



An
Bord
Pleanála

Inspector's Report ABP-305204-19.

Development

1. The construction of a new three bedroom 210 sq.m. detached dormer bungalow.
2. The installation of a new wastewater treatment system & percolation area.
3. All associated works.

Location

Boherbawn Lower, Kildangan, County Kildare.

Planning Authority

Kildare County Council.

Planning Authority Reg. Ref.

19/621.

Applicant(s)

Marie Byrne & Mark Boland.

Type of Application

Permission.

Planning Authority Decision

Refuse permission.

Type of Appeal

First Party

Appellant(s)

Marie Byrne & Mark Boland.

Observer(s)

None.

Date of Site Inspection

13th November, 2019.

Inspector

A. Considine.

1.0 Site Location and Description

- 1.1. The subject site is located in the south west area of Co. Kildare, approximately 4km to the south east of Kildangan, 9km to the south east of Monasterevin and 11km to the south west of Kildare. The site lies in a very rural location and immediately adjacent to the applicants parents home and farm yard.
- 1.2. The site has a stated area of 0.38ha, is currently under grass and sheep were grazing on the date of my inspection. The site is flat and level and is bound to the front (west) by existing mature hedging. The site comprises part of a larger field.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for
 1. The construction of a new three bedroom 210 sq.m. detached dormer bungalow.
 2. The installation of a new wastewater treatment system & percolation area.
 3. All associated works

All at Boherbawn Lower, Kildangan, County Kildare.

- 2.2. The application included a number of supporting documents including as follows;
 - Plans, particulars and completed planning application form
 - Rural Housing Planning Application Form – including details to confirm compliance with Rural Housing Policy
 - Site Suitability Assessment – Percolation Test Report

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse planning permission for the proposed development for the following 3 stated reasons:

1. The site not considered suitable for the provision of an on-site wastewater treatment system due to the presence of peat in the area. Peat soils are unsuitable for the disposal of treated waste water due to poor percolation and the consequent risk of pollution of groundwater and surface waters and the risk to public health. The proposed development would be prejudicial to public health and would not comply with Policy RH9(vi) of the Kildare County Development Plan 2017-2023 which requires applicants to ensure that design considerations in relation to the accommodation of on-site waste water disposal system is achieved. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. Having regard to the risk of pollution of groundwater and surface waters from the wastewater treatment system, and to the proximity of the subject site to the River Finnelly, a tributary of the River Barrow River Nore Special Area of Conservation (SAC) which is a designated Natura 2000 Site, the impact of this development on the qualifying criteria of the Special Area of Conservation is uncertain. It has not been demonstrated to the satisfaction of the Planning Authority that the development would not have a significant impact on the Special Area of Conservation, its associated habitats and protected species. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
3. The proposed development, by reason of its design which includes a projecting front gable and an imbalanced pattern of fenestration, is urban in character and incompatible with the surrounding rural landscape. The proposed development would not comply with the rural design principles established in Chapter 16 of the Kildare County Development Plan 2017-2023 which places an emphasis on *inter alia* dwellings being simple in form, well proportioned and absent of fussy detail or add-ons. The proposed development would therefore contravene Policy RH99(i) which requires the design of new dwellings to integrate appropriately with its physical surroundings and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical and prescribed bodies reports, planning history and the County Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

The Planning Report concludes that the applicant submitted personal information which demonstrates compliance with the Local Need Criteria for the construction of a house in Zone 2 of the County, in accordance with the provisions of Category 2(i) of Table 4.3(b) of the Plan. In this regard, the applicant has overcome the previous reason for refusal no. 1.

The report notes that the overall height of the proposed house has been reduced from 8m to 6.9m from the previous proposal. However, concerns are raised in relation to the overall design and concludes that the previous reason for refusal has not been overcome.

With regard to the on-site waste water treatment system, the planning report notes the concerns of the Environment Section of the Council in relation to the proposal. Refusal is recommended in this regard.

The planning report concludes that proposed development is not acceptable and recommends that permission is refused for the reasons as stated. This Planning Report formed the basis of the Planning Authority's decision to refuse planning permission.

3.2.2. Other Technical Reports

Roads, Transportation & Public Safety: No objection subject to compliance with conditions.

Water Services: No objection subject to compliance with conditions.

Environment Section: Refusal recommended due to the presence of peat in the area of the proposed percolation area. Peat soils are not suitable for the disposal of treated waters and the risk to public health.

Heritage Officer: No objection. The site is located 180m from the River Barrow with no hydrogeological connections.

Area Engineer: No objections subject to compliance with conditions.

Environmental Health Officer: No objections subject to compliance with conditions.

3.2.3. Prescribed Bodies

Irish Water: No objection subject to compliance with conditions

Dept of Arts, Heritage, Regional, Rural & Gaeltacht Affairs: The report notes the location of the site in a location with a potential to adversely impact on watercourses and groundwaters and makes recommendations regarding wastewater treatment in the event of a permission. The report further notes that it is unclear if the development proposes the removal of hedgerows. If so, this should be done outside nesting season.

3.2.4. Third Party Submissions

There are no third party objections/submissions noted on the planning authority file.

4.0 Planning History

The following is the relevant planning history pertaining to the subject site:

PA ref 18/1414: Planning permission was refused to the current applicants for the development of a house and wastewater treatment plant on the current site for the following 3 stated reasons:

1. Policy RH2 of the Kildare County Development Plan 2017-2023 seeks to focus the provision of one-off housing in the rural countryside to the category of 'local need', subject to compliance with normal planning criteria including siting and design considerations. Based on the information submitted with the application, it is not considered that the applicants have demonstrated compliance with the Local Need Criteria, as outlined in RH2 and Table 4.3 of the Kildare County Development Plan 2017-2023 which was formulated having regard to Government Policy as set out in 'Sustainable Rural Housing

Guidelines for Planning Authorities' (2005) which constitute Ministerial Guidelines under Section 28 of the Planning and Development Act 2000 (as amended).

2. The site of the proposed development is located in an area under Strong Urban Influence as set out in the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government, 2005, wherein it is the policy to distinguish between urban generated and rural generated housing need. National Policy Objective 19 of the National Planning Framework which, for rural areas under urban influence, seeks to facilitate the provision of single housing in the countryside based on the core consideration of demonstratable economic or social need to live in a rural area, having regard to the viability of small towns and rural settlements. Furthermore, Policy RH6 of the Kildare County Development Plan 2017-2023 seeks to prohibit urban generated housing in rural areas. Having regard to the nature and location of the Applicant's employment and ownership of a dwelling house in an urban area, it is considered that the Applicants do not have a rural generated housing need in accordance with these Guidelines which would justify the provision of a house in this rural location. The proposed development would therefore contravene the National Planning Framework Objective 19, Ministerial Guidelines and Policy RH6 of the Kildare County Development Plan, 2017-2023 and would be contrary to the proper planning and sustainable development of the area.
3. Having regard to the scale of the proposed development, the two storey dwelling at 8m in height, is incompatible with the character of the surrounding rural area and adjacent bungalow dwelling. The proposed development is contrary to the objectives of Chapter 16, Rural Design and Policy RH9 in terms of Siting and Design of the Kildare County Development Plan 2017-2023, would have a disproportionate visual impact due to excessive bulk. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

5.0 Policy and Context

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

The National Planning Framework – Project Ireland 2040 is a high level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. It is a target of the NPF that 40% of all new housing is to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites with the remaining houses to be delivered at the edge of settlements and in rural areas.

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. Sustainable Rural Housing Development Guidelines 2005

The Rural Housing Guidelines seek to provide for the housing needs of people who are part of the rural community in all rural areas and makes a distinction between 'Urban Generated' and 'Rural Generated' housing need. Chapter 4 of the guidelines relates to rural housing and planning applications and states that in areas under significant urban influence, applicants should outline how their proposals are consistent with the rural settlement policy in the development plan. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply, including 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

The Guidelines further require that new houses in rural areas be sited and designed in a manner so as to integrate well with their physical surroundings and generally be compatible with water protection, roads, traffic and public safety as well as protecting the conservation of sensitive areas.

5.3. Development Plan

- 5.3.1. The Kildare County Development Plan 2017-2023 is the relevant policy document pertaining to the subject site. Chapter 4 refers to Housing, Chapter 10 to Rural Development, Chapter 14 to Landscape, Recreation & Amenity and Chapter 16 to Rural Design.
- 5.3.2. The Plan sets out criteria for an applicant to be considered for a one-off dwelling in the county, and 2 rural housing zoned are identified. An applicant must meet one of the following categories: A) is a member of a farming family actively engaged in farming the family land (Category 1), or a member of the rural community (Category 2), and B) meets one of the local need criteria set out in Table 4.3(a) and (b). Map V1-4.4 of Chapter 4 indicates that the area is located in 'Rural Housing Policy Zone 2'.
- 5.3.3. In the context of the current appeal before the Board, the applicant is considered a Category 2 Applicant in Zone 2 and is therefore required to comply with the following:

A member of the rural community: The applicant must demonstrate a genuine local need to reside close to their family home by reason of immediate family ties¹ or their active and direct involvement in a rural based enterprise.

Local Need Criteria in Rural Housing Policy Zone 2 for Category 2 is:

- (i) Persons who have grown up and spent substantial periods of their lives (12 years) living in the rural area of Kildare as members of the rural community and who seek to build their home in the rural area on their family landholding and who currently live in the area. Where no land is available in the family ownership, a site within 8km of the original family home may be considered.
- (ii) Persons who have grown up and spent substantial periods of their lives (12 years) living in the rural area of Kildare, as members of the rural community who have left the area but now wish to return to reside near

¹ Immediate family members are identified as mother, father, son, daughter, brother, sister or guardian.

to, or to care for immediate family members, seeking to build their home in the rural area on the family landholding or on a site within 8km of the original family home.

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

Table 4.3(b) includes the following note:

Applications for rural one-off dwellings will be considered, subject to the policies and objectives set out in the County Development Plan, where it is demonstrated that the development would not prejudice the environment and the rural character of the area. In this regard factors such as the sensitivity of the receiving environment, the nature and extent of existing development and the extent of development on the original landholding will be considered.

5.3.4. Section 4.13 of the Plan deals with Policies: Rural Housing and the following policies are considered relevant:

- Policy RH2 seeks to 'Manage the development of one-off housing in conjunction with the rural housing policy zone map (Map 4.4) and accompanying Schedules of Category of Applicant and Local Need Criteria set out in Table 4.3. Documentary evidence of compliance with the rural housing policy must be submitted as part of the planning application'.
- Policy RH4 seeks to 'Restrict residential development on a landholding, where there is a history of development through the speculative sale or development of sites, notwithstanding the applicant's compliance with the local need criteria'.
- Policy RH9 seeks to 'Ensure that, notwithstanding compliance with the local need criteria, applicants comply with all other normal siting and design considerations (Refer to Chapter 16 for further guidance) including criteria relating landscaping, location and design, protection of landscape features,

capacity of landscape to accommodate further development, vehicular access, waste water treatment and flood risk management.

- Policy RH10 seeks to 'Control the level of piecemeal and haphazard development of rural areas close to urban centres and settlements having regard to potential impacts on a number of areas including efficient development of towns and villages, provision of future infrastructure and the potential to undermine the viability of public transport.
- Policy RH12 seeks to discourage ribbon development.

5.3.5. The subject site is located within Southern Lowlands Landscape Character Area which is identified as a Class 1 landscape having low sensitivity. Such areas are described as 'Areas with the capacity to generally accommodate a wide range of uses without significant adverse effects on the appearance or character of the area.'

5.4. **Natural Heritage Designations**

The site is not located within any designated site. The River Finney, which is a tributary of the River Barrow And River Nore SAC (Site Code: 002162) is located approximately 140km to the north of the site.

5.5. **EIA Screening**

Having regard to nature and scale of the development, which comprises a single rural house, together with the nature of the site and 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 and a screening determination is not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

This is a first party appeal against the decision of the Planning Authority to refuse planning permission for the proposed development for the three stated reasons. The appeal is summarised as follows:

- The applicant submitted details to address the 3 reasons for refusal cited in the planning application 18/1414.
- Reason no. 1:
 - A site assessment was carried out on the site which was found to meet the requirements of the EPA Code of Practice for Wastewater Treatment & Disposal Systems Serving Single Houses.
 - The reason for refusal does not accept that the system design can function due to the presence of peat on the site, however this is not in line with the guidance.
 - There are 2 contradictory reports on the file.
 - Further report from original assessor providing further analysis of the site suitability and notes that the site passed the P and T tests.
 - The peat layer will be removed and replaced with a bed of clean washed pebble stone, which will sit on the sandy clay.
 - It is submitted that this reason for refusal has been addressed and that the site is capable for the system proposed.
- Reason no. 2:
 - This reason for refusal is based on the incorrect assessment of the capacity of the site to deal with wastewater.
 - The reason for refusal relies on a possible unidentified risk of pollution and the proposal of a Stage 2 AA, which is not a suitable basis for a reason for refusal.
 - The Heritage Officer notes no objection to the development on the basis that there is no hydrogeological connection between the proposed development and the River Barrow SAC.
 - The Planning Officers AA Screening Report notes no significant impacts for habitats and bird species yet concludes that significant effects cannot be screened out and therefore a Stage 2 AA is required.
 - It is requested that this reason for refusal be disregarded based on its erroneous basis or that an appropriate condition is applied seeking a

Stage 2 Appropriate Assessment as per the planning officers' assessment.

- Reason no. 3:
 - It is noted that the reason for refusal did not reference height, mass, scale or siting of the proposed development and therefore it is understood that there is no objection to development under these headings.
 - The dwelling design was arrived at in consideration of the previous decision, pre-planning consultation and development plan guidance.
 - The house is gabled and is a traditional form, designed with close attention to the requirements of Kildare Co. Co. rural design guidelines.
 - The site was selected for its proximity to the 'home house' and forms a cluster with it and its outbuildings.
 - Landscaping will include new hedgerow boundaries and embankments with native tree cluster planting in front of the house along the driveway.
 - A number of alterations are proposed to take into account the comments of the Planning officer – images enclosed.

It is requested that permission be granted as requested on the basis that the applicant has demonstrated substantial and ongoing ties to the area and a genuine local need to reside close to the family home. the design is a modest dwelling of simple detail and materially.

6.2. Planning Authority Response

The Planning Authority submitted a response to the first-party appeal advising no further comments.

6.3. Observations

None.

7.0 Assessment

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site and the nature and scale of the proposed development, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards
2. Visual Impacts
3. Site Suitability Issues
4. Roads & Traffic
5. Other Issues
6. Appropriate Assessment

This is the second application on the subject site, submitted by the appellant. Both applications were refused by Kildare County Council for a variety of reasons as identified in sections 3 and 4 of this report. The applicant did not appeal the initial refusal. The Board will note the differences between the two decisions and the reasons for refusal cited therein.

This assessment is based on a *de novo* assessment, returning to first principles of proper planning and sustainable development.

7.1. Compliance with National Guidelines & Standards, the County Development Plan & General Development Standards:

- 7.1.1. The subject site is located within a rural area in Co. Kildare which is identified as being under strong urban influence for one-off housing, as defined in the Sustainable Rural Housing Guidelines and the Kildare County Development Plan. There is a presumption against development in such areas save for in instances where it can be demonstrated that an applicant complies with the Planning Authority's rural housing policy. Should the Board be minded to grant planning permission in this instance it should be satisfied that the appellant adequately complies with the

requirements of these stated policies as detailed in Chapter 4 of the Plan, as well as National Policy Objective 19 of the National Planning Framework. The wider area is under urban influence given its proximity to the wider Dublin commuting belt and the M7, which is located approximately 6km from the site.

7.1.2. Objective 19 of the National Planning Framework seeks to ensure that in rural areas under urban influence, the provision of single housing in the countryside will be based on the core consideration of demonstratable economic or social need to live in a rural area..... having regard to the viability of smaller towns and rural settlements.

7.1.3. In terms of the Rural Housing Policy of Kildare County Council, the site is located in an area identified as Rural Housing Policy Zone 2. The applicant is not a farmer or engaged in farming, therefore they must meet certain criteria to be considered in terms of local needs. Table 4.3 (b) refers and notes that in order to be considered a member of the rural community, the applicant must demonstrate a genuine local need to reside close to their family home by reason of immediate family ties or their active and direct involvement in a rural based enterprise.

Local Need Criteria in Rural Housing Policy Zone 2 for Category 2 is:

(i) Persons who have grown up and spent substantial periods of their lives (12 years) living in the rural area of Kildare as members of the rural community and who seek to build their home in the rural area on their family landholding and who currently live in the area. Where no land is available in the family ownership, a site within 8km of the original family home may be considered.

7.1.4. Policy RH2 seeks to 'Manage the development of one-off housing in conjunction with the rural housing policy zone map (Map 4.4) and accompanying Schedules of Category of Applicant and Local Need Criteria set out in Table 4.3. Documentary evidence of compliance with the rural housing policy must be submitted as part of the planning application'. In addition, Policy RH6 of the CDP seeks to prohibit urban-generated housing in rural areas.

7.1.5. In the context of the subject appeal, the Board will note that Ms. Byrne has provided adequate evidence to confirm that she is from the locality and the subject site lies adjacent to her family home. However, both applicants have indicated that their place of work will remain in Dublin, approximately 50km from the subject site, with the possibility of their jobs being relocated to the local area once they relocate to the

family landholding. Neither applicant has identified as being farmers. In this regard, it is clear that neither applicant has a specific economic or social need to live on the landholding. A grant of planning permission, in my opinion, will contravene Policy RH6 of the CDP which seeks to prohibit urban-generated house as it would support further unsustainable development patterns, increase commuting times and add unnecessarily to roads and traffic issues at peak times in the wider area.

- 7.1.6. As such, I am satisfied that the applicant has not demonstrated adequate compliance with the policy objectives of the County Development Plan as they relate to rural housing, Objective 19 of the National Planning Framework or the guidance provided within the Sustainable Rural Housing Guidelines.

7.2. **Visual Impacts**

- 7.2.1. The Board will note that the Planning Authority refused permission on the design of the proposed house. The subject site is located within Southern Lowlands Landscape Character Area which is identified as a Class 1 landscape having low sensitivity. Such areas are described as 'Areas with the capacity to generally accommodate a wide range of uses without significant adverse effects on the appearance or character of the area.'
- 7.2.2. Chapter 16 of the County Development Plan provides guidance in terms of design for new dwellings which seeks to focus on both site selection, location within the site, and the scale, form and proportion of the design. The focus is on choosing the least obtrusive site, blending the house with the topography, avoiding prominent hillside locations, and using simple forms.
- 7.2.3. Concern was raised in the context of the projecting front gable and an unbalanced pattern of fenestration and the PA determined that the development would contravene Policy RH9(i) of the County Development Plan. In support of the appeal, the applicant has submitted amendments to the overall design in order to address the concerns raised.
- 7.2.4. I consider that the overall design of the house proposed is quite simple and note the landscaping proposals for the wider site, which would provide screening from the public roads. Having regard to the overall size of the site proposed, together with the retention of significant lengths of the existing hedgerow, and proposals to plant

further hedgerows, I would not be concerned that the development could not appropriately integrate into its physical surroundings. I note the proposed amendments to the overall design of the house as submitted at appeal, and should the Board be minded to grant planning permission in this instance, these plans and particulars should be conditioned.

7.3. **Site Suitability issues**

- 7.3.1. In terms of site suitability, the Board will note that Kildare County Council refused permission for the proposed development on the grounds that the site is not considered suitable for the provision of an on-site wastewater treatment system due to the presence of peat in the soil. It is intended to install a Premier Tech Aqua Conder ASP6 Pumped Wastewater Treatment Plant to service the proposed dwelling which will discharge to a Premier Tech Ecoflo Tertiary Treatment Filter. The filter will be placed over an infiltration stone bed with a stated area of 18.42m². It is also noted that the house is to be serviced via a private well.
- 7.3.2. Having considered the information provided with regard to the proposed development, I am satisfied that the applicant submitted a robust and complete site assessment regarding its suitability in terms of the treatment and disposal of wastewater generated on the site. The site assessment appears to have been carried out by a suitably qualified professional. The submitted plans identify the location of the waste water treatment system for the house immediately adjacent to the south of the site but fails to identify the location of the existing well, other than to advise that the proposed services will be located in excess of 90m of neighbouring services.
- 7.3.3. The Site Assessment Report notes that the bedrock was not encountered in the trial pit, which was dug to 3m bgl, while the water table was identified at 2.4m bgl, likely to rise in the winter and evidence of mottling at 0.7m deep. The assessment identifies that the site is located in an area where there is a Groundwater Protection Scheme and categorises the site as being a regionally important aquifer (Rk) with high vulnerability. A Groundwater Protection Repease of R2¹ is indicated. The top soil is described as Peat with subsoil being limestone and gravels. The bedrock type is MI 'Milford Formation'. *T tests were carried out on the site at levels ranging from 1,300mm to 1,350mm bgl, yielding an average value of 75.33, and a *T result of

40.67. *P tests were also carried out at the site at a level of 0.4m bgl, yielding an average value of 58.67 and a *P result of 29.47. The report concludes, recommending a packaged wastewater treatment system and polishing filter with trench at an invert level of -1m. The system will discharge to groundwater at a hydraulic loading rate of 600l/m².d.

- 7.3.4. In terms of the proposed design of the tertiary treatment system, the Board will note that the premier tech Ecoflow tertiary treatment filter will have a stated area of 18.42m², as calculated using the *P value and a PE of 5. Should the Board be minded to grant planning permission in this instance, and having regard to the information presented, I consider that this area should be recalculated to reflect the worst case scenario, that being using the *T value and a PE of 6 (the house proposes 3 double bedrooms and the system has been sized with a capacity of 6PE). In this regard, and should the Board be minded to grant planning permission, I recommend that the filter should be sized to 30.5m². The area of the infiltration stone bed should also be increased to reflect this increased filter area.
- 7.3.5. In terms of the hydraulic loading, the Board will note the level indicated in the submitted site assessment report is 600l/m².d. The information in relation to the system proposed indicates that the nominal hydraulic daily load should be 0.75m³/d. I am concerned that there has been an error in the figures presented and while I acknowledge the level of treatment proposed by the applicant, and should the Board be minded to grant planning permission, this issue should be resolved in order to ensure compliance with the EPA Code of Practice. This CoP indicates loading rates of up to 50l/m²/day as the maximum for soil polishing filters with P/T values of 3-20. The higher the P/T values, the lower the hydraulic loading rates.
- 7.3.6. Notwithstanding the above, I am satisfied that the applicant has submitted a robust and complete site suitability assessment regarding the suitability of the proposed site in terms of the treatment and disposal of wastewater generated on the site. I am further satisfied that the site appears capable of accommodating the development in the context of wastewater treatment and disposal. The Board will note that the PA refused permission for the proposed development on site suitability grounds as well as the potential risk of ground and surface water pollution and the impacts on the SAC. I note a number reports on the PAs file in relation to this issue where the EHO advises that the development is acceptable subject to compliance with standard

conditions, the Heritage Officer notes no objection on the basis that there is no hydrogeological connection to the SAC and a recommendation for refusal from the Environment Section due to the presence of peat in the area.

- 7.3.7. I have considered all of the information presented on the file and I am generally satisfied that the subject site has been adequately assessed to show that it is capable of accommodating the proposed development in terms of the treatment and disposal of wastewater arising from the development of a house. I am therefore satisfied that the development, if permitted, is unlikely to result in a public health hazard or impact on the quality of ground or surface waters in the area, subject to clarification regarding the hydraulic loading as discussed above.

7.4. Roads & Traffic

- 7.4.1. Permission is sought for the construction of a new entrance onto the local road to service the proposed development. In the context of the subject site, I am generally satisfied that a grant of planning permission would not give rise to any significant traffic hazard by reason of the additional turning movements associated with the proposed development. I have raised concerns above however, given the urban-generated nature of the proposed development, and the location of the places of employment of both applicants being 50km from the site. A grant of planning permission in this context, would contribute to the traffic volumes on the commuter roads in the vicinity.

7.5. Other Issues

7.5.1. Development Contribution

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

7.6. Appropriate Assessment

The site is not located within any designated site. The River Finney, which is a tributary of the River Barrow And River Nore SAC (Site Code: 002162) is located approximately 140km to the north of the site.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 Recommendation

I recommend that planning permission be refused for the proposed development for the following stated reasons.

9.0 Reasons and Considerations

The site of the proposed development is located within an “Area Under Strong Urban Influence” as set out in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April 2005. Furthermore, the subject site is located in an area that is designated under urban influence, where it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, to facilitate the provision of single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in a rural area. In addition, Policy RH6 of the Kildare County Development Plan 2017 – 2023 seeks to prohibit urban-generated housing in rural areas.

Having regard to the documentation submitted with the application and appeal, the Board is not satisfied that the applicant has a demonstrable economic or social need to live in this rural area. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines and in national policy for a house at this location. The proposed development would, therefore, be contrary to the Ministerial Guidelines and to the over-arching national policy, and having regard to the provisions of the current Kildare County Development Plan 2017 - 2023, and would be contrary to the proper planning and sustainable development of the area.

A. Considine

Planning Inspector

15th November, 2019