



An
Bord
Pleanála

Inspector's Report

ABP-317471-23

Development	Retention for two structures and permission to link structures to form a house with associated site works
Location	Tuckmilltown, Straffan, Co. Kildare
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	23423
Applicant(s)	Daniel Tougher
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Daniel Tougher
Observer(s)	None
Date of Site Inspection	19 th December 2023
Inspector	Emma Nevin

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.3 ha, is located within the rural townland of Tuckmilltown, which is approximately 2km to the northeast of Kill.
- 1.2. The appeal site comprises two existing single storey structures, which are located to the north-northeast corner of the site. Access to the site is via an existing entrance to the south of the site, which accesses the main road. There is an existing residential dwelling to the east, which is indicated to be in the applicant's overall landholding.
- 1.3. To the north of the site is agricultural lands and the Slane River. There is a garage/type depot located to the west. To the west of the site is a garage/depot.

2.0 Proposed Development

- 2.1. The proposed development comprises the retention of two existing single storey structures which are located to the north-northeastern of the site. The structures to be retained have a stated combined floor area of 139.2 sq. m.
- 2.2. It is proposed to construct a flat roof extension (with a floor area of 19.3 sq. m.) between the existing single storey structures to form a single dwelling (with a floor area of 158.5 sq. m.), comprising four bedrooms, associated bathroom, and open plan living/dining room. Elevation alterations are proposed to the existing clad structures to provide a render finish, the existing roof will be retained, which has an overall height of 4.56 metres.
- 2.3. As part of the ancillary works the existing entrance to the site will be closed with the proposed dwelling accessed via the existing entrance, a wayleave shown in yellow on the proposed site plan.
- 2.4. The existing wastewater treatment system on site will be retained to serve the proposed dwelling.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority refused permission on the 13th of June 2023 for the following reasons:

“1. Policy HO P11 of the Kildare County Development Plan 2023 – 2029 requires 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, that applicant has not sufficiently 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.

2. Policy HOP26 of the Kildare County Development Plan 2023-2029 seeks to sensitively consider the capacity of the receiving environment to absorb further development of the nature proposed through the application of Kildare County Council’s ‘Single Rural Dwelling Density’ Toolkit (See Appendix 11)’ and “examine and consider the extent and density of the existing dwelling in the area”. Having regard to the level of existing development in the wider area, it is considered to allow the retention of the structures and formation of another dwelling at this location would further exacerbate an excessive density of development in this rural area and would further contribute to the erosion of the rural character of the area. Therefore, the proposed development is contrary to Policy HOP26 and Objective HO 059 of the Kildare County Development Plan 2023 – 2029 and to the proper planning and sustainable development of the area.

3. The development, by reason of linking two existing metal clad units to form a dwelling and the finished proposed would form an unorthodox dwelling design. It permitted the development would represent an undesirable precedent to further development of this kind, would be detrimental to the visual amenity of the area, would be contrary to Appendix 4 Rural Housing Design Guide and Policy HOP12 of the Kildare County Development Plan 2023-2029”.

3.2. Planning Authority Reports

3.2.1. A planning Report dated 14th September 2023 has been provided.

3.2.2. The original planning report concluded that *“the applicant has not adequately demonstrated compliance with local need policy of the Kildare County Development 2023 – 2029. There is a high density of rural housing within the wider area, and it is considered that the receiving environment does not have capacity to absorb the proposed development. Finally, it is considered that the design of the development is make-shift in nature and does not comply with Appendix 4 Rural House Design Guide within the Kildare County Development Plan 2023 – 2029”*, and as such permission was refused for three reasons as noted in Section 3.1.1 above.

3.2.3. Other Technical Reports:

- Enforcement: Report received 4th May 2023 stating that the site forms part of a larger landholding, which is subject to significant unauthorised development. The WWTS and percolation area has been installed. No information on file pertaining to what was installed.
- Area Engineer: Report received dated 9th May 2023 requesting further information.
- Environmental: Report received dated 1st June 2023 requesting further information.
- Water Services: Report received dated 23rd May 2023 stating no objection subject to conditions.
- Transportation: Report received dated 18th May 2023 requesting further information.

3.3. Prescribed Bodies

3.3.1. The Planning Authority indicated that the following prescribed bodies were consulted.

- Uisce Eireann: Report received dated 24th May 2023 stating no objection subject to conditions.

3.4. Third Party Observations

None received.

4.0 Planning History

02/1255: Permission refused by Kildare County Council on 2nd December 2003 for dormer bungalow with two storey element, envirocare system and associated site works.

The reasons refusal stated:

“1. Having regard to the availability of a permanent place of residence to the applicant and the absence of any housing need associated with this proposal, it is considered that the proposed development would set an undesirable precedent for the development of random rural housing in a partially serviced area, which would be unsustainable, contribute to ribbon development, and would be contrary to the objective of the Development Plan of channelling housing into designed settlements. The proposed development would therefore be contrary to the proper planning and development of the area.

2. The proposed development is located in a rural area outside any designed settlement or town, where it is the policy of the Planning Authority that residential development be restricted to the current housing needs of agriculture, other restricted categories of person, and to those with a functional need to live in the area, while protecting the area from overdevelopment arising from the random development of such housing. The proposed development, would, if permitted conflict with current County Development Policy on the prevention of random rural development and would contribute to the further encroachment of such development giving rise to an excessive density of residential development in an un-serviced rural area and would therefore be contrary to the proper planning and sustainable development of the area.

3. It is a policy of the County Development Plan, 1999 under Section 2.2 “to ensure the use of resources in a sustainable and environmentally acceptable manner”. The proposed development, located in a rural area, outside any designated settlement or town, is unrelated, to the needs of agriculture, and the applicant has not shown a

sufficient functional need to live in the area. The proposed development, if permitted, would be likely to give rise to the generation of additional traffic movements in the area, and of a demand for public services and community facilities, which it is not economic to provide, and which are not planned. The proposed development would therefore conflict with current County Development Plan policy on the need for sustainable development and would contribute to the further encroachment of such development in this area and would therefore be contrary to the proper planning and development of the area”.

5.0 Policy Context

5.1. Kildare County Development Plan 2023 – 2029

5.1.1. The subject site is in Zone 1, 'Areas under Strong Urban Influence' of the Rural Housing Policy Zones, as per Map 3.1 of the Development Plan.

5.1.2. The following are of relevance:

- Section 3.13 “Sustainable Rural Housing”, which states *“In accordance with the findings of the evidence-based report, the approach outlined below will apply to the Zones identified on Map 3.1.*

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:

o demonstrable ‘economic or social’ need to live in a rural area and build their home, and

o 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.

- Section 3.13.2 “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:

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

o 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”.

- 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*”.
- “*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*”.
- Table 3.4 - “Schedule of Local Need Criteria in accordance with the NPF (NPO 19)”.
- Section 3.15 Environmental and Technical Considerations.
- Section 15.1.6 Appropriate Assessment.
- Section 15.17.4 Natural Heritage, Green Infrastructure and Biodiversity.
- Appendix 4 – Rural Housing Design Guide - ‘When considering building a new home in rural County Kildare, the approach to site selection is crucial.’

This includes refining the location and Applicants considering if they comply with the Rural Housing Policy pertaining to the area.

- Appendix 11 - ‘Single Rural Dwelling Density’ Toolkit - ‘National guidelines and the County Development Plan policy has generally been formulated to manage rural housing to avoid a proliferation of one-off houses, extensive ribbon development, piecemeal and haphazard development...’

‘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.’

5.2. The following policy objectives are also considered to be of particular relevance:

- Policy HO P11 which states; *“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”.*
- Policy HO P12 which states *“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”.*
- Policy HOP26, which states “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 effects¹⁰ 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”.
- Objective HO O59, which states “Carefully manage Single Rural Dwelling Densities to ensure that the density of one-off housing does not exceed 30 units per square kilometre¹¹, unless the applicant is actively engaged in agriculture, or an occupation that is heavily dependent on the land and

building on their own landholding”. 11 The sq. km. shall, in all instances, be measured from the centre point of the application site.

5.3. Landscape, Recreation and Amenity:

The site is located within the Eastern Transition Landscape Character Area, “*Areas with the capacity to accommodate a range of uses without significant adverse effects on the appearance or character of the landscape having regards to localized sensitivity factors*”.

5.3.1. The following policy objectives are considered to be of particular relevance:

- Policy Objective LR O14 “*Maintain the visual integrity of Eastern Transition Lands which have retained an upland character*”.
- Policy Objective LR O15 “*Continue to facilitate appropriate development in the Eastern Transition Lands, in an incremental and clustered manner, where feasible, that respects the scale, character and sensitivities of the local landscape, recognising the need for sustainable settlement patterns and economic activity within the county*”.

5.4. National Planning Framework (NPF)

5.4.1. 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.

5.4.2. NPO 15 seeks to support the sustainable development of rural areas by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.

5.5. **Regional Spatial and Economic Strategy (RSES) - Eastern and Midland Regional Assembly (EMRA)**

5.5.1. The NPF and RSES make a distinction between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and rural areas outside these catchments. In such areas a more flexible approach based primarily on siting and design will apply.

5.5.2. For some rural areas, urban and commuter generated development has undesirably affected the character and cohesion of these locations. Simultaneously, in less accessible rural locations, population levels have declined, and it has been difficult to sustain basic services and community facilities at these locations.

5.5.3. Regional Policy Objective (RPO) 4.80 states that '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.

5.5.4. RPO 4.81 states that 'in rural areas outside the Rural Areas Under Strong Urban Influence local authorities shall encourage sustainable growth in areas that have experienced decline or stagnation, facilitate the provision of single houses 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.

5.6. **Section 28 Ministerial Guidelines**

5.6.1. Sustainable Rural Housing Guidelines for Planning Authorities, 2005

- 5.6.2. The subject site is located within an 'Area under Strong Urban Influence' as identified in Map 1: Indicative Outline of the NSS rural area 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.
- 5.6.3. Circular Letter SP 5/08 was issued after the publication of the guidelines on 30th September 2009. The letter states that all planning applications for houses in rural area, regardless of where the applicant comes from, or whether they qualify under specific criteria, must continue to be determined on the basis of proper planning and sustainable development of the area, in accordance with Development Plan policies regarding overarching environmental concerns, including the protection of natural assets, landscape, siting and design, traffic safety, etc.

5.7. Natural Heritage Designations

- 5.7.1. The subject site is not located within a designated European Site. The closest such site is the Reg Bog SAC (Site Code 000397), which is approx. 7.6km to the north of the site.

5.8. EIA Screening

- 5.8.1. I refer the Board to the completed Form 1 and Form 2 in Appendix 1. Having regard to the nature, size, and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first party appeal has been received; the grounds of appeal are summarised below:

- The applicant was born and has lived in the area all his life, with the family home 80 metres from the application site.
- The required documentary evidence relating to a 'social need' to live in the area, has been submitted with the planning application, which proves the application meets the criteria for social need.
- It is unreasonable that the Development Plan contains a specific policy on social need, yet the social need criteria submitted by the applicant is deemed unacceptable.
- The concerns raised in respect of design are unsubstantiated and relate more to the 'logistics' of covering the existing metal clad units with render rather than the actual visual impact of the proposed development.
- The development is small in scale and form and when completed will reflect a traditional building.
- The question of precedent is unreasonable, as the government supports the conversion of existing buildings into dwellings and is actively promoting this as a form of exempted development for the housing of asylum seekers and international migrants seeking accommodation.
- There is no requirement to keep the trial holes open for inspection by the Environment Section and to do so would render the field unsafe and unusable for a considerable period of time.
- Based on the reports on the Planning file the Transport section did not object in principle to the proposed development and sought additional information.

6.2. Applicant Response

None received.

6.3. **Planning Authority Response**

- 6.3.1. Report received stating that the local authority has reviewed the content of the first party appeal and has no further comment or observation to make.

6.4. **Observations**

None received.

6.5. **Further Responses**

None received.

7.0 **Assessment**

- 7.1. Having inspected the site and considered the contents of the appeal, I consider the main issues which arise in relation to this appeal are as follows:

- I. Single Rural Dwelling Density Toolkit
- II. Compliance with Rural Housing Policy
- III. Design and Form
- IV. Precedent
- V. Appropriate Assessment, and
- VI. Other Matters.

7.2. **Single Rural Dwelling Density Toolkit**

- 7.2.1. Reason for refusal no. 2 included that the development if permitted would “*further exacerbate an excessive density of development in this rural area and would further contribute to the erosion of the rural character of the area*”, and as a result would be “*contrary to Policy HOP26 and Objective HO 059*”.
- 7.2.2. Following site inspection, I note that the surrounding area is characterised by one-off houses, with the exception of the depot to the northwest of the subject site, located along both sides of the main road. Objective HO O59 seeks to manage single rural dwellings, to ensure that the density of one-off houses does not exceed 30 units per

square metre, with a presumption against further one-off houses, except in exceptional circumstances.

7.2.3. Appendix 11 of the Development Plan provides a 'Single Rural Dwelling Density Toolkit'. It states 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. 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 and the critical question, therefore, becomes "at what point does that the character change" i.e., "what is the tipping point"?

7.2.4. Appendix 11 states that one of the evaluation criteria in this regard is the examination of 'Rural Residential Density' (RRD) at the scale of a square kilometre surrounding the site for a proposed one-off house. It reflects the policy approach to rural and one-off houses set out under Section 3.14 of the Development Plan, which is entitled 'Rural Residential Density' and the following categories are referenced: -

- In general, RRDs of less than 15 units per sq. km 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 sq. km may be open for consideration.
- Where the RRD exceeds 30 units per sq. km there will be a presumption against further one-off houses. However, in certain circumstances the above limits on RRD may be exceeded, subject to the exceptions outlined in section 3.14 of Chapter 3 of Volume 1 (of the Development Plan).

7.2.5. Upon reviewing the file, and online mapping systems, I have calculated approximately 41 no. dwellings within a 1km radius of the subject site. I acknowledge that this is a guideline only for helping to determine what constitutes excessive rural housing densities. It is not intended to be a rigid tool and there may be instances where the existing pattern of development may facilitate consolidation of one-off housing; for example, due to the prevailing pattern in the area, local topographical conditions, or in very enclosed country (defined by mature trees and hedgerows). In such instances, a site may potentially have the capacity to absorb an additional

residential unit, without any significant adverse visual, physical, or environmental impacts on the countryside. However, the Plan states that such one-off housing should generally only be facilitated in very exceptional circumstances, and where there is a significant need demonstrated, for example, those actively engaged in agricultural or in an occupation heavily dependent on the land (Objective HO O59 of the Development Plan refers).

7.2.6. The Applicant is not involved in any such occupation, such as intensive farming, animal husbandry, or the like. Therefore, I do not consider that they qualify for the 'very exceptional circumstances' as referenced under Objective HO 059.

7.2.7. As such, I conclude that the proposed development would exacerbate the extent of existing haphazard and piecemeal development in the area and would therefore, be contrary to the Development Plan policy objective HO O59. For this reason, the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area and a refusal is recommended.

7.3. Compliance with Rural Housing Policy

7.3.1. Section 3.13.3 of the County Development Plan details the compliance in relation to rural housing requirements. Specifically, housing will be facilitated based on the applicant's genuine local and housing need, compliance will be demonstrated by means of economic or social need in the context of the rural housing policy and this is a key consideration for any planning application for a single one-off house in a rural area.

7.3.2. The applicant submitted documentation in relation to economic and/or social need and rural housing policy, to the planning authority, however no further details have been submitted as part of the first party appeal, as such I must base my assessment on the requirements of the Development Plan and the information submitted as part of the planning application.

7.3.3. Section 3.13.3 states the following:

"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. Cluster type developments of five houses or less may be considered in rural areas on family farm holdings for applicants who are family members or adjacent to

urban boundaries where no other land is available and comply with the social or economic element of the rural housing policy, where there has not been speculative sale of sites”.

7.3.4. The Planning Authority following their assessment of the information submitted, considered that the information provided did not demonstrate that the applicant does not comply with local need. In examining the information received and the requirements of the Development Plan, I am not satisfied that the applicant has adequately demonstrated that he has resided in the local area for 16 years, as he has not clearly stated where, in the area, that he has lived for the past 16 years, and therefore, has not demonstrate a bona fide need for a dwelling house on this landholding in accordance with the County Development Plan requirements. While I would acknowledge the desire of the applicant to build a new dwelling on the family landholding, in my opinion, this does not amount to a genuine housing need given the circumstances.

7.3.5. Therefore, I consider that the applicant has not demonstrated a social need to live in this location and as such contravenes the rural housing policies of the County Development Plan in particular policy HO P11 and the requirements of Table 3.4. For this reason, the proposed development would, therefore, be contrary to the proper planning and sustainable development of the area and a refusal is recommended.

Should the Board come to a different decision on this matter, I consider that an occupancy condition restricting occupancy of this dwelling house specifically to the applicant be attached to any grant of permission.

7.4. Design and Form

7.4.1. As set out above, the proposed development will result in a new dwelling in this rural area and as such is subject to all normal siting and design considerations, set out under policy HO P12 of the Development Plan. The Kildare Rural House Design Guide contained within Appendix 4 of the Development Plan provides an emphasis on siting and sustainable design for single one-off houses. I also note that the appeal site is located within the Eastern Transition Landscape Character Area, with a Class 2 medium landscape sensitivity rating.

- 7.4.2. The proposed development will link two existing metal clad units by means of a flat roof link to provide one dwelling, and as part of the works the unit will be externally rendered. The existing roof will be retained. The existing fenestration will be maintained with a new window and access to the proposed 'link' extension.
- 7.4.3. The Planning Authority in their assessment considered that the proposed dwelling would form an unorthodox dwelling design, which would be detrimental to the visual amenity of the area and would be contrary to Appendix 4 and Policy Objective HO P12.
- 7.4.4. I note that the Kildare Rural House Design Guide provides guidance on planning a new home in rural Kildare with an emphasis on the importance of siting and good quality sustainable design. The Guide states that;
- “Localities in unique, special, or high sensitivity landscapes may find it difficult to integrate with the surrounding area (e.g., Western Boglands, Eastern Uplands etc.). Design proposals for sites located within sensitive landscapes will need to be of a high standard to integrate with the surroundings without injury to the landscape character”, and.*
- “The success of new houses in the rural landscape is measured by how the architecture of the proposed building responds to its environment and character of the rural area”.*
- 7.4.5. The grounds of appeal states that the concerns raised by the Planning Authority do not relate to the visual impact of the proposed development and notes the scale and traditional design of the proposed structure.
- 7.4.6. While the proposed works will render the external elevation of the existing structures and will form a new 'link' extension, I have concerns regarding the visual appearance of the proposed dwelling, having cognisance to its rural location. I do not consider that the proposed development has been designed in a sensitive manner, which would allow it to integrate sensitively into the rural area and therefore I consider that the dwelling as proposed would have a negative impact on the visual amenities of the area, and as such should be refused for this reason.

7.5. Precedent

- 7.5.1. The appellant states that there can be no undesirable precedent attributed to this development, and that the conversion of existing buildings into dwellings, to provide housing specifically for asylum seekers and international migrants seeking accommodation and refers to exemptions in this regard.
- 7.5.2. I note that all appeal cases are assessed and determined on their own merits having regard to the sensitivity of the receiving environment and the specifics of the proposed development.
- 7.5.3. Notwithstanding, the example cited in the appeal is not considered relevant to the subject appeal, which is for the retention and extension of existing structures on site to provide a single residential unit.
- 7.5.4. The local authority reason for refusal, stated that the “*The development, by reason of linking two existing metal clad units to form a dwelling and the finished proposed would from an unorthodox dwelling design. If permitted the development would represent an undesirable precedent to further development of this kind, would be detrimental to the visual amenity of the area, would be contrary to Appendix 4 Rural Housing Design Guide and Policy HOP12 of the Kildare County Development Plan 2023-2029*”. Having regard to the design and form of the proposal, as noted Section 7.3 above, and its rural location, I consider that if permitted the development would result in an undesirable precedent for the conversion and alteration/extension of similar structures to residential use in the immediate vicinity, which would impact negatively on the visual amenity of this rural location.

7.6. **Appropriate Assessment**

- 7.6.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment and the distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.7. **Other Matters**

7.7.1. **Wastewater**

- 7.7.1.1. The applicant is proposing to connect to the existing wastewater treatment system onsite and to retain the existing wastewater treatment system. A site characterisation report has been submitted as part of the planning application. However, following site inspection, the trial hole was not open for inspection. This was also noted by the Environment Section who stated that insufficient information has been submitted and as such requested further information to reopen the trail holes and that a site suitability report be provided.
- 7.7.1.2. The applicant states that if the trial hole was open, it would render the site unsafe. However, the trail hole should be open to allow for inspection, this can be covered and securely fenced off to ensure it does not create a hazard on site.
- 7.7.1.3. In the event that the Board considers that the proposed development should be granted, a condition regarding the requirements of the wastewater treatment system to be agreed prior to the commencement of development should be included.

7.7.2. **Access and Parking**

- 7.7.2.1. The site is currently accessed via an existing entrance to the south, as part of the proposed works this entrance will be closed and access to the site will be via the existing entrance. A new wayleave is proposed across the existing entrance with a new internal access road to serve the proposed single dwelling, with parking proposed to the front of the proposed single dwelling.
- 7.7.2.2. The existing entrance to be utilised is splayed and is served by electric gates to the front, which are recessed from the main road. This allows the cars to pull in off the main road safely while the electric gates open. While I note that the transportation department have requested further information in relation to sightlines, the existing entrance is established, and is set back from the main road, moreover I do not consider that the intensification of the existing entrance to provide access to the proposed single dwelling would result in a traffic hazard and would be acceptable in principle.

8.0 Recommendation

- 8.1. I recommend that planning permission should be refused for the reason and considerations set out below.

9.0 Reasons and Considerations

- 9.1. Taken in conjunction with existing development in the vicinity, the proposed development would give rise to an excessive density of development in a rural area and would further contribute to the erosion of the rural character of the area. The proposed development would contravene the policy of the Planning Authority, including Objectives HO P26 and HO O59, as expressed in the Kildare County Development Plan 2023 - 2029, which is to manage rural residential density to avoid a proliferation of one-off houses, extensive ribbon development, and piecemeal and haphazard development that erodes the intrinsic character of the Irish countryside, which is both an economic resource and a tourism asset. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- 9.2. Having regard to the location of the site of the proposed development outside of either a defined rural settlement or rural node and within an area designated 'Zone 1 - Areas under Strong Urban Influence' in the Kildare County Development Plan 2023-2029 and in the absence of sufficient evidence 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 and the appeal, that applicant has not sufficiently demonstrated compliance with the rural housing local needs criteria as outlined in Section 3.13.3 and Table 3.4 of the Kildare County Development 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.
- 9.3. The proposed development, be reason of its design and form would not be considered a sensitive design for this rural location and if permitted the development would represent an undesirable precedent for further development of this kind, which would be detrimental to the visual amenity of the area, and would be contrary to

Appendix 4 Rural Housing Design Guide and Policy HOP12 of the Kildare County Development Plan 2023-2029.

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.

Emma Nevin
Planning Inspector

7th February 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	317471-23		
Proposed Development Summary	Retention for two structures and permission to link structures to form a single dwelling house with associated site works		
Development Address	Tuckmilltown, Straffan, Co. Kildare		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>	Yes	X	
	No		
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	
Yes	X	Class 10 Infrastructure Projects (b) (i)	Proposal is significantly below 500 unit threshold
			Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Appendix 1 - Form 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	317471-23	
Proposed Development Summary	Retention for two structures and permission to link structures to form a house with associated site works	
Development Address	Tuckmilltown, Straffan, Co. Kildare	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>Proposal for retention of two structures and permission to extend and link the existing two structures on residential zoned land located in an rural area. However, the proposal is not considered exceptional in the context of the existing rural environment.</p> <p>The proposal will be connected to an existing wastewater treatment system, on site.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>Site measuring 0.302 ha. The proposed floor area will be 158.5 sq. m. The proposal is not considered exceptional in the context of the existing rural environment.</p> <p>There are no other developments under construction in the proximity of the site.</p>	No
Location of the	The appeal site is located c. 7.6km to the north of	No

<p>Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>the Reg Bog SAC (Site Code 000397), however, it is not considered that the development would have a significant impact on the ecological site.</p> <p>The other nearest European site is located above 1km from the site and therefore can be excluded in terms of the potential for effects on other European sites during construction and operational phases of the proposed development.</p>	
<p>Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____

Date: _____

DP/ADP: _____

Date: _____

(only where Schedule 7A information or EIAR required)

