



An  
Bord  
Pleanála

## Inspector's Report ABP308686-20

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<b>Development</b>	Construct a detached two storey house.
<b>Location</b>	Rear Mill House, Enniskerry Road, Kilternan, Dublin 18.
<b>Planning Authority</b>	Dun Laoghaire Rathdown County Council
<b>Planning Authority Reg. Ref.</b>	D20A/0601
<b>Applicant(s)</b>	Pia & Jeff Stokes
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse.
<b>Type of Appeal</b>	First Party V Refusal
<b>Appellant(s)</b>	Pia & Jeff Stokes
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	4 <sup>th</sup> June 2021
<b>Inspector</b>	Hugh Mannion

## **1.0 Site Location and Description**

- 1.1. The Enniskerry Road connects Stepside village and Kiltarnan in the north with Enniskerry village in the south outside and parallel to the M50. Kiltarnan village is immediately north of the application site entrance and has a service station with convenience store and on the opposite side of the Enniskerry Road there is a parish church. Further north is the junction with the Glenamuck road which links the Enniskerry Road to the M50.
- 1.2. The application site is 1ha and comprises part of the site of a protected structure (Mill House), it is accessed off the Enniskerry Road by a shared private domestic laneway which serves the application site, Mill House and another small bungalow closer to the public road. There is relatively good screening within the site and in the general area.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises the erection of a detached two storey house, extension to an existing laneway, connection to services and landscaping at Mill House, Enniskerry Road, County Dublin.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Refuse permission for 2 reasons.

1. The site is zoned G to protect and improve high amenity areas in the County Development Plan where houses are permitted where there is demonstrable need to live in the area because the applicant's principal employment is in agriculture, hill farming or local enterprise. The applicant has an existing house on site and have not demonstrated a genuine need for an additional house and the proposal would, therefore materially contravene the County Development Plan.

2. The proposed development is within the curtilage of a protected structure and by reason of height and massing would negatively impact on a protected structure thereby contravening policy AR1 of the County Development Plan.

### 3.2. **Planning Authority Reports**

#### 3.2.1. Planning Reports

The planner's report recommended refusal as set out in the manager's order.

#### 3.2.2. Other Technical Reports

Drainage Planning commented that there is a high watertable in the area and the applicant should demonstrate that soakaways are suitable for surface water disposal.

The preliminary floor risk assessment should be expended.

### 4.0 **Planning History**

- 4.1. **ABP303491-19** permission granted on appeal for 22 residential units at Glencullen, Kilternan, County Dublin.
- 4.2. D20A/0035 permission refused for two houses on this site for conflict with the high amenity zoning of the site set out in the County Development Plan and the negative impact on the protected structure on site (Mill House).

### 5.0 **Policy and Context**

#### 5.1. **Development Plan**

- 5.2. The planning authority's policy in relation to One-off Rural Housing is (RES16)
- 5.3. It is Council policy to restrict the spread of one-off housing into the rural countryside and to accommodate local growth into identified small villages subject to the availability of necessary services. It is recognised that much of the demand for one-off housing is urban-generated and this can result in an unsustainable pattern of

development, placing excessive strain on the environment, services and infrastructure. However, it is recognised that one-off housing may be acceptable where it is clearly shown that it is not urban-generated, will not place excessive strain on services and infrastructure, or have a serious negative impact on the landscape and where there is a genuine local need to reside in a rural area due to locationally-specific employment or local social needs (subject to compliance with the specific zoning objectives).

5.4. The site is zoned G “to protect and improve high amenity areas” in the Dun Laoghaire Rathdown County Development Plan 2016 – 2022. Permitted in principle are open space and travellers’ accommodation. Open for consideration are; Allotments, Agricultural Buildings, Boarding Kennels, Carpark, Cemetery, Craft Centre/Craft Shop, Childcare Service, Community Facility, Concrete/Asphalt (etc.) Plant in or adjacent to a Quarry, Cultural Use, Doctor/Dentist, Education, Garden Centre/Plant Nursery, Guest House, Home Based Economic Activities, Hotel/Motel, Industry- Extractive, Place of Public Worship, Public Services, Residential, Restaurant, Rural Industry-Cottage, Rural Industry-Food, Shop-Neighbourhood, Sports Facility, Tea Room/Cafe, Veterinary Surgery.

5.5. The plan at 8.2.3.6 states that;

The Council’ s policy position in respect of the management of ‘one-off’ housing in the rural parts of the County is clearly set out under Policy RES17, Section 2.1.4.1. The Council generally seeks to protect the rural character of the countryside and foster sustainable development. In pursuance of these objectives the Council’ s position in relation to ‘one-off’ houses is essentially restrictive and precautionary. Development proposals will be evaluated in accordance with the following criteria:

Within areas designated with zoning Objective ‘G’ - “To protect and improve high amenity areas” , dwellings will only be permitted on suitable sites where the applicant can demonstrate to the satisfaction of the Planning Authority that:

- There is genuine requirement for housing in the area because their principal employment is in agriculture, hill farming or a local enterprise directly related to the area’s amenity potential

- The proposed development will have no potential negative impact for the area in such terms as visual prominence or impacts on views and prospects, or the natural or built heritage.

5.6. The Kiltiernan/Glenamuck Local Area Plan 2013 covers the main house on site (Mill House) but the development boundary bisects the landholding in the western garden of Mill House and the application site is outside the area covered by the LAP.

### 5.7. **Natural Heritage Designations**

Not relevant.

### 5.8. **EIA Screening**

5.9. Having regard to the nature of the development and the foreseeable emissions therefrom I conclude that no significant environmental impacts will arise and the requirement for the submission of an EIAR may be discounted at a preliminary stage.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

- The applicants want to downsize to the smaller new house from the main house on site (Mill House) and allow their son and his family to move into that house.
- The site is within a cluster of houses off the Enniskerry Road some of which share the access lane. In some cases, these are 'downsizing' homes for elderly family members.
- The driveway connects to Kiltiernan crossroads which has a petrol filling station, convenience food store, school and a bus stop (the 63 route).
- Several similar developments were permitted in recent years. On the adjoining site to the north under 19A/0996 permission was granted for a two-storey extension. To the east along the access lane permission was granted (D13A/0308) for a house where downsizing was the rationale for the

development. Permission was granted (under ABP303491-19) for 22 residential units on land between the present application site and the Enniskerry Road.

- Mill House is zoned for residential use in the County Development Plan. The applicant will be requesting that the handholding of which the application site forms part should be zoned for residential uses.
- Views of the protected structure are already blocked by permitted development from the north, east and south. Views from the west (where the new house is proposed) will not be blocked because of the separation distance between the proposed and existing houses.
- The protected structure has a blank gable wall facing the proposed house to the west so views from the Mill House will not be negatively impacted.

## 6.2. **Planning Authority Response**

None

## 6.3. **Observations**

None

## 6.4. **Further Responses**

None

## 7.0 **Assessment**

7.1. Refusal Reason 1 – High Amenity Zoning.

7.2. The site is zoned G to protect and improve high amenity areas in the current County Development Plan. In this regard it is noteworthy that the applicant's landholding comprises the existing house on site (Mill House) and its associated lands where the new house is proposed. Very roughly the landholding is divided about 40% Mill House with a residential zoning and the remaining (about 60%) which is zoned high amenity and where the new house is proposed. The proposed house proposes to

connect to an existing public sewer and mains water. Irish Water did not comment on the application.

- 7.3. The planning authority refused permission *inter alia* because the applicant has an existing house on site and any additional house in areas of high amenity must demonstrate a necessity to live there related to farming, hill farming or local enterprise. In general, the objective in relation to one-off house is (RES16) that they should be restricted except where it is demonstrated that the application is not urban generated and will not put excessive strain on services and/or infrastructure.
- 7.4. The appeal makes the point that the application arises from a requirement on the part of the applicant to downsize from the larger house on site (Mill House) to a smaller dwelling and pass the existing house to the applicant's son/daughter in law who have a large family. The Sustainable Rural Housing Guidelines (DOEHLG 2005) make the point that there is a general presumption against urban generated rural housing but that there are particular circumstances where housing unrelated to a rural occupation may be permissible. One such circumstance is where family members have grown up in a rural area, where they seek to build close to their parents' home or where applicants for permission may fulfil a caring role.
- 7.5. The planners' report on file records a number of permissions granted in the area and the appeal makes the point that in some cases these permissions were granted in similar circumstances (downsizing accommodation for older family members) as apply in the present case. Having regard to the established use of the landholding for residential uses, the relatively small area of the landholding (less than 2ha), division of the landholding between a high amenity zoning and a residential zoning and the proximity of schools, convenience food store, service station, and national school I conclude that the site is a transitional one where an additional house would not seriously injure the amenity of the area or of adjoining property.
- 7.6. The planning authority states that the proposed development materially contravenes the County Development Plan zoning of the site as 'high amenity'. In this regard section 37(2) allows the Board to consider additional matters when determining an appeal in such a circumstance. Of particular note is 37(2)(b)(iii) where the Board may have regard to Section 28 Guidelines – in the current case I consider that the Sustainable Rural Housing Guidelines allow for a grant of permission in the particular

circumstances of this case for the reasons set out above. Additionally, the 37(2)(b)(iii) allows the Board to have regard to the pattern of development in the area and permissions granted in the area since the making of the County Development Plan. I consider that the pattern of development has changed since 2016 sufficiently to justify an additional house within the developing envelope of Kilternan village which would not undermine the overall aim of protecting high amenity areas in the foothills of the Dublin/Wicklow mountains.

**7.7. Refusal Reason 2 – Protected Structure.**

- 7.8. The planning authority refused permission because the proposal would negatively impact on Mill House which is a protected structure. This is described in the RPS as house (formerly a cotton factory) at Enniskerry Road, Kilternan. The NIAH have recorded the house as extant in 1810 as a mill owner's house, it is described as an integral part of the early 19<sup>th</sup> century built heritage of south County Dublin and having been well maintained with original and replicated fabric *in situ*. The planning authority's reports did not include an architectural heritage assessment report and while the Board invited comments from the Heritage Council no comment was received.
- 7.9. The site has extensive screening both along the boundaries of the site and within the site. The applicant includes a Arboricultural Report which details the trees on site and sets out a methodology for the protection of trees during the construction works. I consider that tree survey and associated reports are accurate in their assessment of the tree cover on site. Submitted drawings (Tree Survey plan drawing reference 200109-P-10 and Tree Removals Plan drawing ref 200109-P-11) illustrate the trees on site and the trees which it is necessary to fell to carry out the development. Having regard to my site inspection and the material on file I consider that a reasonably conservative approach has been taken to the siting of the house and access and parking and I conclude that the proposed development will not alter the setting of Mill House in a manner as to detract from its architectural quality.
- 7.10. The proposed house is west of the protected structure and set off at a distance of 36m. The application proposes no interventions in the fabric of the protected structure although the setting will be altered by the construction of the new house. The Architectural Heritage Protection Guidelines (see especially Chapter 7 –



Conservation Principles) make the point that inclusion in the RPS “does not mean that a structure is frozen in time” and that changes are acceptable where they do not damage the heritage value of the structure. I consider that the design and scale of the proposed new house is sympathetic to its setting within the curtilage of the protected structure without attempting to replicate the older building.

#### **7.11. Surface Water**

7.12. The planning authority’s drainage division commented that there is a high-water table in the area.

7.13. I observed no vegetation on site indicative of a high water table, there was no standing water on site and the pond at the western end of the site was below the ground surface level. I consider that a condition requiring that the access and parking area be gravelled and remain permeable to allow rainwater infiltration and that the surface water from the roof of the proposed house be directed to soakaways would suffice to address the point of surface water within the site.

#### **7.14. Appropriate Assessment Screening**

7.15. Having regard to the nature and scale of the proposed development, the foreseeable emissions therefrom, and nature of the receiving environment, I am satisfied that no appropriate assessment issues arise and it is not considered that the proposed development would 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 a grant of planning permission.

### **9.0 Reasons and Considerations**

9.1. The application site is zoned to protect and improve high amenity areas in the Dun Laoghaire Rathdown County Development Plan 2016-2022. Notwithstanding the zoning objective for the site set out County Development Plan and having particular regard to the provisions of the Sustainable Rural Housing Guidelines (DOEHLG 2005), the existing residential use on the landholding of which the site forms part, the close proximity of the application site to services and community facilities in Kilternan

village and to the pattern of residential development in the area and subject to compliance with the conditions set out below it is considered that the proposed development would accord with national policy in relation to rural housing, would not impact on the structure or setting of Mill House (the protected structure on site) and would otherwise accord with the provisions of the County Development Plan and with the proper planning and sustainable development of the area.

## 9.2. Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Prior to commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
3.	<p>The extended access lane and parking area shall be finished in a permeable material to facilitate the infiltration of surface water. Generally, surface water drainage arrangements shall comply with the requirements of the planning authority for such works.</p> <p><b>Reason:</b> To ensure disposal of surface water within the application site.</p>
4.	<p>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
5.	<p>The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing</p>

with, the planning authority prior to commencement of development. This scheme shall include the following:

Contoured drawings to scale of not less than 1:500 showing –

- a. a survey of all existing trees and hedging plants on the site, their variety, size, age and condition, together with proposals for their conservation or removal.
- b. Boundary hedges of indigenous species (e.g. holly, hawthorn, beech or field maple).
- c. A landscaping scheme predominantly native and naturalised woodland incorporating species, variety, size, type, number and location of all trees and shrubs
- d. any hard landscaping works, including car parking layout, enclosed areas, lighting and outdoor seating, specifying surfacing materials
- e. Specifications for mounding, levelling, cultivation and other operations associated with plant and grass establishment
- f. Proposals for the protection of all existing and new planting for the duration of construction works on site, together with proposals for adequate protection of new planting from damage until established
- g. A timescale for implementation including details of phasing which shall provide for the planting to be completed before the dwelling/building is first made available for occupation

Species to be used shall not include either *cupressocyparis x leylandii* or *grisellinia*. Any plants which die, are removed or become seriously damaged or diseased, within a period of 5 years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

	<p><b>Reason:</b> In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.</p>
6.	<p>a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. The applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.</p> <p>b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.</p> <p>c) This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.</p> <p><b>Reason:</b> To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted in the interest of the proper planning and sustainable development of the area.</p>
7.	<p>The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the</p>

	<p>commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.</p> <p><b>Reason:</b> It is a requirement of the Planning and Development Act 2000 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.</p>
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Hugh Mannion

Senior Planning Inspector

8<sup>th</sup> June 2021.