extension to the east of the existing dwelling, (3) construct "A - Frame" camping huts, (4) install new wastewater treatment system to serve all existing and proposed development on site, (5) new car parking and associated site works along with provision of traffic signals at existing entry and Bective Bridge (a protected structure) in conjunction with the local authority and (6) removal of a number of unauthorised structures from the site and to refuse permission for the general tent camping area). Further public notices were received by the planning authority on the 29<sup>th</sup> day of April, 2021.

## **Decision**

**GRANT permission for (1) change of use of ground floor of existing dwelling to use as a café, construction of a new single storey, glazed seating area extension for new café to south and west elevations of existing dwelling, (2) construct a new one-and-a-half storey domestic extension to the east of the existing dwelling, (3) construct six number "A - Frame" camping huts, (4) install a new wastewater treatment system to serve the existing and proposed development on site, (5) new car parking and associated site works and (6) removal of a number of unauthorised structures from the site in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below.**

**REFUSE permission for the (1) general camping area and (2) signalisation of Bective Bridge (a protected structure) along the local road (L4010) and any related physical works to Bective Bridge based on the reasons and considerations marked (2) under.**

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## Reasons and Considerations (1)

Having regard to: -

- (a) the Meath County Development Plan 2021-2027 and in particular the applicable zoning of the proposed development site as Rural Area (RA) which includes caravan and camping park, restaurant/café (where ancillary to tourism uses) and residential (subject to compliance with the rural settlement strategy) as permissible uses,
- (b) the design, layout and scale of the proposed development,
- (c) the pattern of development in the area,
- (d) the Planning System and Flood Risk Management Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in November, 2009,
- (e) the submissions and observations received in the course of the application and the appeal, and
- (f) the report and recommendation of the Planning Inspector,

it is considered that, subject to compliance with the conditions set out below, the proposed development would be an appropriate form and type of development, would not adversely affect the environment and would not seriously injure the amenities of the area or of property in the vicinity or generate a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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## **Appropriate Assessment Screening**

The Board completed an Appropriate Assessment screening exercise in relation to the potential effects of the proposed development on designated European sites, taking into account the nature, scale and location of the proposed development within a zoned and serviced urban site, the information for the Screening for Appropriate Assessment submitted with the application, the Inspector's Report, and the submissions on file. In completing the screening exercise, the Board adopted the report of the Inspector and concluded that, by itself or in combination with other development in the vicinity, the proposed development would not be likely to have a significant effect on any European Site in view of the conservation objectives of such sites other than the River Boyne and River Blackwater Special Area of Conservation (Site Code 002299) and the River Boyne and River Blackwater Special Protection Area (Site Code 004232) where the proposed development has the potential to have a significant effect in view of the conservation objectives for these sites and for which Appropriate Assessment is, therefore, required.

## **Appropriate Assessment**

The Board considered the Natura Impact Statement and all other relevant submissions and carried out an appropriate assessment of the implications of the proposed development on the River Boyne and River Blackwater Special Area of Conservation (Site Code 002299) and the River Boyne and River Blackwater Special Protection Area (Site Code 004232) in view of the sites' conservation objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' conservation objectives using the best available scientific knowledge in the field. In completing the assessment, the Board considered, in particular, the following:

- (a) the likely direct and indirect impacts arising from the proposed development both individually or in combination with other plans or projects,
- (b) the mitigation measures which are included as part of the current proposal, and
- (c) the conservation objectives for the European sites.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's report in respect of the potential effects of the proposed development on the aforementioned European sites, having regard to the sites' conservation objectives.

In overall conclusion, the Board was satisfied that the proposed development, by itself or in combination with other plans or projects, would not adversely affect the integrity of the European sites in view of the sites' conservation objectives. This conclusion is based on a complete assessment of all aspects of the proposed project and there is no reasonable scientific doubt as to the absence of adverse effects.

In deciding not to accept the Inspector's recommendation to refuse permission for the elements of the development hereby permitted in the grant of permission for reasons and considerations set out in Schedule 1, the Board considered that the proposed development is located close to Bective rural node and that the uses proposed are permitted in areas zoned 'RA - Rural Area' as set out in the Reasons and Considerations (1) above. The Board also noted that while under Section 4.29.1 (Caravan/Camping grounds) of the Meath County Development Plan 2021-2027, it is stated that the development of these amenities should ideally be located within or at the edge of development centres within the County, they are not precluded from other locations including RA - Rural Areas.

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The Board also considered that the nature and scale of the development is of a type that would not detract from the visual amenities of the area or negatively impact on the setting of Bective Mill or Bective Bridge (both protected structures) or give rise to a traffic hazard onto L4010.

## Conditions

1. The elements of the development hereby permitted 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 9<sup>th</sup> day of April 2021, 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 wastewater treatment system and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 25<sup>th</sup> day of March, 2020, including the design presented in the report prepared by Mitchell Environmental and in accordance with the requirements of the document "Wastewater Treatment Manual: Treatment Systems for Small Communities, Business, Leisure centres and Hotels" and the applicable parts of "Wastewater Treatment and Disposal Systems serving Single Houses", Environmental Protection Agency (current editions). No system other than the type proposed in the details submitted to the planning authority shall be installed unless agreed in writing with the planning authority.

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- (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 development 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) Any surface water soakways shall be located such that the drainage from the hard surface/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 development, 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 are in accordance with the standards set out in the Environmental Protection Agency document.

**Reason:** In the interest of public health and protection of the environment.

3. The existing septic tank and soakway on site shall be removed and decommissioned and permanently removed off site following the connection of the new wastewater treatment system. Prior to the commencement of the development, details of the methodology for the decommissioning shall be submitted to, and agreed in writing with, the planning authority.

**Reason:** In the interest of public health and protection of the environment.

4. No physical works to Bective Bridge (a protected structure - ME031-042) along the L4010 or removal of any part of the bridge parapet wall shall be undertaken.

**Reason:** In the interest of protection of the architectural heritage of the area.

5. Prior to commencement of development, details of measures to protect fisheries and the water quality of the river systems shall be outlined and placed on file by the local authority, generally in accordance with the Inland Fisheries Ireland's published updated guidelines for construction works near waterways (Guidelines on Protection of Fisheries during Construction Works in and Adjacent to Waters, 2016).

**Reason:** In the interest of the protection of receiving water quality, fisheries and aquatic habitats.

6. The proposed development shall be carried out in full compliance with all Mitigation Measures as outlined in the Natura Impact Statement received by the planning authority on the 9<sup>th</sup> day of April, 2021.

**Reason:** In the interest of preservation of the characteristics of Natura 2000 sites on the vicinity of this site.

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7. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of 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) A plan to scale of not less than 1:500 showing –
    - (i) existing trees, hedgerows, stone walls, specifying which are proposed for retention as features of the site landscaping,
    - (ii) the measures to be put in place for the protection of these landscape features during the construction period,
    - (iii) the species, variety, number, size and locations of all proposed trees and shrubs,
    - (iv) details of screen planting,
    - (v) details of roadside/street planting, and
    - (vi) hard landscaping works, specifying surfacing materials, furniture and finished levels.
  - (b) specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment, and
  - (c) a timescale for implementation.

All planting shall be adequately protected from damage until established. 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 the interests of residential and visual amenity.

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8. The developer shall facilitate the preservation, recording and protection of archaeological materials or features that may exist within the site. In this regard, the developer shall –
- (a) notify the planning authority in writing at least four weeks prior to the commencement of any site operation (including hydrological and geotechnical investigations) relating to the proposed development,
  - (b) employ a suitably qualified archaeologist who shall monitor all site investigations and other excavation works, and
  - (c) provide arrangements, acceptable to the planning authority, for the recording and for the removal of any archaeological material which the authority considers appropriate to remove. In default of agreement on any of these requirements, the matter shall be referred to An Bord Pleanála for determination.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

9. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

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10. (a) A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities for each apartment unit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.
- (b) This plan shall provide for screened communal bin stores, the locations and designs of which shall be included in the details to be submitted.

**Reason:** In the interest of residential amenity, and to ensure the provision of adequate refuse storage.

11. Site development and building works shall be carried only out between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 on Saturdays and not 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:** In order to safeguard the residential amenities of property in the vicinity.

12. Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

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

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

14. Prior to commencement of development, the developer shall enter into water connection agreement with Irish Water.

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

15. 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.

## Reasons and Considerations (2)

The Board is not satisfied that the applicant has demonstrated that the proposed general tent camping area located in Flood Zone A would not be at risk of flooding. It is considered that the proposed general tent camping area would, therefore, be contrary to the provisions of the Planning System and Flood Risk Management Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in November, 2009, would be prejudicial to public health and would, therefore, be contrary to the proper planning and sustainable development of the area. The Board also considered that the development would not be of a type or scale such as would generate excessive traffic movements and when taken in conjunction with the achievable sightlines at the junction with the local road (L4010) fronting the site, access and egress would not endanger public safety by reason of a traffic hazard and the proposal for providing traffic lights at the access are not necessary and would otherwise have potential to detract from the architectural heritage of Bective bridge (a protected structure).



**Patricia Calleary**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**

**Dated this 24 day of May 2022.**