

Comhairle Chontae Chill Chainnigh
Kilkenny County Council
Planning Report



Planning & Development Act, 2000 - 2010
Planning & Development Regulations, 2001 - 2010

Planning Ref: P10/475
Due Date: 23/02/2011

Applicant: Michael & Louise Delaney
Subject: Permission to (a) demolish the remains of existing uninhabitable house (b) construct a two storey dwelling and garage and new septic tank/percolation area and all associated siteworks including new entrance at Garringreen, Kilkenny.

Description of Proposed Development:

- a) Area of site: 0.173 Hectares
- b) Area of proposed dwelling: 191.63msq
- c) Max ridge roof height: approx. 8.4metres
- d) The applicant is the intended purchaser of the site. A letter of consent from Thomas Roche has been submitted in this regard.

Referrals:

Area Engineer – No objection subject to condition
Sanitary Services – No objection subject to condition.
DoEHLG – Requested Screening for AA be carried out – discussed with Jimi Conroy, NPWS who has no objection once a proprietary treatment system is installed as discussed with Mark Kelly on site.

Site History:

P. 05/2007 – Permission granted to Michael Dwyer for a 7metre high dwelling house on this site

Services proposed:

Water – public water
Wastewater – septic tank and percolation area
Surface water - Soakpit

Development Description:

The site is located at Garringreen, approx 100metres east of the Johnswell road roundabout of the new ringroad. The Pocke Golf Club is located opposite the subject site.

Rural Housing Policy:

The site is located just outside the development boundary for Kilkenny City. Consequently, the Rural Housing Policy applies. Question 14 of the application form has not been completed. No additional details have been submitted with the application documents to demonstrate how the applicants comply with the Rural Housing Policy. However, there is an existing derelict cottage on site which is proposed to be demolished. Under Policy PS16 Refurbishment and Replacement Dwellings, where a proposal ensures the sensitive restoration of vernacular and traditional buildings, they shall not be subject to the policies in Section 3.4.2.

Access

The site will access onto the L2615 (Johnswell Road), east of the Johnswell Road roundabout on the ringroad around Kilkenny City. The file was referred to the Area Engineer who has no objection subject to condition.

Site Characterisation Form:

Groundwater protection response: R1

The applicant proposes to install a conventional septic tank with 144metres of percolation area in accordance with the EPA Guidelines 2009. The site suitability report was carried out by Mark Kelly who is on the Kilkenny County Council list of approved assessors. A T value of 41.28 and a P value of 12.75 are indicated on the site characterisation form.

House Design

The applicant proposes to construct a two storey dwelling with a max floor to roof ridge height of 8.45m. and a floor area of 191sq.m. There is an existing single storey dwelling on the adjoining site to the west, which will be less than 10metres from the proposed dwelling. The proposed dwelling is located slightly behind the front building line of the existing dwelling house to the west. This will result in the overlooking of the adjoining dwelling from a side window at first floor level of the proposed dwelling. A submission was received in this regard also objecting to this proposed first floor window overlooking the neighbours property. Furthermore, it is considered that the proposed 8.45metre dwelling is unacceptable in terms of its height at this location as it is out of proportion and scale in the context of the adjoining single storey dwelling. No contiguous elevation has been submitted. Further information is recommended in this regard.

Part L calculations = None submitted.

Third Party Submissions:

There are 2no. submissions on file. The issues/concerns raised are summarised as follows:

James and Carmel Purcell, Garringreen – first floor window in west (side) elevation will directly overlook their property which is a serious invasion on their privacy. Request that

this window be removed. *This has been addressed following a further information request.*

Jean and Michael Dwyer, Garringreen, Johnswell Road – state that they received planning permission for a dwelling house on this site in 2006 but since then someone contested the will and so they could not develop the site. They state that ‘all got sorted out this year’ but that they did not have the funds to carry out the development. *The current applicants submitted a letter of consent from the relevant landowner.*

Further information:

The following further information was requested in October 2010:

1. It is noted that you propose to connect to the public water supply, however, this has not been indicated on your Site Layout Drawing. You are required to submit a revised Site Layout Drawing clearly indicating your full proposals in this regard.
2. You are advised that the Planning Authority has serious concerns regarding the overall design of your proposed dwelling, having regard to its location adjacent to a single storey dwelling, the extent of the site and the existing derelict dwelling on site. Under Policy PS16 Refurbishment and Replacement Dwellings, the size and the scale of the replacement dwelling should reflect the site’s characteristics and context. In this regard, you are invited to submit revised house plans showing a more appropriate house design for this site, which shall be of a significantly reduced height, taking into account the existing single storey dwelling to the west. You are advised to consult the County Kilkenny Rural Design Guide in this regard. Furthermore, the first floor bedroom window in the western elevation shall be removed to alleviate any overlooking of the adjoining property.
3. You are required to submit a contiguous elevation from the public road showing your proposed dwelling and the adjoining single storey dwelling to the west.
4. In order to comply with Objective IE37 of the Kilkenny County Development Plan 2008-2014, you are required to submit a statement of intent with calculations showing how the proposal (development) will comply with Part L of the Building Regulations (energy performance coefficient and carbon performance coefficient).
5. There is a potential for impact on the candidate Special Area of Conservation which relates to effluent from the site entering the Pockocke River. The Nature Conservation Service of the Department of the Environment, Heritage and Local Government requires an Article 6 Appropriate Assessment Screening. The Freshwater Habitat above and below the site should be evaluated.
6. You are required to submit a detailed survey of the existing roadside edge, indicating sightlines of 90 metres in both directions at a setback of 2.4 metres from the metalled edge of the road. The survey shall include proposals for setback of hedgerow/vegetation to achieve the required sightlines and shall indicate the amount and nature of vegetation to be removed to achieve same.

Where hedgerow/vegetation on neighbouring land not within your ownership is to be removed, a letter from the owner agreeing to such removal is to be submitted.

A response to this further information request was received on the 22nd December 2010.

The response to Item 1 shows the proposed connection to the public water mains to the west of the site.

The response to item 2 includes for a new house design incorporating a dormer style dwelling with two storey projection to the eastern side. The dwelling has a maximum ridge roof height of 6.7m and a stated floor area of 196sq.m. This is a reduction from 8.4m in height and 191sq.m. in area. The first floor bedroom window in the western elevation has been omitted.

A contiguous elevation has been submitted in response to Item 3. The proposed dwelling is 1.7m lower than the original dwelling proposed and is more acceptable having regard to the adjoining single storey dwelling.

A Part L calculation has been submitted in response to Item 4 giving a BER rating of B1.

The response to Item 5 is included in the cover letter of the further information submitted. It is stated that discussions were had with Jimi Conroy, NPSW who visited the site and recommended that the applicant's upgrade their proposed septic tank to an effluent treatment system. The cover letter goes on to say that 'we trust that the upgrading of the septic tank will ensure that the SAC is not impacted in any way by the development.

Having discussed this with Jimi Conroy NPWS, it is considered that a Screening report for Appropriate Assessment is required, notwithstanding the applicants proposal to upgrade their proposed treatment system. Following a discussion with N. Louw, SEP, it is recommended that the applicants submit full details of their proposed upgraded treatment system to allow the Planning Authority to carry out a Screening for Appropriate Assessment for the proposed development development.

The response to Item 6 states that the sightlines are as per agreed with the Area Engineer, Kieran FitzGerald and approved under P. 05/2007.

Clarification:

The following clarification was requested in January 2011:

Item 5

Your response in relation to Item 5, which requested an Article 6 Appropriate Assessment Screening, states that you propose to install an upgraded wastewater treatment system in place of the previously proposed septic tank. You are advised that the Planning Authority intend carrying out Screening for Appropriate Assessment of

your proposed development to establish whether or not a full Appropriate Assessment is required to be carried out by the applicant. In order to allow the Planning Authority carry out a Screening report in this regard, you are required to submit full details of your proposed upgraded wastewater treatment system in accordance with EPA 2009.

A response to this clarification request was received on the 27th January 2011. The response includes details of the proposed upgraded treatment system which is a BIO-FILTER treatment system with soil polishing filter. The percolation area is to consist of 96m of percolation trenching.

SCREENING FOR APPROPRIATE ASSESSMENT

1. Description of Development

Permission sought to (a) demolish the remains of existing uninhabitable house (b) construct a two storey dwelling and garage and new wastewater treatment system and percolation area and all associated siteworks including new entrance at Garringreen, Co. Kilkenny.

2. Natura 2000 Sites

River Nore and River Barrow cSAC (SITE CODE: 002162).

The subject site partly adjoins the cSAC. The Pockocke River is located to the east of the site.

3. Assessment of Likely Effects

A breakdown of likely effects on the Natura 2000 site is provided in the following Table.

Impact Type	Significance Indicator
Loss of Habitat	No loss of habitat anticipated
Disturbance	No disturbance to habitat anticipated
Water Quality	Water quality unlikely to be impacted upon given the distance of the proposed treatment system from the Pockocke River and the high level of wastewater treatment proposed.
Fragmentation	No fragmentation to habitat anticipated.
Species population density	No adverse impact anticipated.
Water resource	No anticipated change

4. Screening Conclusions and Statements

Given the nature of the proposed development, the distance of the proposed treatment system from the Pockocke River and discussions with Jimi Conroy, Wildlife Officer, NPWS, it is considered that a **Statement for Appropriate Assessment is not deemed to be required**, as per Article 6 of the Habitats Directive 92/43/EC.

Conclusion:

Having regard to the policies and objectives of the current Kilkenny County Development Plan, consultation with NPWS and the design and layout of the proposed

development, it is considered that the proposed development would not seriously injure the amenities of the area and if constructed in accordance with the attached conditions, the proposed development would accord with the proper planning and sustainable development of the area.

Recommendation:

It is recommended that **permission be granted** subject to the following conditions:

D. Morrissey,
Executive Planner

N. Louw
Senior Executive Planner

First Schedule
Reasons & Considerations for Decision on Planning Ref. P. 10/475

Having regard to the policies and objectives of the current Kilkenny County Development Plan 2008-2014, the consultation with National Parks & Wildlife Service and the design and layout of the proposed development, it is considered that the proposed development would not seriously injure the amenities of the area, and if constructed in accordance with the attached conditions, the proposed development would accord with the proper planning and sustainable development of the area.

Second Schedule
10 No. Conditions attached to Planning Ref. P. 10/475

1. The development shall be carried out and completed strictly in accordance with:
 - (i) the conditions of this permission,
 - (ii) the documents lodged with this application on 11th August 2010, and further plans and particulars lodged on the 22nd December 2010 and 27th January 2011, except as otherwise required by the conditions of this permission.

Reason: To ensure that the development strictly accords with the permission and to ensure that effective control is maintained.

2. The Developer shall pay to the Planning Authority a financial contribution in respect of public infrastructure and facilities benefiting the permission element of the proposed development in Kilkenny County Council's administrative area that is provided or intended to be provided by or on behalf of the Local Authority in accordance with the terms of the Development Contribution Scheme made under Section 48 of the Planning and Development Acts 2000-2010.

The amount of the financial contribution is €10,058.00 (ten thousand and fifty eight euro) and is subject to revision with reference to the Wholesale Price Index and to penalty interest in accordance with the terms of Kilkenny County Council's Development Contribution Scheme.

The contribution shall be paid upon commencement of the proposed development, with the amount of the contribution being the rate of contribution in existence on commencement of development.

Reason: It is a requirement of the Planning and Development Acts 2000-2010 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.

3. (a) The on site system proposed, as indicated in your submission of the 22nd December 2010 and 27th January 2011, shall be constructed in accordance with the recommendations in the Environmental Protection Agency's Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (EPA, 2009). Prior to installation, the Planning Authority may, in the interest of public health and to facilitate best practice, agree in writing certain EPA compliant variations to the waste water treatment system approved under this application. Such agreement shall be placed on file and deemed to officially substitute/vary the original granted system. Certification that the complete wastewater treatment unit and the associated disposal system has been satisfactorily installed to accord with the Environmental Protection Agency's, Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (EPA, 2009) shall be submitted to the Planning Authority prior to occupation of the house. The certificate shall be completed by a suitably qualified person as listed on Kilkenny County Councils Panel of Approved Site Suitability Assessors and shall include a site specific 'as constructed' plan detailing the length of percolation trench/pipe and cross sectional drawing through the effluent treatment system and associated percolation area. A generic cross-section is not acceptable.
- (b) The complete on-site wastewater treatment system shall be installed and maintained indefinitely in accordance with the manufacturer's instructions and EPA Guidelines.

Reason: In the interests of public health and to provide for the protection of the environment.

Footnote: The certificate for completion will accompany the Final Grant of Permission.

4. The proposed development shall be connected to the public watermain in a technically satisfactory manner to accord with the requirements of the Water Services Authority. The connection shall only be carried out by the Water Services Authority or under the Water Services Authority's supervision after a valid Application Form for a water connection has been received and approved by Kilkenny County Council and all outstanding development charges and connection fees paid.

Reason: In the interests of public health.

5.

- a. The only access (vehicular or pedestrian) to the site from a public road shall be from the public road as shown on the Site Layout Plan submitted on the 11th August 2010. The entrance gates shall be set back not less than 4.5 metres from the roadside boundary within a splayed recessed space 9-11 metres wide along the line of the new roadside boundary. The gradient at the entrance to the development shall comply with the requirements of the National Roads Authority, Design Manual for Roads and Bridges. These works shall be designed and constructed in a manner so as to ensure the existing road drainage system is not affected. Existing land and road side drainage shall not be impaired and the new entrance shall be designed and shaped to ensure the uninterrupted flow of the existing roadside drainage. In this regard, a suitably sized concrete pipe shall be constructed under the new driveway to facilitate the flow of surface water. An alternative method may be acceptable provided it has been approved in writing in advance by the Senior Engineer, Kilkenny Area Office. The walls forming the splayed recessed access shall not exceed 1metre in height.
- b. All infrastructure works shall be completed in accordance with the drawings and particulars submitted or as revised throughout this application except where otherwise stated.
- c. The Developer shall undertake all works to achieve site visibility lines prior to the commencement of the main development. All boundary treatments shall be set back behind the line defined by the sight visibility lines. The Developer shall ensure that the visibility splays are kept free of obstructions at all times.
- d. All service poles shall be relocated as necessary behind any relocated road side boundary to comply with site visibility requirements in consultation with the appropriate statutory body.

Reason: In the interests of traffic safety.

6. Surface water run-off from roofs, driveways and paved areas shall be collected and disposed of within the curtilage of the site. Surface water shall not discharge onto the public road or to adjoining properties.

Reason: To avoid interference with other properties and to prevent damage to the public road with consequent traffic hazard.

7. Finishes shall be as follows:

- The proposed roof finishes to the dwelling shall be covered in blue/black slate. No red roof ridge tiles shall be permitted.
- The external wall finish of the dwelling shall be in accordance with the application documents lodged with the Planning Authority.
- The front door of the proposed dwelling shall be of hardwood timber construction.
- The windows of the proposed dwelling shall be of hardwood construction or alternatively aluminium, woodgrain or dark coloured uPVC windows may be permitted. The use of uPVC is discouraged in favour of more sustainable materials. No Georgian glazing bars shall be permitted. Where white uPVC windows are proposed, a Brochure and/or sample of the window frame design shall be submitted for the consideration and written agreement of the Planning Authority prior to construction.
- All rainwater goods shall be of treated/painted zinc, -cast iron, -aluminium or uPVC. Facias and soffits shall preferably be of hardwood. The use of uPVC is discouraged in favour of more sustainable materials. Where uPVC is used, all rainwater goods, gutters, downpipes, fascia, soffits etc. shall be of black or dark coloured uPVC.
- Where stone is proposed, only natural stone shall be allowed and no reconstituted stone shall be allowed.

Reason: In the interests of visual amenity.

8. The existing trees on site shall be retained as indicated on the Site Layout Map. The existing mature hedgerows along all existing site boundaries shall also be retained. The trees and hedgerows shall be maintained indefinitely and replaced where failures occur.

Reason: In the interests of visual amenity.

9. During the demolition and construction phase of the development, the Developer shall ensure that all operations at the site are managed and programmed in such a manner so as to minimise waste production. The Developer shall also ensure that procedures are in place to deal with any litter arising during the construction phase of the development. Wastes sent off site for recovery or disposal including soil, subsoil and rubble, shall only be conveyed by an authorised Waste Contractor and transported from the proposed development site to an authorised site of recovery/disposal in a manner which will not adversely affect the environment.

Reason: To provide for the recovery/disposal of waste and the protection of the environment.

10. All external finishes to the proposed garage shall match those of the dwelling house. The garage shall be used only for purposes incidental to the enjoyment of the dwelling house and shall not be used for commercial purposes.

Reason: In the interests of residential amenity.

FOOTNOTES:

Section 34 (13) of the Planning & Development Act 2000-2010, states:

“A person shall not be entitled solely by reason of a Permission under this Section to carry out any development.”

Developers are obliged to comply with other legislation and to avoid infringement of third party rights.

Applicants are advised to consult with the Chief Fire Officer with regard to the fire safety of this development. It should be clearly noted that Kilkenny Fire Service strongly recommends that there should be at least one smoke detector in every domestic premises.

Kilkenny County Council Road Authority are to be consulted in respect of a Road Opening Licence for the opening of public road/footpath arising from works associated with the development. Such a Licence is necessary prior to the opening of a public road. Similarly, consultation with the Sanitary Services Section is required prior to connecting to the Public Watermain. Connections fees will apply to the rates prevailing at the time of connection. These charges are distinct from and in addition to Development Contributions.

With certain exceptions it is an offence, under the Forestry Act 1946, to fell trees without a felling licence having been granted by the Forest Service. **Failure to obtain a felling licence when necessary may result in a criminal prosecution.** Developers are advised to contact the Felling Section, Forest Service, Department of Agriculture and Food, Johnstown Castle Estate, Co. Wexford Tel: (053)9163400 before felling any tree.

If there is no appeal against this decision, a Grant of Permission in accordance with the Decision will be issued after the expiration of the period within which an appeal may be made to An Bord Pleanala. (See attached).

It should be noted that until a Grant of Permission has been issued, the development in question is NOT AUTHORISED and works cannot be carried out.

Please note that the Site Notice shall be removed by the Applicants following the notification of the Planning Authority decision under Article 31.

