

An  
Bord  
Pleanála

Board Order  
ABP-312372-22

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**Planning and Development Acts 2000 to 2021**

**Planning Authority: Kilkenny County Council**

**Planning Register Reference Number: 21/843**

**Appeal** by Walter Lennon care of Peter Thomson Planning Solutions of 4 Priory Grove, Kells, County Kilkenny against the decision made on the 30<sup>th</sup> day of November, 2021 by Kilkenny County Council to refuse permission for the proposed development

**Proposed Development:** Retention of existing building as constructed, and permission for the use of the retained building as a dwelling house, alterations to the building, a new wastewater treatment system and all site ancillary works. This application includes for permission for change of use of existing farm house to a permanent farm storage building, all at Killaree, Threecastles, County Kilkenny.

### **Decision**

**GRANT permission for the above development based on the reasons and considerations under and subject to the conditions set out below.**

*p m*

## Reasons and Considerations

Having regard to the poor condition of the applicant's existing dwelling, as documented, and its proposed change of use to a permanent farm storage building, and to the modifications proposed to the building proposed to be retained and used as a dwellinghouse for the applicant in lieu of the existing farmhouse, it is considered that, subject to compliance with the conditions set out below, the development will provide a replacement house and would not seriously injure the residential or visual amenities of the area or the amenities of property in the vicinity, would be acceptable in terms of traffic safety and convenience, would not be prejudicial to public health and would constitute an acceptable form of development at this location. The development would be in accordance with Section 7.8.5 (Refurbishment and Replacement of Dwellings in Rural Areas) of the Kilkenny City and County Development Plan 2021-2027 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.

*pm*

2. (a) The replacement dwelling hereby permitted in the building proposed to be retained shall be in lieu of the existing farmhouse.
- (b) Within two months of the occupation of the dwelling hereby permitted, the use of the existing farmhouse shall be changed to a permanent farm storage building to be used solely for the storage of farm equipment and material and not for any commercial use and shall not be used for habitable purposes.

**Reason:** In the interest of clarity and orderly development.

3. (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). The applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act 2000, as amended, 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.

*pm*

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

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

5. (a) The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice – Domestic Wastewater Treatment Systems (p.e. ≤ 10)" – Environmental Protection Agency, 2021.
- (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.
- (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwelling house and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.
- (d) Prior to the occupation of the dwelling, the existing septic tank to be decommissioned shall be removed and the site reinstated.

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

6. The vehicular access arrangements from the public road, serving the development, shall comply with the requirements of the planning authority for such works.

**Reason:** In the interest of amenity and traffic and pedestrian safety.

7. Prior to the occupation of the dwelling, a detailed Landscape Plan for the site with full works specifications shall be submitted to, and agreed in writing with, the planning authority. This plan shall include detailed specifications relating to boundary treatment, planting and the removal of hard surfaces where necessary. The site shall be landscaped in accordance with the agreed scheme. All planting shall be carried out in the first planting season and shall be permanently retained thereafter. Any tree which dies, decays or is removed within the first five years of being planted shall be replaced with a tree of similar species and size.

**Reason:** In the interest of visual amenity and to protect the rural character of the area.

8. All service cables associated with the development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site.

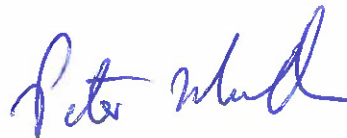
**Reason:** In the interest of orderly development and the visual amenities of the area.

9. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays, inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

10. 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 occupation of the dwelling 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.

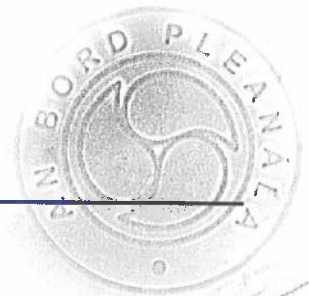


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**Peter Mullan**

**Member of An Bord Pleanála**

**duly authorised to authenticate  
the seal of the Board.**



Dated this *20th* day of *February*, 2023.