



An
Coimisiún
Pleanála

Inspector's Report

ABP 323622-25

Development

Retention of converted space which consists of a kitchen area, bedrooms and bathroom and all associated site works.

Location

Lanigans Dairies Limited, Rathreagh and Rathbane, Galmoy, County Kilkenny.

Planning Authority

Kilkenny County Council

Planning Authority Reg. Ref.

2560380

Applicant

Brian Lanigan

Type of Application

Permission.

Planning Authority Decision

Permission.

Type of Appeal

Third Party

Appellant

Brid Quirke

Observers

None

Date of Site Inspection

5th December 2025.

Inspector

Derek Daly

1.0 Site Location and Description

- 1.1. The appeal site is located in a rural area on part of an overall land holding in the townlands of Rathreagh and Rathbane to the north of the village of Galmoy in the north west of County Kilkenny.
- 1.2. The site is accessed from a farm road running northwards out of the village approximately 0.5km from the public road. This farm road serves an existing large dairy enterprise on the site and surrounding landholding. The buildings on the site consists of a farmyard complex with a milking parlour, dairy, plant room, and separate roofed slatted sheds and other associated buildings. The site is surrounded by agricultural lands and is not visible from the public road.
- 1.3. The appeal site relates to the milking parlour structure which at the eastern end has a doorway and a room and from this room there is a stairwell which provides access to a first floor area in which there is a self contained apartment unit.
- 1.4. The site has a stated area of 1.640 hectares.

2.0 Proposed Development

- 2.1. The proposed development as received by the planning authority on the 21st May 2025 comprised of the following;
 - The retention of a converted space over existing milking parlour to a liveable space which consist of an open plan living / kitchen area two bedrooms and bathroom, with treatment system and percolation area and all associated site works.
 - The apartment consists of a kitchen/living room, bathroom and two bedrooms at first floor level and a utility room at ground floor level in part over the ground floor milking parlour. There are double doors within the living space at first floor level with a juliette style balcony indicated on the submitted elevation drawings. From site inspection it was noted that this enclosed balcony is not present on site. At ground floor level there is a utility area with a stairwell leading up to the first floor habitable floor space.

- The means of water supply is indicated as a private well. The means of foul effluent disposal is an on-site treatment system and related percolation area located to the north of the structure and site characterisation tests associated with aspect of the development were submitted.
- The gross floor area as stated to be retained is 119m².
- The site has a stated area of 1.640 hectares and in relation to this the site incorporates an area larger than the site of the milking parlour encompassing the farm complex.
- The site layout plan indicates a parking area for the apartment and an outdoor open space which is not immediate to the building.

2.2. Revised details arising from a request of further information was submitted on the 18th July 2025. The response includes revised proposals for a revised site characterisation report, an increased infiltration area and revised section drawings of same and a revised site layout drawing. Revised details in relation to visibility sightlines drawing indicating 70 metre sightlines in each direction at the existing entrance onto the local road was submitted.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The decision of the Planning Authority was to grant a temporary planning permission subject to nine conditions.

Conditions of note;

Condition no.3 The first floor liveable space, the subject of this retention planning application, shall be occupied by the owner/farmer of the associated dairy farm enterprise on site and shall not be sold, leased or otherwise disposed of separate from the farmyard complex of which it is connected to. Reason: In the interest of the proper planning and sustainable development of the area.

Condition no. 9 This permission shall be valid for a period of five years only and on the expiry of this period or when not required by the applicant anymore, whichever comes first, the unit shall revert back to use as part of the agricultural infrastructure

of the farm unless prior planning permission has been secured for its continued use. The unit shall not be rented or sold separate to the remainder of the farm. Reason: In the interest of proper planning and development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report dated the 15th July 2025 refers to the planning history of the site; submissions received and provisions of the statutory development plan. Following assessment, the principle of the development was accepted in terms of the use, siting and design of the first floor apartment associated with an existing large dairy enterprise surrounding the site and it was considered that the residential use at this location is acceptable. A condition is recommended that this apartment not be sold, leased or otherwise disposed of separate to the dairy enterprise on site.

Further information was recommended following receipt of reports from environment and roads for clarification on matters that the applicant submit revised documents to include for an increased DWWTS Infiltration area of 200m² in line with the received percolation testing results: including a site layout drawing; a cross section of DWWTS infiltration area and new site longitudinal section including DWWTS infiltration area and site characterisation report

The planning report dated the 6th August 2025 following consideration of the further information recommended permission.

The planning report of the SEP dated the 13th August 2025 noted *that the proposed development is part of an agricultural building. As the unit is not a traditional house I consider that its long term occupation is unlikely. Also, as an agricultural structure, the sale or renting out of the unit is unlikely and it will only be used in conjunction with the dairy farm. Accordingly, I do not consider it should attract an occupancy condition. I do however consider this a temporary arrangement and would impose a condition for a 5 year temporary use. On the expiry of the five years the occupant should vacate the property and it should revert back to agricultural use unless permission for its continued use has been secured.*

3.3. Other internal submissions

Environment – initial request of further information in report dated the 15th July 2025 relating to the treatment plant and following the receipt of F/I, the report dated the 6th August 2025 indicated no objections subject to conditions.

Area Engineer – indicated no objections to the development.

3.4. A third party submission was submitted in relation to the development and the issues raised relate to the unsuitable nature of the accommodation for habitable use for a young child and includes a report outlining the non-compliance with aspects of Building Regulations and Farm Safety.

4.0 Planning History

4.1.1. Planning history in relation to the appeal site

4.1.2. Planning Ref. No. 18/177

Permission granted to current applicant for to erect outdoor cubicles with automatic scrapers and slatted tanks, unroofed collection yard, milking parlour, dairy, office plant room/store, bulk tank, water tank, meal bin, calving shed, silage bases and associated works.

5.0 Policy and Context

5.1. Development Plan

5.1.1. The statutory development plan is the Kilkenny City and County Development Plan 2021 – 2027.

5.1.2. Rural Housing Policy The site is located within an area designated as 'Other Areas', as defined in the Kilkenny City and County Development Plan 2021-2027 in relation to the Council's rural housing policy.

5.1.3. Chapter 7 refers to rural development and section 7.8 to rural settlement strategy which largely identifies policies in relation to rural housing need and qualifying need for rural housing. The provisions largely refer to single houses rather than any specific reference to apartments but in terms of satisfying need the applicant would satisfy the requirement of housing need in an area designated "other areas" in section 7.8.4 of the plan.

5.1.4. Chapter 13 refers to requirements for developments and section 13.13 specifically to apartment development and that regard should be given to relevant Government Guidelines. The provisions largely refer to purpose built apartment development of multiple units. It is indicated that “*all planning applications for apartments are required to demonstrate compliance with ‘Sustainable Urban Housing; Design Standards for New Apartments’, Guidelines for Planning Authorities (2018) and any updates thereof. While these guidelines set out minimum design standards, the Council strongly encourage the provision of apartments above these standards, in the interest of creating attractive living environments and sustainable communities*”.

5.1.5. Section 13.13.2 in relation to apartment sizes indicates apartment sizes and dimensions shall comply with the sizes set out in the Design Standards for new Apartments, Guidelines for Planning Authorities, 2018.

5.1.6. Section 13.13.3 refers to private and public open space and that private open space can be provided in the form of rear gardens or patios for ground floor units, and balconies at upper levels. Private amenity space should be located to optimise solar orientation and designed to minimise overshadowing and overlooking.

5.1.7. Section 13.13.5 refers to storage areas and communal facilities and that provision should be made in apartments for general storage areas (additional to minimum kitchen presses, bedroom furniture and hot presses) for bulky items such as a child's buggy, a suitcase, sport equipment etc. As a rule, no individual storage room within an apartment should exceed 3.5 sq. metres.

5.2. National Guidance

5.2.1. A Design Standards for new Apartments, Guidelines for Planning Authorities, 2018. The guidance in section 3 outlines standards in relation to apartment design standards including floor areas, internal storage and private amenity space and the standards are outlined in appendix 1

5.2.2. Sustainable Urban Housing: Design Standards for New Apartments, 2023 and is largely an update of the 2018 but specifically refers to urban housing.

This guidance also outlines standards for apartment largely focusing on urban areas outlining in section 3 standard in relation to floor area of 73m² for a 2 bedroom unit, internal storage, room areas and private amenity open space.

Apartment is defined as a *self-contained residential unit that forms part of a multi-unit building with horizontal divisions(s) between it and at least one other unit that is an apartment or other non-residential use. Access to individual apartments is generally via grouped access or communal areas. However, ground floor units may have direct 'own door' access from public or semi-public areas.*

5.3. Natural Heritage Designations

5.3.1. The subject site is not located within site designated as a Natura 2000 site or NHA/pNHA and a significant distance of the subject site from any designated site.

6.0 EIA Screening

6.1. The proposed development has been subject to preliminary examination for environmental impact assessment and in this regard, I refer to Form 2 in Appendix 1 of this report. Having regard to the nature, size and location of the proposed development, and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

7.0 The Appeal

7.1. Grounds of Appeal

7.2. The appellant grounds of appeal in summary refers to;

- The planning authority was incorrect in dismissing matters concerning the building regulations and farming standards and the proposal would have to be radically altered to meet building regulations and these alterations would materially impact the design of the building.
- The planning authority has been inconsistent in relation to this matter and reference is made to ACP 322616-25 in this regard.

- Locating a dwelling within an existing animal housing shed is inappropriate, provides poor residential amenity and is a significant health and safety hazard.
- The applicant has a vacant house on the same landholding which could be upgraded without requiring planning permission.
- The concern is in relation to her daughter's health when staying with her father who is the applicant.
- Concern is raised in relation to condition no. 3 as the wording is vague and open to misinterpretation and whether the appellant's daughter can or cannot occupy the apartment and the condition in a grant of permission requires to be reworded.
- The Commission is requested to review all the issues raised in the original objection.
- A conditional survey on the suitability or otherwise of the accommodation for habitable use specifically for a child is enclosed with the grounds of appeal highlighting deficiencies with the building regulations and also in relation to safety concerns.
- Also attached is a HSA document *Children and Safety on Farms*.

7.3. Planning Authority Response

The planning authority in a response dated the 8th October 2025 considers that the grounds of appeal primarily relate to the suitability of the residential for a young child however the planning application was assessed on planning grounds only and the provisions of the CDP.

A developer is not entitled solely by reason of a permission under the Planning Acts to carry out any development and the onus is on the applicant to ensure compliance with the relevant building regulations and Health and Farm Safety standards.

The condition (no.3 of the planning authority decision) in relation to occupancy is to ensure the residential element is provided for the appropriate end user and for clarity

this condition is not to prevent immediate family members from living with the end user(farmer).

7.4. First Party Response

The applicant in a response to the grounds of appeal in summary refers to;

- The appeal is vexatious.
- The appellant has failed in her bid to have the property categorised as dangerous and unfit for habitation.
- The application was professionally assessed by the planning authority.
- The claim that it is too close to agricultural buildings is unfounded and across Ireland family dwellings are routinely located adjacent to working farmyards and the living quarters in question are part of the same farm enterprise and occupied by the applicant.
- The concern regarding building regulation compliance is based on a misunderstanding and the accommodation although referred to as an apartment is a self contained private dwelling not part of a multi-unit or shared residential development. Private dwellings must comply with relevant building regulations but are not required to comply to meet apartment block or shared occupancy standards.
- The vacant house referred to in the grounds of appeal is in severe disrepair and currently not habitable.
- The development complies with the Kilkenny CDP in providing for reuse and adapting of existing buildings.

8.0 Assessment

8.1.1. The main issues in this appeal are the principle of the development, the conditions of the planning authority and the grounds of appeal. Appropriate Assessment also needs to be considered. I am satisfied that no other substantive issues arise.

The proposal as submitted is for the retention of a converted space which consists of a kitchen area, bedrooms and bathroom and all associated site works over an existing milking parlour.

8.2. The principle of the development

8.2.1. In relation to the principle of development the appeal site is located in a rural area within a working farm complex. The occupant of the apartment unit is engaged in agriculture and in relation to housing need satisfies the provisions of the development plan in relation to a housing need to reside in a rural area. The development is considered therefore consistent with the provisions stated in the CDP zoning and is therefore considered acceptable in principle subject to compliance with consideration of other provisions of the CDP and that the proposal requires to be considered in the context of the provisions of the development plan and national guidance in relation to standards outlined in the CDP and guidance.

8.2.2. It is important at the outset to indicate that the provisions of the CDP and national guidance in relation to standards for apartment developments relate largely to apartment development in urban/built up areas and apartment development which are purposely built as a new build or conversion of a building usually incorporating multi units. The provisions provide guidance but in considering the suitability of the development qualitative standards are important and not just whether a development complies with the quantitative standards.

The current development is in effect a conversion of a floor space initially constructed as an ancillary area to a milking parlour and would not I consider comply with the definition of an apartment as stated in appendix A of the Sustainable and Compact Settlements Guidelines for Planning Authorities which is self-contained residential unit that forms part of a multi-unit building with horizontal divisions(s) between it and at least one other unit that is an apartment or other non-residential use.

8.2.3. Decision of the planning authority

In granting permission, the decision of the planning authority was by condition to grant planning permission for a temporary period of 5 years as stated in condition no. 9 and also in condition no.3 to limit the use of the first floor liveable space, the subject of this retention planning application in terms of occupation to the owner/farmer of the associated dairy farm enterprise on site and shall not be sold, leased or otherwise disposed of separate from the farmyard complex of which it is connected to.

In relation to the granting of the permission for the development the planning report notes that the proposed development is part of an agricultural building. As the unit is not a traditional house and considered that its long term occupation is unlikely. Also, as an agricultural structure, the sale or renting out of the unit is unlikely and it will only be used in conjunction with the dairy farm. It also considered the development to be a temporary arrangement and imposed a condition for a 5 year temporary use and on the expiry of the five years the occupant should vacate the property and it should revert back to agricultural use unless permission for its continued use has been secured.

- 8.2.4. In relation to condition no. 9, the development is for retention of the development, I consider that the basis of granting a temporary permission is not readily evident as it is not a temporary structure and the internal layout and construction of the apartment unit is largely permanent fittings and there is no indication that the applicant considers the development as temporary.

8.3. *Grounds of appeal*

- 8.3.1. The grounds of appeal refer to;
- 8.3.2. Building regulations.

The grounds of appeal contends that the planning authority was incorrect in dismissing matters concerning the building regulations and farming standards and the proposal would have to be radically altered to meet building regulations and these alterations would materially impact the design of the building.

In a response the planning authority contends that the developer is not entitled solely by reason of a permission under the Planning Acts to carry out any development and the onus is on the applicant to ensure compliance with the relevant building regulations and Health and Farm Safety standards

The applicant in a response contends that the concern regarding building regulation compliance is based on a misunderstanding and the accommodation although referred to as an apartment is a self contained private dwelling not part of a multi-unit or shared residential development. Private dwellings must comply with relevant building regulations but are not required to comply to meet apartment block or shared occupancy standards and that the planning authority confirmed the suitability

of the building for residential use ensuring that the development met the appropriate safety and environmental criteria and there is no breach of the building regulations.

In relation to this matter the building regulations are a separate statutory code and not a matter for planning. I would note reference in the planning report that whilst Building Control regulations are outside the remit of the Planning and Development regulations, it is recommended that a footnote is included advising the applicant of their obligations under the Building Control Act. I do consider that in deciding to grant temporary permission this was in relation to the use rather a statement of compliance with the building regulations though as the development is *in situ* this matter could have been clarified prior to granting permission in particular in relation to egress from the habitable area to an outside space but this is matter that could be resolved.

8.3.3. Appropriateness of the use within an agricultural building.

The appellant has contended that locating a residential unit within an existing animal housing shed is inappropriate, provides poor residential amenity and is a significant health and safety hazard.

In response to this the first party contends that the claim that it is too close to agricultural buildings is unfounded and that across Ireland family dwellings are routinely located adjacent to working farmyards and the living quarters in question are part of the same farm enterprise and occupied by the applicant.

In relation to this matter, I would note that in many traditional farms, dwellings are and were constructed adjoining working farmyards but are/were generally adjoining or in close proximity to farm buildings rather than on the upper floor of an operational farm structure in use as a working milking parlour and so this current arrangement is not generally what would be considered a normal layout and this therefore would give rise to concerns on the appropriateness of the relationship with its siting within the working farmyard space in terms of residential amenity and safety for occupants of the residential unit given the wide range of activities associated with farm operations and movements of animals and machinery.

The appropriateness to consider therefore is, however, whether the apartment provides a qualitative standard of residential accommodation and amenity to the

occupants of the apartment unit irrespective of age of the occupants and whether they reside full time or not in the apartment.

As indicated apartment standards largely refer to apartments in built up areas which are purpose built for that purpose or converting to use as apartments. The guidance is largely intended to provide for the highest possible amenity standards for occupants of apartments and in relation to floor area, room sizes, storage the apartment unit complies with the standards outlined. Standards are to be considered however not solely in relation to quantitative standards but also qualitative standards.

In this regard I would have concerns in particular in relation to private amenity open space. Although there is a balcony structure indicated on the drawings this balcony was not in place so there is no private space immediate to the unit. I would also note that the proposed limited balcony if provided would provide minimal and a sub optimal level of residential amenity. There is an area of open space indicated externally but to access the space requires exiting the building and entering the general farm structure complex which is highly unsatisfactory and does not provide for a safe and readily useable and accessible amenity open space for any occupant of the apartment unit.

8.3.4. Alternative residential accommodation on the holding

I note the reference to alternative residential accommodation on the holding and in relation to this matter this is outside of the scope of this appeal and the matter to be considered in relation to this development.

8.4. Concerns in relation to children on the site.

I note the matters raised and there are concerns in relation to children's safety on farms but they are largely addressed by ongoing vigilance and in putting in place best practice safety measures to prevent children entering work areas and this would apply whether in relation to any area of the farm irrespective of proximity of a residential unit to a farm working area.

8.5. Condition no. 3

8.5.1. Concern is raised in the grounds of appeal in relation to condition no. 3 as the wording is vague and open to misinterpretation and whether the appellant's daughter

can or cannot occupy the apartment and the condition in a grant of permission requires to be reworded.

I note the response of the planning authority and that the intention of the condition in relation to occupancy is to ensure the residential element is provided for the appropriate end user and for clarity this condition is not to prevent immediate family members from living with the end user(farmer).

In relation to matter in a grant of permission the condition referring to owner/farmer can be amended to reflect this.

- 8.6. In relation to treatment of foul drainage it is disposal to an on-site treatment system and related percolation area located to the north of the structure and site characterisation tests associated with aspect of the development were submitted and also further clarification of the initial details was sought and submitted. I would have no objections in relation to the details submitted and I note the environment report raised no objections to the details submitted.
- 8.7. To conclude having considered the matters raised as the development is for a retention I do not consider consideration of a temporary duration of permission is warranted. I do however consider that in terms of a qualitative residential amenity for the occupants of the apartment unit is deficient and provides for an inappropriate intermix of uses within a working farm yard complex and although the applicant would appear to satisfy the requirement for rural housing there is no necessity to site the dwelling unit within the working farm buildings which would lead to a poor standard of residential amenity.

9.0 AA Screening

- 9.1. I have considered the proposal for the retention of an apartment and all associated site works in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located in a rural area.
- 9.2. The proposed development comprises in effect a relatively minor development as outlined in section 2 in the Inspectors report. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason

for this conclusion is as follows; the nature of the development, the distance to designated sites and the absence of pathway to these sites.

9.3. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects and likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

10.0 Recommendation

10.1. I recommend that permission be refused.

11.0 Reasons and Considerations

11.1. Having regard to the nature of the development, its location, design and layout of the development and the absence of a readily useable, safe and accessible provision of private amenity open space to serve the occupants of the apartment unit it is considered that development represents a substantial development owing to this deficiency in private amenity open space. The development is considered to be inappropriate in relation to proximity to the working farmyard in terms of providing for a safe and qualitative level of residential amenity for occupants of the residential unit and would therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Derek Daly
Planning Inspector

19th December 2025

Form 1 - EIA Pre-Screening

Case Reference	323622-25
Proposed Development Summary	Retention of converted space which consists of a kitchen area, bedrooms and bathroom and all associated site works.
Development Address	Lanigans Dairies Limited, Rathreagh and Rathbane, Galmoy, County Kilkenny.
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?	<input type="checkbox"/> X Yes , it is a 'Project'. Proceed to Q2. <input type="checkbox"/> No ,
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> X Yes , it is a Class specified in Part 1.	
3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
x No , the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994. No Screening required.	
No , the proposed development is of a Class and meets/exceeds the threshold.	
Yes , the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2)	

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: Derek Daly Date: 19th December 2025

Form 2 - EIA Preliminary Examination

Case Reference	ACP 323622-25
Proposed Development Summary	Retention of converted space as an apartment which consists of a kitchen area, bedrooms and bathroom and all associated site works.
Development Address	Lanigans Dairies Limited, Rathreagh and Rathbane, Galmoy, County Kilkenny.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (<i>The development has a modest footprint located within an existing building which has a grant of planning permission. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</i>
Location of development (<i>The development is situated in an urban area within an established residential estate and an approved land use in which existing services are available. The development is removed from sensitive natural habitats, designated sites and landscapes of identified significance in the County Development Plan</i>
Types and characteristics of potential impacts	<i>Having regard to the modest nature of the proposed development, its location removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</i>
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA

There is no real likelihood of significant effects on the environment.	EIA is not required.
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	No
There is a real likelihood of significant effects on the environment.	No

Inspector: Derek Daly Date: 19th December 2025