

An  
Bord  
Pleanála

Board Order  
ABP-317156-23

---

**Planning and Development Acts 2000 to 2022**

**Planning Authority: Wexford County Council**

**Planning Register Reference Number: 20221070**

**Appeal** by John McCabe care of Bobby Sinnott, Planning and Design Services, of Finchogue, Enniscorthy, County Wexford against the decision made on the 25<sup>th</sup> day of April, 2023 by Wexford County Council to grant subject to conditions a permission to Laurence Murphy care of Ennis Martin Architecture of Main Street, Ferns, County Wexford in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Permission to erect a dwellinghouse with services, domestic garage and stables with all associated site works, at Ballysimon, Tinnacross, County Wexford.

### **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 location of the site, the pattern of existing and permitted development in the vicinity, the provisions of the Wexford County Development Plan 2022-28 and National Guidance as indicated in the Sustainable Rural Housing Guidelines 2005 and National Planning Framework 2040, it is considered that the proposed development would be in accordance with the stated provisions of the Wexford County Development Plan 2022-2028. It is also considered that, subject to compliance with the following conditions, the proposed development would not adversely impact the character of the area or seriously injure the visual or residential amenities of the area and would be acceptable in terms of road safety. 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 on the as amended by the further plans and particulars submitted on the 31<sup>st</sup> day of March 2023, 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, 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.

3. External finishes to the proposed development shall be in accordance with the details received by the planning authority on the 9<sup>th</sup> day of August 2022 and the 31<sup>st</sup> day of March 2023.

**Reason:** In the interest of visual amenity.



4. The roof colour of the proposed house shall be blue-black, black, dark brown or dark-grey. The colour of the ridge tile shall be the same as the colour of the roof.

**Reason:** In the interest of visual amenity.

5. The proposed entrance to the site shall be located at the point on the roadside frontage indicated in the details submitted to the planning authority on the 31st March 2023. Any removal of the roadside boundary to facilitate the provision of sightline shall be reconstructed behind the sightline visibility line and the reconstructed boundary shall consist of a sod and stone boundary or native species hedgerows. Details, in this regard, are to be submitted to and agreed with the planning authority prior to the commencement of any development works on the site.

**Reason:** In the interest of traffic safety and visual amenity

6. The site shall be landscaped, using only indigenous, deciduous trees and hedging species and shall include a timescale for implementation, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

7. The water supply to serve the proposed dwelling shall have sufficient yield to serve the proposed development, and the water quality shall be suitable for human consumption. Details demonstrating compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure that adequate water is provided to serve the proposed dwelling, in the interest of public health.

8. (a) The treatment plant and polishing filter 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 - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e.  $\leq 10$ )" – Environmental Protection Agency, 2021.
- (b) No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.
- (c) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (d) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.
- (e) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.
- (f) 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 and that the polishing filter is constructed in accordance with the standards set out in the Environmental Protection Agency document.

**Reason:** In the interest of public health.

9. Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.
  - (a) 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.
  - (b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

**Reason:** In the interest of public health and traffic safety.

10. The stable building and associated underground effluent tank and dungstead shall be constructed in accordance with Department of Agriculture Fisheries and Marine standards and specifications for such works and shall be used solely for the purposes outlined in the details submitted. All soiled water shall be discharged to the effluent tank and roof and surface water shall be collected separately and discharged to a surface water system and not discharged to the effluent tank.

**Reason:** In the interest of public health.



11. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interests of visual and residential amenity.

12. (a) The permitted garage shall be used for domestic purposes only incidental to the main dwelling on site.
- (b) The permitted stables shall be used to house equine animals only.
- (c) Neither the garage or the stables shall be used for the carrying on of any commercial or business activities.


**Reason:** In the interests of control and the amenities of the area.

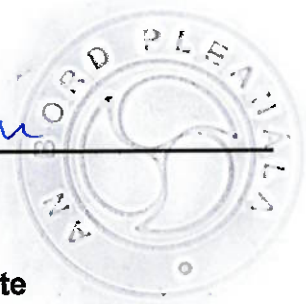
13. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior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

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

14. 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.

  
\_\_\_\_\_  
**Stewart Logan**  
**Member of An Bord Pleanála**  
**duly authorised to authenticate**  
**the seal of the Board.**



Dated this *8<sup>th</sup>* day of *March* 2024.