



An
Bord
Pleanála

Inspector's Report ABP-303151-18

Development	Construction of a dwelling-house and forge (including materials store), septic tank & percolation area, new entrance and associated site works.
Location	Ballynacanty, Blue Ball, Co. Offaly
Planning Authority	Offaly County Council
Planning Authority Reg. Ref.	18/399
Applicant(s)	Joanne & Dave McCracken
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant(s)	Eamonn Keenan
Observer(s)	None
Date of Site Inspection	27 th February 2019
Inspector	Michael Dillon

1.0 Site Location and Description

- 1.1. The site, with a stated area of 0.54ha, is located within the townland of Ballynacanty – some 3.0km due southeast of the hamlet of Blue Ball in central Co. Offaly. It comprises a small, flat, arable field. It was dry underfoot on the date of site inspection. There are electricity cables traversing the site east/west. The access is from a county road – along which it is possible to pass two cars. The 80kph speed restriction applies in this area. There are no public footpaths and there is no public lighting. The applicant has an agreement to purchase the site. Sight visibility at the proposed access is poor in either direction.
- 1.2. To the northeast, the site abuts the access road – the boundary with which is a poor-quality hedgerow: there is agricultural land on the opposite side of the road. To the southeast, the site abuts the curtilage of a new two-storey house (nearing completion) – the boundary with which is timber post & wire fence. To the south, the site abuts agricultural land – the boundary with which is a trimmed hedgerow. To the northwest, the site abuts agricultural land, within which there is a semi-derelict cottage with corrugated iron roof – the boundary being set back from a good-quality, trimmed hedgerow.

2.0 Proposed Development

- 2.1. Permission sought on 17th September 2018, to construct a two-storey dwelling-house (166m²) with detached forge/store area (45m²) and new vehicular entrance. Water supply is from well to be bored on the site. Foul effluent is to be discharged to a septic tank and percolation area. Surface water is to be discharged to a soakpit (not indicated on drawings submitted).
 - 2.1.1. The application was accompanied by the following documentation of note-
 - Site Suitability Assessment Report – dated 25th May 2018.
 - Letters of consent from landowners, to the making of the planning application.
 - Supplementary information in relation to applicants and their business.
 - Connections of the applicants with this area.

- 2.2. Unsolicited additional information was received on 23rd October 2018, in the form of a copy of amended section 4.0 of the EPA Site Characterisation Form – confirming that the site is suitable for a septic tank system.

3.0 Planning Authority Decision

By Order dated 9th November 2018, Offaly County Council issued a Notification of decision to grant planning permission subject to 15 no. conditions – the principal ones of which may be summarised as follows-

1. Development shall be carried out in accordance with the plans and particulars submitted on 17th September 2018.
2. Occupancy clause of 7 years.
3. The proposed forge shall be constructed in advance of first occupation of the dwelling-house.
10. Development contribution of €3,010.
11. Requires retention of all trees and hedgerows.
15. Relates *inter alia*, to foul effluent disposal and noise.

4.0 Planning History

Ref. 18/253: Permission refused to Joanne & Dave McCracken for a two-storey dwelling-house and detached garage on this site, on 2nd August 2018, for one reason as follows-

The subject site is located in open countryside within an area of the County that is designated as a pressure area in the Offaly County Development Plan 2014-2020.

In such pressure areas it is development plan policy that certain categories of applicants which are defined in policy SSP-18 of the County Development Plan will be given a positive presumption for the development of a permanent rural home.

The Council considers that the applicant [sic] does not comply with the above policy as the applicant [sic] is not one of the defined categories of applicant and accordingly the proposed development would materially contravene the 2014-2020 Offaly County

Development Plan and would be contrary to the proper planning and sustainable development of the area.

The decision was not the subject of an appeal to An Bord Pleanála.

Ref. 16/374: Relates to a grant of planning permission on 7th March 2017, for Eamonn & Regina Keenan, to construct a two-storey house and detached garage on lands immediately to the southeast. This house has been constructed.

5.0 Policy and Context

5.1. Development Plan

The relevant document is the Offaly County Development Plan 2014-2020. The site is a rural one – falling outside any town/village within the Settlement Hierarchy (Map 1.1). Map 1.3 indicates Rural Area Types – the site being within a ‘Strong Rural Area’. The Rural Housing Policy Map 1.4, indicates that the site falls within a ‘Pressure Area’ – which comprises a good part of the northern section of the county, and the area around the town of Birr in the west of the county.

Section 1.16 on Settlement Strategy Policies states, in relation to Rural Housing Policy – Local Need Policy-

SSP-18 It is Council policy that within areas of the open countryside identified as a pressure area in Map 1.4: a positive presumption will be given towards a new single house for the permanent occupation of an applicant who falls within one or more of the 3 categories below and meets the necessary criteria.

Category 1: Local Rural Persons (a), (b) and (c)

The following 3 criteria arise in assessing applicants under this category:

The applicant must come within the definition of a ‘Local Rural Person’ **and** the proposed site must be situated within their ‘Local Rural Area’ **and** the applicant must have a ‘Local Rural Housing Need’

a) A ‘Local Rural Person’ (applicant) is a person who was born within the local rural area, **or** who is living or has lived in the local rural area for a minimum of **5 years** at any stage prior to making the planning application. It includes returning emigrants seeking a permanent home in their local rural area.

b) The 'Local Rural Area' for the purpose of this policy is defined as the area generally within a **8km** radius of where the applicant was born, living or has lived. *The rural area excludes all urban settlements contained with Tiers 1, 2, 3 and 4 of the settlement hierarchy).*

c) An applicant who satisfies a 'Local Rural Housing Need' is defined as a person who does not or has not ever owned a house in a rural area and has the need for a permanent dwelling for their own use.

Category 2: Persons Working Fulltime or Part-time in Rural Areas (a) or (b)

Such persons shall be defined as persons who by the nature of their work have a functional need to reside permanently in the rural area generally immediately adjacent to their place of work. Such circumstances will normally encompass persons involved in full-time farming, horticulture or forestry as well as similar part-time occupations where it can be demonstrated that it is the predominant occupation. Other cases will be dealt with on their own individual merits having regard to the intended spirit of the policy. In each case the applicant must not already own or have owned a house in the rural area.

Category 3: Exceptional Health Circumstances

Having regard to the Department of the Environment, Heritage and Local Government's '*Sustainable Rural Housing Guidelines*' (2005), special consideration shall be given in limited cases of exceptional health circumstances – supported by relevant documentation from a registered medical practitioner and a disability organisation proving that a person requires to live in a particular environment or close to family support, or requires a close family member to live in close proximity to that person.

5.2. Natural Heritage Designations

The site is neither within nor immediately abutting any natural heritage designation. The closest such is Screggan Bog Natural Heritage Area – some 1.8km due northeast of the site. The appeal site is not in hydrological connectivity with this site. The closest European site is the Clonaslee Eskers and Derry Bog SAC (Site code

000859) – located some 4.2km south-southwest of the appeal site. The appeal site is not in hydrological connectivity with this European site.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The appeal from Eamonn Keenan, Ballycue, Geashill, Co. Offaly, received by An Bord Pleanála on 4th December 2018, can be summarised in bullet point format as follows-

- The appellant's family home is under construction immediately adjacent to the appeal site.
- The appellant is concerned over the forge element of the development – in relation to increased traffic, noise, loss of privacy and business intensification potential in the future.
- The grant of permission did not reflect the concerns of the appellant. The permission did not address the potential of intensification of the use in the future – particularly in relation to metal fabrication.
- The conditions do not refer to day usage of the forge. There is nothing to stop the farrier employing others to help with the business.
- Drawings submitted do not show any flue – and the appellant is concerned in relation to smoke emissions.
- Whilst the PA referred to noise in conditions, it would not be possible for the business to keep within the noise limits specified. Where hammers & anvils are used – noise levels can be between 95dB(A) and 100dB(A). The sound will travel over large distances.
- The business could have a detrimental impact on the health of the applicant's family.
- The applicant's wife works as a nurse, and because of shift-work requirements, sometimes has to sleep during the day.

- Increased levels of visitors to the site will impact on the privacy of the appellant and his family.
- There is a first-floor window in the gable elevation of the proposed house, which will overlook the appellant's property.

6.1.2. The appeal is accompanied by a copy of the original letter of objection submitted by the appellant to Offaly County Council.

6.2. **Applicants' Response to 3rd Party Appeal**

6.2.1. The response of Emma Pillion Planning, agent on behalf of the applicants Joanne & Dave McCracken, received by An Bord Pleanála on 24th December 2018, can be summarised in bullet point format as follows-

- The applicants have lived in rented accommodation in Tullamore for the past five years. Joanne McCracken's parents are from Ballynacanty, but moved to Tullamore when they married. The applicants' son is to be enrolled at the new local National School at Gortnamona. Joanne McCracken's brother farms in the area. Other family members reside in the area.
- Dave McCracken is a farrier, and has no premises to work from. He has built up a client base in the area, notwithstanding that he has to travel further afield to make a living. He will also be involved in making orthopaedic and remedial/surgical shoes for the equine industry. He is keen to establish a clinic at his forge.
- Horses will be brought to the forge to be shod.
- Development Plan policy (SSP-18) supports this type of agri-business – where the applicant has a locally-based need to reside in a rural area.
- Joanne McCracken works as a veterinary technician (although currently on maternity leave).
- The farrier business would be inappropriate in an urban or industrial setting. The business will be small-scale – Dave full-time and Joanne part-time, when the business can support a second person in the future.

- The forge will be a modest structure. The maximum number of horses that could be serviced in any one day would be six. In winter months this is likely to be four per day. Horses will arrive in single horseboxes drawn by cars/jeeps. It is not designed to facilitate multiple farriers. Where clients have multiple horses, the farrier will travel to the client. The development will not result in the creation of traffic hazard.
- It is proposed to relocate the forge to the western side of the site – to limit the nuisance to the appellant. It will now be 40m from the appellant’s house – so noise should not be an issue. The applicants’ house will act as a noise barrier between the forge and the appellant’s house. The farrier will utilise only a travel anvil. There will be no large-scale mechanical repetitive reverberations.
- The forge will be internally clad with sound-proof insulation. It is in the interest of the farrier to reduce noise and reverberations for personal health reasons.
- The applicants are willing to accept a condition that they fit ‘noise-sensitive receptors’ at the boundary of the appellant’s dwelling, if noise from the forge is causing a nuisance (following noise surveys to be carried out at the request of the PA). This would apply to both internal and external enjoyment of the appellant’s house/site.
- The Sustainable Rural Housing Guidelines support housing for persons working full-time or part-time in rural areas.
- The relocation of the forge to the western boundary of the site will ensure that there will be no impact on the privacy of the appellant’s property.
- The proposed development will not grow into a large-scale business. Any intensification would be a matter for a future planning application.
- Because of flipping of the development, there is now only an *en-suite* bathroom window in the eastern gable elevation. The floor plan of the house has been flipped – and relocated on the site
- The farrier will use a gas-fired hearth – so there will be no nuisance from smoke.

6.2.2. The response submission is accompanied by the following documentation of note-

- Annotated map – showing the extensive family connections of Joanne McCracken in the area.
- Business Plan for the farrier.
- Site layout alterations – relocating the forge; and handing the house.
- CD of the farrier making a shoe with the noise recording app on a mobile telephone.

6.3. **Planning Authority’s Response to 3rd Party Appeal**

The response of Offaly County Council, received by An Bord Pleanála on 8th January 2019, indicated that the PA had no further comment to make.

6.4. **Observations**

None received.

6.5. **Circulation of 1st Party Response to 3rd Party Appeal**

6.5.1. The response of Emma Pillion Planning, agent on behalf of the applicants, received by An Bord Pleanála on 24th December 2018, was circulated to the other parties to the appeal, for comment on or before 31st January 2019.

6.5.2. The response of Offaly County Council, received by An Bord Pleanála on 24th January 2019, indicated that the PA had no further comment to make.

6.5.3. The response of David Mooney, Planning Consultant, agent on behalf of the 3rd Party appellant, Eamonn Keenan, received by An Bord Pleanála on 29th January 2019, can be summarised in bullet point format as follows-

- The appellant acknowledges the steps the applicants have taken to mitigate the potential nuisance from the forge. However, a forge is an incompatible use in proximity to houses. Noise from power tools and hand tools would still be detrimental to the enjoyment of the appellant and his family. The relocation of the forge would still result in the premises being 42m from the appellant’s house – where the exempted development regulations for rural

areas refers to a separation of 100m. A use such as this would be more appropriately located within a farmyard or in a light industrial area.

- It is noted that the applicants will engage childcare services (remote from the site) – so the impact of noise on their child cannot be compared to the impact on the wife of the appellant, who works on a shift pattern, and who sometimes needs to sleep during the day.
- There will be potential to contaminate the well on the appellant's site from horses visiting the farrier. The well on the appellant's site should be more than 50m upgradient of the farrier business or more than 150m downgradient of it.
- The permission granted by the PA does not restrict the scope and potential activities at the forge. The only restriction, related to condition 15(i) & (j) in relation to noise. The applicants have indicated a willingness to accept a condition relating to fitting noise-sensitive receptors at the boundary with the appellant's house. This acknowledges that noise from the forge could result in nuisance. The appellant does not accept that the noise from the forge would only be that as presented on the CD submitted to An Bord Pleanála. An expert statement (included at Appendix 1 of the submission) refutes the claim made by the applicants in relation to noise. Pledges to clad the forge in sound-proof insulation will not mitigate noise from the forge. The 'Handbook of the Black Country Forging and Foundry Project' (2002) states that noise levels here hammers are used generally reach 95-100dB(A) – due to impulsive nature of the hammer noise.
- Policy RDP-03 of the Development Plan states that the expansion of existing industrial or new business enterprise in the countryside should not negatively impact on the character and amenity of the surrounding area.
- Insufficient regard has been given to protecting the appellant's residential amenity. No restriction has been placed on days/hours of operation.
- The Area Planner recommended refusal of permission, and was over-ruled by the Senior Planner at the last minute.

- There is no need to locate in a rural area. The need to reside in a rural area does not tally with those described by an expert in the field. Modern day farriers work from a mobile unit – the days of a fixed farrier premises are over. This is in accordance with animal welfare requirements and takes account of infection control guidelines and reduces the risk of cross-contamination between animals. It is easier to bring the farrier to the horse, rather than the other way around. It appears that the second-named applicant is currently operating in the modern way – bringing his farrier services to the animal. Tullamore is a strategic location from which to serve the many clients in the wider area. It is not good practice to bring a horse with orthopaedic needs to a farrier – causing the animal further distress. It is not best practice to restrict a horse in an animal crush when being shod: animals will behave better in their own surroundings.
- The applicants do not comply with the local need criteria for housing – as they did not grow up in this area. The applicants applied previously for a house on this site, and permission was refused, as the applicants did not have a local need. This application did not mention any need to operate a forge at the premises – notwithstanding that it was stated that the second-named applicant was a farrier. The Senior Planner over-rode the Executive Planner’s recommendation to refuse planning permission, stating – “On balance I consider that the applicant could qualify for local need under Category 2 – Persons working full-time or part-time in a rural area generally immediate to where they wish to live. This is defined as 8kms. I note that the nature of a farrier business is that most of his jobs would be outside the 8km region but many will inevitably fall within it. The fact that a forge is proposed to serve the business and allow customers to come to the premises adds to the argument in favour of granting planning permission”. The applicants do not comply with the criteria set out in Category 1.

6.5.4. The 3rd Party appellant submission is accompanied by the following documentation of note-

- Equine Industry Expert Statement (Appendix 1) – dated 24th January 2019.

- ‘Reducing Noise from Forges and Foundries – The Handbook of the Black Country Forging and Foundry Projects’ (Davis 2002) (Appendix 2).
- E-mail correspondence between appellant and The Donkey Sanctuary, Mallow, Co. Cork (Appendix 3).

6.6. Circulation of 3rd Party Response to 1st Party Response to 3rd Party Appeal

- 6.6.1. The response of Eamonn Keenan, received by An Bord Pleanála on 29th January 2019, was referred to the other parties to the appeal for comment, on or before the 4th March 2019.
- 6.6.2. The response of OCC, received by An Bord Pleanála on 22nd February 2019, indicated that the PA had nothing further to add.
- 6.6.3. The response of Emma Pillion Planning, agent on behalf of the applicants, received by An Bord Pleanála on 1st March 2019, can be summarised in bullet point format as follows-
- The farrier does not need more powerful tools to carry out his work. References to exempted development provision are irrelevant.
 - The applicants’ child will inevitably be sleeping at the house whilst the farrier is working.
 - Fitting noise-sensitive receptors at their neighbour’s house is a cost the applicants can little afford.
 - All animal waste will be collected and transported off-site for spreading on agricultural lands. The appellant shares two boundaries with agricultural land – where cattle could be grazing. The forge will have no impact on the appellant’s well.
 - The work of the farrier is agricultural in nature: its place is not in an industrial zone.
 - The applicants are willing to accept a condition limiting the hours of operation of the forge.

- The applicants are willing to accept a condition in relation to noise insulation of the forge – should the Board consider it necessary. The forge will be insulated in any event, to prevent tools from rusting.
- The document submitted by the appellant relates to aerospace/heavy & light engineering/car industry – and does not relate to shoeing of horses. The document submitted relates to large industrial forges – produced by Dudley Council in the UK. Any proposal to extend the forge would require planning permission.
- There are differing expert opinions in relation to orthopaedics and farriering. Cold shoeing does not allow the farrier the same level of modifications as the hot shoeing method.
- Not all orthopaedic problems with horses prevent the animal being transported to the farrier.
- An industrial setting would not be suitable for horses.
- Travel to a forge is not stressful for horses. Sometimes it is necessary for a horse to travel to the forge, because the owner may not have suitable premises, wherein the shoeing work can be carried out.
- The applicants are not claiming to be 'local' people in relation to the rural housing requirement – but rather that the farrier's work requires him to live in a rural area. Notwithstanding this, the applicants have family links with the area.

6.6.4. The response is accompanied by the following documentation of note-

- Copy of e-mail from Kevin Kirk, Energy Consultant – dated 22nd February 2019.
- Letter from Jeremy Dawson Stanley, Farrier, Co. Westmeath, in support of the planning application for the forge – dated 16th February 2019.
- Copy of e-mail from the Donkey Sanctuary, to Dave McCracken in relation to shoeing of donkeys – dated 22nd February 2019.
- Letter from Emma Lucy, Manager, Irish Farriery Authority, in support of the planning application – undated.

6.7. Circulation of 1st Party Response to 3rd Party Response to 1st Party Response to 3rd Party Appeal

- 6.7.1. The response of Emma Pillion Planning, agent on behalf of the applicants, received by An Bord Pleanála on 1st March 2019, was referred to the other parties to the appeal for comment, on or before 2nd April 2019.
- 6.7.2. The response of OCC, received by An Bord Pleanála on 26th March 2019, indicated, in relation to point no. 4 of the response, that the Executive Planner of OCC explained the reasons for refusal ref. 18/253 to the applicants; but did not suggest reapplying for planning permission.
- 6.7.3. The response of David Mooney, Planning Consultant, agent on behalf of the 3rd Party appellant, Eamonn Keenan, received by An Bord Pleanála on 29th March 2019, can be summarised in bullet point format as follows-
- The forge is a use which is incompatible with residential use. The reasons for quoting the exempted development provisions of the Planning Regulations, was to indicate that in a rural context, a separation distance of at least 100m from a house was required for uses similar to forge use, in order to avail of the exempted development provisions.
 - The applicant is also concerned in relation to contamination of his well water supply by visiting horses. Toxic chemicals, fungicides, antibiotics for treatment of infections could end up in the appellant's well. The farrier also uses other chemical products which could contaminate a well. For this reason, the forge should not be located close to residential development.
 - Intensification of the forge use could result in further disamenity for the appellant. Noise, even from a forge of this size, would have a negative impact on residential amenity.
 - The farrier profession is a mobile one, and does not need to be located in this area. It is common sense for the farrier to travel to the horses he is attending. A forge does not have to be located in an industrial estate: but rather where there are other workshop/employment-related uses.
 - The applicant does not comply with the local need criteria for a house in a rural area of Co. Offaly. Category 2 of SSP-18 states: "Such persons shall be

defined as persons who by the nature of their work have a functional need to reside permanently in the rural area generally immediately adjacent to their place of work

7.0 Assessment

The principal issues of this appeal, relate to housing need in a rural area and residential amenity.

7.1. National Policy & Development Plan Considerations

- 7.1.1. The ‘*Sustainable Rural Housing – Guidelines for Planning Authorities*’, issued by the Department of the Environment, Heritage and Local Government in April 2005; indicate that the site is located within a ‘Stronger Rural Area’ – in this instance, largely but not solely, arising from the proximity to Tullamore. “In such areas, population levels are generally stable within a well-developed town and village structure and in the wider rural areas around them. This stability is supported by a traditionally strong agricultural economic base and the level of individual housing development activity in these areas tends to be relatively low and confined to certain areas”. The first-named applicant has connections with this rural area – notwithstanding that she was brought up in Tullamore. The site does not form part of a family landholding, but rather, is to be purchased from the landowner. The *Guidelines* refer to favourable consideration being given to those working full-time or part-time in rural areas, or persons whose work relates to rural areas – such as teachers in rural schools. The *Guidelines* would appear to compass the notion of a rural-based job linked to one particular area – as opposed to say a builder, sales representative, mechanic – whose work would take them over a wide rural area. I would not consider that the applicants meet the requirement of persons working full-time or part-time in rural areas – by reference to the *Guidelines*.
- 7.1.2. Planning permission was recently refused to the applicants (ref. 18/253), on the grounds that they had not established a rural-generated housing need. The site is located in open countryside, within an area of the county that is designated as a ‘Pressure Area’ in the Development Plan. In such ‘Pressure areas’, it is policy that certain categories of applicants, which are defined in policy SSP-18 of the County

Development Plan, will be given a positive presumption for the development of a permanent rural home. The Council considered that the applicants did not comply with the policy, as they were not one of the defined categories of applicant. The earlier application is similar to the current appeal – the house being the same; the vehicular access altered slightly; the garage now being re-designated a forge/store area. The PA considered that circumstances had changed in relation to this application, through inclusion of the forge within the development – notwithstanding that the second-named applicant was a farrier at the time when both applications were made to the Council.

7.1.3. Policy SSP-18 of the Plan deals with rural housing. The applicants are not from a rural area and are not living in a rural area. I would consider that they do not come within the scope of Category 1 of this policy. Category 2 relates to persons working full-time or part-time in rural areas (a) or (b). The inclusion of (a) and (b) would not appear to make any sense in the context of Category 2 persons, which states- “Such persons shall be defined as persons who by the nature of their work have a functional need to reside permanently in the rural area generally immediately adjacent to their place of work”. I would consider that a person working full-time or part-time in a rural area, need not necessarily – (a) come from the area, or (b) be born within 8km of it. The policy goes on to state- “Such circumstances will normally encompass persons involved in full-time farming, horticulture or forestry as well as similar part-time occupations where it can be demonstrated that it is the predominant occupation. Other cases will be dealt with on their own individual merits having regard to the intended spirit of the policy. In each case the applicant must not already own or have owned a house in the rural area”. The policy specifically refers to a need to reside “generally immediately adjacent to their place of work”. The farrier’s business would appear to range over a broad area of country. The applicants argue a need to live in this rural area to carry on the farriering business. The appellant argues that mobile farriering is the modern way, and that the second-named applicant already carries out his business in this way. The policy is directed at persons who by the nature of their work have a need to reside permanently in the rural area [my emphasis]. The use of the definite article would seem to imply a need to reside in this particular area – rather than any rural area of the county.

7.1.4. Having regard to the location of the site within a pressure area of the county, I would not consider that the applicants have demonstrated a need to reside in this rural area of the county, and permission should be refused for this reason.

7.2. **Layout & Design**

7.2.1. The proposed two-storey house is centrally located within the site – set back some 40m from the roadside boundary. The building line conforms roughly with the building line established by a recently-constructed, two-storey house on the adjoining site to the southeast (belonging to the appellant). The house design is unremarkable, and is similar in style to other houses recently constructed in the area. External walls are plastered, and the roof is of slates. The 1st Party response to the 3rd Party grounds of appeal suggested handing the house on the site. No drawings have been submitted to reflect this. Of more concern is the proposal to relocate the forge to the other side of the site. This would have implications for landowners in the area. If the Board is minded to consider this relocation of the forge unit, I recommend that the applicants be required to re-advertise the proposed development. The relocation of a forge is not the same as the relocation of a domestic garage. This aside, the appellant considers that the relocation of the forge to the opposite side of the site, would not assuage concerns in relation to noise, traffic and privacy.

7.2.2. The forge building is limited in size – 45m². It was to be fitted with a flue – for the coke-fired forge. The 1st Party response to the 3rd Party grounds of appeal indicated that the forge was to be gas-fired. This would eliminate any nuisance which might be caused by the use of coke. The appellant, who owns the adjoining house to the southeast, was concerned in relation to the impact of the forge on residential amenity. The forge is located some 7m from the shared boundary – and 18m from the appellant's house. The shared boundary is a post & wire fence. The appellant was concerned in relation to the commercial aspect of the development, potential for expansion in the future, noise, traffic and loss of privacy. In order to assuage the concerns of the appellant, the applicants propose relocating the forge to the opposite side of the site (as per Appendix 4 of the 1st Party response to the 3rd Party appeal). The appellant points out that the forge would then be located 42m from his house – which would still result in noise nuisance. The applicants argue that the forge will be

sound-proofed, and that their new house would itself, act as a noise barrier. Further, the applicants indicate a willingness to erect noise sensitive receptors [sic] on the boundary with the appellants' premises, in the event that future noise monitoring indicates that nuisance is being caused. It is assumed that a noise barrier of some sort is what is intended – although such has not been specifically stated. I would agree with the concerns of the appellant – particularly in relation to noise – much of which will be of an impulsive nature – where hammering/forging of metal is to be undertaken. This is a rural area; and whilst farriering relates largely to the equine industry and equine pursuits (most of which occurs in rural areas), much of the work is carried out at farmyards and stables. The applicant currently operates from Tullamore – it is to be assumed on a mobile basis – as there is no mention made of an existing forge. The applicants contend that urban or industrial areas are not suitable for forges. This may or may not be true: however, what is at issue here is a forge in a rural area. In the past, roadside forges were a feature of rural areas, but this was at a time when horses had to be walked to the forge to be shod. The 3rd Party appeal argues that modern farriering is a mobile business, with the farrier travelling to horses, rather than the other way around – particularly in relation to animal comfort and health. This is how the applicant farrier currently operates his business. The applicants argue that the farrier will be involved in the making of orthopaedic and remedial surgical shoes for horses – which work will necessitate the setting up of a clinic at the forge – which would likely operate on one day a week. I would consider that the proposed development could negatively impact on the residential amenities of adjoining property, particularly in relation to noise and traffic, and that permission should be refused for this reason.

7.2.3. I note that condition 17 of the planning permission (ref. 16/374), granted to the appellant for his family house, stated- “The proposed garage shall not be used for human habitation, or any commercial activity or for any other purpose than a purpose incidental to the enjoyment of the dwelling”. Whilst the appellant has not referred to this condition, I would consider that the PA is of the opinion that commercial uses may not be appropriate adjacent to an house.

7.2.4. The first-floor window in the southeast gable elevation of the proposed house, is located approximately 20m from the boundary with the adjoining house to the southeast. Such a window would not give rise to any serious degree of overlooking

of the adjoining site – regard being had to the separation distances involved. The 1st Party response to the 3rd Party appeal suggested handing the house on the site; which would result in the gables being handed – and a bedroom window being replaced with an *en-suite* bathroom window. I would not consider that either window would have the potential for any serious degree of overlooking of the adjoining site to the east. It is open to the appellant to erect screening or to plant an hedge or trees to increase privacy – if so desired.

7.3. Access & Parking

- 7.3.1. The entire roadside boundary hedgerow is to be removed to facilitate the creation of adequate sightlines at the entrance. Being on the inside of bend in the road – sight distance is poor in either direction. The hedgerow is of poor quality. It is to be replaced by a wall, set back 3m from the edge of the carriageway. There is an abundance of parking within the curtilage, and there will be adequate turning within the site for any vehicles visiting the forge. The Area Engineer of OCC was satisfied with the road access proposals, and that 90m sightlines could be provided in each direction at the new site access.

7.4. Water

7.4.1. Water Supply

The proposed development will be served by a well – to be drilled in the front garden of the proposed house – some 50m from the percolation area serving the septic tank. The PA had no objection to this arrangement. The appeal raises the issue of potential contamination of the well on the appellant's site, by horses visiting the appeal site, and more generally by chemicals used by the farrier. The appellant has not indicated the location of the well serving his house. I would not consider that this is an issue of concern. It is open to the current landowner to stock farm animals on the land as it exists. It is the responsibility of the appellant to protect his well from contamination from normal farm activity on adjacent land. Similarly, it is open to residents to stock and use chemicals within their houses/sheds for domestic use, and it is expected that such would be used/stored in a safe manner, which would not

result in a hazard to their own water supply or to the quality of ground and surface waters, which might affect their neighbours.

7.4.2. Foul Effluent

Domestic effluent is to be disposed of to a septic tank and percolation area. The application was accompanied by a Site Suitability Assessment Report – which deemed that the site was suitable for disposal of effluent. The site was dry under foot on the date of site inspection by this Inspector. The proposed forge will have no toilet. The PA indicated that there was no objection to the proposed arrangements.

7.4.3. Surface Water

Surface water is stated to discharge to a soakway – although drawings submitted do not indicate any such. Notwithstanding this, the PA was satisfied with the proposed use of soakways, and attached appropriate conditions in relation to construction.

7.4.4. Flooding

The documentation submitted with the application makes no reference to flooding – other than to state on the application form that the site has never been flooded; to the knowledge of the applicants. There are no watercourses in the immediate vicinity. OPW Floodmaps do not indicate any fluvial or pluvial flood incidents in the area.

7.5. **Other Issues**

7.5.1. Development Contribution

Condition 10 of the Notification of decision to grant planning permission required the applicant to pay a development contribution of €3,010. If the Board is minded to grant permission for this development, a similarly-worded condition should be attached.

7.5.2. Occupancy Clause

Condition 2 of the Notification of decision to grant planning permission is an occupancy clause for a period of seven years. The applicant has not appealed this condition. If the Board is minded to grant permission for this development, a similarly-worded condition should be attached.

7.5.3. Archaeology

The site is not located in the immediate vicinity of any Recorded monument. The Notification of decision to grant planning permission did not include any condition relating to archaeological monitoring of ground disturbance. Having regard to the limited area of ground to be disturbed, I would not consider that archaeological monitoring is warranted in this instance – should the Board be minded to grant permission.

7.5.4. 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.

7.5.5. Appropriate Assessment

The PA carried out screening for appropriate assessment. The closest European sites are Charleville Wood SAC (Site code 000571) – located some 4.8km to the northeast; and the Clonaslee Eskers and Derry Bog SAC (Site code 000859) – located some 4.2km to the southwest. Having regard to limited nature of the proposed development, proximity to European sites, and to the fact that there are no connections to the surface water network in the area, 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.

8.0 **Recommendation**

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

9.0 **Reasons and Considerations**

1. Having regard to the location of the site within a "Stronger Rural Area" as identified in *Sustainable Rural Housing Guidelines for Planning Authorities*,

issued by the Department of the Environment, Heritage and Local Government, in April 2005; and in an identified 'Pressure Area', where housing is restricted to persons demonstrating local need, in accordance with the current Offaly County Development Plan: it is considered that the applicants do not come within the scope of the housing need criteria as set out in the Guidelines or the Development Plan, for a house at this location. The proposed development, in the absence of any identified, locally-based need for the house, would contribute to the encroachment of random rural development in the area, and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. The proposed development, by reason of the noise it would generate, and the level of traffic it would bring to the site, would be seriously detrimental to the residential amenities of adjoining property. The proposed development would seriously injure the amenities of property in the vicinity.

**Michael Dillon,
Planning Inspectorate.**

5th April 2019.