



Planning and Development Acts 2000 to 2022

Planning Authority: Carlow County Council

Planning Register Reference Number: 21/341

APPEAL by Edward Comerford of The Garage, Royal Oak Road, Bagenalstown, County Carlow against the decision made on the 8th day of December, 2021 by Carlow County Council to grant subject to conditions a permission to Helen Carpenter and Rory Tynan of 7 Ardmore Avenue, North Circular Road, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a two-storey detached dwelling, garage, new site entrance, private well, sewerage treatment and all other site and ancillary works at Seskin Upper, Old Leighlin, County Carlow.

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

It is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Board considered that the applicant had adequately demonstrated with relevant documentary proof that they have a functional social requirement to live in the area in compliance with the criteria set out in section 3.16.2 of the Carlow County Development Plan 2022-2028.

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 particulars submitted to the planning authority on the 24th 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 development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. (a) The proposed development, when completed, shall first be 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 the 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 to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3. (a) Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) The external materials and finishes to the garage shall match those of the proposed dwellinghouse.

Reason: In the interest of visual amenity.

4. The use of the garage shall be restricted to private domestic use only and shall not be used for commercial, habitation or agricultural purposes.

Reason: In the interest of residential amenity.

5. 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.

6. (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.m. ≤ 10)" – Environmental Protection Agency, 2021.

- (b) Treated effluent from the septic tank system shall be discharged to a raised 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.m. ≤ 10)" – Environmental Protection Agency, 2021.
- (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 raised percolation area is constructed in accordance with the standards set out in the EPA document.
- (d) Surface water soakaways 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) 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.

7. (a) 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 and shall be collected and diverted to discharge to existing watercourses or to drains or soak pits.
- (b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

Reason: In the interest of traffic safety and to prevent pollution.

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 the development.

Reason: to ensure that adequate water is provided to serve the proposed dwelling, in the interest of public health.

9. 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.

10. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Use Eireann.

Reason: In the interest of public health.

11. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays, 0800 to 1400 hours 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. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefitting development in the area of the planning authority that is provided or intended to be provided 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 the 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.



Stephen Brophy

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

Dated this *6th* day of *September* 2023.

