



An  
Bord  
Pleanála

## Inspector's Report

### ABP-313660-22

---

<b>Development</b>	House, wastewater treatment system and polishing filter, new site entrance from an existing private laneway, driveway, entrance gates and all site works.
<b>Location</b>	Ballybarney, Narraghmore, Co. Kildare.
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	22298
<b>Applicant(s)</b>	Alma Hickey.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Alma Hickey.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	8 <sup>th</sup> February 2023.
<b>Inspector</b>	Lucy Roche

## 1.0 Site Location and Description

- 1.1. The appeal site is in the rural townland of Ballybarney, Co. Kildare, c8km southwest of M9 Junction 2, and c0.8km north of the rural settlement of Narraghmore. The site is accessed via a narrow private lane to the west of the local road connecting the settlements of Narraghmore to the south and Calverstown to the north. The laneway serves three existing residential dwellings and agricultural lands.
- 1.2. The site itself comprises part of a larger agricultural field, which on the date of inspection had been recently ploughed. The main body of the site is set back, c70m from the laneway it is rectangular in shape and is bounded to the west, north and east by the field boundary which comprises hedgerow interspersed with trees of varying maturity. The southern site boundary is open having regard to the site forming part of a larger agricultural field. The site area also comprises a strip of land (c8.5m wide) adjacent to the eastern field boundary, connecting the main body of the site to the laneway at the location of the proposed entrance.
- 1.3. The site has a stated area of 0.4ha. The lands are elevated with views to the east across open countryside. Surrounding lands are predominantly in agricultural use. There is a strong prevalence of one-off residential developments in the surrounding hinterland, including but not limited to one-off dwelling houses adjoining either side of the public road.

## 2.0 Proposed Development

- 2.1. Permission has been sought for the erection of a single storey dwelling containing three bedrooms, a combined kitchen/living/dining room, snug, playroom, home office, as well as ancillary bathroom, utility, and hallway accommodation.
- 2.2. The proposal also seeks permission for:
  - Domestic proprietary wastewater treatment system and polishing filter.
  - A well for a potable water supply
  - A new site entrance from the existing private laneway
  - and all site works including a driveway, entrance gates and site landscaping.

2.3. Table 2.1 below provides a summary of the key aspects of the proposed development:

<b>Table 2.1 – Development Details</b>		
Site Area	0.4ha	
Dwelling	Type / Design	Single storey three-bed dwelling. Contemporary design with mix of pitched and flat roofs
	Siting / Location	The proposed dwelling is position centrally within the main body of the site.
	GFA	235.2sqm (as stated)
	FFL	145.00
	Height	c5.3m
	Finish	Mix of stone, render, timber cladding. Metal finish to roof.
Access	New entrance from existing private lane.	
Services	Domestic proprietary wastewater treatment system and polishing filter, a well for a potable water supply	
Landscaping	The proposed scheme includes for the retention and augmentation of existing field boundaries along with additional planting along the site's southern elevation and to the west of the proposed driveway.	

### 3.0 Planning Authority Decision

#### 3.1. Decision

3.2. Kildare County Council did by order dated the 9<sup>th</sup> of May 2022 decide to refuse permission for development at, Ballybarney, Narraghmore, Co. Kildare, for two reasons as follows:

- 1) Policy RH10 of the Kildare County Development Plan 2017- 2023 seeks to control the level of piecemeal and haphazard development of rural areas

close to settlements. It is considered the proposed development by reason of its location in close proximity to but not within the confines of Narraghmore, a 'rural settlement' as shown on map V2-2.30 of the KCP would further exacerbate the level of development in proximity to Narraghmore where land has been indicated for settlement expansion. Additionally, policy VRS1 seeks to facilitate local housing demands within villages and c1.9 hectares are zoned for housing within the settlement envelope. To promote development at the location proposed would be unsustainable would contravene policies or RH10 and VRS1 of the KCDP 2017- 2023 and would not be in accordance with the proper planning and sustainable development of the area.

- 2) Policy RH11 of the KCDP 2017 - 2023 seeks to preserve and protect the open character of transitional lands outside of villages in order to prevent linear sprawl near towns, villages, and settlements. The subject site is c760 meters north of the settlement boundary of Narraghmore as outlined within map V2-2.30 of the KCDP 2017- 2023. It is considered with the proposed development would contribute towards the erosion of the separation of the settlement from the open countryside and would constitute unsustainable and undesirable pattern of development in the transitional lands on the northern outskirts of the settlement and if granted would make similar such proposals difficult to resist. The proposed development would contravene policy RH11 of the KCDP 2017-2023 and therefore would be contrary to proper planning and sustainable development of the area.

### **3.3. Planning Authority Reports**

#### **3.3.1. Planning Reports**

- The Kildare County Council Planning Report forms the basis for the decision.
- The report has regard to the locational context and planning history of the site; local and national planning policy and the interdepartmental reports received.
- In relation to the applicants rural housing need, planning authority is satisfied based on the information submitted with the application, that the applicant has demonstrated compliance with the local needs policy set out in the KCDP 2017-2023.

- The applicant has demonstrated local need under Category 2 (local rural person) and not Category 1 (agricultural involvement) and whilst has stated involvement in farming / farming duties has not evidenced such.
- Regard is had to the location of the site in proximity to the settlement of Narraghmore (c760m to the south) and to the high level of piecemeal and haphazard development in the area.
- The proposal would contravene the policies of the KCDP 2017-2023, namely RH10 which seeks to control the level of piecemeal and haphazard development in the rural area; RH11 which seeks to preserve and protect the open character of transitional lands outside of settlements and VRS1 which seeks to facilitate local housing demand within rural villages and settlements.
- While noting that each and every application is determined on its own merits, the planning authority has regard to the precedent cases outlined in the planning report prepared by Farry Town Planning Limited and submitted in support of the application. In particular, the planning authority comments on three sites identified within the vicinity of Narraghmore and cites evidence of active farming, site location and a lesser level of development pressure as justification of grants of permission.
- It was not considered feasible or reasonable to examine planning applications granted proximate to other settlements in the county as effective comparative analysis is not reasonable.
- The assessment raises no significant issues in relation to design, layout, water services or access arrangements.
- The report concluded with a recommendation to refuse permission as per the planning authority decision.

### 3.3.2. Other Technical Reports

Water Services: No objection subject to compliance with conditions

Environment: No objection subject to compliance with conditions

Transportation: No objection subject to compliance with conditions

EHO: Clarification sought on issues relating to proposals for on-site wastewater treatment and disposal.

Municipal District Eng.: No objection subject to compliance with conditions

### 3.4. Prescribed Bodies

Irish Water: No objection subject to compliance with conditions

### 3.5. Third Party Observations

None

## 4.0 Planning History

KCC Ref: No: 21/1337 Permission refused in 2021 for dwelling etc. The reasons for refusal are similar to those cited by the planning authority in respect of this current application.

KCC Ref: No: 21/0799 Permission refused in 2021 for dwelling etc. The reasons for refusal are similar to those cited by the planning authority in respect of this current application.

## 5.0 Policy Context

### 5.1. National Policy

#### 5.1.1. Project Ireland 2040 National Planning Framework (NPF) Local Policy

Section 5.3 of the NPF refers to 'Planning for the Future Growth and Development of Rural Areas'. Under the heading of **Countryside**, it is stated '*It will continue to be necessary to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e., the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations.*'

National Policy Objective 19 includes:

*.....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....’.*

5.1.2. **Regional Spatial and Economic Strategy for the Eastern and Midland Region (RSES).**

Section 4.8 (Rural Places: Towns, Villages, and the Countryside) of the RSES indicates that support for housing and population growth within rural towns and villages will help to act as a viable alternative to rural one-off housing, contributing to the principle of compact growth.

The following Regional Policy Objectives are of Note:

**RPO 4.80:** ‘Local authorities shall manage urban generated growth in Rural Areas Under Strong Urban Influence (i.e. the commuter catchment of Dublin, large towns and centres of employment) and Stronger Rural Areas by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstrable economic or social need to live in a rural area, and compliance with statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

**RPO 4.83** Supports ‘the consolidation of the town and village network to ensure that development proceeds sustainably and at an appropriate scale, level and pace in line with the core strategies of the county development plans.’

5.1.3. **Sustainable Rural Housing Guidelines for Planning Authorities, 2005.**

The overarching aim of the Guidelines is to ensure that people who are part of a rural community should be facilitated by the planning system in all rural areas, including those under strong urban based pressures. To ensure 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.

5.1.4. Also noted:

- Code of Practice – Domestic Wastewater Treatment Systems (Population Equivalent  $\leq 10$ ), 2021.
- Climate Action Plan 2023 (CAP23)

## 5.2. Local Policy

5.2.1. The application was assessed by Kildare County Council in accordance with the policies and objectives of the Kildare County Development Plan 2017-2023. The Kildare County Development Plan 2023-2029 was adopted by Kildare County Council on the 9th of December 2022 and came into effect on the 28<sup>th</sup> of January 2023. I have assessed the proposal under the provisions of the operative Development Plan, namely the Kildare County Development Plan 2023-2029.

### 5.2.2. Kildare County Development Plan 2017-2023

For reference the following Policies of the KCDP 2017-2023 are noted:

- RH 10            Control the level of piecemeal and haphazard development of rural areas close to urban centres and settlements having regard to potential impacts on: (i) The orderly and efficient development of newly developing areas on the edges of towns and villages; (ii) The future provision of infrastructure such as roads and electricity lines; and (iii) The potential to undermine the viability of urban public transport due to low density development.
- RH 11            Preserve and protect the open character of transitional lands outside of settlements in order to prevent linear sprawl near towns, villages and settlements and to maintain a clear demarcation and distinction between urban areas and the countryside. This will not apply to persons building on family land where another family site is not available to them.
- VRS 1            Facilitate local housing demands together with the provision of local and community services / facilities and local employment opportunities throughout the villages and rural settlements in accordance with the principles of proper planning and sustainable development.



VRS 3 Facilitate sustainable population growth in the identified Rural Settlements with growth levels of up to 20% over the Plan period to cater primarily for local demands. Local demand for rural settlements is defined as persons residing for a period of 5 years within a 10km radius of the site. 'Primarily for local demand' shall be defined as being in excess of 50% of the overall development.

### 5.2.3. Kildare County Development Plan 2023-2029

#### 5.2.4. Section 3.4 Strategic Context:

It is the Policy of the council to:

*HO P2 Accord with the provisions of the National Planning Framework 2018, the Regional Spatial and Economic Strategy for the Eastern and Midland Region 2019 (including the Metropolitan Area Strategic Plan) and the Ministerial Circular relating to Structural Housing Demand in Ireland and Housing Supply Targets, and the associated Section 28 Guidelines: Housing Supply Target Methodology for Development Planning (2020) and make provision for the scale of population growth and housing supply targets outlined in these plans and guidelines.*

5.2.5. The subject site is in the rural area, outside of designated settlements. Chapter 3, Section 3.13 – Sustainable Rural Housing is therefore relevant.

5.2.6. The subject site is identified as an 'Area under Strong Urban Influence' as per Map 3.1 of the KCDP.

In 'Areas under Strong Urban Influence', it will be an objective of the Council to facilitate the provision of single housing in the countryside based on the core considerations of:

- demonstrable 'economic or social' need to live in a rural area and build their home, and

- siting, environmental and design criteria for rural housing in statutory guidelines and plans

having regard to the viability of smaller towns and rural settlements and the provision and availability of serviced sites in these areas.

**5.2.7. Section 3.13.3 Compliance with the Rural Housing Requirements:**

‘Rural generated housing demand will be facilitated having regard, inter alia, to the applicant’s genuine local and housing need, together with the protection of key economic, environmental, natural and heritage assets, such as the road network, water quality, sensitive landscapes, habitats, and the built heritage....’.

Urban generated rural housing, defined for the purposes of this CDP as ‘housing pressure generated by proposals, or an application made for a dwelling in a rural area by persons originating and/or working in urban areas’, will not be considered.

**5.2.8. Section 3.13.3** provides a definition of ‘economic’ and ‘social’ need:

Economic:

A person (or persons) who is (are) actively engaged in farming/agricultural activity on the landholding on which the proposed dwelling is to be built, meeting either of the following:

- (i) A farmer of the land or son, daughter, niece or nephew of the farmer who it is intended will take over the operation of the family farm.
- or
- (ii) An owner and operator of farming/horticultural/forestry/bloodstock/animal husbandry business on an area less than 15ha, who is engaged in farming activity on a daily basis, where it is demonstrated through the submission of documentary evidence that the farming/agricultural activity forms a significant part of their livelihood, including but not limited to intensive farming.

Social

- (i) A person who has resided in a rural area for a substantial period of their lives i.e. 16 years within 5km (Zone 1) or 5km (Zone 2) of the site where they intend to build.

5.2.9. Table 3.4 provides a Schedule of Local Need Criteria in accordance with the NPF (NPO 19)

Applicant Category	Rural housing Need Assessment criteria	
Category A – Economic	Zone 1	Zone 2
<p>A farmer of the land or the son/ daughter/ niece/ nephew of the farmer who it is intended will take over the operation of the family farm.</p> <p>or</p> <p>(ii) An owner and operator of a farming/ horticultural/ forestry/ bloodstock/ animal husbandry business on an area less than 15ha.</p>	<p>A farmer (for this purpose) is defined as a landowner with a holding of &gt;15ha which must be in the ownership of the applicant’s immediate family for a minimum of seven years preceding the date of the application for planning permission.</p> <p>The owner/operator [as referred to in Category A (ii)] must be engaged in that farming activity on a daily basis, as their main employment. Same must be demonstrated through the submission of documentary evidence to include confirmation that the farming/agricultural activity forms a significant part of the applicant’s livelihood, including but not limited to intensive farming.</p>	
Category B – Social	Zone 1	Zone 2
<p>(i) A person who has resided in a rural area for a substantial period of their lives within an appropriate distance of the site where they intend to build on the family landholding.</p>	<p>Applicants must have grown up and spent 16 years living in the rural area of</p>	<p>Applicants must have grown up and spent 16 years living in the rural area of</p>

	<p>Kildare and who seek to build their home in the rural area on their family landholding. Where no land is available in the family ownership, a site within 5km of the applicant's family home may be considered.</p>	<p>Kildare and who seek to build their home in the rural area on their family landholding. Where no land is available in the family ownership, a site within 5km of the applicant's family home may be considered.</p>
--	--	--

**5.2.10. Section 3.13.3 - Relevant Policy / Objectives:**

It is the policy of the Council to:

HO P11 Facilitate, subject to all appropriate environmental assessments proposals for dwellings in the countryside outside of settlements in accordance with NPF Policy NPO 19 for new Housing in the Open Countryside in conjunction with the rural housing policy zone map (Map 3.1) and accompanying Schedule of Category of Applicant and Local Need Criteria set out in Table 3.4 and in accordance with the objectives set out below. Documentary evidence of compliance with the rural housing policy must be submitted as part of the planning application.

It is an objective of the Council to (inter alia):

HO O43 Require applicants to demonstrate that they do not own or have not been previously granted permission for a one-off rural dwelling in Kildare.

**5.2.11. Section 3.13.4 Siting and Design.**

It is the policy of the Council to (inter alia):

HO P15 Preserve and protect the open character of transitional lands particularly the approach roads to towns and villages and areas immediately outside of settlement boundaries in order to prevent linear sprawl near towns, villages and settlements and to maintain a clear demarcation and distinction between urban areas and the countryside and to protect the integrity of the agricultural uses in these areas.

#### 5.2.12. **Section 3.14 Rural Residential Density:**

It is the policy of the Council to:

HO P26: Sensitively consider the capacity of the receiving environment to absorb further development of the nature proposed through the application of Kildare County Councils 'Single Rural Dwelling Density' Toolkit (see Appendix 11) and facilitate where possible those with a demonstrable social or economic need to reside in the area. Applicants will be required to demonstrate, to the satisfaction of the planning authority that no significant negative environmental effects will occur as a result of the development. In this regard, the Council will:

- examine and consider the extent and density of existing development in the area,
- the degree and pattern of ribbon development in the proximity of the proposed site.

It is the Objective of the Council to:

**HO O59:** Carefully manage Single Rural Dwelling Densities to ensure that the density of one-off housing does not exceed 30 units per square kilometre, unless the applicant is actively engaged in agriculture, or an occupation that is heavily dependent on the land and building on their own landholding.

#### 5.2.13. **Section 3.15.1 Domestic/On site Wastewater Treatment Systems**

It is the policy of the Council to:

**HO P27** Require all applications to demonstrate, to the satisfaction of the Planning Authority that the proposed development site can accommodate an on-site wastewater treatment system in accordance with the EPA Code of Practice for Wastewater Treatment Systems for single houses (2021), the County Kildare Groundwater Protection Scheme, and any other relevant documents / legislation as may be introduced during the Plan period.

#### 5.2.14. **Section 3.16 Access and Entrances**

Policy objectives for site access and entrances are contained within Section 3.16 of the CDP.

#### 5.2.15. **KCDP Volume 2 Part 2 Villages and Settlements**

It is a Policy of the Council to

V GP 1 Facilitate local housing demands together with the provision of local and community services / facilities and local employment opportunities throughout the villages and rural settlements in accordance with the principles of proper planning and sustainable development

It is an objective of the Council to

V GO 1: Facilitate sustainable population growth in the identified Rural Settlements to cater primarily for local demands. Local demand for rural settlements is defined as persons residing for a period of 5 years within a 10km radius of the site. 'Primarily for local demand' shall be defined as being in excess of 50% of the overall development.

#### 5.2.16. **Relevant appendices of the CDP include:**

- Appendix 4 – Rural House Design Guide
- Appendix 11 – Single Rural Dwelling Density Toolkit

### 5.3. **Natural Heritage Designations**

The appeal site is not located on or within proximity to any designated site. The closest European site, the River Barrow and River Nore SAC (Site Code: 002162) is located c6.5km to the west.

### 5.4. **EIA Screening**

5.5. Having regard to the nature and scale the development which consists of a single house in an un-serviced rural location, 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**

This is a first party appeal lodged on behalf of the applicant, Ms. Alma Hickey, against the decision of Kildare County Council to refuse permission for development at Narraghmore, Co. Kildare. The grounds of appeal can be summarised as follows:

- Permission is sought for house and associated services on the applicant's family landholding in Co. Kildare.
- The applicant has a particular need to live on this site in terms of working the land and caring for two immediate relatives, one of whom is her father who suffers from several medical conditions.
- Her eligibility for a dwelling in this rural area and on this site, under the rural housing test, was endorsed in the report of the planning officer.
- It would be highly impractical to direct the applicant into the settlement of Narraghmore as the planning authority suggests, given her need to be immediately on hand to care for her father and uncle as well as her daily involvement in the running of the farm.

- The Hickey farm, which comprises a combination of sheep (as well as other animals depending on market demand and other financial factors) and tillage, covers 54ha (135 acres) and is larger than the average recorded for Co. Kildare.
- A detailed list of the daily tasks undertaken throughout the year have been provided. It would not be possible for the applicant to undertake these tasks from a house in Narraghmore.
- Reference is made to Section 4.3 of the Sustainable Rural Housing Guidelines which states that planning authorities should recognize that exceptional health circumstances may require a person to live in a particular environment or close to family support.
- Reference is made to a number of examples where planning permission was granted by KCC for dwellings in the rural area in proximity to settlements including Narraghmore. There is no reason for adopting a different approach in the case of the current application.
- Policy RH11 does not pertain in this case since its text states 'This will not apply to persons building on family land where another family site is not available to them'.
- The availability of housing in Narraghmore (to meet the applicants demand) is limited due to the reduction in the quantum of new residential land in the village following the adoption of the KCDP 2017-2023 and the eligibility criteria which apply to the settlement.
- The following documentation is included with the appeal:
  - Cover letter and planning report prepared by Farry Town Planning Ltd
  - Copies of the applicant's birth and confirmation certificates
  - Letters from Schools attended.
  - Letter of support from Rev. Barry Larkin, Parish Priest
  - Bank and E-flow account statements
  - Correspondence from Revenue



- Motor tax and car insurance documentation
- Correspondence from Dr. K. Kidney and Consultant Professor S.Morris on the health of the applicants father
- Letters of support from the applicant's father, Thomas Hickey and Uncle, Michael Hickey.
- Mobile phone bill
- Land Registry documentation (addressed to Alma Lacey)

## 6.2. **Planning Authority Response**

The planning authority having reviewed the content of the appeal have no further comment to make.

## 6.3. **Observations**

None

## 7.0 **Assessment**

### 7.1. **Introduction**

Having examined the application details and all other documentation on file, and having inspected the site, and having regard to the relevant local and national policies and guidance, I consider the main issues in this appeal are:

- Compliance with Rural Housing Policy
- The Capacity of the Area to Absorb Further Development:
- Wastewater Treatment
- Appropriate Assessment

### 7.2. **Compliance with Rural Housing Policy:**

- 7.2.1. Compliance with rural housing policy is a core consideration for any planning application for a one-off house in a rural area. The application was assessed by Kildare

County Council in accordance with the policies and objectives of the Kildare County Development Plan 2017-2023. The information / documentation submitted in support of the application and the appeal support the applicant's qualification for a rural house at this location, under the rural need assessment criteria set out in the KCDP 2017-2023, In particular: Zone 2 Category 2(ii), as follows:

*Persons who have grown up and spent substantial periods of their lives (12 years) living in the rural area of Kildare, as members of the rural community who have left the area but now wish to return to reside near to, or to care for immediate family members, seeking to build their home in the rural area on the family landholding or on a site within 8km of the original family home.*

- 7.2.2. The Kildare County Development Plan 2023-2029 (KCDP 2023-2029) was adopted by Kildare County Council on the 9th of December 2022 and came into effect on the 28<sup>th</sup> of January 2023 (following the lodgement of this appeal). The applicants need for a new dwelling at this location will therefore be assessed against the rural need assessment criteria of the KCDP 2023-2029. Chapter 3, Section 3.13 (Sustainable Rural Housing) of the Kildare County Development Plan 2023-2029 (KCDP 2023) is relevant in this regard.
- 7.2.3. Section 3.13.3 (Compliance with the Rural Housing Requirements) of current KCDP notes that the Department of Housing, Local Government and Heritage have indicated that new Rural Housing Guidelines are being prepared to address rural housing issues and to take account of the Flemish Decree, the NPF and broader settlement context. In the interim, it is stated that the Local Authority must establish a policy to facilitate those who can demonstrate a genuine housing need and a social and/or economic need to live in rural County Kildare. The policy also clearly stipulates that urban generated rural housing will not be considered.
- 7.2.4. Policy HO P11 of the KCDP 2023 seeks to facilitate, subject to all appropriate environmental assessments, proposals for dwellings in the countryside outside of settlements in accordance with National Planning Framework Policy NPO 19 for new Housing in the Open Countryside in conjunction with the rural housing policy zone map (Map 3.1), the accompanying Schedule of Category of Applicant and Local Need

Criteria set out in Table 3.4 and in accordance with the relevant objectives (i.e. Objectives HO O43 – HO O49) of the Plan.

- 7.2.5. *The National Planning Framework (NPF)* requires as an overall objective in relation to rural housing that a distinction be made between areas under urban influence, i.e., within the commuter catchment of cities and large towns and centres of employment, and elsewhere. As per the rural housing policy zone map (Map 3.1) of the KCDP 2023-2029, the appeal site is located within ‘*Zone 1 - Areas under Strong Urban Influence*’. In ‘*Areas under Strong Urban Influence*’, the KCDP notes that it will be an objective of the Council to facilitate the provision of single housing in the countryside based on the core considerations of: demonstrable ‘economic or social’ need to live in a rural area and build their home, and siting, environmental and design criteria for rural housing in statutory guidelines and plans having regard to the viability of smaller towns and rural settlements and the provision and availability of serviced sites in these areas. This would accord with NPF Policy NPO 19.
- 7.2.6. As noted in the foregoing, an applicant must either have ‘economic’ or ‘social’ need to live in the area to be considered for a one-off dwelling in the rural area of Kildare. A ‘economic’ need is defined as a person (or persons) who is (are) actively engaged in farming/agricultural activity on the landholding on which the proposed dwelling is to be built. ‘Social’ need is defined this as ‘A person who has resided in a rural area for a substantial period of their lives i.e., 16 years within 5km (Zone 1) or 5km (Zone 2) of the site where they intend to build.’
- 7.2.7. As set out in the grounds of appeal the applicant is seeking permission for the construction of a new dwelling in the rural area of Ballybarney based on the fact that she grew up on the 135-acre family farm - in the family homestead, her desire to return to Ballybarney to work the land and, her need to care for two aging relatives, including her father who suffers from ill health. As the applicant has cited both an economic and social need to live in this rural area, I consider both Applicant Categories, A – Economic and B – Social, relevant to this assessment.

7.2.8. *Applicant Category A – Economic*, is defined under Table 3.4 of the KCDP 2023-2029 as either (i) A farmer of the land or the son/ daughter/ niece/ nephew of the farmer who it is intended will take over the operation of the family farm or (ii) An owner and operator of a farming/ horticultural/ forestry/ bloodstock/ animal husbandry business on an area less than 15ha.

7.2.9. In support of her need to reside in the rural area of Ballybarney, the applicant has submitted details of her family land holding along with a description of the farming practices / operations carried out thereon. As per the details submitted, the applicant's family holding comprises 54ha (135 acres) in three separate ownerships:

- The applicant's father, Thomas Hickey, has a holding of c5.52ha, located c1km to the north of the appeal site. These lands appear to include the applicant's original family home (Hickey family home) which is currently occupied by the applicant's father and uncle.
- The applicants' uncle, Michael Hickey Snr, is the owner of c18.2ha of farmland which includes the appeal site.
- The applicant's brother, Michael Hickey Jr., owns the remaining c30ha.

7.2.10. While the applicant has indicated that she is involved in farming activity on these lands, she does not appear to own any land in her own right, nor has it been demonstrated that she is to take over the operation of the farm. Furthermore, the applicant, has not demonstrated that she is the owner/operator of a farming/ agricultural business on these lands as per the qualification criteria under Category A(ii). It is noted from the applicants 'Rural Housing Planning Application Form', the applicant is currently unemployed.

7.2.11. I am satisfied, on the basis of the information available, that the applicant does not have a definable economic need to live in this rural area as per the requirements of the KCDP 2023-2029.

7.2.12. *Applicant Category B - Social*, for Zone 1 is defined as a person who has resided in a rural area for a substantial period of their lives within an appropriate distance of the

site where they intend to build on the family landholding. The policy notes that the applicant must have grown up and spent 16 years living in the rural area of Kildare and who seek to build their home in the rural area on their family landholding. Where no land is available in the family ownership, a site within 5km of the applicant's family home may be considered.

7.2.13. In support of the application, the applicant submitted documentary evidence (birth and confirmation certificates, letters from schools, utility documents etc.) to demonstrate that she resided in the Hickey family home at Bullhill, c1km to the north of the application site, for an 18-year period. Further documentation including bank statements, letters from Revenue, car tax and insurance certification, has been submitted to demonstrate the applicant's relationship with the area after leaving school; however, it is unclear from the information provided if the applicant resided in the family home after leaving school. Notwithstanding, I am satisfied, on the basis of the information / documentation provided that the applicant grew up and resided in this rural area for the requisite period of 16 years and therefore meets the Rural Housing Need Assessment Criteria for Category B as set out in Table 3.4 of the KCDP 2023-2029.

7.2.14. In addition to compliance with the local need criteria set out in Table 3.4, Policy HO P11 also requires proposals for dwellings in the countryside outside of settlements to accord with a number of stated Objectives, namely Objectives HO O43 to HO O49, (inclusive). Objectives HO O46 and HO O47 are I consider relevant in the assessment of this appeal.

7.2.15. HO O46 seeks to '*recognise and promote the agricultural and landscape value of the rural area and to prohibit the development of urban generated housing in the rural area*'. It is noted that for the purpose of the plan, urban generated development is defined as housing pressure generated by proposals, or an application made for a dwelling in a rural area by persons originating and/or working in urban areas.

7.2.16. In accordance with the information / documentation submitted in support of the application and appeal the applicant currently resides in the urban area of Carlow

Town (c35km from the application site) where she purchased a dwelling in 2019. As the applicant is seeking to relocate from her current place of residence in an urban area to a rural area, the proposed development would, in my opinion, constitute urban generated rural housing as per the definition of the plan and would therefore be contrary to Objective HO O46 of the Plan.

7.2.17. In addition to the foregoing, I consider it appropriate to have regard to the provisions of the 'Sustainable Rural Housing, Guidelines for Planning Authorities' which state that in facilitating housing intended to meet rural-generated needs, eligible persons can include inter alia, persons who are an 'intrinsic part of the rural community' which are defined as follows:

*'Such persons will normally have spent substantial periods of their lives, living in rural areas as members of the established rural community. Examples would include farmers, their sons and daughters and or any persons taking over the ownership and running of farms, as well as people who have lived most of their lives in rural areas and are building their first homes. Examples in this regard might include sons and daughters of families living in rural areas who have grown up in rural areas and are perhaps seeking to build their first homes near their family place of residence....'*

7.2.18. Whilst I would accept that the applicant would appear to have previously spent a substantial period of her life residing in this rural area and thus could be considered to form an 'intrinsic part of the rural community', it is of relevance to note that the Guidelines aim to facilitate persons who are building their 'first homes'. As the applicant owns her current place of residence in Carlow Town, she is not developing her 'first home' and therefore in my opinion does not come within the scope of the housing need criteria as set out in the Guidelines.

7.2.19. As per the details set out in the grounds of appeal, the applicants need to return to the rural area is based, in part, on her need to care for her ageing father and uncle who both reside in the Hickey family home, c1km to the north of the appeal site. The applicant has submitted documentation from medical specialists and letters from both

her father and uncle to support her need in this regard. The point is made in the grounds of appeal, that the distance between the applicant's current place of residence and the Hickey family home (which is stated as a 35-mile round trip) would not allow the applicant to provide the required degree of attention to her elderly relatives.

- 7.2.20. Reference is made in the grounds of appeal to Section 4.3 Assessing Housing Circumstances of the Rural Housing Guidelines 2005 which states that '*...planning authorities should recognise that exceptional health circumstances... may require a person to live in a particular environment or close to family support*'. Provision for same is made under Objective HO O47 of the KCDP 2023 as follows:

*HO O47 Recognise that exceptional health circumstances, supported by relevant documentation from a registered medical specialist, may require a person to live in a particular environment. Housing in such circumstances will generally be encouraged in areas close to existing services and facilities and in Rural Settlements. All planning permissions for such housing granted in rural areas shall be subject to a ten-year occupancy condition.*

- 7.2.21. In my opinion, the provisions of both Section 4.3 of the Rural Housing Guidelines and Objective HO O47 of the KCDP 2023 are intended to cater more for the exceptional health needs of applicants rather than the provision of care to family members living in rural areas. Notwithstanding, it is noted that Objective HO O47 states that 'housing in such circumstances will generally be encouraged in areas close to existing services and facilities and in Rural Settlements'.

- 7.2.22. The Hickey family home at Bullhill is located c2km south of the rural settlement of Calverstown and c1.6km to the north of the village of Narraghmore (previously designated a rural settlement under the KCDP 2017-2023). As detailed on Map V2-4.7 of the KCDP 2023, a significant quantum of land, c8.8ha (including 2.05ha for services sites), has been identified for development within the rural settlement of Calverstown. A further c2.7ha of land has been identified for settlement expansion in the village of Narraghmore (Map V2-3-13). Therefore, in my opinion, sufficient land has been made available within the nearby settlements, to meet the housing need of the applicant. In addition, regard is had to the proximity of the appeal site and the site

of the applicant's family home, to the larger settlements of Kildare, Athy, Newbridge, Baltinglass and Dunlavin, all of which are located within 15km of the Hickey family home.

7.2.23. Therefore, on the basis of the foregoing, whilst the applicant would appear to satisfy the eligibility criteria set out in Applicant Category B (i) – Social of Table 3.4 of the Kildare County Development Plan, in my opinion, she does not have a sufficient 'definable social or economic need' which would warrant the development of a further dwelling house in this 'area under strong urban influence' as defined by the 'Sustainable Rural Housing, Guidelines for Planning Authorities, 2005'. Should the Board come to a different decision on this matter, I consider that an occupancy condition restricting occupancy of the house specifically to the applicant should be attached to any grant of permission as set out in Policy HO O45 of the current CDP.

### **7.3. The Capacity of the Area to Absorb Further Development:**

7.3.1. Section 3.14 of the KCDP 2023-2029 relates to 'Rural Residential Density' and notes that national guidelines and Development Plan policy has generally been formulated to manage rural housing to avoid a proliferation of one-off houses, extensive ribbon development, and piecemeal and haphazard development that erode the intrinsic character of the Irish countryside, which is both an economic resource and a tourism asset. When the density or intensity of one-off houses becomes overly concentrated in any one particular area, the rural character of the area is gradually eroded. The intrinsic rural character is gradually transformed into a suburban, peri-rural character.

7.3.2. Appendix 11 of the KCDP provides a 'Single Rural Dwelling Density Toolkit', which allows for the measurement of 'Rural Residential Density' (RRD) at the scale of a square kilometre surrounding the site of a proposed one-off house. The following categories are referenced:

- In general, RRDs of less than 15 units per square kilometre will be acceptable.
- In very enclosed landscapes with well-defined hedgerows and/or mature trees, which would partly screen or enclose one-off houses, RRDs of c. 30 per square kilometre may be open for consideration.



- Where the RRD exceeds 30 units per square kilometre there will be a presumption against further one-off houses, however in certain circumstances the above limits on RRD3 may be exceeded subject to the exceptions outlined in section 3.14 of Chapter 3 of Volume 1.

7.3.3. The planning authority in their assessment of the planning application identified c.23 houses within this general rural area (within c. 500m radius of the site). They considered that if permitted, the proposed development would contribute to the existing high level of piecemeal and haphazard in the area north of the designated settlement of Narraghmore where a significant quantum of land has been indicated for settlement expansion. It is noted that the quantum of land indicated for settlement expansion in the KCDP 2017-2023 has increased from 1.9ha to 2.7ha under the current plan.

7.3.4. Upon reviewing the file, and online mapping systems, I have calculated approximately 25 no. dwellings within a square kilometre of the subject site. The proposed dwelling, if permitted would be the 26<sup>th</sup>, thereby resulting in an RRD per square kilometre that 'may be open for consideration'.

7.3.5. During my physical inspection of the site, I observed the elevated nature of the appeal site and the open nature of the surrounding landscape. While existing hedgerows along site boundaries would provide a degree of natural screening, the area could not in my opinion be classified as a '*very enclosed landscape*'. In addition, I observed the prevalence of one-of rural residential developments in the rural area surrounding the site (rural area to the north of Narraghmore), including but not limited to one-off dwelling houses adjoining either side of the public road. I agree with the opinion of the planning authority that this development if permitted would contribute to piecemeal and haphazard development in this area.

7.3.6. Regard is had to Policy HO P15 of the Kildare County Development Plan which seeks *to preserve and protect the open character of transitional lands particularly the approach roads to towns and villages and areas immediately outside of settlement boundaries in order to prevent linear sprawl near towns, villages and settlements and*

*to maintain a clear demarcation and distinction between urban areas and the countryside and to protect the integrity of the agricultural uses in these areas.*

The proposed development taken in conjunction with existing development in the rural area outside of the development boundary of Narraghmore, would in my opinion result in the extension of suburban sprawl into an unserviced and unzoned rural area that is that is under strong development pressure, and which already has an excessive density of housing development. I recommend that permission be refused on these grounds.

#### **7.4. Wastewater Treatment**

- 7.4.1. Assessment of the wastewater treatment element of a rural one-off house is a standard consideration. I note that Policy Objective HO P27 of the current CDP requires ‘... all applications to demonstrate, to the satisfaction of the Planning Authority that the proposed development site can accommodate an on-site wastewater treatment system in accordance with the EPA Code of Practice for Wastewater Treatment Systems for single houses (2021), the County Kildare Groundwater Protection Scheme, and any other relevant documents / legislation as may be introduced during the Plan period. A Site Characterisation Report was submitted with the application. This report includes the following details:

<b>Table 7.1 - Details from Site Characterisation Report</b>		
Soil type	AminSW Shallow Well Drained Mineral	
Subsoil	Lithosols & Regosols	
Aquifer Category	Poor	
Vulnerability	Extreme	
Groundwater Protection Response	<i>R2 (Acceptable subject to normal good practice. Where domestic water supplies are located Nearby, particular attention should be given to the depth of subsoil over bedrock such that the minimum depths required in Chapter 6 are met and the likelihood of microbial pollution is minimised)</i>	
Slope	Shallow (1:5 - 1:20)	
Groundwater flow Direction	Eastwards towards site boundary	
Ground Condition	Good, firm on top	
Potential targets at risk	Groundwater	
Trial Hole Depth	2.2m	
Percolation Test	Surface (p-Test)	2.56
	Subsurface (T-Test)	6.22

7.4.2. The site characterisation report outlines the results of the trial hole assessment which was carried out in March 2021. The trial hole was dug to a depth of 2.2m. Rock (shale) was encountered at a depth of 1m. The water table was encountered at a depth of 1.5m below ground level. No reference to mottling. The report concludes that site is suitable for development. The report recommends a secondary treatment system and polishing filter with discharge to ground.

7.4.3. The EHO in their report to the planning authority on 14<sup>th</sup> April 2022 requested clarification on the timing of the sub-surface percolation tests which as per the site characterisation form were carried out more than three weeks after the pre-soak. I refer the Board to Appendix D of the EPA Code of Practice 2021 which states that the percolation test hole should be pre-soaked twice from 4 to 24 hours before the start of the percolation test. As per the Site Characterisation Report, the surface percolation tests were carried out on the 23<sup>rd</sup> of March 2022, the day after pre-soaking.

7.4.4. As detailed on the site layout plan, the proposed WWTS is to be located to the northwest of the dwelling. A new well is to be located on-site, c60m to the west of the DWWTs, at a similar gradient. All separation distances appear to accord with EPA guidelines.

7.4.5. Having regard to the information on file and having inspected the appeal site, I am generally satisfied that the Applicant's proposals for the disposal and treatment of wastewater are acceptable. Should the Board be minded to grant permission for the proposed development, I would recommend the inclusion of a condition which shall require the design and installation of the proposed WWTS to comply with the EPA Code of Practice Domestic Waste Water Treatment Systems, Population Equivalent  $\leq$  10 (2021).

## 7.5. **Appropriate Assessment**

The nearest designated site is the River Barrow and River Nore SAC (Site Code: 002162) c6.5km to the west of the site. I note the un-serviced nature of this rural location which means that the site does not benefit from access to public mains drainage or water supply. I also acknowledge the prevalence of agricultural activities and a number of one-off dwellings in the wider vicinity.

7.5.1.1. Despite these factors, I am nonetheless of the opinion that taking into consideration the nature and scale the proposed development, 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 Natura 2000 site.

## 8.0 **Recommendation**

I recommend that the planning application be refused for the following reasons and considerations.

## 9.0 Reasons and Considerations

1.	<p>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, wherein it is policy to distinguish between urban- generated and rural-generated housing needs for dwellings in rural locations.</p> <p>Furthermore the development is located on lands identified as ‘Zone 1 - Areas under Strong Urban Influence’ in the Kildare County Development Plan, 2023-2029 where the provision of single housing in the countryside is based on the core considerations of demonstrable ‘economic or social’ need to live in a rural area and build their home, and siting, environmental and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements and the provision and availability of serviced sites in these areas.</p> <p>On the basis of the submissions made in connection with the planning application and the appeal, including the applicant’s current housing circumstances, the Board is not satisfied that the applicant has a demonstrable economic or social need to live in this rural area or that the housing need of the Applicant could not be met elsewhere in a town or rural settlement. As per the definition of the County Development Plan, the proposed development would constitute urban generated rural housing and would therefore be contrary to Objective HO O46 of the Kildare County Development Plan, 2023-2029 and to the provisions of the “Sustainable Rural Housing Guidelines for Planning Authorities”. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary and to the proper planning and sustainable development of the area.</p>
----	--

2.	<p>Policy HO P15 seeks to preserve and protect the open character of transitional lands particularly the approach roads to towns and villages and areas immediately outside of settlement boundaries in order to prevent linear sprawl near towns, villages and settlements and to maintain a clear demarcation and distinction between urban areas and the countryside and to protect the integrity of the agricultural uses in these areas.</p> <p>The proposed development taken in conjunction with existing development in the rural area outside of the development boundary of Narraghmore, would result in the extension of suburban sprawl into an unserviced and unzoned rural area that is that is under strong development pressure, and which already has an excessive density of housing development. The proposed development would militate against the preservation of the rural environment and would represent an undesirable precedent for further such development in the area. The proposed development would, therefore, contravene the provisions of Policy HO P15 of the Development Plan and be contrary to the proper planning and sustainable development of the area.</p>
----	--

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

---

Lucy Roche  
 Planning Inspector

26<sup>th</sup> April 2023