

An
Coimisiún
Pleanála

Commission Order
ACP-322838-25

Planning and Development Act 2000, as amended

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 2460483

Appeal by Thomas and Edel Phelan of Killeen Upper, Instioge, County Kilkenny against the decision made on the 27th day of May, 2025 by Kilkenny County Council to grant permission subject to conditions to Kieran Cummins and Eimear O'Neill of 57 Aylesbury, Freshford Road, County Kilkenny for the proposed development.

Proposed Development: Construction of a dwelling house with carport and domestic garage, site entrance and all associated site works at Killeen, Instioge, County Kilkenny as revised by further public notices received by the planning authority on the 1st day of May, 2025.

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 Kilkenny City and County Development Plan 2021-2027, and to the nature and scale of the proposed development, 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 not be prejudicial to public health, would be acceptable in terms of traffic safety, would not give rise to ribbon development, and would not have a significant impact on ecology or on European sites in the vicinity. 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 17th 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 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 to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the detailed requirements of the planning authority for such works and services.

Reason: In the interest of public health.

4. (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 11th day of October 2024, and as revised in the submission to the planning authority on the 17th day of April 2025, and in accordance with the requirements of the document entitled "Code of Practice – Domestic Waste Water Treatment Systems (p.e. ≤ 10)" – Environmental Protection Agency, 2021. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.
- (b) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the Environmental Protection Agency document.

Reason: In the interest of public health.

5. The external finishes to the proposed development shall be as indicated on drawing numbers 24.PP 3.01, 24.PP 3.02 and 24.PP 4.01, unless otherwise agreed with the planning authority prior to commencement of development. In default of agreement the matter(s) in dispute shall be referred to An Coimisiún Pleanála for determination.

Reason: In the interest of visual amenity.

6. The landscaping scheme shown on drawing number 24.PP 1.04, as submitted to the planning authority on the 11th day of October 2024, shall be carried out within the first planting season following substantial completion of external construction works. 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 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.

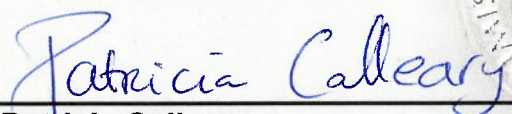
Reason: In the interests of visual and residential amenity.

8. Site development and building works shall be carried out only between the hours of 0700 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 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.



Patricia Calleary

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

Dated this 29 day of September 2025.