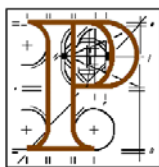


An Bord Pleanála



Inspector's Report

Appeal Reference No: PL 09.246062

Development: Retention of change of use of domestic garage to residential. Construct c. 2m high wall along northern boundary of site. Permission for demolition of shed, modifications to garage, construction of porch.
Duneany, Kildare, Co. Kildare.

Planning Application

Planning Authority: Kildare County Council

Planning Authority Reg. Ref.: 15/938

Applicant: Adrian Kelly

Planning Authority Decision: Refuse Permission

Planning Appeal

Appellant(s): Adrian Kelly

Type of Appeal: First Party v Refusal

Observers: None on file.

Date of Site Inspection: 25th April 2016

Inspector: Sarah Moran

1.0 SITE LOCATION AND DESCRIPTION

- 1.1 The development site is located in a rural area between the settlements of Kildare and Monasterevin, Co. Kildare, c 4 km south of the M7 junction 14 and north of Duneany Cross Roads. The site fronts onto the Kildare – Kildangan local road L3010. This is an area with a substantial amount of one off housing development. There are 3 no. adjoining houses across the road from the site. There are 2 no. houses to the immediate north and a row of 4 no. houses starting c. 60 m to the south (see enclosed aerial photograph).
- 1.2 The site has a stated area of 0.25 ha and is occupied by an existing L shaped single storey structure and a large shed to the rear, with a concrete hardstanding in between. Both structures are situated to the immediate south of a large, 2 storey house, 'Duneany Wood'. The site was apparently once situated within the grounds of Duneany Wood, with no separate vehicular access. The complex has been subdivided by a breeze block wall, such that the house is now separate with its own vehicular access. There is therefore no vehicular entrance to the subject site with pedestrian access only via a gap in the hedgerow along the road frontage. The documentation on file states that Duneany Wood was formerly owned by the applicant but was sold and therefore is now in separate ownership. There is a high hedge along the road frontage, such that the existing buildings on the site are not visible from the public road. The site is bound by agricultural lands to the east and south.
- 1.3 The existing structures at the site therefore comprise:
- An L shaped single storey structure, which contains 3 separate small residential units, each with its own front door.
 - A large shed at the rear of the site, which was previously used as a workshop.

2.0 PROPOSED DEVELOPMENT

- 2.1 The development involves the following:
- Retention of change of use of the L shaped structure at the site from domestic garage to residential (stated area c. 167 sq.m.). Changes to the internal floor plan to create a single 3 bedroom residential unit. Changes to front, sides and rear elevations and new porch to front elevation.
 - Retention of 2m high wall along northern site boundary.
 - Demolition of existing shed to rear of site (c.474 sq.m.)
 - Creation of a new vehicular entrance from the road frontage.
 - Existing septic tank at the site to be decommissioned and backfilled. New wastewater treatment system to serve the proposed house.
 - Landscaping and associated site works.

3.0 PLANNING HISTORY

3.1 01/471 and 03/0881

3.1.1 Permission granted to Adrian Kelly for a 2 storey house and septic tank at the subject site under 01/471. The PA granted permission to the same applicant for a revised 2 storey dwelling under 03/0881. This is the adjacent house, Duneany Wood.

3.2 04/2999, 05/2065, 06/2601, 07/1061, 07/2757

3.2.1 Permission sought by Veronica Burke for a bungalow and septic tank at the subject site, to the south of Duneany Wood, under 04/2999, 05/2065, 06/2601, 07/1061 and 07/2757. These applications were all refused for reasons relating to contravention of County Development Plan rural housing policy and excessive ribbon development.

3.3 09/458

3.3.1 Relating to the single storey L shaped structure on the site. Permission granted to Adrian Kelly for construction of a detached domestic garage comprising 2 no. car ports and biomass boiler house, located to the side of the dwelling permitted under 03/0881.

3.4 10/866

3.4.1 Permission refused to Adrian Kelly to retain works to the garage permitted under 09/458, comprising:

- Construction of a granny flat within previously permitted garage;
- 1.8m high boundary wall to front elevation of main dwelling;
- Hard surface area to front of garage and alterations to elevations.

The PA refused permission for 5 no. reasons relating to (1) non-compliance with Development Plan policy on granny flats due to the permanent, standalone nature of the unit; (2) the area has reached its capacity for one-off residential development taking into consideration the degree of existing ribbon development in the area; (3) intensification of a linear pattern of development; (4) undesirable precedent, disorderly development, excessive concentration of haphazard residential development in a rural area; (5) proposed granny flat is located in a building not built in accordance with reg. ref. 09/458, serious injury to the amenities of the area.

3.5 10/987

3.5.1 Relating to the large shed at the rear of the site. Permission refused to Adrian Kelly for retention of garage with a stated floor area of 424 sq.m., for the following refusal reason:

1. *Having regard to the floor area, scale of the existing shed and to the extensive area of hard standing, it is considered that the development does not constitute a development which could be considered as ancillary to the use of a dwelling house. Furthermore, having regard to the location of the site within a rural area it is considered that the retention of the shed, by reason of its overall design, scale and bulk, in conjunction with its proximity to the site boundary, would have an overbearing appearance, which would be out of character with the prevailing pattern of development in the rural area, would seriously injure the residential amenities, and depreciate the value of property in the vicinity and would, therefore, be contrary to the proper planning and sustainable development of the area.*

3.6 Enforcement File UD5717

3.6.1 The PA issued a Warning Letter to Adrian Kelly, the above named applicant, on 15th October 2014, for 4 no. reasons in relation to the following:

1. Non-compliance with conditions nos. 1 and 3 of 09/458, i.e. the structure built is not in accordance with the documentation submitted with the application and the structure has been converted into 3 residential units.
2. The construction of a shed to the rear of the permitted detached garage, which has been used for the storage and manufacture of field and entrance gates, garage and stable doors.
3. The erection of a boundary wall, which divides the converted detached garage and shed to the rear from the adjacent 2 storey dwelling to the north.
4. The construction of a hard surfaced area to the front of the converted detached garage.

The PA issued an Enforcement Notice on 18th December 2014 for the 4 no. reasons stated in the Warning Letter.

4.0 PLANNING AUTHORITY DECISION

4.1 Planning and Technical Reports

4.1.1 Kildare County Council Transportation Department 23rd November 2015. No objection subject to conditions.

4.1.2 Athy Municipal District Roads Department comment 24th November 2015. Concern about sight distances to the south of proposed entrance.

4.1.3 Kildare County Council Environmental Health Officer 1st December 2015. No objection.

4.1.4 Kildare County Fire Service 1st December 2015. No objection.

4.1.5 Kildare County Council Environment Section 3rd December 2015. Require further information regarding the proposed WWTS.

4.1.6 Irish Water comment 4th December 2015. Require further information. Kildare County Council Water Services 30th November 2015, require further information regarding water supply to proposed house.

4.1.7 Planning report dated 14th December 2015 recommends refusal due to contravention of County Development Plan policies RH9, RH5 and undesirable ribbon development and excessive density of development in a rural area. Attached Appropriate Assessment screening report states that a Natural Impact Statement is not required.

4.2 Planning Authority Decision

4.2.1 The PA issued a notification of a decision to refuse permission on 15th December 2015, for 3 no. reasons relating to:

1. Having regard to previous permissions granted to the applicant for one-off rural housing, it is considered that the applicant's rural housing need has been met and that the retention of the development would materially contravene policy RH9 of the County Development Plan 2011-2017...
2. Having regard to policy RH5, the applicant has not demonstrated that the proposal is capable of providing safe access / egress, with no details supplied as to the available sight lines from the proposed access. The proposed development would therefore endanger public safety be reason of traffic hazard or obstruction of road users ...
3. Taken in conjunction with the existing pattern of development in the area, it is considered that the retention of the development would reinforce a pattern of undesirable ribbon development along a public road, constituting an excessive density of housing development in this rural area, which would detract from the character of the area, would lead to demands for the uneconomic provision of services and facilities ...

5.0 GROUNDS OF FIRST PARTY APPEAL

5.1 The appeal has been submitted by Maguire & Associates planning consultants on behalf of the applicant. The main points made may be summarised as follows.

5.2 Rural Housing Need:

- The applicant is indigenous to the area. His father Anthony Kelly was originally granted permission for a house at this location under 79/176 and the family have lived at this location since then. Adrian Kelly lived with his parents from 1979 until 1996, when he was granted permission for his own house at Mooretown under 96/1598, c. 4km from the subject site. He sold that house to provide funding for the house adjacent to his parents' home, 'Duneany Wood'. The appeal notes that the policies of Kildare County Development Plans 1999-2005 do not include a statement to prevent the speculative sale of his house by the applicant, also that the relevant planning permission did not include a condition restricting the sale of the

permitted house. County Development Plan policies were revised after the *Sustainable Rural Housing Guidelines for Planning Authorities* in 2005.

- The appeal provides a list of permissions granted in the 'Kelly' family name at Duneany since 1979, listing the following Reg. Ref. numbers: 79/176, 01/471, 03/881, 06/2330, 09/458, 10/866, 10/987, 15/938. The appeal notes that some of the buildings as constructed occupy different locations on the site from those indicated in the Site Layout plans on file. However, it is submitted that the planning application lodged with the current application 15/938 is correct.
- The applicant's circumstances have changed significantly since the Duneany Wood was permitted. The appeal includes detailed information regarding his personal and medical circumstances. According to development plan policies RH9 and RH10, special consideration will be given to people who have a housing need as a result of exceptional circumstances. The appeal refers to Reg. Ref. 14/260 as a relevant precedent, permission granted to Gerard McKenna, copy of relevant planning report submitted.

5.3 Ribbon Development / Density of Development:

- Kildare County Council has already granted permission for a garage at this site under reg. ref. 09/458. It is accepted that the garage has a different location on the site from that indicated on the application documentation and is larger than permitted. However, the permission for the garage established the current pattern of development in the area.
- The appeal cites reg. ref. 14/260 where there was considerable housing in the immediate vicinity of the site. The current proposal is similar in terms of pattern of development.
- The size of the garage is reduced in the revisions submitted with the appeal. It is now proposed that 125 sq.m. shall be used for residential use while 40 sq.m. shall be retained for garage use.

5.4 Vehicular Entrance:

- Drawing no. 725-1506 submitted with the appeal demonstrates that there are minimum sightlines of 150m in each direction.
- The Road Engineer report states no objection to the development. It is submitted that the 'Eircom' pole in front of the site does not interfere with sight lines.
- The entrance proposed under the previous permission 01/471 was satisfactory to the Area Engineer, copy of relevant report submitted.
- It is normal practice in Co. Kildare for the applicant to liaise with utility providers to move such poles where required. The appeal cites condition no. 23 of permission Reg. Ref. 11/466 as an example of one such incidence, also condition no. 17 of reg. ref. 13/506.

- The site entrance is a legal necessity as there is no other available access or egress to these lands.

5.5 Other Issues:

- It is intended to use the existing well that is currently on site and has been there for c. 8 years. It was previously used to serve the adjoining house to the north, which now has a mains supply.
- The revised proposal now has 2 bedrooms only. The proposed waste water treatment system is adequate to cater for this demand. The other technical details requested in the Environment Section report on file may be dealt with by condition.

5.6 Proposed Revisions:

The appeal proposes the following revisions to the proposed development:

- Change to site entrance. Front boundary wall to entrance to be a maximum height of 1.2m.
- Boundary wall forward of building line to be reduced to a maximum of 1.2m high. Rear boundary wall to be reduced to a maximum 2m high.
- Proposed residential area of building to be reduced to 125 sq.m. while the garage area shall be retained at 40 sq.m. Revised elevations. Small additional screen wall 2m high beside the patio area.
- Change to location of access road.
- Revised landscaping plan submitted, to provide screening to the rear and side of the site.

6.0 RESPONSE OF PLANNING AUTHORITY

6.1 The PA notes the grounds of appeal. No further comment is submitted.

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. 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.”

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 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 Rural Housing Policy Zone 2. This is the south western part of the county containing areas under pressure for development but with lower concentrations of population and lower levels of environmental sensitivity than the more populated centre, north and east of the county. 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 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.

and:

The ability to provide safe vehicular access to the site.

7.2.3 The following rural housing policies set out in Chapter 4 of the plan are also considered relevant.

RH9: To require applicants to demonstrate that they are seeking to build their first home in a rural area in Kildare for their own full time occupation. Applicants will be required to demonstrate that they have not been previously granted permission for a one off rural dwelling in Kildare and have not sold this dwelling or site on to an unrelated third party. Exceptions to this policy may be made in exceptional cases, where an applicant is acting on foot of a Court order. Documentary evidence will be required in all instances,

RH10: To recognise that exceptional health circumstances, supported by relevant documentation from a registered medical practitioner, may require a person to live in a particular environment or close to family support. Housing in such circumstances will generally be encouraged in areas close to existing services and facilities and in Rural Settlements as opposed to the rural countryside. All planning permissions for such housing granted in rural areas shall be subject to an occupancy condition.

RH11: 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.*

RH 12: To discourage ribbon development (defined as five or more houses alongside 250 metres of road frontage). The Council will assess whether a given proposal will exacerbate such ribbon development, having regard to the following:

- *The type of rural area and circumstances of the applicant;*
- *The degree to which the proposal might be considered infill development;*
- *The degree to which existing ribbon development would coalesce as a result of the proposed development; and*
- *Local circumstances, including the planning history of the area and development pressures.*

Notwithstanding the above, special regard will be given to the circumstances of immediate family members of a landowner on single infill sites in a line of existing dwellings with 5 or more houses alongside 250 metres of road frontage.

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

8.0 ASSESSMENT

8.1 The following are the issues considered relevant in this case:

- Section 37 provisions;
- Principle of development;
- Vehicular access;
- Drainage and water supply;
- Appropriate Assessment.

These may be considered separately as follows.

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

8.2.1 Refusal reason no. 1 states that the development would materially contravene policy RH9 of the Kildare County Development Plan 2011-2017. 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.

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, 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 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

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.

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 documentation on file provides the following information regarding the applicant's background and rural housing need:

- The applicant's father Anthony Kelly was granted permission for a house to the north of the site under 79/176. The applicant Adrian Kelly lived there until 1997, when he got planning permission for a 2 storey dwelling at Mooretown, Co. Kildare (c. 2km from the site) under 96/1598.

- The applicant got permission to build a house at the subject site under 01/471 and 03/0881 and sold the house granted under 96/1598. Permission was sought by Paul McNamee to retain a 2 storey extension to the house under ref. 16190, however the application was undecided pending the submission of further information.
- An applicant named Veronica Burke made a series of applications for a bungalow and septic tank on lands to the immediate south of Duneany Wood, under 04/2999, 05/2065, 06/2601, 07/1061 and 07/2757. These were all refused for reasons relating to contravention of County Development Plan rural housing policy and excessive ribbon development.
- Permission was granted to Adrian Kelly for a large, L shaped garage to the south of Duneany Wood under 09/458. This structure is the subject of the current application.
- Kildare County Council served Enforcement Notice UD5717 in May 2010. Adrian Kelly sought permission to retain works to the permitted garage, including the construction of a granny flat, under 10/866. The planning report of 10/866 states that the garage, as constructed, had the appearance of a small commercial / workshop unit. The PA refused retention permission.
- The applicant built a shed to the rear of the garage in 2009/2010 and began to operate a new business from the premises. The PA refused permission for retention of the shed in October 2010 under 10/987. The planning report on file notes that the Duneany Wood site had been divided in two by this time.
- Adrian Kelly closed his business and Duneany Wood was sold due to financial difficulty. The double garage was converted into a 2 bedroom apartment, which was occupied by the applicant and his family. It appears that 2 other residential units were rented to tenants.
- The applicant and his wife entered bankruptcy proceedings in February 2014. Documentary proof of same is submitted.
- Kildare County Council served Warning Letter UD5717 on 15th October 2014. The use of the shed as a business premises ceased in July 2015. The apartments were vacated in August 2015 and the applicant and his family moved to live with his parents in Monasterevin, Co. Kildare. Documentation submitted confirms that he now has an address at Quinsborough, Monasterevin, Co. Kildare.
- The subject application 15/938 was submitted in October 2015 and refused in December 2015.
- It is submitted that the applicant and his wife have ongoing health difficulties, supporting documentation is submitted. In addition, the applicant is currently on the Co. Kildare housing list.

8.3.2 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 set out in Chapter 4 of the Kildare County Development Plan

including the 'Schedule of Local Need' provided in Table 4.3. While it is accepted that the applicant owns the site and has lived locally for a substantial period of his life, I note that he has already been granted permission for a house in the area twice and has sold both houses. Rural housing policy RH9 requires applicants to demonstrate that they are seeking to build their first home in a rural area for their own full time occupation and to demonstrate that they have not previously been granted permission for a one-off rural dwelling in Co. Kildare and have not sold this dwelling to an unrelated third party. The proposed development does not comply with these criteria. Policy RH9 also provides that there may be exceptional cases where the applicant is acting on foot of a Court order. The applicant has provided details of his financial and medical circumstances, including bankruptcy proceedings, which are on file. I note that rural housing policy RH10 is to recognise that exceptional health circumstances may require a person to live in a particular environment or close to family support. This follows on from guidance provided in section 4.3 of the DoELHG rural housing guidelines. However, given that the applicant has already been granted permission for a house in this area twice, I would consider that his rural housing need has fundamentally been met. In addition, I note that the DoEHLG guidelines also state that such permissions should only be granted "*in the absence of any strong environmental, access or traffic reasons for refusal*". I also note that the DoEHLG rural housing guidelines and the County Development Plan 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. I consider that the creation of an additional dwelling at this location contravenes development plan policy on ribbon housing, given the concentration of one off houses in the immediate vicinity of the site. There are 2 no. houses, including Duneany Wood, to the immediate north, and a further 4 no. houses nearby to the south (see enclosed aerial photograph). There is also a loose ribbon of c. 8 no. houses on the opposite side of the road. The proposed development would therefore contribute to unsustainable ribbon development and contravene Development Plan policies RH5, RH11 and RH12, as set out above.

- 8.3.3 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, RH11 and RH12.

8.4 Vehicular Access

- 8.4.1 The proposed development involves the creation of a new vehicular access. I note the report on file by Athy Municipal District Roads Department, which states concerns about sight distances from the proposed vehicular entrance. However, there is also a report on file by the Transportation and Public Safety Dept. of Kildare County Council, which has no objection to the development

subject to conditions. The grounds of appeal include a revised site layout with improved sight distances, ref. drawing no. 725-1506, which indicates sight distances of 150m in both directions. Having inspected the site, I am satisfied that adequate sight distances could be achieved. However, I have concerns about adding to the existing high number of vehicular entrances at this location, as discussed above.

8.5 Drainage and Water Supply

8.5.1 The proposed development would be served by an existing private well and a new wastewater treatment system. The appeal clarifies that Duneany Wood is connected to the public water supply. The development also includes decommissioning an unauthorised septic tank serving the existing development. The proposed wastewater treatment system has been assessed with regard to the guidance provided in the EPA *Code of Practice for Wastewater Treatment Systems for Single Houses* (2009), to the site characterisation form and documentation on file, to the planning history and to the site inspection. A site suitability assessment is submitted, which indicates acceptable ground conditions and test results. No drainage issues were noted at site inspection. Although there is a history of refusals on the site, drainage problems do not appear to have arisen. Having regard to the available information, I consider that the issues of water supply and wastewater treatment could be resolved satisfactorily. However, as stated above, I have concerns about the concentration of residential development in this unserviced rural area.

8.6 Appropriate Assessment

8.6.1 There are no SPAs within 15km of the site. There are 3 no. SACs, i.e. Pollardstown Fen SAC (site code 000396), c. 11 km north east of the site; Mouds Bog Bog SAC (site code 002331), c. 15 km north east of the site and River Barrow and River Nore SAC (site code 002162), c. 6 km west of 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, to 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.

8.7 Conclusion

8.7.1 The PA has refused permission on the grounds that the development materially contravenes policy RH9 of the Kildare County Development Plan 2011-2016. 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 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, RH11 and RH12 as it would exacerbate an emerging ribbon of development and would contribute to an unsustainable density of development in an unserved rural area.

9.0 RECOMMENDATION

- 9.1 Having regard to the foregoing, I recommend that permission be refused for this development for the reasons and considerations set out below.

REASONS AND CONSIDERATIONS

The subject site is located in the Rural Housing Policy Zone 2, 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 2, 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, RH11 and RH12 as set out in the development plan and be contrary to the proper planning and sustainable development of the area.

Sarah Moran,
Senior Planning Inspector
10th May 2016