



Planning and Development Acts 2000 to 2022

Planning Authority: Wicklow County Council

Planning Register Reference Number: 21/1196

Appeal by Vaughan and Esther Curtis of Saint Matthew's, Ballinaheese, Beech Road, Arklow, County Wicklow against the decision made on the 12th day of July, 2022 by Wicklow County Council to grant subject to conditions a permission to Francis Burke care of John O'Hanlon of 69 Lower Main Street, Arklow, County Wicklow in accordance with plans and particulars lodged with the said Council:

Proposed Development: Conversion of part of house to pre-school facilities and all associated site works at Ballinaheese, Beech Road, Arklow, County Wicklow. The proposed development was revised by further public notices received by the planning authority on the 20th day of June, 2022.

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 existing use on the site, the planning history of the site and the modest nature of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or residential amenities of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 10th 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 proposed development shall be amended as follows:

- (a) The proposed new internal partition which would cut off direct access from the main body of the house from the pre-school shall be replaced with a door.
- (b) The landscaping of the boundary with adjoining residences of the development shall incorporate a continuous hedge of indigenous species (that is, holly, hawthorn or beech) or of evergreen species, but not leylandii, which shall be planted for the full length of the north-western boundary. Planting shall be implemented in the first growing season following this grant of permission.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of clarity and residential amenity.

3. The proposed childcare facility shall not operate outside the period of 0845 hours to 1300 hours Monday to Friday inclusive, and shall not operate on Saturdays, Sundays or public holidays, without the benefit of planning permission.

Reason: In the interest of residential amenity.

- 4. (a) The number of children to be accommodated within the existing and proposed facility shall not exceed 10 number at any one time.
- (b) The use of the converted area to pre-school shall not commence prior to the full implementation of the permission granted under An

Bord Pleanála appeal reference number: ABP-312145-21, and full compliance with conditions thereby attached.

- (c) The use as a pre-school shall be operated by a resident of the main dwelling.
- (d) The part of the dwelling used as a pre-school facility shall not be separated from the principle residential use of the site. In particular, it shall not be sold or let independently of the main house and, when no longer required for the pre-school facility, use of that part shall revert to use as part of the main house.

Reason: In the interests of clarity, the residential amenity of the area and traffic safety.

- 5. A register of attendance of the pre-school shall be maintained by the provider, which shall be made available for inspection, at the request of the planning authority.

Reason: In the interests of orderly development and the protection of residential amenity.

- 6. No advertising signs or structures shall be erected, except those which are compliant with the exempted development provisions of the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, without the prior approval of the planning authority.

Reason: In the interests of orderly development and of visual amenity.

7. The existing garage and sheds on the site shall not be used for human habitation or for any commercial (including creche) purposes and shall be for private domestic use only.

Reason: In the interest of clarity, orderly development and the protection of residential amenity.

8. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the existing house on the site without a prior grant of planning permission.

Reason: In the interest of residential 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 the 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.



Liam Bergin

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

Dated this *26th* day of *November* 2023.