

An
Coimisiún
Pleanála

Commission Order
ABP-322675-25-

Planning and Development Act 2000, as amended

Planning Authority: Kildare County Council

Planning Register Reference Number: 24/61115

APPEAL by Moyvalley Meaths Unlimited Company care of McCutcheon Halley Chartered Planning Consultants of Fourth Floor, Kreston House, Arran Court, Arran Quay, Dublin against the decision made on the 8th day of May, 2025 by Kildare County Council to grant subject to conditions a permission to David Bergin care of Declan Kearns and Associates Limited of Tullywest, Kildare, County Kildare in accordance with plans and particulars lodged with the said Council.

Proposed Development: Erection of a one and a half storey house, effluent treatment system, polishing filter, recessed entrance and all associated site works at Tanderagee, Broadford, 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 location and character of the site and its surroundings in a rural area together with the provisions of the Kildare County Development Plan 2023-2029, it is considered that the applicant has demonstrated compliance with the Rural Housing Requirements as set out under Section 3.13.3 of the Development Plan, that the proposed development complies with the Rural House Design Guide (Appendix 4 of the Development Plan) and, subject to compliance with the conditions set out below, would not seriously injure the visual amenities of the area, would not conflict or be incompatible with the operations of the nearby Moyvalley meat processing facility, would not result in a risk of deterioration of any water body or jeopardise any water body in reaching its Water Framework Directive objectives, would not be contrary to Development Plan Policy IN P2 and Objective IN O5 and would comprise an acceptable form of development at this location. 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 received by the planning authority on the 13th day of April 2025, 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 ten years thereafter. 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 to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3. (a) The site shall be landscaped, using only indigenous deciduous trees and hedging species in accordance with the landscape plan submitted to the planning authority with the application on the 24th day of October, 2024.
- (b) Any plants, trees or hedging which die, are removed or become seriously damaged or diseased, within a period of five years from 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 and in the interest of visual amenity.

4. The existing front boundary hedge shall be retained except to the extent that its removal is necessary to provide for the entrance to the site.

Reason: In the interest of visual amenity.

5. (a) The entrance gates to the proposed development shall be set back not less than 2.4 metres from the edge of the public road. Wing timber post and rail fencing forming the entrance shall be splayed at an angle of not less than 45 degrees and shall not exceed 1.1 metres in height.
- (b) Sight distance triangles shall be maintained and kept free from vegetation or other obstructions that would reduce the minimum visibility required.

Reason: In the interest of road safety.

6. (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.
- (c) Stone cladding shall comprise natural local stone.
- (d) Window frames shall be finished in a neutral colour and comprise either powder coated aluminium, timber frame or non-white uPVC, unless otherwise agreed in writing with the planning authority prior to the commencement of development.
- (e) The external front door shall be of timber construction unless otherwise agreed in writing with the planning authority prior to the commencement of development.
- (f) All rainwater goods and soffit/fascia shall be dark in colour.

Reason: In the interest of visual amenity.

7. (a) The applicant is required to engage the services of a suitably qualified archaeologist to monitor all topsoil stripping associated with the development.
- (b) Should archaeological material be found during the course of monitoring, the archaeologist may have work on the site stopped pending a decision as to how best to deal with the archaeology. The developer shall be prepared to be advised by the National Monuments Service of the Department of Housing, Local Government and Heritage with regard to any necessary mitigating action (e.g. preservation in situ, and/or excavation). The applicant shall facilitate the archaeologist in recording any material found.
- (c) The National Monuments Service of the Department of Housing, Local Government and Heritage shall be furnished with a report describing the results of the monitoring.

Reason: To ensure the continued preservation (either in situ or by record) of places, caves, sites, features or other objects of archaeological interest.

8. (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.

9. (a) The wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted to the planning authority on the 13th day of April, 2025 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 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 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 wastewater treatment system and associated works are 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.

10. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between the 0700 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.

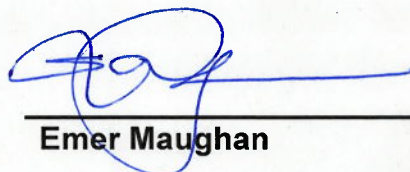
Reason: In order to safeguard the amenities of property in the vicinity.

11. All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.

Reason: To protect the amenities of the area.

12. 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 Coimisiún 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.



Emer Maughan

Planning Commissioner of An Coimisiún

**Pleanála duly authorised to authenticate
the seal of the Commission.**



Dated this *22nd* day of *September* 2025.