



Planning and Development Acts 2000 to 2018

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 17/606

Appeal by Transport Infrastructure Ireland of Parkgate Business Centre, Parkgate Street, Dublin against the decision made on the 15th day of March, 2018 by Kilkenny County Council to grant subject to conditions a permission to Sean Maher care of Brendan Moore Architecture and Design of 38 Saint Kieran's Street, Kilkenny in accordance with plans and particulars lodged with the said Council.

Proposed Development: A two-storey dwelling, detached garage, vehicular entrance and access driveway, bore well, wastewater treatment system and soil polishing filter and all associated site works at Tullamaine (Ashbrook), Callan, County Kilkenny.

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.

Matters Considered

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.

Reasons and Considerations

Having regard to the proposed closure of four entrances onto the National Secondary Road, the N76, and the proposal to access the proposed dwelling from an existing farmyard entrance, it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable in terms of traffic safety and convenience and would 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 that the closing of four entrances onto the N76 would result in a significant overall safety benefit along the road, notwithstanding the additional intensity of traffic generated by an additional house (which will use an existing entrance) onto the road.

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 18th day of January, 2018, 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. The four number existing access points shall be permanently closed up prior to commencement of development. The boundary treatment used to close/remove these access points shall match the existing. The developer shall inform the planning authority in writing when this work is complete.

Reason: To ensure that the existing access points are closed in the interest of traffic safety.

3. Prior to occupation of the dwellinghouse, the developer shall undertake a Road Safety Audit Stage 3. The scope of the Audit shall focus on the access point servicing the proposed dwellinghouse and the N76 National Secondary Road including the N76 centreline road markings on both approaches to the access. The recommendations of this Audit shall be submitted to, and agreed in writing with, the planning authority. The cost to implement any such agreed recommendations shall be borne by the developer.

Reason: In the interest of traffic safety.

4. Prior to commencement of development, a landscaping plan for the house site, prepared by a suitably qualified person, shall be submitted to, and agreed in writing with, the planning authority which shall include:
 - (a) All site boundaries.
 - (b) The number and types of plant species.
 - (c) The time of planting relative to the construction of the dwelling.

Reason: In the interest of visual amenity.

5. (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 to meeting essential local need in the interest of the proper planning and sustainable development of the area.

6. 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 waste.

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

7. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 15th day of September, 2017, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. \leq 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 Environmental Protection Agency document.

Reason: In the interest of public health.

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 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 the 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.

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

Dated this day of 2018.