



An  
Bord  
Pleanála

## Board Order ABP- 313633-22

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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Dún Laoghaire-Rathdown County Council**

**Planning Register Reference Number: D21A/1075**

**Appeal** by Sam Stuart care of Brock McClure of 63 York Road, Dún Laoghaire, County Dublin against the decision made on the 27<sup>th</sup> day of April, 2022 by Dún Laoghaire-Rathdown County Council to refuse permission.

**Proposed Development:** Retention permission is sought for the proposed retention of the existing dwelling bungalow, well, effluent system and associated site works. The proposed retention permission will remove the requirement to demolish this dwellinghouse as provided under the development description for planning register reference number D10A/0025 all on a site of circa 31 hectares at Pale Farm, Puck's Castle Lane, Ballycorus, Rathmichael, County Dublin.

### 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

The site of the development proposed to be retained is located within an area zoned 'G' within the zoning objective 'to protect and improve high amenity areas' and in an area where housing is restricted to persons demonstrating a genuine requirement for housing in accordance with policy Objective PHP23 of the Dún Laoghaire-Rathdown County Development Plan 2022 - 2028. Having regard to all the documentation submitted with the planning application and appeal, the Board is satisfied that the applicant has adequately demonstrated a functional economic and/or social genuine local need to reside in this rural area. It is considered, therefore, that the applicant does comply with the housing need criteria, as set out in Section 4.3.1.6, Policy Objective PHP23 and Section 12.3.10 One-Off Housing in the Countryside of the Development Plan.

In deciding not to accept the Inspector's reason for refusal, the Board had regard to the adequacy of the documentation provided in relation to the applicant now having his principal employment on the farm and his intention to continue to farm long term. The Board is satisfied, therefore, that the applicant has adequately demonstrated a functional economic and/or social genuine local need to reside in this rural area and that the applicant does comply with the housing need criteria, as set out in Section 4.3.1.6, Policy Objective PHP23 and Section 12.3.10 One-Off Housing in the Countryside of the Development Plan.

## CONDITIONS

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 1st day of April, 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 retained and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. The dwelling proposed for retention shall continue to be 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 from the date of this order. Within three months of this Order, 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.

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 genuine local need in the interest of the proper planning and sustainable development of the area.



3. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority, 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, 2021. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.
- (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the date of this order and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.
- (d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.
- (e) Within three months of the date of this Order, 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 and that the polishing filter is constructed in accordance with the standards set out in the EPA document.



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

4. The water supply to serve the dwelling shall have sufficient yield to serve the 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.

5. Surface water from the site shall not be permitted to drain onto the adjoining public road.

**Reason:** In the interest of traffic safety.

6. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

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

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.

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

8. 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.



Oonagh Buckley

Member of An Bord Pleanála

duly authorised to authenticate  
the seal of the Board.

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