



An
Bord
Pleanála

Inspector's Report ABP309900-21

Development	Construction of a Rural Housing Cluster consisting of 4 dwellings each with individual on-site effluent treatment systems, recessed entrance, access road to serve the proposed development and associated site works.
Location	Tirmoghan Common, Tirmoghan, Donadea, County Kildare.
Planning Authority	Kildare County Council.
Planning Authority Reg. Ref.	2154.
Applicant	Michael Daly.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party -v- Refusal.
Appellant	Michael Daly.
Observers	None.
Date of Site Inspection	2 nd June, 2021.
Inspector	Paul Caprani.

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1.0 Introduction

ABP309900-21 concerns a first-party appeal against the decision of Kildare County Council to refuse planning permission for 4 detached bungalows at Tirmoghan, County Kildare. Permission was refused for four reasons two of which stated that the proposal contravenes policies in the development plan. One reason expressed concerns in relation to flooding and the final reason stated that it has not been demonstrated that the site is suitable for the provision of an on-site wastewater treatment systems.

2.0 Site Location and Description

- 2.1. Tirmoghan is a small settlement in North County Kildare located approximately 5 kilometres south-west of Kilcock, 13 kilometres west of Celbridge and 10 kilometres north of Clane. The modestly sized settlement comprises in the main of individual detached dwellings facing onto the local road which runs east/west through the settlement. Two small residential estates each of which comprise of less than 10 houses are located along the main road. Tirmoghan National School is located to the immediate south-west of the subject site.
- 2.2. The subject site is located on the northern side of the road directly opposite a local road which runs southwards in the direction of Clane and Staplestown. The site itself comprises of a large L-shaped field with a site area of 1.63 hectares. The site is relatively flat. It has a site frontage of c.90 metres and a depth of approximately 150 metres. There is no boundary fence along the roadside boundary and a small ditch runs along the roadside boundary and the western boundary of the site. Contiguous lands surrounding the site are currently undeveloped. A dwellinghouse is located approximately 40 metres to the east of the site whereas the nearest dwellinghouse to the west is approximately 70 metres away. Agricultural lands bound the site to the north whereas lands on the opposite side of the road to the south of the site accommodate relatively large detached dwellings. A school playground is located on the opposite side of the road to the south-west of the site.

3.0 Proposed Development

3.1. Planning permission is sought for the construction of four detached single storey dwellings on the subject site. Dwellings 1 to 3 are to be located on the western side of the site facing eastwards onto an internal access road which runs adjacent to the eastern boundary of the site. Dwelling No. 4 is to be located in the north-eastern corner of the site and is to face westwards. Each of the dwellings are to be served by individual septic tanks. Each of the dwellinghouses are identical in design and incorporate a gross floor area of 182 square metres. They comprise of four bedroom dwellings laid out in a “H-shape” enclosing an internal courtyard to the rear. The dwellings rise to a ridge height of 5.24 metres and incorporate a pitched roof with a mixture of stone cladding and nap plaster finish.

4.0 Planning Authority’s Decision

4.1. Decision of Kildare Co. Council

4.2. Kildare County Council issued notification to refuse planning permission for four reasons which are set out in full below.

- 1. Policy RH2 of the Kildare County Development Plan 2017 – 2023 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 housing criteria set out in Table 4.3 of the Plan. To this end, the plan requires that documentary evidence of compliance with the Rural Housing Policy must be submitted as part of the planning application for development in rural nodes such as Tirmoghan. Having regard to the lack of any detail pertaining to the intended applicant/occupiers of the dwellings, the proposed development would run counter to the provisions of the aforementioned policy, would set an undesirable precedent for similar speculative development of this nature in unserviced rural areas, would militate against the aim of the Plan for the provision of one-off houses to persons with a genuine local need and would therefore be contrary to the proper planning and sustainable development of the area.*

2. *Policy RH13 of the Kildare County Council 2017 – 2023 seeks to facilitate the provision of a recessed cluster of dwellings, subject to normal planning, siting, design and local need considerations. Policy RH25 of the Kildare County Development Plan 2017 – 2023 seeks to facilitate small scale clusters of dwellings not more than five housing units for applicants/occupants complying with local need criteria and subject to the provision of appropriate physical infrastructure. Having regard to the absence of detail submitted in relation to local need, the proposal would be contrary to the provisions of the aforementioned policies, would set an undesirable precedent for similar development of this nature in rural locations and would therefore be contrary to the proper planning and sustainable development of the area.*
3. *Having regard to the location of the development, and the history of flooding in the area, it is considered that a site-specific flood risk assessment does not adequately address the impact on lands and properties in the immediate vicinity with regard to mitigation measures. It is considered therefore that the development may, in the absence of mitigation measures, increase the risk of flooding and would therefore be contrary to the proper planning and sustainable development of the area.*
4. *It has not been demonstrated to the satisfaction of the Planning Authority that the site is suitable for the provision of an on-site wastewater treatment system, and if permitted, the proposed development could lead to conditions which would be prejudicial to public health and would therefore be contrary to the proper planning and sustainable development of the area.*

4.3. **Documentation Submitted with the Application**

- 4.4. The application was accompanied by the following documentation.
 - 4.4.1. Four separate **Site Characterisation Reports** for each of the sites was submitted. A watertable 1 metre beneath ground level were encountered on three of the sites whereas a watertable of 2.3 metres was encountered in the trial hole for dwelling no. 4 at the north-eastern end of the site. T values ranging from 30 to 40 were recorded for Sites 1 to 3 whereas a modified T test of 69 was recorded for Site No. 4. P values for all sites range between 25 and 33.

- 4.4.2. Also submitted was a **Site Specific Flood Risk Assessment**. It states that the primary potential flood risk to the proposed development relates to the drainage channel along the western boundary of the site. A secondary flood risk can be attributed to a potential surcharge due to a blockage in the culvert located adjacent to the south-western corner of the site. The site-specific flood risk assessment has determined that the proposed development is not at direct risk of a 1% or 0.1% AEP fluvial flood risk. However, the assessment indicates that exceedance of the channel bank may impact the site due to a 0.1% AEP flood event together with climate change. An analysis of the existing culvert capacity indicates that there is not sufficient capacity to convey either a 1:100 year or 1:1000 year flood event.
- 4.4.3. The OPW flood map for the area indicates small areas of indicative pluvial flood zones within the northern part of the site. These are associated with small localised dips and ground depressions. It is recommended that the drainage channel adjacent to the western boundary of the site should be cleared and reprofiled in order to provide sufficient hydraulic capacity. It is recommended that the 0.6m diameter culvert adjacent to the western boundary of the site be upgraded. The finished floor levels of the dwelling should be a minimum of 0.3 metres above the existing ground level at all locations within the site. Other mitigation measures are also set out and it is stated with the incorporation of these mitigation measures, it is not anticipated that the proposed development will have an adverse impact on the existing hydraulic regime of the area.
- 4.4.4. Also submitted with the application form are details of each of the proprietary wastewater treatment systems to be incorporated on each of the four sites.
- 4.4.5. The Board will note that the covering letter submitted with the planning application indicated that a planning report was also submitted. Details of this report do not appear on file.

4.5. **Assessment by Planning Authority**

- 4.5.1. A report from the Water Services Department requested further information with regard to the flood risk assessment and further details in relation to the design of the soakaways. It is also suggested that finished floor levels in the development should be a minimum of 500 metres above the 100 year event and incorporate an allowance of 20% for climate change. A separate report from Clane/Maynooth Municipal District

states that the applicant is to submit details of a surface water pipeline from the proposed site along the L5033 road to an outfall into the main outfall open drain to the south. This is to prevent flooding which regularly occurs during heavy rainfall around the junction and the school area.

- 4.5.2. A report from the Environmental Health Officer recommended further information be sought as concerns were expressed in relation to the high watertable on the subject site.
- 4.5.3. A report from the environment section stated that further information was required. It noted a number of inaccuracies in respect of the site suitability tests undertaken.
- 4.5.4. A report from the Transportation Department requires additional information that the applicant is required to submit details of sightlines and a topographical survey of the existing road and boundaries that covers the extent of the required sightlines.
- 4.5.5. A report from Irish Water stated that there was no objection subject to standard conditions.
- 4.5.6. An Appropriate Assessment Screening Report concluded that there is no potential significant effects on Natura 2000 sites and that a Stage 2 Appropriate Assessment is not required.
- 4.5.7. The planner's report sets out details of the site location and description. It notes that significant mature trees have been removed from the roadside boundary. Details of the planning history and planning policy pertaining to the development are set out in the report. The conclusions set out in the internal departmental reports are referred to and it is noted that a number of third-party submissions have raised concerns in respect of flooding. It is considered that the previous reasons for refusal for a similar type development under Reg. Ref. 19/1032 have not been adequately dealt with and the Water Services Section has highlighted a number of issues particularly in relation to flood risk. Furthermore, it has not been adequately demonstrated that the site can suitably cater for the disposal of wastewater. It is concluded that the Planning Authority have serious concerns in relation to the proposed development and that the principle of the development of a cluster of dwellings at this location is unfavourable. On the above basis it is considered that the proposed development is unacceptable, and it is therefore recommended that planning permission be refused for the four reasons set out above.

5.0 Planning History

- 5.1. The planner's report makes reference to one planning application under Reg. Ref. 19/1032 (Details of this application are contained in a pouch to the front of the file). Under this application planning permission was refused to the current applicant for the construction of a rural housing cluster consisting of five detached storey bungalows with individual wastewater treatment systems, recessed entrances and an access road to serve the development. Planning permission was refused for the four reasons set out in the current application. The final reason for refusal in the case of 19/1032 referred to the issue of the trial holes and percolation areas not being located sufficiently close to the location of the wastewater treatment systems and on this basis it is considered that the proposed development may be prejudicial to public health.

6.0 Grounds of Appeal

- 6.1. The decision of Kildare County Council was the subject of a first party appeal which was submitted on behalf of the applicant by Whyte Planning Consultants. The grounds of appeal are summarised below.
- 6.1.1. The issue of local need cannot be supplied at lodgement stage as the act of supplying personal information for any interested party is a fundamentally flawed approach by Kildare County Council. If a cluster form of development is to be successful it will only be successful once there is a tangible asset and planning has been granted. No developer or landowner anywhere would foolishly build four rural houses and then try and find purchasers who comply with local need. The applicant seeks to attain permission for a rural cluster of houses and prior to commencement of development on site, local need criteria/compliance would be agreed with Kildare County Council and no works would commence until all four houses complied with local need. Notwithstanding this assertion, it is stated that there is a strong requirement for one-off housing in this part of Kildare and the local need occupancy can be met.
- 6.1.2. It is stated that there have been two successful examples of rural clusters in Tirmoghan since 1998 (Fanagreen and the Close). It is noted that the local school

recently obtained planning permission for three classroom extensions which would indicate that there is sustainable demand for housing in the area.

- 6.1.3. Tirmoghan is classified as a rural node in the Kildare County Development Plan. A rural node is a rural area that may have developed organically over many years around historic elements such as a school, shop or local authority housing etc.
- 6.1.4. The grounds of appeal set out details of the local population and demographic profile of the area. It is suggested based on the data presented, that a small cluster development of four houses has the potential to satisfy 10% of the maximum potential requirement for housing in the area. It is noted that since 2016 Kildare County Council have granted planning permission for seven one-off houses and refused planning permission for nine houses all within 5 kilometres of the site.
- 6.1.5. There is a need and desire for housing in the area and it is purported that Kildare County Council are trying to find a balance to control one-off housing and to provide small scale cluster development within designated nodes.
- 6.1.6. Reference is made to planning application ref. 18/191 where planning permission was granted for a cluster of rural houses at Rathmore, a designated node in Kildare where a condition was attached requiring that prior to the occupation of the five units each of the future occupants shall demonstrate compliance with the Rural Housing Policies set out in Chapter 4. Other examples of similar type conditions are also cited.
- 6.1.7. Reference is also made to a decision by the Board where permission was refused for a similar cluster of dwellinghouses under ABP302100-18. It is argued that the inspector in this instance was swayed by the remote location of the cluster of housing from the node. It is argued that the Kildare County Development Plan strongly supports the provision of housing clusters in rural areas as an alternative to one-off housing. It is suggested that the location of the proposed development within the Tirmoghan node is ideal for sequential development within the settlement.
- 6.1.8. With regard to the site's suitability for a number of on-site proprietary wastewater treatment systems, it is stated that the subject site was visited by officials of Kildare County Council during a period of excessive rainfall and hence the trial holes were full of surface water. Furthermore, it is stated that the Council are being somewhat pedantic in insisting that the trial holes be located contiguous to the percolation area.

The EPA Manual allows for the location of trial holes and percolation tests in the vicinity of percolation areas. Site suitability tests were undertaken a second time and the tests again confirmed that the site is suitable to accommodate four individual treatment systems. It is noted that an application to expand the adjoining school was permitted and this permission confers a conclusion that the lands are generally suitable to accommodate on-site proprietary wastewater treatment systems.

- 6.1.9. With regard to flood risk, it is stated that the subject site does not contribute to any flooding in the area. It is accepted however that improvement works can be undertaken which will improve and reduce the potential for flood risk. The planning application is an opportunity to get the developer to pay for infrastructural works that will benefit the area. It is noted that no issue in respect of flooding was raised in the granting of planning permission for the extension of the school adjacent. IE Consultants have visited the site and prepared a site-specific flood risk assessment in accordance with the Flood Risk Management Guidelines for Planning Authorities. It is noted that the planning report barely referenced the flood risk assessment submitted and it is noted that the Water Services Department and the Area Engineer rather than recommending a refusal of planning permission requested further information which allows for improvement works.
- 6.1.10. In conclusion, therefore it is stated that Kildare County Council in respect of previous applications have conditioned housing need requirements in order to comply with the development plan. In relation to Reasons 3 and 4 it is stated that there are no technical impediments to development.
- 6.1.11. A number of documents are attached to the grounds of appeal including:
- A local auctioneer stating that there is local demand for such housing in the area.
 - A further report by IE Consulting setting out details which would alleviate potential flood risk in the area. It concludes that a suitable and adequate surface water management system in accordance with appropriate drainage policies if implemented, would alleviate any potential flood risk from the development and this is standard practice and a requirement for all proposed multi-unit developments. It is further stated in the report that, if the Board are

mindful to grant planning permission for the proposed development, two conditions could be attached to address potential flooding issues.

- The site specific flood risk assessment submitted to the Planning Authority.
- Site Characterisation Reports for each of the sites carried out in April 2020. It concludes that while on-site soakage is slow, it is within the range acceptable for the disposal of wastewater. It further concluded that the watertable in all tests were found to be in excess of at least 400 millimetres below ground levels.
- Also submitted are various demographic small area statistics pertaining to the local area.
- Details of the two year progress report for the Kildare County Development Plan 2017 – 2023 and the Variation No. 1 of the Kildare County Development Plan dated 9th June, 2020 were also submitted.

7.0 Appeal Responses

- 7.1. A response from Kildare County Council dated 4th May, 2021 states that the Planning Authority do not have further comments to make on this appeal and the Council request that An Bord Pleanála uphold its decision to refuse planning permission for the proposed development.

8.0 Observations

- 8.1. No observations were submitted in respect of the appeal.

9.0 Natural Heritage Designations

- 9.1. The site is not located in or contiguous to a designated Natura 2000 site. The nearest Natura 2000 site is the Ballynafagh Lake SAC which at its closest point is located c.8.3 kilometres to the south of the subject site.

10.0 EIAR Screening Assessment

10.1. Having regard to the proposed development which comprises of the construction of four dwellings on a 1.63 hectare site it is considered that the nature and scale of the development and the location of the development together with the characteristics and likely duration of potential impacts, that the proposal is not likely to have significant effects on the environment and the submission of an environmental impact statement is not required. The need for an environmental impact statement can therefore be excluded at preliminary examination.

11.0 Development Plan Provision

11.1. The site is governed by the policies and provisions contained in the Kildare County Development Plan 2017 – 2023.

11.2. Tirmoghan is designated as a rural node in the County Settlement Strategy. Rural settlements in rural nodes are located throughout the county. It is proposed that settlements will develop as local centres for rural catchments with growth appropriate to cater for local demand. Lower densities will be encouraged in appropriate locations to provide alternatives to one-off housing in the immediate rural area. Expansion will be controlled to minimise pressure on services, the environment and unsustainable commuting patterns. Rural settlements will have a higher order function than rural nodes. Rural nodes comprise largely of unserved areas with limited social and community infrastructure and will accommodate limited development at a sustainable scale for local demands by way of small scale clustered developments.

11.3. Section 4.12.5 sets out the rural housing strategy. The focus of this housing strategy is to facilitate in a sustainable manner, the legitimate needs of rural communities or those who by their occupation make a significant contribution to community life in the county.

11.4. In terms of rural housing policy: the following policies are applicable.

- Manage the development of one-off housing in conjunction with Rural Housing Policy (Zone 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 rural housing policy must be submitted as part of the planning application.

- Policy RH5 seeks to restrict occupancy of the dwelling as a place of permanent residence for a period of 7 years to the applicant/occupant who complies with the relevant provisions of local need criteria.
- RH9 seeks to ensure that notwithstanding compliance with local need criteria, applicants comply with all other normal siting and design considerations. This includes:
 - (vi) The ability of a site in an unserviced area to accommodate an on-site wastewater disposal system in accordance with the EPA Code of Practice for Wastewater Treatment Systems for Single Houses, the County Kildare Groundwater Protection Scheme and any other relevant documents/legislation as may be introduced during the planned period.
- RH13 seeks to consider applications for the provision of recessed cluster form of development. The cluster shall be designed in such a way that is appropriate to the rural context and shall be setback into the landscape from the public road. Clusters shall not exceed five houses and will be subject to normal, planning, siting, design and local need considerations. Where there is a likelihood of more than 1 applicant seeking planning permission over a period of time, the Council will engage with the landowner to provide an appropriate site layout capable of accommodating a recessed cluster development.

Policy RH25 seeks to facilitate the following type of applications in the rural nodes.

- (i) Individual one-off houses subject to the applicants meeting the local need criteria identified in the Plan (refer to Map 4.4 and Table 4.3).
- (ii) Small scale clusters of dwellings/serviced sites of not more than 5 housing units for applicants (occupants complying with local need criteria) (refer to Map 4.4 and Table 4.3) and subject to the provision of appropriate physical infrastructure.

Policy RH26 seeks to ensure that all new developments in rural nodes particularly cluster development, contribute to and integrate successfully with the existing

settlement and to promote the development of central brownfield sites if existing as appropriate.

12.0 Planning Assessment

12.1. Introduction

12.1.1. I have read the entire contents of the file, visited the subject site and its surroundings, have had particular regard to the Planning Authority's reasons for refusal, the first party appellant's rebuttal of these reasons for refusal and the policies and provisions contained in the Kildare County Development Plan 2017 – 2023.

12.1.2. Having regard to the above I consider that the Board can restrict its deliberations to the issues raised in the Planning Authority's reasons for refusal namely:

- Housing Need and Rural Housing Policy
- Flood Risk Assessment
- Suitability of the Site to Accommodate Proprietary Wastewater Treatment Systems

12.2. Housing Need and Rural Housing Policy

12.2.1. The Planning Authority in its first two reasons for refusal raised the issue of certified housing need and non-compliance with development plan policy in relation to rural housing. The reasons for refusal essentially stated that the applicant in this instance has failed to supply sufficient information demonstrating that the future occupants of the proposed four houses will meet the housing criteria set out in Table 4.3 of the development plan. This criteria relates to (1) a member of a farming family who is actively engaged in farming the family landholding or (2) a member of a rural community which meets one of the rural need criteria set out in Table 4.3(a) and/or (b).

12.2.2. The appellant in the response to the grounds of appeal suggest that no developer would complete a small housing development prior to finding purchasers who comply with housing need. The appellant also submitted a letter from a local auctioneer

which contends that there is sufficient local demand in the housing markets to sell the dwellings to persons who meet the local need criteria.

- 12.2.3. Perhaps more importantly for the purposes of determining the appeal, the applicant points out that there are a number of precedent decisions where Kildare County Council under the provisions of the current development plan granted planning permission for a number of dwelling units in the form of a cluster development such as that proposed and in doing so included a condition which addressed the issue of housing need.
- 12.2.4. Reference is specifically made in the grounds of appeal to two applications (Reg. Ref. 18/191 and Reg. Ref. 20/902) which clearly allowed for the houses to be built subject to the future occupants meeting the criteria in relation to local need to the satisfaction of the Planning Authority.
- 12.2.5. The grounds of appeal also make reference to Planning Ref. 18/501 (ABP302100-18) where An Bord Pleanála refused planning permission for a similar type rural cluster of four dormer type houses with effluent treatment systems at Ellistown, a rural node outside Rathangan, County Kildare. In this application and appeal Kildare County Council issued notification to refuse planning permission for three reasons two of which related to lack of evidence and documentation which illustrate that any future occupants would comply with the rural housing policy and housing need criteria set out in the development plan.
- 12.2.6. While the appellant in the grounds of appeal argues that the inspector's concerns in relation to the development was swayed by the remote location of the clustered housing in the context of the rural node, (it appears that the clustered housing development in this instance was located over a half a kilometre from the centre of the rural node), it is also apparent however from reading the inspector's report that the same concerns in respect of lack of documentation submitted with the application and appeal that the future occupants have an economic or social need to live in this rural area was also expressed. Furthermore the inspector's recommended that this issue be cited any Board's reason for refusal. Furthermore, the Board in determining the application and appeal fully reflected the inspector's concerns in relation to this issue in both reasons for refusal. Both reasons for refusal made reference to the

absence of documentation demonstrating compliance with local needs considerations.

12.2.7. Notwithstanding the precedent decisions made by Kildare County Council in respect of addressing the issue of housing need by way of condition, it appears that the Board in determining a similar application with similar reasons for refusal upheld the decision of the Planning Authority in respect of its concerns regarding the absence of documentation demonstrating compliance with local need considerations. The Board has therefore issued a precedent decision which is relevant to the subject application and based on the Board's previous decision, I consider that the concerns highlighted by Kildare County Council in respect of the absence of documentation demonstrating compliance with local need criteria should be upheld in this instance.

12.3. Flood Risk Assessment

12.3.1. The planning application was accompanied by a comprehensive site-specific flood risk assessment and supplementary information specifically addressing the Planning Authority's concerns in this regard was also submitted by IE Consulting as part of the grounds of appeal. The flood risk assessment identifies the potential primary and direct fluvial flood risk arising from the water drainage channel adjacent to the western boundary of the site. The analysis undertaken in the site-specific flood risk assessment indicates that the proposed development would not be at risk of direct fluvial flooding under a 1% AEP, a 0.1% AEP and a 1% AEP plus an allowance for climate change. Where any channel overspill is predicted, it is likely that the flooding will occur on lands to the immediate west of the channel and not the subject site.

12.3.2. The flood risk assessment does acknowledge that the existing 600 millimetre diameter culvert does not have the hydraulic capacity to convey flood water volumes under a predictive 1% AEP or 0.1% AEP and this therefore has the potential to present a flood risk to a portion of the south-western boundary of the proposed development. An increase in the capacity of this culvert would address this potential flood risk issue to the south-west area of the site and to the public road.

12.3.3. With regard to the potential of the proposed development to contribute to or exacerbate flooding in the vicinity of the subject site, the grounds of appeal merely suggest that standard surface water management conditions to ensure that all

surface water run-off from the proposed development is limited to existing greenfield run-off rates should be included by way of condition.

12.3.4. It is quite clear from the site-specific flood risk assessment and from the evidence contained on file that the subject site and the area immediately surrounding the subject site is prone to flooding and this flooding affects the public road which runs along the southern boundary of the site. While the appellant readily acknowledges that the site-specific flood risk assessment only assesses the flood risk to the proposed development as opposed from the proposed development, it is in my opinion that it is incumbent upon the applicant to demonstrate what specific measures need to be put in place to ensure that flood risk is not exacerbated in the surrounding area by the development of the subject site. It is appropriate that any site-specific flood risk assessment would set out a suite of measures which would demonstrate that the implementation of the proposed development would in no way exacerbate flood risk in the area. It is not in my view sufficient to invite the Planning Authority to attach a standard condition in an attempt to address the issue of potential flooding of adjoining sites arising from the proposed development. It is more appropriate that any flood risk analysis would demonstrate to the Planning Authority that specific measures relating to the site would be detailed to allay any concerns that the Planning Authority or An Bord Pleanála may have in respect of flood risk. On the basis of the above therefore, and in the absence of specific measures to ensure that the proposed development does not exacerbate flooding on surrounding lands, I consider that the Planning Authority's concerns in respect of flooding should be upheld by the Board.

12.4. Suitability of the Site to Accommodate Proprietary Wastewater Treatment Systems

12.4.1. I visited the site on Wednesday June 2nd 2021. All trial holes on site were filled in. I noted that there was significant surface water ponding on the subject site. Met Eireann statistics from the Casement Aerodrome (c.20 kilometres away) recorded that no rainfall had occurred in the previous four days. This would support the contention that the site possesses inherently poor drainage characteristics.

12.4.2. I would also refer the Board to the report of the Environment Section which noted the high watertable levels in three of the four trial holes inspected on site (Trial Hole No.

1 had been filled in). The water level in each of the trial holes ranged between 0.1 metres BLG to 0.3 metres BLG. The appellant argues that the water levels in the trial holes were attributed to the unusual and excessively heavy rainfall which had taken place during the preceding 10 days prior to the Kildare County Council site visit taking place.

- 12.4.3. Again, having consulted Met Eireann statistics for rainfall at the Casement Aerodrome I noted that in the previous three days prior to the site inspection being undertaken by Kildare County Council less than 1 millimetre of rainfall had occurred. Four of the ten previous days experienced no rainfall whatsoever and the total rainfall over the 10 day period was less than 24 millimetres. The total amount of rainfall for February, 2021 was less than 70 millimetres. The Met Eireann figures therefore would not support the appellant's contention that there was an unusual or excessive amount of rainfall in the days preceding the Planning Authority's site inspection. Furthermore, any water contained in the trial holes on the 25th February, 2021 and having regard to the fact that virtually no rainfall occurred during the preceding 72 hours would support the conclusions reached on my own site inspection that the site in question incorporates poor drainage characteristics.
- 12.4.4. The site characterisation form submitted with the applications refer to the presence of mottling in the upper soil horizon in the case of all four trial holes. This again suggests the presence of high-watertable on the subject site and the predominance of clay in the upper soil horizons would also support the conclusion that the site possesses poor percolation qualities.
- 12.4.5. Therefore, having regard to the poor percolation characteristics of the soil and the presence of a high watertable I am not satisfied that the subject site is suitable to accommodate four separate proprietary wastewater treatment systems and the proposal therefore could be prejudicial to public health.

13.0 Appropriate Assessment

The nearest Natura 2000 sites are the Ballinafagh Lake SAC (Site Code: 001387) and the Ballinafagh Bog SAC (Site Code: 000931) both of which are located in excess of 8 kilometres from the subject site. Both these Natura 2000 sites are located in a separate hydrological sub-catchment to the subject site. Therefore,

having regard to the modest nature of the proposed development the separation distance between the subject site and the nearest Natura 2000 sites which are located in a different hydrological sub-catchment to the subject site, it is concluded that no appropriate assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

14.0 Decision

Refuse planning permission based on the reasons and considerations set out below.

15.0 Reasons and Considerations

1. Policy RH13 of the Kildare County Development Plan seeks to facilitate the provision of recessed clusters of dwellings, subject to normal planning siting, design and local needs considerations. In the absence of documentation demonstrating compliance with local needs considerations, the proposal would be contrary to the aforementioned policy, would set an undesirable precedent for similar development of this nature in rural locations and would therefore be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed proprietary wastewater treatment systems to serve the individual dwellinghouses would be prejudicial to public health on the basis of the poor percolation characteristics of the ground and the high watertable on site which renders the subject site unsuitable for the on-site treatment and disposal of effluent from the development notwithstanding the proposed use of a proprietary wastewater treatment system.

3. Having regard to the location of the site in an area which is prone to flooding, and on the basis of the submissions on file the Board is not satisfied that the proposed development would not give rise to an increased risk of flooding of property in the vicinity. The proposed development would therefore be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

Paul Caprani,
Senior Planning Inspector.

28th July, 2021.