



An
Bord
Pleanála

Inspector's Addendum Report ABP-317226-23

Development

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.

Location

Silliothill, Kilcullen, Co. Kildare.

Planning Authority

Kildare County Council

Planning Authority Reg. Ref.

23/253

Applicant(s)

Elaine O' Hanlon

Type of Application

Permission.

Planning Authority Decision

Refuse Permission.

Type of Appeal

First Party v Refusal

Appellant(s)

Elaine O' Hanlon

Observer(s)

None.

Date of Site Inspection

07/09/2023.

Inspector

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 northeast of the village of Kilcullen in Co. Kildare. The site is located along an agricultural lane/track spur which in turn is accessed from a cul de sac with a farmyard and a no. of one-off dwellings. There are a 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 lane/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 highlights unauthorised dwelling development that could be used to satisfy the applicants desire for a house in the area.

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.
- The 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 3.13 Sustainable Rural Housing

The NPF and 'Our Rural Future', Ireland's Rural Development Policy 2021-2025', (DRCD, 2021) are clear in their support for the need to plan for sustainable communities and to reinforce our rural communities. These transformative national policy documents set out that this will be achieved through attracting new and existing residents to live in rural areas, to encourage and promote the reuse of vacant homes and to make provision for housing in the countryside for those who demonstrate a need to live in our rural areas.

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.

Appendix 4 Rural Design Guidelines - SITE SELECTION

2.3 - What to Do:

- Applicants should first consider re-using, adapting, or extending existing rural structures where possible in the first instance.
- Explore the idea of clustering a new house with other houses or structures.
- Choose a site with identifiable and well-established boundaries which separate the site naturally from its surroundings. Look for sites with at least two boundaries in situ and preferably three.
- Look for sheltered locations beside woodland, mature hedgerows, lines of trees / shelterbelts.
- Carefully consider the siting and design of the dwelling so as to achieve good passive solar gain.
- Applicants should use existing site features and topography rather than clearing away elements that give the site interest and character.
- It is important to maintain and supplement existing structure planting, boundaries, hedgerows by using recommended species outlined in Section 7, of this document 'Elements of the Landscape'.

Section 2.4 – What to Avoid:

- Prominent / exposed sites or sites that would impinge on a protected landscape or view.
- Impacts on adjoining properties (e.g. overlooking or overshadowing).

- Development located near heritage features, archaeological or protected sites.
- Sites that require more than one new boundary.
- Exposed and open sites. - North facing sloping sites as they are difficult to achieve good passive solar gain.
- Sites carved out of larger fields, as this has a significant visual impact.
- Sites which could lead to the eventual merging of individual settlements and contribute to ribbon development and urban sprawl.

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 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.

5.4. Code of Practice – Domestic Wastewater Treatment Systems (Population Equivalent ≤ 10), 2021.

The purpose of the Code of Practice – Domestic Wastewater Treatment Systems (Population Equivalent ≤ 10), 2021 provides guidance on domestic wastewater treatment systems for single houses or equivalent developments with a population equivalent (PE) of less than or equal to 10. It sets out a methodology for site assessment and selection, installation, and maintenance of an appropriate domestic wastewater treatment system.

5.5. Natural Heritage Designations

There are no European designated sites on or within the immediate vicinity of the site.

5.6. 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 issues that pertain are;

- Compliance with Policy in relation to Rural Housing Need
- Design & Siting
- Water & Wastewater

7.2. **Compliance with Policy in relation to Rural Housing Need**

7.3. Chapter 3 of the Kildare County Development Plan 2023 – 2029 sets out the policy in relation to rural housing. The policy is informed by the Sustainable Rural Housing Guidelines for Planning Authorities (2005) and the National Planning Framework Objective 19.

7.4. As per Map Ref: V1-3.1 The site is located in Zone 1 which is an Area 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

- a 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.

7.5. As the applicant does not own or work full time on the farm or in the rural area, they do not have an economic need and so are seeking appraisal through a social need to reside in the area.

7.6. In terms of the demonstrating a social need the Local Authority require applicant to fulfil the following criteria

- 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.

7.7. The applicant is seeking to construct a dwelling on a site she inherited from her father. The applicant is working as a staff nurse at UPMC Kildare Hospital, Clane, Co. Kildare. In terms of documentation supplied with the application the following are noted

- Birth Certificate with the subject address thereon.
- Letter from local National School stating the applicant was a pupil from 1997 to 2005 and the address at this time was Silliothill, Kilcullen.
- Letter from Secondary school stating the applicant was in attendance from 2005 to 2011 with a different address (applicants' mother) in Newbridge, Co. Kildare.
- Letter from current employer (UPMC). No address provided.
- Copy of redacted bank statement from 2022 with the address Silliothill, Kilcullen
- Letter from local GAA in 2022 stating the applicant is a member and giving the address at Silliothill, Kilcullen.

- Affidavit signed by a solicitor setting out the national school and second level school attendance and stating that every second week at Second Level was spent with her father at Silliothill, Kilcullen.

7.8. From my assessment of the documentation, I see no evidence of a 16-year period at the subject address. The second level school attendance correspondence refers to a home address at a property in Newbridge greater than 5km from site. With regard to the applicants current living arrangements, I believe that a copy of a 2022 bank statement and a note from the local GAA club confirming membership is an insufficient level of documentation to support proof of current address. While I appreciate there is mitigation proffered around alternate weeks with different parents from 2005 to 2011 in an Affidavit, there is no documentary evidence supplied to support this assertion and in the absence of same the Local Authority criteria cannot be deemed to be met. I am satisfied therefore that the applicant has not demonstrated a 'social' need for a dwelling at this location in compliance with the Planning Authority requirements.

7.9. **Design & Siting**

7.10. The laneway along which the site is located is a peculiar arrangement beginning with a cluster of free-standing letterboxes, which I can only assume are associated with a number of dwelling units built along this lane/track and which are referred to as unauthorised, and the subject of enforcement action as set out in the Planners Report. The lane itself is poorly surfaced and would be similar in form to an agricultural track.

7.11. The proposal seeks to site a new detached storey and a half type dwelling along an agricultural access in isolation and taken from a larger field. Appendix 4 of the Kildare County Development Plan 2023 – 2029 sets out the design requirements for rural dwellings and seeks natural boundaries and clustering to lessen visual impact that comes with exposed sites. The site configuration as presented runs contrary to these design guidelines for rural dwellings as the red line area is arbitrarily mapped out from a larger open field and where only one boundary currently exists. This 'carving out' of a site is contrary to Section 2.3 and Section 2.4 of Appendix 4.

7.12. In terms of the specific dwelling design, the 211 m² 'H' configuration layout takes the form of a traditional farmhouse in a more contemporary approach. The design of the dwelling is 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.

7.13. **Water & Wastewater**

7.14. During my visit I noted the land was firm underfoot and there was no evidence of poor drainage. From the application it is proposed to connect to the existing mains water infrastructure for water supply, it is proposed to use a WWTS (Septic Tank & Percolation Area) for wastewater and a soak pit for surface water disposal. The application was accompanied by a Site Characterisation Report (SCR) prepared by a certified and indemnified site assessor, in accordance with the EPA Code of Practice Wastewater Treatment and Disposal Systems serving Single Houses 2021, and following visual assessment, trial hole and percolation tests. The Water Services Section of Kildare County Council had no objections to the proposal subject to conditions and the Environment Section of Kildare County Council had no objections to the proposal subject to conditions. I consider that the site is suitable for onsite wastewater disposal and that mains water infrastructure is available.

8.0 **Appropriate Assessment Screening**

Having regard to the modest nature and scale of development (a single dwelling) and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 **Recommendation**

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

10.0 Reasons and Considerations

- 10.1. 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. On the basis of the submissions made in connection with the planning application and the appeal, 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.
- 10.2. 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. Accordingly, the proposed development would be contrary to the proper planning and sustainable development of the area.

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

26th March 2024