



Planning and Development Acts 2000 to 2022

Planning Authority: Waterford City and County Council

Planning Register Reference Number: 21/1094

Appeal by Eamon and Yvonne Hally and others care of Lara Gough of Ballykerogue, Stradbally (via Kilmacthomas), County Waterford against the decision made on the 25th day of January 2022 by Waterford City and County Council to grant subject to conditions a permission to Refuge of the Immaculate Heart of Mary Limited care of Plan 8 Architects of Church Road, Delgany, County Wicklow in accordance with plans and particulars lodged with the said Council.

Proposed Development:

Retention permission for:

1. Unpermitted 19.76 square metres of domestic garage to be amalgamated into the existing domestic garage and subsequent conversion of same to a one-bedroom Covid 19 Isolation accommodation for resident usage only.
2. single storey shed to be used as a store.

Planning Permission for:

3. Conversion of the existing dormer bungalow to a residential care centre.
4. Construction of a 3-bed dwelling for Careers'/Nuns' accommodation.
5. Construction of an Oratory Building for residents use only.

6. Removal of existing septic tank and percolation area and installation of a new wastewater treatment system.
7. Water to be supplied by existing well.
8. An Natura Impact Statement is submitted as part of this proposal.
9. Upgrading of existing entrance also proposed.

All of the above together with ancillary works, at Cladagh, Clashmore, County Waterford.

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.

Reason and Consideration

Having regard to the provisions of the Waterford City and County Development Plan 2022-2028, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development and development to be retained would not seriously injure the amenities of the area or of property in the vicinity. The proposed development and development to be retained would, therefore, be in accordance with the proper planning and sustainable development of the area.

Appropriate Assessment Screening

The Board completed an appropriate assessment screening exercise in relation to the potential effects of the proposed development on European sites, taking into account the nature and scale of the proposed development, the distances to European sites that occur proximate to the to the proposed development, including their conservation objectives and hydrological pathways, the submissions on file, the information and reports submitted as part of the application, and the Planning Inspector's report. Having regard to the information and submissions available, the nature, size and location of the proposed development and its likely direct, indirect and cumulative effects, the Board considered that the only European site, in view of the site's conservation objectives, where there is the possibility of significant effects is the Blackwater River (Cork/Waterford) Special Area of Conservation (site code 002170) and that appropriate assessment is therefore required.

Appropriate Assessment

The Board considered the Natura Impact Statement, all of the other relevant submissions on file, and the Planning Inspector's report, and carried out an appropriate assessment of the implications of the proposed development on the Blackwater River (Cork/Waterford) Special Area of Conservation (site code 002170) in view of the site's conservation objectives. The Board considered that the proposed development, individually or in combination with other plans or projects would not adversely affect the integrity of this European site, or any other European site, in view of the site's conservation objectives. This conclusion is based on a full and detailed assessment of all aspects of the proposed project including proposed mitigation measures and ecological monitoring, and a detailed assessment of in combination effects with other plans and projects including historical projects, current proposals and future plans. There is no reasonable scientific doubt as to the absence of adverse effects on the integrity of Blackwater River (Cork/Waterford) Special Area of Conservation.

Conditions

1. The proposed development and development to be retained shall be carried out 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 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. Mitigation and monitoring measures outlined in the plans and particulars, including the Natura Impact Statement (dated 8th October 2021), shall be carried out in full, except where otherwise required by conditions attached to this permission.

Reason: In the interest of environmental protection.

3. The proposed development shall be operated as a residential care centre and for no other purpose, without a prior grant of planning permission for change of use. No building shall be sold, let or otherwise conveyed as an independent living unit. The existing garden and curtilage of the overall property shall not be subdivided.

Reason: In the interest of the proper planning and sustainable development of the area and to limit the scope of the proposed development to that for which the application was made.

4. A suitably qualified ecologist shall be retained by the developer to oversee the site works and construction of the proposed development and the implementation of mitigation and all monitoring measures relating to ecology as set out in the Natura Impact Statement. The ecologist shall be present during site construction works. Ecological monitoring reports detailing all monitoring of the site works shall be prepared by the appointed ecologist to be kept on file as part of the public record.

Reason: In the interest of nature conservation and the protection of the environment.

5. The site shall be landscaped using only indigenous species in accordance with an overall landscaping scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

This landscaping scheme shall include the following:

- (a) a management plan for the existing woodland area on the site;
- (b) details relating to all of the boundaries of the site,
- (c) details of planting proposed on the site; and
- (d) a timescale for the implementation of the planting and landscaping.

Reason: In the interest of biodiversity and visual amenity.

6. (a) Prior to commencement of development, the developer shall engage the services of a qualified arborist as an arboricultural consultant for the entire period of construction activity.
- (b) The arborist shall set out recommendations pertaining to tree retention, tree protection and tree works. All works on retained trees shall comply with proper arboricultural techniques conforming to BS 3998: 2010 Tree Work – Recommendations (or as updated).

- (c) All trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height, or as agreed with the project arborist.
- (d) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires over the root spread of any tree to be retained.
- (e) All planting shall be adequately protected from damage until established and maintained thereafter. Any plants which die, are removed or become seriously damaged or diseased in the first five years of planting, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority. The boundary treatment and landscaping shall be carried out in accordance with the agreed scheme.
- (f) The clearance of any vegetation including trees and scrub shall be carried out outside the bird-breeding season (1st September and the end of February inclusive) or as stipulated under the Wildlife Acts, 1976 and 2000.

Reason: To ensure and give practical effect to the retention, protection and sustainability of trees during and after construction of the permitted development.

7. The formation of the vehicular access to the site, including alteration of the boundary, shall be constructed in accordance with the requirements of the planning authority. Details in relation to boundary treatment shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of orderly development and traffic safety.

8. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Prior to commencement of development the developer shall submit to the planning authority for written agreement a Stage 2 - Detailed Design Stage Storm Water Audit. Upon Completion of the development, a Stage 3 Completion Stormwater Audit shall be submitted to the planning authority for written agreement, to demonstrate that Sustainable Urban Drainage System measures have been installed and are working as designed and that there has been no misconnections or damage to storm water drainage infrastructure during construction.

Reason: In the interest of public health and surface water management.

9. The willow based integrated constructed wetland shall be installed in accordance with the documentation submitted and shall be in accordance with the Department of Environment, Heritage, and Local Government Guidance Document for Integrated Constructed Wetlands for Farmyard Soiled Water and Domestic Wastewater Applications, as required. Following commissioning, the developer shall submit a six-monthly report on the establishment and efficiency of the integrated constructed wetland to the planning authority.

Reason: In the interest of public health and surface and wastewater management.

10. Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays, inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall 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.

11. The construction of the proposed development shall be managed in accordance with a Construction Environmental 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 proposed development, including:
- (a) Measures set out in the Natura Impact Statement to avoid any pollution through surface water run-off, silt, or accidental discharges during the construction of the proposed development, reaching local surface water sewers, drains or the River Licky;
 - (b) location of the site and materials compound, including areas identified for the storage of construction refuse;
 - (c) details of the timing and routing of construction traffic to and from the construction site and associated directional signage;
 - (d) details of appropriate mitigation measures for surface water management, noise, dust and vibration and monitoring of such levels,
 - (e) containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater, and
 - (f) collection and disposal of construction/demolition waste and details of how it is proposed to manage excavated soil.



A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be made available for inspection by the planning authority.

Reason: In the interest of amenities, public health and safety.

12. Site development works and construction works shall be carried out in such a manner as to ensure that the adjoining roads are kept clear of debris, soil and other material and, if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

Reason: In the interest of amenities, public health and safety.



Mick Long

Member of An Bord Pleanála

duly authorised to authenticate
the seal of the Board.

Dated this 13th day of March 2024.