



An
Coimisiún
Pleanála

Commission Order
PL-501707-KK

Planning and Development Act 2000, as amended

Planning Authority: Kilkenny County Council

Planning Register Reference Number: 25/60729

Appeal by Bill and Anne Marie Haberlin against the decision made on the 22nd day of June, 2026 by Kilkenny County Council to grant subject to conditions a permission to Brian Phelan and Andrea Nugent in accordance with plans and particulars lodged with the said Council.

Proposed Development: Construction of a dwellinghouse, sewage treatment system and percolation area, including all necessary site works, all at Clonassy, Mullinavat, County Kilkenny, as revised by the further public notices received by the planning authority on the 18th day of March, 2026 and on the 27th day of May, 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

It is considered that, subject to compliance with the conditions set out below, the proposed development would be in accordance with the provision of the Kilkenny City and County Development Plan 2021-2027, would not be out of character with the surrounding area, would not give rise to undue negative impacts upon the residential amenity of the surrounding area, and would, therefore, be in accordance with the proper planning and sustainable development of the area.

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 6th day of March, 2026 and on the 26th day of May, 2026, 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. 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.

Reason: In the interest of public health.

4. 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.
The roof colour shall be blue-black only.

Reason: In the interest of the environment and the retention of rural character and visual amenity.

5. The only access, vehicular or pedestrian, to the site shall be as shown on the Site Layout Plan received by the planning authority on the 14th day of November, 2025 and the further information received on the 6th day of March, 2026. All other access and boundary details shall be in accordance with the planning authority's requirements.

Reason: In the interest of road safety.

6. 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.

7. Landscaping shall be carried out in accordance with the Planting and Landscaping Plan received by the planning authority as part of further information on the 6th day of March, 2026. The existing rear site boundary shall be retained, maintained and renewed. New side boundaries shall be hedged with a mix of deciduous shrubs suitable for hedging and common to the locality (e.g. holly, hawthorn, blackthorn, field maple). The hedging shall be planted continuously (in a double row) and indefinitely maintained along the boundaries of the site. A minimum of six deciduous tree species (not dwarf) shall be included to the rear of the roadside boundary hedgerow. Suggested species include field maple, sycamore, silver birch, rowan, white beam, and, space permitting, oak, beech or chestnut. The trees shall be maintained indefinitely and replaced if failures occur. The planting shall be carried out in the first planting season following commencement of development. When planted, the trees/hedgerows shall be adequately protected from damage by animals or wind, and the trees shall be allowed to grow to maturity.

Reason: In the interest of visual amenity and to assist in enfolding this dwelling sympathetically in the rural landscape.

8. Existing shrub and tree vegetation on the site shall be retained, particularly along the entire roadside boundary and to the front of the proposed dwellinghouse, except those strictly required to be removed to carry out the proposed development and to achieve sightlines.

Reason: In the interest of visual amenity and to integrate the proposed development into the landscape.

9. (a) The septic tank/wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included in the site characterisation report submitted with the planning application and shall be in accordance with the standards set out in the document entitled "Code of Practice - Domestic Wastewater 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 Wastewater Treatment Systems (Population Equivalent ≤ 10)" – Environmental Protection Agency, 2021.
- (c) Within three months of the first occupation of the dwellinghouse, 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.

10. The developer shall pay to the planning authority a financial contribution of 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. The application of any indexation required by this condition 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.

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.




Declán Moore

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

Dated this 15th day of October 2026.