

An
Bord
Pleanála

Board Order ABP-312892-22

Planning and Development Acts 2000 to 2021

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 21/932

Appeal by Darragh and Sharon Kelly of Barnaviddaun South, Graiguenamanagh, County Kilkenny against the decision made on the 16th day of February, 2022 by Kilkenny County Council to grant subject to conditions a permission to Michael Cullen of Ballavarra, Graiguenamanagh, County Kilkenny in accordance with plans and particulars lodged with the said Council.

Proposed Development: To erect a three bedroom two storey dwelling house with car garage, new entrance, sewage treatment system with partially raised soil polishing filter and associated site works at Barnaviddaun South, Graiguenamanagh, 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.

Reasons and Considerations

Having regard to the policy and objectives as set out in the Kilkenny City and County Development Plan 2021-2027 in respect of rural residential development, the nature, scale and design of the proposed development (as amended) and to the pattern of existing and permitted development in the area, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would respect the existing visual character of the area and would be acceptable in terms of traffic safety and convenience. 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 24th day of January, 2022, 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. (a) The roadside boundary and hedgerow at the junction of the LS8222 and LS8310 shall be replaced with a timber post and rail fence (or similar to be agreed with the planning authority) as indicated in the plans and particulars received by the planning authority on the 24th day of January, 2022. These works shall be carried, to the written satisfaction of the planning authority, prior to commencement of development on the application site.
- (b) The site entrance shall be located as indicated in the revised plans and particulars received by the planning authority on the 24th day of January, 2022.
- (c) All works associated with the access and sightlines shall be carried out prior to other works on site to ensure a safe access during construction works. The boundary along the road frontage of the site shall be set back to achieve the required sightlines and the visibility splay shall be kept clear of all obstructions, details to be agreed with the planning authority prior to the commencement of development. The verge shall be maintained to safeguard visibility on an ongoing basis. Where hedge is removed it shall be replaced with an indigenous hedge behind sightlines.
- (d) Where roadside boundaries are set back/removed, the area between the boundary and the public roadway shall be suitably structured with stone so as not to lead to deterioration of the road edge. The area shall be finished with topsoil to a level of 200-300 millimetres above road level and seeded with grass.
- (e) The site entrance shall consist of a sod and stone wall/earth mound together with appropriate gate design and planting. Details shall be agreed with the planning authority prior to commencement of development.

Reason: In the interest of traffic safety and in order to protect the integrity of the public road network and visual amenity.

3. (a) The on-site wastewater treatment system proposed shall be constructed in accordance with the recommendations of the Environmental Protection Agency's 'Code of Practice - Domestic Wastewater Treatment Systems (EPA, 2021). Prior to installation, the planning authority may, in the interest of public health and to facilitate best practice, agree in writing certain EPA compliant variations to the wastewater treatment system approved under this application. Such agreement shall be placed on file and deemed to officially substitute/vary the original granted system. Certification that the complete wastewater treatment unit and polishing filter have been satisfactorily installed in accordance with Environmental Protection Agency's 'Code of Practice - Domestic Wastewater Treatment Systems (EPA, 2021) shall be submitted to the planning authority prior to occupation of the dwelling. The certificate shall be completed by a suitably qualified indemnified person and shall include a site specific 'as constructed' layout plan and cross-sectional drawing through the effluent treatment system and associated percolation area. Proof of indemnification insurance should be submitted with the certificate.
- (b) The complete on-site wastewater treatment system shall be installed and maintained in accordance with the manufacturer's instructions.

Reason: In the interest of public health.

4. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.
- (b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

Reason: In the interest of traffic safety and to prevent pollution.

5. The water supply to serve the proposed dwelling shall have sufficient yield to serve the proposed development, and the water quality shall be suitable for human consumption. Details, demonstrating compliance with these requirements, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate water is provided to serve the proposed dwelling, in the interest of public health.

6. 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.

7. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development. All existing over ground cables shall be relocated underground as part of the site development works.

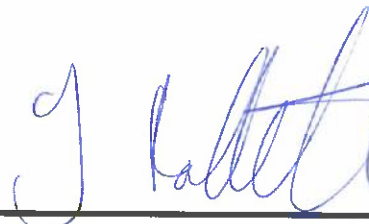
Reason: In the interests of visual and residential amenity.

8. 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 and public holidays. Deviation from these times will 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.

9. 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.



Tom Rabbette

Member of An Bord Pleanála

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

Dated this ^{1st} day of June 2023.