



An
Bord
Pleanála

Inspector's Report

ABP 320633-24

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| Development | Dwelling house and associated works. |
| Location | Moorefield, Daars North, Sallins. Co Kildare. |
| Planning Authority | Kildare Co. Council. |
| Planning Authority Reg. Ref. | 2460521 |
| Applicant(s) | Barry Moore. |
| Type of Application | Permission. |
| Planning Authority Decision | To Refuse Permission. |
| Type of Appeal | First Party |
| Appellant(s) | Barry Moore. |
| Observer(s) | None. |
| Date of Site Inspection | October 23 rd , 2024. |
| Inspector | Breda Gannon. |

1.0 Site Location and Description.

- 1.1. The site is located in the townland of Daars North, Sallins. Co Kildare. It is located c 3.5km north of Sallins, c 2.5km east of Clane and is accessed by a narrow local road off the Sherlockstown Road. The site is part of a larger area of agricultural land which accommodates a barn, shed, mobile home and a portaloo. At the time of inspection some of the land was used for grazing sheep.
- 1.2. The subject site is located to the rear of the land holding. It is relatively flat and its rear and west site boundaries are formed by hedgerows. To the east the site is separated from the adjacent field by a post and wire fence. The site is surrounded on all sides by agricultural land.
- 1.3. The area is rural in character with residential development in the form of individual dwellings. Ribbon development is prominent along the Sherlockstown Road to the east.

2.0 Proposed Development

- 2.1.1. The proposal is to construct a single-storey dwelling on the site, which has a stated area of 1.5 ha. The house, which would have a gross floor area of 165sq.m, would accommodate 3 no. bedrooms, kitchen/living area, bathroom, office, utility and pantry. The house would have a blue-black slate roof covering and the external walls would be finished in nap plaster.
- 2.1.2. Foul effluent from the house would be treated in an effluent treatment system with final discharge to ground. Water would be from an existing mains supply.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for the development on the grounds that it would be contrary to Policy HO P11 of the development plan. It was concluded that the applicant had failed to demonstrate an 'economic need' for a dwelling in this area in accordance with compliance with Category A (ii) of Economic Need as set out in Section 3.13. of the plan.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning officer's report of 25/7/24 may be summarised as follows:

- Having considered the documentation submitted with the application, the planning authority is not satisfied that the applicant has demonstrated an Economic Need for the dwelling.
- The site is located in an area of 'Low' landscape sensitivity with the capacity to accommodate a wide range of development. Table 13.3 of the development plan indicates that rural housing is compatible in this area.
- Policy HO P26 includes specific policies relating to the density of a rural area. and the capacity of the receiving environment. Policy HO O59 seeks to ensure that the density of one-off housing does not exceed 30 units per square kilometre, unless the applicant is actively engaged in agriculture, or has an occupation that is heavily dependent on the land and building on their own landholding. The application site is within an area that has a rural density of 25 units per square kilometre and as such is contrary to policy HO O59.
- The planning authority consider that the dwelling is consistent with the standards set out in the Rural House Design Guide (Appendix 4 of the Plan).
- Having regard to the rural nature of the site and existing screening, the proposal would not negatively impact on residential amenity in the area.
- The site is accessed off the Sherlockstown Road and no objections to the development subject to conditions have been raised by the Roads Department.

3.3. Other Technical Reports

Environment Section: Noted that the trial holes and percolation tests holes have been filled in and consideration should be given to having them reopened.

Water Services: No objection subject to conditions.

Nass Municipal District Engineer's Report: No objection subject to conditions.

Transportation, Mobility & Open Spaces: No objection subject to conditions.

3.4. Prescribed Bodies

None.

3.5. Third Party Observations

None.

4.0 Planning History

23/60387: Permission refused for a single-storey detached bungalow on the site for a similar reason to that cited in the current application.

23/623: Permission refused for a single-storey extension to the existing agricultural barn for use as seasonal overnight accommodation, installation of a secondary effluent treatment system and associated works on the grounds that it would provide permanent residential accommodation for seasonal use. The planning authority concluded that the proposal constituted inappropriate development in a rural area and would be contrary to Section 9.3 Objective RD O2 of the development plan.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the **Kildare County Development Plan 2023-2029**.

Section 3.13: Sustainable Rural Housing acknowledges the potential for rural settlements but also a continuing need for housing for people who live and work in the countryside. The site is located within an 'Area under Strong Urban Influence' (Zone 1). In these areas it is 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 the provision and availability of serviced sites in these areas.

'Economic' and 'Social Need' is defined in Table 3.4 of the Plan.

Relevant objectives include:

Policy 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 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 application.

Policy HO P26: Sensitively consider the capacity of the receiving environment to absorb further development ...and to facilitate where possible those with a demonstrable social or economic need to reside in the area. Applicants will be required to demonstrate to the satisfaction of the planning authority that no significant negative environmental effects will occur as a result of the development.

Section 3.13.4 Siting and Design requires that all new dwellings respond sensitively and appropriately to the characteristics of the receiving environment.

The site is located within the **Northern Lowlands Landscape Character Area** (Map Ref: VI-13.1), with a 'Low' sensitivity' rating. These are described as areas with the capacity to generally accommodate a wide range of uses without significant adverse effects on the appearance or character of the area.

There are no scenic routes/viewpoints identified in the plan proximate to the site.

Appendix 4 of the plan contains the Rural House Design Guide.

5.2. National Planning Framework

National Policy Objective 15: Seeks to support the sustainable development of rural areas and to manage the growth of areas under urban influence to avoid over-development.

Policy Objective 19: Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence within the commuter catchment of cities and larger 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 small towns and rural settlements.

5.3. Natural Heritage Designations

There are no designated sites proximate to the site.

5.4. EIA Screening

- 5.4.1. Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are summarised as follows:

- The basis for the planning authority's refusal was based economic need (significant part of livelihood), extent to which business has been established and undesirable precedent.

- Economic need – Kildare Co. Council have no policy on what constitutes a significant part of income. The accounts provided with the application show the farming enterprise to be in the higher end of 40% of applicant's income.
- Extent to which the business has been established - The pedigree flock was established in 2019. The flock has been developed to such an extent that Moorefield Texels are genetically linked to at least 10 of the most prolific flock in Ireland, which is achieved through selective breeding and working with Sheep Irelands genetic database.
- Undesirable precedent – Permission was originally sought to construct an extension to the existing barn to provide temporary accommodation during the lambing season and was refused (23/623). The planning officer's report clearly stated that it was considered that the applicant has a justified need for a permanent residential unit on the site. On this basis, and in order to be on site during critical times of the year, it was decided to proceed with the current application.
- A similar application (Ref No 23742) was granted by Kildare Co. Council and upheld on appeal. Ireland has one sustainable industry which is agriculture. Pedigree farmers produce more efficient bloodlines through a natural genetic selection process.

6.2. Planning Authority Response

The planning authority refers the Board to the internal reports and prescribe bodies reports considered in the assessment of the application.

6.3. Observations

None.

7.0 Assessment

7.1. Introduction

Having examined all the application and appeal documentation on file, I consider that the main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise.

I consider, therefore, that the main issues that arise for determination by the Board in relation to this appeal relates to the following:

- Rural Housing Policy
- Other Matters
- Appropriate Assessment

7.2. Rural Housing Policy

7.2.1. The site is located within an 'Area under Strong Urban Influence' (Zone 1) as set out in the development plan. To qualify for consideration for a house in these areas an applicant must demonstrate that they have a demonstrable 'economic or social' need to live in the rural area. The applicant is seeking to build a house in this location on the basis of 'economic need'. He currently resides within the urban Leixlip and does not make a case for consideration under the 'social need' requirements of the development plan.

7.2.2. 'Economic need' is defined in Table 3.4 of the Plan. It includes:

- Category A (i) 'farmers with a landholding of greater than 15 ha in the ownership of the immediate family for a minimum of 7 years, and
- Category A (ii) 'owners and operators of a farming/ horticultural/forestry/ bloodstock/animal husbandry business on an area of less than 15ha'.

7.2.3. The applicant claims that he qualifies for consideration for a house in this rural area under Category A (ii) which states:

'The owner/operator (as referred to in Category 2(ii)) must be engaged in that farming activity on a daily basis, as their main employment. Same must be demonstrated through the submission of documentary evidence to include

confirmation that the farming/agricultural activity forms a significant part of the applicant's livelihood, including but not limited to intensive farming'.

- 7.2.4. Details of the required supporting evidence is set out in the rural housing application form. The information submitted by the applicant includes land registry maps and folio indicating the lands are in his ownership. It also includes letters of grazing arrangements with two other landowners in the locality, business plan, business accounts for 2023, various invoices and confirmation of membership of Irish Texel Sheep Society.
- 7.2.5. The applicant's states that the primary purpose of the proposed dwelling is to enable him to support an existing pedigree Texel sheep farm at Moorefield. He states that a continuous on-site presence is required for the monitoring, management and welfare of the herd, which is particularly critical during the lambing season.
- 7.2.6. The information submitted indicates that the applicant holds a flock of 56 animals, including 39 pedigree texels and 17 half bred sheep. The area of land available is 8.7 ha which includes the subject site and other land in the vicinity. The applicant emphasises the difference in value between pedigree and commercial breeding and the additional time required to ensure the health and welfare of the flock is maintained.
- 7.2.7. In addition to the sheep farm, the applicant also operates a landscaping company (Rye River Landscapes). While the financial accounts submitted indicate that over 40% of applicant's annual income is derived from the sheep farm enterprise, I share the concerns of the planning authority's that the economic need of the applicant has not been adequately demonstrated to justify the provision of a house in this location.
- 7.2.8. The information submitted by the applicant to support his case includes various invoices from animal feed/fodder/bedding suppliers, hardware stores, concrete products, rodent control and veterinary fees. It is unclear in some instances which relate directly to the farming enterprise. The information provided on mart sales suggests little activity on that front.
- 7.2.9. I note that the applicant has only a very small area of grazing land (3.7 acres) in his ownership to support the sheep farm, which would be further depleted by the construction of the proposed house. The applicant is reliant on third parties for the

majority of his grazing land (17.6 acres) with no legal arrangements in place which would guarantee the continued use of this land going forward.

7.2.10. I would also note the lack of facilities on the site to support the farm (pens, sheep dipping facilities etc), the limited size of the barn (which was being used to house two horses at the time of inspection) and the lambing shed. While I do accept that the applicant presence on the site would be required particularly during the intensive lambing period, this would extend over a period of 2-3 weeks which in my opinion is not sufficient to justify a permanent residence on the site.

7.2.11. Based on this assessment, I would concur with the opinion of the planning authority that the applicant has not demonstrated a significant economic need to build a house in this area in accordance with the provisions of the plan.

7.3. Other matters

7.3.1. In terms of visual impacts, the house is in an area of low landscape sensitivity with the ability to absorb development. Having regard to the recessed position of the house, its design, scale and finish, I consider that it can be effectively assimilated into the receiving environment without negatively impacting on the character or visual amenities of the rural area. The proposed house would be well removed from other dwellings in the vicinity which removes any potential for impacts on residential amenity.

7.3.2. Foul effluent from the proposed house would be treated in an effluent treatment system located in an adjacent field. The Site Suitability Assessment has been carried out generally in accordance with the EPA's Code of Practice: Domestic Wastewater Treatment Systems (2021).

7.3.3. The site is stated to be underlain by a 'Locally' important aquifer with a 'Low' vulnerability rating. A trial hole was excavated on the site to a depth of 2.7m and the water table was recorded at 1.3m. The percolation tests indicate soils with slow percolating properties with a surface percolation P test result of 37 and a subsurface result T value of 66. The site was dry underfoot at the time of inspection with no vegetation present that would suggest poor soakage.

7.3.4. The site suitability assessment report states that the appropriate ground water Response is R2 which suggests that the site is generally suitable for an onsite treatment system. It is proposed to install a tertiary treatment system to ensure the

effluent is treated to a high standard prior to discharge to ground. Following primary and secondary treatment the effluent would be pumped to a raised sand polishing filter, which due to the drainage characteristic of the soil would be constructed of imported material ($T < 30$).

7.3.5. The proposed effluent treatment system is designed in accordance with the EPA Code of Practice and satisfies the distance requirements set out in Table 6.2. On the basis that the suitability of the site for the proposed treatment system has been established and the minimum separation to boundaries, roads, dwelling, surface water features can be complied with, I consider that foul effluent from the house can be effectively treated, subject to the system being installed and maintained in accordance with the guidelines.

7.3.6. I do not accept as contended by the appellant that parallels can be drawn between the current proposal and a previous permission granted by Kildare Co. Council (Ref No 23742) which was upheld by ABP (318048-23). This relates to a house in Killybegs, Prosperous, Co Kildare. The applicants were noted to be living in rented accommodation and operated a sheep and equine business on the subject lands. The application was supported by what was considered by the planning authority to be evidence of significant investment in the farm which was accepted goes beyond a 'hobby interest'. I note the quantity of land in the ownership of the applicant was c 11.9 ha, which is significantly larger than the area of ground in the ownership and control of the appellant.

7.3.7. **Note:** There appears to be an error in the planning officer's report relating to compliance with Policy HO O59. As the proposal is stated to be located within an area that has a rural density of 25 square kilometres, the proposal would not be contrary to its provisions.

7.4. **Appropriate Assessment Screening Determination**

7.4.1. I have considered the proposed development, which consists of a dwelling house and effluent treatment system, in light of the requirements S177U of the Planning and Development Act 2000 as amended.

- 7.4.2. The subject site is located in a rural area and the closest European site is Ballynafagh Bog SAC (Site code 000391) and Ballynafagh Lake SAC (Site code 001387), which are located c.10km east of the site.

No nature conservation concerns were raised in the planning appeal

- 7.4.3. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows;

- Nature of works proposed and the limited scale of the development.
- Location of the development and the separation distance to the European sites and lack of connections.
- The screening report carried out by Kildare Co. Council.

I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

8.0 Recommendation

- 8.1. Based on the above assessment, I recommend that permission be refused for the proposed development for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. The site of the proposed development is located within an 'Area under Strong Urban Influence' (Zone 1) set out in the Kildare County development Plan 2023-2029. Within these areas it is the policy of the Council as stated in Policy HO P11 to facilitate the provision of single housing in the countryside based on the core considerations of demonstrable 'economic or social' as set out in the Rural Housing Need Assessment Criteria set out in Category A (ii) Table 3.4 of the Plan. The applicant is seeking a house in this rural area on the basis of 'economic need'. Based on the information submitted in support

of the application and the appeal the Board is not satisfied that the applicant has adequately demonstrated an 'economic need' to reside in this rural area. The Board notes in particular the limited area of land in the ownership of the applicant to support the existing farm enterprise and the lack of legal agreements in respect of the continued use of other third-party lands. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria set out in the plan for the area. The proposed development would, therefore, be contrary to Objective HO P11 of the development plan and 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.

Breda Gannon
Planning Inspector

25th October 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

| | | | | |
|---|--|---|----------------------------------|---|
| An Bord Pleanála Case Reference | ABP 320633-24 | | | |
| Proposed Development Summary | Construction of house, effluent treatment system and associated works. | | | |
| Development Address | Moorefield, Daars North, Sallins. 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 | YES | |
| | | No | No further action required | |
| 2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class? | | | | |
| Yes | | Class 10(b)(i) Infrastructural Projects | EIA Mandatory EIAR required | |
| No | | | 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) | Conclusion |
| No | | | | No EIAR or Preliminary Examination required |
| Yes | | Sub-threshold development | | Proceed to Q.4 |

4. Has Schedule 7A information been submitted?

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| No | No | Preliminary Examination required |
| Yes | | Screening Determination required |

Inspector: _____ **Date:** _____

Form 2

EIA Preliminary Examination

| | |
|---|--|
| An Bord Pleanála Case Reference Number | ABP 320633-24 |
| Proposed Development Summary | Construction of house, effluent treatment system and associated works. |
| Development Address | Moorefield, Daars North, Sallins. Co Kildare. |
| <p>The Board carried 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.</p> <p>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</p> | |
| <p>Characteristics of proposed development (In particular, the size, design, cumulation with existing/proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p> | <p>The development which consists of a dwelling house and effluent treatment system does not require demolition works, does not require the use of substantial natural resources, or give rise to significant risk of pollution or nuisance. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</p> |
| <p>Location of development (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of</p> | <p>The development is situated in a rural area on agricultural land which is abundant in the area. The development is removed from sensitive natural habitats, centres of population and</p> |

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| natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance). | designated sites and landscapes of identified significance in the County Development Plan. | |
| Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation). | Having regard to the modest nature of the proposed development, its location in rural area removed from sensitive habitats/features, likely limited magnitude and spatial extent of effects, and absence of in combination effects, there is no potential for significant effects on the environmental factors listed in section 171A of the Act. | |
| Conclusion | | |
| Likelihood of Significant Effects | Conclusion in respect of EIA | |
| There is no real likelihood of significant effects on the environment. | EIA is not required. | No |
| There is significant and realistic doubt regarding the likelihood of significant effects on the environment. | Schedule 7A Information required to enable a Screening Determination to be carried out. | |
| There is a real likelihood of significant effects on the environment. | EIAR required. | |

Inspector: _____ Date: _____

DP/ADP: _____ Date: _____

(only where Schedule 7A information or EIAR required)