

# Comhairle Chontae Chill Chainnigh Kilkenny County Council Planning Report



**Planning & Development Act, 2000 - 2014**  
**Planning & Development Regulations, 2001 - 2013**

**Planning Ref:** P15/156  
**Due Date:** 07/07/2015

**Applicant:** Alan and Christine Gipp  
**Subject:** Permission for the construction of a dwelling, wastewater treatment system and all associated site works at Sheepstown, Knocktopher, Co. Kilkenny.

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## Description of Proposed Development

The site is located on the outskirts of the village of Newmarket but within the village speed limit. The site is located adjacent to a dormer dwelling house and a commemorative famine garden located on the approach road to Newmarket. The applicants have an option to purchase the proposed 0.16ha site from their neighbour. The site falls slightly away from the adjoining public road, the Regional Road, R701, from which it is proposed to gain access.

## Referrals

Area Engineer Is satisfied that the current application addresses the previous refusal reasons on the site and has recommended grant subject to conditions (see report dated 1/05/2015).  
Environment Requested further information (see report dated 30/04/2015).

## Site History

P14/418 Planning permission refused for dwelling to the current applicant for the following reasons:-

1. *Having regard to*

- the location of the entrance to partly encompass the 60/80km/hr speed limit zone.
- the positioning of the speed limit pole which cannot be altered within the splayed entrance area
- location of the entrance at such a point which would distract from the important message that the speed limit signs convey

*It is considered that the additional traffic movements generated by the proposed development would endanger public safety by reason of traffic hazard or obstruction of road users*

2. Having regard to Section 3.3.5.3 of the Current County Development Plan 2014-2020 pertaining to objectives for smaller towns and villages along with the guidelines set out in the Newmarket and Hugginstown Design Statement, it is considered that the proposed development by virtue of its location on the edge of the village of Newmarket in conjunction with the design of the proposed dwelling, fails to have regard to the village character of Newmarket and bears no relationship to the village in which it is located. Furthermore, it is considered that the proposed development would be piecemeal and would undermine and be contrary to the orderly expansion of the village. The proposed development would, therefore be contrary to the proper planning and sustainable development of the area.

P14/417 Planning permission refused on the adjoining site to the south for a dwelling house (applicant James Gipp) for the same reasons as P14/418 as detailed above.

#### **In the vicinity**

P08/1361	RETENTION PERMISSION granted for conversion of attic space to existing dwelling house granted planning permission under application P05/1408, RETENTION PERMISSION of two windows to gable end of outhouses and PLANNING PERMISSION for upgrading of sewerage system & percolation area, including all necessary siteworks.
P05/1408	Permission granted for Permission to upgrade and convert existing buildings to garage and store areas and to provide extensions to same as living accommodation.
P00/1594	Permission granted to retain existing building and to complete visitors' centre, toilets, septic tank, percolation system and bus park.

#### **Third Party Submissions**

None received.

#### **Development Contributions**

Residential Class 1 Roads & Recreation

#### **Services proposed**

Water	Proposed private well
Wastewater	Treatment System
Surface water	Soakpit

#### **Impact on Natura 2000 site (SAC or SPA):**

A Screening exercise was completed, which showed that no significant impact is likely having regard to the distance of the subject site from any Natura 2000 site.

#### **Kilkenny County Development Plan 2014-2020**

The site is located on the outskirts of the village but within the 80kph speed limit of the village of Newmarket.

Figure 3.1 of the County Plan outlines a list of smaller towns and villages. However, Newmarket is not included in this list. It is considered therefore that the rural housing policy applies and the proposed development should therefore be assessed on its own merits.

### Rural Housing Policy

The site is located within an area designated as a Stronger Rural Area in the Kilkenny County Development Plan, 2014-2020, as defined in Section 3.4.2 of the Plan.

The applicants have submitted a map indicating two dwellings in close proximity to the subject site, in which they have been residing in rented accommodation since 2010. They state that prior to that they were renting in Stoneyford. However, no details have been submitted as to the location of the applicants' homeplaces. Criteria 3 of the settlement policy as detailed in Section 3.5.2.3 states the following:-

*3. Persons who have no family lands but who wish to build their first home , on a site within a 10 km radius of their original family home, (the local rural area) in which they have spent a substantial and continuous part of their lives(minimum 5 years)*

The applicants have demonstrated that they comply with the 5 year criteria, however details are required as to the location of either/both applicants original homeplace in order to determine compliance with the rural settlement policy.

### **Assessment**

The house proposed is a dormer dwelling of 6.4m set 15.6m from the public road set back in line with the neighbouring dwelling. The design of the dormer dwelling has been amended since the previous application, P14/418 refers. The overall design concept remains the same with the only modification being the omission of a curved/bay window on the front elevation. However, this simplifies the façade and the stone elevation treatment blends in with that of the adjoining dwellings and reflects the overall character of the village.

There is currently no landscaping/boundary treatment between the subject site and the site to the south. Additional landscaping proposals will be required as the subject site is a prominent site on the approach into the village and sensitive landscaping is therefore necessary to assist in the assimilation of the dwelling into this setting.

### Access

The development is located adjacent to the Regional Road R701, on the outskirts of the village. The file was referred to the Area Engineer, who reviewed the amendments to the proposals since the previous planning application was refused, P14/418 refers. The current site layout plan omits the shared access with the development on the adjoining site (P14/417 refers) that was concurrently proposed with P14/418. The entrance has also been moved slightly to the south and the creation of an alternative field access has also been removed. Furthermore, the proposal includes the removal and setting back of the existing village sign behind the required sightline. The driveway and entrance areas are lower than the roadway so the Area Engineer is satisfied that there should be no issue with surface water discharging from the site onto the roadway.

The Area Engineer has therefore recommended grant subject to conditions from a public and traffic safety.

### Drainage

The applicants propose to install a wastewater treatment system sand percolation area to accord with the EPA 2009 standards.

### Site Characterization Assessment

The site is located in an Area of Moderate Vulnerability to a Regionally Important Aquifer with a response rating of R1.

A T value of 39.58 was recorded with the Site Characterisation carried out in accordance with the EPA 2009 Code of Practice.

Pat Rohan completed the Site Characterisation Assessment. He has recommended the use of a septic tank system.

The file was referred to Environment Section for comment. The Environment Officer has concerns regarding the size of the proposed site and its ability to accommodate the septic tank and percolation area as currently proposed. The Environment Officer has therefore requested further information seeking more detailed drawings and stressing that all separation distances must be dimensioned. The revised drawing should also dimension the separation distance from the on-site system serving the dwelling to the south-east (across the road) to the proposed well.

Having regard to the Environment Officer's recommendation in conjunction with the additional information required to determine compliance with the rural settlement policy, the following further information was requested on 14<sup>th</sup> May 2015, a response to which was received on 10<sup>th</sup> June 2015.

- 1. You are advised that Newmarket is not listed in the County Development Plan 2014-2020 as a smaller town/village (Fig 3.1) and the current application is therefore being assessed in the context of the Rural Housing Policy applicable to that area. You are therefore requested to submit complete details of your connections with the area and to demonstrate compliance with the housing policy for a Stronger Rural Area. Notwithstanding the references to the rental properties in the current application, the location of the actual original homeplaces of the applicants should also be indicated on a map to demonstrate compliance with the 10km radius from the site as per Criteria 3, Section 3.5.2.3 of the County Plan.*

The FI response received on 10<sup>th</sup> June 2015 includes details of the locations of houses the applicants have rented dating back to August 2008. Documentary evidence has been submitted from Boyd's Auctioneers stating that the applicants rented the "Hunter's Lodge" in Newmarket, Hugginstown from Jan 2010-August 2012 and since then have been renting their current premises "Stonehouse" Newmarket (letter from owner William Barron). It is therefore considered that the applicants comply with the settlement policy for this rural area as they have resided in the locality for in excess of 5 years.

- 2. The size of the site would appear constrained and it is not clear that the septic tank and percolation area can be accommodated on site whilst maintaining all separation distances as per the EPA's Code of Practice. You are therefore*

*requested to submit a drawing at a scale of 1:100 illustrating the septic tank and percolation area proposed. The drawing shall show the actual trenches (as opposed to centre lines) and the locations of distribution boxes. All separation distances shall be dimensioned.*

A revised site layout drawing has been submitted showing the actual percolation trenches in addition to the precise location of the distribution box with all separation distances clearly dimensioned thereon. The Environment Officer is satisfied with the response from a public health perspective.

*3. Identify on a revised site layout plan, the location of the on-site wastewater system serving the dwelling to the southeast (across the road). The plan shall dimension the separation distance from the on-site system to the well proposed.*

A revised site layout drawing has been submitted indicating the location of the wastewater system serving the dwelling to the southeast (across the road) as requested. The plan shows a separation distance of 84.53m from the on-site system to the well proposed. The Environment Officer is satisfied with the response from a public health perspective.

### **Recommendation**

Having regard to the policies and objectives of the current Kilkenny County Development Plan it is considered that the proposed development for a dwelling would not seriously injure the amenities of the area, be prejudicial to public health or create a traffic hazard and if constructed in accordance with the attached conditions the proposed development would accord with the proper planning and sustainable development of the area.

I therefore recommend that the current application be GRANTED planning permission.

**Date** \_\_\_\_\_

**Suzanne Galvin,  
Executive Planner.**

I agree with the above recommendation.

**Date** \_\_\_\_\_

**Nicolaas Louw,  
Senior Executive Planner.**

I agree with the above recommendation.

Date \_\_\_\_\_

**Anne Maria Walsh,  
Senior Executive Officer.**

## **FIRST SCHEDULE**

### **REASONS & CONSIDERATIONS FOR DECISION ON PLANNING REF. P.15/156**

Having regard to the policies and objectives of the current Kilkenny County Development Plan it is considered that the proposed development for a dwelling would not seriously injure the amenities of the area, be prejudicial to public health or create a traffic hazard 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**

### **11 NO. CONDITIONS ATTACHED TO PLANNING REF. P.15/156**

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 23<sup>rd</sup> March 2015, and further information submitted on 10<sup>th</sup> June 2015 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 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 2000-2014.

The amount of the financial contribution shall be paid upon commencement of development, with the amount of the contribution being the rate of contribution in existence on commencement of development. In accordance with the current scheme the amount of the contribution is calculated at €2,934.00 (two thousand nine hundred and thirty four euro), however this amount may be recalculated in accordance with any newly adopted Development Contribution Scheme that may supercede the current scheme prior to commencement of development. Any applicable amount 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.

**Reason:** It is a requirement of the Planning and Development Acts 2000-2014 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. This planning permission applies to Alan and Christine Gipp and is not transferrable to other parties until completed and ready to occupy or for a period of five years following the grant of permission, whichever is the earlier, unless with the express written permission of the Planning Authority. In its assessment on whether or not to issue such permission, the Planning Authority shall have particular regard to the criteria on local affiliation/links contained in the Kilkenny County Development Plan 2014-2020.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or by any person deriving title from such a sale.

**Reason:** In the interest of proper planning and sustainable development.

4. (a) All infrastructure works shall be completed in accordance with the drawings and particulars submitted or as revised throughout this application except where otherwise stated. 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 23<sup>rd</sup> March 2015.  
  
(b) Before any other development commences, sightlines shall be provided and maintained free from obstruction as indicated on Plans submitted to the Planning Authority 23<sup>rd</sup> March 2015. These sightlines are defined by projecting a line 120m to the nearside road edge from a point 2.4m back from the edge at the centre of the proposed entrance. 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. The existing village sign shall be set back behind the required sightline as indicated on the site layout plan.  
  
(c) The developer shall ensure that surface water from the driveway and entrance area is contained within the site boundaries and prevented from discharging onto the public road or interfere with adjacent properties in accordance with the infrastructure details detailed on the ‘Site Layout Plan’ drawing submitted 23<sup>rd</sup> March 2015. The full area of the splayed entrance to the site adjoining the public road shall be suitably structured to cater for vehicular traffic, black top surfaced, set at a fall of no less than 1:40 away from the roadway edge with all such works as are necessary being designed and constructed in such a manner that the existing road drainage system is not adversely affected. The walls/fences forming any splayed entrance shall not exceed 1m in height, and where block is proposed, shall be neatly capped and plastered to its external face.  
  
(d) Where altered the verge area between the front boundary and the public road, excluding the entrance area shall have a construction specification providing at least 300mm hardcore, 75mm of topsoil & grass seeded set between level & no greater than a gradient of 2.5% falling off the public road with all such works as are necessary being designed and constructed in such a manner that the existing road drainage off the public road is not adversely affected. Whilst the grass is being established the developer shall ensure that it is adequately protected from vehicular traffic.

**Reason:** In the interests of traffic safety.

**Footnote:** All works on the public road shall be subject to a Road Opening Permission. You are advised to contact the Thomastown Area Office Tel (056) 7793340 for an application form for any such works relating to this development.

5. (a) The on-site wastewater treatment system proposed 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 percolation area / polishing filter have been satisfactorily installed to accord with EPA, 2009 shall be submitted to the Planning Authority prior to occupation of the house. The certificate shall be completed by a suitably qualified and indemnified person and shall include a site specific 'as constructed' layout plan and cross sectional drawing through the effluent treatment system and associated percolation area. A generic cross-section is not acceptable. Proof of indemnification shall be submitted with the certificate.

(b) The complete on-site wastewater treatment system shall be installed and maintained 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.**

7. The Developer shall provide and arrange for the continuous and indefinite maintenance of
  - (i) a supply of potable water for the domestic and sanitary needs of the development.
  - (ii) the proprietary treatment system installed which shall be maintained in accordance with the manufacturer's instructions and EPA guidelines.

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

8. All existing site boundaries shall be retained, maintained and renewed. Additionally prior to the commencement of development a more detailed Landscape Plan shall be submitted for the agreement of the Planning Authority. Such a plan shall be prepared by a suitably qualified landscape architect or horticulturist and shall include specific names, locations and species for all trees and hedging on site. Semi-mature trees will be required particularly along the northeastern boundary. The trees shall be maintained indefinitely and replaced if failure occurs. All planting shall be carried out during the first planting season following occupation of the dwelling house.

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

9. Where hedgerow is to be removed along the roadside to achieve the lines of sight it is required that a continuous double hedgerow shall be replanted along the entire roadside boundary and behind these lines of sight and behind the proposed post & rail

fence. Planting shall take place within the first planting season following commencement of construction and the hedgerow shall consist of a mix of deciduous shrubs suitable for hedging and common to the locality (eg. Holly, hawthorn, field maple). The hedgerow shall be indefinitely maintained and shall be supplemented or replaced should it fail.

**Reason:** In the interest of retaining visual amenity.

10. 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.
- Where stone is proposed, only natural stone shall be allowed and no reconstituted stone shall be allowed.
- 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.

**Reason:** In the interests of visual amenity.

11. All service poles shall be relocated in line with the new roadside boundaries in consultation with the statutory undertakes and at the developer's own expense.

**Reason:** In the interests of public safety and visual amenity.

#### **FOOTNOTES**

Section 34 (13) of the Planning & Development Act, 2000 - 2014 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.

If there is no appeal against this decision, a Final 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 Final Grant of Permission has been issued, the development in question is NOT AUTHORISED and works cannot be carried out.**

The Applicant is advised that unless the development described above is carried out within five (5) years from the date of Final Grant of Permission, Planning Permission will cease to have effect. (See Section 40 of the Planning and Development Acts 2000-2014)

Please note that the Site Notice shall be removed by the applicant following the notification of the planning authority decision under Article 31.