



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313541-22

<b>Development</b>	Construction of dwelling and associated site works
<b>Location</b>	Ballyowen , Killucan , Co Westmeath
<b>Planning Authority</b>	Westmeath County Council
<b>Planning Authority Reg. Ref.</b>	2279
<b>Applicant(s)</b>	Patrick and Michelle Farrelly
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Patrick and Michelle Farrelly
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	30 <sup>th</sup> of January 2023
<b>Inspector</b>	Caryn Coogan

## **1.0 Site Location and Description**

- 1.1. The site is located in the townland of Ballyowen, Co. Westmeath. It is accessed off a private cul de sac which connects to the L-15012, circa 6.8km south of Delvin and circa 5km north of Killucan.
- 1.2. The site is stated to be 0.27ha in size, and is located to the rear of an existing bungalow which is positioned along the roadside boundary on the eastern site boundary. There is no defined boundary between the existing bungalow and the subject site.
- 1.3. The landholding includes the applicant's current dwellinghouse which is positioned above the level of the road. It is accessed via the existing access to the bungalow, which rises steeply from the level of the cul de sac road. Access to the bungalow is on a bend in the road, which is a cul de sac.
- 1.4. There are mature hedgerows along the northern, western and southern boundaries. As stated, the eastern boundary between the site and the existing bungalow is undefined.
- 1.5. There is a neighbouring dwelling to the south, positioned at a similar building line to the proposed dwelling.
- 1.6. The site raises northwards across the landholding. There is a distinct drop in front of the existing bungalow to the private cul de sac serving 2-3 dwellings.

## **2.0 Proposed Development**

- 2.1. The proposed development is a single storey dwelling, with a stated floor area of 214sq.m. The dwelling consists of a render finish, black steel architectural metalwork and the roof will consist of blue/black slates.
- 2.2. A septic tank and percolation area is proposed.
- 2.3. A detached garage (78sq.m.) is proposed along the northern site boundary.

### 3.0 Planning Authority Decision

#### 3.1. Decision

Westmeath Co. Co. **REFUSED** the proposed for two reasons:

1. The subject site is located in a rural area outside of any designated settlement and in an area of strong urban influence where development which is not rural generated should be more appropriately located in towns and villages and designated settlements. It is considered the applicants do not come within the scope for the criteria for rural housing at this location, which seeks to accommodate demand from individuals for permanent residential development. Accordingly, to permit the development as proposed would contravene the Council's policy objective CPO 9.1 of the Westmeath County Development Plan 2021-2027, would be contrary to the Sustainable Rural Housing – Guidelines for Planning Authorities (2005) and would therefore be contrary to the proper planning and sustainable development of the area.
2. The proposed development would constitute undesirable haphazard backland development by virtue of its siting in the context of existing built form on the subject site, elevated topography and lack of integration with established pattern of development at this location. In this context, the proposal by reason of its siting would if permitted be visually obtrusive and out of character with the surrounding area, would have a detrimental impact on the residential amenity of existing residential development and would seriously injure the amenities and depreciate the proposed development if permitted would be contrary to the policy CPO 16.32 of Westmeath County development Plan 2021-2027 and the Westmeath Rural Design Guidelines (2005) and would therefore be contrary to the proper planning and sustainable development of the area. the value of properties in the vicinity. Accordingly,

#### 3.2. Planning Authority Reports

##### 3.2.1. *Planning Reports*

- The site is located in an area described as Strong Rural Area Under Urban Influence. Certain policy criteria must be met. The applicants have owned the site and their existing dwelling to the front of the site since 2017. Michelle lived in Delvin for 24 years and attended local national school and works in the local area. Patrick is also from Delvin and went to school there and works in the local area. They consider the existing house would be difficult to extend and now want to build a new house. Michelle's parents would move to their existing house, as they currently live with her brother in Delvin. As the applicants already have a house in a rural area, they do not need a house in a rural area and accordingly do not meet with the criteria of CPO 9.1, and a refusal is recommended.
- The subject site is raised (6m) above the private laneway and 3 metres above the level of the applicant's existing dwelling. There are concerns regarding the position of the proposed dwelling at an elevated location to the rear of the existing dwelling by virtue of the applicant's existing home. It would be visually obtrusive and adversely impact upon the residential amenities of any future occupants. It is considered to be undesirable backland development and would be out of character with the existing pattern of development in the area and would set a precedent for similar development in the area.
- The proposed development situated in the rear garden area of an existing dwelling will have a negative impact on the residential amenity on the future occupants of the existing on-site dwelling.

### 3.2.2. ***Other Technical Reports***

District Engineer: No objections subject to planning conditions cited related to sightlines, surface water, sewage treatment, service cables, water and a Special Levy of €5000 for Local Tertiary Roads. .

Environment: No objections

### 3.3. **Prescribed Bodies**

None

### 3.4. Third Party Observations

None

## 4.0 Planning History

None

## 5.0 Policy Context

### 5.1 National Policy/ Guidelines

#### 5.1.1 *Project Ireland 2040 - National Planning Framework*

The National Planning Framework (NPF) acknowledges that “rural areas have a major role to play in Ireland 2040 and encourages Local Authorities to ensure that connectivity gaps are addressed and that planning and investment policies support job creation in the rural economy”. Improved coordination of existing investment programmes dealing with social inclusion, rural development and town and village renewal are sought, as is planning for the future growth and development of rural areas. In terms of rural housing, the NPF distinguishes between commuter areas and other rural regions throughout the Country. The NPF recognises the “significant pressures from urban generated pressures in commuter areas and highlights how commuter-generated housing in rural areas accessible to cities and towns, has affected the character and cohesion of some locations. It seeks to manage the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.”

#### 5.1.2 **Sustainable Rural Housing, Guidelines for Planning Authorities, 2005**

The Circular letter PL2/2017, issued by the Department of Housing, Planning, Community and Local Government in May 2017, advised local authorities that the Sustainable Rural Housing Guidelines are currently being revised to ensure the rural housing policies and objectives contained in local authority development plans comply with Article 43 of the EU Treaty on the freedom of movement of citizens.

### 5.2 Development Plan

#### **Westmeath County Development Plan 2021-2023**

### **5.2.1 Chapter 2: Core Strategy**

The aim is to support the desire of individual applicants with strong rural links to settle in that area and to encourage people with no such links to settle in the identified extensive network of towns or villages. Core Strategy Policy Objectives:

**CPO 2.11:** Support the sustainable development of rural areas in Westmeath 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 Chapter 9 Rural Development**

Having regard to this, a rural typology has been undertaken for Co. Westmeath, which is consistent with national and regional policy. This typology is premised largely on two categories as follows:

- Rural Areas under Strong Urban Influence
- Structurally Weak Areas

Definitions of both areas are prescribed in Sections 2.14.1 and 2.14.2 of the Core Strategy.

The subject site is located in a **Rural Area Under Strong Urban Influence**.

The Council will manage sustainable growth in designated 'Rural Areas Under Strong Urban Influence' and facilitate the provision of single houses in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area, siting and design criteria for rural housing and compliance with statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements. The aim is to support the desire of individual applicants with strong links and a need to settle in that area and to encourage people with no such links to settle in the identified extensive network of towns, villages and rural nodes. Such persons would normally have spent substantial periods of their lives living in the rural area as part of the established rural community e.g. people employed in the rural area including farmers and their sons and daughters, people originally from the rural area and wishing to return, people wishing to reside near

elderly parents to provide security and care, elderly parents wishing to live near other family members, people who would have grown up in rural areas seeking to build their home close to other family members, people working in rural areas such as teachers in rural schools.

### **5.2.3 Section 9.4: Rural Settlement Strategy: Rural Housing Need Policy Objectives:**

**CPO 9.1:** Areas Under Strong Urban Influence: To accommodate demand from individuals for permanent residential development in defined 'Rural Areas Under Strong Urban Influence' who have strong links to the area and who are an intrinsic part of the rural community, subject to good planning practice, environmental carrying capacity and landscape protection considerations.

#### ***Local Housing Need:***

Permit residential development in areas defined 'Rural Areas Under Strong Urban Influence and Stronger Rural Areas' subject to the following circumstances:

1. Persons who are actively engaged in agriculture, horticulture, forestry, bloodstock and peat industry,
2. Members of farm families seeking to build on the family farm,
3. Landowners for this purpose being defined as persons who own the land 5 years prior to the date of planning application,
4. Persons employed locally whose employment would provide a service to the local community,
5. Persons who have personal, family or economic ties within the area, including returning emigrants,
6. Persons who wish to return to farming and who buy or inherit a substantial farm holding which is kept intact as an established farm unit, will be considered by the Council to be farmers and will be open to consideration for a rural house, as farmers.

Where there is already a house on the holding, refurbishment or replacement of this house is the preferred option. The local area for the purpose of this policy is defined as the area generally within a 10km radius of the applicant's family home

5.2.4 **CPO 9.2:** In line with Circular Letter PL 2/2017, review rural housing policy in line with Development Plan or other relevant Guidelines issued by the Minister in this area having regard to NPO 19.

**5.2.5 Section 9.5: Environmental Capacity:**

***Rural Housing Criteria Policy Objectives:***

**CPO 9.8:** Ensure that, in permitting one-off rural housing, key rural assets such as water, natural and cultural heritage and landscape quality are protected and maintained.

**CPO 9.9:** Protect the natural assets of the county including ground and surface water and ensure that physical standards are met including soil conditions suitable for effluent disposal and the avoidance of flood areas.

**CPO 9.10:** Protect the integrity of the landscapes as identified in the Landscape Character Assessment and protected views.

**CPO 9.11:** Seek that all proposed on-site wastewater treatment systems for single dwellings and extensions which will increase the population equivalent loading shall comply with the EPA Code of Practice for Wastewater Treatment and disposal Systems serving Single Houses (2009) and any revision thereof.

**CPO 9.12:** Seek to ensure that wastewater treatment systems are installed by competent persons with regular monitoring and testing carried out on the treatment system, in accordance with the planning permission.

**CPO 9.13:** Have regard to the Department of Environment, Community and Local Government's Sustainable Rural Housing Guidelines 2005, and any subsequent amendment in the assessment of applications for rural housing

**5.2.7 Chapter 10: Transport, Infrastructure & Energy:**

**Section 10.13.1:** Wastewater Treatment and Disposal Systems Serving Single Houses Wastewater Policy Objectives: CPO 10.100: Ensure that private wastewater treatment plants, where permitted, are operated in compliance with EPA's Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (PE. ≤10) (EPA 2009), as may be amended.

**5.2.8 Chapter 16: Development Management Standards:**



### **Section 16.3.7: Rural Housing:**

Notwithstanding an applicants' demonstration of compliance with the rural housing criteria as set out at Chapter 9, it is important to note that applicants are also required to meet overriding sustainable planning practices in terms of visual impact, design standards, environmental and traffic safety issues. The design of rural housing development requires careful design consideration to ensure that all new development sensitively integrates into the landscape. This requires specific focus on site selection, design, scale and form of the proposed development. The most successful designs subtly integrate with the receiving landscape by selecting naturally sheltered and screened sites and the development of a simple built form complimented with the use of materials that are reflective of traditional vernacular.

Development Management Standards Policy Objectives - Rural Housing: CPO 16.32 – CPO 16.34

#### **5.1. Natural Heritage Designations**

The nearest Natura 2000 site is the River Boyne and River Blackwater SAC, (Site Code 002299), 750metre west of the site, and River Boyne and River Blackwater SPA, east of the site (Site Code 004232).

#### **5.2. EIA Screening**

Having regard to the nature and scale of the proposed development, comprising of a domestic dwelling there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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 The First Party has taken this appeal against the planning authority's decision to refuse planning permission for their new dwelling at Ballyowen, Killucan. The following is a summary of their grounds of appeal:

- They purchased their three-bedroom bungalow in 2017 that was located at the front of a large site. They have a growing family and it is difficult to extend the existing house because it is located in the front right hand corner of the property, and is blocked to the south by the garage and the steep slope of the driveway.
- Michelle's parents live in her brother's house a few miles away from the site, and her brother plans on returning to Ireland, and her parents will have to buy a new home. There are limited options available and no affordable options. The plan is to build a slightly larger new home for their growing family, and Michelle's parents move into their current house which is small and manageable.
- The proposed dwelling will not overlook another dwelling, there are no windows facing the other properties in the area., privacy is maintained. The proposed dwelling is in line with the neighbouring house.
- The one solution will solve a housing problem for three families There are examples of similar developments in Cloncrave, Co. Westmeath and Hiskinstown, Co. Westmeath.
- The Council's response is an extremely narrow interpretation and focus.
- The applicants meet several of the local needs criteria, they are both from the area, they work in the area, they have strong economic, family, and social ties to the area, and this extends to their parents and family. The decision is flawed.
- The design of the dwelling addresses the concerns of the planning authority, and the design is high quality.
- The planning authority failed to acknowledge the implication of CPO 4.10 of the Westmeath County Development Plan CPO4.10 for elderly people, and CPO 4.9 supports Age Friendly Programme, and Age Friendly Strategy 2013-2016.

#### 6.1.2 Reason No. 1

There is a shortage of housing in the towns and villages. The applicants are firmly ingrained members of the community who are seeking to resolve housing space using their own assets and abilities. The planning authority's response is generic

and shows a lack of problem solving on the planning authority's part to the detriment of the applicants.

Under Policy CPO 9.1 there are 6No. criteria and the applicants meet 3.

They are landowners for more than five years.

They are employed to provide a service to the local community.

They have personal, family or economic ties within the area, including returning emigrants.

The planning assessment failed to consider family dynamics and housing needs.

There is substantial support for the application in the county development plan and that reference to CPO 9.1 is of extremely narrow focus and fails to address or detail the nuances of the application and the permission permitted.

#### **6.1.3 Reason No. 2**

The proposed development is the opposite of haphazard. The design has been diligently developed to respond to the client brief, Council policy and guidance, and the best design solution possible.

We draw attention to the tradition of 'clachan' type development as well as farmyard cluster where spaces between built volumes creates defined areas and uses. Refer to the Design and Planning Statement submitted as part of the planning application.

The siting, form and design of the dwelling is a considered response to the geometry of the site and the surrounding built environment. It aligns with the neighbouring dwelling to the south, and it looks straight past the existing dwelling to the front of the site. Screening is achieved using the proposed garage, and fencing/ planting along the boundary, along with the omission of fenestration to the front façade and blinkering of openings to ensure the focus is on the entire property. They strongly disagree with the Council's assertion that it will impact. It is a better orientation than the neighbouring dwelling that has already been built to the south.

The council is correct that the site is elevated from the road, but one need only visit to see that the nature of the topography (on the site and surrounding) ensures that it is extremely private, secluded and not obvious or prominent in any way. The description is misleading and not reflective of the conditions on the site and in the area.

The draws heavily from traditional vernacular forms and composition whilst also featuring modern, sleek detailing and performance. We respectfully suggest that the Council area not best placed to comment on the effect the proposal will have on the value of property in the vicinity, the new development have a positive impact on the desirability of an area.

CPO 16.32 addresses the following:

Boundary Treatment

Access and Sight Lines

Landscaping

Surface & Wastewater Treatment

The site is already well screened, and there is additional planting proposed . The site connects to the road via a cul de sac, there is minimal risk entering and existing the site. The soil conditions are good. There are no problems with the principle of a dwelling on the site.

### **6.3 Planning Authority Response**

None Received.

## **7.0 Assessment**

7.1 Having inspected the site, considered the content of the appeal file, I will examine this proposal under the following headings:

- Compliance with National and Local Planning Policy and Guidelines
- Design and Layout
- Sewage Treatment
- Appropriate Assessment

### **7.2 Compliance with National and Local Planning Policy and Guidelines**

The relevant objective from *Project Ireland 2040- National Planning Framework* is as follows:

**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.*

The *Sustainable Rural Housing, Guidelines for Planning Authorities* 2005 is also relevant. These National policies have been incorporated into the Westmeath County Development Plan 2021-2023. The core aim of the Plan is to support individuals with strong links to settle in an area, and to manage the growth of areas that are under strong urban influence. The subject site is located in a rural area classified as a Strong Rural Area Under Urban Influence. CPO 9.1 outlines certain criteria to be met by applicants in terms of local need in Areas Under Strong Urban Influence:

- 1. Persons who are actively engaged in agriculture, horticulture, forestry, bloodstock and peat industry,*
- 2. Members of farm families seeking to build on the family farm,*
- 3. Landowners for this purpose being defined as persons who own the land 5 years prior to the date of planning application,*
- 4. Persons employed locally whose employment would provide a service to the local community,*
- 5. Persons who have personal, family or economic ties within the area, including returning emigrants,*
- 6. Persons who wish to return to farming and who buy or inherit a substantial farm holding which is kept intact as an established farm unit, will be considered by the Council to be farmers and will be open to consideration for a rural house, as farmers.*

*Where there is already a house on the holding, refurbishment or replacement of this house is the preferred option.*

The applicants, Patrick and Michelle Farrelly own and live in the dwelling to the front of the subject site. Initially they planned to extend the existing dwelling, however due to the dwelling's elevated location and close proximity to the road, a new extension proved to be impractical. In addition, Michelle's parents wish to downsize to a smaller dwelling, and they currently live in their son's house in Martinstown. Both applicants are from Delvin, Co. Westmeath. The application documentation outlines that both applicants were educated, grew up and currently work in the area. Both applicants have strong social and economic links to the area. Their children go to school locally.

According to the planning application, the proposal will enable the applicants to accommodate their growing family in a new home because their existing house is impractical to extend. In addition, Michelle's parents can move into their existing home which is single storey and more age appropriate in close proximity to family members. Furthermore, Michelle's brother can return home to live in his house at Martinstown, where their parents currently live. The applicants have stated on appeal the planning authority failed to take into account the proposed development will deal with housing needs of three family units. They have also stated the planning authority failed to take this issue into consideration in the assessment of the case, as this is a unique situation.

It is my opinion, the applicant should be aware the planning unit is the proposed site. The appeal relates only to the proposed development within the site boundaries. The provision of a dwelling for Michelle's parents, or the applicants brother returning home to live in the house currently occupied by her parents, are not valid or relevant planning considerations of this appeal and are beyond the remit of this appeal. Based on the information supplied with the planning application and appeal, the Board cannot influence or determine the occupation of any dwelling outside of the site boundaries. The Board's assessment and decision relates only to the proposed site and proposed dwelling. I examined the planning authority's assessment of the planning application, and I consider it to be comprehensive and in line with planning policies.

The applicant's bought the property, their existing house and the subject site, in 2017. They live in the existing house and have not established a need for another dwelling at this location. The proposal is not a replacement dwelling, the proposal is a form of backland development to the rear of the existing dwelling, which is currently owned and occupied by the applicants. The aim of the Westmeath County Development Plan rural housing policy is to support the desire of individual applicants with strong links and a need to settle in that area and to encourage people with no such links to settle in the identified extensive network of towns, villages and rural nodes. Such persons would normally have spent substantial periods of their lives living in the rural area as part of the established rural community. Both applicants have demonstrated their links to the area, but they currently reside in the area. In my opinion, they do not have a housing need.

Having regard to the forgoing, I consider that the first party has not demonstrated that they meet the criteria of demonstrable economic or social need to live in a rural area set out in the NPF, a rural generated housing need that meets the test set by the Sustainable Rural Housing Guidelines or a substantiated rural housing need as required by the Westmeath County Development Plan 2021-2027.

### **7.3 Siting and Design**

The proposed single storey dwelling is set back into the site at the rear adjacent to the western site boundary. The house is a single storey low profile bungalow in an L-shaped configuration. The focus is on to a courtyard to the rear and side of the dwelling. There is a sunken detached garage to the north of the site. There is generous glazing onto the courtyard feature to the rear/side of the proposed dwelling. There are no windows facing the rear of the opposing bungalow on the property. It has been designed to ensure the privacy of both dwellings.

Access is onto the cul de sac alongside the existing access to the applicants current dwelling. The front façade is minimal and blank. There will be new screen planting along the new site boundary between both dwellings and the existing mature hedges will be retained.

I consider the design and layout of the proposed dwelling to be acceptable in terms of existing residential amenities and traffic safety. The dwelling will not be visible from the road and will blend into the setting. The design is discreet and

contemporary. The use of materials is a simple palate and the dwelling will not be oppressive when viewed from the existing dwelling on the site. It is my opinion, the siting and design of the proposed dwelling acceptable, it would not be visually obtrusive when viewed from the wider area, and readily integrates into the existing landscape. Therefore I consider the planning authority's second reason for refusal can be dismissed.

#### **7.4 Sewage Treatment**

A sewage treatment system has been designed for the property based on a soil characteristics assessment report. The effluent will be pumped to a percolation area, which is designed in accordance with the EPA Code of Practice 2021 Wastewater Treatment and Disposal Systems serving single houses. The tests indicated the site has a subsurface value rating of 7.12mins/ 25mm which is good percolative capacity on the subsurface. Groundwater/ winter groundwater was not encountered during the trial hole tests. I am satisfied the site can cater for an individual treatment system in line with EPA standards.

#### **7.5 Appropriate Assessment**

Having regard to the nature and limited scale of the proposed development and the lack of a hydrological or other pathway between the site and European sites, it is considered that no Appropriate Assessment issues arise and that the proposed development would not be likely to have a significant effect either individually or in combination with other plans or projects on any European site.

### **6.0 Recommendation**

6.1. I recommend the proposed development be refused for the following reason.

### **7.0 Reasons and Considerations**

The site of the proposed development is located within an "Area Under Strong Urban Influence" as set out in the "Sustainable Rural Housing Guidelines for Planning Authorities" issued by the Department of the Environment, Heritage and Local Government in April 2005. Furthermore, the subject site is located in an area that is designated under urban influence, where it is national policy, as set out in



National Policy Objective 19 of the National Planning Framework, to 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. Having regard to the documentation submitted with the application and appeal, the Board is not satisfied that the applicants have a demonstrable economic or social need to live in this rural area because they already live in the area. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines and in national policy for a house at this location. The proposed development would, therefore, be contrary to the Ministerial Guidelines and to the over-arching national policy, to the provisions of the current Westmeath County Development Plan 2021 - 2027, would contribute to the encroachment of random rural development in the area, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would be contrary to the proper planning and sustainable development of the area.

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**Caryn Coogan**  
**Planning Inspector**

**07/03/2023**