



An
Bord
Pleanála

Board Order

ABP- 316521-23

Planning and Development Acts 2000 to 2022

Planning Authority: Laois County Council

Planning Register Reference Number: 23/43

Appeal by Brendan Walsh care of Whyte Planning Consultants Limited of Great Connell, Newbridge, County Kildare against the decision made on the 31st day of March, 2023 by Laois County Council to refuse permission for the proposed development.

Proposed Development: Retain existing entrance as constructed; retain existing house and stables as constructed; retain existing general hardstand area; retain existing septic tank with permission to upgrade to a secondary effluent treatment system and all associated site works at Ballylehane Lower, Ballylinan, County Laois.

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 provisions of the Laois County Development Plan 2021-2027, the pattern of development in the area and the nature and scale 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 of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. The proposed development 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 noted, inter alia, the traffic report titled 'Existing Entrance at Ballylehane Lower, Ballylinan, Co. Laois', dated January 2023, prepared by TPS M Moran and Associates – Traffic and Transportation Planning Consultants and the assessment and conclusions contained therein. The Board also noted the established entrance at this location, the established use on the application site and the limited trip generation arising. The Board considered that, subject to conditions, the retention of the existing entrance would not pose an unacceptable risk to traffic safety on the adjacent local road.

Conditions

1. The development shall be retained 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 within three months from the date of this Order and the development shall be retained and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Visibility sightlines of minimum distance 90 metres shall be provided and maintained at the site entrance as indicated on the 'Site Layout Plan' (drawing number BW/PLN-002) and 'Access Arrangements and Visibility Sightlines' (drawing number 122-A59-LP01, Appendix 2.0 to report titled 'Existing Entrance at Ballylehane Lower, Ballylinan, Co. Laois – Traffic Report', prepared by TPS M Moran and Associates) received by the planning authority on the 13th day of February 2023.

Reason: In the interest of traffic safety.

3. The existing front boundary hedge shall be retained except to the extent that its removal is necessary to provide for the visibility sightlines subject of condition number 2 of this Order.

Reason: In the interest of visual and rural amenities.

4. The proposed dwelling 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 from the date of this Order 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. Within three months of the date of this Order, 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. 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.

5. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority and in accordance with the requirements of the document entitled "Code of Practice – Domestic Waste Water Treatment Systems (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 within three months from the date of this Order.
- (b) Within three months of the date of this Order, 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 Environmental Protection Agency document.

Reason: In the interest of public health.

6. All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

Reason: In the interest of public health.

7. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

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

8. 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 within three months from the date of this Order 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.

A handwritten signature in blue ink is written over a circular seal. The seal features a stylized 'S' logo in the center and the text 'AN BORD PLEANÁLA' around the perimeter.

Tom Rabbette

Member of An Bord Pleanála

**duly authorised to authenticate
the seal of the Board.**

Dated this 28th day of Feb 2024