



An
Bord
Pleanála

Inspector's Report ABP-305036-19

Development	To construct a dwelling house, sewerage treatment system and percolation area, including all necessary site works.
Location	Legan, Thomastown, Co Kilkenny.
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	1964
Applicant(s)	Edel Ryan and Thomas Phelan.
Type of Application	Permission
Planning Authority Decision	Grant Permission with Conditions
Type of Appeal	Third Party V Decision
Appellant(s)	Margaret and David Kirby
Observer(s)	None.
Date of Site Inspection	5 th December 2019
Inspector	Susan McHugh

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1.0 Site Location and Description

- 1.1. The appeal site is located approx. 15km south of Kilkenny City, and approx. 2.5km to the west of the centre of Thomastown in County Kilkenny. It is 1.4km to the north east of Station Road which provides access to the Mount Juliet Estate.
- 1.2. The general area is characterised by open countryside and one off houses with ribbon development at various sections along the local road network.
- 1.3. The site has a roadside frontage of approx. 100m onto a local road the L8202-29 which is defined by dense hedgerow, and where a speed limit of 80kph applies. The road is extremely narrow with a width of approx. 3.5m with room for one car to pass only. The appellants home is located approx. 180m to the north east on the opposite side of the L8202-29 from the appeal site.
- 1.4. The appeal site forms part of a larger field and landholding which is currently in tillage. There is mature planting along the north western boundary, while the other boundaries are not defined.
- 1.5. The site has a stated area of 0.303ha and is level.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a two storey dormer style dwelling house, effluent treatment system and percolation area. The development would be located roughly centrally on the site and at an angle to the local road.
- 2.2. The four bedroom house has a stated area of 203.15sqm and a ridge height of 7.8m.
- 2.3. It would be served by an access driveway off the local road. It is proposed to remove 120m of the existing ditch/hedgerow at the new entrance.
- 2.4. The waste water treatment system and percolation area would be to the south west of the dwelling. The means of water supply is a private well located in the eastern corner of the site.
- 2.5. A site suitability assessment was submitted and based on the results of the assessment the site was considered suitable for a septic tank and percolation area.
- 2.6. The application was accompanied by the following;

- Covering letter from landowner Martin Holden on behalf of the applicant, and map indicating the location of the subject site relative to the applicants family home, where the applicant currently resides, and the lands in the ownership of the landowner.
- Letter of consent from the landowner to apply for planning permission on his lands.

2.7. The proposed development was amended following a request for further information to include the following;

- Revised site layout and cross section drawings indicating the revised location of the proposed entrance, further to the north east and reduced length of existing hedgerow to be removed of 85m.
- Revised house design elevation details.
- Letter of consent from the landowner to the setback of the existing fence/hedge on the adjoining land to the north east.
- Documentation from one of the applicants in support of local housing need.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to **grant** planning permission 12/06/2019 subject to 8 no. standard conditions. Conditions of note include the following;

Condition No. 1: Plans and particulars including plans lodged 12/02/2019 and by way of further information 20/05/2019.

Condition No. 3: Occupancy condition referring to the applicants for a period of 7 years.

Condition No. 4: Entrance and sightline requirements.

Condition No. 5 & 6: On-site waste water treatment system and potable water supply requirements.

Condition No. 7: Finishes to be agreed.

Condition No. 8: Boundary treatments to be hedged.

3.2. Planning Authority Reports

3.2.1. **Planning Reports** (dated 4/4/2019 and 10/06/2019)

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

- The site is in close proximity to one of the applicants homeplace, a map provided indicates the location of the applicants homeplace which is within 10km of the site. It is not known how long the applicant has resided in this house.
- Notes the projecting front gable and bay window and considers that the bay window should be omitted. Recommends that the gable be redesigned such that the window opes have symmetry, and that this issue be dealt with by way of further information.
- The applicant has demonstrated that sightlines of 90m in both directions can be achieved but which requires approx. 120m of existing road side mature hedging to be removed which is considered excessive.
- Recommend further information in relation to an alternative location for the entrance without the removal of such an excessive amount of hedgerow, documentation to demonstrate compliance with the Rural Housing Policy, and revised design proposals for a more simplified gable and window opes on the front elevation and refers to the Kilkenny Rural Design Guide.

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

- Notes that the entrance has been relocated on the site to reduce the amount of hedgerow to be removed to 85m. Notes proposal to construct a clay mound with indigenous hedgerow to the rear of the sightlines, revised site layout plan submitted along with letters of consent from the effected landowners.
- Notes that the applicant has resided in her original family home located 500m from the site all her life, and documentary evidence has been provided.

Considers that the applicants have demonstrated that they comply with the rural housing policy.

- Notes the removal of the bay window and more simplified gable design proposed.

The recommendation was to grant permission.

3.2.4. Other Technical Reports

- **Area Engineer:** Report dated 25/03/2019 recommends further information, report dated 06/06/2019 recommends no objection.
- **Environment Section:** Report dated 02/04/2019 recommends no objection subject to requirements.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

A letter of support was submitted from Councillor Pat Dunphy.

4.0 Planning History

Appeal Site

ABP-304768-19: Permission **granted** 18/07/2019 for leave to appeal under section 37(6) of the Planning and Development Act, 2000, as amended, against the decision of the planning authority to Margaret and David Kirby, the appellants in the current case. Leave to appeal was granted on the basis that;

- (i) the development, in respect of which a decision to grant permission has been made, will differ materially from the development as set out in the application for permission by reason of condition numbered 1 imposed by the planning authority to which the grant is subject, and

- (ii) the imposition of condition numbered 1 will materially affect the applicant's enjoyment of the land adjoining the land in respect of which it has been decided to grant permission or reduce the value of the land.

Concurrent Application on Adjoining Site to the North East

P.A.Reg.Ref.19/625: Current application for a dwelling house, domestic shed, on site treatment system and new vehicular access by Rachel Challoner and Paul Nolan. Application lodged 02/09/2019, further information request 23/10/2019. No response to request for further information at the time of writing this report.

Adjoining Site to the North West

P.A.Reg.Ref.02/779: Permission **refused** 10/02/2003 for a two storey dwelling house, together with septic tank and associated development works on site.

Reasons for refusal can be summarised as follows;

'1. The site of the proposed development is located in a rural area outside the designated development boundary of Thomastown. The proposed development would therefore contravene materially the objectives of the Thomastown Development Plan for the town to encourage planned housing development of serviced land with the development boundary and to seek to maintain a clear division between the town and country. It would also reduce the effectiveness of other objectives to ensure that an adequate amount of residentially zoned land is available to cater for the expansion of the town and to reserve land so as to offer opportunities for locational choice for housing development within the Development Boundary and also the effectiveness of recent expenditure on major infrastructural improvements in Thomastown.

2. Taken in conjunction with the existing development in the vicinity of the site, the proposed development would constitute an excessive concentration of residential development in an un-serviced rural area served by a substandard road network, would extend and consolidate an undesirable pattern of suburban type development in the area, would be injurious to the rural character of the area and would accordingly, be contrary to the proper planning and sustainable development of the area.

3. It is considered that the proposed development would endanger public safety by reason of a traffic hazard because of the substandard network of the road network in the vicinity of the site and the additional turning movements it would generate onto the nearby heavily trafficked Regional road R700 at a point where sightlines are restricted.

4. Taken in conjunction with existing development in the vicinity, it is considered that the proposed development, which is located within an area of high aquifer vulnerability, would result in an excessive concentration of development served by private effluent treatment systems in the area. The proposed development would, therefore, be prejudicial to public health.'

5.0 Policy Context

5.1. Development Plan

5.1.1. **Chapter 3** refers to *Core Strategy*. Figure 3.1 is a map of the county indicating the overall strategy for the county and identifies different rural areas largely corresponding with the types of rural areas identified in the guidelines on rural housing. (See map attached)

5.1.2. **Section 3.5** refers to rural settlement strategy and it is indicated that 'the objective of the Council's rural housing strategy is to provide sustainable rural communities without compromising the physical, environmental, natural or heritage resources of the county'.

5.1.3. The county is divided into three broad categories;

- 1. Areas Under Urban Influence
- 2. Strong Rural Areas
- 3. Peripheral Areas of Population decline

The site is located in an area defined as an 'area under urban influence'.

5.1.4. **Section 3.5.2.1** refers to *Areas under Urban Influence* and that the Council's objective for areas of urban influence to facilitate the rural generated housing requirements of the local rural community. In areas under urban influence there is a requirement of an occupancy condition.

- 5.1.5. **Section 3.5.2.3** refers to *Rural Generated Housing need* and in relation to areas under urban influence and in stronger rural areas it is indicated that the Council will permit, subject to other planning criteria, single houses for persons where the defined stipulations are met. There are five criteria, the most relevant are;
3. *'Persons who have no family ties but who wish to build their first home, on a site within a 10km radius of their original family home, (the local rural area) in which they have spent a substantial and continuous part of their lives (minimum 5 years).'*
4. *'Persons who were born and lived for substantial parts of their lives (minimum 3 years) in the local area and wish to return to live in the local area (returning migrants).'*
- 5.1.6. **Section 3.5.3** of the plan refers to *Rural House Design Guidance* and that a rural design guide was produced in 2008 for County Kilkenny and acts as an instrument to develop best practice in the design and siting of one-off rural housing.
- 5.1.7. **Chapter 11** of the plan refers to Transport and Section 11.7.8.2 to Roads Development Management Standard which states that
- 'to ensure that the required standards for sight distances and stopping sight distances are in compliance as far as possible, with current geometry standards as outlined in the NRA document Design Manual for Roads and Bridges (DMRB) specifically section 41-42/09 when assessing planning applications for individual house in the countryside. Such standards should not be achieved by the extensive removal of hedgerows. Ditches, embankments, trees or old walls, and should be in accordance with Section 2.8 of the Rural Design Guide.'*
- 5.1.8. **Chapter 12** of the plan refers to requirements for developments and **section 12.10** outlines guidance in relation to rural housing in relation to siting design and services.

5.2. Thomastown Local Area Plan 2019

The LAP was adopted by Kilkenny County Council on the 25th March 2019 and came into effect on the 6th May 2019.

Section 6.3 refers to the future provision of housing.

Section 6.3.1 refers to serviced sites, and states that 'there is continued considerable pressure for development for single homes in the rural area surrounding Thomastown.'.... that the LAP seeks to address this....through the

identification of ca.1.7ha of land for low density serviced sites to the east of the Dublin Road at Cloughabrody... with a further site ca. 0.8ha on the old Dublin Road (north of Berkley Lawns).

The appeal site is located outside the development boundary of the Thomastown Local Area Plan, 2019. (See map attached).

5.3. National Policy

5.3.1. 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.

5.3.2. Sustainable Rural Housing Guidelines, DoEH&LG 2005

The guidelines require a distinction to be made between ‘Urban Generated’ and ‘Rural Generated’ housing need. A number of rural typologies are identified including rural areas under strong urban influence which are defined as those with proximity to the immediate environs or close commuting catchment of large cities and towns. 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’.

5.4. Natural Heritage Designations

There are no designated areas in the vicinity, the following European sites are within a 15km radius of the appeal site.

Site Name	Designation	Site Code	Distance
River Barrow and River Nore	SAC	002162	0.6km W
Thomastown Quarry	SAC	002252	1.6km E

5.5. EIA Screening

Having regard to the nature of the proposed entrance to be retained, 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

A third party appeal against the decision to grant permission by the planning authority has been lodged by Peter Thomson Planning Solutions on behalf of Margaret and David Kirby. The grounds of appeal can be summarised as follows;

Hedgerow loss to the north east of the proposed entrance

- To provide sightlines (2.4m x 90m) it will be necessary for the applicants to remove around 120m of roadside ditch. Most of this will be to the northeast of the site towards the appellants house and will involve the removal of a section of hedgerow around a bend in the road.
- The existing hedgerow along the narrow, enclosed road carriageway act as a natural calming measure to assist in maintaining lower vehicle speeds.
- Its removal particularly around the bend will alter the road line and carriageway definition and increase forward visibility for drivers, which will result in higher vehicle speeds. Concern for clients entering and exiting their property and out walking with their young family.

Visual Impact

- The removal of hedgerow will expose the proposed dormer style house to public view, particularly from the appellants property and from further away.

Potential further development

- Notes recent percolation trial holes have been excavated in the field to the north east of the application site, suggesting an application for another house is proposed on the same landholding.
- Refers to other planning applications for dwellings on the same landholding, Reg.Ref.06/1668 which was refused permission on traffic safety grounds. Reg.Ref.98/1210 was for outline permission for two houses and was withdrawn. Reg.Ref.00/1216 permission granted for a house. None of these applications were for the landowner or his family members.
- Concern that if permission is granted in the current appeal that it could set an undesirable precedent for further development, in an area where there is considerable development pressure for one off houses for non-family members.

Land opposite appeal site

- Permission was refused in 2002 for a dwelling house Reg.Ref.02/779. The first reason for refusal referred to the excessive concentration of residential development in an un-serviced rural area served by a substandard road network, the undesirable pattern of suburban type development which would be injurious to the rural character of the area. The second and third reasons referred to traffic hazard, and concentration of on-site waste water treatment plants to the detriment of public health.
- Granting permission for the proposed house would be inconsistent with the decision of Reg.Ref.02/779.
- The removal of hedgerow as proposed would also be inconsistent with the decision of Reg.Ref.06/1668.

Local Housing Need

- Notes that the applicants come from the local area, but neither have given specific reasons for having to live in the area.
- Notes County Development Plan rural housing policies and that to some extent advances in national and regional planning policy level have rendered the current development plan out of date.

- Notes the Thomastown Local Area Plan 2018 which specifically includes zoned land for low density housing on serviced sites to accommodate those who might otherwise seek to build in rural areas.
- Refers to Objective 18b of the National Planning Framework which seeks to develop a programme of new homes in towns and villages. Notes the proximity of the appeal site which is only 1.4km from Thomastown.
- The replacement Regional Planning Guidelines (Regional Spatial and Economic Strategy for the Southern Region) is expected to be adopted in the Autumn which in turn will trigger the review of the County Development Plan and its rural policies.

Summary

- Request the Board to overturn the decision of Kilkenny County Council and refuse to grant planning permission for the proposed development.

6.2. **Planning Authority Response**

The planning authority confirmed its decision and refers to the planners report.

6.3. **Observations**

None.

6.4. **Applicant Responses**

6.4.1. A response by the applicants Edel Ryan and Thomas Phelan to the third party appeal was lodged, and can be summarised as follows;

- The planning authority did not receive any submissions or observations with respect to the planning application and surprised that an appeal has been lodged on the grounds that hedgerows will be removed when this was clearly outlined in the application.
- Contend that the issues raised in the appeal are vexatious, without substance and made to delay the proposed development.

- Map attached indicates 200m separation distance between the appeal site and the appellants property and is not directly across the road as implied.

Loss of Hedgerow

- 85m of hedgerow will be removed (and re-instated) and not 120m as wrongly suggested in the appeal, (60m to the north east and 25m to the south west).
- Contend that the increased forward visibility as a result of hedgerow being moved back will make the road safer for all road users and not increase vehicular speed as the road is narrow (3m wide) and not suitable for high speed.

Visual Impact

- Refer to detailed landscaping proposals along boundaries submitted with the application which include native hedge species.
- The appellants house does not face in the direction towards the proposed new house.
- The image of a neighbouring dormer bungalow house to the north east of the appellants house is very misleading as it appears to be an old photograph taken before the hedge had developed. A more recent photograph of the same house is included which illustrates mature planting along the boundaries.
- The reference to trial holes are in no way related to the current application, as they are outside the site boundary.

Planning History

- The planning applications referred to are in the adjacent field. P.A.Reg.Ref.06/1668 is different to the current application as it is in a different field and have submitted the necessary documentation showing eligibility for their rural housing need. Reg.Ref.00/1216 was granted permission but not in the field of the proposed development subject of the current appeal. There is a clear boundary separating the two fields.
- Cites other planning applications which were granted for houses in the area.

Rural Housing Policy

- The applicants family homes are within 500m and 1.6km of the proposed site and have both spent all their lives living in the area and want to build their first home together close to their families.
- There is a shortage of houses in the Thomastown area and prices have increased significantly.
- Take offence to the appellants suggestion that they should move out of the immediate area where Edel has been born and raised. The applicants occupations and place of work are of no concern to the appellants. Both applicants have been active within the local community of Thomastown since childhood.
- The Thomastown Local Area Plan which was adopted by Kilkenny County Council on 25th March 2019 came into effect on 6th May 2019 during the planning application and prior to the granting of permission. The applicants have both shown Kilkenny County Council how they comply with the Rural Housing Policy, Section 3.5.2.3 and provided the necessary documentation.

6.5. Further Response

- 6.5.1. A further response by the land owner and agent Martin Holden acting on behalf of the applicants Edel Ryan and Thomas Phelan to the third party appeal was also lodged with the Board. The response is accompanied by a number of annotated photographs demonstrating the impact of the proposed development primarily from the appellants property. In the interest of avoiding unnecessary repetition on issues already raised by the applicant above, the response can be summarised as follows;

Loss of hedgerow

- Incorrect reference to extent of hedgerow to be removed to achieve sightlines will improve traffic safety, and not give rise to increased speed. The entrance to the appellants property is located approx. 85m from the end of hedgerow to be removed and 145m from the new proposed access.

Visual Impact

- House style and height is reasonably proportioned to suit the site, planting proposals will over time screen the development, the separation distance and

existing hedgerow on the opposite side of the road will not be impacted and therefore there will be no loss of amenity.

- Note the photograph submitted of an adjoining house is located 400m to the north east and taken prior to new planting maturing,

Future development on the adjoining site to the east

- This is speculation and no application has been lodged to date with Kilkenny County Council.

Planning history on the appeal site

- There has been no previous application on the appeal site. The reference to the farmer selling a site to the applicants is mute as all applications area assessed by the County Council. Refer to P.A. Reg.Ref. 00/1216 where permission was granted has no bearing on this case and was granted without a requirement to enter into a sterilisation agreement with the landowner.

Planning applications referenced in the appeal

- Refers to refusal of permission under P.A.Reg.Ref.P02/779 and states that the main reason for the refusal was the reluctance of the landholder to enter into a sterilisation agreement. Lists a number of applications granted permission in the local area.

Rural Housing Policy

- Applicant Thomas Phelan travels 5 miles to work, while Edel Ryan travels 30 miles to Johnstown for work, and may get a more local appointment in the future. Edel Ryan has one brother and they both reside in the family home. Note reference to sites in Thomastown but preference is to live close to her family home.

Assessment of planning application

- P.A. were satisfied with the proposal as revised in response to issues raised by way of further information, including roads and access, compliance with rural housing policy, design, siting and landscape and drainage.

Extent of proposed works

- Assert that the proposed works outside the site in terms of achieving sightlines was shown in blue on drawings submitted.

Removal of Hedgerow

- Was for traffic safety reasons and assertion that it will detract from the rural setting is misleading. The separation distance, orientation and planting proposed will help to screen the proposed house and will not give rise to overlooking.

Third party submissions

- Dispute that the revised proposals were material as the extent of hedgerow to be removed was reduced. The P.A. did not request additional site or newspaper notices as the site boundary remained the same and letters of consent from the landowner were submitted.

Traffic Safety

- Removal of hedgerow will increase visibility and make it safer for pedestrians

Material alteration to the original application

- Disagree sufficient information was included in relation to the relocated entrance and sightlines provided, no loss of amenity to appellants given separation distance to appellants property,

Traffic

- Contend that the road would be only used by the local population and rarely as a way to or from Mount Juliet.

7.0 **Assessment**

7.1. 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
- Access and Road Safety
- Visual Impact/Loss of hedgerow
- Other Matters
- Appropriate Assessment

7.2. Compliance with Rural Housing Policy

- 7.2.1. The current settlement strategy for Co. Kilkenny is clearly set out in the County Development Plan (2014-2020) and summarised in section 5.1 above. The appeal site is located within a rural area designated as under urban influence as identified in Figure 3.1 of the development plan. The site is located within 1.7km of the development boundary of Thomastown. This is designated as a District Town in the settlement hierarchy. The plan notes that '*District Towns have well developed services and community facilities and have the capacity to accommodate additional growth (subject to certain physical infrastructural investments).*'
- 7.2.2. Clear policy is set out at both a national and local level regarding rural housing need. It is considered that the policy framework including that set out in 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 of the National Planning Framework refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence.
- 7.2.3. Section 3.5.2.3 of the county development plan refers to rural generated housing need and identifies categories of housing need criteria, which are deemed eligible for a one-off rural house in this rural area. In this regard the applicants are claiming a local need on the basis that they meet category 3 criteria i.e. persons who have no family ties but who wish to build their first home, on a site within a 10km radius of their original family home, (the local rural area) in which they have spent a substantial and continuous part of their lives (minimum 5 years).
- 7.2.4. The applicants are also claiming a local need on the basis that they meet category 4 criteria i.e. persons who were born and lived for substantial parts of their lives (minimum 3 years) in the local area and wish to return to live in the local area (returning migrants).
- 7.2.5. The applicants have indicated in their application that they -
- Intend to construct a dwelling house for their own use on a neighbour's farm land, and that an occupancy clause is not an issue for them.

- Currently reside within their respective family homes. Edel Ryan's family home is located 500m from the appeal site and Thomas Phelan's family home is located a further 2.3km from the appeal site.
- They have not previously applied for planning permission,
- Copy of Birth and Baptismal Certificate, secondary school record, and drivers licence for Edel Ryan.

7.2.6. In their appeal the applicants detail that –

- As an employee of Kilkenny and Carlow Education and Training board, Edel's place of work may change and she may be redeployed to other schools within the catchment of the ETB depending on their needs.
- Edel had previously taught in Grennann College in Thomastown in 2016, while submitting the planning application Edel was teaching in Johnstown, this year she is teaching in Abbey Community College, Ferrybank.
- Thomas Phelan travels 5 miles to his place of work.
- Both applicants have been active in the local community of Thomastown since childhood, and their preference is to live close to the family home, rather than purchase a site within the Thomastown local area plan boundary.

7.2.7. I am not satisfied on the basis of the information on file that the applicants have submitted adequate evidence to show compliance with the Rural Housing Policy set out in the current Kilkenny County Development Plan. No documentation has been submitted as proof of current address, to substantiate that they have lived in the rural area for 5 years.

7.2.8. I consider that the applicants have not demonstrated a genuine rural housing need. I would consider that the onus is on the applicant to adequately demonstrate to both the planning authority and the Board that they have a genuine rural housing need in this rural area.

7.2.9. The case that the applicants have outlined in respect of their preference to reside close to their family homes and not in the Thomastown area is in my opinion not convincing. I have formed this view given the proximity of zoned residential and

serviced land within the Thomastown local area plan boundary located approx. 2.5km from the appeal site.

- 7.2.10. There is no evidence of any economic necessity for the applicants to live in this area. The applicants could reasonably reside in a town or village in the immediate vicinity. The case therefore for a house in this rural area is not justified.
- 7.2.11. I would also note the reference by the appellants to previous planning decisions in the vicinity of the site, and in particular to a site located opposite the appeal site under P.A.Reg.Ref.02/779. Permission was refused in 2002 on the basis of the excessive concentration of residential development in an un-serviced rural area served by a substandard road network, the undesirable pattern of suburban type development which would be injurious to the rural character of the area. It is asserted by the appellants that granting permission for the current proposal would be inconsistent with this decision.
- 7.2.12. I would note however, that the current proposal is being assessed on its own merits and in the context of the current Kilkenny County Development Plan, 2014-2020 and the Thomastown Local Area Plan 2019, and national planning policy.
- 7.2.13. I do not consider that the applicants come within the scope of the rural generated housing need criteria for a dwelling at this location. In light of the fact that the site is located in an Area Under Urban Influence, wherein the policy framework seeks to strictly control single houses in the countryside, to direct urban generated housing to established settlements, it is considered that the proposed development would contravene the Rural Housing policies set out in the current Kilkenny County Development Plan.
- 7.2.14. I consider therefore, that the proposed development is not in compliance with the rural housing policies of the Kilkenny County Development Plan 2014-2020 as they do not have a local housing need in accordance with the criteria 3 or criteria 4 set out in Section 3.5.2.3 of the plan. The development would also be contrary to Objective 19 of the NPF, and to the guidance set out in the Sustainable Rural Housing Guidelines.
- 7.2.15. On balance, therefore, given the sites proximity to Thomastown, 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.

7.2.16. I recommend, therefore that permission is refused on this basis.

7.3. Access & Road Safety

- 7.3.1. Concern has been raised in the third party appeal that the proposed development would give rise to a traffic hazard. They specifically refer to the existing deficiency in the road network, whereby the width of the road serving the site is extremely narrow. They also refer to the existing mature hedgerow which it is asserted acts as a natural calming measure to assist in maintaining lower vehicle speeds. It is asserted that the removal of the hedgerow will increase forward visibility for drivers, which will result in higher vehicle speeds.
- 7.3.2. The road serving the site is a local road L8202-29, where a speed limit of 80km/hr applies. The applicant has demonstrated that sightlines of 90m in both directions can be achieved.
- 7.3.3. I note the relevant guidance documents are Section 11.7.8.2 of the Kilkenny County Council and the Design Manual for Roads and Bridges (DMRB). It is noted that the DMRB is primarily a guidance document dealing with the geometric design of new major/minor priority junctions. The guidance notes that the desirable distance back (referred to as the 'x' distance) from a direct access from a simple junction is 2.4 to 3 metres.
- 7.3.4. The guidance sets out the minimum sightline distances ('y' distance) that will be required to be able to see clearly points to the left and right.
- 7.3.5. The required sight distance associated with the various design speeds as set out in Table 7/1 of the DMRB. A 'y' sight distance/sight line of 90m is required for a road with a design speed of 80kph.
- 7.3.6. While the Area Engineer of the planning authority initially expressed concern about the extent of hedgerow to be removed, they were subsequently satisfied with the relocation of the vehicular entrance to the north east, which resulted in a reduced length of hedgerow to be removed. In addition, the applicants also submitted a letter of consent from the landowner of the adjoining boundaries along the road frontage, to facilitate the applicant implement the necessary setbacks and replanting of boundaries to provide adequate sightlines.

- 7.3.7. In my opinion the issue of traffic safety has been overstated by the third party. I am satisfied from my site inspection that the necessary sightlines can be provided. Notwithstanding the narrow width of the local road on the day of my site inspection, I did not observe any passing traffic travelling at significant speed.
- 7.3.8. I am satisfied, therefore, that the appeal should not be upheld on the grounds of traffic safety.

7.4. Visual Impact/Loss of Hedgerow

- 7.4.1. Concern has been raised by the third party in relation to the negative impact of the proposed development on the visual amenity and character of the area, and in particular to the extent of mature hedgerow to be removed in order to achieve the required sightlines.
- 7.4.2. The proposed two storey house is set back approx. 24m from the road side boundary and is orientated away from the appellants property. The appellants property is located approx. 180m distance from the subject site. I do not accept that the proposed dwelling will give rise to overlooking of the appellants property as submitted in the third party appeal.
- 7.4.3. Revised design proposals were submitted by way of further information for a more simplified gable and is in my opinion acceptable in terms of the guidance provided in the Kilkenny Rural Design Guide.
- 7.4.4. I note the revised proposals submitted by the applicant by way of further information to reduce the extent of existing hedgerow to be removed from 120m to 85m, with 60m to the north east and 25m to the south west.
- 7.4.5. I also note the landscape proposals which include new native planting along the site boundaries and replanting along the roadside frontage with indigenous species.
- 7.4.6. I do accept that the existing hedgerow does contribute to the character of the area, but I also consider this concern by the appellant is overstated in the appeal. The appeal site is not located in an area with protected views and I am reasonably confident that the proposed replanting along the roadside frontage when matured over time will help assimilate the proposed house into the existing landscape.

7.4.7. I am satisfied, therefore, that that the appeal should not be upheld on the grounds of visual amenity.

7.5. **Other Matters**

7.5.1. *Planning History on the overall landholding / Precedent* – I draw the Boards attention to a number of other planning applications and decisions referred to in the third party appeal, and by the applicant, including the concurrent application on the adjoining site to the north east. Other than the application to the Board by the third party for leave to appeal which was granted by the Board, there is no planning history in relation to the subject site.

7.5.2. A number of planning applications referred to relate to planning decisions on the overall landholding of the landowner in the current appeal, and in the vicinity of the appeal site. Many of these applications were assessed under previous County Development Plans, Local Area Plans for Thomastown, and prior to issuing of the National Planning Framework.

7.5.3. I am satisfied therefore, that the proposed development should be assessed on its own merits.

7.6. **Appropriate Assessment**

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, no appropriate assessment issues arise and 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 planning permission be **refused** for the following reasons and considerations.

9.0 Reasons and Considerations

1. The subject site is located in a rural area which is identified as an Area Under Urban Influence in the Kilkenny County Development Plan 2014–2020 and identified as being under strong urban influence in the ‘Sustainable Rural Housing Guidelines for Planning Authorities’ issued by the Department of the Environment, Heritage and Local Government in April, 2005. On the basis of the documentation submitted in support of the planning application and the appeal, and in particular the nature of employment of the applicants, the Board is not satisfied that the applicants have demonstrated any rural generated housing need for a dwelling at this rural location contrary to National Policy Objective 19 of the National Planning Framework 2019. The proposed development would, therefore, contravene these Ministerial Guidelines and be contrary to the proper planning and sustainable development of the area.
2. The proposed development, which would be located in an unzoned, unserviced rural area outside the development boundary of Thomastown, would constitute random residential development in a rural area that is under strong development pressure, and which already has an excessive density of housing development. It is the policy of the planning authority, as set out in the Kilkenny County Development Plan 2014-2020, to channel housing into suitably zoned land in areas where the appropriate social, community and physical infrastructure either exists or is planned, and to restrict development in rural areas. It is considered that the proposed development would exacerbate the haphazard and unplanned form of development in this rural area, would intensify urban sprawl on the road, would exacerbate ribbon development, would militate against the preservation of the rural environment, would represent an undesirable precedent for further such development in the area, and would be contrary to the policies set out in the said development plan for the area and the Thomastown Local Area Plan 2019. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Susan McHugh
Planning Inspectorate

23rd December 2019