

An
Bord
Pleanála

Board Order ABP-315720-23

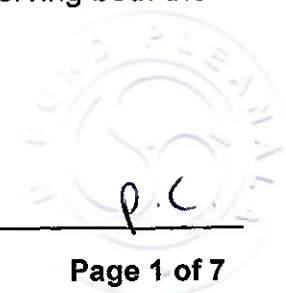
Planning and Development Acts 2000 to 2022

Planning Authority: Kildare County Council

Planning Register Reference Number: 22/1197

Appeal by Tom and Breda McHugh of 11 Stephenstown, Lawns, Two Mile House, Naas, County Kildare against the decision made on the 10th day of January, 2023 by Kildare County Council to grant permission subject to conditions to Elizabeth Loughnane care of DHArchitectural of Clownings, Newbridge, County Kildare in accordance with plans and particulars lodged with the said Council.

Proposed Development: (a) sub-division of the existing site at 12 Stephenstown Lawns, Two Mile House, (b) construction of a new three bedroom two-storey/split level dwelling and new wastewater treatment system on new sub-divided site, and (c) new vehicular entrance to service the existing dwelling, along with all associated site development and facilitating works including site landscaping at 12 Stephenstown Lawns, Two Mile House, Naas, County Kildare. The proposed development was revised by further public notices received by the planning authority on the 7th day of December, 2022 which included the redesign of the existing vehicular entrance to provide a double recessed vehicular entrance serving both the existing dwelling and the proposed new dwelling.



Decision

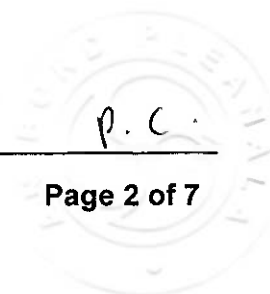
GRANT permission for the above proposed development in accordance with the said plans and particulars based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the nature, scale and design of the proposed development, its location within an established residential estate within the village of Two Mile House and its relationship to existing residential development in the vicinity of the site, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the visual or residential amenities of the area or the amenities of property in the vicinity of the site and would be in accordance with the stated provisions of the Kildare County Development Plan 2023-2029 which are considered to be reasonable. 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 received by the planning authority on the 29th day of November 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. (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. 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.

- (a) 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

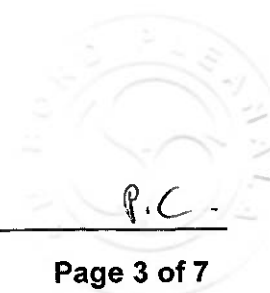
Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and in the interest of the proper planning and sustainable development of the area.

3. The proposed dwelling shall be occupied as a single residential unit and shall not be used for any commercial use or for the carrying out of any trade.

Reason: In the interest of clarity.

4. The windows on the ground (upper) floor north-eastern gable elevation shall be glazed with obscure glass.

Reason: To prevent overlooking of the adjoining residential property.



5. Details of the external finishes of 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.

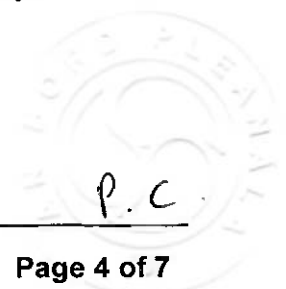
6. Prior to commencement of development the applicant shall submit to and agree in writing with the planning authority a landscaping scheme in relation to the site.

This scheme shall include the following:

- (a) A plan to scale of not less than 1:500 showing;
 - (i) Existing trees, hedgerows, specifying which are proposed for retention as features of the site landscaping,
 - (ii) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder including supplementary hedgerow along the northeastern boundary of the site.
- (b) A timescale for implementation.

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of visual amenity.



7. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

8. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works. Surface water arising from the new access shall be disposed of within the site and not discharge onto the public road.

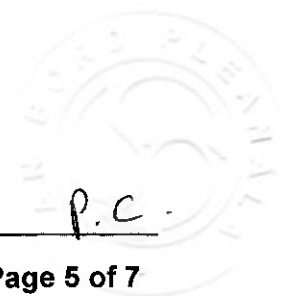
Reason: To ensure adequate servicing of the development, and to prevent pollution.

9. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreements with Uisce Éireann.

Reason: In the interest of public health.

10. The proposed entrance to the site shall be part of a combined shared recessed entrance and shall be constructed in accordance with the details submitted to the planning authority on the 29th day of November 2022.

Reason: In the interest of traffic safety.



11. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 5th day of October, 2022, and in accordance with the requirements of the document entitled "Code of Practice – Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) 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 proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

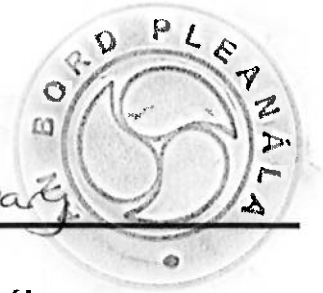
12. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to 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.

Patricia Calleary

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



Dated this *20* day of *February* 2024