

An
Bord
Pleanála

Board Order
ABP-319181-24

Planning and Development Acts 2000 to 2022

Planning Authority: Kildare County Council

Planning Register Reference Number: 23802

Appeal by Michael O'Rourke of Kilmurray, Clane, County Kildare against the decision made on the 6th day of February, 2024 by Kildare County Council to grant, subject to conditions, a permission to Daryl Skelly care of Ger Fahy Planning of Mulhussey, Maynooth, County Kildare in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a detached part two-storey, part single-storey dwelling (circa 254.7 square metres) and a single storey garage (circa 42 square metres), alterations to existing agricultural entrance to create shared domestic entrance with internal agricultural access to the rear. Installation of proprietary wastewater treatment system together with all associated site works, landscaping and ancillary site works and services at Kilmurry, Clane, County Kildare.

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 provisions of the Kildare County Development Plan 2023-2029 with respect to rural housing, and the specific characteristics of the site and its surrounds, it is considered that, subject to compliance with the conditions set out below, the proposed development would be an appropriate form of development, would not seriously injure the character and visual amenities of the area, would not seriously injure the amenities of residential property in the vicinity and would not endanger public safety by reason of access, traffic generation and drainage. 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 to the planning authority on the 12th day of January 2024, 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 developer, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least ten years thereafter. Prior to commencement of development, the developer 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.

3. (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site and shall comply with the requirements of the planning authority for such works and services. 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.

4. (a) The wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with the application on the 21st day of July, 2023 and shall be in accordance with the standards set out in the document entitled "Code of Practice - Domestic Wastewater Treatment Systems (Population Equivalent \leq 10) " – Environmental Protection Agency, 2021.
- (b) Treated effluent from the wastewater treatment system shall be discharged to a 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 \leq 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 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.

5. The developer shall enter into water connection agreements with Uisce Éireann.

Reason: In the interest of public health.

6. (a) Sight distance triangles from the proposed entrance shall be maintained and kept free from obstruction.
- (b) The existing front boundary hedge shall be retained except to the extent that its removal is necessary to provide for the revised entrance to the site.

Reason: In the interest of traffic safety.

7. (a) The roof colour of the proposed house shall be blue-black, black, dark brown or dark grey. The colour of the ridge tile shall be the same as the colour of the roof.
- (b) The external walls shall be finished in neutral colours such as grey or off-white unless otherwise agreed in writing with the planning authority prior to the commencement of development and carried out as agreed.


Reason: In the interest of visual amenity.

8. Site development and building works shall be carried out only between the hours of 0800 to 1800 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 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 5th day of Nov. 2024.