



An  
Bord  
Pleanála

## Inspector's Report ABP-302687-18

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<b>Development</b>	Construction of four-bedroom, two-storey house (325sqm).
<b>Location</b>	Curragh Grange, Green Road, Newbridge, Co. Kildare.
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	18/878
<b>Applicant(s)</b>	Gary & Aiveen Maguire
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Gary & Aiveen Maguire
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	6 <sup>th</sup> December 2018
<b>Inspector</b>	Michael Dillon

## 1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.32ha, is located on the southeast side of Green Road (L7042) – a busy county road linking Newbridge to the north with The Curragh to the southwest. The 50kph speed restriction applies on this road. There is a single, unbroken, white line in the centre of the road. There is a 1.5m wide footpath along the site side only of Green Road. Rudimentary public lighting is in place. There is a continuous ribbon of housing development on the opposite side of Green Road. Access to the site is via a one-way entrance and exit facility for a recently-constructed educational campus on adjoining lands. Sight distance at this new junction is good in either direction.
- 1.2. The site comprises, for the most part, flat green pasture, which was dry under foot on the date of site inspection. Deciduous stands of trees have recently been planted in the eastern and western corners. There is a row of mature, mostly deciduous, trees set back from the roadside boundary. The site is slightly elevated above the level of the adjoining Green Road – 1.0-1.5m. There are two sewer manholes within the site. Access to the site proper is through an existing gravel car-park for a creche – recently-established in Lumville Farm, on the southwestern boundary of the site.
- 1.3. To the northeast, the site abuts a wooded area – the boundary with which is undefined. To the southeast, the site abuts an educational campus – the boundary with which is a timber post & rail fence, with some newly planted beech and *Griselinia* hedging. To the southwest, the site abuts two-storey, Lumville Farm (now a creche) – the boundary with which comprises a range of old farm buildings with red-tile roofs and a 2m high wall. To the northwest, the site abuts Green Road – the boundary with which is an unkempt privet hedge.

## 2.0 Proposed Development

- 2.1. Permission sought on 20<sup>th</sup> July 2018, to construct a part-single- and part-two-storey house of 325m<sup>2</sup>. Access is off the in-bound road to the educational campus – through the car-park of Lumville Farm (creche). There is an agreement to purchase the site from a family member of one of the applicants. Water supply is indicated to

be from the public mains. Foul waste is to be discharged to the public mains sewer. Surface water is to be discharged to soakways.

2.2. The application is accompanied by the following documentation of note-

- Indication of connection of the applicants with this area.
- Property ownership and transfer in the vicinity of the site.
- Letter of consent from owner of the site to the making of the application.
- Engineering Report (dated 20<sup>th</sup> June 2018), in relation to surface water and foul waste disposal.

### 3.0 Planning Authority Decision

By Order dated 13<sup>th</sup> September 2018, Kildare County Council issued a Notification to refuse planning permission for 2 reasons, which can be summarised as follows-

1. Applicants have not demonstrated compliance with a category of 'local need' criteria as outlined in Table 4.3 of the County Development Plan, and the development would contravene policy RH2.

2. Development would be contrary to the *Sustainable Rural Housing Guidelines 2005*, by reason of location within an area under Strong Urban Influence, in an area not zoned for residential development. The development would also be contrary to National Policy Objective 19 of the *National Planning Framework Project Ireland 2040*, which refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence.

### 4.0 Planning History

There is no mention made of any recent relevant planning history. Permission was granted for a change-of-use of Lumville Farm gate lodge to pre-school/after-school facility – ref. 17/436. This development has been carried out.

## 5.0 Policy Context

### 5.1. Development Plan

The relevant document is the Kildare County Development Plan 2017-2023. The site is located within the 'Central Undulating Lands' Landscape Character Area. This is a 'low sensitivity' landscape. Section 4.12 deals with housing in rural areas. The site is located within Rural Housing Policy Zone 1 (that area of the county under strongest pressure, arising from proximity to Metropolitan Dublin). Section 4.12.7 states-

"Rural generated housing demand will be managed having regard, *inter alia*, to the applicant's genuine local need, together with the protection of key economic, environmental, natural and heritage assets, such as the road network, water quality, important landscapes, habitats and the built heritage. In order for an applicant to be considered for a one-off dwelling in the rural area of Kildare, an applicant must:

(A) Meet one of the following categories of applicant:

1. A member of a farming family who is actively engaged in farming the family landholding.

OR

2. A member of the rural community.

AND

(B) Meet one of the local need criteria set out in Table 4.3 (a) and (b) Schedule of Local Need.

#### Category Of Applicant 2

#### **A member of the rural community.**

The applicant must demonstrate a genuine local need to reside close to their family home by reason of immediate family ties or their active and direct involvement in a rural based enterprise.

#### **Local Need Criteria**

#### Rural Housing Policy Zone 1

(i) Persons who have grown up and spent substantial periods of their lives (12 years) living in the rural area of Kildare as members of the rural community and who seek to build their home in the rural area on their family landholding and who currently live in the area. Where no land is available in the family ownership, a site within 5km of the original family home may be considered.

(ii) Persons who have grown up and spent substantial periods of their lives (12 years) living in the rural area of Kildare, as members of the rural community who have left the area but now wish to return to reside near to, or to care for immediate family members, seeking to build their home in the rural area on the family landholding or on a site within 5km of the original family home.

(iii) Persons who can satisfy the Planning Authority of their commitment to operate a full time business from their proposed home in the rural area where they have existing links to that rural area and that the business will contribute to and enhance the rural community and that the nature of such enterprise is location dependent and intrinsically linked to a rural location.

Policy RH2 states-

Manage the development of one off housing in conjunction with the rural housing policy zone map (Map 4.4) and accompanying Schedules of Category of Applicant and Local Need Criteria set out in Table 4.3. Documentary evidence of compliance with the rural housing policy must be submitted as part of the planning application.

Policy RH3 states-

Require applicants to demonstrate that they are seeking to build their home in the rural area in Kildare for their own full time occupation. Applicants will be required to demonstrate that they do not own or have not been previously granted permissions for a one off rural dwelling in Kildare and have not sold this dwelling or site to an unrelated third party, save in exceptional circumstances.

Policy RH4 states-

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

Policy RH5 states-

Restrict occupancy of the dwelling as a place of permanent residence for a period of seven years to the applicant/occupant who complies with the relevant provisions of the local need criteria.

Policy RH9 states-

Ensure that, notwithstanding compliance with the local need criteria, applicants comply with all other normal siting and design considerations (Refer to Chapter 16 for further guidance).

Policy RH10 states-

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

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

## 5.2. **Sustainable Rural Housing – Guidelines for Planning Authorities**

These April 2005 Guidelines, identify the site as being within an “Area Under Strong Urban Influence”. Housing in these areas should be restricted to persons who are an intrinsic part of the rural community or persons working in farming or rural enterprise.

## 5.3. **Natural Heritage Designations**

The site is located neither within, nor immediately abutting, any natural heritage designation. The closest such is The Curragh proposed Natural Heritage Area (pNHA) – some 250m to the southwest.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.1.1. The 1<sup>st</sup> Party appeal, received by An Bord Pleanála on 4<sup>th</sup> October 2018, can be summarised in bullet point format as follows-

- The applicants meet the criteria to comply with Zone 1 Category (ii). Table 4.3(b) – Schedule of Local Need Category of applicant Zone 1 Category 2 (ii) of the Co. Development Plan states- “Persons who have grown up and spent substantial periods of their lives (12) years living in the rural area of Kildare, as members of the rural community who have left the area but now wish to return to reside near to, or to care for, immediate family members seeking to build their home in the rural area of the family landholding or on a site within 5km of the original family home.
- The previous home of the applicants was Curragh Grange House – approximately 250m from the site – which they occupied from 2005-2016. This house had to be sold due to financial difficulties.
- The appeal site is to be sold by the brother of the first-named applicant.
- The mother of one of the applicant’s will be cared for in the new house.
- There is considerable one-off housing in this area – even though it is not zoned residential. The R413 is a vital link to Newbridge. The adjoining educational campus has 750 students. This area is no longer rural in character. The site is serviced by mains water and mains sewerage.
- The development is in accordance with National Policy Objective 18b of the *National Planning Framework*.
- The design of the house was acknowledged to be of high quality by the PA.
- The Municipal Engineer had no objection to the proposal.
- The Council’s opinion is somewhat subjective, given the wide range of planning policies in place at national and county level. The applicants meet the local need criteria.

6.1.2. The appeal is accompanied by the following documentation of note-

- Rental agreement for property at Suncroft, Co. Kildare.
- Evidence of applicants' connection with this rural area.

## 6.2. **Planning Authority Response**

The response of Kildare County Council, received by An Bord Pleanála on 15<sup>th</sup> October 2018, indicates that the PA has no further comment to make.

## 6.3. **Observations**

None received.

## 7.0 **Assessment**

The principal issues of this appeal relate to housing need and Development Plan considerations in relation to rural housing.

### 7.1. **Development Plan & Other Guidance**

- 7.1.1. The site is outside the development boundary of Newbridge. Notwithstanding this, there is continuous ribbon development of housing on the opposite side of the L7042 Green Road. There is a large-scale educational campus to the immediate east and southeast of the site, and a creche to the immediate southwest. The area is provided with a public footpath and rudimentary public lighting. The 50kph speed restriction zone applies. The applicant correctly points out that the rural character of this area has been altered by the amount of development which has taken place. Notwithstanding this, the site is not zoned for development. To reach the main road through Newbridge (R445) involves a walk of approximately 1.6km, and slightly further again to the town centre proper.
- 7.1.2. The Newbridge Local Area Plan 2013-2019 extends to incorporate two housing developments to the north of the appeal site (both of which are located on the south side of the M7 Motorway), but does not include that section of the Green Road (L7042) on which the site is located; and neither does it extend to incorporate the educational campus. Notwithstanding the current level of development in the area, (expansion of Newbridge) the site is still considered to be rural.



- 7.1.3. The applicant contends that the development is in compliance with Objective 18b of the *National Planning Framework*, which states- “Develop a programme for ‘new homes in small towns and villages’ with local authorities, public infrastructure agencies such as Irish Water and local communities to provide serviced sites with appropriate infrastructure to attract people to build their own homes and live in small towns and villages”. The site is not within a small town or village – although it could be considered to be on the edge of Newbridge. The second reason for refusal of planning permission cited Objective 19 of the *National Planning Framework*, which states- “Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere: - In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and settlements”. This site is in an ‘Area under Strong Urban Influence’ as set out in the *Sustainable Rural Housing – Guidelines for Planning Authorities*, April 2005.
- 7.1.4. The applicants indicate that they occupied nearby Curragh Grange House from 2005-2016, but that it then had to be sold. The applicants have supplied information in relation to their places of habitation within Co. Kildare; and would appear to satisfy the Category 2 classification of applicant. However, the applicants have not demonstrated a genuine local need to reside close to their family home by reason of immediate family ties or their active and direct involvement in a rural based enterprise. The applicants have indicated that the site is to be obtained from the brother of one of the applicants. It is not indicated just what property the family owns in this location, what houses are in its control, and what development has taken place on family lands in the recent past. Access to the site is through the present curtilage of Lumville Farm (formerly a house, but recently converted to a creche). The site is on the edge of Newbridge, within which town there are many houses which could meet the housing needs of the applicants.
- 7.1.5. Of particular note is Policy RH10 of the Plan which seeks to control piecemeal and haphazard development of rural areas close to urban centres and settlements having regard to potential impacts on, inter alia, the orderly and efficient development of

newly developing areas on the edges of towns and villages; and the potential to undermine the viability of urban public transport due to low density development. This development could be considered to be piecemeal and haphazard low-density development on the edge of Newbridge. Higher density development for the down could be forced to leap-frog such low-density development as this, to facilitate future expansion of the town. Permission should be refused for this reason.

## 7.2. **Layout & Design**

- 7.2.1. The site contains a number of mature trees, and some more recently-planted stands of deciduous trees. The house is to be located in the centre of the site – set back from Green Road (approximately 12m). An existing roadside privet hedge will largely screen the house from view. The positioning of the house will necessitate the felling of some of the mature trees. There has been no Tree Survey submitted with the application. I note that the trees on site are not subject to a Tree Preservation Order.
- 7.2.2. The house is a large one, at 325m<sup>2</sup>: however, the site is concomitantly large. The design of the part-single- and part-two-storey structure is modern. A car-port is provided to the side of the house. External finishes comprise cut stone, rubble, cement render and timber cladding. The fully hipped roofs are to be of metal sheeting. The building line on Green Road conforms to the building line of Lumville Farm (creche) – to the southwest. The report of the Roads, Transportation and Public Safety Department of KCC, requested additional information, to provide a setback of 18.5m from the L7042 Green Road, as required in Table 17.8 of the County Development Plan. However, I note that the building line proposed is similar to that of Lumville Farm (creche) to the southwest. I would be satisfied that the set-back proposed is reasonable in the context of this site – with particular regard to the set-back of adjacent Lumville Farmhouse (creche). I would note that the reasons for refusal did not make reference to the building line.

## 7.3. **Access**

The access to the site is from the in-bound access road to an educational campus. This would appear to be a private road. The access to Lumville Farm (now a creche)

is from this same road – and the appeal site will, in effect, share this access. This same access serves the creche; and will be across part of the creche car-park. There will be no direct access to the site from Green Road. The 50kph speed restriction applies on Green Road. Sight distance at the junction of the educational campus access/egress, is good in either direction. Rudimentary public lighting is in place on Green Road, and the site is connected to Newbridge and The Curragh by a public footpath. I would be satisfied that the access proposals are satisfactory – assuming the applicants have right of access via the educational campus entrance/exit.

#### **7.4. Water**

##### **7.4.1. Water Supply**

The point of connection to the public watermains has not been indicated. Irish Water indicated that it had no objection to the proposed development.

##### **7.4.2. Foul Waste**

There is a foul sewer traversing the site, on which there are two manholes. This sewer serves to connect the educational campus with the public foul sewer in Green Road. It is proposed to tap into this sewer. The Water Services Section of KCC had no objection to the proposed arrangements. Irish Water indicated no objection to the proposed arrangements.

##### **7.4.3. Surface Water**

The site was dry under foot on the date of site inspection by this Inspector. Surface water is to be discharged to 3 no. concrete ring soakways of 2.5m diameter and 2.3m depth. The concrete ring is to be surrounded with 500mm of gravel. The Water Services Section of KCC had no objection to the proposed arrangements.

#### **7.5. Other Issues**

##### **7.5.1. Development Contribution**

As planning permission was refused, there is no indication of what development contribution should be paid for a development of this nature. If the Board is minded to grant planning permission, a condition should be attached requiring payment of a

contribution in accordance with the Kildare County Council Development Contribution Scheme 2015-2022; which indicates a contribution rate of €56 per sq.m for houses between 231m<sup>2</sup> and 370m<sup>2</sup>.

#### 7.5.2. Environmental Impact Assessment

Having regard to the nature and scale of the proposed development and the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination stage, and a screening determination is not required.

#### 7.5.3. Appropriate Assessment

The site is located neither within nor immediately abutting any European site. The closest such is Pollardstown Fen SAC (Site code 000396) – located some 2.2km to the northwest of the site. There is no surface water connection with this site. The application was screened for appropriate assessment by KCC. Having regard to the nature and scale of the proposed development, and to the separation distance from the nearest European site, no Appropriate Assessment issues arise; and 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 an European site.

#### 7.5.4. Archaeology

The site is not located in close proximity to any National Monument.

#### 7.5.5. Occupancy Clause

Policy RH5 of the Development Plan requires a 7-year occupancy clause for those who comply with the rural housing policy requirements of the Development Plan. If the Board is minded to grant permission for this development, then such an occupancy clause should be attached by way of condition.

### 8.0 **Recommendation**

I recommend that permission be refused for the Reasons and Considerations set out below.

## 9.0 Reasons and Considerations

1. The applicants have not demonstrated compliance with the 'local need criteria' for Rural Housing Policy Zone 1, an area of the county under strongest pressure for development, arising from proximity to Metropolitan Dublin. The proposed development would, therefore, be contrary to Policy RH2 of the current Development Plan for the area.

2. The proposed low-density development would constitute piecemeal and haphazard development of a rural area, and would compromise the orderly and efficient development of newly-developing areas of Newbridge, and would potentially undermine the viability of urban public transport due to low-density development. The proposed development would, therefore, be contrary to Policy RH10 of the current Development Plan for the area.

3. The proposed development is located within a 'Rural Area Under Strong Urban Influence', as identified in the *Sustainable Rural Housing – Guidelines for Planning Authorities*, issued by the Department of Environment, Heritage and Local Government in April 2005. Within such areas, piecemeal and haphazard development of a rural area, would compromise the orderly and efficient development of newly-developing areas of the town of Newbridge, and would potentially undermine the viability of urban public transport due to low-density development. The proposed development would, therefore, be contrary to the Guidelines and the proper planning and sustainable development of the area.

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**Michael Dillon,  
Planning Inspectorate**

**13<sup>th</sup> December 2018.**