



Development	Permission to construct a Dwelling, Detached Domestic Garage, Wastewater Treatment Unit and Percolation Area and Associated Site Works.
Location	Curragh, Carnaross, Kells, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	KA/170071
Applicant(s)	Bernard Murphy
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Michael Farrelly
Observer(s)	None
Date of Site Inspection	24 th March 2018
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1. The site is in a rural area within the environs of Carnaross Village about 5km west of Kells town. Carnaross is a small crossroads village – the crossroads being over a kilometre from the site. Fragmented linear clusters have developed both east and west of this crossroads along the R147 but more so to the east in the direction of Kells. The site is stated to be 1830 sq.m. and this include part of the road. As scaled from the drawings the site measures approx. 29.5m narrowing to 28m by 58m which is 1711sq.m. Fifty-six sq.m. relate to the road area leaving a residual development area of about 1774 sq.m. (0.44 acres) or 1655 sq.m as scaled. (0.41 acres.)
- 1.2. The site fronts onto a cul-de-sac laneway about 80m off the R147 and this laneway appears substandard in parts in terms of surface and alignment. It serves farms and private dwellings. The site is adjoined to the rear by open fields and to the east of the site there is a large old country house, 'Lennoxbridge' and what appears to be an agricultural complex with a stream on its western boundary. This stream flows into the River Blackwater to the south. The site is slightly elevated above this stream and appears to naturally drain to it.
- 1.3. The site has undergone site works with importation of soil. Vegetation was fairly sparse comprising mainly grass with some gorse and rushes. Parts of the site were ponded at time of inspection and the drain to the front indicates a possible high-water table. The trial hole was backfilled at time of inspection.
- 1.4. The junction with the R147 has restricted visibility to the west for traffic entering onto the R147 from the laneway. Traffic speed limit is 80kph rising to 100kph about 50m east of the junction and slowing to 60kph west of the junction before the mart. A structure on the laneway also restricts the width of the road presenting a challenge for passing vehicles near the junction.
- 1.5. The boundary hedge along the road frontage appears to have been removed and works have been carried out to widen/create an entrance. The ditch has been partly filled with hardcore and piped.

2.0 Proposed Development

- 2.1. The development comprises a single storey bungalow (175 sq.m.) with a detached garage. (27.63 sq.m.) A proprietary wastewater treatment system and ancillary works are also proposed. A cover letter explains the circumstances whereby this is the fourth application following three refusals.
- 2.2. Drainage:
- 2.2.1. A site characterisation form accompanies the application which is dated 7/7/2015 and completed by Oliver Farrelly who has a FETAC certificate in site suitability assessment. In this, it states that the site appears suitable for the safe disposal of effluent. Rushes indicate poor drainage.
- 2.2.2. It is further stated that due to previous tests which indicated poor drainage/clay layer, the site was cleared and free draining topsoil was added to raise the lower end of the site, where percolation is proposed. This is stated to have improved ground conditions vastly. The poor drainage layer still exists 1m below. Mottling was recorded at 1.2m below. It is proposed to insert percolation pipes with 1.2m between invert of the trench to highest mottling layer. This will result in extra filling over the percolation area to ensure adequate cover of pipes. Although T value is reduced from previous test, it is proposed to add 112m of pipes to counteract any drainage issue. All work to be carried out to manufacturers specification to EPA standards. A ditch is stated to be 1.6m deep along the western frontage.
- 2.2.3. A drawing is attached with typical cross section of proposed ground works not to scale.
- 2.3. Housing need – It is clarified that the applicant owns a house in Kells for investment purposes and only lived there temporarily. He is now living in the rural area (previously Normanstown four miles from the site and then to Pottlebane, Carnaross) as he submits he was advised in a pre-planning meeting in 2015. His children are in the local Carnaross school. The application is appended with:
- Correspondence indicating address, (bank statements, Hackney Licence, eflow, employer's remittance, utilities, lease agreement, acknowledgement from GFC and
 - Copy of lease for applicant's Kells house (Rochford Hall)

2.4. Further information was submitted in respect of drainage and modifications were proposed to soil and percolation area and to surface water management.

3.0 **Planning Authority Decision**

3.1. **Decision**

Grant permission subject to 16 conditions of a standard nature in relation to drainage, access, construction, landscaping and financial contributions.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports: In the initial report the following issues are raised:

- Housing need: there is a discrepancy between previous planning application information on places of residence. Previously the applicant was not considered to satisfy housing need having previously lived in his privately-owned dwelling 4km away. Further information was required to clarify this matter and nature of housing need.
- House Designs is acceptable
- Vehicular access is acceptable
- Appropriate Assessment screening information required (such as details of surface water and waste water treatment and drainage) due to the River Boyne SPA/SAC .73km to south.
- The observations of the Environment Section in the previous case KA160604 are referred to. Note is made of the filled trial holes, then, and in the current application, the ponding and absence of drains for the management of surface water.

3.2.2. Further information was requested on 21/3/17 in respect of these matters and matters raised in the objection. Further information was lodged on 18/8/17 and includes technical details prepared by Dr. Robert Meehan, Geologist. Details include:

- Housing need: further details submitted demonstrating community ties to the area through school/ parish, educational, sporting and cultural bodies.
- Maps of family holdings off the N52 in Carlanstown.

- SW Drainage: A surface water management plan has been completed in accordance with BRE Digest 365 taking account of 1 in 100-year flood event and 20% climatic factor.
- Foul Drainage/treatment: The site characterisation form has been amended. The percolation test results from 7/7/15 are used, however recommendations are changed. A revised tertiary polishing filter is proposed in line with EPA Code of Practice. In section 5 it is stated that it is proposed to remove the soil from the entire percolation area down to a level of .7m below existing ground level and install 0.4m of 20mm pebble, pipework membrane, and soil to cover. A 90 sq.m. percolation is proposed which will result in a mounded percolation area.
- Photographs of ponding are dismissed as season puddles.
- An Appropriate Assessment Screening report by Christine Sweeney examines the proposal about water quality and the qualifying interest of the nearest European sites.

3.2.3. The details were submitted to the satisfaction of the Planning authority and there is no objection to the proposed development. The Planning authority is satisfied that the proposed development by itself or in combination with other plans and developments in the vicinity would not be likely to have a significant effect on any European site. Considering this, a Stage 2 AA is not required.

3.2.4. An occupancy condition recommended by the Executive Planner was deleted by the Senior Executive Planner.

3.2.5. Other Technical Reports

- Road Design (8/3/17): Site on a minor cul de sac off the R147. No objection.
- Environmental Department: No report on file but cited as follows:

‘On 27th June I carried out a visual inspection of the trial holes on site. the trial hole to the rear had 600mm of unsaturated soil that could be utilised as part of a polishing filter. Mottling at this depth could be attributed to slow percolation rates at this depth not elevated water table. In this regard the Environment Section is satisfied and has no objection to the proposed development subject to condition regarding compliance with proposed details, further reporting of completion of a compliant polishing filter and evidence of maintenance contract.’

3.3. Prescribed Bodies

No submissions.

3.4. Third Party Observations

- 3.4.1. Brendan McGovern, chartered land surveyor, submitted a letter of objection on behalf of the neighbouring dairy farmer. Issues relate to lack of capacity of site to address drainage and the consequent impact on the neighbouring farmland/livestock to south east. The net area of land to deal with drainage is seriously inadequate and concerns as expressed previously by Tobin Consulting engineers (appended) still stand. The remedial works to date do not address issues as evidenced by ponding and vegetation.

4.0 Planning History (details attached in pouch at back of file)

- 4.1. Planning authority reference: 95/470 – refers to a refusal of permission to a different applicant for three reasons. The full order is not attached but the report sets out reasons and considerations. In the report by J Fahy 2/6/95 (counter signed by B. Hunt 7/6/95 and Oliver Perkins 12/6/95) the following observations are made.

- ‘The site is 90m from the junction with the N3. The sight distance towards the west is substandard for a National Primary Road due to substandard horizontal and vertical alignment. Additional vehicle manoeuvres on or adjacent to this major road where maximum speed limit applies would interfere with the free flow of traffic. The laneway is a narrow 3m wide road which is not suitable for additional traffic. There are no passing areas over most of the lane which is approx. 1km in length.’
- ‘The site is lower than the road and from a visual inspection (26/5/95) it is evident that the soil is not suitable for percolation. The site slopes from the road to the east. There is abundant growth of rushes and poaching... The water level in the drain alongside the road is >1metre above the site level at the location of the percolation. The ground appears soft and boggy to walk on indicative of a high-water table and poor percolation characteristics’.
- An objection lodged by the occupant of the adjacent dwelling states that the septic tank on his site is not functioning due to poor percolation.

- ‘Notwithstanding a 1982 permission and the, permission for a dwelling on the adjacent site a refusal of permission of permission is recommended.

Furthermore, the applicant has not submitted evidence of a local residential need having an address in Kells.’

- 4.2. Planning authority references KA/30103– refers to a refusal for permission for a dwelling by the same applicant Bernard Murphy for three reasons relating to housing need, public health and traffic hazard.
- 4.3. Planning authority references KA/160604 and KA/140627 – Both cases refer to decisions to refuse permission in 2014 and 2016 for a house proposed by the same applicant on the subject site for a reason based on housing need. Further information requested by environment section was not sought from applicant in either case. No objection was raised from Road Design.

5.0 Policy Context

5.1. Regional Planning Guidelines for the Greater Dublin Areas 2010-2022

5.1.1. Strategic policies for rural development include:

- RP1 - To protect and support rural villages and countryside through careful management of physical and environmental resources and appropriate sustainable development; recognising and responding through appropriate Development Plan policies to the strong urban driven demand for resources in rural areas of the GDA, and the importance of protecting and encouraging the necessary social infrastructure needed to sustain rural communities.
- RP2 - To support the continuing viability of agriculture, horticulture and other rural based enterprises within rural areas and to promote investment in facilities supporting rural innovation and enterprise with special emphasis on the green economy, within the context of sustainable development, appropriateness and the management of environmental resources.

5.1.2. These policies were restated in the Regional Assembly’s submission on the review of the current County Development Plan.

5.2. Meath County Development Plan 2013-2019

Settlement Strategy and Rural Housing

5.2.1. Chapter 3 refers to the settlement strategy. An overall objective is:

- To secure the sustainable development of County Meath in accordance with the settlement hierarchy set out in Table 3.2. In doing so, development will be primarily directed towards the identified Large Growth Towns. In towns and villages, development will facilitate in the first instance, the consolidation of settlements and the integration of land use and transport. The expansion of urban areas where it is necessary to facilitate growth as set out in the Development Plan shall promote mixed use development and be guided by the sequential approach in order to create a compact urban form and facilitate sustainable modes of transport. (SS OBJ 1)

5.2.2. Carnaross is a designated village in the Meath Hinterland and at the lowest end of the urban settlement hierarchy. The following objectives are relevant:

- To ensure that Villages in Meath cater for a local catchment for service provision. Future population growth in Villages shall be managed to ensure that they do not lead to unsustainable commuting patterns. (SS OBJ 15)
- To ensure that Villages grow in a manner that is balanced, self-sustaining and supports a compact urban form and the integration of land use and transport. (SS OBJ 16)

5.2.3. The application site is located on rural lands in the vicinity of Carnaross Village. (see Plan extract). A previous LAP in 2009 sets the original framework for this plan. Development land is targeted around the crossroads to the west. It is policy to provide sanitary services to the village which was identified as being reliant on private wells and wastewater treatments systems which were identified as a threat to water quality.

5.2.4. Section 5.5 refers to challenges: Creating sustainable neighbourhoods requires sustainable densities that make the necessary facilities and services viable, and good public transport connections. Whilst County Meath continues to develop a stronger urban structure, there are still parts of the county, principally in the north west, west, north east and south west that still have a primarily rural structure. The dispersed nature of the rural population limits the economic viability of providing public, social and cultural services. Meath County Council is committed to

strengthening the settlement structure and service integration across the County and aims to eliminate the gaps in facility and service provision where these exist.

- 5.2.5. Section 10.2 refers to Rural Settlement Strategy and Sect. 10.3 classifies Rural Area Types as part of a policy framework regarding the assessment of rural housing. Carnaross is in an area classed generally as a “Low Development Pressure Area” Applicants are required by the provisions of the Co. Dev. Plan to demonstrate that they have a rural housing need and they are an intrinsic part of the rural community in accordance with a range of categories in section 10. 4.

Sect. 10.7 refers to Rural Residential Development: Design and Siting Considerations and Chapter 11 sets out the Development Management Standards & Guidelines.

Agriculture

- 5.2.6. Section 10.8 sets policies with the purpose of protecting the agricultural sector. Specifically,

- RD POL 12 To facilitate the development of agriculture while ensuring that natural waters, wildlife habitats and conservation areas are protected from pollution.
- RD POL 13 To protect agricultural or agri-business uses from unplanned and/or incompatible urban development.

Water Quality

- 5.2.7. The following policies seek to protect water quality.

- RD POL 44 To ensure that new development meets the highest standards in terms of environmental protection.
- RD POL 46 To ensure that new development is 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. Sites prone to extremely high-water tables and flooding or where groundwater is particularly vulnerable to contamination shall be avoided.
- RD POL 47 To ensure that the site area is large enough to adequately accommodate an onsite treatment plant and percolation area.

- RD POL 48 To ensure all septic tank/proprietary treatment plants and polishing filter/percolation areas satisfy the criteria set out in the EPA 'Code of Practice Waste Water Treatment and Disposal Systems Serving Single Houses (p.e. <10)', (2009) (or any other updated code of practice guidelines) in order to safeguard individual and group water schemes.
- RD POL 49 To require a site characterisation report to be furnished by a suitably qualified competent person. Notwithstanding this, the Planning Authority may require additional tests to be carried out under its supervision.
- RD POL 50 To ensure a maintenance agreement or other satisfactory management arrangements are entered into by the applicant to inspect and service the system as required. A copy of this must be submitted to the Planning Authority.
- RD POL 51 To ensure that direct discharge of effluent from on site waste water disposal systems to surface water is not permitted.
- RD POL 52 To ensure wastewater treatment plants discharging into the Boyne catchment or to coastal Natura 2000 sites are suitably maintained and upgraded in advance of any additional loadings beyond their capacity in order to protect water quality, as required.
- RD POL 53 To promote good practice with regard to the siting and design of septic tanks and the maintenance of existing tanks. A high level of scrutiny will be placed on applications within 2km of watercourses in the Boyne catchment. Proposals in this area shall not have an adverse impact on local water quality that could affect the qualifying interests of the cSAC and SPA.s

5.3. Natural Heritage Designations

- 5.3.1. River Boyne and River Blackwater SAC/SPA (SAC002299/ SPA004232) are within 1km of the site. Case referred by PA to relevant natural heritage bodies but no submission made.

5.4. Grounds of Appeal

Frank Bourke and Associates have submitted a third-party appeal on behalf of the adjoining landowner who operates a large dairy farm on the adjacent lands.

- The adjoining farm is a large dairy enterprise in the townlands of Curragh, Hoath, Moath, Rathmanoo and Walterstown. His operation at Curragh has suffered considerable nuisance from surface water run-off from the subject site and surface water and domestic waste water from the dwelling adjacent to the north of the subject site.
- There has been no change in circumstances from the previous decision to refuse permission in respect of drainage/wastewater treatment capacity, traffic and housing need.
- In respect of traffic there have be no upgrades to the junction or alignment of roads and the same design standards still apply. There remains restricted visibility and traffic speed is high on approach. Reference is made to such standards applied in the case of NA170913 to improve the junction of the same road with the county road L40063.
- The applicant does not meet with the criteria who are established members of the rural community for a period of five years and who do not possess a dwelling. This is contrary to RDpol1 and RD pol2. The applicant lived in his house in Kells from 2005-2015 and rented a house more recently in the area.
- The applicant birth place in Normanstown is more appropriately linked to Carlanstown (c.1km away) rather than Carnaross which is c.8km away.
- In respect of soil suitability, the serious concerns of Mr McGovern an approved MCC assessor and Tobins engineering firm still stand, such as surface water ponding for most of the years, rushes, mottling at 1.2m indicating high water table.
- Notwithstanding the importation of material, the poor drainage characteristic remains. The underlying material has poor permeability and has resulted I lateral seepage of effluent into the adjacent field. It was previously stated by Mr McGovern that replacement soil would not address the issue and that ponding will eventually arise especially during persistent rain and will inevitable flow down gradient into the appellant's land. statement of seepage and rainfall records of Balyhaise and Dunsany.
- Discharge licence would be required.

- No allowance for paved areas.
- Site constrained by size.

5.5. Applicant Response

5.5.1. Vincent Farry has submitted a 22-page response with appended reports by Oliver Farrelly Arc Design Services and D. Robert Meehan who respectively carried out and further appraised the site suitably assessment. The main points are:

- Unjustified over-reliance on planning history.
- Policy supports proposal:
 - National policy regarding rural development and housing therein which demands a flexible approach to rural housing need; National policy supports addressing rural decline and allows for development to tailor policies to this end and allows fallibility and a merit based approach. The guidelines and plan allow for those with strong rural links which has been established in this case
 - The Meath Development Plan expressly entitles certain candidates to a house in the countryside including those with strong family links in recognition of maintaining rural communities
- The applicant has lived in Carnaross parish for 27 years and the issues of distance of family home from are dismissed as the issue about being a member of the rural community which has been demonstrated.
- The key issues is the strength and character of the applicant's links with Carnaross and not this is that his rural origins are in the Carlanstown area. Carnaross is only about 6km from Normanstown and essentially within the one rural community. To separate the area would be overly prescriptive and contrary to guidance.
- There is a change in circumstances in this case
- There is precedence for second houses in decision by the Board – these decision/reports are in pouch at the back for the file.

- There is no dispute about the accommodation for the house in terms of local development plan zoning, integrating with landscape or existing houses
- Traffic: The road R147 has been downgraded to a regional road from a national primary route with the M₁ opening and with reduced sightlines – 215m to 160m, which amounts to a material change in circumstances since the refusals of permission on grounds of traffic hazard. The observation of no objection should still stand in absence of any further evidence of risk of traffic hazard.
- Surface water: the appellant may have overstated the surface run off taken account of the gentle slope. Issues are further addressed in Dr. Meehan's report.
- Wastewater treatment: Issues addressed further in Dr. Meehan's submission and Arc Design details - Appendix A and B of response.

5.5.2. Arc Design Services

- Comments regarding ponding and rushes are dismissed as vague and not actually reflective of more thorough investigation.
- The design of percolation area has allowed for winter water table /mottling levels of 1.2mm/ A minimum 900m is allowed between invert of the percolation gravel bed and the highest recorded mottling level. All T and P values are within an allowable range. Two trial holes of 2.1m in depth were inspected by the Emmet Smyth, Environment Section of MCC.
- The risk of run-off on appellants lands is dismissed by reason of the proposed design and the absence of evidence from house to the north in the appellant's lands (photo attached)
- The soil is not impervious.
- The question marks over the T and P values are speculation and countered by the council engineer's endorsement following inspection of the trial holes.
- No such detail of a specific system is provided but, as is a requirement, the system will have an Irish Agreement Certificate and this is in accordance with the requirements of MCC

- The proposed percolation area will be a minimum of 3m from the boundary

5.5.3. Dr. Robert Meehan

- There is no formal record of ponding from ordnance survey maps or aerial photography,
- No rushes evident in June 2017
- The system has been deigned to address mottling.
- Minimum water table depth of 300mm can still provide for a WWTS in accordance with the EPA guidance. Four times this depth can be provided.
- Site is not predisposed to ponding due to its grading, it is free of rushes and is well drained
- The site has acceptable percolation characteristics for ground discharge. A surface water discharge licence is not required.
- The observations of other accredited assessors are dismissed as they have not completed a site assessment.
- The effluent system was detailed in Mr Farrelly's report and shown on submitted plans and the condition of permission further specifies requirements.
- With respect to hard surfaces these will be permeable.
- The location of the soakaway and percolation area meet the EPA Code of Practice and BRE Digest 365 for surface water soakaways.

5.6. **Planning Authority Response**

The planning authority notes the grounds of appeal and confirms that these issues were considered and that the proposed development is generally consistent with the policies and objectives of the development plan and therefore requests its decision to be upheld.

6.0 Assessment

6.1. Issues

6.1.1. This is a third-party appeal against a decision to grant permission for a single dwelling house in a rural area in the vicinity of Carnaross Village outside Kells and in the Dublin hinterland. The appeal is made by an adjacent landowner who farms the land and has concerns primarily relating to the capacity of the site to accommodate adequate wastewater treatment and disposal. The case is also made that the applicant does not qualify as having a rural housing need. These issues were also raised by the planning authority in its assessment and in previous history files wherein permission was previously refused. The issue of traffic safety is also raised. Having reviewed the file submissions, the substantive issues are:

- Principle of rural house at location
- Drainage and wastewater treatment
- Traffic safety
- Appropriate Assessment

6.2. Principle of a Rural House

6.2.1. The pressure for rural housing in the countryside is identified as an issue in the Dublin hinterland in the review of the current Meath County Development Plan. Following from the National Spatial Strategy (now superseded by the NPF), the Regional Guidelines seek to consolidate development in rural towns and villages by directing urban generated rural housing into existing settlements. The demand for a rural house also must be considered in terms of its impact on land resource management. Within the county development plan the role of the rural area is identified strategically as a key resource for the county providing agricultural and amenity lands that should be carefully managed to ensure that their primary use is protected from encroachment, fragmentation and urban driven development. Accordingly, a distinction must be made between rural housing that is rural generated and that which is urban generated.

6.2.2. The first matter that needs clarification is whether the proposed dwelling is rural or urban generated within the meaning of statutory guidance.

- 6.2.3. The planning authority accepts that the house need in this case is rural generated in the context of its development plan but this is different to its previous view in what I consider to be quite similar circumstances. Furthermore, in the context of overall policy and strategy, I have reservations about this classification and its consequent impacts on providing for sustainable development.
- 6.2.4. The original NSS map of Rural Area Types shows the site in a transitional location straddling the Area Under Strong Urban Influence and a Stronger Rural Area. However, the site is 4km outside the Regional Gateway town of Kells and the applicant's relationship with this area is, I consider a valid consideration.
- 6.2.5. The Development Plan seeks to cater for rural generated housing by listing a number of scenarios in which rural housing would be considered. Given that the proposed house is not generated by an agricultural or land-based activity, the development in this case could be warranted if it is sought by 'persons who have spent substantial periods of their lives, living in rural areas as members of the established rural community for a period more than five year and who do not possess a dwelling or who have not possessed a dwelling in the past in which they have resided or who possess a dwelling in which they do not currently reside'. In the context of Sustainable Rural Housing Guidelines, urban generated housing is defined as housing in rural locations sought by people living and working in urban areas, including second homes / holiday homes whereas rural generated housing is defined as housing needed in rural areas within the established rural community by people working in rural areas or in nearby urban areas.
- 6.2.6. The applicant has not lived for five years in the current rural area immediately preceding the application. However, I note the applicant has lived in the wider rural area for longer and I accept that he is originally from the wider rural environs. I also accept that Carnaross is an area of low development pressure in terms of census population profile. However, significantly in this case, the applicant has a house in Kells in which he has lived for 10 years up to 2015. The Kells house is 4km from Carnaross and comparable in terms of distance to his family home. Prior and during the Kells residency, the applicant has been refused permission for a rural house on the same site and then prior to this application elected to then rent out his home out and rented a house to live in the rural area. This would appear to be for the purpose of seeking to be categorised as having a rural housing need following consultation

with the planning authority. A second house is proposed which will provide an income from the first house and is not it would seem, based on an essential housing need such as to upsize from an apartment or provide a second household. While he clearly has rural ties by sending his children to Carnaross school and immersing himself in the area, his employment however places him more in an urban generated category. He is in the construction industry (brick/layer) and has a hackney licence - both occupations reliant on urban or urban growing populations. (e.g. The detail submitted shows a sizeable contract in Killiney in Dublin). He does not have a land based need to earn his income at this location. Accordingly, on balance, on its merits, the applicant does not, in my judgement, strictly have a rural housing need. The case for a second home is essentially based on a desire to live in the area rather than an intrinsic need whereas the sustainable rural housing guidelines are to facilitate those with a housing need.

- 6.2.7. The applicant states that the Kells house in which he lived is an investment. To permit a second dwelling in these circumstances would set an undesirable precedent I do not consider the purpose of the sustainable rural housing guidelines is to provide a second home for the same family unit and to generate an investment income. I consider the house to be therefore more urban generated in nature and such development should be directed to designated settlement areas.
- 6.2.8. The second matter to be determined is on the suitability of the location for an urban generated house.
- 6.2.9. While I note the site is within the environs of a village and in a low-pressure area and it is an objective to counteract rural decline, the site is outside the delineated development areas of Carnaross and the lands zoned for residential development remain undeveloped. It to the north of cluster 3 where it is an objective to protect amenities and in more strategic terms to maintain the green belt to the east. The allocated area for housing development is near the crossroads to the west, the development of which would more appropriately address rural decline in the area as it can be managed in a more environmentally sensitive and economic way. For example, the investment in wastewater treatment and group water scheme as well as footpaths and cycleways for the village area, as identified in the initial LAP in

2009 and as delineated in the current plan, would be more justified. In this regard I note the Regional Planning Assembly's submission on the Meath County Development Plan review in which attention was drawn to the challenge of sustaining rural villages and towns and the need to manage the continued pressure for one-off rural housing and the continued trend for unsustainable travel, and accordingly the importance of the current Strategic Policies RP1 and RP2 as cited in the policy section of this report. To permit development in the rural environs in this case does not constitute a sequential or orderly approach to development as advocated in statutory guidance, would be contrary to village development objectives and would be contrary to proper planning and sustainable development.

6.2.10. The applicant justifies a second house by reference to previous cases decided on appeal. While I note the decisions of the cases referred to, each case must be decided on its merits.

6.3. Notwithstanding the nature of the housing need, permission is also predicated on site suitability. In this case there is a history of the site being judged to have poor drainage capability and this raises issues both in terms of polluting the ground water and contaminating run-off as well as the wider issue of compromising the adjacent agricultural use which is presently for grazing livestock as part of a dairy farm. This is dealt with in more detail in the following section.

6.4. **Wastewater Treatment**

6.4.1. Having reviewed the site characteristics forms and submissions on file including the reports of the history files, I am not satisfied that the wastewater treatment can be adequately treated to ensure that the pathogens would be satisfactorily eliminated in the receiving environment. Part 2 of the EPA Code of Practice in Annex C provides guidance on what constitutes an appropriate soil. For a subsoil to be effective as a medium for treating wastewater, it should be permeable enough to allow throughflow and remain unsaturated, whilst capable of retaining the wastewater for a sufficient length of time to allow attenuation in the aerobic conditions. To achieve this on the site, the applicant is reliant on a highly engineered solution in what, as I see it, a constrained site having regard to technical reports on the site dating back to 1995

and my observations on site. I say this having regard to the factors to be considered in site selection in the EPA Code of Practice.

- 6.4.2. The applicant ultimately proposes to replace the soil to provide an acceptable polishing filter. This however follows previous soil importation and raising of ground which has not fully addressed ponding as I observed on various spots on the site. It is further submitted by the appellant that there are issues of run-off and seepage in the adjacent field. In support of this I note the comments in the 1995 case in which the neighbour referred to poor functioning of his own percolation area in objecting to a dwelling on the subject site. This however is refuted by reference to appended photograph and absence of nutrient rich evidence in the neighbouring ground.
- 6.4.3. In Part 1 of the EPA Code of Practice, a water table depth of 300mm renders any treatment system inoperable. Table C.1 lists water level in ditches and wells to be a significant factor in visually appraising a site as it indicates depth of unsaturated subsoil available for treatment or polishing of wastewater. In this case the applicant first stated the ditch to have a depth of 1.6m below ground level and then the ditch was 600m deep in the amended form. From my observation the water level was significantly less than 600mm below ground during dry conditions. This factor was noted in previous appraisals of the site by the planning authority. In 1995 the water table level was observed to be higher than ground level of the percolation area which in itself had many signs of poor drainage.
- 6.4.4. Table C.1 also refers to landscape position – in this case the site naturally falls to the east toward the adjacent farmland and where the neighbouring farmer states he stores animal feed. The site has been topped with soil yet the indication is that the percolation rates remain unsatisfactory such as by the ponding on site which indicate that underlying issues are likely to contribute to the long-term drainage capabilities. The proposed resolution is to re-engineer the soil conditions and to construct a percolation area 3m from the boundary. In the event of failure, the untreated wastewater would either pond or infiltrate the water table, possibly contaminate surface water or seep into lower ground. There is no buffer within the site to mitigate this potential risk. While the applicant refers to ponding as being temporary puddles in February, such characteristic was similarly evident in late March during my site inspection. The dismissal in the appeal response that describes the ponding as likely seasonal puddles is not I consider sufficiently evidence based.

- 6.4.5. With respect to the vegetation factor, there was a notably limited amount which is attributed by the appellant to overgrazing – it is also possibly due to the late winter and underlying nature of the imported material. I noted rushes on site which supports previous observations dating back to 1995 despite Dr Meehan’s declaration of the site being ‘free of rushes’ in 2017 suggesting that the soil importation and earthwork may have temporarily altered the vegetation and it is now reverting to type.
- 6.4.6. The Code of Practice also advises of the difficulties of installing a system in a sloped site. The natural slope in this case is over 5% (based on mapped contours) although the raising of the site above the natural levels together with the proposed constructed mound would create a more marked increase in gradient between the subject and adjoining site at the south-east boundary. The Code of Practice highlights how it is more difficult to ensure that the wastewater will stay in the soil if the land has a steep slope. It advises that where there is surface water run-off and interflow, low-lying areas and flat areas generally, receive more water explaining some poorly drained soils in low-lying areas. Provision is therefore required for the interception of all surface run-off and seepage, and its diversion away from the proposed percolation area. Mound filter systems are prohibited on sites where the natural slope is greater than 1:8 (12%) as this will lead to hydraulic overloading at the toe of the mound down slope.
- 6.4.7. While I note the surface water calculations are based on BRE365, there is also the added risk of unfactored extreme weather conditions and impact on drainage capacities of the site in relation to its size, for example in the case of 1 in 200-year event and a climatic factor of 30 per cent which highlights a concern on the percolation set back. (The run-off calculations are stated to be based on 1 in 100-year event and a 20% climatic factor.
- 6.4.8. The site is in the order of 65m from a stream down gradient of the site and that feeds directly in to the Blackwater/Boyne SAC/SPA. This is a significant target at risk which demands a precautionary approach. I refer to the policy guidance in the plan for development with 2km of the River Boyne Catchment.
- 6.4.9. The site is, I consider, constrained in size and not capable of providing a sufficient buffer for future shortcomings of the system or site in providing adequate drainage

and treatment. It is likely such development would need more land which would fragment farmland - a valuable resource in need of protection.

- 6.4.10. Other measures to contain run-off and effluent may result in the need for a retaining wall which would suburbanise the area – in this regard I note an un-rendered breeze block wall along the boundary of the house to the north of the site.
- 6.4.11. Given the guidance advice and target risk including land used for an active dairy farm I am not satisfied that the sufficient precautionary measures can be taken. Such measures to control seepage could have a deleterious impact on the conditions within the site in which a well is proposed and may also significantly alter the landscape.
- 6.4.12. There is mention by the appellant that there are issues with seepage from the neighbouring dwelling. Having regard to the guidance which advises that the performance of existing wastewater treatment and storm water should be examined and cause of problems identified should be further examined by the planning authority to inform a proposal of this nature. The applicant points out that there is no evidence of this and I do not have sufficient information to fully determine on this but consider the earlier statements are relevant.
- 6.4.13. Another concern is that the system is highly engineering and reliant up to 2 reviews a year on top of annual sludge removal. It is a high level of maintenance and there are cost implications for both the applicant and the planning authority in actively monitoring. I say this in the context of the reporting of over 50% of failed private domestic wastewater treatment systems and the statutory obligation to protect water quality as referred in detail in the EPA National Inspection Plan Domestic Waste Water Treatment Systems and supported in the objectives in the development plan.
- 6.4.14. The planning report refers to no objection by its environment department and cites the report, although I can find no written report from the environment section on file.
- 6.4.15. On balance I consider the site has characteristics of a high-water table by reference to the ditch water depth, ponding on site, vegetation and mottling. In this context and taken in conjunction with the circumstance of the neighbouring dwelling and history of percolation and further two domestic wastewater treatment systems nearby, together with the reliance on private bored wells, there is a serious issue of

proliferation of such systems, which poses a risk to water pollution and would accordingly be prejudicial to public health.

- 6.4.16. Notwithstanding the intentions of compliance with the EPA Code of Practice, I do not consider the information submitted to be sufficiently robust to ensure the highest standards by itself or cumulatively are met to prevent pollution and protect environmental quality.

6.5. Traffic

- 6.5.1. The Roads department is satisfied that the traffic generation of a single additional dwelling at this location would not constitute traffic hazard. It is argued by the appellant that there is no material change in circumstances from the previous proposal for a dwelling which was refused on grounds of traffic hazard due to intensification of use of the junction with the main road. It is pointed out that no improvements have taken place. The applicant however points out that the change in circumstances such as the re-classification of the N3 to the R147 consequent on the opening of the M3. This, it is argued, has lowered traffic speeds. I accept that these changes would alter the traffic environment. It is also quite probable that over the longer term as cycle ways and footpath facilities are enhanced in the vicinity that the traffic speeds would further reduce. I do not consider traffic hazard to be grounds for refusal.

6.6. Appropriate Assessment

- 6.6.1. The nearest relevant European sites relate to the River Boyne and River Blackwater (SAC and SPA) which are about 750m south of the site. There is a tributary stream down gradient of the site at a distance of about 65m at its nearest point from the site.
- 6.6.2. The River Boyne and River Blackwater Special Area of Conservation has the objective 'To maintain or restore the favourable conservation condition of the Annex I habitat(s) and/or the Annex II species for which the SAC has been selected' which are: Alkaline fens [7230], Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (Alno-Padion, *Alnion incanae*, *Salicion albae*) [91E0], *Lampetra fluviatilis* (River Lamprey) [1099], *Salmo salar* (Salmon) [1106] and *Lutra lutra* (Otter) [1355]

- 6.6.3. The River Boyne and River Blackwater Special Protection Area is of high ornithological importance as it supports a nationally important population of Kingfisher, a species that is listed on Annex I of the E.U. Birds Directive. The objective for this Site is to maintain or restore the favourable conservation condition of the Kingfisher species which listed solely as being of Special Conservation Interests for this SPA.
- 6.6.4. In respect of the SAC, there are ongoing concerns over the quality of treatment effluent discharging into the Boyne Catchment. Permitted abstraction may also impact on the required water table level to support certain species such as Alkaline Fens. In this regard I note the site falls within the EPA Domestic Wastewater Risk Categories with areas of special interest but is classed as a Low risk and not in an immediately sensitive environment. However, this is a general classification and not site specific.
- 6.6.5. While there is no obvious direct watercourses between the percolation area and the stream - in this case there is an open field under grass between the proposed percolation and the stream which flows into the River Blackwater about 1km downstream – there are concerns about effluent treatment.
- 6.6.6. In view of my observations and assessment on drainage aspects of the site and particularly the historic reference by the owner of the adjacent site of inadequacy of his percolation system, I consider that cumulative impacts of run-off and seepage across the ground cannot be ruled out as posing a significant risk to water quality, in the absence of further analysis. The discharge from these systems could lead to increased levels of nutrients in the river system which in turn could lead to potential eutrophication. This could result in potential risks to the sensitive species present in the Natura sites and the conservation objectives of the site.
- 6.6.7. The AA screening report submitted by the applicant as further information assumes a fully operational percolation system can be constructed to meet the criteria in the code of Practice EPA 2009 for Wastewater a Treatment and disposal system serving single houses. This follows previous reconstruction works that have not been to the satisfaction of the planning authority in its assessments.

- 6.6.8. I also note the Inland Fisheries, as referred to the screening report relies on such compliance for the development not to be considered a significant risk to the River environment.
- 6.6.9. Notwithstanding the proposed construction of a percolation area, it is my opinion that the Board cannot be satisfied that the proposed development will not impact adversely on the designated site, individually or in combination with other plans or projects and would not be likely to have a significant effect on the River Blackwater and River Boyne SAC/SPA, having regard to the potential for adverse impact on water quality from the wastewater disposal system, the site characteristics and the existing residential development also dependant on independent waste water disposal systems in the vicinity. In these circumstances a Natura Impact Statement would be required, however in view of the substantive reasons for refusal relating to housing need, risk of pollution and based on the information submitted I do not consider the request for further information to be warranted. In such circumstances the Board is precluded from granting permission.

7.0 Recommendation

- 7.1. Refusal of permission

8.0 Reasons and Considerations

1. It is the policy of Meath County Council to direct development into settlements in accordance with its hierarchy and to restrict rural housing to those with a rural housing need in accordance with national policy. Based on the information submitted with the planning application and appeal, the Board is not satisfied that the applicant comes within the scope of the rural housing need criteria for an additional dwelling at this location and does not have a demonstrable need to live in the open countryside. It is considered that the proposed development would be therefore contrary to the Sustainable Rural Housing Guidelines for Planning Authorities, issued by the Department of Environment, Heritage and

Local Government, April 2005 and would, place an unwarranted demand for the uneconomic provision of services in a rural area. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

2. Notwithstanding the proposed use of a proprietary wastewater treatment system and construction of a percolation area, having regard to underlying site characteristics which include indications of a risk of a seasonally high-water table, the Board is not satisfied that a risk of contamination of ground water or surface water in adjoining lands can be sufficiently ruled out. The proposed development would therefore pose an unacceptable risk of pollution to water quality and environmental quality of agricultural land and would therefore be prejudicial to public health.
3. It is considered that a house at this location and within a constrained site for the purposes of wastewater treatment would conflict with a dominant agricultural use of land in the vicinity and would be contrary to the strategic aims of the current Meath County Development Plan in managing its natural resources.
4. On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development will not impact adversely on the designated site, individually or in combination with other plans or projects and would not be likely to have a significant effect on the River Blackwater and River Boyne SAC/SPA, in view of the sites' conservation objectives. In such circumstances the Board is precluded from granting permission.

Suzanne Kehely

Senior Planning Inspector

25th June 2018