

An
Bord
Pleanála

Board Order
ABP-317741-23

Planning and Development Acts 2000 to 2022

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 23/60197

Appeal by Peter Lanigan of Ballygub Old, Old Court, Inistioge, County Kilkenny against the decision made on the 10th day of July, 2023 by Kilkenny County Council to grant subject to conditions a permission to John Cummins care of Andrew Hayden of Upper Grange, Gowran, County Kilkenny in accordance with plans and particulars lodged with the said Council:

Proposed Development: Demolition of the existing derelict outhouse (31 square metres) and erection of a storey and a half dwellinghouse with new entrance, sewage treatment system with partially raised soil polishing filter and associated site works at Clonamery, Inistioge, 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 nature and scale of development, to the location of the site, to the pattern of development in the area and to the provisions of the Kilkenny City and County Development Plan 2021-2027, it is considered that the proposed development, subject to compliance with the conditions set out below, would meet an established housing need, would not seriously injure the amenities of residential property or businesses in the vicinity, would be acceptable in terms of traffic safety and convenience and 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 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 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 in the interest of the proper planning and sustainable development of the area.

- 3. (a) The applicant shall undertake all works to achieve site visibility lines prior to commencement of development. All boundary treatments shall be set back behind the line defined by the sight visibility lines. These lines are defined by setting a point 2.4 metres back from the centre of the upgraded entrance with the R700 and projecting a line 120 metres to the nearest roadside edge in both directions. The applicant shall ensure that the visibility splays are kept free of obstructions at all times. All costs associated with proposed access improvement works along the R700 shall be borne by the applicant (or his/her successor).

- (b) The entrance gates off the private driveway road shall be back not less than 4.5 metres from the boundary of private driveway within a splayed recess space 9-11 metres wide along the line of the new boundary. The full area of the splayed recess for the proposed new entrance to the new dwelling and the existing shared entrance onto the public road shall be suitably structured, to cater for vehicular traffic, black top surfaced, set between level and no greater than a gradient of 2.5%.
- (c) The entrance gate design and finish shall be in accordance with details submitted to the planning authority on the 17th day of May, 2023.
- (d) The Thomastown Municipal District office shall be contacted ahead of works and a traffic management plan for works on the public road shall be submitted to, and agreed in writing with, the planning prior to commencement of development.
- (e) Prior to commencement of development, the applicant shall submit for the written agreement of the planning authority proposals for replacement planting along the regional road to be set behind the proposed sightlines.

Reason: In the interests of traffic safety and retaining visual amenity.

- 4. (a) The roof of the dwelling shall be blue/black in colour only. All other finishes to the outside of the house shall be as per the drawings submitted, unless otherwise agreed in writing with the planning authority prior to commencement of development.

- (b) All stone from the demolished building shall be incorporated into the new dwelling. Repair of existing walls or the immediate landscape shall be as detailed in the landscape plan.
- (c) The existing derelict dwelling and two derelict out-sheds as shown on the site layout plan shall be retained, repaired, protected and used.
- (d) The derelict dwellings and outbuilding shall be conserved and reused. These buildings are an integral part of the landscape and their retention, conservation and reuse will ensure their ongoing presence in the landscape.
- (f) The applicant shall engage a conservation professional to compile the necessary method statement for the conservation of these structures. This shall be submitted to the planning authority for agreement prior to commencement of works and shall also confirm how access will be provided between the driveway and proposed dwellinghouse.

Where practicable, the use of uPVC in doors, windows and rainwater goods including gutters, downpipes, fascia and soffits is discouraged in favour of more sustainable materials such as timber/metal.

Reason: In the interests of environmental protection, conservation heritage and the retention of rural character and visual amenity.

5. (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 flooding or pollution.

6. (a) The septic tank/wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this application on the 17th day of May, 2023 and shall be in accordance with the standards set out in the document entitled "Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)" – Environmental Protection Agency, 2021.
- (b) Treated effluent from the septic tank/ wastewater treatment system shall be discharged to a percolation area/polishing filter which shall be provided in accordance with the standards set out in the document entitled "Code of Practice - Domestic Wastewater Treatment Systems (Population Equivalent ≤ 10)" – Environmental Protection Agency, 2021.

- (c) Within three months of the first occupation of the dwelling, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the septic tank/wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.

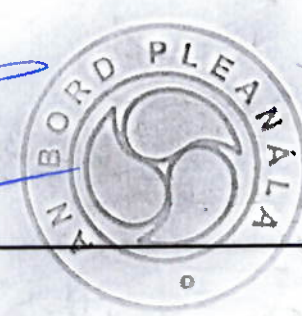
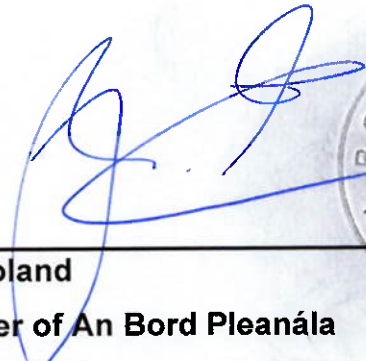
Reason: In the interest of public health and to prevent water pollution

7. (a) The landscaping scheme shown on drawing number 202303-03, as submitted to the planning authority on the 17th day of May 2023 shall be carried out within the first planting season following substantial completion of external construction works.
- (b) All planting shall be adequately protected from damage until established. 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 the interest of residential and visual amenity.

8. 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. 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.



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

Dated this 11TH day of November 2024.