

An
Bord
Pleanála

Board Order
ABP-317736-23

Planning and Development Acts 2000 to 2022

Planning Authority: Kildare County Council

Planning Register Reference Number: 23192

Appeal by Gerome Donnelly of Mill Lodge, Baysland, Naas, County Kildare against the decision made on the 13th day of July, 2023 by Kildare County Council to grant, subject to conditions, a permission to Nicole Mooney care of Mark Byrne Engineering Limited of Gormanstown, Kilcullen, County Kildare in accordance with the plans and particulars lodged with the said Council.

Proposed Development: A single-storey house, upgrade of existing agricultural entrance to recessed entrance, wastewater treatment system and percolation area along with all associated site development works including new internal access road to agricultural fields at rear, at Baylands, Naas, County Kildare.

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 policies of the Kildare County Development Plan 2023-2029, and all material considerations, the Board considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the zoning objective for the site, would not detract from the visual amenity of the area, would provide an acceptable standard of residential amenity for the prospective residents, would not seriously injure the residential amenity of surrounding properties, and would not endanger public safety by reason of access, traffic generation, drainage proposals, or otherwise. Furthermore, the Board also considered that the applicant has demonstrated a local housing need. 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 and with the further plans and particulars lodged with the planning authority on the 20th 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 development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interests 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 ten 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 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

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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. (a) The development hereby permitted shall be carried out in full accordance with the details received by the planning authority on 20th day of June 2023. The permitted dwelling shall be occupied as a single housing unit for domestic related purposes only.
- (b) The existing shed shall only be used for purposes incidental to the dwelling hereby permitted, including the ancillary storage of agricultural equipment and household items for domestic purposes only.
- (c) No further development shall take place within the curtilage of the dwelling hereby permitted without a prior grant of planning permission.

Reason: In the interest of clarity and to regulate the use of the development in the interest of the proper planning and sustainable development of the area.



4. The external finishes of the dwelling shall be in accordance with the application lodged on 1st day of March 2023. The use of reconstituted stone, brick or dry (pebble) dash shall not be permitted. The roof shall comprise blue/ black slates or tiles.

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

5. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) A plan to scale of not less than (1:500) showing –

- (i) Existing trees, hedgerows, shrubs specifying which are proposed for retention as features of the site landscaping.
- (ii) The measures to be put in place for the protection of these landscape features during the construction period.
- (iii) The species, variety, number, size and locations of all proposed trees and shrubs which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder and which shall not include prunus species.
- (iv) Details of screen planting which shall not include cupressocyparis x leylandii.

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- (v) Hard landscaping works, specifying surfacing materials, and finished levels.
- (b) Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment.

The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the commencement of construction works. All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenity.

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

Reason: In the interest of public health.

- 7. 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.



8. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the application, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2021. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.
- (b) 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.
- (c) 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.
- (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 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. (a) Prior to the commencement of development, the site access and visibility sightline splays at the entrance shall be provided in accordance with proposed entrance drawing 01-06-2023, received by the planning authority on 20th day of June 2023 and retained thereafter.
- (b) The area within the visibility sightline splay shall be cleared to provide a level surface no higher than 250 millimetres above the level of the adjoining carriageway and shall be retained and kept clear thereafter.
- (c) All necessary measures shall be taken by the applicant/developer to prevent the spillage or deposit of any materials including clay rubble or other debris on adjoining roads during the course of development. In the event of any such spillage or deposit, immediate steps shall be taken to remove the material from the road surface at the applicant/developers own expense.
- (d) No building material or plant shall be used or stored on the public road without the prior consent of the Municipal District Engineer. All vehicles relating to tradespeople shall be accommodated within the site and no parking shall take place on the public road.

Reason: In the interest of traffic safety.

10. Prior to the commencement of development, the developer shall liaise with the relevant statutory body and arrange for the relocation of the existing utility pole adjacent to the site entrance. Evidence of the agreed arrangements shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. The cost of any such works shall be borne by the applicant. The relocation of the existing utility pole shall be completed in accordance with the agreed arrangements prior to the occupation of the dwelling hereby permitted.

Reason: In the interest of traffic safety.

11. The developer shall ensure that if electrical charge points are provided at the driveway of the new dwelling to allow for the night-time charging of electric vehicles, linked to the individual domestic electricity meter, the electric vehicle charger shall be compatible with The Sustainable Energy Authority of Ireland's Triple E Register.

Reason: To promote the use of night-time renewable energy.

12. The existing septic tank and associated pipework shall be decommissioned removed and disposed of in accordance with the Waste Management Acts 1996-2016, and Regulations made thereunder.

Reason: In the interest of best practice guidelines for the management and reduction of construction and demolition waste in order to avoid pollution.

13. Site development and building works shall be carried out only between the hours of 0800 to 1800 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 noise level during the construction phase shall not exceed 70 dB(A) (LAeq 1 hour) rated sound level at any point along the boundary of the site between 0800 and 1800 hours, Monday to Friday inclusive (excluding bank holidays), between 0800 and 1300 hours on Saturdays, and shall not exceed 45 dB(A) (LAeq 1 hour) at any other time. Procedures for the purpose of determining compliance with this limit shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the residential amenities of property in the vicinity of the site.


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

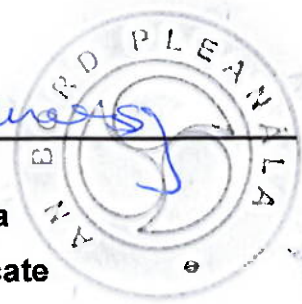
Reason: In the interest of visual amenity.

16. 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.


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



Dated this 21st day of May 2024.