



An
Bord
Pleanála

Inspector's Report PL10.248215.

Development	Two storey dwelling house, domestic garage, wastewater treatment plant and private well.
Location	Grangefertagh, Johnstown, Co Kilkenny.
Planning Authority	Kilkenny County Council.
Planning Authority Reg. Ref.	16/877.
Applicant(s)	Niamh and Brian Kenny.
Type of Application	Permission.
Planning Authority Decision	Refuse permission.
Type of Appeal	First Party versus decision.
Appellant(s)	Niamh and Brian Kenny.
Observer(s)	None.
Date of Site Inspection	24 May 2017.
Inspector	Stephen Rhys Thomas.

1.0 Site Location and Description

- 1.1. The appeal site is located in the rural townland of Grangefertagh, north of Johnstown village in County Kilkenny. The site lies within a large agricultural field with boundaries that comprise mature hedging and a low stone walled banks. The northern boundary of the appeal site is undefined, however, the eastern, southern and roadside boundary to the west comprise mature hedgerows. The site is uniform, slightly higher than the public road and slopes gently downwards to the south east. An overhead electricity supply powerline traverses the site.
- 1.2. The area in the vicinity of the appeal site is characterised by large agricultural fields, mainly used as pasture for livestock. The field boundaries comprise either low stone walls, or more commonly, low stone walled banks with mature hedging. A large ecclesiastical complex is located to the north of the appeal site and comprises a mostly intact round tower, ruined former Augustinian abbey and a graveyard surrounded by stone walls. The round tower is a notable landmark in the area. The public road to the front of the site is narrow, with a low stone wall and grass margin to the west and a high hedgerow to the east. A large extended farmhouse with associated stone and modern farm buildings are located across the road from the appeal site.

2.0 Proposed Development

- 2.1. The applicant proposes to construct a two storey house, 9.8 metres in height with a number of hipped roof pitches. The dwelling will be 476 sq.m. and incorporates an integral garage of 40 sq.m.
- 2.2. A wastewater treatment system will serve the dwelling house and drinking water will be supplied from a private well, on a site of 1.214 Hectares.

3.0 Planning Authority Decision

3.1. Decision

The planning authority refused permission for a single reason summarised as follows:

1. Given the low lying and open nature of the landscape, the exposed and poorly screened site which is open to views from the motorway and regional road to the east, the scale, bulk, height and design of the proposed dwelling would form an unduly prominent feature and would not be capable of being incorporated into the landscape. The proposed development would detract from the visual amenities and rural character of the area.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The Area Planner's Report can be summarised as follows:

- The site is open and poorly screened and is open to views. The roadside boundary is required to be removed over a length of 115 metres, in order to achieve sightlines. Landscaping is proposed, but given the scale and bulk of the proposed dwelling it is not anticipated that sufficient screening will be provided.
- The site is within the ownership of the applicant's mother and a nearby site is subject to a concurrent applicant by a sister.
- AA screening was carried out and there would be no significant impact to any Natura 2000 site.

3.2.2. Other Technical Reports

Area Engineer - No objections subject to standard technical conditions with regard to sight line visibility and road edge treatment.

Environment Section – No objections subject to standard technical conditions.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

None.

4.0 Planning History

None.

Located to the north, a concurrent planning appeal, PA reference number 16/878 and ABP reference PL10.248217, for a dwelling and septic tank.

5.0 Policy Context

5.1. Development Plan

From a landscape perspective, the appeal site is located in an area designated as A2 - Slieveardagh Central Transition zone illustrated in figure 8.2 *Landscape Character Assessment*, of the current Kilkenny County Development Plan 2014-2020. A Protected View V14 is located to the south east of the appeal site.

The appeal site is located within a 'Stronger Rural Area' as indicated by figure 3.17 Rural Housing Strategy of the current Kilkenny County Development Plan 2014-2020.

Development management standards associated with Section **8.2.5.1 Hedgerows**, of the County Development Plan, include:

To protect existing woodlands, trees and hedgerows which are of amenity or biodiversity value and/or contribute to landscape character of the county, and to ensure that proper provision is made for their protection and management, when undertaking, approving or authorising development.

Retain hedgerows, and other distinctive boundary treatment such as stone walls, when undertaking, authorising or approving development; where the loss of the existing boundary is unavoidable as part of development, to ensure that a new hedgerow is planted using native species, and species of local provenance to replace the existing hedgerow and/or that the wall is re-built using local stone and local vernacular design.

Objectives associated with Section **8.2.10.6 Views and Prospects**, of the County Development Plan, include:

Objective: 8H To preserve and improve places or areas from which views or prospects of special amenity value exist, as identified in Appendix H and on Figure 8.2.

Development Management Standards associated with views and prospects, include:

To facilitate appropriate development that reflects the scale, character and sensitivities of the local landscape throughout the county, and require that developments minimise the loss of natural features such as trees, hedgerows and stone walls.

County Development Plan policies and objectives in relation rural housing include:

Section 3.5.2.2. **Stronger Rural Areas**

In stronger rural areas of the county it is a key objective of the Council to consolidate and sustain the stability of the population and in particular to strike a balance of activity in the smaller towns and villages and the wider rural area thereby ensuring that these areas maintain a stable population base.

In stronger rural areas, the Council will endeavour to:

- Accommodate proposals for individual rural generated houses subject to compliance with the rural housing policy and normal siting and design criteria.
- Promote the development of houses in the designated settlements and villages in the county subject to appropriate servicing.

It is the Council's objective for stronger rural areas to facilitate the rural generated housing requirements of the local rural community while on the other hand directing urban generated rural housing to areas zoned for new housing development in the city, towns and villages.

Rural Generated Housing: Housing needed in rural areas within the established rural community by persons from that community or whose occupation is intrinsically linked with that particular rural area as defined in Section 3.5.2.3.

Subject to satisfying good practice in relation to site location and access, drainage and design requirements, rural generated housing need should be facilitated as

close as possible to its origin to ensure that strong local ties are maintained and that the applicant remains an intrinsic part of the local community.

Section 3.5.2.3 Rural Generated Housing Need

In areas under urban influence and in stronger rural areas the Council will permit (subject to other planning criteria) single houses for persons where the following stipulations are met:

1. Persons who are employed full-time in rural-based activity such as farming, horticulture, forestry, bloodstock or other rural-based activity in the area in which they wish to build or whose employment is intrinsically linked to the rural area in which they wish to build such teachers in rural schools or other persons by the nature of their work have a functional need to reside permanently in the rural area close to their place of work.
2. A fulltime farm owner or an immediate family member (son, daughter, mother, father, sister, brother, heir) wishing to build a permanent home for their own use on family lands.
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).
4. Persons who were born and lived for substantial parts of their lives (minimum 3 year) in the local area and wish to return to live in the local area (returning migrants).

8.3.1 Archaeological Heritage

Development Management Standards associated with Archaeological Heritage, include

Ensure that development within the vicinity of a Recorded Monument is sited and designed appropriately so that it does not seriously detract from the setting of the feature or its zone of archaeological potential. Where upstanding remains of a Recorded Monument exist a visual impact assessment may be required to fully determine the effect of any proposed development.

County Kilkenny Rural Design Guide 2008. The Design Guide acts as an instrument to develop best practice in the design and siting of one-off rural housing.

National Policy

Sustainable Rural Housing Guidelines for Planning Authorities (2005).

5.2. Natural Heritage Designations

Spahill and Clomantagh Hill SAC (site code 000849) is located approximately 2.5 kilometres to the south east.

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal has been lodged against Kilkenny County Council's decision to refuse permission. The appeal has been prepared by CCH Architects and a supporting Landscape Report has been prepared by Brady Shipman Martin (BSM). The main grounds of appeal can be summarised as follows:

- A summary of previous planning applications in the vicinity and images of constructed two storey dwellings.
- The applicants have demonstrated compliance with the rural housing policies of Kilkenny County Council.
- The proposed dwelling will not constitute ribbon development.
- The proposed house design and siting accords with the Rural House Design Guide. The site is large and the house is scaled accordingly.
- There are no heritage reports on the file and the proposed development lies outside the buffer zones for features to the north, including the Round Tower. There are already a collection of buildings and dwellings in the vicinity of Grangefertagh Round Tower. The existing M8 motorway creates a greater impact to the setting of the Round Tower.

- The applicant notes that views to the site from viewpoints (reference V14) are not easily identified at such a distance. Doubts are raised as to the views taken from the motorway, which date from September 2011.
- The applicant regards the planning authority's view in relation to landscaping and timescales as dogmatic. Reference is made to large demesne houses which have taken time to establish landscaped environs.

A Landscape and Visual Assessment prepared by BSM, can be summarised as follows:

- The local landscape is of a rural character, influenced by the presence of the M8 motorway, background windfarms and the Slieve Ardagh Hills.
- The robust nature of the landscape is capable of accommodating appropriate development.
- Large two storey dwellings are a prominent and consistent feature on the landscape, the proposed dwelling is in common with this form of development.
- There are no designated landscape sensitivities in the vicinity.
- Passing views from the motorway are not sensitive to the nature of the development proposed, in parts views are screening by vegetation and cuttings.
- The proposed development is over 500 metres from the Grangefertagh Round Tower and no heritage impacts will result.

The appeal is also supported from a letter from the local national school, which supports the application.

6.2. Planning Authority Response

The planning authority has no further comments to make.

7.0 Assessment

- 7.1. The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment

also needs to be addressed. The issues can be dealt with under the following headings:

- Concurrent Appeal
- Rural Housing Policy
- Visual Impact Landscape
- Heritage Impact
- Appropriate Assessment

7.2. Concurrent Appeal

7.2.1. The Board are requested to note a concurrent appeal in the vicinity of the site. The relevant appeal concerns a dwelling with similar design and siting characteristics, north of the subject site and made by a relative, PL10.248217 refers. There are interconnected issues to do with landscape and heritage, however, I have assessed each case on its own merits.

7.3. Rural Housing Policy

7.3.1. The applicants have reiterated their qualification for rural housing in accordance with County Development policies with regard to the development of the rural area. This is an application for single one off house and treatment system in a rural area of County Kilkenny. The site is located in an area designated as a 'Stronger Rural Area'. Section 3.5.2.2 of the Kilkenny County Development Plan, and other policies and objectives to do with landscape and rural house design all refer to the appeal site. In stronger rural areas, it is a key objective of the Council to endeavour to accommodate individual rural generated houses subject to compliance with the rural housing policy and normal siting and design criteria.

7.3.2. In assessing the current proposed development, it is firstly necessary to consider whether the development is or is not rural generated housing. I note that section 3.5.2 of the Development Plan with regard to rural generated housing refer to persons from a rural community or whose occupation is intrinsically linked with that particular rural area. In this instance the applicant has stated a wish to return from the USA to their home place to provide assistance on the family farm and care for an elderly mother. No evidence of land ownership other than a landholding boundary

map has been produced and there are no school records or other documents to demonstrate the applicants long time residence in this area. It may be the case that the applicant can demonstrate the requirements in order to qualify as rural generated housing, however, they have failed to do so. The proposed development cannot therefore be considered to be rural generated housing.

- 7.3.3. In stronger rural areas single house proposals should meet certain stipulations based on the applicant's social and / or economic links to a particular local rural area or returning immigrants who wish to reside in which they have ties. In respect of identifying if an applicant satisfies the rural housing need objectives of the Council, it is noted that the applicant has completed the supplementary information section of planning application form and supplied supporting correspondence in their appeal. The applicant sets out that the landowner of the site is their mother. It is the applicant's intention to return to their home place where they grew up and went to school. In addition, they will provide assistance on the farm and care for their mother. There is no documentary evidence to support the applicant's contention that they meet the stipulations set out in Rural Generated Housing need section of the County Development Plan. In any case, I have already considered that the proposed development is not rural generated housing because of a lack of information. On the basis of what information I have to hand, I find that the applicant has not provided any documentary evidence to sufficiently demonstrate links to the area or that they satisfy the relevant eligibility criteria set out in Development Plan.

7.4. **Visual Impact Landscape**

- 7.4.1. The only reason for refusal relates to the impact of the development on the surrounding landscape. The applicant has set out a detailed appeal that addresses the Council's reason for refusal. The grounds of appeal assert that that the scale and design of the proposed dwelling will fit into the surrounding landscape. A landscape that is not designated in the current County Development. The views of the site are not particularly noticeable from long distances or by moving at speed along the motorway. There are already modern buildings in the vicinity of the round tower and there are other two storey dwellings in the wider area. The applicant concludes that their proposed dwelling has been carefully designed and that there will be no impact either to the landscape or historical monuments.

- 7.4.2. Firstly, the landscape in the vicinity of the site is described by the County Development Plan as the Slieveardagh Central Transition zone. There are no landscape sensitivities associated with this landscape area. However, there are protected views (V14) located to the south west of the site along the Johnstown to Gattabaun road. The views from this road look out across the wide expanse of agricultural lands to the north and west. The defining character of the landscape is the predominance of trees, hedgerows, large open fields and occasional housing and farm building groupings. It is possible to pick out the round tower from a number of vantage points along the road. It is also possible to identify the large field selected to locate the proposed dwelling. Given the gently sloping nature of the agricultural field in question and the lack of any significant screening, a large house of the scale and bulk proposed would be visible.
- 7.4.3. Notably the round tower is visible from the M8 motorway to the east of the appeal site and less so from the former national road, the R639. The applicant maintains that views of the appeal site are fleeting and the motorway embankment is planted with young trees which will eventually obscure views to the west. The appeal site is visible from the motorway and I would agree that the growing vegetation along the embankment may well obscure views in time. However, I disagree that the views of the site from the motorway are of no consequence. Passengers are not as constrained as drivers and their views westwards would feature the proposed dwelling as well as the round tower.
- 7.4.4. The immediate landscape character of the area is large grazing fields bound by low stone walls and topped with mature hedgerows. The road to the front of the appeal site is narrow and the impression of a narrow width is exaggerated by the confining nature of the roadside boundaries. In my mind, the removal of the mature hedgerow and low wall over a length of 125 metres will be a major impact upon the landscape character of the immediate area. To lessen the impact of the hedge removal the applicant proposes to relocate a new timber fence and hedgerow 0.5 metres from its original position and create a new entrance flanked by walls. The relocated fence and hedge will extend northwards beyond the red line boundary of the appeal site to. In my opinion this will result in a wider road at this location, that will be out of character with the majority of the road in the vicinity. The impact of hedge removal at other locations along site frontages can be seen to the south of the appeal site. I

note that the Kilkenny County Development Plan seeks to retain hedgerows, but where removal is required, a replacement hedge should utilise native species. In addition, Development Plan advice in relation to the protection of views and prospects states that development should minimise the loss of natural features such as trees, hedgerows and stone walls. In my mind, the removal of such a large quantity of mature hedgerow would completely alter the character of the roadway at this location. The set-back boundary location, even if planted with native species would alter the configuration of the roadway and consequently the landscape character of the immediate area.

7.4.5. A house of the scale proposed will have a considerable impact upon the open agricultural landscape at this location. The site is large and the applicant maintains that the proposed development can be accommodated and absorbed into the landscape with landscaping. In addition, the applicant maintains that the house has been designed in accordance with the guidance provided by the Kilkenny Rural Design Guide. However, I consider that a dwelling of the bulk and scale proposed would be highly visible from a variety of vantage points. There are no strategically placed shelter belts proposed in the landscape plan and I am not convinced that the proposed landscape design will adequately screen the development.

7.4.6. In terms of the Kilkenny Rural Design Guide and the design of the house and integral garage. Though the applicant has stated that their house design is in accordance with section 3.2 Scale of the Rural Design Guide, what is proposed has resulted in a very large house with truncated side wings. I am not satisfied that a house of the scale and design proposed could be readily absorbed into the pastoral landscape at this location.

7.5. **Heritage Impact**

7.5.1. The reason for refusal issued by the planning authority does not include archaeological concerns. The applicant nevertheless, maintains that there is a sufficient separation distance between the dwelling and the round tower and other protected monuments to the north. The applicant is confident that the site falls outside any buffer zones associated with features at Grangefertagh Round Tower. The applicant also considers that other features such as modern housing, farm

buildings and the new motorway create a greater impact upon the protected monuments.

- 7.5.2. The appeal site is located approximately 520 metres south of an ecclesiastical enclosure, that comprises a round tower, an abbey in ruins and a graveyard. There is much vegetation and mature trees in and around the site. A bungalow and farm buildings abut the northern and eastern edges of the complex. A mid nineteenth century house and farmyard are located close by to the south. The round tower is a significant and notable feature in the landscape and can be viewed from a number of vantage points.
- 7.5.3. In terms of the long range views of the ecclesiastical enclosure, the round tower is the most notable feature and provides a visual marker in an otherwise flat agricultural landscape. The base of the tower and the attendant ecclesiastical complex, housing and farmyards cannot be easily seen from a distance as they are hidden by trees and vegetation. On the farmland around the complex, it is the absence of development that accentuates the setting of the round tower as it emerges from a group of mature trees. The addition of a large dwelling will change the long range view.
- 7.5.4. In my mind, it is the views of the round tower as approached from the road to the south that will result in the greatest impact in terms of setting. At present, the round tower can be glimpsed along the majority of the narrow laneway, framed by low stone walls, hedgerows and mature trees. The removal of a significant portion of the hedgerow will alter the character of the road and consequently impact upon the setting and context of the round tower. In addition, the position of a large dwelling will obstruct views of the round tower as you travel northwards along the road. The siting, size and scale of the proposed house, if permitted, represents a significant visual feature in this landscape dominated by views of the round tower. I consider that the visual impact in the wider landscape would be inappropriate and would negatively impact upon the setting of a Recorded Monument.
- 7.5.5. The appeal site is some distance from the ecclesiastical enclosure, approximately 520 metres. However, I note that an archaeological buffer zone extends some distance from the overall enclosure and reaches approximately 300 metres north of the appeal site. It is unlikely that the construction phase of the development will

impact upon the archaeological remains associated with the enclosure. However, it is likely that archaeological fragments or features may be present on the site and these should be recorded or managed in the appropriate way.

7.6. Appropriate Assessment

7.6.1. Spahill and Clomantagh Hill SAC (site code 000849) is located approximately 2.6 kilometres to the south east of the appeal site. The proposed development would be served by a wastewater treatment system. A Site Assessment has been carried out and included with the Planning Application. The site test results show that the site is suitable for a proprietary wastewater treatment system and polishing filter and complies with the EPA Code of Practice for Single Houses (2009).

7.6.2. Having considered the available information, in my opinion, given the scale of the development proposed, the nature of the receiving environment, the site location distant from any European sites, the likely downstream separation distances involved, and subject to the proposed wastewater treatment system which includes a polishing filter complying with the requirements of the EPA Code of Practice, the proposed development would not be likely to have a significant effect on SAC sites. No appropriate assessment issues arise and I consider that the proposed development would not be likely to have a significant effect individually or in combination with other plans or project on a European site.

8.0 Recommendation

8.1. I recommend that planning permission should be refused for the proposed development, for the reasons and considerations as set out below.

9.0 Reasons and Considerations

1. Having regard to the location of the site within a "Stronger Rural Area" as identified in Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005 and in an area where housing is restricted to persons demonstrating local need in accordance with the current County Kilkenny Development Plan, it is

considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines or the Development Plan for a house at this location. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The site of the proposed development is located within a 'Stronger Rural Area' as set out in the current Development Plan for the area, 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 the current Kilkenny Rural Design Guidelines. Having regard to the topography of the site, the prominent positioning of the proposed development, together with its depth and scale, the resulting extensive driveway and the removal of the front boundary wall and hedging, it is considered that the proposed development would form a discordant and obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, would fail to be adequately absorbed and integrated into the landscape, would militate against the preservation of the rural environment and would interfere with a protected view of special interest which it is necessary to preserve. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3. The proposed development would injure or interfere with the setting and context of Grangefertagh Round Tower and associated ecclesiastical complex, historic monuments which stand registered in the register of Historic Monuments under section 5 of the National Monuments (Amendment) Act 1987, or which is situated in an archaeological area so registered. The proposed development would,

therefore, be contrary to the proper planning and sustainable development of the area.

Stephen Rhys Thomas
Planning Inspector

22 June 2017