

An
Bord
Pleanála

Board Order
ABP-314536-22

Planning and Development Acts 2000 to 2022

Planning Authority: Wicklow County Council

Planning Register Reference Number: 22/672

Appeal by Ann and Bruce Phillips of Drumbawn, Newtownmountkennedy, County Wicklow against the decision made on the 10th day of August, 2023 by Wicklow County Council to grant subject to conditions a permission to Russell and Laura Gummerson care of David Gregory Design of Kilmacanogue House, Kilmacanogue, County Wicklow in accordance with plans and particulars lodged with the said Council:

Proposed Development: (1) construction of new single storey dwelling, (2) on site effluent treatment system, (3) bored well (4) new entrance to site from existing access laneway from public road, and (5) associated works at Drumbawn, Newtownmountkennedy, 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 documentation submitted and the reports on file, it is considered that the proposed development, subject to compliance with the conditions set out below, would be in accordance with the settlement strategy as set out in the Wicklow County Development Plan 2022-2028, would not impact detrimentally on the amenities of the area, could be assimilated into the local landscape, would not give rise to a traffic or public health hazard and would, otherwise, 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 the applicants complied with policy objective CPO 6.41 of the Wicklow County Development Plan 2022-2028, having demonstrated a functional social need in accordance with the requirements set out in table 6.3 of the plan.

Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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.

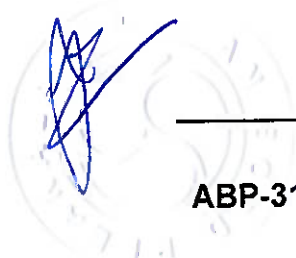
Reason: In the interest of clarity.

2. (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.

3. All surface water run-off from roofs, entrances, driveways, and parking areas shall be collected and disposed on within the site to soakpits, drains or watercourses. In particular, no such surface water run-off shall be allowed to flow onto the public roadway or adjoining properties, nor to discharge to the effluent disposal system.



Reason: In the interest of traffic safety and residential amenity.

4. The finished floor level shall be in accordance with the finished floor level indicated on the drawings submitted with the application, unless otherwise agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and integrating the development into the landscape.

5.
 - (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.

6. The roof finish shall be natural black/blue/grey slates, unless otherwise agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

7. The external walls shall have a cement rendered finish and shall be finished with napp plaster or painted in the white/off-white colour range unless otherwise agreed in writing with the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

8. The landscaping and tree planting shall be carried out as described in the Site Layout Plan drawing submitted with the application, before or during the first planting season or part thereof occurring after the commencement of development. Dense continuous native hedgerows shall be provided along the western, southern and eastern boundaries. Any plant which becomes seriously damaged shall be replaced by others of similar size and species.

Tree planting shall consist of a mixture of native deciduous and evergreen species. Deciduous trees shall be planted at not less than two metres and evergreen species planted not more the 900 millimetres high. The species planted may include trees from the following list: mountain ash, birch, cedar, willow, sycamore, larch, spruce, pine, oak, hawthorn, holly, hazel, beech alder (on no account shall leylandii/lawson cypress trees be planted).

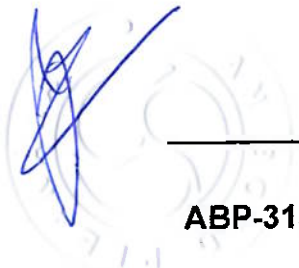


Existing trees, hedgerows, shrubs and vegetation on the site shall be retained, except those strictly required to be removed to carry out the development.

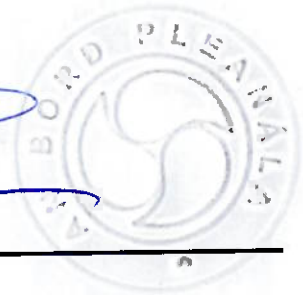
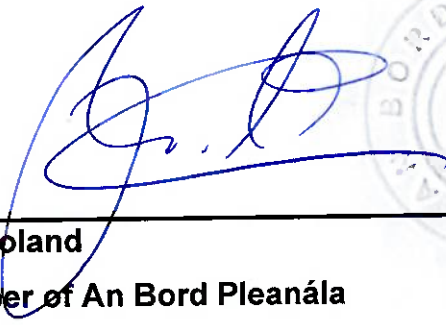
Where any tree fails it may be removed and replaced by a tree of a similar species.

Reason: In order to assimilate development on site into the surrounding area, in the interest of visual amenity and the proper planning and sustainable development of the area.

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.



Joe Boland

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

Dated this *23rd* day of *October* 2023.