



An
Bord
Pleanála

Board Order

ABP- 312234-21

Planning and Development Acts 2000 to 2021

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 21/717

Appeal by Helen McConville care of MK Architecture and Building Surveying Limited of 22 Upper Patrick Street, Kilkenny against the decision made on the 22nd day of November, 2021 by Kilkenny County Council to grant permission subject to conditions to Hugh Coffey care of Ray Davis of Carriganna, Stradbally, County Waterford in accordance with plans and particulars lodged with the said Council.

Proposed Development: Indefinite retention of a single-storey domestic garage to rear, together with all associated site development works at number 44 Berkley Lawns, Cloghabrody, Thomastown, County Kilkenny.

Decision

GRANT permission with conditions 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.

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Reasons and Considerations

Having regard to the "Existing Residential" zoning objective for the area and the pattern of residential development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed retention development would be in accordance with the relevant provisions of the Kilkenny City and County Development Plan 2021-2027, and the 'Thomastown Local Area Plan 2019', would not seriously injure the amenities of property in the vicinity, would not be prejudicial to public health, and would be acceptable in terms of traffic safety and convenience. The proposed retention of this development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be retained 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 29th day of October 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 and the development shall be retained and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. (a) Within four weeks from the date of this Order the developer shall carry out and complete all works to the proposed gutters, as shown on the further plans and particulars received by the planning authority on the 29th day of October 2021.

EPN

- (b) No part of the development including the gutters and eaves thereof, shall at any time overhang or physically encroach onto the neighbouring property, unless the written agreement of the owners(s) thereof is firstly obtained.

Reason: In the interest of orderly development.

3. The detached garage shall be used solely for purposes ancillary to the residential use of the dwelling and shall not be used for commercial purposes or human habitation, sublet, sold separately, otherwise transferred or conveyed, except in combination with the dwelling

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

4. All drainage arrangements, including the attenuation and disposal of surface water run-off from roofs, driveway, and paved areas, shall comply with the revisions shown in the further plans and particulars received by the planning authority on the 29th day of October 2021, and the requirements of the planning authority for such works and services.

Reason: In the interest of public health, and to avoid interference with adjoining properties.

5. The developer shall pay to the planning authority a financial contribution in respect of all 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 within three months of the date of this Order 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



Eamonn Patrick Kelly

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

Dated this 12 day of May 2023