



An  
Bord  
Pleanála

## Inspector's Report ABP-317226-23

<b>Development</b>	The construction of a detached one and half storey house with single storey element, vehicular entrance off private laneway, septic tank and percolation area, private well and all associated site works.
<b>Location</b>	Silliothill, Kilcullen, Co. Kildare.
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	23/253
<b>Applicant(s)</b>	Elaine O' Hanlon
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission.
<b>Type of Appeal</b>	First Party v Refusal
<b>Appellant(s)</b>	Elaine O' Hanlon
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	07/09/2023.
<b>Inspector</b>	Adam Kearney.

## **1.0 Site Location and Description**

The subject 0.224 Ha site is located in the rural townland of Silliot Hill approximately 2km from the village of Kilcullen in Co. Kildare. The site is located along an agricultural track spur off a cul de sac. There appears to be a large no. of dwellings utilising the same access as is evidenced by a cluster of post boxes at the 'turn in' to the agricultural track. The subject site is part of a larger pasture field and appears higher than the road level. There is mature hedgerow that defines the boundary of the site with the agricultural track with the remaining boundaries undefined.

## **2.0 Proposed Development**

The applicant seeks the construction of a detached one and half storey house with single storey element, vehicular entrance off private laneway, septic tank and percolation area, private well and all associated site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Refuse Permission for the following reasons.

1. The proposed development, by virtue of the siting of the dwelling on a site carved out of a large field, creating the potential for an infill dwelling, requiring more than one new boundary and not locating the dwelling adjacent to an existing cluster of structures, does not accord with the policy HOP12 and the principle of Section 2.3 and 2.4 of the Rural Design Guide Appendix 4 of the Kildare County Development Plan 2023-2029. Accordingly, the proposed development would be contrary to the proper planning and sustainable development of the area.

2. It is the policy of the Council, namely policy HO P11 of the Kildare County Development Plan 2023-2029, to manage the development of one-off housing in the county by requiring Applicants to demonstrate compliance with Table 3.4 of the Plan in terms of local need criteria. It is considered that, based on the information

submitted with the application, the Applicant has not demonstrated compliance with the rural housing local needs criteria as outlined in Section 3.13.3 and Table 3.4 of the Plan. The proposed development would be contrary to Policy HO P11 of the Kildare County Development Plan 2023-2029 and would, therefore, be contrary to the proper planning and sustainable development of the area.

3. Having regard to the level of existing development on the family landholding and the documentation submitted with the planning application, the Planning Authority 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 by one of the existing units within the family landholding or within nearby settlements. It is therefore considered that the proposed development does not meet the housing need criteria for an area under Strong Urban Influence and would result in a haphazard and unsustainable form of development, contrary to National Policy Objectives 19 and 33 of the National Planning Framework, and to the Sustainable Rural Housing Guidelines, issued under S28 of the Planning and Development Act (as amended). 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 planning report is not in favour of the proposal on the basis that the applicant does not have an established housing need to live in the area and the dwelling siting represents arbitrary and haphazard development not in accordance with rural design guidance. The report also highlighted the quantum of dwellings in the area and highlighted unauthorised development.

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

Internal reports from MD engineer, water services, roads and environment offered no objections.

## **4.0 Planning History**

- Ref 22/972: Elaine O' Hanlon refused permission for a dwelling on the site.

- There Local Authority have initiated Unauthorised Development cases relating to dwellings in the vicinity of the proposed site.

## 5.0 Policy and Context

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

**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.

**Zone 1 - Areas under Strong Urban Influence** 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

#### **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.

Section 3.13.3 also 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.

**Objective 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.

**Objective HO P12**

Ensure that the siting and design of any proposed dwelling shall integrate appropriately with its physical surroundings and the natural and cultural heritage of the area whilst respecting the character of the receiving environment. Proposals must comply with Appendix 4 Rural House Design Guide and Chapter 15 Development Management Standards.

## **Objective HO O46**

Recognise and promote the agricultural and landscape value of the rural area and prohibit the development of urban generated housing in the rural area.

### **5.2. Project Ireland 2040 – National Planning Framework (NPF)**

National Policy Objective (NPO) 19 states it is an objective to ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e., within the commuter catchment of cities and large towns and centres of employment, and elsewhere.

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

### **5.3. Sustainable Rural Housing Guidelines for Planning Authorities (2005)**

The subject site is located within an 'Area under Strong Urban Influence' as identified in Map 1: Indicative Outline of the NSS rural area's types in the Sustainable Rural Housing Guidelines for Planning Authorities, 2005. The Guidelines note that in these areas the objective should be on the one hand to facilitate the housing requirements of the rural community, as identified by the Planning Authority in the light of local conditions, while on the other hand directing urban generated development to areas zoned for new housing development in cities, towns, and villages in the development plan.

#### **5.4. Natural Heritage Designations**

Not Relevant

#### **5.5. EIA Screening**

The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

### **6.0 The Appeal**

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

- Applicant states that they have been born and bred immediately adjacent to the site.
- They are involved with the family farming business although working away from the farm.
- Has inherited a site to construct a dwelling.
- Applicant believes they satisfy local needs criteria.

#### **6.2. Planning Authority Response**

In a letter dated the 26/06/23 the Local Authority requested

- The Board is requested to refer to the Planner's Report and Rural Housing Need Assessment, which address the planning matters raised in the appeal.
- The Board is requested to uphold the Planning Authority decision to refuse permission for the proposed development.

#### **6.3. Observations**

- None

#### 6.4. Further Responses

- None

#### 7.0 Assessment

- 7.1. I have read the file and visited the site. The primary issue is the Principle of Rural Housing Need.
- 7.2. The applicant is seeking to construct a dwelling on a site she inherited from her father. The applicant is working with the HSE as a nurse and not working in a rural enterprise or on the family farm although there is reference to involvement with the family farm.
- 7.3. The laneway where the site is located is a peculiar arrangement beginning with an arrangement of letterboxes, which I can only assume are associated with a number of dwelling units unauthorised and the subject of enforcement action. The lane is poorly surfaced and would be similar in form to an agricultural track.
- 7.4. The proposal seeks to site a new detached storey and a half type dwelling along an agricultural access in isolation and the configuration for which runs contrary to design guidelines for rural dwellings as laid out in the County Development Plan.
- 7.5. In terms of the specific dwelling design, the 211 m<sup>2</sup> 'H' configuration layout takes the form of a traditional farmhouse in a more contemporary approach. The design of the dwelling staggered in height from 5 – 7.5m avoids unnecessary bulk and excessive massing. I am satisfied that the dwelling design proposed is acceptable and in accordance with the development plan rural house design guidance.
- 7.6. In terms of housing need the Local Authority have assessed the applicant in accordance with the provisions of Table 3.4 of the County Development Plan 2023 - 2029. This assessment involved an appraisal of personal data. Having reviewed the data I am satisfied that the Planning Authority assessment is correct.

#### 8.0 Appropriate Assessment Screening

Having regard to the nature and scale of the proposed development, to the absence of emissions therefrom, the nature of receiving environment as a built-up urban area



and the distance from any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

## 9.0 Recommendation

I recommend that permission be Refused for the reasons and considerations set out below.

## 10.0 Reasons and Considerations

1.	<p>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 complies with Policy Objective HO P11 and 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. The proposed development would constitute urban generated rural housing and would, therefore, be contrary to Objective HO 046 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>The proposed development, located in isolation along an agricultural access, requiring more than one new boundary and not located adjacent to an existing cluster of structures, does not accord with the policy HO P12 and the principles of Section 2.3 and 2.4 of the Rural Design Guide Appendix 4 of the Kildare County Development Plan 2023-2029.</p> <p>Accordingly, the proposed development would 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.

---

Adam Kearney

Planning Inspector

25<sup>th</sup> October 2023