

An  
Bord  
Pleanála

Board Order  
ABP-310745-21

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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Kilkenny County Council**

**Planning Register Reference Number: 20/565**

**Appeal** by Paul Holden Junior care of Thomas Downey of Pill Road, Lower Kilmacow, via Waterford against the decision made on the 9<sup>th</sup> day of June, 2021 by Kilkenny County Council to refuse permission for the proposed development.

**Proposed Development:** Erect dwellinghouse, domestic garage and all associated works at Kiltorcan, Ballyhale, County Kilkenny. The further public notice was received by the planning authority on the 13<sup>th</sup> day of April, 2021.

### **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 provisions of the National Planning Framework, the Regional Spatial and Economic Strategy for the Southern Region, and the Kilkenny County Development Plan 2014-2020, and that the site is located in an area that falls within the category 'Stronger Rural Areas', as set out in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April, 2005, it is considered that, the applicant satisfies the relevant policies and guidelines for a rural dwelling in this area, and that, subject to compliance with the conditions set out below, the proposed dwelling on this site would not seriously injure the amenities of the area, would not give rise to an increased risk of flooding of the site, or of property in the vicinity and would be in accordance with the relevant design and siting requirements, including that of the Kilkenny Rural Design Guide, 2008. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

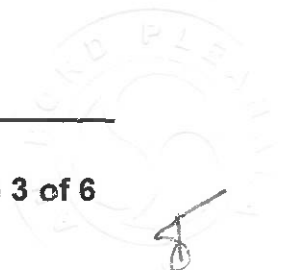


## Conditions

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 particulars submitted on the 7<sup>th</sup> day of April 2021, 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.

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

3. Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.

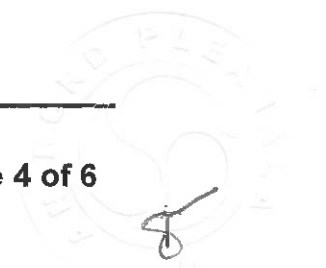
**Reason:** In the interest of public health.

4. The site shall be landscaped, using only indigenous deciduous trees and hedging species, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. 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.

5. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

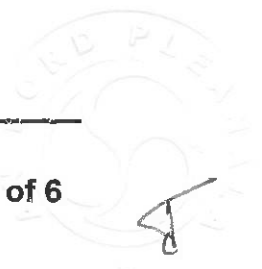
**Reason:** In the interest of visual amenity.



6. The proposed domestic garage shall be used for domestic storage purposes ancillary to the proposed dwelling and shall not be used for any commercial or habitable use without a prior grant of planning permission.

**Reason:** In the interest of the proper planning and sustainable development of the area.

7. 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. The application of any indexation required by this condition 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.



**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 Ó Niadh*

Terry Ó Niadh

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



Dated this *24<sup>th</sup>* day of *November*, 2021.