



An
Bord
Pleanála

Board Order ABP-318425-23

Planning and Development Acts 2000 to 2022

Planning Authority: Offaly County Council

Planning Register Reference Number: 23/100

Appeal by Brendan Lynam of Killeigh, Tullamore, County Offaly against the decision made on the 18th day of October, 2023 by Offaly County Council to grant subject to conditions a permission to Justin and Gerard Heffernan care of Murray Architectural Services of Pallas Park, Blueball, Tullamore, County Offaly in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of two number two-storey detached houses, access road, footpaths and all associated site works and services, all at Millbrook, Killeigh, County Offaly, as amended by the revised public notices received by the planning authority on the 21st day of September, 2023 which provided for the construction of one house only.

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 nature and scale and the use of the proposed development, the issue raised in the planning assessments, the third-party submissions, reports, site inspection, existing pattern of development in the vicinity, and the provisions of the Offaly County Development Plan 2021-2027, 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 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:

- (a) that while the site is located within an area of archaeological potential where test trenching has identified archaeological material in the western part of the site, and it has not been established that the area in which the proposed development would take place would not contain archaeological finds or features, and the archaeological potential of the site has, therefore, not been resolved, that a suitable condition requiring the monitoring of groundworks by a suitably qualified person would be sufficient protection and, in this regard, the Board was in agreement with the Development Applications Unit of the Department of Culture, Heritage and Gaeltacht's observation and recommendation,
- (b) that the location and design of the proposed dwelling, set back from the road, and close to upstanding historic remains, would not materially impact the setting of the recorded monument or the visual amenity of the historic settlement given the pattern of existing development in the area and in closer proximity to the site, and

- (c) that the development for residential use was sufficiently removed from the area zoned 'Open Space, Amenity and Recreation' and designated 'Constrained Land Use' not to materially impact on this zone, and, in agreement with the planning authority, the Board considered that the proposed development would be in accordance with the proper planning and sustainable development of the area and would respect the site's residential zoning.

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 21st day of August, 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. 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.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and surface water management.

4. The finished floor level of the proposed dwellinghouse shall be as indicated on the submitted drawings.

Reason: In the interest of visual amenity.

5. Boundary treatments shall be in accordance with the details submitted. Any replacement front boundary wall shall match the existing stone wall in terms of matching stone and form of construction. Inner and outer piers shall match the height of the existing front boundary wall in height.

Reason: In the interest of adjoining residential amenity and orderly development.

6. 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.

7. (a) A buffer area of 20 metres shall be implemented around Recorded Monument OF025017003 – Class: Religious House – Augustinian canons and the site of the previously identified human burials. No ground works/storage or vehicle movements shall be carried out within the buffer area, including boundary works, landscaping or ground reduction. The buffer area shall be fenced off and protected during construction and shall not be used for storage or vehicular access. A revised layout plan shall be submitted to the planning authority for written agreement if deemed required in order to comply with the above requirements.

- (b) All ground works associated with the proposed development shall be monitored under licence by a suitably qualified archaeologist.
- (c) Should archaeological material be found during the course of works, the works on site shall be stopped pending a decision as to how best to deal with the archaeology. The developer shall be directed by the National Monuments Service with regard to any necessary mitigation measures and shall facilitate the archaeologist in recording any material found.

Reason: To ensure the continued preservation of places, caves, sites, features or other objects of archaeological interest.

- 8. A footpath shall be provided at the developer's expense at the front boundary of the site and shall be dished at the site accesses.

Reason: In the interest of traffic safety and orderly development.

- 9. The construction of the proposed development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of all intended construction practice for the proposed development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and residential amenity.

- 10. (a) Prior to commencement of development, the developer shall apply to the planning authority for a road opening licence to facilitate the construction of the proposed entrance. The proposed entrance shall be constructed in accordance with the requirements of the planning authority.

- (b) No surface water shall be allowed to discharge onto the public footpath from the entrance of the proposed development. Surface water run-off shall be collected and disposed of within the site to soakpits. In particular, no surface water run-off shall be allowed to flow onto the public footpath or other adjoining properties.
- (c) No construction vehicles shall be permitted to park on the public road during construction works. No loading or unloading shall be permitted on the public roadway. The road network shall remain unaffected by the construction works at all times.
- (d) The developer shall provide continuity of the existing footpath, kerbing and grass verge between the proposed new entrance and the adjacent footpaths to include drop kerbs across the entrances in accordance with the standards of Transport Infrastructure Ireland.
- (e) The construction site shall be securely fenced along its perimeter and all construction activities shall take place within the site.
- (f) All necessary measures shall be taken by the developer to prevent any spillage or deposition of clay, dust, rubble or other debris on the adjoining and/or adjacent public road and footpath network during the course of construction works.

Reason: In the interest of traffic safety.

11. 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.



Liam Bergin

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



Dated this 06th day of November 2024.