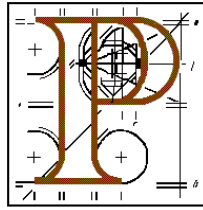

An Bord Pleanála



Ref.: **PL09.244102**

Development: Outline permission for 4 no. houses, permission for site development works and permission for the upgrading of an existing wastewater treatment plant, percolation area and associated site works at Red Hills Estate, Ellistown, Co. Kildare.

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Planning Application:

Planning Authority: Kildare County Council

Planning Authority Ref.: 14/728

Applicant: Liam Eves

20 Type of Application: Outline permission and Planning Permission

Planning Authority Decision: Refuse permission (3 no. reasons)

Planning Appeal

Type of Appeal: First Party

Appellants: Liam Eves

30

Observers: Redhills Park Residents Association.

Inspector: Conor McGrath

Date of Site Inspection: 29/01/2015

1.0 INTRODUCTION

This report relates to a first party appeal against the decision of the planning authority to refuse permission for the proposed development for three reasons. There is one observation on the appeal.

2.0 SITE LOCATION AND DESCRIPTION

10 The appeal site is located at Redhills Park, Ellistown, Co. Kildare, approximately 5.5km northwest of Kildare Town and approx. 4km south of Rathangan. Redhills Park comprises a development of 11 no. detached dormer dwelling. The houses are set back from the public road and generally surround a central area of public open space. The area between housing and the public road, which is landscaped, accommodates the communal on-site wastewater treatment and disposal system. The roads and open space within the development appear to have been completed to a reasonable standard.

The appeal site, with a stated area of 1.636 ha, lies to the rear / east of the completed development and will be accessed over an existing residential cul-de-sac. The site is under grass and the northern and eastern boundaries comprise mature hedgerows. The southern site boundary is currently undefined. The sites of three houses in Redhills Park, numbers 5, 6 and 7 directly bound the appeal site.

20 Ellistown is generally comprised of a loose cluster of houses with no defined village centre or structure. The grounds of Ellistown GAA club lie to the west of the site on the opposite side of the road. The local road running through the settlement links Rathangan with the R445 to the south, the old N7. There is a footpath along the frontage of Redhills Park, however, there are no other pedestrian facilities in this area.

30

3.0 DESCRIPTION OF PROPOSED DEVELOPMENT

The proposed development comprises the following elements:

- Outline permission for 4 no. houses to the rear of the existing housing estate.
- Permission for site development works, including access road and turning circle, drainage, public open space and services.
- Permission for the upgrading of the existing wastewater treatment system and percolation area, which serves the overall Redhills Park development and to which the proposed development is to connect.

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No details with regard to the design or layout of the houses on the sites are provided. It is proposed that the development will be served by a public mains water supply.

3.0 RELEVANT PLANNING HISTORY

3.1 Subject Lands

10 **PA ref. 99/1812:** Outline permission granted to Alro Properties Ltd. for 11 no. houses on the subject lands, on the basis of the designation of Ellistown as a settlement in the County Development Plan.

PA ref. 03/1217: Permission granted to Alro Properties Ltd. consequent to the previous outline permission, for 11 no. detached bungalows, wwtp and associated works.

20 **PA ref. 04/2390:** Permission granted to Liam Eves for a revised house design from bungalow to dormer dwellings on sites 1-11 at Redhills Park, previously approved under ref. 03/1217.

PA ref. 08/2005: Permission refused on the subject appeal site to Eves Construction Ltd. for the development of 3 no. sites for local needs, 3 no. detached dormer bungalows, extension to the existing effluent treatment system and all associated site works. The reasons for refusal were

- Unsustainable pattern of development in the rural hinterland.
- The proposal would constitute suburban development in a rural area contrary to development plan policy.
- Contrary to the rural housing policy of the development plan.
- Impact on the amenities and settlement pattern of the area.

30 **UD6573:** Warning letters issued February 2014 in respect of non-compliance with conditions attaching to PA ref. 03/1217, particularly conditions no. 1, 20,28 – 31 and 43, relating to the design, installation and management of the on-site wastewater treatment plant.

3.2 Adjoining Lands to south

40 **PA ref. 05/1088:** Permission refused to Liam Eves for the development of 6 no. bungalows, 16 no. dormer bungalows, extension of the Redhills Park sewage treatment plant to cater for the additional houses, and site development works.

This application related to lands to the immediate south and southeast of Redhills Park, with separate access from the public road. The five reasons for refusal related to:

- The unsustainable pattern of development and proliferation of private wastewater treatment plants in the area.
- Contrary to the rural settlement policy of the development plan.
- Inappropriate suburban form of development.
- Contrary to development plan policy with regard to local need.
- Public health.

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Other appeal cases in the surrounding area include:

PA ref. 06/597 ABP ref. PL09.218094: Permission refused for a house, wwtp and associate works, southwest of O’Neills Crossroads, on grounds of local need.

PA ref. 12/170 ABP ref. PL09.240627: Permission refused for house, wwtp and associated works on the northern side of Ellistown, on the basis of traffic hazard and public health having regard to the concentration of wastewater disposal systems in the area and the location within the outer source protection zone of a public water supply.

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4.0 PLANNING AUTHORITY CONSIDERATIONS AND DECISION

4.1 Decision

The planning authority decided to refuse permission for the proposed development for three reasons as follows:

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- Policy RH22 of the County Development Plan facilitates small scale clusters of dwellings / serviced sites of not more than 5 housing units in “Rural Nodes”, such as Ellistown. The proposed development does not comprise a cluster of housing units within the meaning of RH22, but would represent an extension to, and the incremental development of, an existing residential development. The development would contravene materially Policy RH22 and would set an undesirable precedent for similar development.
- Policy RH22 seeks to focus the provision of housing units in Rural Nodes for persons complying with the local need criteria of the development Plan. In the absence of evidence demonstrating compliance with the local need criteria, the development is unacceptable and would represent speculative

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development. The proposal would materially contravene Policy RH22 and would set an undesirable precedent for similar development.

- There is on-going and unresolved non-compliance, operational, maintenance and environmental health issues with respect to the existing WWTP serving Redhills Park. The system was not installed in compliance with reg. ref. 03/1217 and 04/2390. The proposed upgrade and intensification of use of the WWTP would be premature and unacceptable and would comprise the alteration of an unauthorised development, would represent a potential risk of pollution and danger to public health, and would set an undesirable precedent for similar such development in the county

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4.2 Internal / Technical Reports

Area Engineer: No objection subject to conditions.

Road Design: No objection subject to conditions.

EHO: There have been on-going problems with the drainage of wastewater and operation of the WWTP in the estate. Additional information required.

Environment: Further information required including a site suitability report and design for the wwtp and polishing filter. A revised site characterisation report should be submitted.

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Water Services: The original application on these lands which is now to be extended was granted against the advice of the Water Services section. Conditions regarding the wwtp and associated management company have not been put in place. Refusal recommended.

Compliance and Unauthorised Development Section: No UD

Planning: The proposal does not represent small scale cluster development and would be contrary rural housing Policy RH22, which does not provide for additional incremental development of existing housing schemes in "Rural Nodes". Dependence on prospective applicants who meet local housing criteria could result in an incomplete construction site adjoining an existing residential development. Compliance with local need criteria has not been demonstrated and the proposal would represent speculative development.

30

The WWTP is not compliance with planning conditions and there is an unauthorised discharge to groundwater. There are operational, management and environmental health issues and further development would be premature. The upgrade of the existing WWTP would comprise the alteration of an unauthorised development. Refusal recommended.

Screening concludes that AA is not required and no potential significant effects on Natura sites are likely.

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4.4 Observations:

The planning authority received two observations on the application:

- **Maureen and Rodney Lakes:** Impact on the condition of the road network and surface water drainage, contribution to flooding in the area.
- **Redhills Residents Association:** This generally reflects the third party observation on the appeal.

10 5.0 FIRST PARTY GROUNDS OF APPEAL

The first party make the following points in their appeal against the decision to refuse permission for the proposed development:

- The appeal outlines the planning history and planning policy context of the proposed development.
- The proposed development would not contravene or compromise the adjoining permitted development.
- The site can physically accommodate this small scheme which would not alter the character of this rural node.
- 20 • The development would avail of existing infrastructure and services and integrate satisfactorily with the existing development.
- The planning authority raised no issues with regard to access, open space, internal layout or relationship with existing housing.
- In the absence of identified adverse effects, permission should be granted.
- The proposed development complies with Policy RH22 on the basis of its scale (4 no. houses) and the adequacy of existing infrastructure provision.
- National planning policy provides for such rural housing. Ellistown is designated as a settlement to facilitate small-scale housing schemes.
- 30 • The planning authority do not appear to accept the role of Rural Nodes as an alternative to rural housing.
- While housing in the rural node has been resisted, one-off housing in the surrounding area has been permitted.
- A restriction on one-off housing would ensure no significant delay in completion of the development pending suitable local occupiers.
- The development would have less impact on views than one-off housing.
- While not defined in the development plan, the boundaries of the Node are likely to be limited, as defined by the planning authority under ref. 00/2280.
- It is not clear that local rural housing could be otherwise accommodated within the settlement.

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- 10
- The planning authority interpretation of RH22 is unduly strict in not providing for incremental development of existing housing schemes.
 - The Board has previously permitted extensions to estates in villages in the county.
 - Compliance with the local need criteria of the development plan is a matter that may be subject to condition, as has occurred elsewhere.
 - The development is required in order to fund remedial works to the WWTP.
 - Permission under ref. 03/1217 required exceptionally high standard of treatment. The upgrade proposals are aimed at addressing existing issues.
 - The planning authority have not assessed the detailed proposals submitted, which were devised in conjunction with the Environment Dept.
 - The site characterisation report concludes that the site is suitable for the proposed WWTP and polishing filter as designed.
 - Notwithstanding comments in PA reports, a management company for the estate was established in 2005.
 - Any issues relating to wastewater treatment and disposal could be adequately addressed by the Board by way of condition, or further information if necessary.

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6.0 OBSERVERS

Redhills Park Residents Group make the following observations on the appeal:

- 30
- There is a history of incremental planning applications on these lands.
 - Two adjacent one acre sites are currently for sale, subject to local need.
 - The site could be accessed over other lands rather than through the estate.
 - Residents funded completion of Redhills Park, rather than the developer, including public lighting, landscaping and maintenance of the septic tank.
 - The area of open space accommodating the wwtp and estate roads should have been transferred to the Redhills Park Management Co. and the right of the applicant to make this application is open to question.
 - The provisions of the Multi-Unit Development Act 2011 apply in this regard.
 - New residents cannot be compelled to become members of the management company, leaving responsibility to fall on existing residents.
 - It is not appropriate to grant permission in order to fund compliance with previous planning conditions.
 - Planning permission and wwtp upgrade are not required to rectify a breach of a planning permission. Rectifying the problems should not be tied into the planning permission.

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- The existing WWTP is not functional at all and is not licenced.
 - There has been no effort to resolve sewerage deficiencies apart from this application, although the deficiencies have been communicated to the developer over a period of years.
 - There is no demand for housing in this area and no local need.
 - The national policy provisions relied upon by the applicants are outdated.
 - Ellistown is designated as a Rural Node rather than Rural Settlement.
 - There are no services or amenities in this location and the existing estate is out of character with the surrounding area.
- 10
- Reference to small scale cluster development in the Development Plan should be easily and clearly understood.
 - The proposal would result in an estate three times the scale of development permissible in a rural node (5 no. houses).
 - The development cannot be viewed as both an extension to an existing estate and as a small, discrete cluster. It cannot be termed infill development.
 - The planning authority have correctly interpreted RH22.
 - The history of one-off permissions granted in the surrounding area identified in the appeal, are not all relevant to this case.
- 20
- The public road is the main HGV route from the N7 to Edenderry and is not suitable for amenity purposes.
 - There have been requests for traffic calming to improve traffic safety.
 - Sightlines to the south of the site entrance are deficient and this stretch of road is subject to flooding.
 - The development may result in an extended period of piecemeal building by individual builders / owners.
 - There is no guarantee of consistency in design with the existing estate.
 - Reference to backland development in Johnstown Village, where there are existing facilities and services is inappropriate.
- 30
- Given the refusal on planning policy grounds, the planning authority were not required to assess the merits of the design and layout of development.

8.0 PLANNING AUTHORITY RESPONSE TO GROUNDS OF APPEAL

Kildare Co. Co. make the following comments in response to the first party appeal:

- The subject application does not represent a small-scale cluster of not more than 5 housing units under Policy RH22. It relates to an extension, and the incremental development of, an existing estate.

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- There are reasonable concerns that the development could result in a partially completed construction site adjoining an existing housing estate.
 - Completion would be dependent on occupiers who meet local need criteria.
 - In the absence of any evidence with regard to local need, the proposal would represent speculative development.
 - The WWTP is not compliant with conditions attaching to reg. ref. 03/1217 and the plant does not have an authorised discharge to ground.
 - The system discharges untreated effluent to ground within a Groundwater Protection Zone, requiring de-sludging twice yearly.
 - 10 • The establishment of the management company remains unresolved due to these difficulties.
 - Further development would be premature given the operational, maintenance and health issues arising with respect to the existing treatment plant.
 - The upgrade of a WWTP comprises the alteration of an unauthorised development and retention permission should be first sought.

9.0 PLANNING POLICY CONTEXT

20 9.1 Kildare County Development Plan 2011–2017

2.5.2 Rural Settlements / Countryside

This Plan recognises the need to protect and support lower order rural settlements and the countryside by recognising the need to accommodate limited growth in accordance with requirements for local housing demands and the needs of genuine rural dwellers.

Ellistown is identified as a Rural Node, the lowest tier in the Settlement Hierarchy. Lackagh / Mountrice approx. 3km to the south east is also identified as a Rural Node. Rathangan is identified as a Small Town, while Kildare is identified as a Moderate Growth town.

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3.4.5 Role of Rural Settlements and Rural Nodes

It is proposed that settlements will develop as local centres for rural catchments with growth appropriate to cater for local demand. Lower densities will be encouraged in appropriate locations to provide alternatives to one-off rural dwellings in the immediate rural area. Expansion will be controlled to minimise pressure on services, the environment and unsustainable commuting patterns.

Rural Settlements have a higher order function than Rural Nodes.

Rural Nodes comprise largely unserved areas with limited social and community infrastructure and will accommodate limited development at a sustainable scale for local demands by way of small scale cluster developments.

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4.12.6 Rural Nodes

Rural nodes comprise largely unserved areas with limited social and community infrastructure. It is anticipated that each rural node can cater for a 10–15% population growth from their current population base over the period of the plan. Rural nodes are designated for limited development at a sustainable scale for immediate local need through the development of clusters.

It is the policy of the Council:

10 **RH 22:** To facilitate the following types of applications for housing in the rural nodes:

- Individual one-off houses subject to applicants meeting the local need criteria identified in the Plan.
- Small scale clusters of dwellings / serviced sites of not more than 5 housing units for applicants / occupants complying with local need criteria and subject to the provision of appropriate physical infrastructure.

RH 23: To encourage design and layouts to have regard to the design principles outlined in Chapter 16, Rural Design Guidelines.

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RH 24: To ensure that all new developments in the rural nodes, particularly cluster development, contribute to and integrate successfully with the existing settlement and to promote the development of central brownfield sites, if existing, as appropriate.

9.2 Regional Planning Guidelines 2010–2022

The strategic planning framework of the RPGs identifies two planning policy zones in Kildare, the Metropolitan Area and the Hinterland Area.

30 Development in the Hinterland Area is to be concentrated in strategically placed, strong and dynamic urban centres absorbing most new population growth in the Hinterland Area and acting as key centres for the provision of services for surrounding smaller towns in rural areas, with all other towns and villages growing at a sustainable and self-sustaining scale.

Urban generated rural housing should be directed to existing settlements, built-up areas or identified lands, through a plan led process.

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9.3 Sustainable Rural Housing Guidelines for Planning Authorities

The Guidelines distinguish between rural and urban generated housing demand. The key development plan objective should be to facilitate the housing requirements of the rural community while directing urban generated development to areas zoned for new housing development in cities, towns and villages in the area of the development plan.

10 The appeal site is located within a Stronger Rural Area. In these areas population levels are generally stable within a well-developed town and village structure and in the wider rural areas around them. This stability is supported by a traditionally strong agricultural economic base and the level of individual housing development activity in these areas tends to be relatively low and confined to certain areas.

The guidelines indicate that in all cases, consideration of individual sites will be subject to satisfying normal planning considerations relating to siting and design, including vehicular access, drainage, integration with the physical surroundings and compliance with the objectives of the development plan in general.

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10.0 ASSESSMENT

10.1 Rural Housing Policy

30 Ellistown is located in a strongly rural area, between the larger towns of Kildare, Monasterevin and Rathangan. The settlement boundaries of this Rural Node are not defined in the development plan and there is no formal settlement structure or community services or facilities, apart from the grounds of Ellistown GAA club. There is no defined speed limit area. Redhills Park is the main built element in the node, which was granted permission in 2003 following an original grant of outline permission in 1999.

Much of the appeal argument is focused on the intent and interpretation of development plan policy RH22. Rural nodes are the lowest tier in the settlement hierarchy. They are intended to accommodate limited development at a sustainable scale for immediate local demand in the form of one-off houses or small-scale cluster developments. Their defined function is more limited than that of Rural Settlements. There is a difference in the level of social and community services and infrastructure which exist in different Rural Nodes. For example, a number of the identified Rural Nodes are provided with a primary

school, including the node of Lackagh / Mountrice, approx. 3km southwest of Ellistown.

The development comprises an extension to an existing estate, Redhills Park, which itself constitutes a significant sub-urban intervention into this rural area. The pattern and form of the estate, being suburban in nature, is at odds with the surrounding pattern of rural housing. I would interpret reference in policy RH22 to a maximum cluster of 5 no. houses as seeking to avoid larger suburban type development. I would concur with the planning authority interpretation that an extension to an existing housing estate, as proposed in this instance, could not be considered to be a cluster of the type envisaged under RH22.

Notwithstanding the precise interpretation of policy RH22, it is the case that there are effectively no community services or infrastructure in this Rural Node. The site is remote from schools, shops and employment. Further development of the nature proposed would therefore constitute an unsustainable pattern of housing in this rural area.

While the development plan does not define any settlement boundary for Ellistown, I note reference in the appeal submissions to the definition of the settlement in a previous planning authority report", under planning reg. ref. 00/2280. This defined the node as extending "*from the cul-de-sac north of O'Neill's Cross roads to the two-storey house which gables onto the main road.*" I would regard this as a reasonable interpretation of the node. Within this area, there are approx. 22 no. dwellings, including Redhills Park. The further expansion or extension of development beyond this area would not be appropriate.

There would appear to be other lands available within the node which would comply with the provisions of RH22. A review of property websites indicates that there are two 1 acre sites for sale immediately to the south of Redhills Park. These have been on the market since October 2011. There are also existing dwellings on the market in the area. There is no evidence of local demand for development of the nature proposed in this case. Permission granted under 99/1812 / 03/1217 did not contain and local occupancy conditions and observations on the appeal indicate that residents of Redhills Park are not local, as defined in the development plan.

I conclude therefore that the further suburban expansion of Redhills Park would contribute to development which is out of scale and character with this rural node

and contribute to an unsustainable pattern of development in an area which is not provided with public services or community facilities.

10.2 Design and Layout

10 The planning application was made in respect of outline permission for four additional houses, as an extension to an existing estate, and planning permission for associated works and services. The site layout plans show only the roads and services associated with the development and the outline of four residential sites. No details are provided with regard to the design and scale of the houses. Subject to the policy issues identified above, I would not regard the proposed layout or means of access to the proposed development as unacceptable in principle. Any concerns with regard to dwelling design and layout could be adequately resolved by condition and at permission consequent stage.

10.3 Public Health

20 The planning application was accompanied by a hydrogeological investigation report for a discharge to groundwater. The cover page of the report is dated July 2014, while the remainder of the report (page footers) are dated August 2009. Accompanying laboratory analysis results are dated August 2009 with supplementary results dated 14/03/2014. The site characterisation report accompanying the report refers to tests carried out on 24/09/2010.

30 The GSI mapviewer identifies the site as lying within the outer source protection zone of the Rathangan groundwater supply. The underlying aquifer is classified by the GSI as a locally important bedrock aquifer (LI), of moderate vulnerability. The submitted report states that site investigations identify local vulnerability as High. The groundwater protection response classification is R2³, based on the matrix for single-houses, acceptable subject to normal good practice.

The existing wastewater treatment plant serving Redhills Park, is identified as an Ecopure 2000 aeration system, with a treatment standard design of 20:30 (BOD:SS). The hydrogeological report advises that based on analysis from 2009, the treatment plant does not achieve compliance with conditions attaching to planning ref. 03/1217, which requires a much higher level of treatment. It is therefore proposed to install a new, upgraded wwtp on the site, with a tertiary polishing filter and discharge to ground.

The site characterisation report indicates that groundwater was not encountered within 6m of the surface. The results of sampling of ground water quality undertaken in 2009 and from an on-site monitoring well in 2014, were within the drinking water parameters. Investigations indicate that the upper soil layers are unsuitable for effluent disposal comprising an impermeable silt layer overlying gravel, under which very rapid percolation rates were identified. The proposals therefore involve removing 1.5m depth of silt and impervious soils to expose the underlying gravel, on which the polishing filter will be constructed.

10 The site characterisation report recommendation is based on a PE of 63, equating to an occupancy rate for each of the fifteen houses of 4.2 persons. Each existing dormer dwelling comprises 270-sq.m. with four double bedrooms and additional study and nursery accommodation. Based on these figures, and assuming a similar house design in the proposed development, the required design pe would be closer to 120. Notwithstanding comments contained in the report, it does not appear that the identified effluent quality from the proposed tertiary polishing filter would achieve compliance with the requirements of condition no. 31 of PA ref. 03/1217.

20 I note that planning authority reports do not assess the adequacy of the proposals contained in the current application for the upgrade of the wwtp. The issues with the existing installed WWTP would appear to be more fundamental than suggested in the hydrogeological report. There would appear to be issues with the actual functioning of the plant and associated pumps, rather than merely not achieving the treatment standards required under 03/1217.

It is the case, however, that development served by an on-site WWTP has previously been granted planning permission and, while the requirements of that permission have not been complied with, it would appear that compliance is technically feasible. The issue therefore is not the suitability of the site per se but the inadequacy of the system put in place to date, which the submitted measures seek to address. I consider, however, that further details would be required before the adequacy of the proposals could be determined, including treatment standards, capacity of the plant and the adequacy of the internal estate drainage network to accommodate flows from the subject site.

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Based on the appeal statements, it is clear that the development is intended to fund remedial works to the existing WWTP, which has not been installed in compliance with the governing planning permission. I would recommend that care should be taken not to link the subject application with such measures,

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where a failure to sell or develop the subject sites could be used as the basis for any lack of action to resolve this important public health issue. The funding of the WWTP upgrade to achieve compliance with the requirements of a previous planning permission, does not constitute an appropriate basis or justification for granting planning permission.

10 The installation of a wastewater treatment system to achieve compliance with the previous grant of permission would not require planning permission and there would therefore be no benefit in granting permission for the wwtp upgrade works, where it was decided to refuse outline permission for the proposed houses.

10.4 Surface Water Drainage

20 The observer's submission raises issues with surface water drainage within the existing Redhills Park development, illustrated by photographs. It is not clear whether this is an issue arising from the design and layout of the drainage network or the impermeability of the upper soil levels. I note that the planning authority raised no issues with the development in this regard. While it is not proposed to connect the proposed development to the existing surface water network, the design should ensure that surface waters are dealt with adequately with the appeal site without impacts on adjoining properties.

10.5 Appropriate Assessment

30 The planning authority carried out a Stage 1 screening assessment of the proposed development. The closest Natura site is the River Barrow and River Nore SAC, located approx. 7km southwest of the site at Monasterevin. Pollardstown Fen SAC lies approx. 7.8km to the east. The Grand Canal NHA, although not a Natura Site, lies approx. 3.3km to the west.

The screening report concludes that having regard to the lack of identified potential impacts on habitats and birds, the proximity of the nearest SAC, the proximity of the nearest watercourses and the relatively small-scale nature and extent of the proposal, it is not considered that a potential exists for significant effects on the Natura 2000 Network.

I would generally concur with the conclusion of the planning authority, having particular regard to the qualifying interests of the identified Natura sites, to the separation between the development and these European sites, the lack of direct

hydrological connections therewith, and the overall scale of development proposed.

I do not therefore consider that a requirement to undertake Stage II appropriate assessment arises in this instance.

10.6 MATERIAL CONTRAVENTION

10 Reasons no. 1 and no. 2 of the planning authority decision to refuse permission in this case state that the proposed development would materially contravene Policy RH22 of the County Development Plan. S.37(2)(a) of the 2000 Act, as amended, states that the Board may grant permission even if the proposed development contravenes materially the development plan.

S.37(2)(b) states that where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with *paragraph (a)* where it considers that—

- (i) The proposed development is not of strategic or national importance,
- (ii) There are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- 20 (iii) Permission for the proposed development should be granted having regard to regional planning guidelines for the area, guidelines under [section 28](#) , policy directives under [section 29](#) , the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- (iv) Permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

30 Having regard these matters, I would comment as follows:

- (i) The proposed development by reason of its nature and scale, cannot be considered to be of strategic or national importance.
- (ii) The appeal submission argues that the planning authority interpretation of Policy RH22 is incorrect.

As noted above, Development Plan Policy RH22 clearly refers to small scale clusters of dwellings / serviced sites of not more than 5 housing units. The subject development clearly does not comprise a small cluster, rather it is an extension to an existing estate. Such developments are fundamentally different in character. This interpretation is read in line with

40 the overall policies of the development plan for Rural Nodes. Accepting the

interpretation of the appellants would provide for on-going extension to the estate with no limits on its scale. I do not consider that the policy is unclear or in conflict with other provisions in the plan.

RH 22 refers to applicants or occupants complying with local need criteria. This could be interpreted as providing for occupancy conditions to be applied to permitted development in order to meet the requirement of the policy. I do not therefore consider that this aspect of the policy is so clearly stated insofar as the proposed development is concerned.

- 10 (iii) There are no specific provisions in any regional planning guidelines, guidelines under section 28, policy directives under section 29, statutory obligations or any other national or governmental policy which would indicate that permission should be granted in this case.
- (iv) There is no established precedent for development in this area which would require that permission should be granted for the proposed development. I note the planning history relating to Redhills Park in this regard.

I therefore consider that having regard to the criteria set out in sub-section 37(2)(b), the Board would be precluded from a grant of permission in this instance.

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11.0 RECOMMENDATION

Having regard to the foregoing I recommend that the decision of the Planning Authority be upheld in this instance and that permission be refused for the proposed development for the reasons and considerations set out below:

Reasons and Considerations:

- 30 The appeal site is located in the Rural Node of Ellistown, wherein the rural settlement policies of the Development Plan, and in particular Policy RH22 apply. The development plan provides for the limited development of such Rural Nodes at a sustainable scale for immediate local need through the development of individual one-off houses or small scale clusters of dwellings / serviced sites of not more than 5 housing units. The policies of the development plan in this regard are considered to be reasonable.

- 40 It is considered that the proposed development would comprise an extension to an existing suburban estate within this rural node and would not constitute a small-scale cluster as defined in the development plan. Taken in conjunction with existing and permitted development, the proposed development would give

rise to an excessive scale of development in this Rural Node which is deficient in public services and community facilities. It is therefore considered that the proposed development would constitute an unsustainable form of development contrary to the policies and objectives of the Development Plan for the area and would lead to demands for the uneconomic provision of further public services and facilities in an area where these are not proposed. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

10

Conor McGrath
Inspectorate