



An  
Bord  
Pleanála

## Board Order ABP- 312483-22

**Planning and Development Acts 2000 to 2022**

**Planning Authority: Carlow County Council**

**Planning Register Reference Number: 21/414**

**Appeal** by Tara Dooley care of EssGee Consultants of 1 Southern Gardens, Kilkenny Road, Carlow against the decision made on the 16<sup>th</sup> day of December, 2021 by Carlow County Council to refuse permission for the proposed development.

**Proposed Development:** Retention of a single storey house and permission of a wastewater treatment system and all ancillary site works at Johnstown, Bennekerry, 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.**

TO PRESENT  
P.C.

## Reasons and Considerations

In arriving at its decision, the Board had regard to the design, location and siting of the proposed development and development proposed to be retained and considered that, subject to compliance with the conditions set out below, the proposed development and development proposed to be retained is in line with relevant Development Management Standards, 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 and development proposed to be retained 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 according to the standards set out in Section 3.16.2 of the Carlow County Development Plan 2022-2028. The Board considered that the proposed development and development proposed to be retained constitutes infill development as defined in Section 3.16.9 of the development plan, and that the retention of a fifth house in this line of development would not seriously injure the amenities of the area in this circumstance. In relation to the intensification of use of an existing entrance to the R726, the Board considered that the proposed development and development proposed to be retained was in compliance with Policy RRP3 of the development plan insofar as it is permitted to maximise the potential of an existing entrance on a family landholding which meets current traffic safety standards.



## Conditions

1. The development shall be carried out, retained and completed in accordance with the plans and particulars lodged with the application, 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 and the development shall be carried out, retained and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The site shall be landscaped, using only indigenous deciduous trees and hedging species in accordance with details which shall be submitted to, and agreed in writing with, the planning authority within six months of the date of this Order. This scheme shall include the following:
  - (a) Details of private amenity space for the dwelling, including appropriate boundary treatment of native hedging.

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.

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  - (a) The development 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. Within six months of the date of this Order the applicant shall submit to and agree in writing 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 dwelling, or as soon as is practicable on receipt of this permission, 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 dwelling 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. Details of a revised external finish to the proposed dwelling, consistent with dwellings in the vicinity, shall be submitted to, and agreed in writing with, the planning authority within six months of the date of this Order.

**Reason:** In the interest of visual 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.e. ≤ 10)" – Environmental Protection Agency, 2021.
- (b) Treated effluent from the septic tank system shall be discharged 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.
- (c) Within three months of the first occupation of the dwelling, or within six months of the date of this Order, 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 Environmental Protection Agency 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.

**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 soakpits.
- (b) The access driveway to the proposed development and development proposed to be retained shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

P.C.

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

8. (a) The applicant shall sign a connection agreement with Uisce Eireann within six months of the date of this Order and adhere to the standards and conditions set out in that agreement.
- (b) All development shall be carried out in compliance with Uisce Eireann's Standard Codes of Practice Details.
- (c) Any proposals by the applicant to divert or build over existing water or wastewater services shall be submitted to Uisce Eireann prior to works commencing.
- (d) Separation distances between the existing Uisce Eireann assets and proposed structures shall be in accordance with Uisce Eireann's Standard Codes of Practice Details.

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

9. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays, 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.

Uisce Eireann  
P.C.

10. 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 within six months of the date of this Order 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.



**Patricia Calleary**

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



Dated this 16 day of August 2023