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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Wicklow County Council**

**Planning Register Reference Number: 21/1219**

**Appeal** by John McDonald of Templarainey, Arklow, County Wicklow against the decision made on the 30<sup>th</sup> day of March, 2022 by Wicklow County Council to grant subject to conditions a permission to James Kavanagh care of The Pdraig Smith Partnership Limited of The Red House, Market Square, Wicklow Town.

**Proposed Development:** Construction of a dwelling, garage and effluent treatment system, all together with associated site works at Templarainey, Arklow, County Wicklow.

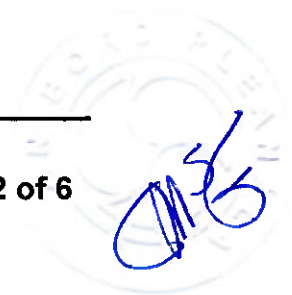
## **Decision**

**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 relevant provisions of the Wicklow County Development Plan 2022-2028, to the nature, scale and location of the proposed development, to the pattern of development in the area, and to the full documentation received with the application and appeal, including the submission from the applicant received by An Bord Pleanála on the 8<sup>th</sup> day of August, 2023 and the submissions received from the planning authority and from the third party appellant on the 21<sup>st</sup> day of December, 2023, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area or of property in the vicinity, would not result in the creation of a road safety hazard and would be acceptable in terms of design. 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 the totality of the documentation on file and determined that the applicant in this instance met the relevant development plan requirements in terms of rural need at this specific location and that a refusal of permission on this ground would not be warranted by reference to this specific proposed development.



## Conditions

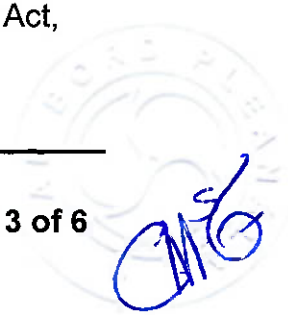
1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the documentation received by the planning authority on the 9<sup>th</sup> day of March, 2022 and as further amended by the documentation received by An Bord Pleanála on the 8<sup>th</sup> day of August, 2023, 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. Revised plans and particulars, detailing the site entrance and associated hedgerow removal and retention, in accordance with the documentation received by An Bord Pleanála on the 8<sup>th</sup> day of August, 2023, shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interest of clarity and landscape amenity.

3. (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 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.

4. Water supply and surface water drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services, details of which shall be agreed in writing prior to the commencement of development.

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

5. The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice – Domestic Waste Water Treatment Systems (Population Equivalent  $\leq$  10)" – Environmental Protection Agency, 2021.

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



6. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 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.

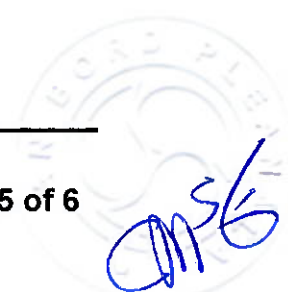
**Reason:** In order to safeguard the residential amenities of property in the vicinity.

7. 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.


8. 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.



9. 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.

  
Chris McGarry

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

Dated this  day of  2024