

Planning and Development Acts 2000 to 2022

Planning Authority: Carlow County Council

Planning Register Reference Number: 21/42

Appeal by David Rothwell care of BPS Planning and Development Consultants of 23 Saval Park Road, Dalkey, County Dublin against the decision made on the 26th day of January, 2022 by Carlow County Council to grant subject to conditions a permission to Sinead Tobin and Edgar Allen care of Beer and Associates of Unit 17 Enterprise House, O'Brien Road, County Carlow in accordance with plans and particulars lodged with the said Council:

Proposed Development: Construction of a two-storey dwellinghouse, a new entrance driveway and avenue, a single storey stable block with concrete yard, installation of an EPA compliant code of practice septic tank and percolation area, a ground water well and site development works, all at Barkers Road, Carrigduff, Bunclody, County Carlow. The proposed development was revised by further public notices received by the planning authority on the 23rd day of November, 2021. The revised information received included (1) various revisions to site layout, (2) revisions to dwelling design and orientation, (3) provision of manure storage facilities associated with stable block, and (4) submission of a Nature Impact Statement.

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 Carlow County Development Plan 2022 to 2028 in particular objective EQ. P1: to encourage the expansion of equine related activities (e.g. stud farms, farriers, bloodstock sales, etc) of an appropriate size and at suitable locations, and section 3.16.1 (Rural Area Types), it is considered that the applicants have adequately demonstrated their commitment to operate a full-time business from their proposed house in the rural area and the Board are satisfied, on the basis of the information available, that they do not own or have not been previously granted permission for a single house in the countryside in County Carlow and have not sold this house to an unrelated third party. The proposed development, subject to compliance with the conditions set out below, 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 the application under the Carlow County Development Plan 2022 to 2028 and are satisfied that:

- In relation to reason number 1, the Planning Inspector's concern in relation to piecemeal development, is more fully considered by the Board

given the context of a house in conjunction with a significant equine business, which in the Board's view meets the criteria of the development plan.

- In relation to reason number 2, the Planning Inspector's concerns in relation to planting and the design of entrance gates can be managed by condition requiring agreement with the planning authority.

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 plans and particulars submitted on the 9th 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 dwelling, when completed, shall be first occupied as the place of permanent residence of the applicants and members of the applicants immediate family and shall remain so occupied for a period of five (5) years thereafter.
- (b) Prior to commencement of development, the applicants shall enter an agreement with the planning authority, pursuant to Section 47 of the Planning and Development Act 2000, as amended, providing

for the terms of this occupancy requirement. No development shall commence on the site until this condition is complied with.

- (c) Within two months of the occupation of the dwelling, the applicants shall submit to the planning authority, a written statement of the confirmation of the first occupation of the dwelling from their Architect/Engineer or other suitably qualified and indemnified person indicating the date upon which first occupation of the dwelling occurred in accordance with paragraph (a) and the date of such occupation.
- (d) This condition shall not affect the sale of the dwelling by a mortgagee in possession or by any person deriving title from such a sale, or where expressly provided for in the Carlow County Development Plan, only following consent by the planning authority, for its occupation by other persons of the same category.

Reason: To ensure in the interest of orderly development that the dwelling is used to meet the applicant's stated housing needs.

- 3. 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 prior to 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 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.

4. (a) Prior to commencement of development, a revised design for the entranceway to the development that better reflects the rural context of the development shall be submitted to, and agreed in writing with, the planning authority. In this regard, the height of site entrance wing walls and piers shall not exceed 1.2 metres.
- (b) Sightlines at the entrance to the public road shall be provided in accordance with the Design Manual for Road and Bridges (D.M.R.B).

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity and in the interest of traffic safety.

5. (a) 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.
- (b) White uPVC shall not be used for windows, doors or rainwater goods.
- (c) Any stone finish used on the external finishes shall comprise of natural stone only.

Reason: In the interest of the rural character and the visual amenity of the area.

6. The applicants are required to engage the services of a suitably qualified, licensed Archaeologist to carry out the requirements (a) to (f) below. No sub-surface work shall be undertaken in the absence of the archaeologist without his/her express consent. This assessment shall include:

- (a) The applicants are required to employ a suitably qualified archaeologist to advise on and establish a 50 metre buffer zone around the Recorded Monument CW021-004--- Enclosure. No groundworks for construction, landscaping and/or use as a vehicular access way shall be permitted within 50 metres of the external perimeter of this Recorded Monument. Should planting take place within this buffer zone only plants with shallow root systems shall be chosen. The buffer zone shall be fenced off and clearly signed during construction works to prevent accidental damage.
- (b) The archaeologist shall summarise the historical and archaeological background of the site, and review all cartographic sources and aerial photographs for the area, based on the Archaeological Impact Assessment of 2014.
- (c) The archaeologist shall then excavate test trenches at locations chosen by the archaeologist, having consulted the site plans in liaison with the Licensing Section of the National Monuments Service of the Department of Housing, Local Government and Heritage. Excavation is to take place to the uppermost archaeological horizons only, where they survive. Where archaeological material is shown to be present, the archaeologist shall stop works pending further advice from the National Monuments Service. Please note that all features/archaeological

surfaces within the test trenches are to be hand-cleaned and clearly visible for photographic purposes.

- (d) Having completed the work, the archaeologist shall submit a written report to the planning authority and to the National Monuments Service outlining the results of the test excavations. The report shall comment on the degree to which the extent, location and levels of all proposed foundations, service trenches and other sub-surface works required for the development will affect the archaeological remains. This should be illustrated with appropriate plans, and sections.
- (e) Where archaeological material is shown to be present, further mitigatory measures will be required; these may include redesign/re-location to allow for preservation in situ, excavation and/or monitoring. The National Monuments Service will advise the planning authority with regard to these matters.
- (f) On completion of the archaeological test excavations, a report shall be submitted to both the planning authority and the Department of Housing, Local Government and Heritage, including the results of any post-excavation analyses, in order to comply with this planning condition and the requirements of the archaeological licence.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

7. The applicant shall ensure that all mitigation measures outlined in the Natura Impact Statement submitted with the further information response to the planning authority on the 9th day of November, 2021, are adhered to and implemented in full.

Reason: In the interest of the protection of the environment.

8. (a) Noise and vibration during the construction phase shall be limited to the levels recommended in BS 5228-1:2009+A1:2014 and BS 5228-2:2009+A1:2014 respectively.
- (b) Dust levels at the site boundary during the construction phase shall be less than 350 mm/m²/day measured over a 30-day composite sample, complying with the German Standard VDI 2119 (Measurement of Dustfall, Determination of Dustfall using the Bergerhoff Instrument (Standard Method) German Institute).

Reason: In the interest of the protection of the environment and the amenities of the area, to maintain effective control on the development and in the interest of the proper planning and sustainable development of the area.

9. (a) Construction operations shall comply with CIRIA C532 "Control of Water Pollution from Construction Sites, Guidance for Consultants and Contractors".
- (b) Building materials shall be stored in a designated bunded area.
- (c) Concrete shall be supplied using ready-mix lorries and no washing out shall be allowed on site.

- (d) All small plant items shall be stored in banded drip trays.
- (e) Construction plant shall be stored overnight in a designated area and plant shall be checked daily for leaks.
- (f) Measures shall be implemented in order to prevent the spread of Alien Invasive Species during construction works, control measures shall have regard to The Management of Noxious Weeds and Non-native Invasive Plant Species on National Roads (NRA).

Reason: In the interest of the protection of the environment.

- 10. (a) Landscaping at the site shall be carried out in accordance with the details shown on the landscaping plan prepared by 'James Lawlor Landscape Consultants & Arborists' submitted to the planning authority with the further information response on the 9th day of November 2021.
- (b) The planting shall be carried out in the first planting season following the completion of the development. When planted, the trees/hedgerows shall be adequately protected from damage by animals or wind. Any failures within five years shall be replaced and the trees allowed to grow to maturity.
- (c) All existing trees identified to be retained at the site as per the Landscaping Plan submitted with the further information response on the 9th day of November 2021 shall have suitable measures in place to protect same during the construction works.

Reason: In the interest of the rural character and visual amenity of the area.

11. (a) The development shall not impair the operation of existing land and roadside drainage and the applicants shall not interfere with roadside drainage without the prior written agreement of the Municipal District Engineer. The entrance to the public road shall be maintained to ensure the uninterrupted flow of existing roadside drainage. Prior to commencement of development, complete design details for the provision of roadside drainage at the site entrance shall be submitted to and agreed in writing with the Municipal District Engineer.
- (b) No surface water runoff from the site shall be discharged to the public road or to adjoining properties, and no surface water from the public road shall enter the site.
- (c) All surface water shall be collected and disposed of to soakaways or a surface water system on the site, which shall be designed and constructed in accordance with B.S. 8301:1985 and BRE Digest 365 and shall be provided with inspection manhole covers.
- (d) Only clean and uncontaminated surface water generated by the proposed development shall be diverted to suitably designed and constructed soakaway/s.

Reason: To ensure the proper servicing of the development, to prevent flooding on the public road, in the interests of traffic safety and to ensure the integrity of the public road is not diminished by a reduced quality road drainage system.

12. (a) The proposed on-site domestic wastewater treatment system and associated percolation area/polishing filter shall be designed, constructed, operated and maintained in accordance with the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021.
- (b) A Certificate of Compliance, prepared and signed by a suitably qualified and indemnified person to state that the on-site domestic wastewater treatment system and percolation area/polishing filter fully comply with the drawings and plans submitted to the planning authority. This shall include a site specific "as –constructed" drawing of the length of percolation trench/pipe and cross-sectional drawing through the effluent treatment system and associated percolation area/polishing filter. A generic cross-section is not acceptable. This certification shall be submitted to the planning authority prior to occupation of the house.
- (c) There shall be vent/s at the ends of the proposed percolation pipes.
- (d) There shall only be a maximum of five distribution pipes originating from a single distribution box.
- (e) There shall be a purpose made pipe seal on all distribution pipes originating from the distribution box and all percolation pipes originating from the distribution box shall have a liquid levelling device.

- (f) There shall be a foul air activated carbon vent pipe filter installed on each of the percolation vent pipe/s and septic tank vent pipes. The activated carbon shall be replenished bi-annually or sooner if required.
- (g) Surface water shall not be allowed to infiltrate treatment system.
- (h) A domestic grease trap shall be installed to prevent grease entering treatment system.

Reason: In the interest of public health and environmental protection.

- 13. (a) Only clean roof or clean yard water shall be diverted to soak pits or surface water drains. Any new soak pits shall be constructed in accordance with BRE Digest 365.
- (b) All bedding material and manure from the horses in the stables shall be collected in the designated dungstead, for landspreading in accordance with SI 605/2017 - European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2017. Any effluent from the dungstead shall be collected and landspread in accordance with SI 605/2017.
- (c) The operation of the proposed facility as a whole shall comply with SI 605/2017 - European Communities (Good Agricultural Practice for Protection of Waters) Regulations 2017.

Reason: In the interest of the protection of the environment.

14. (a) Where the applicants propose to connect to a public water/wastewater network operated by Irish Water, the applicants shall sign a connection agreement/self-lay agreement with Irish Water prior to commencement of development and adhere to the standards and conditions set out in that agreement.
- (b) The applicants shall comply with Irish Waters connection and Developer Services (CDS) Technical Documentation (Standard Detail and Codes of Practice).
- (c) Where the proposed development is served by an existing connection and where Irish Water deems that the impact on the provision of water services is significant then a new/revised Connection Agreement with Irish Water shall be required, subject to appropriate conditions, including charges as set out therein.
- (d) Any proposed connections to the Water and Wastewater Infrastructure shall be subject to the constraints of the Irish water Capital Investment Programme.

Reason: In the interest of public health and environmental sustainability.

15. (a) During the construction phase adequate off carriageway parking facilities shall be provided for all traffic associated with the development, including delivery and service vehicles/trucks. There shall be no parking along the public road.
- (b) All measures shall be taken during construction works to prevent muck, dirt, debris or other materials being deposited on the adjoining public road by machinery or vehicles travelling to and from the site during the construction phase. Best practice

measures shall be put in place to ensure vehicles leaving the site are kept clean.

- (c) The applicants shall maintain the site in a neat and litter free condition during the construction period. Waste disposal skips shall be maintained on site for this purpose.
- (d) The applicants shall ensure that all works on site are carried out in a manner such that noise and dust emissions do not result in significant impairment of, or significant interference with amenities or the environment beyond the site boundary.

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

16. Hours of construction activities on the site shall be restricted from Monday to Friday 0800 to 1800 hours and Saturday 0800 to 1300 hours. No building activity shall be undertaken on Sundays or Bank Holidays under any circumstances. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from Carlow County Council. Such approval may be given subject to conditions pertaining to the circumstances being set by Carlow County Council.



Reason: In the interest of the protection of the residential amenities of neighbouring properties.

17. (a) Any service poles which require relocation on or from this site shall be relocated prior to the construction works at the expense of the applicants.
- (b) All ESB, telephone cables, service lines and any other cables shall be located underground except as otherwise agreed with the planning authority. The applicants shall arrange in consultation with the relevant authorities for the relocation of any existing ESB or Telecom poles if necessary, prior to commencement of development and this shall be done at the full expense of the applicants.

Reason: In the interests of public safety, traffic safety and visual amenity.

18. 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.



Liam Bergin

Member of An Bord Pleanála

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

Dated this 22 day of September 2023.