



An  
Bord  
Pleanála

## Board Order ABP-317711-23

**Planning and Development Acts 2000 to 2022**

**Planning Authority: Offaly County Council**

**Planning Register Reference Number: 23/137**

**Appeal** by Olive Curran of Ballinderry, Mullingar, County Westmeath against the decision made on the 5<sup>th</sup> day of July, 2023 by Offaly County Council to grant subject to conditions a permission to Kyle Kavanagh care of Infinite Focus Consulting Engineers of 10 Father McWey Street, Edenderry, County Offaly in accordance with plans and particulars lodged with the said Council

**Proposed Development:** One number new storey-and-a-half-type dwelling, one number new domestic garage, installation of a new wastewater treatment system, vehicular entrance, new landscaping and all associated site development works, all at Fahy, Rhode, County Offaly.

### 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

It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the policies and objectives of the Offaly County Development Plan 2021-2027, in particular Policy SSP-27 (housing in the open countryside), would not constitute a traffic hazard by reason of significant additional traffic, would not be prejudicial to public health, and 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 considered that the proposed development would be in accordance with Policy SSP-27 (housing in the open countryside) of the Offaly County Development Plan 2021-2027 and considered that the applicant has demonstrated that they meet the criteria set down in the development plan regarding social requirements. The proposal for a single house would not be contrary to policy SMAP-23 of Chapter 8 (Sustainable Transport Strategy) of the Offaly County Development Plan 2021-2027 as the proposed development would not generate significant additional traffic. The Board was satisfied that effluent from the proposed development can be satisfactorily treated having regard to the findings of the site suitability assessment report submitted by the applicant, including the accompanying photographs and the proposed wastewater system to serve the proposed house. The Board also noted that the planning authority was satisfied with the waste treatment system proposed. The Board concurred with the Inspector's assessment of other matters raised by the appellant in this appeal, including land ownership and administrative issues.

The Board decided that, subject to an occupancy condition, the proposed development would be in accordance with policy SSP-27 of the Offaly County Development Plan 2021-2027 and would be in accordance with the proper planning and sustainable development of the area.

## Conditions

1. The proposed 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 12<sup>th</sup> day of June 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 proposed 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. Details of the materials, colours and textures of all the external finishes to 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.

4. (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 traffic safety and to prevent flooding or pollution.

5. Prior to commencement of development, the developer shall enter into a water connection agreement with Uisce Éireann.

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

6. (a) Prior to commencement of development, the roadside boundary shall be removed for the full frontage of the site in order to achieve sightlines (two by 160-metre sightlines shall be maintained at all times). Nothing shall be planted or sown in front of these sightlines without prior approval from the planning authority.
- (b) Prior to commencement of development of the remainder of the site, at the area between the near edge of the road carriageway and the line of the new boundary fencing, a four-metre-wide parking strip shall be provided immediately adjoining the metalled edge of the roadway along the entire road frontage. The area shall be surfaced with dust-free material.
- (c) The entrance gate shall be recessed 2.4 metres inside the line of the new road boundary with wing walls not more than 1.1 metres in height splayed at an angle of 45 degrees, or bellmouthed in a manner to provide an entrance width of 13.5 metres at the new fence line.
- (d) The site boundary shall be replaced with a 1.2-metre-high timber fence with native hedgerow planted at the inner face and shall be set back four metres from the road edge.
- (e) Any damage to the public road during construction shall be made good to the satisfaction of the planning authority. The developer shall be responsible for any damage caused during the construction phase to the public footpath. In the event of any damage, the developer shall contact the planning authority and arrange for necessary repair works to be carried out at the developer's own expense.
- (f) Any new public service utility poles shall be located on or behind the set-back front boundary/fence/wall. Any existing roadside service utility poles shall be located on or behind the set-back front boundary/fence/wall.
- (g) The entrance gradient shall not exceed 1 in 50 for a distance of seven metres from the metalled edge of the roadway.

- (h) The side walls and piers of the proposed entrance shall be constructed of natural stone, sod and stone or plastered and capped blockwork and shall be tied into the existing roadside boundary all to the satisfaction of the planning authority.
- (i) The vehicular access to the site shall be restricted to one point.
- (j) Three number D400 cast iron lockable road gullies shall be installed along the entrance. These gullies shall be piped to a separate soakaway within the site.
- (k) Prior to commencement of development, the developer shall install a suitably sized pipe for the open drain at the front of the proposed house.
- (l) The existing roadside drainage shall not be impaired, and the new entrance and roadside parking area shall be designed and shaped or otherwise treated to ensure the uninterrupted flow of surface water.
- (m) A drainage channel shall be provided at the entrance gate and drainage system across the front boundary to an outfall to ensure that no water flows over the surface onto the public road. The outfall, piped to either a drain and/or soakpit, shall be of adequate capacity and shall be located within the site.

**Reason:** To preserve the rural amenities of the area and in the interest of traffic safety.

- 7. (a) The septic tank/wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with the application and shall be in accordance with the standards set out in the document entitled "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$ )" – Environmental Protection Agency, 2021.

- (b) Treated effluent from the septic tank/wastewater treatment system shall be discharged to a percolation area/polishing filter which shall be provided in accordance with the standards set out in the document entitled "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$ )" – Environmental Protection Agency, 2021.
- (c) Within three months of the first occupation of the dwelling, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the septic tank/wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.

**Reason:** In the interest of public health and to prevent water pollution.

- 8. 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.

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 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.



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Mary Henchy

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

Dated this 9<sup>th</sup> day of October. 2024.