



Planning and Development Act 2000, as amended

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 24/60645

Appeal by Michael Conway against the decision made on the 25th day of June, 2025 by Kilkenny County Council to grant subject to conditions a permission to Marijke Danzeisen and Ward Smis in accordance with plans and particulars lodged with said Council.

Proposed Development: Development at organic farm consisting of the construction of a storey-and-a-half style dwellinghouse, sewage treatment system, slatted cow shed, tractor/hay shed, garden shed, gravel driveway and all associated site development works, all at Jerpoint West, Thomastown, 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 policies and objectives of the Kilkenny City and County Development Plan 2021-2027, the Commission was satisfied that the applicant has demonstrated compliance with Section 7.8 (Rural Settlement Strategy), in particular Section 7.8.4, the qualifying criteria for rural housing. Furthermore, the proposed clustering of the buildings, landscaping of the site, and choice of materials would be in accordance with the County Kilkenny Rural House Design Guidance (2008) as referenced in Section 7.8.6 of the development plan. The siting of the house and farm buildings, due to the contours of the land and position of the structures on the land holding, is not considered to detract from the wider landscape or from the amenities of other properties in the area, and, subject to compliance with the conditions set out below, the proposed development 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 did not agree with the Inspector's conclusion that the floorplans appear to align with two separate dwelling units. Based on the information on file regarding the use of the family flat, and the proposed connection between the main dwelling and the family flat which would accommodate it being used as part of the main dwelling, the Commission considered that the design of the proposed dwellinghouse would be acceptable and would be in accordance with Section 13.15 (Family Flat) of the development plan. Furthermore, the Commission concurred with the planning authority that the proposed development would not detract from the landscape character of the area. The design of the buildings, the positioning of the structures on the site, and the topography assists in the integration of the building into the wider setting.

Conditions

1. The proposed 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 29th day of May, 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 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 to meeting essential local need in the interest of the proper planning and sustainable development of the area.

3. The family flat for a family member(s) shall not be sold, let or otherwise conveyed as an independent living unit and shall revert to use as part of the main dwelling on the cessation of such use. The existing garden and curtilage of the overall residential property on this site shall not be subdivided.

Reason: In the interest of residential amenity and to control the density of residential units.

4. The roof colour of the proposed dwellinghouse shall be blue-black. The colour of the ridge tile shall be the same as the colour of the roof.

Reason: In the interest of visual amenity.

5. All oxidisable and galvanised surfaces of the proposed development shall be painted to match/harmonise with existing agricultural buildings or in a matt olive green or grey colour. All painting shall be maintained and renewed as necessary.

Reason: In the interest of visual amenity.

6. (a) The wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included in 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 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.

7. The proposed development and all farm activities shall be undertaken in accordance with the requirements of the European Communities (Good Agricultural Practice for Protection of Waters) Regulations, 2025.

Reason: To ensure that the proposed development accords with recognised best agricultural practices and protects surface/ground waters.

8. All clean 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.

Reason: In the interest of traffic safety and to prevent flooding or pollution.

9. Prior to commencement of development, the developer shall submit to, and agree in writing with, the planning authority a Construction Management Plan, which shall be adhered to during construction. This plan shall provide details of intended construction practice for the proposed development, including hours of working, noise and dust management measures and off-site disposal of construction/demolition waste.

Reason: In the interest of public safety and amenity.

10. 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.



Mary Henchy

Planning Commissioner of An Coimisiún

Pleanála duly authorised to authenticate

the seal of the Commission.

Dated this 27th day of March 2026.

