



An
Bord
Pleanála

Board Order ABP- 312363-22

Planning and Development Acts 2000 to 2021

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 21/854

Appeal by Gerard and Teresa Freyne care of Sheehan Planning of 44 Balnagowan, Palmerston Park, Dartry, Dublin against the decision made on the 1st day of December, 2021 by Kilkenny County Council in relation to an application by Eoin Wemyss and Nadia Ryan care of Downey Planning of 29 Merrion Square North, Dublin for permission for retention of a single storey pitched roof domestic shed to the side of the existing dwelling and the retention of the front boundary timber fence along the roadside edge at Clwydian Villa, Station Road, Bennettsbridge, County Kilkenny in accordance with the plans and particulars lodged with the said Council (which decision was to grant subject to conditions permission for retention of a single storey pitched roof domestic shed to the side of the existing dwelling and to refuse permission for retention of the front boundary timber fence along the roadside edge).

Decision

GRANT permission for retention of a single storey pitched roof domestic shed to the side of the existing dwelling in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below.

REFUSE permission for retention of the front boundary timber fence along the roadside edge based on the reasons and considerations marked (2) under.

Reasons and Considerations (1)

Having regard to the Kilkenny County Development Plan 2021 – 2027, it is considered that, subject to compliance with the conditions set out below, the shed proposed to be retained, would not adversely affect the visual or residential amenities of properties in the vicinity and would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application, 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, carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. Within six months of the date of this Order the applicant shall carry out and complete all works to the detached garage as shown on the plans and particulars lodged with the application, including that the masonry walls shall receive painted plaster to match existing house.

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



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, clarity and the proper planning and sustainable development of the area.

4. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. No surface water shall be allowed to discharge onto the public road or adjoining properties.

Reason: In the interest of orderly development and public health.

5. 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.



Reasons and Considerations (2)

1. The existing entrance is substandard in terms of sightlines, which fall below the required distance with no visibility in the eastern direction due to the position and height of the front boundary timber fence. It is considered that the retention of the boundary fence would result in a traffic hazard and would, therefore, not be in accordance with the proper planning and sustainable development of the area.
2. By virtue of its scale and height on top of an existing stone wall, it is considered that the 1.8 metre timber fence would be out of character with the adjoining low stone walls of the adjacent properties and would create a negative visual impact on the approach to the village of Bennettsbridge and set an undesirable precedent for similar development in the area. The retention of the front boundary timber fence would, therefore, be contrary to the proper planning and sustainable development of the area.



Eamonn Patrick Kelly

Member of An Bord Pleanála

duly authorised to authenticate

the seal of the Board.

Dated this *11th* day of *May* 2023