



An
Bord
Pleanála

Board Order ABP-321831-25

Planning and Development Acts 2000 to 2022

Planning Authority: Westmeath County Council

Planning Register Reference Number: 24/60301

Appeal by Transport Infrastructure Ireland of Parkgate Business Centre, Parkgate Street, Dublin against the decision made on the 17th day of January, 2025 by Westmeath County Council to grant subject to conditions a permission to Mark Reynolds care of Armstrong Fenton Associates of Unit 13, The Seapoint Building, 44-45 Clontarf Road, Clontarf, Dublin in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a single storey dwelling, provision of domestic effluent treatment unit and percolation area, and all associated site development works, all on a site area of approximately 3.89 hectares at Clonhugh, Multyfarnham, Mullingar, County Westmeath, as revised by the further public notices received by the planning authority on the 19th day of November, 2024 which included the submission of a Natura Impact Statement.

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 policy objectives and provisions of the Westmeath County Development Plan 2021-2027 in respect of residential development in areas defined as Rural Areas Under Strong Urban Influence, the nature, scale and design of the proposed development which is consistent with the provisions of the development plan, the fact that the junction arrangement with the N4 is existing and is not being intensified by the proposed development, and the pattern of existing and permitted development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not seriously impact on the landscape character or biodiversity of the area, and would be acceptable in terms of design and traffic safety. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Board did not consider the proposed development constituted a material contravention of the development plan for the following reasons: the Board agreed with the Inspector and the planning authority that there is no material intensification of use of the existing entrance, no additional access point is being proposed (Policy Objective CPO 10.46 of the Westmeath County Development Plan 2021-2027), there is no amendment being proposed to the existing access, the applicant is proposing to connect into an existing avenue that accesses the existing house, and the existing access is in accordance with national guidelines for sight lines.

Appropriate Assessment: Stage 1:

The Board agreed with the screening assessment and conclusion carried out in the Inspector's Report that the Lough Owel Special Area of Conservation (Site Code: 000688) and the Lough Owel Special Protection Area (Site Code: 004047) are the only European Sites in respect of which the proposed development has the potential to have a significant effect in view of the Conservation Objectives for the sites and that Stage 2 Appropriate Assessment is, therefore, required.

Appropriate Assessment: Stage 2:

The Board considered the Natura Impact Statement, and all the other relevant submissions on file, and carried out an Appropriate Assessment of the implications of the proposed development on the Lough Owel Special Area of Conservation (Site Code: 000688) and the Lough Owel Special Protection Area (Site Code: 004047) in view of the sites' Conservation Objectives. The Board considered that the information before it was sufficient to undertake a complete assessment of all aspects of the proposed development in relation to the sites' Conservation Objectives using the best scientific knowledge in the field. In completing the assessment, the Board considered, in particular, the following:

- (i) the site-specific Conservation Objectives for the European Sites,
- (ii) the likely direct and indirect impacts arising from the proposed development, both individually or in combination with other plans or projects, and
- (iii) the mitigation measures which are included as part of the current proposal.

In completing the Appropriate Assessment, the Board accepted and adopted the Appropriate Assessment carried out in the Inspector's Report in respect of the potential effects of the proposed development on the aforementioned European Sites.

In overall conclusion, the Board was satisfied that the proposed development would not adversely affect the integrity of the European Sites in view of the sites' Conservation Objectives and that there is no reasonable scientific doubt as to the absence of such effects.

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 19th day of November, 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. The mitigation measures contained in the submitted Natura Impact Statement shall be implemented in full.

Reason: To protect the integrity of European Sites.

3. (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.

4. The vehicular entrance to the property shall be by way of the shared access using the existing entrance shown on the drawing titled Sightlines at existing entrance, drawing reference number 24-801-D001 only. The existing farm access gate shall not to be used to access the new dwelling.

Reason: In the interest of clarity.

5. (a) An Ecological Clerk of Works shall be appointed by the developer to oversee the implementation of the ecological mitigation measures and control/monitoring measures as proposed in the Preliminary Ecological Appraisal, the Construction and Environmental Management Plan and any additional mitigation measures arising from further surveys and impact assessments.
- (b) Prior to commencement of development, the developer shall submit for the written agreement of the planning authority a pre-construction survey of the site which shall be carried out by a qualified Ecologist. The ecological survey shall include, but not be limited to, the assessment of small mammals, bats and birds.

- (c) All external lighting shall be designed and installed using best practice to reduce the impacts on bats and other wildlife in accordance with "Bat and Lighting, Guidance Notes for: Planners, Engineers, Architects and Developers, December 2010".

Reason: In the interest of environmental protection and orderly development.

6. 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 and to ensure an appropriate high standard of development.

7. A Construction and Environmental Management Plan (CEMP) shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The CEMP shall include, but not be limited to, construction phase controls for dust, noise and vibration, waste management, protection of soils, groundwaters, and surface waters, site housekeeping, emergency response planning, site environmental policy, and project roles and responsibilities.

Reason: In the interest of environmental protection.

8. (a) The developer shall engage the services of a suitably qualified archaeologist to carry out an archaeological assessment of the development site. No sub-surface developmental work, including geotechnical test pits, shall be undertaken until the archaeological assessment has been completed and commented on by the National Monuments Service.

- (b) The archaeologist shall carry out any relevant documentary research and inspect the development site. The assessment shall include a visual impact assessment of the proposed development on the site and setting of Recorded Monuments WM011-107- ---Class: Ringfort – rath. A further geophysical survey of the site of the proposed development and its associated access road and a programme of test excavation shall be carried out at locations chosen by the archaeologist (licensed under the National Monuments Acts 1930-2004), having consulted the site drawings and the National Monuments Service.
- (c) Having completed the work, the archaeologist shall submit a written report stating their recommendations to the planning authority and to the Department of Housing, Local Government and Heritage. Where archaeological material/features are shown to be present, preservation in situ, preservation by record (excavation) or monitoring shall be required.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

9. (a) The 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 ≤ 10) ” – Environmental Protection Agency, 2021.
- (b) Treated effluent from the septic tank/wastewater treatment system shall be discharged to a 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 ≤ 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.

10. (a) The approved landscaping scheme received on the 28th day of August, 2024 shall be undertaken in the first planting season following the occupation or substantial completion of the dwelling, whichever is the sooner. The planting shall, thereafter, be maintained and any plants that die, become diseased or are removed within five years shall be replaced within the following planting season by plants of a similar size and species.
- (b) Any required hedgerow and tree removal to facilitate the proposed development or hedgerow maintenance shall not take place during the breeding season between 1st March and the 31st August.
- (c) Any new planting shall be comprised of native species, including at least five of the following: blackthorn (*Prunus spinosa*), whitethorn (*Crataegus monogyna*), ash (*Fraxinus excelsior*), crab apple (*Malus sylvestris*), downy birch (*Betula pubescens*), guelder rose (*Viburnum opulus*), hazel (*Corylus avellana*), holly (*Ilex aquifolium*), pendunculate oak (*Quercus robur*), rowan (*Sorbus aucuparia*), spindle (*Euonymus europaeus*), whitebeam (*Sorbus aria*), wild cherry (*Prunus avium*), elm (*Ulmus glabra*).

Reason: In the interest of the visual amenities of the area.

11. The proposed development shall be serviced by a private well. The proposed well shall be located relative to the proposed wastewater treatment system, in strict accordance with Annex E of the 'Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses' (p.e. ≤10) published by the EPA. All water service pipes shall be laid a minimum depth of 600 millimetres below the final finished ground level.

Reason: In the interest of public health and orderly development.

12. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be located underground.

Reason: In the interest of orderly development and the visual amenities of the area.

13. 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.



Mary Henchy

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

Dated this 11th day of Feb 2025.