



An  
Bord  
Pleanála

## Board Order ABP-317553-23

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### Planning and Development Acts 2000 to 2022

**Planning Authority: Carlow County Council**

**Planning Register Reference Number: 23/15**

**Appeal** by Steward Hancock care of ERMS Planning and Development Consultants of 34 The Crescent Castle Oaks, County Carlow against the decision made on the 15<sup>th</sup> day of June, 2023 by Carlow County Council to grant permission subject to conditions to Eric Bates and Michaela Dunne care of PDS and Associates of Lismard House, Tullow Street, County Carlow in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construct a single-storey dwelling, detached garage, widening of existing domestic entrance, bored well, wastewater treatment system and percolation area, de-commissioning of existing septic tank and all associated site works at Rutland, Palatine, County Carlow.

### 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 planning history of the site, the provisions of the Carlow County Development Plan 2022-2028, the National Planning Framework 2040, and National Guidance set out in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of Environment, Heritage and Local Government in 2005, it is considered that subject to compliance with the conditions set out below, the proposed development would be in accordance with the policies of the development plan including policies RHP1, NHP1, BHP1 and AHP1 and would not adversely impact on the character of the area or be seriously injurious to the visual or residential amenities of the area. 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 24<sup>th</sup> day of May 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. 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. External finishes to the proposed development shall be in accordance with the details received by the planning authority on the 23<sup>rd</sup> day of January 2023 and the 24<sup>th</sup> day of May 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. 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.

6. 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.

7.
  - (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) 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.
  - (e) 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 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.

Details to comply with the requirements of this condition shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

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

8. 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 23<sup>rd</sup> day of January 2023 and the 24<sup>th</sup> day of May 2023. Any removal of the roadside boundary to facilitate the provision of sightlines shall be reconstructed behind the sightline visibility line and the reconstructed boundary and shall consist of native species hedgerows, details of which shall be submitted to and agreed in writing with the planning authority prior to commencement of development.

**Reason:** In the interests of traffic safety and visual amenity.

9. The site shall be landscaped, using only indigenous deciduous trees and hedging species in accordance with the details submitted to the planning authority on the 23<sup>rd</sup> day of January 2023 and on the 24<sup>th</sup> day of May 2023. A timescale for implementation of the scheme 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.

10. 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.

11. Site development and building works shall be carried out only between the hours of 0700 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 amenities of property in the vicinity.

12. The use of the domestic garage shall be for private domestic use only solely incidental to the enjoyment of the dwellinghouse and shall not be used for any commercial or trade purposes or for human habitation.

**Reason:** In the interest of clarity.

13. The applicant/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.



**Stephen Brophy**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board.**

**Dated this 20<sup>th</sup> day of March 2024**