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**Planning and Development Act 2000, as amended**

**Planning Authority: Waterford City and County Council**

**Planning Register Reference Number: 24/60375**

**Appeal** by Brendan and Siobhan Brophy of Gortnapeaky, Ballyduff Upper, County Waterford against the decision made on the 21<sup>st</sup> day of October, 2024 by Waterford City and County Council to grant subject to conditions a permission to Eoghan Geary care of Jack Cunningham of Seemochudda, Ballysaggart, County Waterford in accordance with plans and particulars lodged with the said Council.

**Proposed Development:** Construction of a single storey dwellinghouse, detached garage, new entrance, wastewater treatment system and all associated site development works, all at Gortnapeaky, Ballyduff Upper, County Waterford.

## **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 design and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the relevant provisions of the Waterford County Development Plan 2022-2028, including Policy Objective H 28 (New Homes in the Open Countryside), would not seriously injure the residential amenities of the area, would respect the character and visual amenities of the area, would not be prejudicial to public health, and would, therefore, 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 26<sup>th</sup> day of September, 2024, 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 dwellinghouse, 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, as amended, to this effect.
- (b) Within two months of the occupation of the proposed dwellinghouse, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwellinghouse in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwellinghouse by a mortgagee in possession or the occupation of the dwellinghouse 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. The proposed garage shall be used solely for purposes incidental to the enjoyment of the dwellinghouse and shall not be used for habitable or commercial purposes.

**Reason:** In the interest of the proper planning and sustainable development of the area.



4. (a) The roof colour of the proposed dwellinghouse 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.
- (b) The external walls shall be finished in neutral colours such as grey or off-white.

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

5. The entrance gates to the proposed dwellinghouse shall be set back not less than four metres and not more than six metres from the edge of the public road. Wing walls forming the entrance shall be splayed at an angle of not less than 45 degrees and shall not exceed one metre in height.

**Reason:** In the interest of traffic safety.

6. (a) A scheme indicating boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The boundary treatment scheme shall provide a screen along the southern boundary, consisting predominantly of trees, shrubs and hedging of indigenous species, and shall be protected from grazing animals by stock-proof fencing. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works.
- (b) The existing front boundary hedge and fence shall be retained except to the extent that its removal is necessary to provide for the entrance to the site.

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

7. 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 order to screen the development, in the interest of visual amenity.

8. (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.

9. (a) The septic tank/wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included in the site characterisation report submitted with the planning 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 dwellinghouse, 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.

- 10. 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.

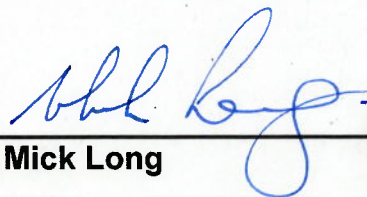
- 11. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

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



12. 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 Coimisiún 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.



**Mick Long**

**Planning Commissioner of An Coimisiún**

**Pleanála duly authorised to authenticate  
the seal of the Commission.**



Dated this 10<sup>th</sup> day of September 2025.