

Planning and Development Acts 2000 to 2021

Planning Authority: Kildare County Council

Planning Register Reference Number: 21/691

Appeal by Andrew Moloney of Boston Cottage, Rathangan, County Kildare and by Leo Price of Boston, Rathangan, County Kildare against the decision made on the 6th day of December, 2021 by Kildare County Council to grant subject to conditions a permission to William Magnier care of Declan Kearns and Associates of Tullywest, Kildare, County Kildare in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a bungalow dwelling, septic tank and percolation area, detached domestic garage, horse stables to accommodate six stable boxes, a medical room and a feed room, a horse walker, a dungstead, recessed entrance and all associated site works at Drinnanstown North, Rathangan, 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.

Reasons and Considerations

Having regard to the provisions of the Kildare County Development Plan 2023-2029, the objectives of the National Planning Framework (2018), the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005 (updated 2020), the applicant's eligibility for housing in accordance with the Rural Housing Need Assessment Criteria of the development plan, as well as the nature, form, scale, location, and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in the context of rural housing policy, the visual amenities of the area, traffic safety and convenience, and public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The proposed 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 received by the planning authority on the 12th day of November, 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

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2. (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. 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, as amended, 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 in the interest of the proper planning and sustainable development of the area.

3. The site boundary, as delineated in the further information documentation received by the planning authority on the 12th day of November, 2021, shall accommodate one dwelling unit only, unless a further planning permission is granted.

Reason: To ensure orderly development, to avoid overdevelopment, and in the interest of the proper planning and sustainable development of the area.

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4. (a) The existing mature planting around the site boundaries shall be retained, except to the extent that its removal is necessary to maintain adequate and safe sight distances at the entrance to the site.
- (b) The site shall be landscaped in accordance with the landscaping plan submitted with the planning application using acceptable native species. Planting shall be carried out and completed within the first planting season following 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 proposed 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 interest of visual amenity.

5. The roof colour of the proposed house and domestic shed shall be blue-black, black, dark brown or dark grey. The colour of the ridge tile shall be the same as the colour of the roof.

Reason: In the interest of visual amenity.

6. 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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7. All public service cables for the proposed development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

8. 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.

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

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

Reason: In the interest of traffic safety.

10. (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, 2021.
- (b) The septic tank system shall discharge to a percolation area which shall be provided 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, 2021.

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- (c) 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 percolation area is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

- 11. (a) All solid waste arising from the stables shall be collected and stored in the dungstead which shall have an impermeable base.
- (b) Seepage from the dungstead and any soiled water from the stables/yard area shall be piped to a suitably sized effluent holding tank.
- (c) The disposal of farmyard manure and soiled water shall be carried out in accordance with European Communities (good Agricultural Practice for Protection of Waters) Regulations 2017, as amended.

Reason: In the interest of public health.

- 12. The construction of the proposed 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 all intended construction practice for the proposed development, including hours of working, noise management measures, and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and residential amenity.

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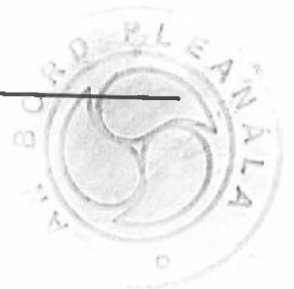
13. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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.



Peter Mullan

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



Dated this *22nd* day of *May*, 2023.