

An
Coimisiún
Pleanála

Commission Order
PL-501021-KK-26

Planning and Development Act 2000, as amended

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 2560574

Appeal by Tom and Catriona Cuniffe and others and by Others against the decision made on the 24th day of February, 2026 by Kilkenny County Council to grant subject to conditions a permission to Madill Property Limited in accordance with plans and particulars lodged with the said Council.

Proposed Development: The development will consist of: 46 dwelling units consisting of 10 number houses (two number house Type C 5 bedroom detached houses, one number Type E four-bedroom semi-detached house, one number Type F four-bedroom semi-detached house, six number House Type H- four-bedroom detached houses, 20 number Duplex units (10 number three-bed dwellings and 10 number one-bed dwellings), one number three-storey mixed use retail/apartment building (four number two-bedroom apartments over ground floor retail/restaurant use) and one number three-storey apartment building (12 number two-bed apartments), one number

communal refuse storage pavilion, modification of existing roundabout at the entrance of the site to provide a T-junction with a raised table, provision of internal roads and footpaths including associated pedestrian crossing facilities, surface level car parking, public lighting, landscaping, public open space, boundary treatments, provision of foul and surface water disposal and all associated site works at Rath Ullord, New Orchard, Bonnettsrath Road, County Kilkenny as revised by further public notices received by the planning authority on the 28th day of January, 2026.

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 siting, scale and design of the proposed development, it is considered, subject to compliance with the conditions set out below, that the proposed development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, would not adversely affect the character of the area, would be acceptable in terms of traffic impact, would not have a significant impact on ecology or on European sites in the vicinity, and, would, therefore, be in accordance with the proper planning and sustainable development of the area.

The Commission was satisfied that the omission of a dwelling and the alternative site layout proposed by the applicant appropriately addressed the zoning of the site as 'Existing Low Density Residential' in compliance with the County Development Plan and did not militate against achieving the density ranges set out in the Sustainable Residential Development and Compact Settlement Guidelines, 2024.

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 information received by the planning authority on the 23rd day of December, 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. The layout of the 9 number dwellings to the north of the site shall be as indicated on the Proposed Site Layout- Alternative (drawing number P19-145K-02-PH4-L00-DR-KDS-AR-1005) Revision P3-01 submitted to the planning authority on the 23rd day of December, 2025, reducing the overall grant of permission to 45 dwelling units.

Reason: In the interest of clarity.

3. Prior to commencement of development the developer shall submit the following to the planning authority for its written agreement.
- (a) A Stage 3 Road Safety Audit.
 - (b) Details of bicycle parking stands.
 - (c) Details of pedestrian/cycle crossings, tactile paving and road surfacing/materials.
 - (d) A taking in charge map indicating areas which are to be taken in charge by the planning authority.

The measures contained in the Road Safety Audit (Stage 1/2) shall be fully implemented.

Reason: In the interest of sustainable transport and safety, and in the interests of proper planning and sustainable development.

4. (a) The commercial unit at ground floor level within Block B shall be used as a café/coffee shop and shall operate between the hours of 0800 to 2100 only. The unit shall not operate as a hot food take-away.
- (b) A suitably sized grease trap/grease management system shall be installed within the unit/at the outlet to the public sewer.
- (c) The developer shall control odour emissions from the commercial unit at ground floor level within Block B in accordance with measures which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential amenity, public health and the proper planning and sustainable development of the area.

5. The internal road network, including turning bays, junctions, parking areas, footpaths, kerbs, signage and road markings, shall be in accordance with the detailed construction standards of the Planning Authority for such works, and design standards outlined in Design Manual for Urban Roads and Streets (DMURS). These details shall be agreed in writing with the Planning Authority prior to commencement of development.

Reason: In the interest of proper planning and sustainable development.

6. (a) The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled and/or contoured, as applicable, soiled, seeded, and landscaped in accordance with the landscape plans and report submitted to the planning authority with the application, unless otherwise agreed in writing with the planning authority. The public open space shall be made available before any of the dwellings are made available for occupation, and shall be maintained as public open space by the developer until taken in charge by the Local Authority.
- (b) Any plants which die, are removed, or become seriously damaged or diseased, within a period of five years from the completion of the development, or until the development is taken in charge by the Local Authority, 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 ensure the satisfactory development of the public open space areas, and their continued use for this purpose, and in the interest of visual amenity.

7. Details of the materials, colours and textures of all the external finishes to the proposed buildings, structures and boundary walls 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.

8. 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.

9. Prior to commencement of development, the developer shall enter into water and wastewater connection agreements with Uisce Éireann.

Reason: In the interest of public health.

10. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:

- (a) the location of the site and materials compound(s) including area(s) identified for the storage of construction refuse;
- (b) the location of areas for construction site offices, staff car parking, and staff facilities;
- (c) details of site security fencing and hoardings;
- (d) details of the timing and routing of construction traffic to and from the construction site and associated directional signage, to include proposals to facilitate the delivery of abnormal loads to the site;
- (e) measures to obviate queuing of construction traffic on the adjoining road network;
- (f) measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network and the location of a wheel washing facility;
- (g) alternative arrangements to be put in place for pedestrians and vehicles in the case of the closure of any public road or footpath during the course of site development works;
- (h) details of appropriate mitigation measures for noise, dust, artificial light overspill and vibration, and monitoring of such levels;
- (i) the containment of all construction-related fuel and oil within specially constructed bunds to ensure that fuel spillages are fully contained. Such bunds shall be roofed to exclude rainwater;

- (j) a construction waste and demolition management plan prepared in accordance with the “Best practice guidelines for the preparation of resource and waste management plans for construction and demolition projects”, published by the Environmental Protection Area, 2021; and
- (k) the means to ensure that surface water run-off is controlled such that no silt or other pollutants enter local surface water sewers or drains.

A record of daily checks that the works are being undertaken in accordance with the Construction Management Plan shall be kept for inspection by the planning authority. The developer shall provide contact details for the public to make complaints during construction and provide a record of any such complaints and its response to them, which may also be inspected by the planning authority.

Reason: In the interest of amenities, public health and safety.

11. Prior to commencement of development the developer shall submit a site-specific operational waste management plan to ensure management of all waste within the curtilage of the development during its operational phases (i.e. post-construction) for the written agreement of the planning authority. The plan shall include details in relation to waste segregation and collection, monitoring and security of waste contained areas.

Reason: In the interests of public health, residential amenities and sustainable development.

12. Proposals for naming and numbering of the proposed scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interest of urban legibility.

13. All the communal parking areas shall be provided with functional electric vehicle charging points, and all of the in-curtilage car parking spaces serving residential units shall be provided with electric connections to the exterior of the houses to allow for the provision of future electric vehicle charging points. Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of sustainable transportation.

14. Public lighting shall be provided in accordance with a scheme which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any unit.

Reason: In the interests of amenity and public safety.

15. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturday, 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.

16. 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.

17. The management and maintenance of the proposed development following its completion shall be the responsibility of a legally constituted management company, or by the Local Authority in the event of the development being taken in charge. Detailed proposals in this regard shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development. All areas not intended to be taken in charge by the Local Authority, shall be maintained by a legally constituted management company.

Reason: To ensure the satisfactory completion and maintenance of this development.

18. (a) Prior to the commencement of any house or duplex unit in the development as permitted, the applicant or any person with an interest in the land shall enter into an agreement with the planning authority pursuant to Section 47 of the Planning and Development Act 2000, that restricts any such residential units permitted (the number and location of each housing unit being specified in such agreement), pursuant to Section 47 of the Planning and Development Act 2000, that restricts all houses and duplex units permitted, to first occupation by individual purchasers i.e. those not being a corporate entity, and/or by those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (b) An agreement pursuant to Section 47 shall be applicable for the period of duration of the planning permission, except where after not less than two years from the date of completion of each specified housing unit, it is demonstrated to the satisfaction of the Planning Authority that it has not been possible to transact each specified house or duplex unit for use by individual purchasers and/or to those eligible for the occupation of social and/or affordable housing, including cost rental housing.
- (c) The determination of the planning authority as required in (b) shall be subject to receipt by the planning and housing authority of satisfactory documentary evidence from the applicant or any person with an interest in the land regarding the sales and marketing of the specified housing units, in which case the planning authority shall confirm in writing to the applicant or any person with an interest in the land that the Section 47 agreement has been

terminated and that the requirement of this planning condition has been discharged in respect of each specified housing unit.

Reason: To restrict new housing development to use by persons of a particular class or description, in order to ensure an adequate choice and supply of housing, including affordable housing, in the common good.

19. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of Section 94(4) and Section 96(2) and (3) (Part V) of the Planning and Development Act, 2000, as amended, unless an exemption certificate shall have been applied for and been granted under Section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which Section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Coimisiún Pleanála for determination.

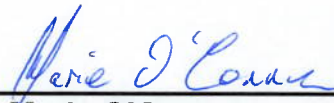
Reason: To comply with the requirements of Part V of the Planning and Development Act, 2000, as amended, and of the housing strategy in the development plan of the area.

20. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the Local Authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Coimisiún Pleanála for determination.

Reason: To ensure the satisfactory completion of the development.

21. 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.



Marie O'Connor

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



Dated this *24th* day of *July* 2026