



Planning and Development Acts 2000 to 2019

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 18/668

Appeal by Paul Lawrence of Kilmacow, County Kilkenny against the decision made on the 18th day of June, 2019 by Kilkenny County Council to grant subject to conditions a permission to Shane Morrissey of Folkstown, Ballinure, Thurles, County Tipperary in accordance with plans and particulars lodged with the said Council.

Proposed Development: The construction of a new dwelling with a new domestic wastewater treatment system and percolation area including refurbishment works to an existing protected structure and all associated site works at Granny, Kilmacow, 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 residential zoning of the site in the Ferrybank Belview Local Area Plan, 2017, to the previous residential use of the site, to the design, nature (including the restoration of a Protected Structure) and scale of the proposed development and to the established character and pattern of development in the vicinity of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or other amenities of the area, would be acceptable in terms of pedestrian and traffic safety, would not be prejudicial to public health, and would be acceptable in terms of conservation and heritage. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 May, 2019, and as amended by the revised site layout plan submitted to An Bord Pleanála on the 23rd day of September, 2019, 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 proposed development, including the restored cottage (Protected Structure) shall be used and occupied solely as a single dwelling unit. The restored cottage shall not be sub-divided from the remainder of the site or sold on or sub-let under the terms of any tenancy agreement, and shall not be used for short-term letting or any commercial purpose, without a prior grant of planning permission, notwithstanding any exempted development provisions of the Planning and Development Act, 2000, as amended, or of the Planning and Development Regulations, 2001, as amended.

Reason: In the interest of clarity, and in order to delimit the use of the restored cottage to that for which application was made.

3. The restoration and reconstruction works to the existing cottage (Protected Structure) shall be carried out under the supervision of a qualified professional with specialised conservation expertise. In this regard, the following requirements shall be adhered to:-
- (a) The one over one timber sash window located on the east elevation of the cottage shall be repaired. All other new windows shall use this window as a design template. Dimensional drawings and design details of windows proposed shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of works.
 - (b) Details of the proposed thatch roof covering of the protected structure and method statement for its provision shall be submitted to, and agreed in writing with, the planning authority prior to commencement of works. This should include details on material and vernacular detailing.
 - (c) A detailed method statement by a conservation professional for the retention and repair of the chimney breast shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of works. The developer shall source a suitably qualified engineer to submit a detailed method statement of the repair work to the wall tops and reconstruction of the chimney breast. The concrete ring beam as proposed in the submitted Architectural Heritage Impact Assessment shall be omitted.

- (d) All slates from the lean-to outbuilding shall be re-used in the conversion of that building. Samples of supplementary slates for this re-roofing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the works.

Reason: In order to ensure an appropriate standard of restoration works for this protected structure.

4. The restoration and reconstruction works to the existing cottage (Protected Structure) shall be completed, in compliance with condition number 3 of this permission, prior to the making available for occupation of the proposed new dwelling.

Reason: In order to ensure the timely provision of these works, and as the proposed new dwelling is justified only on the basis of the restoration and reconstruction of the existing cottage.

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: In the interest of public health and to ensure a proper standard of development.

6. (a) A proprietary effluent treatment and disposal system shall be provided. This shall be designed, constructed and maintained in accordance with the requirements of the planning authority. Details of the system to be used, and 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) Treated effluent shall be discharged to the proposed percolation area which shall be provided 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. A sand polishing filter shall also be provided, to details to be submitted to, and agreed in writing with, the planning authority prior to installation of the proposed effluent treatment unit.
- (c) Within three months of the first occupation of the new dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system, including percolation area and sand polishing filter, has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and in accordance with the standards set out in the Environmental Protection Agency document.

Reason: In the interest of public health.

7. Details of the colour and texture of all external finishes to the proposed new dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

8. (a) Prior to commencement of development, all trees, groups of trees, hedging and shrubs which are to be retained shall be enclosed within stout fences not less than 1.5 metres in height. This protective fencing shall enclose an area covered by the crown spread of the branches, or at minimum a radius of two metres from the trunk of the tree or the centre of the shrub, and to a distance of two metres on each side of the hedge for its full length, and shall be maintained until the development has been completed.
- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the trees which are to be retained have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, and no lighting of fires, over the root spread of any tree to be retained.

Reason: To protect trees and planting during the construction period in the interest of visual amenity.

9. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

10. The proposed vehicular entrance shall be provided in accordance with the detailed requirements of the planning authority.

Reason: In the interest of pedestrian and traffic safety.

11. 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.

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

Dated this day of 2020.