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**Planning and Development Acts 2000 to 2022**

**Planning Authority: Wexford County Council**

**Planning Register Reference Number: 20211734**

**Appeal** by Nicholas Murphy of Robinstown, New Ross, County Wexford and by Richard Murphy of Robinstown Great, New Ross, County Wexford against the decision made on the 22<sup>nd</sup> day of June, 2022 by Wexford County Council to grant subject to conditions a permission to Oliver and Carol Bolger care of Helena Byrne of Coole, Campile, New Ross, County Wexford in accordance with plans and particulars lodged with the said Council:

**Proposed Development:** The construction of a fully serviced two-storey dwelling and garage, septic tank and all associated site works, all at Robinstown Great, New Ross, County Wexford.

**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 Wexford County Development Plan 2022 – 2028, to the submissions received with the application and the appeal, and to all other material considerations, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenity of the 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, based on a sole consideration re eligibility to meet a rural housing need, the Board considered the precise wording of the Wexford County Development Plan 2022 - 2028, which the Board was satisfied enabled the applicant to satisfy rural housing need requirements under the County Development Plan by virtue of the fact that they qualify under "A person who has lived full time for a minimum of ten years in that local rural area and the site is within 15 kilometres radius of where the applicant has lived or is living and who has never owned a rural house."

## 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 31<sup>st</sup> day of May, 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. The access to the site shall be constructed in accordance with the plans submitted with the application. The works to provide the required sightlines shall be carried out prior to the commencement of construction of the dwelling house. The planning authority shall be notified in writing two weeks prior to the commencement of access works.

**Reason:** To ensure site access during construction with the provision of the required sightlines in the interest of traffic safety.

3. Details of the external finishes and colour of the proposed dwelling house (including roof tiles/slates) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

4. (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 in the interest of the proper planning and sustainable development of the area.

5. The dwelling house shall be used as a permanent place of residence only.

**Reason:** In the interest of controlling development in this rural area.

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

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

7. Any mature trees and hedgerows on the perimeter of the site shall be retained. Hedgerows shall be reinforced by means of a planting mixture of semi-mature evergreen and deciduous trees or shrubs.

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

8. The effluent treatment and disposal system shall be installed and maintained in accordance with the manufacturer's recommendations and shall be completed and ready for use prior to the first occupation of the dwelling house. No system other than the type proposed shall be installed unless agreed in writing with the planning authority.

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

9. (a) The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021.

- (b) Treated effluent from the septic tank system shall be discharged to a raised percolation area which shall be provided in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021.
- (c) 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 raised percolation area is constructed in accordance with the standards set out in the EPA document.

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

- 10. The proposed landscaping scheme shall be carried out within 12 months from the date of the first occupation of the dwelling house. Any trees or shrubs planted in accordance with this condition which are removed, die, become severely damaged or diseased within two years of planting, shall be replaced by trees or shrubs of similar size and species to those originally required to be planted.

**Reason:** In the interests of residential and visual amenity.

- 11. The proposed garage shall not be used for human habitation or for the keeping of pigs, poultry or pigeons, ponies or horses, or for any other purpose other than a purpose incidental to the enjoyment of the house. The finishes and external appearance of the proposed garage shall match the finishes and external appearance of the dwelling house.

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

12. 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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Liam Bergin

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

Dated this 27 day of September 2023.