



An  
Bord  
Pleanála

## Inspector's Report

### ABP-308874-20

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<b>Development</b>	House, effluent disposal system, vehicular access and associated site works.
<b>Location</b>	Kilmullen Lane, Killadreenan, Newtownmountkennedy, Co. Wicklow.
<b>Planning Authority</b>	Wicklow County Council
<b>Planning Authority Reg. Ref.</b>	20335
<b>Applicant(s)</b>	Stephen Smith and Morgane Lemarie
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Stephen Smith and Morgane Lemarie
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	22 <sup>nd</sup> March 2021

**Inspector**

Emer Doyle

## **1.0 Site Location and Description**

- 1.1. The site has a stated area of 0.31 hectares and is located on Kilmullen Lane, to the south east of Newtownmountkennedy, Co. Wicklow. The site is in a rural area within the landholding of 'Butterfly Farm' which is located to the north of the site. St. Catherine's Special School and Newcastle Hospital are located to the south of the site. A small residential care unit, 'Birdhill', associated with St. Catherine's Special School is located on the opposite side of the road to the south east of the site.
- 1.2. The site lies within a picturesque rural setting and there has been very limited housing development in the immediate vicinity of the site.

## **2.0 Proposed Development**

- 2.1. Permission is sought for a single storey 3 bedroom dwelling with a stated floor area of c. 154 square metres together with a garage. A drawing submitted with the floor plan indicates 'possible future bedrooms.'
- 2.2. A wastewater treatment plant and well are proposed.
- 2.3. Following a time extension, unsolicited further information was submitted to the Planning Authority dated the 14<sup>th</sup> of September 2020 which included letters from the Revenue Commissioners that the applicants had never claimed mortgage interest relief together with sworn declarations that they had never owned a house.
- 2.4. A letter was also submitted from St. Catherine's Association confirming that Morgane Lemarie is employed as a Trainee Social Care Worker in 'Birdhill' a residential care home for adults with an Intellectual Disability since 2018.
- 2.5. Revised drawings were also submitted providing for a relocation of the dwelling on the site together with proposals for an alternative access (Option B) using the existing access at Butterfly Farm.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

3.1.1. Permission was refused for two reasons as follows:

1. Having regard to the

a) Restricted sight visibility in both directions at the junction of the L5049 road with the L5050,

b) The inadequacy of the road network serving the site in terms of width and alignment,

c) The excessive length of the driveway serving the site, proposed as an Option B for access to the site,

It is considered that to allow this development would result in a major scar in the landscape and endanger public safety by reason of traffic hazard.

2. The site of the proposed development is located within the Eastern Corridor, as designated in the Wicklow County Development Plan 2016-2022. The proposed development, in the absence of any identified locally based social and economic need for the house, would contribute to the encroachment of random rural development in this high amenity area, intensifying the suburban pattern of housing, 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.

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

3.2.1. Planning Reports

The first report dated the 10<sup>th</sup> of July 2020, recommended refusal for reasons relating to traffic safety and housing. It considered that there would be more suitable sites closer to the family home and that in order to achieve adequate sightlines the removal of substantial mature hedgerow would be required.

- The second report dated the 6<sup>th</sup> of October 2020 noted the unsolicited further information submitted and recommended refusal for similar reasons to the first report.

### 3.2.2. Other Technical Reports

**Environmental Health Officer:** No objection subject to condition.

**Area Engineer:** Refusal recommended in relation to inadequate sightlines and removal of a large amount of hedgerow.

### 3.3. Prescribed Bodies

3.3.1. No reports.

### 3.4. Third Party Observations

3.4.1. None.

## 4.0 Planning History

4.1.1. No relevant planning history.

## 5.0 Policy Context

### 5.1.1. New Town Mount Kennedy Local Area Plan 2008-2018 (as extended)

Zoning: AG- To provide for agricultural uses.

### 5.1.2. Wicklow County Development Plan 2016 - 2022

Chapter 3 sets out the Settlement Strategy for the county. There are 10 levels of settlement ranging from a single 'Metropolitan Consolidation Town' (Level 1 – Bray) through various levels of growth towns and smaller towns/villages to the rural area outside of designated settlements, 'The Open Countryside' (Level 10). Rural Housing Occupancy Controls apply in Level 10 as set out in Chapter 4 of the Plan (Objective HD23).

The Settlement Strategy Objectives include the following:-

SS4 – new housing development will be required to locate on designated housing land within the boundaries of settlements.

SS7 – seeks to strengthen the established structure of villages and smaller settlements to support local economics and to accommodate additional population in a sustainable manner.

Chapter 4 sets out the housing strategy and policies relating to residential development for the county, including the rural housing policy objectives.

HD23 – Residential development will be considered in the open countryside only when it is for those with a definable social or economic need to live in the open countryside.

16 no. criteria are set out which relate to the circumstances that will be considered. The most relevant are considered to be Criteria 1, 2 and 3 the essence of which is:-

1. A permanent native resident seeking to build a house for his / her own family and not as speculation. A permanent native resident is defined as a person who has resided in a rural area in County Wicklow for at least 10 years.

2. A son or daughter of a permanent native resident of a rural area, who can demonstrate a definable social or economic need to live in the area in which the proposal relates and not as speculation.

3. A son or daughter of a permanent native resident of a rural area, whose place of employment is outside of the immediate environs of the local rural area to which the application relates and who can demonstrate a definable social or economic need to live in the area to which the proposal relates and not as speculation.

#### 5.1.3. **National Planning Framework – Project Ireland 2040, Department of Housing, Planning and Local Government (2018)**

National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence i.e. commute catchment of cities and large towns and centres of employment.

#### 5.1.4. **Sustainable Rural Housing Development Guidelines (DoECLG 2005)**

The site of the proposed development is located within an 'Area Under Strong Urban Influence'. The guidelines require a distinction to be made between 'Urban Generated' and 'Rural Generated' housing need. Although not specifically defined, examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply. These include 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

The guidelines state, in respect of rural areas under Strong Urban Influence, that "the housing requirements of the rural community should be facilitated on the one hand, while on the other hand, directing urban generated housing development to areas zoned for new housing in cities, towns and villages". It is further stated 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."

#### 5.2. **Natural Heritage Designations**

- 5.2.1. There are no EU designated habitats in the immediate vicinity of the site. The Murrough SPA site code 004186 and The Murrough Wetlands SAC, site code 002249 are the nearest designated sites c. 3.2km to the east.

#### 5.3. **EIA Screening**

- 5.3.1. Having regard to the nature and scale of the development and the nature of the receiving environment, 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 stage, and a screening determination is not required.

### 6.0 **The Appeal**

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

The grounds of appeal can be summarised as follows:

- The road network is one of the safest in the county and drivers to Druids Glen Golf Resort use Kilmullen Lane.
- The Area Engineer does not consider the road to be unsafe.
- The Board is asked to consider Option A entrance amended to provide 90m sightlines in both directions as per the submission to the Planning Authority dated the 14<sup>th</sup> of September 2020.
- Failing this we would ask the Board to consider Option B.
- We have demonstrated a local social and economic need for the house. Morgane works as a carer/nurse in the house across the road from the site and Stephen has lived all his life in Newcastle.

## 6.2. Planning Authority Response

- None.

## 6.3. Observations

- None.

## 7.0 Assessment

7.1. The main issues that arise for consideration in relation to this appeal can be addressed under the following headings:

- Rural Housing Policy
- Traffic Safety
- Appropriate Assessment



## 7.2. Rural Housing Policy

- 7.2.1. I consider it appropriate to assess whether or not the proposed development complies with the Wicklow County Development Plan and Government planning policy and Guidelines regarding rural/local housing need.
- 7.2.2. The site is located in a rural area c.3km from the village of Newtownmountkennedy, Co. Wicklow. The site is located in a 'Rural Area under Strong Urban Influence' as indicatively identified by the 'Sustainable Rural Housing, Guidelines for Planning Authorities, 2005'. These areas are defined in Section 3.2 of the Sustainable Rural Housing Guidelines as rural areas exhibiting characteristics such as proximity to the immediate environs or close commuting catchment of large cities and towns, rapidly rising population, evidence of considerable pressure for development of housing due to proximity to such areas and pressures on infrastructure such as the local road network. The Guidelines distinguish between rural and urban generated housing. 'Rural generated housing' is described as housing needed in rural areas within the established rural community by persons working in rural areas or in nearby urban areas. 'Urban generated housing' is described as housing in rural locations sought by persons living and working in urban areas.
- 7.2.3. Policy Objective 19 of the National Planning Framework requires that, in rural areas under urban influence, the core consideration for the provision of a one-off rural house should be based on the demonstratable economic or social need to live in the rural area, having regard to the viability of smaller towns and rural settlements.
- 7.2.4. Documentation submitted with the application, putting forward the applicant's case for 'local housing need', includes the following:
- Stephen Smith grew up in a rural area on the outskirts of Newcastle village.
  - Both applicants live at the family home of Stephen at Kilnew, Sea Road, Newcastle c. 4km from the site.
  - Morgane Lemarie works as a trainee Social Care Worker at a location almost opposite the site at 'Birdhill', a small residential unit owned by St. Catherine's Association for adults with an intellectual disability.
  - Stephen Smith works as a general manager at Milbrook Paving Centre in Delgany, Co. Wicklow.

- Stephen grew up in the area and letters are on file from East Glendalough Post Primary School in Wicklow town and St. Francis National School.
- Neither of the applicants have ever owned a house.
- Bank statements for Stephen Smith with an address at Kilnew, Sea Road, Newcastle.

7.2.5. The Planning Authority report referred to a decision by An Bord Pleanála under PL27.300077 where permission was refused by the Board. In this case the Inspector considered that it was illogical to suggest that because the applicant came from a rural area north of Roundwood, that he had some sort of entitlement to a new dwelling to the west of Roundwood. It was noted that the female applicant did not have any attachment to the area and that her employer had several centres that she could be transferred to in the future. It was considered that the male applicant had no connection to this particular rural area and that the area was not considered suitable for a rural dwelling having regard to the poor road network. A handwritten note attached to the planner's report from the Senior Planner considered that a case could be made for the male applicant in terms of his rural housing need but that new development on Kilmullen Lane needed to be restricted due to the poor road network.

7.2.6. Having reviewed the documentation submitted, I consider that the male applicant has adequately demonstrated that he is linked to the rural area of Newtownmountkennedy and complies with the housing need criteria set out in the Development Plan. The appeal notes that the female applicant works in a house for a small number of adults with intellectual disabilities across the road from the site. Whilst I note this information, there is no information available on the file or appeal documentation, that she complies with the housing need criteria set out in the Development Plan. Notwithstanding the above, I consider that the proposed dwelling would comprise an urban generated residential development outside of a designated settlement. I consider that both applicant's housing needs are urban generated. Given that the proposal would comprise an urban generated rural house and that the applicants do not demonstrate an economic or social need to live in this rural area, it is my view that the proposed development would be contrary to the

Sustainable Rural Housing Guidelines for Planning Authorities (2005) and National Policy Objective 19 of the National Planning Framework.

- 7.2.7. 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. For this reason, I recommend that the proposed development be refused permission.

### **7.3. Traffic Safety**

- 7.3.1. The site is located on the Kilmullen Lane in Newtownmountkennedy, Co. Wicklow. Kilmullen Lane links the Woodstock Road with the R722. Druid's Glen Golf Resort is located close to the junction with Woodstock Road and St. Catherine's school is located close to the site.
- 7.3.2. Permission was refused by the Planning Authority having regard to the restricted site visibility in both directions at the junction of L5049 road with the L5050, the inadequacy of the road network in terms of width and alignment and the excessive length of the driveway serving the site (Option B).
- 7.3.3. The response to the appeal from the applicant attaches information from the Roads Safety Authority which shows that there have been no accidents at the junction of Kilmullen Lane and the Newcastle Road. It also notes that there are a number of commercial businesses on the road.
- 7.3.4. The response to the appeal asks the Board to consider the Option A entrance proposed in the first instance amended to provide 90m sightlines in each direction in accordance with the drawings submitted to the Planning Authority dated the 14<sup>th</sup> day of September 2020. It asks the Board to bear in mind that the hedgerow is to be replaced. Failing this option, the Board is asked to consider the Option B entrance which is in full compliance with the Road's Engineers recommendations.
- 7.3.5. The site is located at a bend on the road and sightlines are severely restricted at the proposed access point to the site. Kilmullen Lane is a popular link road in the area.
- 7.3.6. The report by the Area Engineer raised concerns on traffic grounds and considered that 70m sightlines were inadequate and stated that 90m was generally required. It

considered that the required alterations to provide 70m sightlines were substantial and would negatively impact on the layout of the road as well as the amenity and heritage value of the road by removing a long section of the existing mature hedgerow. It considered that the applicant could look into the feasibility of moving the access to the laneway at Butterfly Farm which is within the landholding.

- 7.3.7. A note attached to the planner's report from the Senior Planner dated the 13<sup>th</sup> of July 2020 considered that having regard to the inadequacy of Kilmullen Lane in terms of width and alignment in addition to its junction with the L5050, the proposal for 'rural to rural' was too difficult to justify.
- 7.3.8. Drawings submitted to the Planning Authority dated the 14<sup>th</sup> of September 2019 provided an alternative option (Option B) using the existing lane at the Butterfly Farm entrance.
- 7.3.9. A note on the file from the Senior Planner dated the 10<sup>th</sup> of November 2020, considered that development on this part of Kilmullen Lane needs to be restricted due to the inadequacy of the roadwork.
- 7.3.10. Having examined the file and inspected the site, I concur with the Planning Authority that the roadway is inadequate in terms of width and alignment for the development proposed and consider that none of the options presented are acceptable. I note that the applicant is purchasing the site from the nearby Butterfly Farm. Whilst Option B would provide for the retention of the natural hedgerow to the front of the site by using the existing access at Butterfly Farm, I consider that the length of roadway proposed would be undesirable and would have a negative impact on the visual amenities of the area.

#### **7.4. Appropriate Assessment**

- 7.4.1. Having regard to the nature and scale of the proposed development and the distance to the nearest European site, 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 that permission be refused for the reasons and considerations as set out below.

## 9.0 Reasons and Considerations

1. Having regard to the location of the site within an "Area Under Strong Urban Influence" 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 the National Policy Objectives of the National Planning Framework (February 2018), which seek to manage the growth of areas that are under strong urban influence to avoid over-development and to ensure that the provision of single housing in rural areas under urban influence are provided based upon demonstrable economic or social need to live in a rural area, and in an area where housing is restricted to persons demonstrating local need in accordance with the current Wicklow County Development Plan 2016 - 2022, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Sustainable Rural Housing Guidelines and National Policy Objective 19 for a house at this location. The proposed development, in the absence of any identified economic and social 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, thus, contravene the objectives of the Wicklow County Development Plan 2016 - 2022, would be contrary to the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities and rural policy provisions of the National Planning Framework, and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements that the

development would generate on a local road which is seriously substandard in terms of width and alignment and at a point where sightlines are restricted in both directions.

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Emer Doyle  
Planning Inspector

28<sup>th</sup> May 2021