



An
Bord
Pleanála

Inspector's Report

ABP-309969-21

Development	A horse isolation unit consisting of 5 no. enclosed stable cubicles and a dwelling unit, and an American barn structure with 14 no. stables.
Location	Farmersvale, Kill, Co. Dublin
Planning Authority	South Dublin County Council
Planning Authority Reg. Ref.	SD21A/0009
Applicant(s)	Laura Durkin
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party v Refusal of Permission
Appellant(s)	Laura Durkin
Observer(s)	None
Date of Site Inspection	07.09.2021
Inspector	Anthony Kelly

1.0 Site Location and Description

- 1.1. The site is located in a rural area approx. 3.5km east of Kill, Co. Kildare. The site is within the South Dublin Co. Co. area but is in very close proximity to the boundary with Co. Kildare to the north (approx. 200 metres), west (the local road forms the county boundary), and south (approx. 400 metres).
- 1.2. The applicant's landholding comprises three fields set back in an easterly direction from the local road: a front, a middle, and a rear field. The red line site boundary is carved out of this larger landholding. All fields have substantial tree lined boundaries. A watercourse runs north-south through the site along the boundary of the front and middle fields. There are houses to either side of the front field. There are also agricultural structures adjacent to the north of the middle and rear fields.
- 1.3. The site has an area of 0.899 hectares.

2.0 Proposed Development

- 2.1. Permission is sought for:
 - a horse isolation unit structure consisting of five stable cubicles etc. with a two-bedroom residential unit,
 - an American barn with 14 no. stables etc.,
 - a wastewater treatment system and percolation area,
 - construction of new vehicular entrance and closure of existing entrance, and,
 - all associated site works.
- 2.2. The isolation unit/residential unit structure has a floor area of 434sqm of which 262sqm comprises the isolation unit and 172sqm comprises the dwelling. It has a general height of 7.19 metres and is to be externally finished in plaster with a slate roof. The American barn has a floor area of 407sqm, a height of 6.3 metres, and is to be externally finished in plaster with roof cladding.
- 2.3. In addition to standard planning application plans and particulars the application was accompanied by:

- A Planning Submission Report prepared by Farry Town Planning Ltd. dated 20.12.2020 and other documentation supporting the application.
- A 'Traffic Survey' prepared by Nationwide Data Collection (NDC) dated January 2019.
- An 'Ecological Impact Assessment' (EclA) prepared by Openfield Ecological Services dated January 2021.
- A 'Screening Report for Appropriate Assessment' prepared by Openfield Ecological Services dated January 2021.
- A Bat Assessment prepared by Wildlife Surveys.
- An 'Arboricultural Assessment' carried out by Arborist Associates Ltd. dated 04.12.2020.

3.0 Planning Authority Decision

3.1. Decision

Permission was refused by South Dublin County Council for the following three reasons:

1. Housing (H) Policy 22 'Rural Housing in RU Zone' states that 'it is the policy of the Council that within areas designated with Zoning Objective 'RU' ('to protect and improve rural amenity and to provide for the development of agriculture') new or replacement dwellings will only be considered in exceptional circumstances' 'where the applicant can establish a genuine need to reside in proximity to their employment (such employment being related to the rural community) OR the applicant has close family ties with the rural community'. The applicant does not have close family ties with the rural community, nor have they provided sufficient justification or demonstrated a genuine need to reside in this specific site and location. The proposal would also fail to provide a minimum road frontage of 60 metres. Therefore, the proposed development contravenes section 11.3.4 (ii) and the Council's policy in relation to rural housing, specifically policy H22 of the South Dublin County Development Plan

2016-2022 and the 'RU' zoning objective – 'to protect and improve rural amenity and to provide for the development of agriculture'.

2. The application site is located on a local roadway of narrow width and poor horizontal alignment, where vehicles have to give way when they meet another vehicle. The proposed development would result in an increase in vehicles accessing the site and an increase in the associated turning movements at the entrance to the site. The variety of vehicles that would be expected to visit a site of this nature would range from a car, car/jeep with horsebox, rigid horse lorry, up to HGV in size. This road is a relatively busy rural road during peak hours due to traffic which uses it to avoid the N7; it is rural in nature; it is substandard for the amount of traffic that uses it during peak times; and it is also without adequate facilities for pedestrians and other vulnerable road users. For the above reasons, the proposed development would endanger public safety by reason of traffic hazard.
3. The proposed development would set an undesirable precedent for other similar developments, which would in themselves and cumulatively, be harmful to the rural amenities of the area and therefore would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. The planning authority's Planning Report forms the basis of the Council's decision. The report concludes that consideration has been given to the documentation submitted with the planning application to address the previous reasons for refusal. However, the report considers that significant issues concerning rural housing policy and traffic safety/hazard have not been addressed. A refusal was recommended for the three reasons set out in the decision.

3.2.2. Other Technical Reports

Roads Department – A refusal is recommended due to the proposal increasing traffic hazard on a substandard road.

Water Services – Further information is required in terms of surface water regarding the crossing of the watercourse, soakaway details, and water butts. No objection in terms of flood risk, subject to conditions.

Environmental Health Officer – The proposal is acceptable, subject to a condition relating to a maintenance contract for the wastewater treatment system.

Parks – The Planning Report states that the Parks Section had no objection subject to conditions. This Parks Report was not forwarded with the application documentation, and it was sought by the Board. The planning authority's response was that there is no record of receiving a hard copy 'and can only conclude that it must have been a verbal response'.

3.3. **Prescribed Bodies**

Irish Water – The Planning Report states that Irish Water had no objection. This Irish Water Report was not forwarded with the application documentation, and it was sought by the Board. The planning authority's response was that there is no record of receiving a hard copy 'and can only conclude that it must have been a verbal response'.

3.4. **Third Party Observations**

None received.

4.0 **Planning History**

Previous relevant planning applications on site are:

P.A. Reg. Ref. SD20A/0173 – Permission was refused in 2020 for a horse isolation unit consisting of three stables etc. and a dormer type grooms accommodation, an American barn with 10 no. stables etc., a wastewater treatment system and percolation area, and construction of a new vehicular entrance. Permission was refused for four reasons: (i) the development includes a house for two employees and, as such, is not provided for under Housing (H) Policy 22 of the County Development Plan 2016-2022 and compliance has not been demonstrated with the rural housing policy, (ii) the proposed development would endanger public safety by reason of traffic hazard, (iii) the removal of trees and hedgerows would materially contravene Policy

G2 Objectives 2 and 9 of the Plan, and (iv) the proposed development would set an undesirable precedent.

P.A. Reg. Ref. SD18A/0203 – Permission was refused in 2018 for a horse isolation unit consisting of three stables etc. and a dormer type grooms accommodation, an American barn with 10 no. stables etc., a wastewater treatment system and percolation area, and construction of a new vehicular entrance. Permission was refused for six reasons: (i) the development would endanger public safety by reason of traffic hazard, (ii) the removal of trees and hedgerows would materially contravene Policy G2 Objectives 2 and 9 of the South Dublin County Development Plan 2016-2022, (iii) insufficient detail was submitted in relation to wastewater and surface water and it was not demonstrated that the development would not be prejudicial to public health, (iv) no bat survey submitted and no information submitted to allow screening for Appropriate Assessment, (v) the development includes a house for two employees which is not provided for in the rural housing policy, and (vi) the proposed development would set an undesirable precedent.

5.0 Policy Context

5.1. Project Ireland 2040 National Planning Framework (NPF)

- 5.1.1. National Policy Objective (NPO) 19 states it is an objective to ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere. In rural areas under urban influence, 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 and 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. Eastern & Midlands Regional Assembly Regional Spatial & Economic Strategy 2019-2031 (RSES)

- 5.2.1. Regional Policy Objectives (RPOs) for Rural Areas include RPO 4.77 and RPO 4.78 which, generally, support local authority development plans prioritising the regeneration of rural towns, villages, and rural settlements. Policy RPO 4.80 reiterates NPO 19 where it states that, in Rural Areas Under Strong Urban Influence and Stronger Rural Areas, local authorities shall manage urban generated growth by ensuring that in these areas the provision of single houses in the open countryside is based on the core consideration of demonstrable economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements.

5.3. Sustainable Rural Housing Guidelines for Planning Authorities (2005)

- 5.3.1. These guidelines are relevant to the planning application. Circular Letter SP 5/08 was issued after the publication of the guidelines.

5.4. South Dublin County Council Development Plan 2016-2022

- 5.4.1. The site is in an area zoned 'Objective RU; To protect and improve rural amenity and to provide for the development of agriculture'. Schedule 5 (Definition of Use Classes & Zoning Matrix Table) indicates that 'residential' development is open for consideration in accordance with Council policy for residential development in rural areas. 'Agriculture' is permitted in principle.
- 5.4.2. Housing (H) Policy 22 'Rural Housing in RU Zone' has been cited in the first reason for refusal. This policy is as follows.

'It is the policy of the Council that within areas designated with Zoning Objective 'RU' (to protect and improve rural amenity and to provide for the development of agriculture) new or replacement dwellings will only be permitted in exceptional circumstances.

H22 Objective 1:

To consider new or replacement dwellings within areas designated with Zoning Objective "RU" (to protect and improve rural amenity and to provide for the development of agriculture) where:

- The applicant can establish a genuine need to reside in proximity to their employment (such employment being related to the rural community) OR
- The applicant has close family ties with the rural community’.

5.4.3. Section 11.3.4 (Rural Housing) has also been cited in the first reason for refusal. Subsection (ii) states, inter alia, ‘A minimum road frontage of 60 metres should be provided for all new dwelling sites in rural areas and a proliferation of housing along stretches of road in a manner that creates ribbon development should be avoided’.

5.4.4. Housing (H) Policy 21 ‘Rural Housing Policies and Local Need Criteria’ is referenced in the grounds of appeal.

‘It is the policy of the Council that in accordance with the Sustainable Rural Housing Guidelines DEHLG (2005) and Circular SP 5/08 Rural Housing Policies and Local Need Criteria in Development Plans: Conformity with Articles 43 and 56 (Freedom of Establishment and Free Movement of Capital) of the European Community Treaty, “persons who are an intrinsic part of the rural community” or “persons working full-time or part-time in rural areas” as described under Section 3.2.3 (Rural generated housing) of the Sustainable Rural Housing Guidelines (2005) shall be favourably considered in relation to rural housing’.

5.4.5. Section 4.6.0 (Rural Economy) states that it is the intention of the Council to restrict development in rural areas to appropriate forms of development that have a social or economic connection to the local area. Economic and Tourism (ET) Policy 9 ‘Rural Economy’ states ‘It is the policy of the Council to support sustainable rural enterprise whilst protecting the rural character of the countryside and minimising environmental impacts’.

5.5. Natural Heritage Designations

5.5.1. The closest Natura 2000 site is Red Bog SAC (Site Code 000397) approx. 6.2km to the south. The closest heritage area is Killeel Wood pNHA (Site Code 001394) approx. 1.8km to the south.

5.6. EIA Screening

- 5.6.1. Having regard to the nature and scale of the proposed development and the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination stage, and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The main points made can be summarised as follows:

- The Council accepts the site is not flood prone and does not accommodate historic or other features of note, no visual impact or design issues are raised, considers sewage treatment to be acceptable and raises no ecological concerns.

First Reason for Refusal

- Circular Letter SP 5/08 directs planning authorities to place significant weight on an applicant's commitment to a prospective rural business. The applicant explicitly satisfies this provision through her commitment to undertaking a full-time business, appropriate to a rural area and benefitting the community through trade, employment, and commerce, from her planned home in the countryside.
- The Council did not apply the tests set out in Circular SP 5/08, which is expressly subsumed into Housing Policy 21 of the South Dublin County Council Development Plan. It is axiomatic that compliance with this national provision would constitute compliance with the Council's rural housing policy. The applicant will be the operator of the business. It is far from clear from the Planning Report why the proposal cannot succeed under this particular policy. The Circular Letter instructs county councils to assess development proposals for one-off houses in the open countryside under three headings. Though

extensive information was submitted with the original application relating to the site, the applicant, the nature of the business etc. the Council's assessment overlooked this and plainly fails to comply with planning law in terms of providing a proper reason when denying consent. Consistent with the approach of the Board over recent decades farmers, and horse breeders/trainers, are capable of satisfying the rural housing test by reason of their occupation.

- It is axiomatic farmers need to live beside their animals to secure equipment, crops, flock or herd etc. Board references PL25.219110 (Co. Meath), PL27.232284 (Co. Wicklow) are cited and multiple other precedent cases were identified in the original application report in relation to persons with a responsibility for horses, and this appears to have been completely ignored. This part of Co. Dublin has a strong association with the equine sector. 'Homestead Saddlery' is in proximity to the site. SP 5/08 does not require the venture to have actually begun.
- The applicant's horses are in livery because of the absence of a farmhouse on the land. On-site accommodation is required because it is a seven day a week activity and the applicant must spend many hours working with horses in terms of supervision, exercising, feeding, stable work, foaling etc. The proposed house would comprise a small percentage of the overall development and it cannot succeed without the applicant's presence on the holding.
- The Plan does not direct eligible applicants into urban areas such as Rathcoole, Killeel, or Kill as suggested in the Planning Report or to buy a house in the countryside largely due to issues of separation. A round trip from the applicant's house would exceed 20km between 3-5 times a day. The Council's reason for refusal overlooked key elements of the application.

Second Reason for Refusal

- The second reason for refusal may have been garnered to bolster a questionable first reason for refusal. Previous legal comment is referenced which cautioned against the trend of planning authorities reaching unfounded opinion on safety without scientifically identifying the bases for such concerns.
- While the road varies slightly in width the applicant does not believe that it cannot accommodate two vehicles travelling in opposite directions. The

hardstanding is 5.2 metres wide as it passes the site, more than sufficient to accommodate two vehicles. No part of the internal reports suggests the local road cannot accommodate two vehicles passing or agricultural vehicles.

- The variety of vehicles expected to access the site is referenced. The site can be used for farming activities without permission. The movement of agricultural vehicles would not prejudice local road conditions given the minimal number of journeys that can reasonably be expected given the scale of the operation and straight stretch of carriageway. Experience shows a development accommodating approx. 18 no. horses would generate a minimal number of trips and where a house is proposed the person in charge of the horses would not need to travel to and from the site from elsewhere. The development would be operated primarily by a full-time individual aided at times by a single individual working part-time. There is a need for a scientific approach to public safety which identifies the actual bases for any real threat to road users.
- A survey of vehicular activity on the local carriageway on the week commencing 08.04.2021, attached to the grounds of appeal, indicates a lightly trafficked route with mean speeds of 57-58kph. There are reasonable grounds to suggest the planning authority's road safety fears are without substance.
- Flows noted on the survey do not warrant the planning authority's description as a 'relatively busy rural road' and the question is asked why drivers would use the local route with a 57-58kph mean speed rather than the usually unimpeded N7, as referenced in the refusal reason.

Third Reason for Refusal

- This reason for refusal does not raise new concerns and does not comprise a stand-alone reason for refusal. The planning code has repeatedly indicated that issues of precedent should not be raised in such circumstances.

6.2. Planning Authority Response

The planning authority confirms its decision, and the appeal raises no new issues.

6.3. Observations

None.

7.0 Assessment

The main issues are those raised in the grounds of appeal and the Planning Report, and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Zoning
- Compliance with the Rural Housing Policy
- Site Layout and Design
- Roads and Traffic
- Wastewater Treatment
- Ecology
- Precedent
- Appropriate Assessment (AA)

7.1. Zoning

- 7.1.1. The proposed development is in an area zoned 'Objective RU; To protect and improve rural amenity and to provide for the development of agriculture' in Map 11A of the South Dublin County Council Development Plan 2016-2022.
- 7.1.2. Schedule 5 (Definition of Use Classes & Zoning Matrix Table) of the Plan indicates that 'residential' development is open for consideration in accordance with Council policy for residential development in rural areas. 'Agriculture' is permitted in principle. Agriculture is defined in section 2(1) of the Planning & Development Act, 2000 (as amended). It 'includes ... the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur, or for the purpose of its use in the

farming of land), the training of horses and the rearing of bloodstock, the use of land as grazing land, ... and “agricultural” shall be construed accordingly’.

- 7.1.3. Therefore, the residential use may be consistent with the provisions of the Plan and the equine use is consistent with the provisions of the Plan in terms of zoning.

7.2. Compliance with the Rural Housing Policy

- 7.2.1. The applicant’s compliance with the rural housing policy is a significant consideration in this planning application. Two previous planning applications have been refused on site for reasons including non-compliance with the rural housing policy and it formed the basis of the planning authority’s first reason for refusal in the current application.
- 7.2.2. A substantial amount of documentation was submitted with the planning application to demonstrate the applicant’s compliance with the rural housing policy. It is stated that the applicant lives at Landscape House, Saggart. This is approx. 7.1km north east of the site as the crow flies and approx. 10.4km/13 minute drive by way of the N7. It is also in an area zoned ‘RU’ in the South Dublin County Council Development Plan 2016-2022. It is stated that the applicant owns the 5.7 hectare landholding subject of the application, the site itself comprising 0.899 hectares, and intends to undertake a small-scale full-time business i.e. horse breeding. The 5.7 hectare holding is considered, by the applicant, to be adequate to allow the development to proceed commercially (Policy RH18 of the Kildare County Development Plan 2017-2023 gives an area of 5 hectares as the minimum required for a rural house and full-time viable commercial equine or other rural enterprise). The documentation outlines the applicant’s background in equestrian activity in terms of riding, breeding, and selling show-jumping horses and a Business Plan was submitted as Appendix E of the Planning Submission Report. I am satisfied, having regard to the documentation submitted, that the applicant has an established background in the equestrian/sport horse area.
- 7.2.3. A number of planning applications/Board decisions are set out in the application which the applicant considers relevant to the current application. Many of these are much older applications (dating to 2005) which were considered under previous County Development Plans where different circumstances obviously arose in terms of siting and applicants. This application will be considered on its merits.

- 7.2.4. Only one previous planning application has been recorded at Landscape House, Saggart on the planning authority website. This was for a grant of permission in 2000 (P.A. Reg. Ref. S00A/0110) for an agricultural machinery, feed, and straw storage shed granted to Dr. Hugh Durkan (the applicant's father).
- 7.2.5. In planning application SD18A/0203 on site, the residential element of the proposed development was described in the public notices as a dormer type grooms accommodation. It had a floor area of 172sqm. It formed the southern side of the combined horse isolation unit/residential accommodation in a building type and design the same as that proposed under the current application (albeit the current proposal has five rather than three stables). A cover letter from the applicant referred to one rider and one groom 'residing there to be able to keep them (the horses) under observation at all times'. A cover letter from the applicant's agent stated that a yard at Saggart, owned by the applicant's father, is suitable for younger horses and less established horses, but that the applicant's equine business has outgrown these premises and requires special facilities to care for top level horses which results in the applicant's horses being located in various yards in Ireland and abroad. The planning authority's Planning Report considered that a house for two employees is not provided for under Housing (H) Policy 22 and, therefore, compliance with the Council's rural housing policy had not been demonstrated. The application was refused for six reasons with the rural housing issue comprising the fifth reason.
- 7.2.6. A subsequent application was received by the planning authority under SD20A/0173. Again, the residential element of the proposed development was described in the public notices as a dormer type grooms accommodation with a floor area of 172sqm and comprising the southern side of the same combined horse isolation unit/residential accommodation. A letter submitted from the applicant again refers to a rider and a groom residing on site. The cover letter submitted by the applicant's agent stated that rearing of high performance horses 'demands full time care by a competent person. This means that 2 staff have to live on site at all times'. The planning authority's Planning Report considered that 'the applicant has not demonstrated a genuine need for housing at this particular site or overcome the previous reason for refusal'. The application was refused for four reasons and the first reason for refusal related to the rural housing policy. Again, this reason specifically noted the proposed dwelling was for two employees.

- 7.2.7. In the current application (SD21A/0009) the public notices refer to the residential accommodation proposed on site as 'a dwelling unit containing two bedrooms' etc. i.e. it is no longer referred to as grooms accommodation. The planning authority's Planning Report notes that no information has been put forward 'as to why employees that were previously required to reside in the dwelling, which a significant emphasis was placed on by the applicant in the previous application, would now not currently be required to reside there'. Policy H22 was considered in the Report and the Report concluded, in relation to the rural housing policy, that the applicant had not overcome the previous reason for refusal in terms of providing sufficient justification as to why the applicant is required to live in this specific location.
- 7.2.8. I consider that the main issue with the current application is the vagueness and uncertainty that, in my opinion, surrounds the proposed occupancy of the residential unit. No reason is provided as to why the rider and groom, considered to be critical in the two previous applications, are no longer required. While the Planning Submission Report received by the planning authority certainly implies that the applicant will reside in the residential unit, particularly in Section 8 (Rural Housing Policy) (iii) (Need for Accommodation), the Report nonetheless, in my view, does not make this explicit. As part of the supporting documentation the applicant submitted a cover letter. This is identical to that submitted under SD20A/0173 and similar to that submitted under SD18A/0203. It states that 'I need to be able to have the horses farmed and trained under one roof with one rider and one groom residing there to be able to keep them under observation at all times'. While this may be an older cover letter it has been submitted with the current application and clearly envisages a rider and a groom occupying the residential unit. I also note that the Business Plan, which is dated December 2020, refers to the residential accommodation as either 'groom's accommodation' or 'house'. It does not state that the applicant will be resident on site. Further, the grounds of appeal, in my opinion, again fail to expressly and unambiguously state that the applicant will live full-time in the proposed residential unit.
- 7.2.9. Housing (H) Policy 20 in the County Development Plan 2016-2022 states 'It is the policy of the Council to restrict the spread of dwellings in the rural "RU" ... zones and to focus such housing into existing settlements'. Housing Policies 21 and 22 are also relevant policies. I will consider the proposed development in the context of H Policy

22 first. H22 Objective 1 outlines two scenarios where new or replacement dwellings will be considered in an RU zone. These are where the applicant has close family ties to the rural community or where the applicant can establish a genuine need to reside in proximity to their employment. The applicant does not have close family ties to this rural community and the application is not based on this. However, the applicant does claim to have a genuine need to reside in proximity to their employment, notwithstanding that this employment is not currently located at the site.

- 7.2.10. Policy H 21 states that persons working full-time or part-time in rural areas shall be favourably considered in relation to rural housing in accordance with the Sustainable Rural Housing Guidelines (2005) and Circular Letter SP 5/08. The Circular Letter states that a bone fide applicant who may not be living in the area or have family connections or be engaged in a particular employment or business within local need criteria should be given due consideration subject to three considerations. These considerations, and how the applicant complies are as follows.

Commitment to operate a full-time business – I am satisfied, having regard to the documentation submitted with the application, that the applicant is committed to operating a full-time business.

Contribute to and enhance the rural community – I am satisfied that a sport horse business would contribute to and enhance the rural community given that, by its nature it is largely a rural-based activity, would be consistent with the zoning objective and would use rural-type professionals and products such as veterinarians, feed, bedding etc.

Nature of business is compatible – I am satisfied the nature of the business is a rural-based activity compatible with the local needs criteria for rural areas and it is generally location dependant.

- 7.2.11. Policies H20, H21, and H22, and Circular Letter SP 5/08, all relate to rural housing. I consider that, to oversee the full-time operation of a sport horse business such as that proposed, a house would be a reasonable element of the development. However, it is clear from the policies and the Circular Letter, that the rural housing referred to relates to an envisaged permanent home for the applicant. Given the cited occupancy of the proposed residential unit under both previous planning applications and the current application (in the applicant's letter) and, notwithstanding the content of that letter, the

absence, in my opinion, of clear, explicit, and unambiguous commitment from the applicant that the proposed residential unit is to be her full-time, permanent place of residence, which is required for her personal occupation in order to oversee the on-site business, I do not consider that a grant of permission for the proposed development is appropriate under the provisions of the County Development Plan 2016-2022 and Guidelines/Circular Letter. There is no provision in the Plan whereby employee accommodation can be provided in rural areas. I recommend permission be refused for this reason.

- 7.2.12. Should the Board come to a different decision on this matter I consider that an occupancy condition restricting occupancy of the house specifically to the applicant or her immediate family should be attached to any grant of permission as set out in H Policy 26.

7.3. Site Layout and Design

- 7.3.1. Site layout and the design of the proposed structures are issues for consideration as part of the normal assessment for development such as that proposed.

Site Layout

- 7.3.2. While the overall landholding comprises three fields (front, middle, and rear), the red-line site boundary itself comprises part of each field. The main development area i.e. the stables/residential accommodation, yard, wastewater treatment system and percolation area, are located on the southern side of the middle and rear fields. There is an approx. 260 metres long driveway proposed to the main development area. This driveway runs centrally through the front, and part of the middle, fields presumably to create sizeable paddocks to either side. The field boundaries all have substantial mature tree planting, some of which is to be removed to accommodate the proposed development. The cited finished floor levels of the two proposed structures are similar to the ground levels of the public road. The site layout is similar to both previous planning applications and was not considered to be a concern in either application. I consider the proposed site layout to be acceptable.
- 7.3.3. The first reason for refusal states that, as the proposal fails to provide a minimum road frontage of 60 metres, it would contravene Section 11.3.4 (ii) of the South Dublin County Council Development Plan 2016-2022. This states that 'A minimum road

frontage of 60 metres should be provided for all new dwelling sites in rural areas and a proliferation of housing along stretches of road in a manner that creates ribbon development should be avoided'. This road frontage width is a recommendation, not a requirement. The road frontage of the approx. 5.7 hectare landholding is approx. 90 metres. While the red line site boundary frontage is only approx. 15 metres wide, the remaining area is to be used as a paddock. Subsection (ii) appears to have been introduced to avoid undesirable ribbon development, but I do not consider, given the layout of the landholding proposed, that the lack of a 60 metres 'site' frontage is a significant concern with this application. However, should a future application be made for additional residential development it may be a material consideration. Notwithstanding, in so far as it relates to this current planning application, I consider the contravention of Section 11.3.4 (ii) is not a significant issue.

Design

- 7.3.4. There are two separate buildings proposed, a horse isolation unit/house and an American barn.
- 7.3.5. The combined isolation unit/residential unit structure has a floor area of 434sqm of which 262sqm comprises the isolation unit and 172sqm comprises the dwelling. It has a general height of 7.19 metres and is to be externally finished in plaster with a slate roof. The American barn has a floor area of 407sqm, a height of 6.3 metres, and is to be externally finished in plaster with roof cladding. The house does not visually present as a house but rather as part of the stables structure. The combined structure is closer to the public road than the American barn but would not be visually obtrusive given the distance from the road and the existing trees/proposed landscaping. The combined structure is more elaborate in design than the more straightforward 14 no. stables block but both structures reflect an equestrian-type development. Both structures are similar in design to those previously proposed on site and considered acceptable by the planning authority.
- 7.3.6. I consider the design of both proposed structures to be acceptable.

Conclusion

- 7.3.7. I consider the site layout and building designs to be acceptable.

7.4. Roads and Traffic

- 7.4.1. The second reason for refusal relates to the nature of the road network in the area. The reason refers to a narrow width and poor horizontal alignment, that the development would result in an increase in vehicles accessing the site, considers the road to be substandard for the amount of traffic that uses it, and with no adequate facilities for pedestrians and other vulnerable road users. The planning authority considers that the development would endanger public safety by reason of traffic hazard.
- 7.4.2. The applicant disputes the planning authority's position. The applicant considers that there is no scientific basis for the planning authority's concern. The applicant considers that the road is more than sufficient in width to accommodate two vehicles and this issue is not cited in the Roads Section report despite it forming part of the second reason for refusal. The applicant notes that the site can be used for certain agricultural activities which would attract vehicular movement without the requirement for any planning permission. A survey was submitted with the grounds of appeal which indicate a lightly trafficked road with a mean vehicle speed of 57-58kph. I would note in this regard that the survey was carried out the week commencing 8th April 2021 so may not reflect 'normal' traffic volumes. A Traffic Survey Report carried out by NDC and dated January 2019 was submitted with the application received by the planning authority. This was based on the week beginning 27th January 2019 and gave a seven day average of 927 no. vehicles at the site location (622 no. northbound and 305 no. southbound) with a mean speed of 57.3kph.
- 7.4.3. There is an existing agricultural entrance relatively centrally along the road frontage of the landholding. It is proposed to close this entrance and construct a new vehicular entrance at the northern end of the frontage, adjacent to an existing vehicular entrance. Sightlines of 150 metres are indicated on the Site Layout Plan though the full extent of sightlines in a northern direction are not shown. The local road is relatively straight at the site location with a grass verge between the road and the site boundary hedgerow/tree line. I measured the road width as approx. 4.9-5.0 metres at the proposed vehicular entrance and as approx. 4.8-4.9 metres at the existing agricultural entrance. I consider that the road is a standard local road, part of the normal public road network in a rural area and would not concur with the planning authority's position

that it is notably narrow or of poor horizontal alignment. While it is possible that from time to time a car may have to give way to a larger agricultural vehicle, in general terms it is a normal rural road.

- 7.4.4. I consider that the increase in vehicular movement as a result of the proposed development, as set out in the reason for refusal, is overstated. While there would obviously be an increase, I do not consider it would be such that it would have any significant impact on the carrying capacity of the public road, and where adequate sightlines exist. The reason for refusal also refers to the variety of vehicles accessing the site. The grounds of appeal imply that a four-wheel drive vehicle towing a horse box or carrier would generally be the type of larger vehicle accessing the site.
- 7.4.5. The reason for refusal also states that the road is relatively busy during peak hours due to traffic which uses it to avoid the N7. I concur with the applicant in that I fail to see any reason why a driver/commuter would use this local road to avoid the N7. The site is located relatively centrally between Junctions 5 and 6, both approx. 1.5km north and west, respectively, from the site and there would appear to be no benefit from using this local road instead of the N7 for anybody other than local users. The absence of adequate facilities for pedestrians and other road users is noted but this is a local, rural road and these generally do not have footpaths, cyclepaths or public lighting etc. I do not consider this an unreasonable deficiency in relation to this road.
- 7.4.6. Having regard to the foregoing, I consider that the second reason for refusal cited by the planning authority, is not reasonable. I do not consider that the local road network is deficient to the extent that an equine/residential development would generate such an increase in traffic movements that would significantly affect the carrying capacity of the road or would endanger public safety by reason of traffic hazard as set out.

7.5. Wastewater Treatment

- 7.5.1. Wastewater treatment is an issue for consideration in unsewered areas. Under SD18A/0203, the third reason for refusal noted that insufficient details were submitted regarding the treatment of wastewater and it had not been demonstrated that the proposed development would not be prejudicial to public health. This was not a reason for refusal under SD20A/0173 or the current application. The trial hole, percolation test

holes and tests were carried out in May 2018, according to the Site Characterisation Form and are the same as those submitted under SD20A/0173.

- 7.5.2. The site is in an area with a poor aquifer of moderate vulnerability. Groundwater was encountered at a depth of 0.8 metres in the 2.4 metres deep trial hole. Bedrock was not encountered. The soil conditions were mainly firm, light brown/grey, clay. Table B.2 (Response Matrix for On-Site Treatment Systems) of the EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses, 2009, identifies an R1 response category i.e. acceptable subject to normal good practice.
- 7.5.3. The T-test result was 67.05. A P-test was also carried out giving a result of 36.33. I consider the results to be consistent with the ground conditions observed on site. On inspection, groundwater was encountered at a depth of approx. 1.1-1.2 metres in the trial hole, which was somewhat degraded and overgrown. The field was surfaced in grass with no ponding or rushes. Table 6.3 (Interpretation of Percolation Test Results) of the Code of Practice states that, based on the T-test result, the site is not suitable for the development of a septic tank system but may be suitable for a secondary treatment system with a polishing filter at the depth of the T-test hole. Based on the P-test, the site is suitable for a secondary treatment system with a polishing filter at ground surface or overground. Section 5.0 (Recommendation) of the Site Characterisation Form recommends installation of a packaged wastewater treatment system and polishing filter discharging to groundwater.
- 7.5.4. From the documentation on file, including the Site Layout Plan, I consider the separation distances to key features as set out in Table 6.1 (Minimum Separation Distances in Metres) of the Code of Practice are achieved. A well is proposed on site (though the Site Characterisation Report states that the area is on mains). As per Table B.3 (Recommended Minimum Distance Between a Receptor and a Percolation Area or Polishing Filter) a 25 metres separation distance is required in this case and 55 metres is provided. Table 6.3 recommended provision of a secondary treatment system with a polishing filter. It is proposed to provide an Oakstown BAF 6 PE with an overground sand polishing filter as per the recommendation of the Site Characterisation Report. The percolation area is based on the 2012 clarification on disposal of effluent from polishing filters issued by the EPA.

- 7.5.5. Having regard to the foregoing I consider the proposed development is acceptable in terms of wastewater treatment. I note this was not considered to be a concern in the planning application and the Environmental Health Officer's report indicated no objection subject to a standard maintenance contract condition.

7.6. Ecology

- 7.6.1. In the previous planning applications on site reasons for refusal included the removal of trees and hedgerows that would materially contravene Objectives 2 and 9 of Policy G2 of the County Development Plan 2016-2022, and the absence of a bat survey. Three relevant documents have been submitted with this planning application.

An 'Ecological Impact Assessment' (EcIA)

- 7.6.2. This was prepared by Openfield Ecological Services and is dated January 2021. This report provides for an ecological assessment of the proposed development. A site visit was carried out in January 2019 (sic). The report acknowledges that January is outside the optimal survey period for general habitat surveys. The hedgerow, treeline, and watercourse/drainage ditches are considered to be of Local importance (higher value) and the grassland of Local importance (lower value). Some construction and operational phase impacts are set out. Four mitigation measures are proposed. These relate to compensatory landscaping, vegetation removal, best practice for the prevention of pollution during construction, and low level lighting. The predicted impact is that 'With full implementation of the proposed mitigation measures it can be expected to no negative impacts will occur to flora and fauna arising from this development'.

A 'Bat Assessment'

- 7.6.3. This was prepared by Wildlife Surveys. A survey was carried out on 20.05.2019. The river had high bat activity throughout the night (it is assumed this river is the watercourse through the site, named the Kill East stream in the EcIA). Bats were also noted elsewhere. An aerial photograph is provided showing the main areas of activity. The bat species feeding and commuting on site were the common pipistrelle, soprano pipistrelle, Leisler's bat, and Natterer's bat. Five recommendations are made. These relate to checking certain types of trees for bats prior to felling, provision of bat boxes,

use of native trees when planting, cessation of building work if bats are discovered, and provision of low level lighting with no illumination to the stream.

An 'Arboricultural Assessment'

- 7.6.4. This was carried out by Arborist Associates Ltd. dated 04.12.2020. Not all trees on the landholding have been included in the assessment. 19 no. trees, a tree belt and five hedges are included. 5 no. trees are designated Category U (any existing value would be lost within 10 years, and they should not be considered a constraint on the design layout). The tree belt is designated Category A (high quality/value with a minimum 40 years life expectancy). The tree belt is located along the southern boundary of the middle and rear fields. One tree is designated Category B (trees of moderate quality/value with a minimum 20 years life expectancy) and the remaining 13 no. trees and five hedges are designated Category C (low quality/value with a minimum of 10 years life expectancy).
- 7.6.5. Layout plans have been submitted identifying these trees, tree belt and hedges as well as which areas are to be retained and which are to be removed. It is proposed to remove 13 no. trees (5 no. 'U' and 8 no. 'C') and approx. 34 metres of hedging divided between three hedges. This is considered in the assessment to be 'very minimal' and could easily be mitigated by landscaping which could be dealt with by way of a planning condition. Items for consideration during the construction process relating to tree pruning, tree protection, construction, services, boundary treatments, and landscaping are set out which could be considered as good practice measures.

Conclusion

- 7.6.6. I consider that the proposed development would not have any undue adverse impact on the ecology/biodiversity of the area subject to the mitigation measures set out in the reports being implemented, including the provision of landscape plan which could be agreed with the planning authority prior to commencement of development.

7.7. Precedent

- 7.7.1. The third reason for refusal states that the proposed development would set an undesirable precedent for other similar developments.

- 7.7.2. The main issues with this application, in terms of the planning authority's decision, are compliance with the rural housing policy and traffic/the road network. This reason for refusal does not raise any new or otherwise specific issue with the proposed development. This planning application was assessed on its own merits, as other planning applications are. Should the first two reasons for refusal be addressed and overcome, this reason for refusal would be redundant.
- 7.7.3. I consider this reason should be omitted as a reason for refusal.

7.8. Appropriate Assessment (AA)

- 7.8.1. AA is required for each proposed project. The fourth reason for refusal under SD18A/0203 stated that no information was submitted in order to allow screening for AA to be carried out.
- 7.8.2. A 'Screening Report for AA' prepared by Openfield Ecological Services and dated January 2021 has been submitted with the current planning application. This is a revised and updated version of their September 2019 report submitted with SD20A/0173. Its conclusion and finding states 'This project has been screened for AA under the appropriate methodology. It has found that significant effects are not likely to arise, either alone or in combination with other plans or projects to the Natura 2000 network. Mitigation measures have not been taken into account in arriving at this conclusion'.
- 7.8.3. There is a watercourse running across the site along the boundary between the front and middle fields. This is referred to as the Kill East stream in the screening report. The EPA website refers to this watercourse as the Slane River. Drainage ditches are also identified as occurring along most of the landholding boundary. The Slane River/Kill East stream watercourse flows south across the site and across the N7 where it joins the Painestown River, which then crosses the Grand Canal and is a tributary of the Morrell River which flows into the River Liffey just south of Straffan. There are no European designations on any of these rivers. The only European designations occur at the mouth of the Liffey discharge into the Irish Sea where South Dublin Bay and River Tolka Estuary SPA (Site Code 004024), North Bull Island SPA (Site Code 004006), North Dublin Bay SAC (Site Code 000206), and South Dublin Bay SAC (Site Code 000210) are present. There are no other European sites within the

zone of influence of the site. These European sites are approx. 48km, hydrologically, from the site. The closest Natura 2000 site to the site subject of the application is Red Bog SAC (Site Code 000397) approx. 6.2km to the south.

- 7.8.4. Having regard to the nature and scale of the development proposed and to the nature of the receiving environment, remote from any European site, no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

I recommend that the planning application be refused for the following reasons and considerations.

9.0 Reasons and Considerations

1. The proposed development includes provision of a two-bedroom dwelling unit. The site is in an area zoned 'Objective RU; To protect and improve rural amenity and to provide for the development of agriculture' in the South Dublin County Council Development Plan 2016-2022. 'Residential' development is open for consideration in accordance with Council policy for residential development in rural areas. Housing (H) Policy 21 (Rural Housing Policies and Local Need Criteria) states 'It is the policy of the Council that in accordance with the Sustainable Rural Housing Guidelines DEHLG (2005) and Circular SP 5/08 ... "persons working full-time or part-time in rural areas" ... shall be favourably considered in relation to rural housing'. H Policy 22 (Rural Housing in RU Zone) states 'within areas designated with Zoning Objective 'RU' new ... dwellings will only be permitted in exceptional circumstances' such as where the applicant can establish a genuine need to reside in proximity to their employment (such employment being related to the rural community).

Having regard to the documentation received, the Board is not satisfied that the applicant is the intended, full-time occupant of the proposed dwelling unit, living on-site to manage and oversee the operation of the proposed commercial development. Therefore, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines or the Development Plan for a house at this location. The proposed development would contravene Housing (H) Policies 21 and 22 of the South Dublin County Council Development Plan 2016-2022 and would be contrary to the Sustainable Rural Housing Guidelines issued by the Department of the Environment, Heritage and Local Government in April 2005, and Circular Letter SP 5/08. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Anthony Kelly

Planning Inspector

16.09.2021