



Planning and Development Acts 2000 to 2022

Planning Authority: Kildare County Council

Planning Register Reference Number: 21/1286

Appeal by Aidan Bailey and others care of Ger Fahy Planning of Mulhussey, Maynooth, County Kildare, and by Others, against the decision made on the 30th day of March, 2022 by Kildare County Council to grant permission subject to conditions to Kyrie Therapeutic Farm CLG care of RPS Group Limited of West Pier Business Campus, Dún Laoghaire, County Dublin for development comprising a therapeutic farm for the provision of a healthcare facility for up to 40 guests, to operate as a step-down mental health facility. The therapeutic farm will provide therapeutic services with the farm as an essential element of the overall programme of healing and recovery. The application proposes the demolition of an existing farm building on site and other structures. The new build elements will comprise: A new two-storey communal building (circa 1,564 square metres) centrally within the farm comprising of kitchen/dining, office, therapy, meeting, yoga and meditation and various other rooms. Erection of eight single-storey residential buildings to the west of the communal building to provide accommodation for up to 40 guests. These will comprise four number four-bedroom buildings and four number six-bedroom buildings. Erection of a single storey reception building (circa 318 square metres) to the west of the site, adjacent to the existing farm buildings, to provide reception and ancillary facilities associated with the proposed use. Erection of a single storey shop/café building

(circa 327 square metres) to provide a small-scale shop and café which will be linked to the overall use of the site. The proposed buildings will be clad in vertical timber cladding at regular spacing; the roofs will be vertical timber cladding at regular spacing or dark grey/black zinc roofs. 41 car-parking spaces are proposed for the therapeutic farm use and 20 car-parking spaces are proposed for the shop/café. The remainder of the site will be used for agriculture, with which the therapeutic use will be intrinsically linked. This will include general planting and laying out of the farm and informal landscaping, including the provision of a lake for irrigation and ecology, internal farm tracks and roads, fencing and planting, all at the former Portree Stables, Boston, Straffan, County Kildare.

Decision

GRANT permission for the therapeutic farm for the provision of a healthcare facility for up to 40 guests to operate as a step-down mental health facility in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to compliance with the conditions set out below. REFUSE permission for the shop/café building and associated parking area based on the reasons and considerations marked (2) under.

Reasons and Considerations (1)

Having regard to the specific nature of the proposed development, comprising a therapeutic farm for the provision of healthcare services and the specific locational requirements and demonstrable need for such a use to be located on a farm within a rural area, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provisions of the Kildare County Development Plan 2023-2039 and specifically with Objective SC O92 of the plan which seeks to support the increased provision of sufficient and accessible mental health services at appropriate locations across the county. It is

further considered that the development as proposed, subject to the conditions set out below, would not have unacceptable impacts on the environment, would not seriously injure the visual or residential amenities of the area and would be acceptable in terms of traffic and pedestrian safety. The proposed development would be an appropriate use in this rural area and 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 given the very specific nature of the proposed development comprising a therapeutic farm for the provision of a healthcare facility for up to 40 guests to operate as a step down mental health facility, there is a specific locational requirement and demonstrable social benefit to being located within a rural area and that the development of a therapeutic farm facility would not be compatible with an urban location and would be appropriately located on the site of an existing farm facility. In this regard the Board determined that, subject to the conditions outlined below in respect of the control of the use and the omission of the shop and café building, the proposed development would not be contrary to policies and objectives of the development plan, and it would not adversely affect the character of the rural area. Furthermore, it is considered that the proposed location would be appropriate for the nature of the proposed development and would support Objective SC O92 which seeks to support the increased provision of sufficient and accessible mental health services at appropriate locations across the county. It is further noted that Policy SC P14 refers to hospital care and community based primary care facilities, which are not proposed in the subject proposal and given the very specific nature of the development proposed, comprising a therapeutic farm for the provision of healthcare services that the provisions of SC P14 are not relevant to the subject proposal and in this regard, the conditions outlined below in respect of the control of the use and the omission of the shop/café element that the development as proposed would be an appropriate form of development within an existing farm holding and would not set an inappropriate precedent for similar developments.

The Board also noted the considerations outlined in the Inspector's report in respect of the treatment of wastewater on the site. The Board did not share the

view of the Inspector, concurring with the planning authority that the proposal could be satisfactorily serviced on the subject site without any potential impact on water pollution. It is also noted, that, by reason of the omission of the shop and café building, the loading on the treatment system would be significantly reduced.

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 received by the planning authority on the 24th day of February 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 development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Prior to the commencement of development, revised plans shall be submitted for the written agreement of the planning authority which provide for:
 - (a) the omission of the shop/café building and associated parking area; and
 - (b) a two-metre footpath and lighting along the front boundary of the site.

Reason: In the interest of orderly development, traffic and pedestrian safety and to protect the vitality and viability of nearby established and serviced centres.

3. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, as amended, and any statutory provision amending or replacing them, the use of the proposed development shall be restricted to use as a therapeutic farm for the provision of a healthcare facility for up to 40 guests to operate as a step down mental health facility (as specified in the lodged documentation), unless otherwise authorised by a prior grant of planning permission.

Reason: To protect the amenities of property in the vicinity and in the interest of orderly development.

4. (a) The development comprising a therapeutic farm for the provision of a healthcare facility for up to 40 guests to operate as a step-down mental health facility shall be operated in single ownership and shall not be sold, let or leased separately save as part of the overall development.
- (b) the length of stay of service users shall be agreed in writing with the planning authority.

Reason: To protect the amenities of property in the vicinity and in the interest of orderly development.

5. (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.
- (b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

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

6. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Uisce Eireann.

Reason: In the interest of public health.

7. The proposed wastewater treatment system shall be constructed and operated in accordance with the standards set out in the document entitled "Wastewater Treatment Manual Treatment Systems for Small Communities, Business, Leisure Centres and Hotels – Environmental Protection Agency, 1999.

Reason: In the interest of public health.

8. The construction of the 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 development, including signage and access and egress arrangements to and from the site, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

9. 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.

10. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the Environmental Protection Agency's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

11. All planting shall be adequately protected from damage until established. 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 the interests of residential and visual amenity

12. A minimum of 10% of the proposed car parking spaces shall be provided with electrical connection points, to allow for functional electric vehicle charging. The remaining car parking spaces shall be fitted with ducting for electric connection points to allow for future fitout of charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transport.

13. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

14. 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.

Reasons and Considerations (2)

Objective RET O79 of the Kildare County Development Plan 2023-2029 provides that where ancillary uses are proposed, and where it is considered that such uses would negatively impact upon the vitality and vibrancy of nearby towns and villages, these uses (either in whole or in part) may not be permitted as part of the overall development scheme. It is considered that the proposed development of the shop/café building and associated carparking, notwithstanding the proposal to link it to the overall use, by reason of its scale at a combined 327 square metres, its location on the site proximate to the site entrance at a remove from the proposed farm and residential buildings and remote from any nearby established and serviced centres would have an adverse impact on the vitality and viability of nearby established and serviced centres, would be contrary to the objectives of the development plan and would establish an inappropriate precedent for similarly scaled farm related shop/café uses. Furthermore, it has not been established that the principle of the uses could not be accommodated on more suitable sites within the nearby established and serviced centres. It is considered that the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.



Una Crosse

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

Dated this 21st day of February 2024.