



An
Coimisiún
Pleanála

Commission Order

ABP-322052-25

Planning and Development Acts 2000 to 2022

Planning Authority: Kildare County Council

Planning Register Reference Number: 24/61329

Appeal by Gerard Young care of Farry Town Planning Limited of Suite 180, 28 South Frederick Street, Dublin against the decision made on the 13th day of February, 2025 by Kildare County Council to refuse permission.

Proposed Development: Construction of a bungalow with an elevated roof to allow for ease of future conversion. A secondary sewage treatment system with pumped discharge to a soil filtration bed as per regulations. A domestic vehicular entrance to the requirements of the roads section of Kildare County Council. A bored well. All ancillary site works in association with the above, all on a site at Ballyraggan, Rathvilly, County Kildare.

Decision

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

Reasons and Considerations

Having regard to the nature of the proposed development and the relevant policy objectives of the Kildare County Development Plan 2023-2029, specifically Policy HO P11 (genuine local housing need) and Objectives LR 04, TM O102 and BIO 26, as they relate to the removal of hedgerows (particularly to facilitate sightlines), it is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely affect the residential and visual amenities of the area or have a significant impact on local hedgerow, and would, therefore be in accordance with the proper planning and sustainable development of the area.

In deciding not to accept the Inspector's recommendation to refuse permission, the Commission was satisfied that the proposed development would not require the removal of 11 metres of hedgerow in order to achieve sightlines, as evidenced by the plans lodged by the applicant to the planning authority. The Commission did agree with the Inspector that local need (social) had been satisfactorily demonstrated by the applicant in the documentation provided to the planning authority.

Conditions

1. The proposed 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 proposed 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, 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 in the interest of the proper planning and sustainable development of the area.

3. Details of the materials, colours and textures of all the external finishes to the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity and to ensure an appropriate high standard of development.

4. The developer shall submit a drawing to the planning authority identifying the invert level of the proposed polishing filter.

Reason: In the interest of clarity and to complete a request for information issued by the planning authority.

5. Only clean uncontaminated surface water from the development shall be discharged to the surface water system. Only foul sewage and soiled water from the development shall be discharged to the foul system. All surface water shall be collected and disposed of to rainwater harvesting, soakways designed and constructed in accordance with B.S. 8301:1985 and BRE Digest 365 and provided with inspection manhole covers. The entrance to the property shall be drained to the surface water system in order that no water discharges to the public roadway.

Reason: In the interest of public health, to avoid pollution and to ensure proper servicing of the proposed development.

6. Roadside drainage shall be provided at the entrance which shall discharge to soakways or water system on site. The roadside drainage along the road frontage shall not be impaired and shall discharge to the grass verge which shall be lowered and levelled to the road level and provided with water run-off cuttings as directed by the planning authority. Roadside drains, where present, shall be retained except at the entrance where they shall be piped with a single pipe or culvert corresponding to the dimensions of the drain cross section.

Reason: In the interest of traffic safety and proper development.

7. Prior to the dwellinghouse being occupied, the developer shall have the new well water supply tested for drinking water quality by a reputable water testing laboratory who are to confirm that the test results indicate that the water is clean and wholesome and fit for consumption. This test shall be repeated on a yearly basis and water treatment on site shall be undertaken if the water quality becomes unfit for drinking purposes. The water quality shall comply with drinking water regulations and the requirements of the Health and Safety Authority.

Reason: To ensure proper servicing of the proposed development.

8. The existing front roadside verge shall be kept free from obstruction and shall be maintained by the developer so as not to impede lines of sight at the entrance as provided in accordance with Transport Infrastructure Ireland's Document DN-GEO-03060.

Reason: In the interest of traffic safety.

9. If in order to facilitate sight visibility lines, as conditioned as part of this permission, any utility poles are exposed, the developer shall, prior to commencement of development, liaise with the relevant statutory body and arrange for the relocation of utility poles. Evidence of such liaison shall be submitted to the planning authority prior to commencement of development. The cost of any such works shall be borne by the developer.

Reason: In the interest of traffic safety.

10. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays, inclusive, between 0800 and 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 agreement has been received from the planning authority.

Reason: To safeguard the amenity of property in the vicinity.

11. (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 the application 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 Waste Water 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.

12. The site shall be landscaped using only indigenous deciduous trees and hedging species in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the replacement of any hedgerow removed for the entrance behind the new boundary line. Any plants, trees or hedging 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 order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

13. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground.

Reason: In the interest of visual and residential amenity.

14. 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 Coimisiun 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.



Declan Moore

**Planning Commissioner of An Coimisiún
Pleanála duly authorised to authenticate
the seal of the Commission.**



Dated this 27th day of JUNE 2025.