



An  
Bord  
Pleanála

## Inspector's Report PL.10.247560.

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<b>Development</b>	Permission for house and associated site works.
<b>Location</b>	Neigham, Gowran, Co Kilkenny
<b>Planning Authority</b>	Kilkenny County Council.
<b>Planning Authority Reg. Ref.</b>	16/488
<b>Applicant(s)</b>	Martin & Pamela Kelly
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant Permission with conditions.
<b>Appellants</b>	Pat O Neill.
<b>Date of Site Inspection</b>	08 <sup>th</sup> February 2017.
<b>Inspector</b>	Bríd Maxwell.

## **1.0 Site Location and Description**

1.1. The appeal site has a stated area of 2.3 hectares located in the rural townland of Neigham approximately 3km to the southeast of Gowran Village in Co Kilkenny. The site is located at the junction of two local roads and comprises a large field pattern currently under grass. There is an established two storey dwelling to the north of the site and a farmstead a short distance to the east. There is a two storey dwelling of recent construction to the southwest. The area is predominantly agricultural in character with a dispersed pattern of residential development. The boundaries of the appeal site are defined by mature hedgerows while there is an overgrown shed located towards the southwestern corner adjacent to the public road. The boundaries of the appeal site are defined by hedgerows with an open drain along the western boundary while there is an overgrown building located towards the southwestern corner adjacent to the public road.

## **2.0 Proposed Development**

2.1. Application seeks permission for a dwellinghouse of 316.8m<sup>2</sup>, a garage of 66.5m and shed 42.2m sq. The proposed house design is a contemporary interpretation of a traditional farmyard layout with living accommodation provided in a single storey barn like structure clad and roofed in red metal with a two storey wing to be finished in light coloured render with a traditional slate roof. The building arrangement forms an enclosure to create a yard. The siting of the proposed house is towards the south eastern part of the site set back at a distance of 50m from the public road to the south and 80m from the road to the west. The shed is proposed to the north of the dwelling adjacent to the eastern site boundary. The proposed site entrance is proposed from the west. The dwelling is to be serviced by way of a private well and a proprietary effluent treatment system. It is proposed to retain the overgrown building for use as a store.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.1.1 By order dated 17<sup>th</sup> October 2016, Kilkenny County Council decided to grant permission subject to 9 conditions including the following:

Condition 2 Development Contribution €9,560.

Condition 3, Occupancy condition.

Condition 8. Existing site boundaries to be retained. Landscaping in accordance with the submitted plan.

Condition 9. Garage incidental to the residential enjoyment of the dwelling.

### **3.2. Planning Authority Reports**

3.2.1 Initial report of Area Engineer sought additional information in regard to the sightlines at the entrance and details of surface water proposals.

3.2.2 Executive Engineer Environment indicates no objection subject to conditions.

3.2.3 Initial planner's report noted that the applicant complies with settlement policy for stronger rural area and indicated satisfaction with the proposed design and siting. Noting the recommendation of area engineer additional information was sought in respect of sightlines and surface water disposal. Final report recommends permission subject to conditions.

### **3.3. Third Party Observations**

3.3.1 Submission from the appellant recommends relocation of shed based on potential for noise and visual impact. Screen planting and hedge to mitigate visual impact and light impact. No further development within the landholding.

## 4.0 Planning History

### Appeal Site

- **15/56** Application for permission for two storey dwelling on southern section of the appeal site which was withdrawn prior to determination.

### Adjoining site to north.

- **P97/1179** Permission for two storey dwelling septic tank and entrance 28/4/98.

## 5.0 Policy Context

### 5.1 Development Plan

The Kilkenny County Development Plan 2014-2020 refers. The site is located within an area designated as “Stronger Rural area”.

## 6.0 Natural Heritage Designations

The site is circa 5.4km to the southeast of the River Barrow and River Nore SAC.

## 7.0 The Appeal

### 7.1. Grounds of Appeal

7.1.1 The appeal is submitted by Pat O Neill, owner and resident of the adjacent dwelling to the north of the appeal site. The grounds of appeal can be summarised as follows:

- No objection in principle however request that the proposed shed be relocated closer to the proposed dwelling to mitigate noise nuisance and to remove from the line of sight.

- Shelter belt of trees requested a mix of evergreen and native species as marked on the drawing appended to appeal (2mx2m apart and in rows of 5 each 4 ft. at time of sewing in advance of build.)
- Need to mitigate noise impact as there are 8 children between the two houses.
- Evergreen hedge max height 1.8m requested as highlighted in blue to prevent light spill from the appeal site driveway.
- Seeking agreement from Kilkenny County Council and An Bord Pleanála that there will be no more sites allowed on lands marked pink and no more agricultural entrances into the field.
- Noting that there are many children in the immediate area the issue of road safety and traffic hazard is of concern.

## **7.2. Planning Authority Response**

7.2.1 The Planning Authority did not respond to the appeal.

## **7.3 First Party Responses**

7.3.1 The response by McIntyre O Shea MCOS Architects is summarised as follows:

- Materials and form of the house specifically chosen to integrate proposal into its context in compliance with the Kilkenny Rural Design Guidelines.
- House is nestled close to hedgerow for shelter and to reduce visual impact
- First party met with the appellants at pre planning stage to consult regarding proposal and photomontage provided to demonstrate the proposed house.
- Location of shed is not in direct line of view from the O Neill's house. Its position adjacent high hedgerow and construction in green metal provides that it is

unobtrusive to its setting. It is a domestic shed and is over 50m from the north boundary and 110m from the O' Neill House.

- A simple crescent of native trees is proposed to the north and west of the house.
- Living rooms are to the south and few windows to north elevation. Single window at first floor level on north elevation is at high level with internal cill of 1800mm therefore no overlooking
- Layout of the house provides that all living spaces are orientated away from the O Neill's house with most of the glazing to the south.

## 8.0 **Assessment**

8.1 From my review of the file, all relevant documents and inspection of the site and its environs, I consider that the main issues for consideration in the Board's de novo assessment of the appeal may be considered under the following broad headings:

- Settlement Strategy
- Visual impact and design and impact on the character and amenities of the area
- Wastewater Treatment
- Appropriate Assessment

## 8.2 **Settlement Strategy**

8.2.1 I note a not insignificant degree of one off housing development in the general area and I acknowledge concerns expressed by the third party appellant in this regard. The site falls within an area indicated as a stronger rural area in the Kilkenny County Development Plan 2014-2020. Within these areas it is stated within the development plan that the Council will accommodate proposals for individual rural generated houses subject to compliance with the rural housing policy and normal siting and design criteria. The applicants live locally and the children attend the local national

school in Gowran. Martin Kelly grew up on the family farm at Shraugh approximately 5km from the site. In this regard the application can be deemed to be rural generated housing need in accordance with the stipulations as set out at 3.5.2.3 (3) of the County Development Plan. *“Persons who have no family lands but who wish to build their first home, on a site within a 10km radius of their original family home, (the local rural area) in which they have spent a substantial and continuous part of their lives (minimum 5 years)”*. In light of the acknowledged local housing need and having regard to the substantial size of the site, I consider that consideration can be given for the granting of a dwelling on the site on the basis of the established local connection to the area and as the application therefore complies with the rural settlement policy of the development plan.

### **8.3 Visual Impact and Impact on the Character of the Area.**

8.3.1 As regards the design of the proposed dwelling, I consider that the innovative and contemporary design approach is welcome. The proposed house design is a contemporary interpretation of a traditional farmyard layout with living accommodation provided in a single storey barn like structure clad and roofed in red metal with a more conventional two storey wing in light coloured render and a traditional slate roof. I consider that the proposal will not be unduly prominent as a result of the siting and design and topography and established vegetation on the site. On this basis I consider that the proposed development is acceptable in terms of its visual impact. As regard potential or negative impact on the adjacent dwelling to the north, having regard to the distance involved and relative floor levels no significant negative impacts will arise. AS regards the siting of the shed structure I note its proposed domestic use which will ensure no significant noise impact and in visual terms it will not be unduly prominent from the adjacent dwelling site given the significant distance (shed is 52m from northern site boundary) On the issue of the third party appellant’s suggested landscaping strategy. I consider that the shelter bank of native species as suggested by the first party is appropriate.

## **8.4 Traffic and Wastewater Treatment**

8.4.1 The proposed development has frontage onto two minor and narrow local roads. The proposed entrance to the site is from the west. Sightline visibility can, I consider be provided to a satisfactory level. On balance given the nature and scale of traffic which will be generated by the development, I consider that the development will not create an adverse impact and is satisfactory in relation to traffic safety. The site characterisation forms submitted with the application details site suitability investigations carried out on 19<sup>th</sup> June 2016, where a trial holes and T test holes were excavated on the site. Bedrock was encountered at 1.8m. Watertable was not encountered. The soil structure was described as topsoil leading to silt at 0.4m with silt clay at 1m. A T value of 13 was determined. On the basis of the investigation, it is proposed to provide a bio-crete wastewater treatment system with a raised percolation area. I consider that the proposed wastewater treatment arrangements submitted are satisfactory.

## **8.5 Appropriate Assessment**

8.5.1 As regards the issue of Appropriate Assessment having regard to the nature and scale of the proposed development and nature of the receiving environment and proximity to the nearest European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **9.0 RECOMMENDATION**

9.1 I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. The proposed development is considered to be acceptable having regard to the pattern of development in the



vicinity and the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities and the provisions of the Kilkenny County Development Plan 2014-2020 (as varied). I recommend that planning permission be granted for the reasons 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 objectives of the current development plan for the area and the Sustainable Rural Housing Guidelines for Planning Authorities. The proposal would not be injurious to the existing rural amenities of the area, would be acceptable in terms of traffic safety and convenience, would not be prejudicial to public health and would otherwise be in accordance with the proper planning and sustainable development of the area.

### **CONDITIONS**

1. The development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by the plans and particulars submitted on the 26<sup>th</sup> September 2016 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 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].

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. Prior to commencement of construction of the house, details of the materials, colours and textures of all the external finishes to the proposed house shall be submitted to the planning authority for agreement.

**Reason:** In the interest of orderly development and the visual amenities of the area.

4. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interest of orderly development and the visual amenities of the area.

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

**Reason:** In the interest of public health and to ensure a proper standard of development.

6. (a) A proprietary effluent and disposal system shall be provided. This shall be designed, constructed and maintained in accordance with the requirements of the planning authority. Details of the system to be used, and 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) Treated effluent shall be discharged to a raised percolation area which shall be provided in accordance with the requirements of “Wastewater Treatment Manual – Treatment System for Single Houses” – Environmental Protection Agency 2009.

(3) 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 and that the raised percolation area is constructed in accordance with the standards set out the EPA document.

**Reason:** In the interest of public health.

7. The site shall be landscaped using only indigenous deciduous trees and hedging species in accordance with details which shall be submitted to and agreed in writing with, the Planning Authority prior to commencement of development.

**Reason:** In order to screen the development and assimilate it into the surrounding rural landscape in the interest of visual amenity.

8. 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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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.

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Bríd Maxwell  
Planning Inspector

16<sup>th</sup> February 2017