



An
Bord
Pleanála

Inspector's Report

ABP-304836-19

Development	Construction of house, domestic garage, waste water treatment system and percolation area, and new entrance.
Location	Ballybuggy, Rathdowney, Co. Laois
Planning Authority	Laois County Council
Planning Authority Reg. Ref.	18/761
Applicant(s)	Margaret Kelly and Paul Colton.
Type of Application	Permission.
Planning Authority Decision	Grant subject to Conditions.
Type of Appeal	Third Party V. Decision.
Appellant(s)	Aaron McEvoy.
Observer(s)	None.
Date of Site Inspection	15 th October 2019.
Inspector	Susan McHugh

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Decision	5
3.2. Planning Authority Reports	6
3.3. Prescribed Bodies	7
3.4. Third Party Observations	7
4.0 Planning History.....	7
5.0 Policy Context.....	8
5.1. Laois County Development Plan 2017-2023	8
5.2. National Policy	9
5.3. Natural Heritage Designations	10
5.4. EIA Screening	10
6.0 The Appeal	11
6.1. Grounds of Appeal	11
6.2. Applicant Response	12
6.3. Planning Authority Response	14
6.4. Further Response	14
7.0 Assessment.....	14
7.1. Compliance with Rural Housing Policy.....	15
7.2. Siting Design and Layout	17
7.3. Residential Amenity	19
7.4. Planting and Site Boundaries.....	20

8.0 Recommendation..... 21

9.0 Reasons and Considerations..... 21

1.0 Site Location and Description

- 1.1. The site is located in the townland of Ballybuggy in a rural area in the south west of County Laois. It is located approximately 3km to the south of the local service town of Rathdowney, and approx. 30km from the county town of Portlaoise to the northeast and Kilkenny City, Co. Kilkenny to the southeast.
- 1.2. The appeal site is located approx. 10km from Junction 3 on the M8 to the north east and approx. 12km from Junction 21 on the M7 to the north. Access is via a Local Secondary Road L-5555 which joins the Regional Route R435 approx. 250m to the east which connects Rathdowney to Johnstown, Co. Kilkenny.
- 1.3. The area is characterised by a limited number of one off houses and agricultural land uses. The site is adjoined by a single storey house to the west dating from the 1950's which is home to the applicants mother. A newly constructed two storey house is located on the adjoining site to the east and is home to the appellant in the current appeal.
- 1.4. The site is currently in pasture and rises gradually in a northerly direction away from the public road at the southern site frontage. The site is defined by mature hedgerow along the southern and roadside boundary and part of the eastern side boundary. Along the western side boundary, the site is defined by mature trees and the northern site boundary is open.
- 1.5. The site which is roughly triangular in configuration has a stated area of 0.33 hectares. It forms part of a larger family landholding located to the north east and west.

2.0 Proposed Development

- 2.1. The application was lodged with the planning authority on the 18/12/2018, with further plans submitted on 27/03/2019. The latter triggered revised public notices. Further plans were submitted by way of clarification of further information on the 22/05/2019.
- 2.2. The proposal as amended comprises:

- 2.3. Permission to construct a new dwelling, waste water treatment unit and percolation area and new site entrance.
- 2.4. The proposed dwelling house is part single storey, part two storey dwelling, with a stated floor area of 280sqm. The single storey element comprises open plan kitchen dining and living area, with separate sitting room off the kitchen and utility room accessed from the hall and lobby. It also accommodates an ensuite, dressing room and study at first floor. The two storey element comprises ground floor bedroom, shower room, dog room and gym with wardrobe and ensuite. At first floor there are three bedrooms and family bathroom.
- 2.5. The house is set approx. 35m from the roadside on the southern side and has a ridge height of 8.1m. It is contemporary in design and finished in nap plaster.
- 2.6. It is also proposed to construct a single storey detached garage with a stated floor area of 32sqm. It is located to the rear of the house and has a ridge height of 5.3m.
- 2.7. The proposed source of water supply is from a new private bored well located next to the proposed garage to the rear of the proposed dwelling on the higher part of the site.
- 2.8. A new waste water treatment system is proposed. A site suitability assessment was submitted with the application and based on the results the site was considered suitable for a proprietary waste water treatment system and polishing filter and percolation area. This is to be located to the front of the proposed dwelling and on the lower part of the site.
- 2.9. A new vehicular entrance is proposed along the south western part of the site onto the existing Local Secondary Road.

3.0 **Planning Authority Decision**

3.1. **Decision**

The planning authority decided to **grant** planning permission 11/06/2019 subject to 12 no. standard conditions. Conditions of note include the following;

Condition No. 6: Entrance and sightline requirements.

Condition No. 7: Dwelling to be constructed in accordance with drawings received by the planning authority on 27/3/19.

Condition No. 10: Requirements in relation to proposed woodland screening along the western and eastern boundaries.

3.2. Planning Authority Reports

3.2.1. **Planning Reports** (dated 14/02/2019, 30/04/2019 and 11/06/19)

3.2.2. The **1st Planners Report** is the basis for the Planning Authority decision. It includes;

- Site is located in a 'Structurally Weak Area under Strong Urban Influence' as designated under the rural housing policy of the Laois County Development Plan 2011-2017. The local rural housing need factor is applicable for such a designation.
- Applicant Margaret Kelly has strong socio-economic connections to the locality. The development site is on the family landholding and the family home is immediately adjacent to the west.
- The principle of the proposed development involving the building of a dwelling by the landowners daughter on the family land holding is acceptable.
- Recommend further information in relation to proposed site levels and section drawings indicating adjacent properties, and proposals to address issues raised by the third party submission in relation to the removal of hedgerow, building line, site levels, orientation and privacy.

3.2.3. The **2nd Planners Report** can be summarised as follows;

- Section B-B requires clarification having regard to the differences in ground levels, floor levels and ridge levels between the proposed development site and the immediately adjacent development site to the east.
- Request comments from the applicant in response to issues raised by the further third party submission.

3.2.4. The **final Planners Report** can be summarised as follows;

- Revised sections and levels submitted demonstrate the impact of the dwelling on the landscape and adjoining dwellings.
- Accept that there is no established building line in this area.
- The dwelling has been designed to take advantage of orientation with most glazing on the eastern southern and western elevations.
- Notes separation distance of 55m from the dwelling to the east, limited fenestration directly facing this house, measures to mitigate overlooking including raising cill levels and substantial landscaping at two points along the eastern and western boundaries.
- Consider the proposed development will not negatively impact on the residential amenity of adjoining properties.

The recommendation was to grant permission.

3.2.5. **Other Technical Reports**

Area Engineer: Report dated 7/01/2019 recommends no objection.

3.3. **Prescribed Bodies**

None.

3.4. **Third Party Observations**

One third party submission was received by the planning authority from Aaron McEvoy owner of the neighbouring property to the east and the appellant in the current appeal.

A further submission was lodged on foot of the request for further information. Issues raised are similar to those raised in the appeal and are summarised in section 6 of this report.

4.0 **Planning History**

None.

5.0 Policy Context

5.1. Laois County Development Plan 2017-2023

- 5.1.1. **Section 2.1** refers to the Core Strategy and identifies the appeal site as being located within **Zone C** (Figure 5 Core Strategy Map) see map attached.

Zone C - 'is made up of lowland mixed farmland and settlements with links to Strategic Transportation Corridors and key development areas. It is envisaged that there will be continued growth in the rural economy through specialist agriculture, diversification into complementary food production, rural tourism development opportunities. These stronger rural areas will prosper with intensifications in areas of specialist tillage – especially near major settlements and transportation corridors.

- 5.1.2. **Section 2.6** refers to rural housing strategy and the County is divided into three broad categories:

1. Areas under Strong Urban Influence,
2. Stronger Rural Areas and
3. Structurally Weak Areas.

The appeal site is located in an area defined as a 'Structurally Weak Area', (Figure 7 Rural Area Designations) see map attached.

- 5.1.3. **Section 2.6.1** refers to rural housing policy and rural area types.

The criteria for developing a dwelling in a rural area include;

- The applicant must come within the definition of a 'Local Rural Person'.
- The proposed site must be situated within their 'Local Rural Area'.
- The applicant must have a 'Local Rural Housing Need'.

- 5.1.4. **Table 6** lists the Rural Area Designations and describes 'Structurally Weak Rural Areas' as *'rural areas which generally exhibit characteristics such as persistent population decline as well as weaker economic structure based on indices of income employment and economic growth. These rural areas are more distant from the major urban areas and the associated pressure from urban generated housing'.*

It is policy to *'help stem decline and strengthen structurally weak areas, it is an objective of the Council that in general, any demand for permanent residential*

development should be accommodated, subject to meeting normal planning and environmental criteria’.

5.1.5. **Section 7** refers to Heritage

Policy NH27 states that it is Council Policy to ‘*Protect existing hedgerows from unnecessary removal in order to preserve the rural character of the countryside and promote biodiversity’*

Policy NH28 states that it is Council Policy to ‘*Insist on the use of native species when planting new hedgerows’.*

5.1.6. **Appendix 6** refers to Landscape Character Areas and Map no. 6 identified the site within the ‘Lowland Agricultural Area’.

5.1.7. **Appendix 7** refers to *Rural Design Guidance*.

Guidance in relation to Topography advises that ‘*the position of a new dwelling in undulating and hilly areas needs to be carefully considered to achieve a practical design which does not look out of place’*, in particular recommends.

- ‘*carefully shape the land around the building so that it blends more successfully with the surroundings’.*
- ‘*select naturally-occurring shelves or the gentlest part of a slope so as to minimise earth moving and to avoid excessive scarring of the landscape’.*

5.2. **National Policy**

5.2.1. **National Planning Framework – Project Ireland 2040, DoHP&LG 2018**

National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations. In rural areas elsewhere, it refers to the need to facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.2.2. Sustainable Rural Housing Planning Guidelines

The guidelines require a distinction to be made between 'Urban Generated' and 'Rural Generated' housing need. A number of rural typologies are identified including 'stronger rural areas' which are defined as those with generally stable population levels 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.

Examples are given to the types of circumstances for which 'Rural Generated Housing Need' might apply. These include 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

The appeal site is identified as being in a 'Stronger Rural Area'. (See map attached).

5.2.3. Regional Planning Guidelines for the Midland Region 2010-2022

Figure 4.4 Spatial Settlement Strategy identifies the site as being located within the Southern Development Area for the Region within the rural hinterland.

5.3. Natural Heritage Designations

There are no Natura 2000 sites at or immediately adjacent to the development site. The nearest site is the Galmoy Fen Special Area of Conservation (Site Code 1858) , which is approx. 4km to the south-east.

5.4. EIA Screening

Having regard to the nature of the proposed development, the nature of the receiving environment, and proximity to the nearest sensitive location, 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 and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The Third Party Appeal against the decision of the planning authority to grant permission was submitted by Aaron McEvoy, the owner of the adjoining house to the east. The grounds of appeal can be summarised as follows;

Residential and Visual Amenity

- The permission granted by Laois County Council did not address concerns raised in submissions in relation to privacy and non-compliance with Rural Housing Guidance (Appendix:7).
- The proposed house is to be constructed 18.5m approx. behind the established building line and would therefore overlook the dwelling to the east.
- The finished floor levels of the proposed house are significantly higher than the floor levels of adjoining dwellings to the east and west.
- Discrepancies in the stated differences in finished floor levels between the proposed and adjoining dwellings.
- Proposed house will make a significant impression on the landscape as it is to be constructed at the highest part of the site.
- The location level and orientation of the proposed dwelling does not respect the privacy of the appellants property.
- The raising of the window cill level at first floor does not alleviate overlooking of the appellants property.

Proposed Planting along Western Boundary

- The existing boundary consists of deciduous planting and therefore does not provide adequate screening for much of the year. If the proposed house were on the existing building line, the need for screening would be diminished.
- Condition No. 10(a) in relation to planting of the boundary does not adequately address the issue of overlooking.

Siting of the Proposed Dwelling

- Is not in accordance with the Housing Design Guidance and requires further assessment than was carried out by the planning authority.

Achievement of Adequate Sight Lines

- Queries the extent of existing hedgerow to be removed to provide adequate sightlines.
- The removal of hedgerow to achieve the required sightlines will be contrary to NH27 of the County Development Plan.

6.2. Applicant Response

A response to the third party appeal was lodged by Leslie Colton, Engineering and Architectural Services, on behalf of the applicant, and can be summarised as follows;

- A number of changes were made to the proposed development in response to issues raised by the third party at application stage.
- *Privacy* – Photographs taken offer an accurate reflection of existing natural screening across all seasons over a one year period. The angle from the two first floor bedroom windows to the windows of the appellants property would be only a 13° and 17° oblique angle respectively, making it virtually impossible to have any degree of visibility in normal conditions. The bedroom which is served by the reduced east facing window is to be used only as a fourth bedroom.
- *Layout* - The major hub of the dwelling which will facilitate living is based specifically in the single storey section at the front of the house on the southern aspect with windows looking to the north east, south and west. This location was chosen as it does not have views either to or from the house to the east. The kitchen, additional living area, gym, patio area and the master bedroom suite are located on the western aspect to avoid having any negative impact on the appellants house.
- *Site Profile* - Disputes that the appeal site with its apex height of 3.1m can be deemed as a hilly area, and notes that the floor level of the appellants house is only 800mm lower than the proposed dwelling, and the fall on the site is less than 2°.

- *Design* - The proposed plans for the house are entirely appropriate for the site location and surrounding areas. The design uses the single storey element at the front to soften the two storey element to the rear making it far less imposing from the road. The simple design and clean lines also aid to incorporate the house into the site. By lowering the house into the site, it vastly reduces the visual impact on the surrounding area and along with the existing mature hedging and proposed trees and woodland screening will further assimilate the proposed dwelling into the landscape.
- *Building Height* – Acknowledges discrepancies in levels used in the application as lodged. These were corrected at further information stage such that the finished floor level of the proposed house when moved 2.5m forward and to the east would be 800mm higher than the appellants house to the east over a distance of 55m.
- *Building Line* – The proposed dwelling closest point to the road measures 30m while the appellants dwelling to the east is 34m from the road at its closest point. It is not possible to move the dwelling closer to the road and also meet requirements in relation to separation distances for the percolation area and the proposed waste water treatment system.
- *Screening/Existing site hedging* – Existing hedging offers considerable screening between the two properties throughout the year, notes Condition 10 of the Notification of decision to grant permission. A small portion of the existing boundary along the front boundary approx. 15m will be removed.
- *Sight Lines* – The refusal by the appellant to furnish a letter to the applicant allowing them to cut back and keep trimmed a small portion of agricultural hedgerow overhanging the road would have possibly allowed the existing entrance to the site to be used.
- *Connection to the Locality* – Refers to the appellants lack of connections to the local area. The applicant has lived with her mother since birth until 2012 when she moved to Dublin for work and has recently moved to Kilkenny for work. The applicants housing need is now becoming more urgent as the applicant is expecting her first child and wishes to raise her family in the same rural environment that she grew up in and attend the same local schools, participate in the same local sports and activity clubs. Reference to letter from the applicants mother submitted with the

application included as Appendix K. Applicants mother supports daughters application which will provide security and care for her in the future.

- *House Value* – Assert that the proposed new build would serve to raise house prices in the locality and raise desirability and provide young people the opportunity to sustain local schools and clubs.

6.3. **Planning Authority Response**

The planning authority made no further comments.

6.4. **Further Response**

A further response by the appellant to the applicants response to the third party appeal was lodged, which can be summarised as follows;

- Notes comments made in the submission which are outside the scope of the appeal.
- Refers to a house recently sold by the applicant in Rathdowney and that they now live in Thurles.
- Considers the privacy of their dwelling and rear garden will be greatly compromised by the location and height of the proposed dwelling.
- The arc of view demonstrated on Appendix 1 shows the direct view from the proposed property to their master bedroom, kitchen area and rear garden. Not satisfied that the proposed planting is in accordance with Development Plan Guidelines.
- Notes a number of discrepancies in the original application which were misleading in relation to the boundary to the front of the proposed site in addition to inaccurate levels and dimensions on the drawings submitted.

7.0 **Assessment**

The location of the proposed waste water treatment system, polishing filter and percolation area and site conditions are in accordance with the EPA Code of

Practice Waste Water Treatment and Disposal Systems serving Single Houses (EPA 2009) and would not be prejudicial to public health.

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. Appropriate Assessment also needs to be considered. The issues are addressed under the following headings:

- Compliance with Rural Housing Policy
- Siting and Layout
- Residential Amenity
- Site Boundaries
- Appropriate Assessment

7.1. **Compliance with Rural Housing Policy**

- 7.1.1. The current settlement strategy for Co. Laois is clearly set out in the County Development Plan (2017-2023) and summarised in section 5.1 above.
- 7.1.2. The Core Strategy (Figure 5) for the county as outlined in Section 2.1 of the county development plan, identifies the appeal site as being located within 'Zone C'. This zone is characterised by having *'links to Strategic Transportation Corridors and key development areas, and that these stronger rural areas will prosper with intensifications in areas of specialist tillage – especially near major settlements and transportation corridors'*.
- 7.1.3. The Rural Area Designations (Figure 7) of the plan indicates that the appeal site is located within a 'structurally weak area'. Section 2.6.1 of the county development plan seeks to accommodate residential development in structurally weak areas, subject to meeting normal planning and environmental criteria.
- 7.1.4. The applicants have indicated in their application that the applicants mother has gifted them the site, which is part of a larger family landholding, and that the applicants mother resides in the immediately adjoining house to the west.
- 7.1.5. In a letter dated 3rd December 2018 the applicant refers to her attendance at both primary and secondary school in Rathdowney, and her involvement in several sports clubs and community events in Rathdowney over the years. The applicant also

outlines the nature of her employment with An Garda Síochána and that she is currently based in Kilkenny City, Co. Kilkenny.

- 7.1.6. In addition, I note from the applicants response to the third party appeal which refers to the applicant having lived with her mother since birth until 2012 when she moved to Dublin for work and has recently moved to Kilkenny for work. There is also reference to the applicants more urgent housing need with the arrival of her first child and her wishes to raise her family in the same rural environment that she grew up in and attend the same local schools, participate in the same local sports and activity clubs. The applicant also includes a copy of a letter submitted with the application from the applicants mother in support of her daughters application which it is claimed will provide security and care for her in the future.
- 7.1.7. The planners report refers to the applicants strong socio economic connections in the locality. I would note however, that the applicant has not submitted any additional information by way of a supplementary application form or documentary evidence to support this assertion.
- 7.1.8. There are no details on file in relation to a birth certificate, school attendance record, utility bill etc. to evidence where the applicants currently reside, or any current connections with the rural area apart from her original family home and landholding.
- 7.1.9. While also noting the limited size of the family landholding, it is also unclear, if the applicants have a functional need to reside in the area or economic connection to the locality. It is therefore, unclear if the applicant has a genuine local rural housing need, and or whether the proposed development constitutes an urban generated housing need.
- 7.1.10. Notwithstanding the applicants stated family ties, I am not satisfied on the basis of the information on file that the applicants have submitted sufficient evidence to demonstrate compliance with the Rural Housing Policy as set out in the current Development Plan. I recommend, therefore, that planning permission be refused on this basis.
- 7.1.11. Clear policy is set out at both a national and local level regarding rural housing need. The 'Sustainable Rural Housing Guidelines for Planning Authorities' actively seeks to direct pressure for new residential development to the nearby established settlements. National Policy Objective 19 also refers to the need to facilitate the

provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

- 7.1.12. Having regard to the location of the site within a 'Stronger Rural Area' as identified in the Sustainable Rural Housing Guidelines, the proposed development must also be assessed under national planning policy guidance as set out in National Policy Objective 19 of the National Planning Framework (NPF) and the Sustainable Rural Housing Guidelines.
- 7.1.13. On balance, therefore, given the sites proximity to established settlements and strategic transport corridors, I am not satisfied, that the current proposal complies with Objective 19 of the NPF, and guidance set out in the Sustainable Rural Housing Guidelines.
- 7.1.14. I recommend, therefore, that planning permission be refused on this basis. I would draw the Boards attention to the fact that this is a new issue, and as such it may be appropriate to recirculate to the applicant.

7.2. Siting Design and Layout

- 7.2.1. The third party has raised concerns in relation to the siting and layout of the proposed dwelling which it is asserted is contrary to the Rural Design Guidance provided in Appendix 7 of the County Development Plan.
- 7.2.2. In this regard, I would note that the appeal site is located within the 'Lowland Agricultural Area', as identified on Map No. 6 Landscape Character Areas Appendix 6 of the County Development Plan, and that there are no designated protected views to or from the subject site.
- 7.2.3. The third party has raised concerns in particular to the siting of the proposed dwelling which does not respect the established building line. In this regard I note that the planning authority was satisfied with the revised site layout plans indicating the relocation of the proposed house 2m closer to the sites eastern boundary and 2.5m closer to the southern boundary/front boundary.
- 7.2.4. The propose dwelling will therefore be located approx. 35m from the roadside on the southern side. The adjoining house to the east is set back approx. 34m from the

road side boundary. The planning authority also determined that there is no established building line, and I would concur with the planning authority on this matter.

- 7.2.5. Guidance in relation to Rural Design notes that the position of new dwellings in undulating and hilly areas should not look out of place, and in particular recommends minimising earth moving to avoid excessive scarring of the landscape.
- 7.2.6. The cross-section drawings submitted with the application, by way of further information and clarification of further information indicate that site levels would be lowered on site to accommodate the proposed dwelling.
- 7.2.7. The proposed finished floor level of the proposed dwelling as indicated initially on the north south Section B-B drawing was approx. 102.375m, relative to the front southern boundary/road level as 100.005m represented a difference in levels of just over 2m. The finished floor level of the proposed house was reduced by 0.525m by way of further information as indicated on the east west Section C-C1 drawing.
- 7.2.8. East west Section E-E1 drawing submitted by way of clarification of further information indicates the finished floor level of the proposed house as 101.850m, compared to the finished floor level of the appellants property of 100.775 located to the east. This represents a difference in finished floor levels between the proposed house and the adjoining house of just over 1m. I do not consider that this difference in levels between the two dwellings over a distance of 55m to be excessive.
- 7.2.9. Section C-C1 drawing indicates the extent of cut back into the site, and north south Section B-B1 drawing indicates a slightly raised patio area to the front of the house, and with more extensive cut back to the rear of the site.
- 7.2.10. I am satisfied that the extent of cut back into the site is not excessive, and that combined with the set back of the proposed dwelling from the road, can be easily absorbed into the rural landscape.
- 7.2.11. The scale of the proposed dwelling is relatively modest, simple in form and contemporary in design. In my opinion the proposed development has been well considered and is in accordance with the Rural Design Guidance of the County Development Plan.

- 7.2.12. I have considered the merits of relocating the house closer to the southern boundary of the site which would be at a slightly lower level, but on balance I accept the point made by the applicant that this would compromise the sites ability to accommodate the proposed waste water treatment system and percolation area and meet the EPA requirements, and as such is not warranted.
- 7.2.13. I am satisfied, therefore, that the proposed siting and layout of the proposed dwelling is in accordance with the Rural Design Guidance provided in Appendix 7 of the County Development Plan, and that there is no basis to this grounds of appeal.

7.3. Residential Amenity

- 7.3.1. The third party has raised concerns in relation to the impact of the proposed development on the residential amenity of their adjoining residential property located to the east, particularly with regard to overlooking which would impinge on their privacy.
- 7.3.2. The planning authority similarly raised concerns in relation to the impact of the proposed development on the residential amenity of this property, and sought further information in relation to siting, site levels as outlined in section 3.2 above including changes to fenestration along the eastern elevation to address issues of overlooking.
- 7.3.3. In this regard I note that the front entrance door to the proposed house is from the eastern side. I also note that there is only one first floor window on the eastern elevation facing the appellants property, which was reduced in size by way of further information. The applicant in response to the third party appeal also emphasises that the layout of the proposed house was informed by the sites orientation, with the main living areas orientated towards the south and west, and that the proposed first floor window serving a fourth bedroom only.
- 7.3.4. The proposed development as modified by way of further information results in an overall separation distance of 55m between the front/eastern elevation of the proposed house and the rear elevation and rear garden of the appellants two storey house.
- 7.3.5. In my opinion, the impact in terms of privacy has been overstated by the appellants. I am satisfied that overlooking from the proposed first floor bedroom window along

the eastern elevation of the proposed dwelling will not result in undue overlooking or invasion of privacy of the appellants' property and rear garden.

7.3.6. On balance therefore, the mitigating factors in this instance are the very generous separation distance between both properties, the limited number of windows at first floor level, in addition to existing and proposed planted boundaries along the eastern boundary of the appeal site and the northern/rear site boundary of the appellants property which are described in more detail below.

7.3.7. I am satisfied, therefore, that there is no basis to this grounds of appeal.

7.4. Planting and Site Boundaries

7.4.1. The third party has raised concern in relation to the adequacy of planting along site boundaries, particularly along the eastern site boundary with the appellants property, and the loss of the southern site boundary to facilitate the achievement of adequate sight lines from the proposed entrance. It is asserted that the proposed development would be contrary to Policy NH27 of the County Development Plan, in relation to the protection of existing hedgerows.

7.4.2. The applicant has highlighted the woodland screening proposed to the eastern and western boundaries which will include native species of hedging and trees. In my opinion the existing and proposed planting as identified in the landscape plan and schedule of planting along the eastern boundary, will provide more than adequate screening to both properties. I further note that Condition 10(a) and 10(d) of the notification of decision to grant permission also addresses this issue.

7.4.3. The applicant in response to the appeal has identified the location and specifications of proposed planting which includes native species, and I consider this to address the issue raised in the third party appeal.

7.4.4. In relation to the southern site boundary, plans submitted indicate the removal of 15m of roadside hedging in order to achieve the required sightlines from the proposed vehicular entrance of 90m in either direction. In this regard I do not consider this excessive and again the applicant has submitted a landscape plan which identifies replanting.

7.4.5. I am satisfied, therefore that there is no basis to this grounds of appeal.

7.5. Appropriate Assessment

- 7.5.1. Having regard to the nature and scale of development proposed and to the nature of the receiving environment, the intervening distances and to the lack of a hydrological connections, it is not considered that the proposed development would be likely to have a significant effect either individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. I recommend that permission be refused for the following reasons and considerations.

9.0 Reasons and Considerations

The subject site is located in a rural area which is identified as a 'Structurally Weak Area, as set out in the Laois County Development Plan 2017-2023, and as being within a 'Stronger Rural Area' in the Sustainable Rural Housing Guidelines for Planning Authorities' issued by the Department of the Environment, Heritage and Local Government. On the basis of the documentation submitted in support of the planning application and the appeal, in particular the proximity of the site to nearby established settlements and location of employment of the applicant, the Board is not satisfied, notwithstanding the provisions of the Development Plan, that the applicant has demonstrated a rural generated housing need for a dwelling at this rural location contrary to National Policy Objective 19 of the National Planning Framework 2018. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Susan McHugh
Planning Inspectorate

1st November 2019