

An
Coimisiún
Pleanála

Commission Order
ACP-323058-25

Planning and Development Act 2000, as amended

Planning Authority: Carlow County Council

Planning Register Reference Number: 24/60177

Appeal by Susan Morris and Svitlana Snigur against the decision made on the 19th day of June, 2025 by Carlow County Council to grant subject to conditions a permission to Dunneace Construction Limited in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of 14 number semi-detached two-storey dwellings consisting of six number three-bed semi-detached houses and eight number four-bed semi-detached houses, connection to existing on-site services, associated private car parking spaces, boundary treatments, street lighting and all associated site works, all at Limegrove, Palatine, Carlow, as revised by the further public notices received by the planning authority on the 7th day of January, 2025.

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 location of the proposed development, on lands at Palantine which are zoned by the Carlow County Development Plan 2022-2028 for new residential use, the planning history of the site, the design, nature and scale of the proposed development, and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in form, layout and density, and would not seriously injure the amenities of the area or of property in the vicinity. The proposed development 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 Commission noted the Inspector's comments regarding the evolution of the proposed design and layout, in the context of requests by the planning authority for further information. The Commission did not share the opinion of the Inspector that the design and layout failed to meet the requirements of the development plan, and, whilst noting the absence of details regarding external finishes, the Commission considered that such details could be agreed with the planning authority.

The Commission considered the comment of the Inspector that the layout failed to have adequate regard to the submission from the Department of Housing, Planning and Local Government (Development Applications Unit). The Commission noted that the Department's requirements regarding archaeological impact had been met and it considered that protection of the mature lime trees and appropriate measures to identify and protect Bee Orchids (*Ophrys apifera*) located in the open green area, could be addressed by way of condition.

The Commission considered the provisions of Table 2.7 (Core Strategy and Settlement Strategy) of the Carlow County Development Plan 2022-2028 which identifies an overall Housing Target Unit of 25 for Palatine and identifies the quantum of housing units for land zoned new residential as 14. The Commission considered the appellants' argument that because two housing units have already been constructed within the village, since the adoption of the development plan, the proposed development would give rise to an over provision of housing units. This level of exceedance of the development plan target was not, however, considered by the Commission to be material.

The Commission also considered the proposal to construct dwellings over a public right-of-way, referred to locally as a Mass path, to be a civil matter, and did not consider this to be a reason to refuse permission for the proposed development having regard to Section 34(13) of the Planning and Development Act 2000, as amended, which provides that 'A person shall not be entitled solely by reason of a permission under this section to carry out any development.'

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 December, 2024, the 7th day of January, 2025, and the 23rd day of May, 2025, 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. This permission is for the construction of 15 number dwellings only.

Reason: In the interest of clarity.

3. Prior to commencement of development, 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.

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

4. Prior to commencement of development, a detailed arboricultural method statement shall be submitted to, and agreed in writing with, the planning authority. This statement shall include details of measures to be taken as set out in the Arboricultural Report and shall set out specific measures for the protection of the roots of trees T1103 and T1104, as follows:

- (a) The delineation of the eastern boundary of house number 1 and the eastern and southern boundaries of house number 53 shall use a system of posts and infill wooden panels. No masonry walls shall be permitted for these boundaries.
- (b) Any root pruning to T1103 and T1104 shall be performed under the supervision of the project arboriculturist.
- (c) The installation of hard surfaces in proximity to T1103 and T1104 shall be undertaken under the supervision of the project arboriculturist.

Reason: To protect the roots of the mature lime trees.

5. Prior to commencement of development, a landscaping and boundary treatment scheme shall be submitted to, and agreed in writing with, the planning authority. This scheme shall include details of the location, types, textures and finishes of all proposed boundary treatments, together with details of all existing trees and hedgerows on the site, specifying those proposed for retention, and measures for their protection during the period in which the proposed development is carried out, including the detailed measures required in accordance with condition number 4 above. The site shall be landscaped in accordance with the agreed scheme, which shall also include a timescale for implementation, and shall provide for:
- (a) The landscaping of the public side of the eastern boundary to house number 1 and house number 53.
 - (b) The identification and protection of any bee orchids (*Ophrys apifera*) located within the area of open green space during the construction and operational phases of the proposed development.

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

6. The developer shall engage a suitably qualified Archaeologist (licensed under the National Monuments Act) to carry out pre-development archaeological testing in areas of proposed ground disturbance and to submit an archaeological impact assessment report for the written agreement of the planning authority, following consultation with the National Monuments Service, in advance of any site preparation works or groundworks, including site investigation works/topsoil stripping/site clearance/dredging/underwater works and/or construction works. The report shall include an archaeological impact statement and mitigation strategy. Where archaeological material is shown to be present, avoidance, preservation in-situ, preservation by record (archaeological excavation) and/or monitoring shall be required. Any further

archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer. No site preparation and/or construction works shall be carried out on site until the archaeologist's report has been submitted to and approval to proceed is agreed in writing with the planning authority. The planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of any subsequent archaeological investigative works and/or monitoring following the completion of all archaeological work on site and the completion of any necessary post-excavation work. All resulting and associated archaeological costs shall be borne by the developer.

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

7. Prior to commencement of development, details of public lighting shall be submitted to, and agreed in writing with, the planning authority. The scheme shall include lighting along pedestrian routes through open spaces and shall take account of the tree protection measures referred to in condition number 4 above. The agreed lighting system shall be fully implemented and operational prior to the making available for occupation of any residential unit.

Reason: In the interest of amenity and public safety.

8. 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.

Reason: In the interest of public health.

9. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

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

10. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority a plan containing details for the management of waste (and, in particular, recyclable materials) within the proposed development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials, and for the ongoing operation of these facilities.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

11. Prior to commencement of development, the developer shall enter into connection agreements with Uisce Éireann to provide for service connections to the public water supply and wastewater collection network.

Reason: In the interest of public health and to ensure adequate water and wastewater facilities.

12. The internal road network serving the proposed development, including turning bays, junctions, parking areas, footpaths and kerbs, shall be in accordance with the detailed requirements of the planning authority for such works.

Reason: In the interest of amenities and public safety.

13. Prior to commencement of development, the developer shall submit for the written agreement of the planning authority a Construction Management Plan which shall provide details of intended construction practice for the proposed development, including:
- (a) The location of the site and materials compound(s), including area(s) identified for the storage of construction refuse.
 - (b) The location of areas for construction site offices and staff facilities.
 - (c) Measures for the management of construction traffic, wheel washing facilities for the duration of the construction period, and the prevention of spillage or deposit of clay, rubble, or other debris on the road network.
 - (d) Off-site disposal of construction/demolition waste.
 - (e) Means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

Reason: In the interest of safety, amenities, public health, and biosecurity.

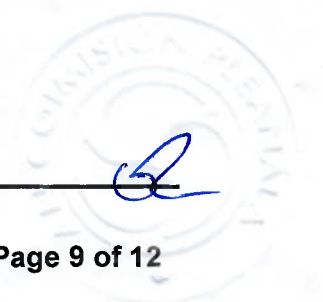
14. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays, inclusive, between 0800 to 1400 hours on Saturdays, and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the local authority.

Reason: In order to safeguard the residential amenities of properties in the vicinity.

15. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the transfer of a percentage of the land, to be agreed with the planning authority, in accordance with the requirements of section 94(4) and section 96(2) and 96(3)(a), (Part V) of the Planning and Development Act 2000, as amended, and/or the provision of housing on lands in accordance with the requirements of section 94(4) and section 96(2) and 96(3) (b), (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate has been granted under section 97 of the Act, as amended. Where such an agreement cannot be reached between the parties, the matter in dispute (other than a matter to which section 96(7) applies) shall be referred by the planning authority or any other prospective party to the agreement, to An Coimisiún Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

16. (a) Prior to commencement of the development, as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority (such agreement must specify the number and location of each house) pursuant to Section 47 of the Planning and Development Act 2000, as amended, that restricts all relevant residential units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.



- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the planning authority that it has not been possible to transact each of the residential units for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

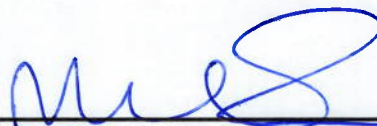
Reason: To restrict new housing development to use by persons of a particular class or description in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

17. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the planning authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Coimisiún Pleanála for determination.
Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

18. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company or such other security as may be accepted in writing by the planning authority, to secure the protection of the trees on site and to make good any damage caused during the construction period, coupled with an agreement empowering the planning authority to apply such security, or part thereof, to the satisfactory protection of any tree or trees on the site or the replacement of any such trees which die, are removed or become seriously damaged or diseased within a period of three years from the substantial completion of the development with others of similar size and species. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Coimisiún Pleanála for determination.
Reason: To secure the protection of trees on the site.

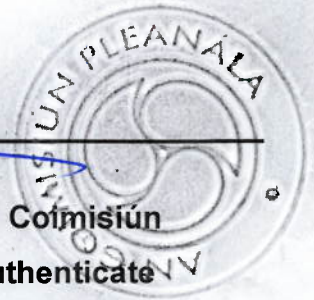
19. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the 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.



MaryRose McGovern

**Planning Commissioner of An Coimisiún
Pleanála duly authorised to authenticate
the seal of the Commission.**



Dated this *1st* day of *May* 2026.