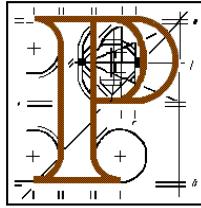


An Bord Pleanála



Inspector's Report

FILE REFERENCE

PL09.245489

Location:

Clonfert South, Maynooth, Co. Kildare

Proposed Development:

House, garage, fuel store and effluent treatment system.

APPLICATION DETAILS

Applicant:

Alison Kiernan & Mark McCormack

Planning Authority:

Kildare County Council

P.A. Reference:

15/539

P.A. Decision:

Refuse Permission

APPEAL DETAILS

Appeal Type:

First Party against Refusal

Appellant(s):

Alison Kiernan & Mark McCormack

Observer(s)/

Prescribed Bodies:

None on file.

INSPECTOR

Sarah Moran

Date of Site Inspection:

7th January 2016

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The site is located in an unserviced rural area to the south east of Maynooth, Co. Kildare. It is accessed via a local road north of Frayne's Bridge, which serves a substantial number of existing one off houses. There is a junction with another local road nearby to the north of the site. This is an area of significant development pressure due to its proximity to the settlement of Maynooth (c. 8.5km) and Kilcock (c. 5.5km) and to its accessibility to Dublin via the M4. As can be seen in the enclosed aerial photograph, there is a substantial concentration of houses in the vicinity of the site with 2 no. houses to the immediate north, which form part of a cluster of c. 13 no. houses associated with the local road to the west, also further houses to the south and across the road. The Lyreen River runs nearby to the east and south and the area around the site appears to be poorly drained. There are deep drainage ditches on both sides of the public road serving the site.
- 1.2 The site, which has a stated area of 0.2865 ha, is part of a larger field that is undeveloped at present and in agricultural use. There is a mature hedgerow along the road frontage with a drainage ditch on the roadside boundary. There is also a hedgerow along the northern side boundary, which is shared with a residential property immediately beyond. The remaining site boundaries are formed by fences. There is a cluster of farm buildings nearby to the south. Site conditions were wet on the day of inspection and standing water was observed within the site.

2.0 PROPOSED DEVELOPMENT

- 2.1 Permission is sought to construct a 1.5 storey house (216 sq.m. floor area, ridge height 6.85m) with a detached garage / fuel store (34 sq.m.) and vehicular access to the public road. The house would be served by a proprietary wastewater treatment system, with a percolation area to the rear of the house. The development would connect to the public water supply.

3.0 PLANNING HISTORY

- 3.1 **06/1392** Permission sought by Heidi Kiernan Dunne (sister of the above named applicant) for a dormer dwelling, wastewater treatment and associated works. This was refused for 4 no. reasons relating to (1) site sterilised under the terms of 1229/71, dating back to 1971; (2) history of speculative sites on this landholding, contravention of development plan policy RH4; (3) urban sprawl and ribbon development and (4) contravention of development plan rural housing policy.
- 3.2 **07/487** Permission granted to Heidi Kiernan Dunn for amendment of condition no. 1 of planning permission 71/1229 and to construct a house and associated works.
- 3.3 **12/531** Permission sought by Alison Kiernan (the above named applicant) to amend condition no. 1 of 71/1229, also construction of a 1.5 storey house,

wastewater treatment system and associated works. This was refused for 3 no. reasons relating to (1) development located on a landholding that is significantly over developed, contravention of development plan policies RH7 and RH11 of the Kildare County Development Plan 2011-2017; (2) development would materially contravene a condition of an existing permission as the site is sterilised under 71/1229; excessive density of development in a rural area, material contravention of development plan policies RH5 and RH11.

- 3.4 **12/779** Permission refused to Heidi Kiernan Dunne for extension of duration of time of 07/487, on the basis that there had been significant changes in the development objectives of the development plan such that the development would no longer be consistent with the proper planning and sustainable development of the area, also the development would not be consistent with section 28 ministerial guidelines on flood risk management issued in 2009.
- 3.5 **13/692** Permission refused to Alison Kiernan for a 1.5 storey house on the subject site for 4 no. reasons relating to (1) excessive density of housing served by septic tank systems in an unserviced rural area, contravention of development plan policy RH11; (2) applicant has not demonstrated a need to reside in this rural area as required under development plan policy RH4; (3) serious injury to visual amenities of the area due to scale and design of house; (4) not adequately demonstrated that the site would not be subject to flooding.

4.0 PLANNING AUTHORITY DECISION

4.1 Technical Reports

- 4.1.2 Water Services 8th July 2015. Recommends conditions.
- 4.1.3 Irish Water 17th July 2015. No objection.
- 4.1.4 Roads, Transportation and Public Safety Department, 23rd July 2015. No objection subject to conditions.
- 4.1.5 Area Engineer 30th July 2015. Recommends conditions.
- 4.1.6 Environment Section 31st July 2015. Recommends conditions.
- 4.1.7 Planning report dated 14th August 2015 recommends refusal.

4.2 Third Party Submissions

- 4.2.1 None on file.

4.3 Decision

- 4.3.1 The PA issued a refused permission for 4 no reasons relating to:

1. Development would exacerbate piecemeal and haphazard piecemeal development of a rural area, would contribute to advancing the suburbanisation and erosion of the rural character of the area and would undermine the planned development of towns such as Kilcock and Maynooth. Material contravention of development plan policies RH5 and RH11.
2. Development is located on an overall landholding where there is a history of development through speculative sales of sites and where lands have been subject to a sterilisation agreement on foot of a previous permission. Material contravention of development plan policy RH7.
3. Applicant Mark McCormack has not adequately demonstrated compliance with development plan rural housing need criteria. Material contravention of development plan section 4.11.3.
4. Applicant Alison Kiernan has not demonstrated compliance with development plan rural housing need criteria policy as required by policy RH4, due to the location of her employment.

5.0 FIRST PARTY APPEAL

5.1 The main points made may be summarised as follows:

- Both applicants are from this rural area. The site is owned by the applicant Alison Kiernan's grand uncle Loughlin Dunne and is part of a larger area of family lands. It is submitted that they have strong links with the area and meet the criteria for local housing need as set out in the *DoEHLG Guidelines for Planning Authorities on Sustainable Rural Housing* and the current County Development Plan.
- The applicants live with Mark McCormack's parents at his original family dwelling, which is 2.9km from the subject site.
- The council has already accepted that the applicant Alison Kiernan has a local housing need. Her employment is internet based and she works at home most of the time, travelling to Dublin 1-2 days per week. It is submitted that she should not be denied consent to build on a family landholding simply because of this. The Board has previously accepted that individuals with a longer journey by private car can be deemed eligible for a rural dwelling, ref. PL09.241689, which involved a journey from Naas to Coolock. The appeal also cites several other cases where, it is stated, the Board permitted houses to applicants who did not work locally.
- The development plan text does not require both applicants to satisfy its housing requirements. This should not be an issue given the undisputed fact that the other applicant meets development plan housing need criteria. The Board decision ref. PL17.240800 is cited as an example of acceptance that only one applicant need satisfy the rural housing test. In addition, the applicant Mark McCormack is actually from this area as his family home is 2.9km from the site. Supporting documentation is submitted.
- The speculative sales of development sites from the overall landholding, as referred to in the planning report on file, span 50 years, just 2 since the turn of the century. Many date to the 1970s and 80s. They are generally instances where land was transferred to other family members or to other

individuals such as longstanding employees working the land. The houses met the needs of a large extended family from the area. Most of the houses are still occupied by the original applicants, thus the rural community has been maintained in this area. It is submitted that policy RH7 should be applied in a reasonable manner and only applies where a landowner has engaged in speculation, not where sites were developed for family members.

- The subject decision is at odds with the decision to permit a dwelling on the subject site to the applicant's sister under 07/487. Although a different development plan now applies, the detailed housing policies have remained unchanged. Various policies are cited to support this point. The Council has accepted the principle of a house on this site. The refusal of permission to extend the life of 07/487 did not relate to density issues.
- It is submitted that this area is not so built up that it cannot accommodate one extra additional dwelling for a longstanding rural resident, therefore development should not be refused on this basis. The development plan contains no numerical standards as to the number of houses that can be built in the countryside and this proposal does not breach any identifiable or measurable controls. Development plan policy supports the development of individual houses in the countryside, where local housing need criteria are met.
- The site fronts onto a local road that carries limited volumes of traffic. Existing houses are screened by mature vegetation. It is currently disused farmland with no features of historic or ecological importance. The local rural environment is man-made. The site is in a '*lowland plains*' Landscape Character Area under the development plan, identified as robust and tolerant to change. The planning report on file did not identify any feature or characteristic of the countryside which would be offended by a new house on the subject site, or any site-specific disadvantage.
- The surrounds of the subject site are less developed than those at the location of the appeal site. The appeal refers to the case PL09.2416989 (aerial photograph submitted), where the Board permitted an extra dwelling in rural Co. Kildare.
- Sterilisation conditions are now unacceptable as a planning tool and contravene the DoEHLG Sustainable Rural Housing Guidelines. It is submitted that Kildare County Council now allows housing on land which was previously sterilised. It is submitted that permission was granted for a house on a site outside Straffan, ref. 04/3018, even though the land was the subject of a sterilisation condition dating from 1971 (reg. ref. 71/804). Other similar cases are cited, ref. 05/2774, 05/2775, also Board decisions in Wicklow, ref. PL27.216013, PL39.118928. In addition, permission was granted for a house at the subject site under 07/487.

6.0 RESPONSE OF PLANNING AUTHORITY

6.1 No further comment.

7.0 POLICY CONTEXT

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

7.1.1 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.

7.1.2 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."

7.1.3 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.

7.2 Kildare County Development Plan 2011-2017

7.2.1 Section 4.11.3 of the development plan sets out the rural housing strategy, which seeks to guide residential development to the most appropriate locations in rural areas, in the interests of protecting natural and manmade assets. 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.

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

- *The location and design of a new dwelling shall take account of and integrate appropriately with its physical surroundings and the natural and cultural heritage of the area. Development shall have regard to Chapter 16, Rural Design Guidelines.*
- *The protection of features that contribute to local attractiveness including; landscape features, historic and archaeological landscapes, water bodies, ridges, skylines, topographical features, geological features and important views and prospects.*
- *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.*
- *The ability to provide safe vehicular access to the site.*
- *The ability of a site in an unserviced area to accommodate an on-site waste water disposal system in accordance with the EPA Code of Practice for Wastewater Treatment Systems for Single Houses (2009), the County Kildare Groundwater Protection Scheme, and any other relevant documents / legislation as may be introduced during the Plan period;*
- *The ability of a site in an unserviced area to accommodate an appropriate on-site surface water management system in accordance with the policies of the Greater Dublin Strategic Drainage Study (2005), in particular those of Sustainable urban Drainage Systems (SuDS); and*
- *The need to comply with the requirements of The Planning System and Flood Risk Management Guidelines for Planning Authorities published by the Department of the Environment, Heritage and Local Government in November 2009.*

7.2.3 Policy RH7 seeks:

To prohibit residential development on a landholding, where there is a history of development through the speculative sale of sites, notwithstanding the applicant's compliance with the local need criteria.

7.2.4 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.*

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

8.0 ASSESSMENT

8.1 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;
- Flooding, drainage and wastewater treatment;
- Visual and residential amenities;
- Appropriate Assessment

These issues may be considered separately as follows:

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

8.2.1 The refusal reasons state that the proposed development would materially contravene policies RH5, RH7 and RH11 and section 4.11.3 of the Kildare County Development Plan 2011-2017. Section 37(2)(b) of the Planning and Development Act 2000 (as amended) provides that where a PA has decided to refuse permission on the grounds that a development materially contravenes the development plan, the Board may only grant permission where it considers that:

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

(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.

8.2.2 (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.

8.2.3 (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 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, RH7 and RH11 and section 4.11.3 of the plan, 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.

8.2.4 (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 this area, as set out in the planning report on file and as evident in aerial photographs. These permissions generally predate the current County Development Plan, which 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 several refusals for an individual house at the subject site under the current plan, ref. 12/531, 12/779 and 13/692.

8.2.5 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.

8.3 Principle of Development

8.3.1 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 PA 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.

8.3.2 The documentation on file provides the following information about the applicants' local housing need:

- The applicants have never been granted planning permission for a house in Co. Kildare. They submit that they comply with the second category above. They currently live with the parents of Mark McCormack, 2.9 km from the site (map provided). There is no other information available regarding any residential property in their ownership.
- The site is located on a family landholding of the applicant Alison Kiernan, as she is obtaining it from her grand uncle. A map of this landholding is submitted. Her original family home is located within this landholding. Details of attendance at a local primary school are submitted. Her birth certificate indicates that her father had an address at Leixlip, Co. Kildare. A letter by a local parish priest, dated December 2011, states that she has been a member of Kilcock and Newtown parish all of her life. A statement by a local bank branch manager dated January 2012 states that she had a residential address at Clonfert, Co. Kildare since 2001. A bank statement dating to 2013 indicates an address at Clonfert, Co. Kildare. A letter from a bank manager to her at Gragadder, Kilcock, Co. Kildare, dated January 2014, is also submitted.

- A birth certificate for one of the applicants' children indicates that Alison Kiernan had an address at Clonfert, Maynooth, Co. Kildare in 2009. The applicant Mark McCormack had an address at Gragadder, Kilcock, Co. Kildare at that time.
- The family home of the applicant Mark McCormack is 2.9 km from the site at Gragadder, Kilcock, Co. Kildare, map submitted. Bank details from 2012, 2013 and 2014 indicate that he had an address at that location in those years. A letter from the principal of a secondary school in Kilcock states that he attended the school for 6 years up to 2000 and lived with his parents at Gragadder during that time.

8.3.3 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 County Development Plan. Based on the available information, I accept that the applicant Alison Kiernan is from very close to the subject site and has a housing need. She therefore complies with the criteria set out in Table 4.3(2) above. I do not consider that her place of employment is relevant as this is not mentioned in the criteria as set out above. Given that she could seek permission in her own right, it is reasonable that the rural housing need could be considered in terms of her compliance alone. However, it appears that Mark McCormack is also from within 5km of the site and also has a housing need. I conclude on this basis that the applicants comply with the requirements of Table 4.3(2) and therefore have a rural housing need in accordance with development plan policy RH4.

8.3.4 The design and layout of the proposed dwelling are generally considered to be in accordance with the recommendations of development plan chapter 16. Drainage issues are considered separately below. The site is located in an area where there is already a substantial density of one off houses along this local road, see enclosed aerial photographs. 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. It is considered that the proposed development 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 RH1 as set out above, also section 4.11.3 of the plan.

8.3.5 The information on file indicates that the subject site was sterilised as a result of condition no. 1 imposed on the planning permission ref. 71/1229. The planning reports on files 12/531 and 13/692 provide copies of same as extracted from the Planning Register. I note that several permissions for houses have been granted on this landholding since the sterilisation in 1972. Notwithstanding this, it is evident that permission for the proposed development would contravene a condition of an existing permission. It would appear from the landholding map submitted and the planning history of the area as outlined in the planning report on file that a large number of houses

have already been permitted on this landholding (possibly c. 15). I therefore agree with the assessment of the PA that the development would contravene development plan policy RH7. Having regard to national and local planning policy on rural housing as set out above, it is considered that the proposed development would result in an unacceptable density of development in a rural area.

- 8.3.6 To conclude, it is considered that the applicants comply with the rural housing policies of the Kildare County Development Plan 2011-2017 and have a local rural housing need in accordance with the criteria set out in Table 4.3(2) of the plan. However, the development would contravene rural housing policies RH5, RH7 and RH11 and would result in an unacceptable density of development in a rural area. In addition, it would contravene condition no. 1 of planning permission ref. 71/1229.

8.4 Flooding, Drainage and Wastewater Treatment

- 8.4.1 The proposed wastewater treatment system has been assessed with regard to the guidance provided in the EPA 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.
- 8.4.2 The site characterisation form states a groundwater protection response of R1, i.e. acceptable subject to normal good practice. The form notes several houses in the vicinity and rush growth at the site, an indicator of poor drainage characteristics. The drainage ditches along the road frontage also suggests the likelihood of a high water table. The site tests were carried out in December 2011. They indicate a clay soil type, which is not usually free draining, with sandy silt/clay closer to the surface. Mottling at a depth of 500mm would indicate an occasional high water table and the form states that water was encountered at 1.4m below ground level. In addition, I observed a substantial amount of surface water ponding at the site during the site inspection, albeit this was during a particularly wet winter. These factors indicate that the site is not suitable for a septic tank with percolation area. The T test result of 41.36 minutes is, however below 50 and therefore within acceptable parameters. A lower P result of 26.86 indicates better draining soils closer to the surface. The test results are consistent with the observed soil types. A proprietary wastewater treatment system with a soil polishing filter is proposed, to discharge to groundwater. The site layout indicates that satisfactory separation distances can be achieved in accordance with EPA guidance. Given the depth of the water table in winter (500mm BGL according to the site characterisation form), I would have concerns about the ability of this system to discharge adequately to groundwater and avoid contamination of surface water. The EPA guidance requires a minimum of 0.9m of unsaturated permeable subsoil to bedrock or the water table below the base of the polishing filter for secondary treatment systems. It is proposed to achieve this by way of a raised soil polishing filter 1.1m above ground level. On balance, given that T and P test results are satisfactory and that the Water

Services and the Environment sections of the PA have no objection, I consider that the proposed treatment system is acceptable.

8.4.3 The River Lyreen is located c. 0.5km to the south of the development site. I note that OPW flood maps indicate several historic flooding incidents in the vicinity and that the site is located within the 0.1% fluvial annual exceedance probability (AEP) event area as per the CFRAMS draft flood hazard map, i.e. low probability, a 1 in 1,000 year return period of fluvial flood occurrence. A flood risk assessment dated April 2015 is submitted, as recommended by the DoEHLG *Planning System and Flood Risk Management Guidelines for Planning Authorities* (2009). This states that the recorded local flood events are indicted approximately 200m northwest of the site along the public road, detailed OPW map provided. These events are attributed to probable road drainage issues. The OPW flood maps indicate that the site is within an area identified as 'benefiting lands', i.e. subject to flooding or poor drainage and would benefit from the implementation of arterial (major) drainage schemes. The assessment concludes that the proposed development is unlikely to flood as its finished floor level would be c. 0.45m above the road level., also that the development would not result in any increased flood risk if SUDS methods are used for surface water drainage.

8.4.4 It is evident that this area is poorly drained and I would have concerns about the overall density of wastewater treatment systems given the high density of one off houses. However, the subject proposal is considered acceptable due to the satisfactory test results. Given the low probability of fluvial flooding and the relative distance to the Lyreen River, it is not considered that the flood risk is high enough to warrant a refusal of permission.

8.5 Appropriate Assessment

8.5.1 There are no SPAs within 15km of the site. There are 3 no. SACs, i.e. Rye Water Valley / Carton SAC (site code 001398), c. 7 km north east of the site; Ballynafagh Bog SAC (site code 000391), c. 10 km south west of the site and Ballynafagh Lake SAC (site code 001387), c. 9.8 km from the site. I note that the AA screening report on file concludes that there is no potential for significant effects on the Natura 2000 network. With regard to the nature and scale of the proposed development, the intervening distances and to the lack of hydrological connections, it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on any European site.

8.6 Conclusion

8.6.1 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, RH7 and RH11, also section 4.11.3 of the plan. 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, having regard to the above assessment, I consider

that the proposed development would exacerbate an emerging ribbon of development, would contribute to an unsustainable density of development in an unserviced rural area and would contravene rural housing policies RH5, RH7 and RH11. In addition, it would contravene condition no. 1 of planning permission ref. 71/1229.

9.0 Recommendation:

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

Reasons and Considerations:

1)

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, RH7 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 contravene materially a condition attached to an existing permission for development namely, condition number 1 attached to the permission granted by Kildare County Council on the 31st day of March 1971 under planning register reference number PL71/1229.

Sarah Moran,
Senior Planning Inspector,
25th January 2016