



An
Bord
Pleanála

Inspector's Report PL93.247841.

Development	Retention permission for car maintenance garage to rear of existing property, and permission for single storey dwelling, shared entrance and boundary treatment.
Location	Ballyloughmore, Woodstown, Co. Waterford.
Planning Authority	Waterford City and County Council.
Planning Authority Reg. Ref.	16/585.
Applicant(s)	Neville Kirwan.
Type of Application	Retention permission and permission.
Planning Authority Decision	Grant permission subject to conditions.
Type of Appeal	Third Party.
Appellant(s)	Michael Walsh.
Observer(s)	None.
Date of Site Inspection	19 th April 2017.
Inspector	Ciara Kellett.

1.0 Site Location and Description

- 1.1. The appeal site is located approximately 10km south-east of Waterford City. It is located c.4.6km north of Dunmore East and c.4.2km east of Waterford Airport. It is approximately 500m east of Belle Lake. The R684 regional road runs between the lake and the rear of the site.
- 1.2. The general area is rural in nature and in agricultural and forestry use. A local road, the L4077, off the R684, serves the small number of houses in the vicinity.
- 1.3. There are two dwellings to the west of the local road of relevance and both dwellings have car maintenance garages in operation to the rear of each dwelling. The garage, the subject of the retention application, is called Lake Motors and the garage which is operated by the appellant bounds the site to the south and is called M&B Motors. The applicant's parents live in the existing dwelling associated with Lake Motors. The land where the applicant proposes to construct the dwelling is located to the north of both dwellings.
- 1.4. Both existing dwellings are single storey/dormer type dwellings which are located relatively close to each other. The dwellings are in an elevated position and the road slopes downwards in a northerly direction past the site of the proposed new dwelling. The land where the new dwelling is proposed is surrounded by hedgerows and trees and is currently grassland. There are long distance views from the site.
- 1.5. Appendix A includes maps and photos.

2.0 Proposed Development

- 2.1. There are two elements to this application. The retention permission element refers to a car maintenance garage which operates to the rear of the existing dwelling. The site of the garage and existing dwelling is stated as being 0.1374Ha. The garage is stated as being 12.65m by 10.53m with a maximum height of 4.5m. The front elevation (east) includes a roller shutter door and steel doors. The building façade is made of corrugated panels and plastered walls. The barrel type roof is clad in corrugated metal sheeting with windows in the north, west and south elevations. A new soakaway and petrol interceptor are proposed for the garage.

- 2.2. The applicant states that the garage has been in existence since 1969 and the applicant's father lives in the existing dwelling and owns the garage. The applicant has worked in the garage for the past 20 years.
- 2.3. In addition to the retention element, permission is sought for a new dwelling on the adjoining site to the north which is stated as being 0.98Ha. The proposed dwelling is single storey with a stated area of 244.61sq.m. There are two projecting gables proposed to the front of the dwelling and a mix of finishes, including cedar cladding and stone cladding. There are two pitched roofs running north to south – reading as a single pitched roof from the front elevation. The width of the dwelling is proposed to be 21.9m and the depth is 13.9m. The maximum height is 5.28m.
- 2.4. The dwelling is proposed to be served by a Biocrete waste water treatment plant and fed water from the public mains. A shared entrance is proposed between the applicant's parents dwelling and garage, and the new dwelling. The existing entrance and driveway runs along the northern boundary of the applicant's parents site leading to the garage to the rear. It is proposed to modify the entrance to provide a splayed shared entrance.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to 10 conditions including an occupancy condition limiting the occupancy of the dwelling to the applicant for a period of at least seven years, as well as conditions relating to the public roadway and landscaping plans.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report is the basis for the Planning Authority decision. It includes:

- The proposed site is in an area under urban pressure. Applicants in such areas are required to demonstrate a genuine Local Housing Need. The

applicant was born and reared in the existing dwelling to the front of the garage – he works full time in the garage.

- During pre-planning discussions, it was stated that if the applicant was claiming a local need based on his employment in the garage, then this could only be considered if the garage use itself was authorised.
- Refers to Chapter 10 of the Plan which provides standards for rural one-off houses, inter alia, safe access to public road, retention of hedgerows.
- Notes that the Plan recognises the need to develop rural economies by implementing a focussed approach to rural economic development. Notes that a balance needs to be achieved which supports employment in rural areas whilst protecting the character of the area.
- Considers proposal falls between what is classed as a micro enterprise and a home based economic activity - considers it with respect to the criteria set out in Section 6.7 of the Development Plan in terms of the nature and extent, reasons for rural location, hours of operation, levels of traffic, effects on amenities, etc.
- Notes that the applicant has failed to submit any details pertaining to the existing services associated with the garage, evidence in support of statements regarding the length of time the development has operated commercially, or the intensity of use and waste management arrangements.
- Requests Further Information relating to: a) the dispute over the common party boundary, b) rural enterprises – taking cognisance of criteria in Development Plan, requests details demonstrating compliance, c) are W.C. facilities available in garage – no assessment provided, and d) submit details of storm water drainage to cater for runoff from the development.
- The applicant response included the submission of maps and plans regarding the boundary and the addition of the installation of a new soakaway and petrol interceptor for the garage. The Planner noted that the adjoining dwelling operates a similar business so considered proposal acceptable and application provides a housing need for the applicant.

- Planner considers proposal acceptable and recommends a grant of permission subject to conditions.

The decision was in accordance with the Planner's recommendation.

3.2.2. Other Technical Reports

- **Sanitary Services:** Following discussions, Planner considers proposal acceptable.
- **CFO:** No response on file.

3.3. Prescribed Bodies

- **Irish Water:** No response received.

3.4. Third Party Observations

One third party observation was made by the appellant. The appellant raised concerns which form the basis of the appeal and will be expanded upon in Section 6 below.

4.0 Planning History

There are a number of planning applications associated with the proposed site for the dwelling and the site owned by the appellant. In summary, they are as follows:

Dwelling site.

- **Reg. Ref. 01/1120:** Outline permission refused in March 2002 for a dwelling, entrance, septic tank and effluent treatment system. Three reasons referred to including settlement policy, location of aquifer and dwelling would be unduly obtrusive on the landscape.
- **Reg. Ref. 04/1755:** Outline permission refused in December 2004 for a dwelling, proprietary treatment system and associated site works. WCCC Planner notes that the reason for refusal relate to the impact of the development on the nearby public water reservoir at Belle Lake and the lack of genuine housing need (applicants had a connection to Tramore).

Appellant's dwelling and garage:

- **Reg. Ref. 11/107:** Retention permission granted in July 2011 for a commercial garage building and associated site works which replaced the old garage building on site.
- **Reg. Ref. 12/131:** Retention permission refused in March 2013 for an extension to the dwelling and permission for the construction of an extension to the rear and a roof window to the front. Two reasons for refusal include that the proposed extension by reason of its design, height and massing would be out of character with the existing building and would detract from the visual amenities, and by virtue of the proximity of the proposed extension to the neighbours single storey dwelling, it would be overbearing and injure neighbours amenities.
- **ABP Ref: 242483, WCCC Reg. Ref 13/219:** Retention permission granted by the Board in March 2014 for a one and a half storey extension to the existing cottage and retention for a 'lean-to' to the rear and permission to construct an extension to the cottage and add a front porch and a roof dormer to the front on the site to the south of the subject site.

5.0 Policy Context

5.1. Waterford County Development Plan 2011 - 2017

Chapter 3 refers to the Core Strategy, Chapter 4 refers to Settlement, Chapter 5 to Housing, Chapter 6 to Economic Development, Chapter 8 to Environment and Heritage, and Chapter 10 to Development Standards.

Chapter 3 of the Plan includes a Rural Area Types Map which identifies the area as an *Area Under Urban Pressure*. Ballyloughmore and Woodstown are not identified as settlement nodes.

Chapter 4 notes that the rural housing policy must find a balance between reinforcing and strengthening rural communities whilst protecting the rural environment from over-development. The Council's aim is stated as to '*Meet the genuine housing need*

of rural people and their families who have strong ties to a particular locality and to those who need to reside in rural areas for employment, economic and social reasons subject to the applicant demonstrating a Genuine Local Housing Need’.

Policy SS3 states:

To cater for the housing requirements of members of the local rural community who have a genuine local housing need in areas under urban pressure as set out in the Criteria in Section 4.10.

Section 4.10 provides criteria that applicants must satisfy to demonstrate a genuine local housing need, which includes (inter alia):

Persons working full-time or part-time on a permanent basis, in a specific rural area who by the nature of the work need to be close to the workplace;

A son or daughter of an established householder (who has lived in the area for three years or more) wishing to build a permanent home for their own use to live immediately adjacent to their elderly parents to provide care.

Policy ECD5 of Chapter 6 states:

Support, where appropriate, rural diversification and micro enterprises.

Section 6.7 states ‘*A balance must be achieved which supports the development of enterprise/employment generation in rural areas, whilst protecting the character of the area*’

Policy ENV6 of Chapter 8 states:

It is a policy of the Council to preserve and protect groundwater and surface water quality taking into consideration the Groundwater Protection Scheme prior to approving development. Proposals for new development shall comply with the relevant EPA Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses (2009).

Chapter 10 refers to Development Standards (as varied by Variation no.1). Section 10.2.4 refers to Sight Line Requirements. It is noted that sight distances for Category E roads (80km/h Local Roads) is 55m.

For rural houses it states that all developments shall meet the standards with respect to access, building lines, roadside boundaries, drainage and design. Table 10.3

outlines Minimum Standards for Individual Houses in Rural Areas. Section 10.6.3 states that where development of a single house is proposed outside a designated settlement, the Planning Authority will require that the applicant provides an on-site waste water treatment system in accordance with EPA Code of Practice.

With respect to the rural enterprise, Section 10.36.3 (and section 9.2 of the Variation) provides criteria to be adhered to, including the proposal should not impact negatively on adjoining landuses, and should not detract materially from the rural character or residential amenity of the area.

Objective DM1 states:

It is the objective of the Council to normally permit development proposals for the expansion of existing industrial or business enterprises in the countryside where:

(a) The resultant development is of a size and scale which remains appropriate and which does not negatively impact on the character and amenity of the surrounding area; and

(b) The proposal demonstrates that it has taken into account traffic, public health, environmental and amenity considerations and is in accordance with the policies, requirements and guidance contained in this Plan.

Table 10.11 refers to Land Use Matrix. Motor Repair garages are not open for consideration in agricultural zoned lands.

Appendix A9 refers to Scenic Landscape Evaluation. The site is in the vicinity of Scenic Route 15 *South-east from Waterford City on the R683 to Mount Druid. South along the R684 to Belle Lake and east on third class road via Woodstown to Waterford Harbour. North to Passage East along the Harbour, continuing north towards Cheekpoint. South at junction to R683 and west to Waterford City.*

5.2. **Natural Heritage Designations**

The Tramore Dunes and Backstrand SAC (Site Code 000671) and Tramore Back strand SPA (Site Code 004027) are located south-west of the site c. 4.8km away. The River Barrow and River Nore SAC (Site Code 002162) is located c. 2.3km to the east.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal has been lodged against the decision of the planning authority to grant permission, by the immediate neighbour to the south of the site. In summary, it states:

- Issues with the standard of building and environmental impact of having no system in place to deal with sewage, rainwater or chemical disposal.
- Considers his original submission to Council was not addressed and queries why points made are not valid planning issues.
- Notes there is a four year long legal case before the court exclusively about the boundary between both parties. States that in original submission to Council it was pointed out that a boundary decision against his neighbour would impact on the application for retention of the garage.
- As part of the Council's decision to refuse permission to extend his home in 2012, the planner stated that '*in principle a single extension is acceptable once the land registry details have been clarified*'. The Council felt it was inappropriate to decide on an application when the boundary was in dispute – yet in this application they have ignored their own policy and acted as if the dispute did not exist.
- States that the drawings are inaccurate – they do not show several buildings that have been on site for many years or the location of the septic tank, soakaway or chemical interceptor.
- The entrance beside his home is not authorised – the original permission showed an entrance in the centre – instead an 'unsplayed' entrance exists along the disputed boundary and a second unauthorised entrance was opened in part of the green field where the proposed new dwelling is located.
- Concerns with sightlines – proposed entrance from the north is up a steep hill and is only about 80m from the beginning of the double bend. Applicant's drawing shows sight line across his property and in the future the applicant's sight lines will be blocked at less than 25m.

- Reference in Planner's Report that applicant's brother may make a planning application for a second dwelling on the site may mean yet another entrance or will it be funnelled through the existing unauthorised entrance.
- Previous refusals on the site – Reg. Ref. 01/1120 notes that reason no.3 refused permission because of elevated position of the site, lack of natural screening and it would be unduly obtrusive. Another reason refers to the locally important aquifer.
- Planning Authority ignored their own Engineer's advice as it does not know where the septic tank is – why was there no request for details of the septic tank and why was it not shown on the drawings.
- Information on garage was very scant on details.
- Housing need cannot override general regulations pertaining to visually sensitive and under pressure locations. Dunmore East is a drive of approximately 5 minutes away.
- Other concerns are noted by the appellant including the extent of the business and traffic resulting. Appellant would prefer to see separate planning applications for the garage and the dwelling.

6.2. Applicant Response

The applicant responded to the appeal, addressing each point made by the appellant. In summary, the planning issues are addressed as follows:

- Sewage from garage: There is no sewage associated with the garage – no toilet facilities exist. The applicant uses his parent's facilities.
- Rainwater will be discharged into a new onsite soakaway via a new petrol interceptor.
- Chemical disposal: Condition 9B of the Local Authority grant addresses this – bunding is to be provided which the applicant will comply with. Applicant has had two visits from the Environmental Department of WCCC and another from the HSA in the last two years and Inspectors were satisfied with storage and disposal system of the oil drums.

- Reference to the boundary dispute between both parties is referred to. Applicant considers that the boundary dispute will have no impact on the application one way or the other.
- Permitted/Unauthorised development: There is a domestic shed on the site which was previously not shown on the drawings. A drawing is included with this response which shows the shed. The shed is considered exempt development as it is 18sq.m and the house extension to the rear is single storey and 28.8sq.m and also considered exempt development.
- The entrance: The proposed shared entrance will supersede the existing entrance and will make it much safer to use for both the proposed new dwelling and the garage. This will become the primary entrance. There is no application before the Council for a second entrance for the applicant's brother.
- Previous Refusals on the site: There are differences between both applications. The two applications were made under two different Development Plans, the applicant for the 2001 application was not from the area, the proposed dwelling is single storey which is much lower on the skyline and Belle Lake is not used for drinking water.
- Sight lines: The proposed entrance can achieve 105m to the north and 120m to the south. Both the applicant's fathers house and the appellant's front boundary walls are in line, and assist each other with their respective sight lines.

6.3. **Planning Authority Response**

No response was received from the Planning Authority within the statutory timeframe.

7.0 **Assessment**

- 7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate

assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Principle of Development
- Boundary Issues
- Sanitary Services
- Traffic, sightlines and entrance
- Visual impact
- Other development on the site
- Appropriate Assessment

7.2. Principle of Development

As noted above, there are two elements to this application – the retention permission for the garage and permission for the new dwelling. I will address both separately.

According to the applicant the garage has been in existence for a long number of years and provided rates receipts as evidence. Policy ECD5 of Chapter 6 of the Development Plan supports, where appropriate, rural diversification and micro enterprises. I note that Motor Sales Repairs are a use not open for consideration in agricultural zones, however, given the longevity of the operation and the Council's policy with respect to existing minority non-conforming use, I consider this use acceptable in this instance.

Section 6.7 of the Plan lists criteria for rural enterprises to comply with. The list includes assessing a proposal in terms of: the type of use, the scale of development, the suitability at the location, noise and traffic implications, and impact on adjoining uses.

In terms of impact on adjoining uses, the neighbour (the appellant) operates a garage to the rear of his dwelling, so I am satisfied that there will be no impact on the adjoining amenities. The appellant noted that he had no objection in principle to the operation of the garage.

The scale of development is minor. The applicant notes that most work is done by appointment and given the remote location of the facility, it is unlikely to attract much

passing trade. Therefore, I am satisfied that there will not be an impact in terms of noise and traffic generation. Sanitary services are addressed below.

In conclusion, I am satisfied that the principle of a garage in this location is acceptable.

With respect to the principle of a dwelling in this location, it is noted that the area is considered an Area Under Urban Pressure. The Council's aim is stated as to meet the genuine housing need of rural people who have strong ties to a particular locality and to those who need to reside in rural areas for employment, economic and social reasons.

I note that the applicant was born and reared in the dwelling to the front of the garage and that he has worked for over 20 years in the garage, but I do not consider the nature of his work to require him to be close to the workplace (unlike, for example, a farmer). However, balancing this against his strong ties with the locality and the fact that this is not urban generated housing, I consider on balance, that this dwelling and family therein will assist in reinforcing and strengthening the rural community as required by the Plan.

Having regard to the Sustainable Rural Housing Guidelines for Planning Authorities, I do not consider that the addition of a dwelling in this location will result in 'ribbon development'. Whilst this is identified as an Area Under Urban Pressure, there are relatively few dwellings along this stretch of road and I am satisfied that this will not set a precedent for future development.

I consider the principle of a dwelling in this location to be acceptable and would recommend that should the Board consider granting permission, an occupancy condition is included.

7.3. Boundary Issues

There is a boundary dispute between the applicant's family and the appellant. The boundary dispute is not a planning issue per se, however, the Planning and Development Acts do require that an applicant for permission must have sufficient legal interest in the land or provide a letter of permission from the land owner in question.

The question, therefore, is if the outcome of the boundary dispute will affect the development that is the subject of this planning application. The appellant considers that if the boundary decision goes against the applicant, it would impact on the application for retention of the garage. The appellant states that his maps from the Land Registry are the accurate version. The appellant notes that the 'correct' maps were sent to the Planning Authority but were returned to the appellant because they were out of time. The appellant has not submitted any Land Registry maps with the appeal documentation.

The Planning Authority as part of the request for Further Information sought clarity on this issue. The applicant responded with maps and stated that the disputed land is a narrow piece of land between both houses to the front of the site. It is stated that the land where the garage and proposed new dwelling are situated are not disputed.

As mentioned the boundary dispute is not a planning matter and is for the courts to decide. However, having regard to the information provided on file and having reviewed the boundary as set out in other relevant planning applications, I accept that the applicant has sufficient legal interest to submit the application for the retention of the garage and new dwelling.

7.4. Sanitary Services

The appellant expresses concern with the location of the sanitary services serving the garage. Following the request for Further Information, the applicant submitted a drawing indicating a new soakaway and a new petrol interceptor which I consider acceptable. The applicant indicates that there are no toilet facilities in the garage and therefore there is no need for a separate septic tank. I am satisfied that the sanitary services for the garage are acceptable.

The appellant refers to oil drums being thrown into a pile beside his property and that there is an open drain/stream that runs directly into Belle Lake. The applicant states that there have been a number of site inspections in the last few years by various departments and there have been no issues. From my site visit, I noted that the location of empty oil drums within the garage and agree with the planning authority that a properly managed bunded area should be a condition of planning permission.

The appellant notes that the site is underlain by a locally important aquifer. With respect to the new dwelling, it is the policy of the Council to preserve and protect

groundwater and surface water quality. Proposals for new developments shall comply with the relevant EPA Code of Practice. Site characterisation test results indicate that the proposed treatment package is consistent with the CoP. A package WWTP and polishing filter are proposed as well as a connection to the public water mains. I am satisfied that subject to conditions, the proposed development is acceptable.

7.5. Sight lines and the entrance

The appellant states that there are issues with sight lines. It is stated that the approach from the north is up a very steep hill and is only about 80m from the beginning of a double bend. It is further stated that the southern approach shows the sight line crossing the appellant's property. The WCCC Development Plan requires sight lines of 55m for Local Roads with speeds of 80km/h. From my site visit, I can confirm that both dwellings are in-line and as such, have similar sight lines. Distances in excess of 55m are available. I am satisfied that sight lines are achievable.

With respect to the entrances, two entrances currently exist to the subject site. The appellant considers that the original 1971 planning permission was granted with a splayed entrance in the centre of the site. There are entrances either side of the dwelling and it is the entrance to the north which is to be modified to accommodate the new entrance to the dwelling. The applicant states that the proposed shared entrance will supersede the existing entrance and will be in full compliance with the necessary standards. No details for the entrance have been provided by the applicant and I would recommend that should the Board consider granting permission, a condition requiring the entrance details to be agreed with the Planning Authority is included, to ensure that both entrances are cleared of any trees or shrubbery that could compromise the sight lines.

The planning status of the other entrance is unclear. That entrance is not the subject of this planning application. The applicant notes that the new entrance between the existing site and the new dwelling location will become the primary entrance for the applicant and the garage.

In conclusion, I am satisfied that the modified entrance will meet the standards laid out in the Development Plan and that sight lines can be achieved.

7.6. **Visual impact**

The appellant refers to the two previous refusals for a dwelling on the proposed dwelling site by the previous landowner. The appellant refers to refusal no.3 which notes that the proposal, because of the elevated position, and the lack of screening would be unduly obtrusive on the landscape and would be out of character and detract from the scenic amenities of the area.

In the intervening years, the site has been surrounded by hedgerows and trees which screen most of the site from the road. The proposal is for a single storey dwelling of a modest height and is a sufficient distance from the Scenic Route to not impact on the visual amenities of the area.

During my site visit I drove alongside the Belle Lake. Visibility towards the two garages is limited and very much in the distance. There are no stopping points alongside the lake and there are no hard-shoulders on either side of the road which could enable any parking up. The development of a dwelling adjacent to the garages will not result in a significant impact or be injurious to visual amenities at this location.

The proposed dwelling is set back from the boundary by a sufficient distance and with appropriate landscaping will not cause a significant impact on visual amenities. No landscaping plan has been submitted and I would recommend that should the Board consider granting permission, a condition is imposed requiring the applicant to submit a landscaping plan for the Planning Authority's approval, prior to commencement of development.

7.7. **Other development on the site**

The appellant refers to other unauthorised developments on the site. The applicant states that the structures comprise a domestic shed and an extension to the existing dwelling. The applicant considers that both buildings are exempt from the requirement to obtain planning permission. Neither structure form part of the planning application and during my site visit both structures appeared to be as described by the applicant.

7.8. **Appropriate Assessment**

Having regard to the nature and scale of development proposed and to the nature of the receiving environment, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 **Recommendation**

I recommend that planning permission should be granted, for the reasons and considerations as set out below.

9.0 **Reasons and Considerations**

1. Having regard to the nature and location of the garage proposed to be retained and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the 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 be acceptable in terms of traffic safety. The development proposed to be retained would, therefore, be in accordance with the proper planning and sustainable development of the area.
2. Having regard to the provisions of the Waterford County Development Plan 2011 – 2017 for Genuine Housing Need, the pattern of development in the area, the planning history of the dwelling site and the design, scale and nature of the proposed dwelling, it is considered that, subject to compliance with the conditions set out below, the development of a dwelling would not seriously injure the visual or residential amenities of the area or of property in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 **Conditions**

1. The 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 submitted on the 23rd day of November 2016, 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 interest 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 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 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 in the interest of the proper planning and sustainable development of the area.

3. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority, 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, 2009. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) 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 in accordance with the standards set out in the EPA document.

Reason: In the interest of public health

4. (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 pollution.

5. 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.

6. (a) The proposed front boundary and wing walls shall consist of stone/sod to match the existing boundary, the exact height and location of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) Apart from works required to construct the entrance and achieve the required sightlines, the existing roadside stone/sod boundary and hedge shall be retained.

Reason: In the interest of visual amenity.

7. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details 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) the establishment of a hedgerow along all boundaries of the site, and
- (b) planting of trees at 5 metre intervals along the boundaries of the site with the road.

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 and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

8. The roof colour of the proposed house 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.

Reason: In the interest of visual amenity.

9. The construction of the 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 intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste and any unused excavation material.

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

10. Prior to the commencement of development, the developer shall submit the following for the written agreement of the planning authority:

- (a) Full design details and brochure specifications of the proposed petrol interceptor.

(b) Details of the bunding to be provided for the waste oil/hydrocarbon storage areas. All bunding shall be designed to adequately protect against accidental oil and hydrocarbon spillages on site.

Reason: In the interest of public health and to prevent pollution.

11. No advertisement or advertisement structure, the exhibition or erection of which would otherwise constitute exempted development under the Planning and Development Regulations 2001, or any statutory provision amending or replacing them, shall be displayed or erected within the curtilage of the site unless authorised by a further grant of planning permission.

Reason: In the interest of visual 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 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.

Ciara Kellett
Inspectorate
20th April 2017

