

An  
Bord  
Pleanála

Board Order  
ABP-313385-22

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## **Planning and Development Acts 2000 to 2022**

**Planning Authority: Westmeath County Council**

**Planning Register Reference Number: 21/654**

**Appeal** by Dermot and Ruth Nolan of Rattin, Kinnegad, County Westmeath against the decision made on the 29<sup>th</sup> day of March, 2022 by Westmeath County Council to grant subject to conditions a permission to Kevin Lynch care of More Architecture of Unit 12 Castle House, Castle Street, Mullingar, County Westmeath in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of a dormer bungalow detached dwelling, detached garage, upgraded existing agriculture entrance off public road, proprietary tertiary treatment system and infiltration treatment area and all ancillary site works at Rattin, Kinnegad, County Westmeath.

## **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 National Planning Framework and the Westmeath County Development Plan 2021-2027 and that the site is located in an area that falls within the category 'Area Under Strong Urban Influence', as set out in the Sustainable Rural Housing Guidelines for Planning Authorities, 2005 and the current development plan for the area, it is considered that the applicant satisfies the relevant policies and guidelines for a rural dwelling in this area and that, subject to compliance with the conditions set out below, the proposed dwelling on this site would be compatible with the amenities of the area, would not give rise to a traffic hazard, and would be consistent with the relevant design and siting requirements. 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 3<sup>rd</sup> day of March, 2022, 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.

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, 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 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. 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 development.

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

4. (a) The site shall be landscaped, using only indigenous deciduous trees and hedging species, 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.
- (b) A screen fence, two metres in height, shall be placed along the eastern site boundary from the roadside boundary to the rear building line of the proposed dwelling. An indigenous hedge shall be planted inside of the fence in the first planting season following commencement of the proposed development.

**Reason:** In order to screen the development and in the interest of residential amenity.

5. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

6. The proposed domestic garage shall be used for domestic storage purposes ancillary to the proposed dwelling and shall not be used for any commercial or habitable use without a prior grant of planning permission.

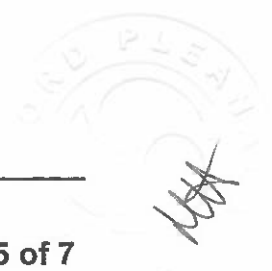
**Reason:** In the interest of the proper planning and sustainable development of the area.

7. Before development commences on foot of this permission, details relating to entrance, sightlines, surface water and the parking strip shall be submitted to, and agreed in writing with, the planning authority and the development shall be carried out and completed in accordance with the details agreed.

**Reason:** In the interest of traffic safety and to ensure the proposal integrates appropriately within its setting.

8. 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 intended construction practice for the proposed development, including noise management measures and off-site disposal of construction/demolition waste.

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



9. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 9<sup>th</sup> day of December, 2021, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e.  $\leq 10$ )" – Environmental Protection Agency, 2009. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) 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 proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.


**Reason:** In the interest of public health.

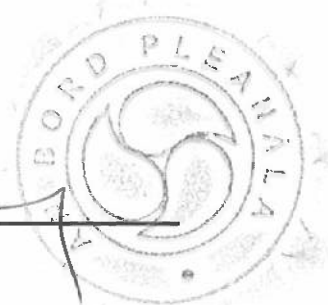
10. Site development and building works shall be carried out only between the hours of 0800 and 1800 Mondays to Fridays inclusive, between 0900 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

11. 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.

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



Dated this 5<sup>th</sup> day of July 2023.