



An
Bord
Pleanála

Inspector's Report

ABP-312279-21

Development	Construction of a single storey, four-bedroom dwelling house.
Location	Rahelty, Rathmoyle, Co. Kilkenny.
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	21714
Applicant(s)	Steven & Laura Ryan
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Hubert Daniels
Observer(s)	None
Date of Site Inspection	1 st September 2022
Inspector	Mary Crowley

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1.0 Site Location and Description

1.1. The appeal site with a stated area of 0.71 ha is located in the townland of Rahelty, approximately 7.5km to the northwest of Kilkenny City centre. The site is part of a larger field presently in agricultural use, rectangular in configuration. The site is bound to the northwest and northeast by mature hedgerow and a narrow secondary road, referenced as LS5018. To the southeast and southwest of the site are further agricultural lands. The topography of the site rises in a south-easterly direction, in places by c.2m, from the public road. The immediate area is characterised by linear traditional two storey farm dwellings with associated agricultural buildings and farmyard. A set of photographs of the site and its environs taken during the course of my site inspection is attached. These serve to describe the site and location in further detail.

2.0 Proposed Development

2.1. Permission is sought to construct a single storey, four-bedroom dwelling house (159.49 sqm), a new site entrance, a bored well, a new effluent treatment system with raised bed / percolation area and all associated site works.

2.2. The application was accompanied by the following:

- Site Characterisation Assessment
- Landowner consent (applicant's father)
- Traffic Report
- Cover letter noting that this is the second planning application on the site, that the previous application was refused on appeal and that the vehicular entrance has been relocated to avoid another appeal. Further stated that the applicants currently rent a house in Kilkenny (7.4km) and that they want to build their first house on family-owned land close the family farm where the applicant currently works.

2.2.1. Further information was submitted on the 21st October 2021 summarised as follows:

- Site entrance relocated 45m eastwards reducing hedgerow removal from 112m to 70m. Avoids being opposite agricultural entrance on the opposite side of the road.

- Submitted that the relocation of the entrance addresses most of the issues raised in the third party observation

2.2.2. Revised public notices were submitted on the 3rd November 2021.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Kilkenny County Council issued a notification of decision to grant permission subject to 8 no conditions summarised as follows:

1.	Compliance with plans and particulars submitted with application on 19 th August 2021 and further information on 8 th October 2021
2.	Section 48 Development Contribution
3.	Occupancy clause whereby the completed dwelling is to be first occupied by applicants for at least 7 no years
4.	Compliance with EPA Code of Practice – Wastewater Treatment and Disposal System Serving Single Houses
5.	Indefinite maintenance of potable water supply
6.	Traffic survey, sight lines and entrance detail
7.	Hedgerow / earthen bank to be removed to achieve visibility
8.	External finishes

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Case Planner** in their first report was satisfied that the applicant complied with the Rural Housing Policy as set out in the Kilkenny County Development Plan 2014 – 2020. However, it was considered that the excess removal of hedgerow and significant setback required to achieve sightlines was unacceptable and recommended that an alternative, more favourable site should be investigated. Accordingly the Case Planner recommended that permission be refused for a

single reason relating to the excessive removal of mature natural hedgerow to provide the requisite sightlines.

- There is a further unsigned handwritten addendum to the Case Planners report requesting the following information as summarised:
 - 1) Revised proposals reducing the removal of hedgerow and setback
 - 2) Response to the issues raised in the third-party observations
 - 3) A note was included advising that an alternative site may be more feasible
- **Further information** was requested on the 8th October 2021. Further information was submitted on the 21st October 2021.
- **Revised public notices** were requested on the 26th October 2021. Revised public notices were submitted on the 3rd November 2021.
- In the second report, it is evident that it was the **Senior Planner** that requested further information. Having considered the further information submitted the Senior Planner recommended that permission be granted subject to conditions. The notification of decision to grant permission issued by the Kilkenny County Council reflects this recommendation.

3.2.2. Other Technical Reports

- **Castlecomer Area Office** – Recommended conditions set out in their report relating to sight visibility works, gradient, installation of reflective delineators along set back area, relocation of utility poles and surface water run-off.
- **Environment Section** – No objection subject to conditions relating to wastewater treatment, stormwater and minimisation of waste production.

3.3. Prescribed Bodies

3.3.1. None

3.4. Third Party Observations

- 3.4.1. There is an observation recorded on the planning file from Hubert Daniels (also the appellant in this case and who lives across the road from the site). The issues raised relate to the site notice not in the location of the proposed entrance, proximity to

observer's house and farmyard, other lands are available to the applicant to build on, traffic safety and loss of a long established hedgerow.

- 3.4.2. A further observation is recorded on the planning file from Hubert Daniels in response to the further information reiterating that the applicant has other lands available to build on. Concern is also raised regarding traffic safety, elevated site, loss of hedgerow and biodiversity, accuracy of sightline drawings, more hedgerow will be required to be removed to meet sightline requirements and loss of roadside definition.

4.0 Planning History

- 4.1. There was a previous appeal on this site summarised as follows:

- **ABP-308801-21 (Reg Ref 20/532)** – Kilkenny County Council granted permission to Stephen and Laura Ryan (applicants in this case) for the construction of a single storey house and a new site entrance. Following a third-party appeal by Hubert Daniels the Planning Inspector recommended that permission be refused for 4 reasons relating to (1) local need, (2) visual amenity, (3) removal of front boundary hedging and (4) traffic hazard. The Board refused permission for a single reason as follows:

The site of the proposed development is located within a rural location where emphasis is placed on the importance of designing with the landscape and of siting of development to minimise visual intrusion as set out in Section 12.10 of the Kilkenny County Development Plan 2014-2020. Having regard to the topography of the site, the elevated positioning of the proposed development, the creation of a new vehicular entrance, the resulting extensive driveway, and the removal of the front boundary hedging, it is considered that the proposed development would form an obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, and would fail to be adequately absorbed and integrated into the rural landscape. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

It is noted from the Board Direction that that the Board was not satisfied based on the documentation submitted with the application and the appeal that the applicant had demonstrated an economic or social need to live at this location. However as there

was already a substantive reason for refusal, the Board decided not to pursue the matter further.

5.0 Policy Context

5.1. National Policy

5.2. National Planning Framework – Project Ireland 2040 (DoHP&LG 2018)

5.2.1. The *National Planning Framework – Project Ireland 2040* (NPF) is a high-level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. It is a target of the NPF that 40% of all new housing is to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites with the remaining houses to be delivered at the edge of settlements and in rural areas.

5.3. **National Policy Objective 19** refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e., the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations. In rural areas elsewhere, it refers to the need to facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements. In all cases the protection of ground and surface water quality shall remain the overriding priority and proposals must definitely demonstrate that the proposed development will not have an adverse impact on water quality and requirements set out in EU and national legislation and guidance documents.

5.4. Sustainable Rural Housing Development Guidelines 2005

5.4.1. The *Rural Housing Guidelines* seek to provide for the housing needs of people who are part of the rural community in all rural areas and makes a distinction between 'Urban Generated' and 'Rural Generated' housing need. Chapter 4 of the guidelines relates to rural housing and planning applications and states that in areas under significant urban influence, applicants should outline how their proposals are

consistent with the rural settlement policy in the development plan. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply, including 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

5.4.2. The Guidelines further require that new houses in rural areas be sited and designed in a manner so as to integrate well with their physical surroundings and generally be compatible with water protection, roads, traffic and public safety as well as protecting the conservation of sensitive areas

5.4.3. **Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)"** – Environmental Protection Agency, 2009 – Sets out guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses.

5.5. **Development Plan**

5.5.1. The operative plan for the area is the **Kilkenny City and County Development Plan 2021-2027**. Figure 7.1 Rural Housing Strategy identifies the appeal site as within an area under urban influence.

5.6. **Natural Heritage Designations**

5.6.1. The appeal site is not located in or immediately adjacent to a European Site, a Natural Heritage Area (NHA) or a proposed NHA. There are no watercourses at or adjacent to the site. European sites proximate to the appeal site include:

- River Barrow and River Nore SAC (002162) is c.4.7km to the northeast; and
- River Nore SPA (004233) is c.5km to the northeast

5.7. **EIA Screening**

5.7.1. Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment. The need for Environmental Impact Assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The third-party appeal has been prepared and submitted by PBA Architects on behalf of Hubert Daniels, immediately adjoins the appeal site to the northeast, and may be summarised as follows:

- **Site Entrance** – The proposed new entrance is opposite the appellants property. It is understood that the applicant, whose primary business is agriculture and agricultural contracting will be using this development as a base for heavy agricultural machinery with resultant heavy traffic accessing the egressing this entrance resulting in a traffic hazard. The location of this site entrance on an unlined substandard rural roadway with little or no drainage, in such close proximity to an existing roadside residential dwelling and existing farm entrance is insensitive.
- **Site Entrance Details** – The new entrance will necessitate the removal of an even greater section of hedge line than that which is shown on the site layout and further information site layout drawings. The accuracy of these drawings is queried.
- **Loss or Rural Character and Road Definition** – This rural area is defined by the existing mature hedgerow and the removal of such an extensive section of same and its replacement with a new hedgerow, set back up to 9m from the carriageway edge will result in the loss of road definition and natural habitat.
- **Alternative Site and Entrance Locations** – The dwelling and entrance is detached from the applicant's main farmyard and will result in additional unnecessary traffic movement to and from both. There are a number of alternative site locations directly adjoining the farmyard that are available without impacting the appellant.
- **Planning History** – The Board refused permission on this site previously.

6.1.2. The appeal was accompanied by Board Order 308801 and a copy of submissions to Kilkenny County Council. In addition, the appellant provided a separate letter to the Board requesting that the decision to grant is overturned as the entrance is close to the

appellants entrance, that the applicant has other lands available to them and that the removal of the established hedgerow for sightlines will destroy natural habitat.

6.2. Applicant Response

6.2.1. The first party response to the appeal has been prepared and submitted by Peter Thompson Planning Solutions on behalf of the applicant and may be summarised as follows:

- **Site Entrance** – The proposed entrance will not impact on the amenity of the appellants house or garden as it is located a minimum of 55m to the northwest on the opposite side of the public road. The applicant will not be in keeping agricultural machinery on their site. All agricultural machinery will be kept in the existing family farmyard. Traffic to the proposed house will be minimal.
- **Site Entrance Details** – Revised sightline drawing, which the Board is requested to consider is attached. It demonstrates that a 60m sightline to the northwest of the entrance, taken to the centre of the road can be achieved with no requirement to remove any hedgerow. Submitted that such a relaxation is warranted as oncoming traffic from the west will be naturally slowed by the sharp bend on the road.
- **Loss of Rural Character and Road Definition** – The proposed layout will not result in the existing road definition being altered. A new hedgerow is proposed to be planted behind the line of visibility to the northwest of the entrance. Roadside margins have been similarly set back elsewhere in the vicinity of the site without resulting in the loss of the roadside definition.
- **Alternative Site and Entrance Locations** – Alternative site options suggested are not available to the applicants. Details provided. Both suggested sites are immediately adjacent to the existing farm complex, on land that is required for holding and grazing livestock close to the farmyard animal housings. While historically living within the farmyard complex was the norm, with modern surveillance equipment it is possible to live close but outside the farm complex in order to provide the correct life-work for the applicants and their young family.
- **Planning History**

- 1) **House Position** – The orientation and position of the current house differs from that previously proposed. Following a request for further information the finished floor level was reduced from 9.2m to 8.65m. The reorientation of the house also reduces the extent of excavation by working with the existing gradient.
 - 2) **Extent of Access** – The previous application proposed a 90m access road. The current application proposes to reduce this to 45m.
 - 3) **Extent of Hedge Removal** – If the revised layout submitted with the appeal is accepted no hedgerow removal will be required and the proposed house and access will benefit from immediate screening.
 - 4) **Housing Need** – The Planning Authority accepted the applicants housing need to have been in compliance with rural housing policy in both the previous application and the current application.
- **Letter from Hubert Daniels** – The issues covered in the appellants letter are addressed under the response to his agents grounds of appeal above.

6.2.2. The response was accompanied by the following:

- Correspondence demonstrating the applicant is a farmer (herd number, farm payment etc)
- Letter from the applicant and his father setting out that they farm together full time, that the applicant owns 15.5ha of farmed land, that he leases a further 23.3ha, that the family has owned farmland in the area for 5 generations and that they have a small contracting business mainly comprising hedge cutting and slurry spreading for local farmers.

6.3. Planning Authority Response

6.3.1. The Planning Authority *has no further comments to make on this appeal.*

6.4. Observations

6.4.1. None

6.5. Further Responses

6.5.1. **First Party** - The first party response to the third-party appeal was cross circulated to relevant parties. PBA Architects on behalf of the appellant, Hubert Daniels, submitted the following comments as summarised:

- The creation of a proposed new residential site entrance in this location will necessitate the removal of a greater section of hedge line than that shown on the site layout provided to the Board.
- The appellant has marked both a 60m and 70m on the supplied site layout to the nearside road edge and it is clear that a substantial amount of hedgerow will be removed in order to facilitate the proposed development and site entrance if permitted. Noted that 90m is the appropriate sightline requirement for this class of local access road, which may be reduced to 70m in particular circumstances where slow traffic speeds have been demonstrated by the applicant.
- The creation of a new single rural site entrance in this precise location will diminish the unique rural character of this section of roadway. The removal of such an extensive section of mature hedge line and its replacement with a new hedgerow, set back 9m+ from the carriageway edge will result in the loss of road definition and natural habitat.
- Reference is made to the previous refusal on this site; ABP-308801-20. Notwithstanding the traffic safety concerns as set out above, the Board is asked to agree that the revised proposals have not adequately addressed the remains for refusal as set out in the previous determination.

6.5.2. **Planning Authority** – No further comment.

7.0 Assessment

7.1. This assessment is based on plans submitted to the Planning Authority on the 19th August 2021 as amended by further information submitted on the 21st October 2021 and revised public notices on the 3rd November 2021 together with details and particulars submitted to An Bord Pleanála.

7.2. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the

key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Visual Impact
- Site Entrance
- Other Issues
- Appropriate Assessment

7.3. Principle

- 7.3.1. Permission is sought to construct a single storey, four-bedroom dwelling house (159.49 sqm), a new site entrance, a bored well, a new effluent treatment system with raised bed / percolation area and all associated site works.
- 7.3.2. The rural settlement policy for Kilkenny County is set out in Chapter 7 of the 2021 – 2027 Development Plan. Figure 7.1 Rural Housing Strategy identifies the appeal site as within an area under urban influence. I refer to Section 7.8.4 where it states that in areas under urban influence the Council will permit (subject to other planning criteria) single houses for persons where either an economic or social need is met. All applicants for one-off rural housing will need to demonstrate compliance with the qualifying criteria of one of these categories unless otherwise specified as being located within an area where the Rural Housing Policy does not apply.
- 7.3.3. Having regard to information on file I consider that the applicant should be assessed under the following economic criteria:
- Persons with a demonstrable economic need to live in the particular local rural area – The applicant states that they want to build their first house on family-owned land close the family farm where the applicant currently works. Stated that the applicants currently rent a house in Kilkenny (7.4km away). In a letter from the applicant and his father it is stated that they farm together full time, that the applicant owns 15.5ha of farmed land, that he leases a further 23.3ha, that the family has owned farmland in the area for 5 generations and that they have a small contracting business mainly comprising hedge cutting and slurry spreading for local farmers. The applicant has also provided documents setting out the nature

and scale of the farm, herd number, grant scheme and payments etc confirming that the applicant works full time and will inherit the farm in the coming years.

- 7.3.4. Having regard to the information available on file I am satisfied that the applicant is employed full-time in rural-based activity i.e. farming and that their employment is intrinsically linked to the rural area in which they wish to build and that they have a functional need to reside permanently in this rural area.
- 7.3.5. Section 71 of the Development Plan also requires that all permission granted for rural housing within the Areas of Urban Influence shall be subject to an occupancy condition restricting the use of the dwelling to the applicant or members of his/her immediate family as a place of permanent residence for a period of seven years from the date of first occupancy. It is recommended that should the Board be minded to grant permission that such a condition be attached. A sterilisation agreement is not necessary in this case.
- 7.3.6. While I note the concerns raised in the third party appeal that there may be alternative sites available to the applicant I accept the applicant's position that there are issues with regard to absence of direct access to one of the sites, that it would require hedge removal and would be circa 30m from the appellant's house and garden and that the other suggested site to the west of the farmyard has an existing field gate but it is likely that a new entrance would be required to achieve similar visibility as proposed with additional hedgerow removal. I also accept the argument that modern farming practises do not necessitate the farmer to live within the farmyard complex.
- 7.3.7. I am satisfied that the applicant meets the economic need criteria set out in Section 7.1 of the Development Plan. As set out above it is recommended that should the Board be minded to grant permission that an occupancy condition be attached.

7.4. Visual Impact

- 7.4.1. The current application sought to address the reason for refusal in the previous scheme (ABP-308801-21 (Reg Ref 20/5 32) refers) concerning the visual impact of the scheme. The reason for refusal is set out in Section 4.0 above. The extensive removal of the mature front boundary hedge and associated traffic impact are discussed separately below.

- 7.4.2. The Development Plan states that those intending to build houses in the countryside should consult the Rural Design Guide (2008) for advice on site choice, local design and landscaping at an early stage in their preparations. Additional guidance is also given in Section 13.22 Rural Housing where it states that it is an objective to inter alia improve overall design quality, to ensure maximum integration with the landscape, to draw on and reinforce traditional patterns of buildings in rural Kilkenny and to encourage innovation in design. There is also further general advice guidance provided in this section of the Development Plan which has also been noted.
- 7.4.3. The current scheme before the Board is a single story dwelling with a hipped roof and a stated floor area of 159.49 sqm. This is an increase of c20sqm on the previous scheme. Notwithstanding the increase in floor area the design and elevational treatment of the current scheme is generally the same as that previously proposed. It is noted however, that the orientation and position of the current house differs from that previously refused. Following a request for further information the finished floor level was reduced from 9.2m to 8.65m. Together with the reorientation of the house there is an overall reduction in the extent of excavation required by working with the existing gradient.
- 7.4.4. While there is no objection to the elevational treatment of the proposed scheme, I note that if the revised layout submitted by the applicant in response to the appeal is accepted, it will reposition the house closer to the public road and lower the finished floor level by a further 0.45m giving an overall reduction of 1.05m. I consider that this revised layout will:
- Reduce the need for significant cutting and filling of site
 - Not lead to or exacerbate ribbon development
 - Has had regard to the site contours and the scale, form and orientation of adjoining dwellings and its location, siting, orientation and design is sensitive to its rural surroundings.
 - Will not significantly impose on the skyline when viewed from nearby roads.
 - That the simplistic design reflects the vernacular historic building stock of the area in terms of scale, height, mass, form, layout and proportions.
 - And that the driveway follows the contours of the site

7.4.5. Having regard to the revised site layout plan submitted to the Board on the 14th February 2022 in response to the third party appeal I am satisfied that the proposed dwelling has been sited to minimise visual intrusion and would not of itself form a significant obtrusive feature on the landscape or seriously impact the visual amenities of the area.

7.5. Site Entrance

7.5.1. As documented in Section 4.0 above the Board previously refused permission for a similar development at this location as the proposed development by reason of the topography of the site, the elevated positioning of the proposed development, the creation of a new vehicular entrance, the resulting extensive driveway, and the removal of the front boundary hedging would form an obtrusive feature on the landscape, would seriously injure the visual amenities of the area, and would fail to be adequately absorbed and integrated into the rural landscape.

7.5.2. The third-party appeal raises significant concerns regarding the location of the proposed entrance, intensification of traffic associated with the development and the and the significant loss of mature hedgerow in order to achieve the necessary sight lines.

7.5.3. In the previous reason for refusal reference was made to Section 12.10 of the County Development Plan (Kilkenny County Development Plan 2014-2020). This Development Plan has now been superseded by the Kilkenny City and County Development Plan 2021-2027. I refer to Section 13.22 Rural Housing of the current Development Plan where it states that:

The design of entrance gates should be in keeping with the rural setting. Applications for a dwelling in a rural area should include detailed drawings and specifications for entrance treatments. The roadside boundary should ideally consist of a sod and stone wall/earth mound planted with a double row of native hedgerow species e.g. Hawthorn, field maple, holly, blackthorn, hazel etc. Block walls and ornamental features will be discouraged.

7.5.4. I also refer to Rural Housing Section 13.22.1 Rural Housing Access and Sight Lines where it states inter alia *that the applicant must demonstrate that safe vehicular access to and from a proposed site is provided in terms of visibility from a proposed entrance,*

but also in terms of impact on road traffic on the adjoining public road, through generation of turning and stopping movements by vehicles leaving and entering the proposed site. It also states that site entrances should be located so as to require the least amount of hedgerow removal in accordance with DMRB requirements and that excessive hedgerow removal will be resisted where setback is considered significant or roadside definition is compromised.

- 7.5.5. As stated, the site adjoins the L5018 and forms part of a larger landholding currently in the ownership of the applicants father (outlined in blue). As noted on day of site inspection development along the road is relatively limited, comprising a small number of traditional two storey farm dwellings with associated agricultural buildings and yard areas.
- 7.5.6. In response to a request for further information the proposed entrance was moved to the southeast, midway between the appellants house and farm entrance and a second entrance to his farmyard located close to the bend on the road. The revised proposed house entrance is the location of an existing field entrance gate. To achieve a 70m sightline to the northwest / west in the revised location it was proposed to remove 70m of hedgerow rather than the 112m required to achieve the original sightline in that direction. With the entrance in the revised location, no hedgerow was required to be removed to the southeast. Noted that in the original location, circa 60m of hedgerow was required to be removed in this direction to achieve sightlines.
- 7.5.7. Having regard to the amended entrance submitted by way of further information I share the concerns raised by the appellant and the Board in their previous refusal decision that regardless of the reduction in hedge removal proposed it remains that the extensive removal of the mature roadside hedgerow necessitated around the bend in the public road is unacceptable and that same would have a detrimental impact on the visual amenities of the area.
- 7.5.8. However, I note that the revised layout submitted with the appeal proposes no hedgerow removal with the result that the proposed house and access would benefit from immediate screening. However, in maintaining the mature hedgerow the required sightlines are restricted. I refer to the revised sightline drawing submitted with the appeal response demonstrating that a 60m sightline to the northwest of the entrance, taken to the centre of the road can be achieved with no requirement to remove any

hedgerow. While there is a shortfall I agree with the applicant that such a relaxation is warranted as oncoming traffic from the west will be naturally slowed by the sharp bend on the road and same will act as a safety measure to slow traffic as the visibility of vehicles approaching from the east will be blocked thereby requiring drivers to negotiate the corner with caution. I further agree that, setting aside the matter of visual impact, removing the hedgerow has the potential to encourage greater speeds approaching and turning the corner. To this end I recommend that permission be granted subject to compliance with the revised sight layout plan submitted to the Board on the 14th February 2022.

- 7.5.9. Regarding the design of the proposed entrance, I refer to Section 13.22 Rural Housing of the Development Plan where it states that *roadside boundary should ideally consist of a sod and stone wall/earth mound planted with a double row of native hedgerow species e.g. Hawthorn, field maple, holly, blackthorn, hazel etc* and that *block walls and ornamental features will be discouraged*. It is recommended that should the Board be minded to grant permission that a condition be attached requiring the applicant to agree the detailed design of the site entrance having regard to the foregoing.
- 7.5.10. Having regard to the foregoing together with my site inspection I am satisfied that the site entrance as amended by revised plans submitted to the Board on the 14th February 2022 is adequate to serve the proposed development and that subject to the implementation of the measures outlined in the application that the vehicular movements generated by the proposed development would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic movements in the immediate area.

7.6. Other Issues

- 7.6.1. **Development Contributions** – I refer to the Kilkenny County Council Development Contribution Scheme 2018. The development is not exempt from the requirement to pay a development contribution. It is therefore recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000

7.7. Appropriate Assessment

- 7.7.1. Having regard to the nature and scale of the proposed development, the nature of the receiving area (the proposed development has demonstrated that a wastewater treatment plant and surface water soakaway can both be safely accommodated at the site), the physical separation distances to European Sites, and the absence of ecological and/ or hydrological connections, the potential of likely significant effects on European Sites arising from the proposed development, alone or in combination effects, can be reasonably excluded.

8.0 Recommendation

- 8.1. Having considered the contents of the application the provision of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **GRANTED** for the following reason.

9.0 Reasons and Considerations

- 9.1. Having regard to the policy and objectives as set out in the Kilkenny City and County Development Plan 2021-2027 in respect of rural residential development, the nature, scale and design of the proposed development (as amended), to the pattern of existing and permitted development in the area 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 respect the existing visual character of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

10.0 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 An Bord Pleanála, except as may otherwise be required in order to comply with the following conditions. Where
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	<p>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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>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.</p> <p>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.</p> <p>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.</p> <p>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</p>
3.	<p>a) The site entrance shall located as per the revised plans and particulars submitted to An Bord Pleanála on the 14th February 2022.</p> <p>b) The site entrance shall consist of a sod and stone wall/earth mound together with appropriate gate design and planting. Details shall be agreed prior to commencement of work on site.</p>

	Reason: In the interest of visual amenity
4.	<p>a) The proposed septic tank drainage system shall be in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.</p> <p>b) Treated effluent from the septic tank system shall be discharged to a raised percolation area which shall be provided in accordance with the standards set out in the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009.</p> <p>c) 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 raised percolation area is constructed in accordance with the standards set out in the EPA document.</p> <p>Reason: In the interest of public health.</p>
5.	<p>a) 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.</p> <p>b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.</p> <p>Reason: In the interest of traffic safety and to prevent pollution.</p>
6.	The water supply to serve the proposed dwelling shall have sufficient yield to serve the proposed development, and the water quality shall be suitable for human consumption. Details, demonstrating compliance with these requirements, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

	<p>Reason: To ensure that adequate water is provided to serve the proposed dwelling, in the interest of public health.</p>
7.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwellings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
8.	<p>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. All existing over ground cables shall be relocated underground as part of the site development works.</p> <p>Reason: In the interests of visual and residential amenity.</p>
9.	<p>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 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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
10.	<p>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 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</p>

	<p>be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.</p> <p>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.</p>
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Mary Crowley

Senior Planning Inspector

28th September 2022