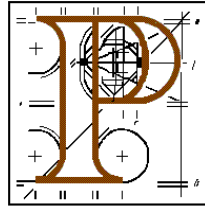


An Bord Pleanála



Inspector's Report

FILE REFERENCE

PL09.245471

Location:

Barberstown Upper, Maynooth, Co. Kildare

Proposed Development:

Construction of a house, garage and effluent treatment system and all associated site works.

APPLICATION DETAILS

Applicant:

Phillip Farrelly

Planning Authority:

Kildare County Council

P.A. Reference:

15/525

P.A. Decision:

Refuse Permission

APPEAL DETAILS

Appeal Type:

First Party against Refusal

Appellant(s):

Phillip Farrelly

Observer(s):

Emer Farrelly

Prescribed Body:

Department of Arts, Heritage and the Gaeltacht

INSPECTOR

Sarah Moran

Date of Site Inspection:

7th January 2016

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The site is located in an unserved rural area to the south of Maynooth, Co. Kildare. It is accessed via a local road off the R406 Barberstown to Straffan road. This is an area of significant development pressure due to its proximity to the settlements of Straffan, Maynooth and Celbridge and to its accessibility to Dublin via the M4. There is a substantial amount of scattered one off housing in the vicinity and the site is at the western edge of a concentration of houses associated with the nearby junction of the R406 and the local road serving the site. There are 3 no. houses to the east, between the site and the R406 junction. There is another large house across the road from the site. O.S. maps and aerial photographs indicate a gravel pit on the southern side of the public road, to the west of the subject site.
- 1.2 The site has an L shape, with a narrow road frontage as it wraps around an existing residential property to the immediate east. The rear area is occupied by stables/sheds and the remainder of the site is used as a horse paddock. The site has a total stated area of 0.2237 ha. There is a sand pit to the immediate west. The site is bound by low hedging and fences.
- 1.3 There is a Recorded Monument, ref. KD010-020, a burial, c. 30m to the north of the site on the opposite side of the public road (see enclosed map).

2.0 PROPOSED DEVELOPMENT

- 2.1 Permission is sought to construct a dormer dwelling (291 m²) and detached garage (48m²). The proposed house has a ridge height of 7.2m. It is located in the rear of the site, with access via the existing vehicular entrance. The development would be served by a proprietary treatment system.

3.0 PLANNING HISTORY

- 3.1 The following recent planning history relates to the development site.
- 3.2 **02/1483** Permission was refused to Noel Forster to construct a dwelling and percolation area at the site for 3 no. reasons relating to haphazard pattern of development, visual obtrusion, unsustainable development in an unserved rural area, excessive density of development in a rural area.
- 3.3 **03/435** Permission refused to Noel Forster for a bungalow and wastewater treatment unit at the site for similar reasons to 02/1483.
- 3.4 **03/1617** Permission refused to Noel Farrelly for a house and wastewater treatment system on this site.
- 3.5 **03/1639 PL09.209827** Relating to part of the development site (0.2 ha). Permission sought by Noel Forster to construct a 2 bed bungalow (65.8 m²) with septic tank wastewater treatment. The PA granted permission subject to

conditions. This decision was appealed by a third party. The Inspector's report on file recommended refusal for the following reasons:

1. *Having regard to the existing pattern and density of development in the area, the limited road frontage and the location of the proposed house to the rear of an existing residential site, the proposed house would constitute undesirable back land development, which would be visually obtrusive, out of character with the prevailing pattern of development in the area and it would seriously injure the rural amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
2. *The proposed house would contribute to ribbon development along a rural road, which would give rise to a demand for the uneconomic provision of public and community services. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*
3. *Having regard to the proliferation of wastewater treatment systems in the area, the inadequate separation distances between the proposed wastewater treatment system and the proposed house, and the existing treatment systems and wells in the vicinity, the proposed development would be prejudicial to public health. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

The Board decided to refuse permission for the following reason:

Having regard to the proliferation of wastewater treatment systems in the area, the filled nature of the ground on site, the widely varying soil test results submitted and the inadequate separation distances between the proposed wastewater treatment system and the proposed house, other treatment systems in the vicinity and the spring well on adjoining property, the proposed development would be prejudicial to public health and present an unacceptable risk of pollution. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

The Board Order stated:

The Board did not agree with reasons for refusal nos. 1 and 2 given by the Inspector as it accepted that the applicants housing need complied with the criteria in the Development Plan and the Rural Housing Guidelines.

- 3.6 **05/1870** Permission sought by Noel Forster for a bungalow and wastewater treatment unit at the site. The application was withdrawn.
- 3.7 **13/685** Permission sought by Declan Geraghty for a bungalow, garage and effluent treatment system at the site. The application was withdrawn.

- 3.8 **PL09.RL2170** This relates to lands to the west and south of the development site, extending as far as the R406 to the south. There was an enforcement history relating to the alleged unauthorised dumping of builders rubble and household waste in this area. The PA refused to issue a section 5 declaration of exemption in relation to land reclamation works at the site, ref. ED80 and initiated unauthorised development proceedings under UD3416. The Board concluded that the land reclamation works in question constituted a material change of use, constituted development and that the land is not used only for the purpose of agriculture or forestry.
- 3.9 **15/815** Michael Geraghty Jnr has sought permission to construct a bungalow on lands to the immediate west of the subject site. The PA sought further information on 5th November 2015, a response was received on 8th December 2015. The decision remains pending at the time of writing.

4.0 PLANNING AUTHORITY DECISION

4.1 Technical Reports

- 4.1.1 Area Engineer report 7th July 2015. Recommends conditions.
- 4.1.2 Water Services 10th July 2015. Recommends conditions
- 4.1.3 Irish Water 17th July 2015. No objection.
- 4.1.4 Roads and Transportation 27th July 2015. Further information for details of sight lines at entrance, letter of agreement from adjoining landowner to achieve same.
- 4.1.5 Environment Section 4th August 2015. No objection subject to requirements.
- 4.1.6 Planning report dated 13th August 2015. Notes the planning history of the site and also that the applicant was refused permission for a house on a site in Donadea, ref. 02/610. Refusal reason no. 1 detailed that the applicants already had a house c. 2 miles from that site. Considers that the applicant does not comply with development plan rural housing policy as he is not from this rural area. Recommends refusal on grounds relating to lack of compliance with development plan local need criteria; negative visual impact due to design and height relative to the public road; contravention of development plan policy RH5, development would exacerbate haphazard and piecemeal development of a rural area. An additional comment by the Senior Planner notes that the vehicular entrance would not have adequate sight distances.

4.2 Third Party Submissions

- 4.2.1 The PA received 2 no. third party submissions. The residents of the adjoining property objected on grounds relating to overlooking, proximity of wastewater treatment system to their property, inadequate details of boundary treatment. Another local resident objected on grounds relating to the previous refusal on

the site by the Board, potential hazard associated with land reclamation works at the site and inadequate boundary details.

4.3 Decision

- 4.3.1 The PA refused permission on 14th August 2015 for 4 no. reasons relating to non-compliance with development plan local need criteria; negative visual impact and non-compliance with development plan rural design guidelines; non-compliance with Development Plan policies RH5 and RH11; traffic hazard due to inadequate sight distances at entrance.

5.0 FIRST PARTY APPEAL

5.1 The main points made may be summarised as follows:

- The PA has misinterpreted the local need policy of the County Development Plan.
- The applicant complies with rural housing need policy as set out in the *Sustainable Rural Housing Guidelines* and the current Kildare County Development Plan. Relevant particulars as required by the PA were submitted with the application.
- The appeal refers to several discrepancies in the planning report on file. It is submitted that the applicant's family have obtained permission for housing in the area based on local housing need. Permission was granted to the applicant's sister, ref. 99/1456.
- The proposed house is consistent in size and height with the permitted houses around it. A variety of house design types have been permitted in Kildare. The proposed house is c. 35m from the public road and the finished floor level would be c. 250mm above the existing ground level. The house adjacent to the site belongs to the applicant's sister, who has not objected to the proposal. It has a comparable ridge height (6.9m) and floor area, area (323m²). It is submitted that the proposed house complies with development plan rural housing design policy.
- The appeal notes that 2 no. houses were granted permission behind an existing house on a site c. 400m to the north of the subject site, which had unusual design features.
- The proposed house would not overlook any adjacent residential property.
- Landscaping proposals submitted with the application seem to have been ignored by the PA.
- A redesigned house could easily be accommodated at the development site if the Board is minded to grant permission subject to conditions requiring same.
- The Inspector's report of PL09.209827 recommended refusal for reasons relating to undesirable back land development and to ribbon development, however the Board refused permission for one reason only, i.e. inadequate wastewater treatment. This issue is addressed in the current proposal. The Environment Department of the PA has no objection to the proposal. It is submitted that the Board did not agree with the refusal reasons recommended by the Inspector and accepted that the applicant's housing

need complied with the criteria in the development plan and the Rural Housing Guidelines.

- Development plan policy RH11 does not apply in this instance as the development site is not close to urban centres and settlements and is not on the edge of a village or town and is not served by public transport. Straffan, Clane and Maynooth are 3km, 7km and 5km from the site and the area is not suburban. It is predominantly rural and has been allowed to develop in its current state by the planning authority. The principle of permission was established under PL09.20987, which was refused for reasons relating to wastewater treatment only.
- Sightlines are adequate at the development site. Photographs are submitted, the appeal states that these indicate safe and attainable sightlines at the site entrance. The excessive requirement for 150m sightlines would be unattainable to all houses on the road. Those houses attained permission within the lifetime of the implementation of the DMRB. The Inspector's assessment of available sight lines in the report of PL09.209827 is noted.

6.0 RESPONSE OF PLANNING AUTHORITY

6.1 The following main points are made:

- The applicant has no case for compliance with development plan policy on local housing need. No land registry details are provided. As the planning history of the area highlights, the lands have been in the ownership of the Forster family and not that of the applicant. The applicant is not from this rural area, nor has he spent a substantial period of his life living in this area.
- From a planning history search, it appears that the applicant applied for planning permission for a house in a rural area in 2002 and was refused, reg. ref. 02/610. Philip and Sinead Farrelly sought permission for a bungalow and effluent treatment system on a site at Fanaghs, Tirmoghan, Donadea, Co. Kildare. The application form detailed that the applicant Philip Farrelly was a resident at Old Rail Park, Maynooth. Previous residences are given as Brookfield Park, Maynooth and Royal Meadows. Refusal reason no. 1 detailed that the applicants did not have a housing requirement as they already had a house c. 2 miles from the site.
- The rural design guidelines in the development plan refer to key principles for good house design, namely a simple uncomplicated form and design throughout. Policy RH5 in the plan requires house proposals in rural areas to comply with these guidelines. Aside from the matter of the proposed finished floor level, the house would present elevations that incorporate an assortment of roof profiles, gable ends and a range of window sizes, i.e. a complicated form and design.
- The rural area is under a strong urban influence in view of the proximity of Straffan, Maynooth and Clane. Permitting additional one-off dwellings in these areas will simply exacerbate an undesirable development trend.

7.0 OBSERVER SUBMISSION, APPLICANT AND PLANNING AUTHORITY RESPONSES

- 7.1 The observer is the resident of the house immediately adjoining the subject site and is the applicant's sister. She makes the following points in relation to impacts on her property:
- The development directly overlooks her garden and impinges on the amenities of her site.
 - Surface water from the subject site currently flows directly into her garden. She is concerned that any development at this site would increase the level of surface water flowing onto her site.
- 7.2 The applicant's response states that his sister had not objected to the development and that the appeal submission did not wish to infer that she endorsed the application. The issues of overlooking and flooding are referred to the Board for consideration.
- 7.3 The PA response states that the submission raises legitimate concerns relating to potential negative impacts on the residential amenities of the adjoining property.

8.0 SUBMISSION OF DEPARTMENT OF ARTS, HERITAGE AND THE GAELTACHT

- 8.1.1 The Development Applications Unit (DAU) states the following:

The proposed development is in immediate proximity to the site of a prehistoric cist burial located near the edge of this sandpit (Recorded Monument KD010-020). The burial consisted of a small rectangular cist with a capstone and a floor of small flagstones, orientated on a NW-SE axis, containing the skeleton of a middle aged male, with the skull at The NW end, and a Bowl Food Vessel. A second skull, that of a young adult female, was also recovered but it was not certain that it came from the cist. Apparently, over the years, other burials were discovered in the vicinity but were not reported to the relevant authorities. It is possible, therefore that further prehistoric burials could be present at this development site.

The submission recommends conditions in the event of permission being granted, which require archaeological monitoring of groundworks associated with the development and further measures if archaeological material is found.

9.0 POLICY CONTEXT

9.1 DoEHLG Sustainable Rural Housing Guidelines for Planning Authorities (2005)

- 9.1.1 The subject site is located within an area under strong urban influence as indicated in Map 1 of the National Spatial Strategy 2002-2020. The rural

housing guidelines aim to manage pressure for overspill development from urban areas in rural areas closest to the main cities and towns. They distinguish between development needed to sustain rural communities and urban generated development which should be directed to areas zoned for new housing development in cities, towns and villages. Balanced assessments are to be made regarding the circumstances and merits of each application. Section 3.2.3 of the Guidelines deals with the definition of 'rural generated housing'. Suggested examples of rural generated housing need include persons who are an intrinsic part of the rural community, who have spent substantial periods of their lives living in rural areas and persons working full time or part time in rural areas.

- 9.1.2 The assessment of individual sites will be subject to normal siting and design considerations. New development is to be guided towards sites where acceptable wastewater treatment and disposal facilities can be provided, avoiding sites where it is inherently difficult to provide and maintain such facilities. The guidelines recommend against the creation of ribbon development for a variety of reasons relating to road safety, future demands for the provision of public infrastructure as well as visual impacts. Ribbon development is described as:

"... a high density of almost continuous road frontage type development, for example where 5 or more houses exist on any one side of a given 250 metres of road frontage."

- 9.1.3 The following matters are to be taken into consideration for individual proposals:
- The type of rural area and the circumstances of the applicant;
 - The degree to which the proposal might be considered infill development, and
 - The degree to which existing ribbon development would be extended or whether distinct areas of ribbon development would coalesce as a result of the development.

9.2 Kildare County Development Plan 2011-2017

- 9.2.1 Map 4.1 of the plan identifies 2 no. rural housing zones based on landscape sensitivity and population density. The subject site is located in the most robust area comprising the most populated areas in the mid/north east of the county, identified as *Rural Housing Policy Zone 1*, the more populated areas with higher levels of environmental / landscape sensitivity and significant development pressure. Table 4.3 of the plan sets out local need criteria for each zone. According to rural housing policy RH4, applicants must demonstrate that they comply with one of the categories outlined in Table 4.3.

- 9.2.2 Policy RH5 requires that applicants must comply with normal siting and design considerations including:

The capacity of the area to absorb further development. In particular, the following factors will be examined; the extent of existing ribbon development in the area, the degree of existing haphazard or piecemeal development in the area and the degree of development on a single original landholding.

9.2.3 Policy RH11 seeks:

To control the level of piecemeal and haphazard development of rural areas close to urban centres and settlements having regard to potential impacts on:

- *The orderly and efficient development of newly developing areas on the edges of towns and villages;*
- *The future provision of infrastructure such as roads and electricity lines; and*
- *The potential to undermine the viability of urban public transport due to low density development.*

9.2.4 Policy RH14 states:

To only positively consider family members for backland development. Such applications shall be explicitly supported by other family members with documentary evidence to this effect. The proposed development shall have no negative impact on third parties/neighbouring property owners and viable sites with sufficient independent percolation areas will be required in order to meet technical guidelines. Sufficient screening will be required to screen the house from adjacent homes and this has to be in place prior to occupation of the house. Single storey bungalow type houses only will be allowed in such backland locations to limit visual impact and overlooking.

9.2.5 Chapter 16 of the plan provides design guidelines for rural housing.

10.0 ASSESSMENT

10.1 The following are considered to be the main issues arising:

- Section 37(2)(b) of the Planning and Development Act 2000 (as amended);
- Principle of development with regard to County Development Plan rural housing policies;
- Drainage and wastewater treatment;
- Vehicular entrance;
- Design;
- Impacts on residential amenities;
- Archaeology

These issues may be considered separately as follows:

10.2 Section 37(2)(b) of the Planning and Development Act 2000 (as amended)

10.2.1 Refusal reason no. 1 states that the development would materially contravene section 4.11.3 of the Kildare County Development Plan 2011-2017. Refusal reason no. 2 states that the development would materially contravene Policy RH5 of the plan and refusal reason no. 3 states that the development would materially contravene development plan policies RH5 and RH11. Section 37(2)(b) of the Planning and Development Act provides that where a PA has decided to refuse permission on the grounds that a development materially contravenes the development plan, it may only grant permission where it considers that:

(i) the proposed development is 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

(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy 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.

Each of the above may be considered separately as follows.

10.2.2 (i) the proposed development is of strategic or national importance

This is not considered to be the case with regard to the nature and scale of the development.

10.2.3 (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or

(iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy 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

Chapter 4 of the Kildare County Development Plan 2011-2016 outlines rural housing policy, based on the strategic recommendations of the *Regional Planning Guidelines for the Greater Dublin Area 2010–2022*, the settlement strategy set out in Chapter 3 of the plan, policies set out in the *National Spatial Strategy 2002-2020* and guidance provided in the section 28

Sustainable Rural Housing – Guidelines for Planning Authorities issued by the DoEHLG in 2005 and DoEHLG Circular Letter SP5/08 (2007). The housing policies set out are considered to be consistent with those national and regional policy provisions and guidance. The policies of Chapter 4 are also consistent with those set out in the county settlement strategy provided in Chapter 3 of the plan and with the Core Strategy and objectives set out in Chapter 2 of the plan, particularly section 2.2 (overall objectives) and section 2.15.1 (settlement policies).

The relevant objectives, i.e. rural housing policies RH5 and RH11 are clearly set out and are consistent with the other policies and objectives of the development plan and with the regional and national policies and guidelines.

On this basis, it is considered that section 37(2)(b)(ii) and (iii) do not apply.

10.2.4 (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

I note that there is a history of permissions for one-off houses in the area to the immediate east of the site, as set out in the planning report on file and as evident in aerial photographs of the area. The current County Development Plan was adopted on the 4th April 2011. I do not see any evidence of permissions granted in the immediate vicinity that would set a precedent for the subject proposal such that section 37(2)(b)(iv) would apply. Indeed, I note that there has been a series of refusals on nearby sites, for reasons including rural housing policy grounds, ref. 12/477, 13/684, 14/640.

10.2.5 I therefore conclude that section 37(2)(b) of the Act does not apply and that the Board is precluded from granting permission in this case. However, I now propose to consider the case on its merits, in order to provide as full an assessment as possible.

10.3 Principle of Development

10.3.1 The subject site is located in Rural Housing Policy Zone 1 as identified in Map 4.1 of the development plan. Table 4.3 of the plan identifies the following categories of housing need criteria, which are deemed to meet eligibility for a one-off rural house in this zone:

1. Persons engaged full time in agriculture (including commercial bloodstock / horticulture), wishing to build on their own landholding and who can demonstrate that they have been engaged in farming at that location for a continuous period of over 7 years, prior to making the application.
2. Persons who have grown up or spent substantial periods of their lives, (12 years), living in the area, as members of the rural community, seeking to build on family landholding or on a site within 5 km of the family home, and currently living in the area.
3. Persons who have grown up or spent substantial periods of their lives (12 years) living in the area, who have moved away and who now wish to

return to reside near to, or to care for, immediate family members, seeking to build on the family landholding or on a site within 5 km of the original family home. Immediate family members are defined as mother, father, son, daughter, brother, sister or guardian.

4. Persons employed full time in farming (agriculture, bloodstock etc) in the locality, within 5 km of the site, where they need to reside close to their employment and have been engaged in such employment, at that location, for a continuous period of over 7 years, prior to making the application.
5. Persons who can satisfy the Planning Authority of their commitment to operate a small scale, full time business from their proposed home in the rural area and that the business will contribute to and enhance the rural community and that the nature of such business/employment is more appropriate to a rural location.

10.3.2 The applicant submits that he complies with housing need category 3 above. The documentation on file provides the following information about his local housing need:

- The applicant is acquiring the site from his sister and brother in law. He would permanently occupy the proposed house and has not been previously granted permission for a house in Co. Kildare. He has an address at Tircroghan, Kinnegad, Co. Westmeath and is self employed in the Leinster region (no further details submitted). The appeal submission states that he lives in Summerhill, i.e. Co. Meath.
- Birth certificate submitted indicating that his parents were resident at Railway Park, Maynooth, Co. Kildare when he was born.
- Details of attendance at a secondary school in Maynooth are submitted.
- Utility bills and bank details dating from the 1990s with an address at Old Rail Park Maynooth are submitted.
- A statement from the Maynooth parish priest indicates that he lived at the parish from 1968 until 2000.
- The applicant has a child with autism and other disabilities, details of same are submitted. The proposed dwelling would enable the applicant to live close to family members.
- The appeal states that the applicant's sister is married to a member of the Forster family, who own lands in the area, also that she has obtained planning permission on an adjacent site.

10.3.3 I have examined the documentation on file and carefully considered the points made with regard to both national policy as set out in the DoEHLG *Sustainable Rural Housing Guidelines for Planning Authorities* and the rural housing policies of the Kildare County Development Plan. There are no maps on file indicating any family lands in the area. I note that the planning history of the vicinity includes references to the Forster and Farrelly families (possibly relatives of the applicant). However, the applicant personally has not demonstrated that he has lived locally. On balance, I conclude that the applicant does not have a genuine local rurally generated housing need given that he has not resided for a substantial amount of time in the area of the subject site. There is no indication that he complies with any of the criteria

required to qualify for a one off house in the Rural Housing Policy Zone 1. I note that the previous Board decision on this site, ref. PL09.209827, related to a different applicant, therefore no precedent was set regarding rural housing need.

10.3.4 Refusal reason no. 3 states that the development would materially contravene development plan policies RH5 and RH11 as set out above, due to the extent and pattern of existing development in the area. I note that the DoEHLG rural housing guidelines recommend against the creation of ribbon development for a variety of reasons relating to road safety, future demands for the provision of public infrastructure as well as visual impacts. As can be seen in the enclosed aerial photograph, the subject site adjoins a cluster of existing one off houses associated with the R406 and the local road serving the site. There are 3 no. houses to the immediate east, between the site and the R406 junction, and there is a current proposal for a further house to the west (15/815). In addition, the proposed site layout would result in backland development to the rear of an existing house fronting onto the public road. The narrow road frontage would allow for a vehicular entrance only. It is considered that the proposed development would set an undesirable precedent for a piecemeal, haphazard layout and would exacerbate an emerging ribbon of housing development. Having regard to the proposed layout and to the existing pattern of development, I concur that the development would contravene development plan rural housing policies RH5 and RH11.

10.3.5 To conclude, it is considered that the applicant does not comply with the rural housing policies of the Kildare County Development Plan 2011-2017 as he does not have a local rural housing need in accordance with the criteria set out in Table 4.3 of the plan. In addition, the development would contravene rural housing policies RH5 and RH11.

10.4 Drainage and Wastewater Treatment

10.4.1 The proposed wastewater treatment system has been assessed with regard to the guidance provided in the EPA wastewater treatment manual *Treatment Systems for Single Houses* (2009), to the site characterisation form and documentation on file, to the planning history and to the site inspection.

10.4.2 The site characterisation form states a groundwater protection response of R1, i.e. acceptable subject to normal good practice. The form notes that there are several dwellings and associated treatment systems in close proximity, however details of the locations of such treatment systems are not submitted, nor of any wells in the vicinity. The site has a clay soil type (usually not free draining), however the water table was not encountered to a depth of 2.4m. The 'T' test result is 59.02 minutes and the 'P' test result is 49.55 minutes. I note that the PA has carried out enforcement action relating to unauthorised land reclamation to the immediate west of the site, however the site characterisation form does not refer to this issue. It is proposed to treat effluent via a proprietary wastewater treatment system (P.E. 6) involving

secondary and tertiary treatment with a polishing filter. Treated effluent at the base of the filter would discharge to a 300 mm thick sub layer of gravel.

10.4.3 I would have several concerns about the suitability of this site for wastewater treatment. According to the EPA guidance, a 'T' result over 50 indicates that the site is unsuitable for septic tank treatment due to the possibility of ponding. The 'P' result of 49.55 minutes indicates better ground conditions close to the surface, albeit a marginal improvement. The development involves a packaged wastewater treatment unit with a polishing filter. I note the successful 'P' test result and the apparently low level of the water table and I accept that the proposed polishing filter and gravel bed would improve drainage conditions close to the surface. However, the presence of an impermeable subsoil to a depth > 2.4m could result in ponding as the unsaturated zone beneath the percolation area fills up in wet weather. Such a situation presents a risk of contamination to surface water. Section 2.2.6 of the EPA manual states:

Where shallow or impervious soils exist, a soil percolation area may still be possible by importing suitable soil and placing it in lifts in the proposed percolation area such that there is a minimum thickness of 2.0m of unsaturated soil with drainage over the bedrock or impervious soil.

Where an alternative system and a polishing filter are employed, the nature of the soil or bedrock underlying the polishing filter determines the disposal route of the treated wastewater. For a polishing filter overlying impervious soils or rocks, the treated wastewater is collected in a suitable drainage system and discharged to surface waters. Polishing filters overlying permeable soils, gravels or bedrock with a T / P value less than 50 may discharge the treated wastewaters to the groundwater.

There does not appear to be a possibility of discharging to surface water in this case. I note that the submission on file by the owner of the adjoining property to the east refers to flooding of her property with surface water arising from the subject site. In addition, while the proposed treatment system achieves satisfactory separation distance to the site boundary of 3m, as per Table 4 of the EPA manual, there is no definite information regarding its location relative to existing WWTs or percolation areas serving the adjacent houses to the east as 'approximate' locations only are indicated on the WWTS layout. There is no information regarding the locations of wells or other receptors.

10.4.4 The report of the Environment Section of the PA (undated) states no objection to the proposal, subject to standard requirements including separation distances. In addition, the Water Services section states no objection in a comment on file dated 10th July 2015. The Area Engineer report, dated 7th July 2015, also does not object on drainage grounds. However, the issue of adequate wastewater treatment arose in the course of the previous application and appeal on this site, ref. 03/1639, PL09.209827. I note that section 5.3 of the Inspector's report on that case comments that the proposed separation distances were not in accordance with the recommendations of the

then current SR6 1991 standard. As noted above, the Board refused permission for one reason relating to inadequate wastewater treatment in that case.

10.4.5 To conclude, it is considered on balance that the proposed wastewater treatment system is inadequate due to (i) the impervious nature of the subsoil with consequent potential for surface water contamination and (ii) the lack of information regarding separation distances to other WWTS, percolation areas, wells or other receptors.

10.5 Vehicular Entrance

10.5.1 There is an existing vehicular entrance at the site. Refusal reason no. 4 refers to inadequate sight distances at this entrance. I note the report on file of the Roads and Transportation and Public Safety department of the PA, which requires further information for sight distances in accordance with the NRA Design Manual for Roads and Bridges. I consider that the proposed entrance is acceptable with regard to the following:

- There is an existing vehicular entrance at this location. The development would not involve substantial volumes of additional traffic.
- Having inspected the site, I am satisfied that the existing sight distances are adequate for this local road, see enclosed photographs.

I therefore conclude that the proposed development would not give rise to a traffic hazard or endanger the safety of other road users.

10.6 Design

10.6.1 The proposed design has been considered with regard to the rural design guidance provided in chapter 16 of the County Development Plan. The house has a complex design with a variety of volumes, fenestration and external finishes. It is accepted that the overall ridge height has been lowered, however the finished floor level of the house would be higher than that of the public road, which would increase its visual prominence. The accompanying substantial double garage (ridge height 5.83m) would add to the overall visual impact. The 'key principles' set out in the development plan design guidance include buildings which are simple in form and restrained and which use local materials and simple construction techniques. The proposed design has been submitted without any rationale as to its suitability for this rural area with regard to local building traditions and materials, climate, etc. It is considered that the design is not in accordance with the design principles set out in the development plan. In addition, the development would exacerbate an existing cluster of suburban style development in a rural area. The development would therefore contravene development plan policy RH5 as set out above.

10.7 Impacts on Residential Amenities

10.7.1 The proposed house is orientated such that ground floor windows in the north eastern and northern elevations would look towards the observer's property, with an intervening distance of c. 17m. There is currently an open fence

between the properties. Planting along this shared boundary would substantially reduce overlooking in time, this issue could be dealt with by condition. All of the first floor windows look towards the rear (south) of the site. On balance, I am satisfied that the development would not have adverse impacts on residential amenities subject to the implementation of adequate landscaping and boundary treatments.

10.8 Archaeology

10.8.1 The comments of the DAU are noted. The proposed development would not have any impact on the Recorded Monument KF010-020 located nearby. The site is located in an area of archaeological potential, and the recommended conditions should be imposed if the Board is minded to grant permission.

10.7 Conclusion

10.7.1 The PA has refused permission on the grounds that the development materially contravenes policies of the Kildare County Development Plan 2011-2016, in particular policies RH4, RH5 and RH11. Section 37(2)(b) of the Planning and Development Act 2000 does not apply in this case, therefore the Board is precluded from granting permission. In any case, I concur with the assessment of the PA. The development would not comply with the eligibility requirements of Rural Housing Policy Zone 1 as the applicant does not have a genuine locally generated rural housing need. It therefore contravenes rural housing policy RH4. In addition, the development would result in a piecemeal and haphazard development of a backland site adjoining an emerging ribbon of development and contributing to an unsustainable density of development in a rural area. The proposed design is also considered to be unsuitable for a rural area with regard to the rural design guidance provided in chapter 16 of the County Development Plan. The development therefore contravenes development plan policies RH5 and RH11. Finally, the proposed wastewater treatment system is considered inadequate.

11.0 Recommendation:

In view of the above, it is recommended that permission be refused based on the following reasons and considerations:

Reasons and Considerations:

1)

The subject site is located in the Rural Housing Policy Zone 1, as per Map 4.1 of the Kildare County Development Plan 2011-2016. It is an objective of the planning authority to channel housing into serviced centres and to restrict development in rural areas to serve the needs of those engaged in agriculture and in other rural activities, as per policies RH4 and RH5 of the plan. These objectives are considered reasonable. It is considered that the applicant does not come within the scope of the housing need criteria for Rural Housing Policy Zone 1, as specified in Table 4.3 of the plan. Taken in conjunction with existing development in the area, the proposed development would give rise

to an excessive density of development in a rural area lacking certain public services and community facilities and served by a poor road network. In addition, it would contribute to ribbon development in this area, lead to demands for the uneconomic provision of further public services and communal facilities in an area where these are not proposed and would interfere with the rural character and attractiveness of the area. The proposed development would, therefore, contravene materially the development plan policies RH5 and RH11 as set out in the development plan and be contrary to the proper planning and sustainable development of the area.

2)

The proposed development would be prejudicial to public health because it is considered that the subsoil, as indicated by tests, is unsuitable for the treatment of septic tank effluent, notwithstanding the proposed use of a proprietary wastewater treatment system.

Sarah Moran,
Senior Planning Inspector,
14th January 2016