



An
Bord
Pleanála

Inspector's Report ABP-317621-23

Development	Dormer dwelling, garage/fuel store, the installation of new wastewater treatment system with percolation area, vehicular entrance and all associated landscaping and site development works.
Location	Grangebeg, Dunlavin, County Kildare.
Planning Authority	Kildare County Council
Planning Authority Reg. Ref.	221535
Applicant(s)	Sinead Miley.
Type of Application	Permission.
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party v Decision
Appellant(s)	Michael Ryan
Observer(s)	None
Date of Site Inspection	22 September 2023
Inspector	Paula Hanlon

1.0 Site Location and Description

- 1.1. The site subject to this appeal (hereafter referred to as ‘the site’) is located in the townland of Grangebeg, circa 2.8 kilometres north of Dunlavin. The site is accessed off a narrow local road (L6061) which connects with the R412 regional road, c.100m to the west of the site. The speed limit along the serving road is subject to the general 80kmph speed limit.
- 1.2. The site (stated area 0.25ha) forms part of a larger holding which is laid in grass and comprises a single storey low-profile house and temporary storage shed within its northeastern corner, which is in the applicant’s ownership. The house is served by an established vehicular access off the R412 and an agricultural access off the L6061 provides access currently into the associated agricultural lands. 5(no) agricultural sheds are sited on more elevated ground immediately to the rear (east of) established house and appear to be in third party ownership.
- 1.3. The site itself is contained within the southeastern corner of the applicant’s landholding and its generally flat topography is encompassed within lands which gently undulate and fall in a northerly and west direction, with adjoining lands to the east more elevated. The existing boundary treatment is predominantly wood and wire fencing. At time of site inspection, the site was dry and neither site features nor vegetation suggested any drainage issues. The surrounding area is predominantly typified by agricultural lands and a generally dispersed rural settlement pattern. A residential community facility, notably Camphill Grangebeg Community facility is located c. 200 metres to the southeast of the proposed access to this development.

2.0 Proposed Development

- 2.1. The proposed development constitutes the provision of a new four-bedroom dormer dwelling (255m²) on site along with a detached garage/fuel store (105m²), wastewater treatment system and vehicular access. It also includes all associated works including landscaping and site development works. In terms of palette of materials and finishes, the proposed dwelling and associated

garage/store will have nap plaster/render walls and concrete roof tile (or similar approved). The proposed vehicular access off the L6061 sweeps along the eastern side of the site and new hedgerow and tree planting are proposed around the perimeter of the site.

- 2.2. The application was accompanied by the following documentation of note - Details of property ownership; Completed Rural Housing Application Form and associated documentation and Letter of Consent from third party in respect of achieving required sightlines.

3.0 Planning Authority Decision

3.1. Further Information

The Planning Authority requested further information on 23 February 2023 which is summarised as follows:

- Additional documentation demonstrating that no other lands available in the family landholding, land ownership and rationale on site selection.
- Revised proposals on house design.
- Revised vehicular access arrangement to accommodate both the proposed house and agricultural access, sightlines and EV vehicle charge point.
- Additional drainage details.
- Landscaping Plan.

3.2. Decision

By Order dated 23 June 2023, Kildare County Council issued a Notification of decision to grant planning permission subject to 22(no) conditions. The conditions were mainly standard, and the following are of note:

- Development to be carried out in accordance with plans and particulars submitted on 23/12/2022 and 29/05/2023.
- Revised details on house design.
- Ten-year occupancy condition.

- Approval of water connection from Group Water Scheme prior to commencement of works.
- Hedgerow Maintenance so as not to impede sightlines.
- Financial Contribution.

3.3. Planning Authority Reports

3.3.1. Planning Report(s)

Two Planning Reports have been attached to the file. The first report completed on 15/02/2023 recommended that further information be sought in respect of landholding/site selection, design, sightlines, drainage and landscaping.

The second planning report completed 19/06/2023 forms the basis for the decision by Kildare County Council to grant permission. The content of this report deemed the Applicant's response to the further information request to be acceptable and a grant of planning permission was recommended subject to compliance with conditions.

In making this recommendation, the Planner's Report outlined that there was no objection from the Planning Department with respect to details submitted regarding the applicant's landholding and accompanying details provided in justification for proposed dwelling on the subject lands. The report further commented that there was no objection to details provided in respect of the achievement of required sightlines, drainage and landscaping and recommended that a condition be attached to address any outstanding matters raised on design.

3.3.2. Other Technical Reports

Kildare Newbridge Municipal District: No objection subject to conditions (report dated 10/2/23).

Roads Section: Further Information was sought (report dated 1/2/23). A subsequent report dated 15/6/23 outlined that the Roads Section have no objection subject to conditions.

Environment Section: Further Information was sought (report dated 18/1/23). A subsequent report (dated 8/6/23) recommended conditions.

Water Services: Conditions recommended (report dated 11/1/23).

3.3.3. Prescribed Bodies

Irish Water: Report received (dated 3/2/23) stating no objection and that standard conditions be imposed in the event of a connection to a public water/wastewater network operated by Irish Water.

3.3.4. Third Party Observations

The Planning Authority received one third-party submission during the course of their determination. The submission was received from Mr. Michael Ryan (Third-Party Appellant) who resides in the area. The matters raised were premised on the applicant's rural housing need, sightlines and road safety concerns and procedural matters.

4.0 Relevant Planning History

4.1. Appeal Site

22/1506: Proposed dormer dwelling, garage/fuel store and associated works was deemed as an invalid planning application by the Planning Authority.

4.2. Surrounds

- I was unable to identify a record of planning permission attached to dwelling, sited circa 200 metres north of the appeal site and within the applicant's landholding.

- Dwelling to south of the appeal site -

P.A. Register Reference: 20/122 Amendment to planning application 19/7 for the relocation of vehicular entrance (Granted).

P.A. Register Reference: 19/7: Refurbishment and extension of the existing house including conversion of store to habitable accommodation and other associated works (Granted).

5.0 Policy Context

5.1. Kildare County Development Plan 2023-2029.

5.1.1. The Kildare County Development Plan 2023-2029 (CDP) which came into effect 28 January 2023 is the operative Development Plan for the county.

5.1.2. The site is located within a rural area of Co. Kildare. Relevant policies, objectives and standards within the CDP are set out under Housing (Chapter 3) and the Development Management Standards (Chapter 15). The county is classified into two areas for the purposes of rural housing policy, Zone 1 (Areas Under Strong Urban Influence) and Zone 2 (Stronger Rural Areas).

5.1.3. The appeal site is located within Zone 1 (Areas under Strong Urban Influence) and therefore the applicant is required to demonstrate an economic (category A) or social (category B) need to build their home. In this case, the applicant put forward that their planning application is based on compliance with Category B (Social). Table 3.4 of the CDP outlines eligibility requirements which applicants must meet.

A 'Category B' applicant i.e. - 'Social' need in the context of rural housing policy is defined within Section 3.13.3 of the development plan as follows:

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)... 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.

It is a stated policy within the CDP to *‘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... Documentary evidence of compliance with the rural housing policy must be submitted as part of the planning application’* (policy HO P11).

The following policies and objectives are also relevant to the consideration of this appeal: policy HO P12 (siting and design); policy HO P20 (replacement dwellings); objective HO O48 (re-use and adaptation of existing rural residential buildings as a sustainable alternative to new build) and HO O51 (sightlines).

5.2. Sustainable Rural Housing – Guidelines for Planning Authorities

These guidelines state that development plans should facilitate the housing need of the rural community while directing urban generated housing to settlements. The guidelines go on to state that the housing requirements of persons with a link to the rural area should be facilitated in the area it arises subject to normal siting and design requirements.

5.3. National Planning Framework

National Policy Objective 19 of the National Planning Framework (NPF) states the following in relation to one-off rural housing in the countryside:

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. Natural Heritage Designations

The appeal site is not located on or within proximity to any designated Natura 2000 sites or Natural Heritage Areas. Dunlavin Marshes proposed Natural Heritage Area (Site code 001772) are sited approximately 2km to the northeast of this site and Newtown Marshes proposed Natural Heritage Area (Site Code 001759) is approximately 3.8 kilometres west of the appeal site.

5.5. EIA Screening

See completed Form 2 on file. 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

A Third-Party Appeal has been received from Mr. Michael Ryan in relation to the Planning Authority's decision to grant permission. The grounds of appeal reiterate and expand on the matters raised in the Appellant's original observation lodged with the Planning Authority, notably -

The appellant does not accept the Planning Authority's determination that the applicant has a demonstrated rural housing need, given the following -

- The appeal site is part of a larger landholding which contains a three-bedroom dwelling house, within which the applicant and her partner are currently residing.
- A rural generated employment justification for the proposed dwelling has not been stated.
- The appellant considers that a replacement dwelling house or extension to the existing structure would be more appropriate in the context of sustainable development, visual amenity, NPF policies and local policy (HO12, HO13, HO P2, HO P6).
- Procedural matters raised on the non-availability of the applicant's Rural Housing Need application form to third parties.

Concerns are also raised within the appeal with respect to:

- Achievement of sightlines, the appellant refers that there is no legal agreement in place with adjoining landowner.
- Proposed access will not accord with TII Document (DN-GEO-03060) as conditioned in the grant of permission from Kildare County Council.
- The condition of the L6061 local road cannot accommodate proposal.
- Recent crashes and the extent of heavy agricultural vehicles that travel at high speeds on the L6061 highlighted.
- Intensification of existing unauthorised vehicular access.
- Proposal is inadequate to absorb into the landscape due to the overall size on an elevated and exposed site, visible from the R412 regional road and its siting at the roadside (L6061).

Included within the appeal are photographic documentation of the landholding, auctioneer brochure and land registry details.

6.2. Applicant Response

The applicant's response to the grounds of appeal can be summarised as follows:

- The content of cover letter submitted with the planning application clarifies the status of existing dwelling and the rationale for proposed new dwelling. It is outlined that due the prefabricated nature and extent of works required, that the extension and renovation of the applicant's existing dwelling is not an option. The applicant raises further concerns in respect of existing dwelling, including-
 - proximity and disruptiveness arising from noise generated (day and night) within existing complex of agricultural buildings sited circa 20 metres to the rear of the existing dwelling,
 - non-compliance with building regulations.
 - It is stated that the applicant should be afforded the opportunity to locate on the most favourable aspect of the site (away from the complex of agricultural buildings) given substantial labour and costs associated with the build.
- It is iterated that the issue of site access, traffic and associated sightlines was dealt with at planning application stage, notwithstanding, a Traffic Report and associated survey of vehicular movement was undertaken and submitted for the consideration of the Board.
- The applicant refers to proposals for planted screening and house design relative to existing established dwellings within the immediate vicinity.

6.3. Planning Authority Response

A response has been received from the Planning Authority dated 01/08/2023 which confirms its decision and has no further comments or observations to make.

6.4. Observations

None.

6.5. Further Responses

None sought.

7.0 Assessment

Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, site inspection and having regard to the relevant local/national policies, objectives and guidance, I am satisfied that the main issues to be considered are those raised in the Third-Party grounds of appeal and I am satisfied that no other substantive issues arise.

The main issues in determining this appeal are as follows:

- Principle of Proposed Development – Compliance with Rural Housing Policy
- Siting and Dwelling Design
- Site Access and Traffic Safety
- Procedural/Legal.

7.1. Principle of Development – Compliance with Rural Housing Policy

7.1.1. Compliance with adopted policy on rural housing is a key consideration for any planning application for a single one-off house in a rural area and I note that this matter was cited as a primary issue in the grounds of appeal made by the Third-Party Appellant. It is of relevance to highlight in the first instance that the applicant is currently in ownership and residing within a habitable dwelling on this landholding and that the applicant outlined within point 12 of the Rural Housing Application Form that accompanies this application that *'the application is for a new dwelling, not a replacement dwelling'*. In examining the

information received, I consider that the applicant intends on retaining the existing dwelling house within this 8-acre landholding and note that its future occupancy/use is not stated. The applicant is therefore required to demonstrate the extent to which the proposed development, which if permitted, will result in a second dwelling house within the applicant's ownership within an area designated 'Zone 1 - Areas under Strong Urban Influence', is consistent with the provisions of the Kildare County Development Plan.

7.1.2. Section 3.13.2 of the CDP states 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'.

Section 3.18 of the CDP outlines that in determining genuine housing need, *'applicants must not already own or have been permitted a dwelling, save in demonstrable exceptional circumstances'.*

7.1.3. The Planning Authority following their assessment of the information submitted, was satisfied that the applicant met the Rural Housing Need Assessment criteria of Category B(i) - Social. However, I note that the Planning Report made no reference to existing house on the applicant's landholding.

7.1.4. From a review of the available information, it is apparent that the applicant is local to this area. However, based on the information provided and given that the applicant is in ownership and residing within a habitable dwelling house, sited a distance of approximately 200 metres north of the appeal site, I am not satisfied that the applicant has demonstrated a bona fide need for a second dwelling house on this landholding. While I would acknowledge the desire of the applicant to build a new dwelling on their landholding, in my opinion, this does not amount to a genuine housing need given the circumstances.

Therefore, in my opinion, and having examined the documentation submitted, to permit a second dwelling on the applicant's landholding would undermine the key principles of County Kildare's settlement strategy and the 'Sustainable Rural Housing, Guidelines for Planning Authorities, 2005'. I consider that the proposed development would exacerbate the extent of existing haphazard and piecemeal development in the area and would therefore contravene the rural housing policies of the County Development Plan in particular policy HO P11. 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.

7.2. Siting and Dwelling Design

7.2.1. 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 CDP. The Kildare Rural House Design Guide contained within Appendix 4 of the CDP provides an emphasis on siting and sustainable design for single one-off houses. I also note that the appeal site is located within Landscape Character Area 'Eastern Uplands', with a Class 3 high landscape sensitivity rating.

7.2.2. The proposed dwelling (255m²) is 1½ storey in form with an overall height of 6.9 metres and simple A-pitched roof. A double height front projection which would serve a reception/sitting room at ground floor level is centrally positioned along the front elevation and it is noted that the dwelling house is orientated such that the front elevation does not address the public road but rather faces the eastern (lateral) boundary of this site.

7.2.3. The planning authority in their assessment considered that the proposed siting and design would be acceptable subject to revisions to the design of front projection and fenestration of front elevation and a condition was attached

accordingly. The appellant on the other hand however considers that the proposed development due to its overall size and siting would not absorb effectively into the landscape.

7.2.4. I am generally satisfied that the proposed dwelling is in accordance with the policy objectives and design principles included within Policy HO P12, Appendix 4 Rural House Design Guide and Chapter 15 Development Management Standards of the current CDP and it is therefore acceptable having regard to the visual amenity of the surrounding area. However, I consider that the proposed garage/fuel store (105m²) is excessive in terms normal domestic use and therefore I suggest that revised plans demonstrating a floor area not exceeding 40m² in accordance with DM Standard 15.4.13 of the CDP be conditioned in the event that the Board is minded to grant permission for the proposed development. Notwithstanding this, a refusal of permission is recommended as outlined within Section 7.1 of this report.

7.3. Site Access and Traffic Safety

7.3.1. Access to the proposed development will be obtained via a new entrance arrangement onto a local road (L6061). Section 15.7.5 of the CDP refers that sightline requirements are determined by the Council on a case-by-case basis with factors including the type, speed limit and condition of the road taken into consideration.

7.3.2. Following a site inspection and in noting that the Roads Department and District Office, Kildare County Council have no objection to the proposal, subject to conditions and having reviewed the proposals at F.I. stage, I consider that the achievement of TII requirements (DN-GEO-03060) would not be necessary in this instance. I am satisfied that given the comparatively lightly trafficked nature of the serving local road and the likelihood of reduced traffic speeds due to the overall condition, width and alignment that adequate sightlines are available and therefore, the proposed development will not endanger public safety by reason of traffic hazard. In the event that the Board considers that the proposed

development should be granted, the applicant should be conditioned to submit an updated landscaping plan which clearly details proposed roadside boundary treatment to minimise visual impact and enhance biodiversity.

7.4. Procedural/Legal Matters

7.4.1. In terms of procedural matters raised, including the availability of documentation with respect to the applicant's submission on Rural Housing Need and legal consent in the achievement of sightlines, I note that these matters were considered acceptable by the planning authority. I am satisfied that this did not prevent the concerned party from making representations and that sufficient details have been provided to fully assess the planning merits of this appeal. Furthermore, in reference to the establishment of an access onto the L6061 without the benefit of planning permission, I note that such works fall outside of the Board's remit in deciding this application. This assessment represents my de novo consideration of all planning issues material to the proposed development.

7.5. Appropriate Assessment

7.5.1. The nearest European designated sites are Poulaphouca Reservoir SPA (Site Code 004063) sited approximately 8 kilometres northeast of the site and Wicklow Mountains SAC (Site Code 002122) sited approximately 11.7 kilometres southeast of the site. Taking into consideration the nature, extent and scope of the proposed development, separation distance to the nearest European site and to the nature of the receiving environment, with no direct hydrological or ecological pathway to any European site, 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.

8.0 Recommendation

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

9.0 Reason and Considerations

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 demonstrating that the applicant has a genuine and justifiable need for a second habitable dwelling house in this rural area to which the applicant would be in ownership, as well as considering relevant national and local policies and guidance, including National Policy Objective 19 of the National Planning Framework (2018) and the Sustainable Rural Housing Guidelines for Planning Authorities (2005), the proposed development, if permitted 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. Accordingly, this development if permitted would be contrary to policy HO P11 of the Kildare County Development Plan 2023-2029 and 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.

Paula Harlon
Planning Inspector
19/10/2023

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-317621-23		
Proposed Development Summary	Dormer dwelling, garage/fuel store, the installation of new wastewater treatment system with percolation area, vehicular entrance and all associated landscaping and site development works.		
Development Address	Grangebeg, Dunlavin, Co. Kildare		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		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		Class.....	EIA Mandatory EIAR required
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)
		N/A	Conclusion
No			No EIAR or Preliminary Examination required
Yes	X	Class 10 (Infrastructure Projects)	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	X	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____