

An
Bord
Pleanála

Board Order ABP-315936-23

Planning and Development Acts 2000 to 2022

Planning Authority: Wicklow County Council

Planning Register Reference Number: 22/1275

Appeal by Nicholas O'Loughlin and Georgina Smyth care of Joe Bonner of The Airport Hub, Unit 1, Furry Park, Old Swords Road, Santry, Dublin against the decision made on the 1st day of February, 2023 by Wicklow County Council to refuse permission.

Proposed Development: Construction of new single and part two-storey dwelling, construction of new vehicular entrance, connection to public mains, sewage, and public services and associated drainage, all associated landscaping to front and rear gardens, perimeter fence and associated site development works, all at Ballygarret, Woodstock Road, Newtownmountkennedy, County Wicklow.

Decision

GRANT permission for the above proposed development based on the reasons and considerations under and subject to the conditions set out below.

Reasons and Considerations

Having regard to the proposed design, scale and massing of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the design principles set out in Appendix 2 of the Wicklow County Development Plan 2022-2028 (Single Rural Houses Design Guidelines For New Homes In Rural Wicklow), would comply with Policy CPO 6.41 (Housing in the Open Countryside) of the development plan, and would be an acceptable form of development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board considered it appropriate to include an occupancy condition requiring the applicant to entering a Section 47 agreement with the planning authority restricting the use of the dwelling for a period of seven years to the applicant, or to those persons who fulfil the criteria set out in objective CPO 6.41, in accordance with Policy CPO 6.42 of the development plan.

Conditions

1. The proposed 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 proposed development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The design and layout of the modified vehicular entrance shall comply with the requirements of the planning authority, details of which shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interest of proper planning and sustainable development.

3. (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, as amended, 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.



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4. Surface water drainage arrangements shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

5. Prior to commencement of development, the developer shall enter into a connection agreement with Uisce Éireann to provide for a service connection to the public water supply and/or wastewater collection network.

Reason: In the interest of public health and to ensure adequate water/wastewater facilities.

6. Existing hedgerows, trees and shrubs on site shall be preserved, except where required to be removed to accommodate the proposed entrance. New site boundaries shall consist of timber fencing backplanted with hedgerow of species native to the area. Planting shall commence no later than the first planting season prior to commencement of development.

Reason: In the interest of proper planning and sustainable development.

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

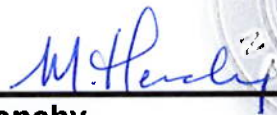
Reason: In the interest of visual and residential amenity.

8. 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.

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 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 *26th* day of *March* 2024.