

An
Bord
Pleanála

Board Order
ABP-314958-22

Planning and Development Acts 2000 to 2022

Planning Authority: Offaly County Council

Planning Register Reference Number: 22/240

Appeal by Seamus and Patricia Whelan of Bishopswood, Portarlington, County Offaly against the decision made on the 13th day of October, 2022 by Offaly County Council to grant subject to conditions a permission to Jason Whelan care of Barron Architectural Design of 33 Bracknagh, Rathangan, County Offaly in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a dwellinghouse, garage, septic tank and percolation area together with site entrance and all ancillary works, all at Bishopswood, Portarlington, County Offaly.

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

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 Offaly County Development Plan 2021-2027, would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health, 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 had regard to the Inspector's addendum report dated the 21st November, 2023 and concluded that the development accords with the Offaly County Development Plan 2021-2027 policy SSP27 and concurred with the decision of the Planning Authority to grant permission.

Conditions

1. The proposed 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 19th day of September, 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 proposed 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. Details of the materials, colours and textures of all the external finishes to the proposed development 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. The site shall be landscaped as follows:
- (a) The site shall be landscaped in accordance with the landscaping plan received by the planning authority on the 11th day of May, 2022.
 - (b) All existing planting (hedgerow and trees) on and bounding the site shall be retained and maintained, except where altered or amended by conditions in this permission.
 - (c) Any unplanted boundaries of the site shall be planted each with a continuous deciduous hedge of native species, interspersed with broad-leaved deciduous trees at four-metre centres. This planting shall be carried out and completed within the first planting season following first occupation of the dwellinghouse.
 - (d) This landscaping shall be implemented not later than the first planting season after commencement of the proposed development. Any planting that is diseased or fails within two years of planting shall be replaced.

Reason: In the interest of visual amenity and in order to integrate the proposed development into the landscape.

5. (a) Prior to commencement of development, the existing roadside boundary shall be removed for the full frontage of the site in order to achieve sightlines. 2.4-metre x 90-metre sightlines shall be maintained at all times. Nothing shall be planted or sown in front of these sightlines within prior written agreement from the planning authority.
- (b) Prior to commencement of development of the rest of the site (the area of the near edge of the road carriageway and the line of the new boundary fencing), a four-metre-wide parking strip shall be provided immediately adjoining the metalled edge of the roadway along the entire road frontage. The area shall be surfaced with dust free material.
- (c) The entrance gate shall be recessed 2.4 metres inside the line of the new road boundary with wing walls not more than 1.1 metres in height, splayed at an angle of 45 degrees or bellmouthed in a manner to give an entrance width of 13.5 metres at the new fenceline.

- (d) The front boundary shall be replaced with a 1.2-metre-high timber fence with native hedgerow planted at the inner face and shall be set back three metres from the road edge.
- (e) Any consequential damage to the public road shall be made good to the satisfaction of the planning authority prior to the occupation of any part of the proposed development.
- (f) The side walls and piers of the proposed entrance shall be constructed of natural stone, sod and stone, or plastered and capped blockwork, and shall be tied into the existing roadside boundary, all to the satisfaction of the planning authority.
- (g) The vehicular access to the site shall be restricted to one point.
- (h) Three number D400 cast-iron lockable road gullies shall be installed along the entrance. These gullies shall be piped to a separate soakaway within the site.
- (i) Where lands are higher than the adjoining roadway, a drainage channel shall be provided at the entrance gate and drainage system across the front boundary to an outfall to ensure no water flows over the surface onto the public road. The outfall piped to either a drain and/or soakpit shall be of adequate capacity and be located within the site.
- (j) Existing roadside drainage shall not be impaired and the new entrance and roadside parking area shall be designed and shaped or otherwise treated to ensure the uninterrupted flow of surface water.

Reason: To preserve the rural amenities of the area and in the interest of traffic safety.

6. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and surface water management.

7. Prior to commencement of development, the developer shall enter into a water and wastewater connection agreement with Uisce Éireann.

Reason: In the interest of public health.

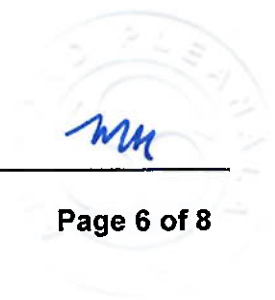
8. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

Reason: In the interest of visual and residential amenity.

9. The construction of the proposed 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 all intended construction practice for the proposed development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

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

10. (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 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.

11. (a) Surface water run-off from the roofs, roads and hardstanding areas shall be collected and disposed of within the site to suitable soakaways. No such surface water run-off shall be allowed to flow onto the public roadway or other adjoining properties.
- (b) Soakaways shall not be built within five metres of buildings, percolation areas, roads etc. as per section 1.5.8 of the Building Regulations 2010, Technical Guidance Document H, Drainage and Waste Water Disposal.

Reason: In the interest of public health.

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 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 the Board 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.



Mary Henchy

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board

Dated this *21st* day of *Dec* 2023.