



An
Bord
Pleanála

Inspector's Report

ABP-307982-20

Development

For development to a) construct a sustainable dormer bungalow, b) demolish and replace existing shed , c) install a rainwater harvesting tank, d) construct a new site entrance and associated works.

Location

Fallows End , Station Road,
Thomastown , Co. Kilkenny.

Planning Authority

Kilkenny County Council

Planning Authority Reg. Ref.

20345

Applicant(s)

Alan Sullivan

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Alan Sullivan

Observer(s)

None

Date of Site Inspection

15/10/2020

Inspector

Gillian Kane

1.0 Site Location and Description

- 1.1.1. The appeal site is located c. 1.2km to the west of the centre of Thomastown and a short distance to the west of Thomastown train station. The road serving the subject site has recently undergone works which have resulted in the road being a cul-de-sac.
- 1.1.2. Station Road in the vicinity of the appeal site is characterised by a significant concentration of residential developments with a total of 9 no. houses located on the same side of the road. On the southern (opposite) side of the road there is a residential estate of two storey terraced housing 'The Greens'. There is a footpath on the public road that connects the site with Thomastown village.
- 1.1.3. The subject site was part of the side and rear garden of the northern-most of a pair of semi-detached bungalows. Further north is a two-storey dwelling and the northern end of the cul-de-sac. The level of the site rises slightly from the road towards a high point in the north east corner.

2.0 Proposed Development

- 2.1.1. On the 8th June 2020 planning permission was sought for the construction of a bungalow (160sq.m.) and shed (33sq.m.) and the demolition of an existing shed (20sq.m.). The application form states that the purchase of the site is subject to obtaining planning permission.
- 2.1.2. The cover letter attached to the application states that the applicant produces willow panels as part of his employment as an ecologist and that this qualifies as a rural based activity in accordance with section 3.5.2.3 and section 3.2.3 of the development plan.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 23rd July 2020, the Planning Authority issued a notification of their intention to REFUSE permission for the following reasons:
 - 1 It is the policy of the Planning Authority, as set out in the Kilkenny County development 2014-2020 to channel housing into suitably zoned land in areas where the appropriate social, community and physical infrastructure either

exists or is planned and to restrict development in rural areas. The proposed development which would be located in an unzoned rural area outside the development boundary of Thomastown, would constitute ribbon residential development in a rural area that is under strong development pressure and which already has an excessive density of housing development. It is considered that the proposed development would exacerbate the haphazard and unplanned form of development in this rural area, would intensify urban sprawl on the road from Thomastown towards Mount Juliet, would exacerbate ribbon development, would militate against the preservation of the rural environment, would represent an undesirable precedent for further such development in the area. The proposed development would be contrary to policy CS1 of Thomastown Local Area Plan which aims to consolidate development within the development boundary. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

- 2 The subject site is located in the open countryside, in an “Area of urban Influence”, as per section 3.5 of the Kilkenny County Development Plan 2014-2020. In such areas it is policy 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. On the basis of documentation submitted in support of the application, it is considered that the applicant does not comply with the rural housing policy set out in the Kilkenny County Development Plan 2014-2020 in particular section 3.5.2.3. The proposed would therefore be contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

- 3.2.1. **Senior Executive Engineer:** Proposed development is within the 60kph limit. 7m sightlines shown which is not in accordance. Applicant should be requested to submit FI indicating sightlines at the old road and the new L8203, in accordance with TII standards. If there is a deviation from these standards a traffic and speed count will be required to justify a relaxation of sightlines.

- 3.2.2. **Environment Section:** No objection to the proposed development subject to a condition relating to the management of waste.
- 3.2.3. **Planning Report:** The applicant does not comply with the rural housing policy as his work as an ecologist is not linked to the subject site, has no local connections and the subject site is located in a rural area under extreme pressure outside the Thomastown urban boundary. Proposed development if granted would result in ribbon development of 10 no. houses in 250m. Proposed development would be contrary to national and local policy. Recommendation to REFUSE permission.

3.3. **Prescribed Bodies**

- 3.3.1. None on file

3.4. **Third Party Observations**

- 3.4.1. None on file

4.0 **Relevant Planning History**

- 4.1.1. None on the subject site. The site at the south-eastern section of this road has two decisions:
- **ABP-303642-19** Permission refused for the construction of a single storey dwelling on the grounds of traffic safety and inadequate sight lines at the proposed entrance.
 - **ABP-303642-19:** Permission refused for the construction of a three-bedroom bungalow on the grounds of traffic hazard.

5.0 **Policy Context**

5.1. **National Planning Framework, (2018)**

- 5.2. The government published the **National Planning Framework** in February 2018. Objective 3c is to deliver at least 50% of new houses in the city/suburbs of Dublin, Cork, Galway, Limerick and Waterford. Objective 11 is to favour development that can encourage more people to live or work in existing settlements.

5.2.1. **National Policy Objective 15:** Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.

5.2.2. **National Policy Objective 19:** Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;
- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.3. **Sustainable Rural Housing Guidelines for Planning Authorities**

5.3.1. The guidelines refer to criteria for managing rural housing requirements whilst achieving sustainable development. Among the policy aims identified for sustainable rural housing are;

- Ensuring that the needs of rural communities are identified in the development plan process and that policies are put in place to ensure that the type and scale of residential and other development in rural areas, at appropriate locations, necessary to sustain rural communities is accommodated.
- Managing pressure for overspill development from urban areas in the rural areas closest to the main cities and towns such as the gateways, hubs and other large towns.
- The planning authority should establish if the proposal is intended to meet a genuine rural housing need.

5.3.2. According to Map 1 Indicative Outline of NSS Rural Area Types the subject site is located in an area which is classified as being an **Area under Strong Urban Influence**.

5.3.3. The guidelines stress that development driven by cities and larger towns should generally take place within their built-up areas or in areas identified for new development through the planning process. Appendix 3 of the Guidelines state that the key development plan objectives in these areas should be on the one hand to facilitate the housing requirements of the rural community as identified by the planning authority in the light of local conditions while on the other hand directing urban generated development to areas zoned for new housing development in cities, towns and villages in the area of the development plan. In addition, policies will also normally include references to:

- The types of situations considered as constituting rural generated housing,
- Measures that will be put in place to facilitate the availability of an appropriate level of housing options in smaller settlements for other housing requirements,
- The criteria that will be applied by the planning authority generally in assessing rural generated housing proposals e.g. in relation to evidence of an applicant's links to the area in question, and
- The measures to be adopted to ensure that development permitted to meet the requirements of those with links to the rural community continues to meet the requirements for which it was permitted.

5.3.4. The Guidelines require that new houses in rural areas are sited and designed to integrate well with their physical surroundings and generally be compatible with:

- the protection of water quality in the arrangement made for onsite wastewater disposal facilities
- the provision of a safe means of access in relation to road and public safety and
- the conservation of sensitive areas such as natural habitats, the environs of protected structures and other aspects of heritage.

5.4. **Kilkenny County Development Plan 2014-2020**

- 5.4.1. **3.5.2.1 Areas under Urban Influence:** Areas classified as under Urban Pressure are located close to the immediate environs or commuting catchment of cities and towns or to major transport corridors with ready access to urban areas. They are characterised by rapidly rising populations and/or considerable pressure for housing development. It is the Council's objective for areas of urban influence to facilitate the rural generated housing requirements of the local rural community (as identified in this section) while on the other hand directing urban generated rural housing to areas zoned for new housing development in the city, towns and villages. Areas under urban influence display the greatest pressures for development due to:
- Close commuting catchments of larger cities and towns,
 - Population increases well above the average for the aggregate rural areas of the county.
 - Ready access to a good road network with ready access to the larger urban areas.
- 5.4.2. **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 below.
- 5.4.3. 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.
- 5.4.4. **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).
5. A landowner who owned property prior to 14th June 2013 wishing to build a permanent home for his/her own use or a son or daughter. (This provision is to deal with historical land issues which might arise close to existing settlements where families could be excluded from building a home for their own lands for their own occupation due to emerging development trends over previous plan periods. This cut off date is a definitive time frame which will not be revised in subsequent Development Plans.)

5.4.5. **Ribbon Development:** is defined as existing where there are 5 or more houses on any one side of a given 250 metres of road frontage. If four houses exist on any one side of a given 250 metres of road frontage, it is likely that ribbon development may be created with an additional house. Ribbon Development is discouraged for a variety of reasons, including road safety, future demand for the provision of public infrastructure and visual impact. The Planning Authority will have discretion to allow well spaced infill ribboning to complete a particular settlement pattern only, but not where it will lead to further gap infill sites or the coalescence of separate ribbons of development or, in combination with other ribbons, lead to the over proliferation of houses resulting in overdevelopment creating ribbon development, wastewater disposal difficulties, traffic or other serious planning issues in the immediate area.

5.5. Thomastown Local Area Plan 2019

- 5.5.1. **Core Strategy CS1:** It is the policy of the Council to support the sustainable long-term growth of Thomastown and continued consolidation of development within the town boundary.
- 5.5.2. **CSO1.1:** To support and facilitate development on zoned lands at appropriate locations and deliver at least 30% of all new homes within the existing built-up footprints in Thomastown to satisfy the housing needs of the town over the period of the plan.
- 5.5.3. **CSO1.2:** To provide for serviced sites with appropriate infrastructure in accordance with Objective 18 (b) of the National Planning Framework ca. 2.8ha of land has been identified in this LAP to facilitate such a proposal.
- 5.5.4. **CSO1.3:** To implement the zoning objectives set out in Appendix A of this LAP.
- 5.5.5. **CSO1.4:** To manage the provision of one off housing on lands zoned as 'Agriculture'. Limited one off housing will be permitted in accordance with the policy set out under Section 6.4. The subject site is located outside of the LAP development plan boundary.
- 5.5.6. **Section 6.4 HOUSING ON LANDS ZONED FOR AGRICULTURE** Land within the agricultural zone will not be considered for intensive commercial or residential development during the lifetime of this LAP. This is considered to be a strategic reserve for the future development of Thomastown, which will allow for the strategic expansion of the plan area. Such designation is required to prevent urban generated development which would interfere with the operation of farming and prejudice the future planning and development of the area. On lands zoned for agriculture within the development boundary of the Thomastown LAP, housing will be restricted to the following categories of persons providing for their first home to satisfy their own housing need:
- Persons whose primary employment is in agriculture, horticulture, forestry or bloodstock, or other rural based activity, in the area which they wish to build,
 - Sons and daughters of the landowner
 - Persons who are long standing residents in the "Agricultural" zoned area

5.6. Natural Heritage Designations

- 5.6.1. The site is not located within or close to any designated sites. The nearest designated site is approximately 2Km to the south of the village, the River Barrow and River Nore SAC (Site code 002162).

Other European sites in the vicinity of the appeal site are

- Thomastown Quarry SPA which is located c.3km from the site, and
- Hugginstown Fen SAC which is located c.9km from the appeal site.

5.7. EIA Screening

- 5.7.1. Having regard to the small scale of the proposed development, the proposed connection to public water and drainage infrastructure and the separation from any environmentally sensitive sites, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An agent for the applicant has submitted a first party appeal against the decision of the Planning Authority to refuse permission. The grounds of the appeal can be summarised as follows:

Suitability of Site

- The subject site is adjacent to The Greens which is zoned Residential in the Thomastown LAP. Other lands included in the town boundary are not serviced, unlike the subject site which is serviced but not included in the boundary.
- The purpose of the R700 is to relieve traffic congestion in the town, not facilitate development.
- Recent road works have created a cul-de-sac on the road serving the subject site, which has reduced speed considerably. This was not reflected in the planners report. Drawings requested by the Engineering department can be prepared.
- The proposed development will not lead to further infill development and will not exacerbate ribbon development.

- It is submitted that the Board took a different view when assessing ABP-305949-19 and ABP-303642-19 regarding the suitability of the site.

Compliance with Rural Housing Policy

- The applicant complies with the housing policy of the Kilkenny County Development Plan 2014-2020 as he has a functional need to reside in the rural area close to his place of work.
- Section 3.2.3 of the Sustainable Rural Housing Guidelines refer to “person working full-time or part-time in rural areas...involved in inland waterway related occupations”.
- The applicant requires an adequately sized shed in the event that he decides to grow willow on the site in the future. It would be difficult to secure such a sized shed in an urban area.
- The Board is requested to grant permission for the proposed development.

6.2. Planning Authority Response

- 6.2.1. None on file

6.3. Observations

- 6.3.1. None on file

7.0 Assessment

- 7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised are as follows:

- Rural Housing Policy
- Appropriate Assessment

7.2. Rural Housing Policy

- 7.2.1. The subject site is located on unzoned land outside the boundary of Thomastown village. The appellant makes the case that the zoning is inconsistent and also that the applicant qualifies under the rural housing policy.

- 7.2.2. The appellant states that the adjacent 'The Greens' housing estate is zoned residential notwithstanding it being the same distance from the town centre as the subject site. This may be the case, however the fact remains that the subject site is unzoned. It is the core strategy of the Thomastown LAP to "support the sustainable long-term growth of Thomastown and continued consolidation within the town boundary". Policy CS1 of the LAP refers. The proposed development, on unzoned lands outside the town boundary is therefore subject to section 3.5 of the Kilkenny County development plan and national policy on sustainable rural housing.
- 7.2.3. Section 3.5.2.3 of the County Development plan states that in areas under urban influence, the Council will permit single houses for persons where one of 5 no. stipulations are met. The applicant submits that he complies with the first criteria: "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" .
- 7.2.4. The appellant references section 3.2.3 of the Sustainable Rural Housing Guidelines which refer to persons working in inland waterway occupations as being a person working in a rural area. The applicants primary employment is a rural based activity but it is not intrinsically linked to the rural area in which he wishes to build.
- 7.2.5. In the letter submitted to the Planning Authority, the applicants agent states that the applicant is an ecologist who also produces willow panels that are used to reinforce riverbanks. Currently the willow is grown, cut and weaved in Callan, Co. Kilkenny. However there is no shed or storage facility at this location. The appeal submission states that the applicant may wish to grow willow at some point in the future.
- 7.2.6. The crux of this appeal, in my opinion, is that the applicant whilst undertaking a rural based activity, has no need to undertake that at the subject site. The applicant has provided no compelling reason why, for example a shed cannot be provided at the site where the willow is currently grown, or indeed why an industrial unit on zoned lands is not used for such purposes. The provision of a one-off dwelling in an area outside the zoned boundary of a village seeking consolidation must only occur where

the applicant can definitively demonstrate a need to live at the subject site. The applicant has provided no such reasoning. That the applicant has storage needs and / or possible future growing needs is demonstrated but that they can *only* be met at the subject site is not.

7.2.7. Both national and local policy are clear, one-off housing in an area under strong urban influence must be where the applicant has an established housing need and a rurally generated housing need. The applicant has not demonstrated a housing need at the subject location. I am satisfied that the Applicant has not demonstrated compliance with national or local policy on residential development in un-zoned rural areas under strong urban influence.

7.2.8. Section 3.5.2 of the County Development Plan refers to ribbon development. It states that it arises where five or more houses on any one side of a 250m stretch of road. There are 9 no. houses on the 200m stretch of the subject cul-de-sac. The Planning Authority discourages ribbon development for “a variety of reasons, including road safety, future demand for the provision of public infrastructure and visual impact”. It is considered that the proposed development would exacerbate the existing ribbon development that has developed along the stretch of road.

7.3. **Appropriate Assessment**

7.3.1. Having regard to the nature and small scale of the proposed development, it is considered that no appropriate assessment issues arise, and that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects, on a European site.

8.0 **Recommendation**

8.1. I recommend permission be REFUSED for the following reasons and considerations:

9.0 **Reasons and Considerations**

1 The site of the proposed development is in a rural location in an area under strong urban pressure, identified as such in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April, 2005 where it is national policy to distinguish between urban generated and rural generated housing

need. On the basis of the documentation submitted with the planning application and the appeal, it is considered that the applicant does not come within the scope of the criteria for a housing need necessitating a dwelling at this rural location in an Area Under Strong Urban Pressure. The proposed development would, therefore, be contrary to the provisions of the Ministerial guidelines and be contrary to the policy of the planning authority. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- 2 The proposed development would constitute undesirable ribbon development in a rural area outside lands zoned for residential development and would, therefore, be contrary to the proper planning and sustainable development of the area.

Gillian Kane
Senior Planning Inspector

19 October 2020