



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311125-21

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<b>Development</b>	Subdivision of site and construction of house with new vehicular access, wastewater treatment system and percolation area
<b>Location</b>	Derrycrib, Donadea, Naas, Co. Kildare
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	21748
<b>Applicant(s)</b>	Arlene O'Malley
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refusal
<b>Type of Appeal</b>	First
<b>Appellant(s)</b>	Arlene O'Malley
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	12 <sup>th</sup> November 2021
<b>Inspector</b>	Ian Boyle

## **1.0 Site Location and Description**

- 1.1. The appeal site has a stated area of 0.3ha and is within the rural townland of Derrycrib, Donadea, Co. Kildare. It is approximately 4km north of the Stapletown and 14km east of Maynooth. The land is mainly composed of perennial grasses and bogland. It does not appear to have any particular use and there is no evidence of farming.
- 1.2. The site is located on the southern side of a regional road (the R409), which runs in an east - west direction generally. The site is mostly flat. The northern boundary is defined by a thick mature hedgerow and a roadside drainage ditch that runs parallel to the road. The eastern, southern, and western boundaries are not physically defined.
- 1.3. The River Blackwater is roughly 70m to the east of the site. It runs in a north - south direction and is traversed by the R409 Road. A small road culvert provides the crossing point. There is a narrow agricultural drainage ditch approximately 25m to the south of the site. It flows in a west - east direction and is connected to the River Blackwater. The River Blackwater then flows northwards where it ultimately meets the River Boyne.
- 1.4. The site lies outside the rural settlement boundary of Stapleton.

## **2.0 Proposed Development**

- 2.1. Permission is sought for subdivision of the site and construction of a dwelling, vehicular access, onsite wastewater treatment system and associated site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Planning permission was refused on 19<sup>th</sup> July 2021 for 2 no. reasons, which are as follows:

1. Policy RH9(iv) of the Kildare County Development Plan 2017-2023 seeks to ensure that, notwithstanding compliance with the local need criteria,

applicants comply with all other normal siting and design considerations, including the capacity of the area to absorb further development. In conjunction with the level of existing development in the vicinity it is considered that the proposed development would exacerbate an excessive density of development in this rural area, would contribute to the increasing suburbanisation of the area, would materially contravene Policy RH9(iv) and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Policy RH(vi) of the Kildare County Development Plan 2017-2023 seeks to ensure that, notwithstanding compliance with the local need criteria, applicants comply with all other normal siting and design considerations, including the ability of a site in an unserviced area to accommodate an onsite waste water disposal system in accordance with the EPA Code of Practice for Domestic Wastewater Treatment Systems (2021), the County Kildare Groundwater Protection Scheme, and any other relevant documents / legislation as may be introduced during the Plan period. Having regard to the presence of peat in the area and of the proposed percolation area it is considered that the site is not suitable for the provision of a waste water treatment plant and due to poor percolation of peat soils and the consequent risk of pollution of waters and, therefore, the proposed development would contravene Policy RH(vi) of the Kildare County Development Plan 2017-2023, and would be prejudicial to public health and, therefore contrary to the proper planning and sustainable development of the area.

### **3.2. Planning Authority Reports**

### **3.3. Planning Report**

- The Council's Planning Report forms the basis of the Planning Authority's Decision. Having examined the application, and having considered the potential impacts of the development, and the relevant policies of the County Development Plan, the Council Planning Officer recommended a Refusal for the two reasons set out in the Decision.

- The proposed development was deemed as compliant with the considerations in relation to rural housing need under Category 2(i) of Table 4.3(b) of the Kildare County Development Plan 2017-2023.

### **3.4. Other Technical Reports**

Environment Section: Recommended Refusal. Report also noted there were omissions and problems with the submitted application documentation, which would normally have given rise to a further information request. Furthermore, the site was deemed unsuitable for an onsite wastewater treatment system due to the poor percolation of peat soils onsite and the consequent risk of polluting groundwater and to public health.

Water Services: No objection, subject to conditions.

Roads, Transportation and Public Safety: Recommended further information in relation to the provision of adequate sightlines (Item 1), letter of consent be provided by the relevant landowner(s) if the adjoining land / site boundaries are required to be setback or physically relocated (Item 2), details of potential removal of hedgerows, trees, poles, mounds, etc. in order to achieve adequate sightlines (Item 3), and submission of a section drawing indicating details of the proposed driveway.

MD Engineer: No objection, subject to conditions.

### **3.5. Prescribed Bodies**

Irish Water: No objection subject to conditions.

## **4.0 Planning History**

### **Subject Site**

None.

### **Surrounding Area**

Reg. Ref. 061440: The Planning Authority granted permission on 12<sup>th</sup> July 2006 for a bungalow, domestic garage and onsite wastewater treatment plant. The site is approximately 100m to the west of the appeal site and the house is now built.

## 5.0 Policy Context

### 5.1. Kildare County Development Plan 2017-2023

Chapter 4 of the Kildare County Development Plan 2017-2023 ('Development Plan') refers to Housing. Section 4.12.7 is in relation to Rural Housing Policy.

#### Table 4.3(b)

##### Rural Housing Policy Zone 1

The Applicant has applied for permission for the proposed development under the provisions of Category 2(i) of Table 4.3(b), which is as follows:

##### 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<sup>1</sup> ties or their active and direct involvement in a rural based enterprise.*

- (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 5km of the original family home may be considered.*

##### **RH2**

*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.*

##### **RH9**

*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 the following:*

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<sup>1</sup> Immediate family members are defined as mother, father, son, daughter, brother, sister or guardian.

- (iv) *The capacity of the area to absorb further development. In particular, the following factors will be examined; the extent of existing development in the area, the extent of ribbon development in the area, the degree of existing haphazard or piecemeal development in the area and the degree of development on a single original landholding.*
- (v) *The ability to provide safe vehicular access to the site without the necessity to remove extensive stretches of native hedgerow and trees. The need for the removal of extensive roadside hedgerow may indicate that the site is unsuitable for development.*
- (vi) *The ability of a site in an unserviced area to accommodate an on-site waste water disposal system in accordance with the EPA Code of Practice for Wastewater Treatment Systems for single houses (2009), the County Kildare Groundwater Protection Scheme, and any other relevant documents / legislation as may be introduced during the Plan period.*

#### **RH10**

*Control the level of piecemeal and haphazard development of rural areas close to urban centres and settlements having regard to potential impacts on:*

- (i) *The orderly and efficient development of newly developing areas on the edges of towns and villages;*
- (ii) *The future provision of infrastructure such as roads and electricity lines;  
and*
- (iii) *The potential to undermine the viability of urban public transport due to low density development.*

#### **RH12**

*Discourage ribbon development (defined as five or more houses alongside 250 metres of road frontage)<sup>4</sup>. The Council will assess whether a given proposal will exacerbate such ribbon development, having regard to the following:*

- (i) *The type of rural area and circumstances of the applicant;*
- (ii) *The degree to which the proposal might be considered infill development;*

*(iii) The degree to which existing ribbon development would coalesce as a result of the proposed development;*

*(iv) Local circumstances, including the planning history of the area and development pressures;*

*(v) Notwithstanding the above, special regard will be given to the circumstances of immediate family members of a landowner on single infill sites in a line of existing dwellings with 5 or more houses along a 250 metres of road frontage.*

## **5.2. Project Ireland 2040 – National Planning Framework (NPF)**

5.2.1. 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.
- In rural areas elsewhere, 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.

## **5.3. Sustainable Rural Housing Guidelines for Planning Authorities, 2005**

5.3.1. The subject site is located within an 'Area under Strong Urban Influence' as identified in Map 1: Indicative Outline of the NSS rural areas types in the Sustainable Rural Housing Guidelines for Planning Authorities, 2005. The Guidelines note that in these areas the objective should be on the one hand to facilitate the housing requirements of the rural community, as identified by the Planning Authority in the light of local conditions, while on the other hand directing urban generated development to areas

zoned for new housing development in cities, towns and villages in the development plan.

- 5.3.2. Circular Letter SP 5/08 was issued after the publication of the guidelines on 30<sup>th</sup> September 2009. The letter states that all planning applications for houses in rural area, regardless of where the applicant comes from, or whether they qualify under specific criteria, must continue to be determined on the basis of proper planning and sustainable development of the area, in accordance with Development Plan policies regarding overarching environmental concerns, including the protection of natural assets, landscape, siting and design, traffic safety, etc.

#### **5.4. Southern Regional Assembly Regional Spatial & Economic Strategy for the Southern Region (RSES)**

- 5.4.1. Section 3.7 (Rural Areas) states the countryside is, and will continue to be, a living and lived-in landscape focusing on the requirements of rural economies and rural communities, based on agriculture, forestry, tourism and rural enterprise, while at the same time avoiding ribbon and over spill development from urban areas and protecting environmental qualities.
- 5.4.2. The RSES, like the NPF, makes a distinction between areas under urban influence and rural areas outside these catchments. Development plans will set an appropriate rural housing policy response to avoid ribbon and over-spill development from urban areas, support revitalised towns and villages, achieve sustainable compact growth targets and protect the rural resource for rural communities, including people with an established local connection to the area.
- 5.4.3. Regional Policy Objective (RPO) 27 seeks to support rural economies and rural communities through implementing a sustainable rural housing policy which provides a distinction between areas under urban influence and other rural areas through the implementation of NPO 19. The four requirements of the Local authorities are to:
- a. Include policies for the protection of the viability of smaller towns and rural settlements as key priority within Development Plans;*
  - b. Have regard for the viability of smaller towns and rural settlements. Core Strategies shall identify areas under urban influence and set the appropriate sustainable rural housing policy response which facilitates the*



*provision of single housing in the countryside based on the core consideration of demonstrable economic, social or local exceptional need to live in a rural area and sitting, environmental and design criteria for rural housing in statutory guidelines and plans;*

- c. Having regard for the viability of smaller towns and rural settlements, in rural areas elsewhere, facilitate the sustainable provision of single housing in the countryside based on sitting and design criteria for rural housing in statutory guidelines and plans;*
- d. Provide for flexibility in zoning and density requirements to ensure that rural villages provide attractive easily developed options for housing.*

## **5.5. Natural Heritage Designations**

No natural heritage designations apply to the subject site.

The closest European Site is Ballynafagh Lake SAC (Site Code: 001387), which is approximately 4.9km to the south. This site is also designated as a pNHA (Site Code: 00391).

The Ballynafagh Bog SAC (Site Code: 000391) is approximately 5.6km to the south.

The River Boyne and River Blackwater SAC (Site Code: 002299) and SPA (Site Code: 004232) is approximately 16.2km to the northwest.)

The Donadea Wood pNHA (Site Code: 001391) is roughly 1.5km to the east.

## **5.6. EIA Screening**

Having regard to the limited nature and small scale of the proposed development, which is for a single dwelling and wastewater treatment system, and the absence of any significant environmental sensitivity in the vicinity, 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

- There is no record of the pre-planning discussion that took place with the Planning Authority noted in the Council Planner's Report. This is appended to the Applicant's appeal submission.
- The Planning Authority considers the proposed design and siting of the new house would be in accordance with the Rural Design Guidelines (Chapter 17 of the Development Plan).
- In relation to the issue of excessive density, the Applicant notes that whilst there are approximately 25 no. houses within 500m of the appeal site only eight of these are on the south side of the public road that bounds the site. It is submitted that the proposal would not materially alter the character of the area or its ability to absorb the new development.
- Permission was granted to the Applicant's sister (Reg. Ref. 07.03.2007) on land adjoining the appeal site which is of a very similar character and condition.
- The proposed development has been designed to respect its landscape and natural diversity. See enclosed 3D images and Landscape Plan in this regard.
- The Soil Suitability Test submitted with the original application demonstrates that the proposed development would be suitable for the site. See also enclosed letter from R Campbell Consulting Engineering Ltd in this regard which provides further evidence.
- The Applicant provides details regarding the proposed site access arrangement. It is noted that there is an existing gate that could be either removed or replaced with a native hedgerow, or widened, to achieve the necessary sightlines.
- The proposed development is in accordance with Policy RH2 of the Development Plan and should be granted permission.

## **6.2. Planning Authority Response**

- Appeal reviewed and no further comment to make. The Board should refer to the Planner's Report and all internal reports on file.

## **7.0 Assessment**

The main planning considerations relevant to this appeal case are:

- Capacity of the area to absorb further development
- Wastewater disposal
- Other Issues
- Appropriate Assessment

### **7.1. Capacity of the area to absorb further development**

- 7.1.1. The Planning Authority's first Reason for Refusal is that the proposed development would exacerbate an excessive density of development in the area, which is rural, and would contribute to the increasing suburbanisation of the area. Therefore, the proposal would materially contravene Policy RH9(iv) of the County Development Plan.
- 7.1.2. In terms of the character of the area, I note that the appeal site is within an area of sustained pressure for development. It is designated in the Sustainable Rural Housing Guidelines 2005, Map 1 Indicative Outline of NSS Rural Area Types as an 'Area under Strong Urban Influence' and is designated Rural Housing Policy Zone 1 (RHPZ1) in the Development Plan. Section 4.12.6 of the Development Plan states that RHPZ1 includes the northern, central and eastern areas of the county (along the border with Wicklow) and is a more populated area with higher levels of environmental sensitivity and significant development pressure.
- 7.1.3. Whilst the site is essentially rural in nature I note that urban pressures are visible. I have completed a physical inspection of the site and viewed mapping and aerial photography for the surrounding vicinity, which confirm that there is a strong demand for rural on-off housing in this location and that it is the prevailing form of residential development. As such, I consider the restrictive policies of the Development Plan to

be reasonable and consistent with national policy in terms of the proper planning and sustainable development of the area.

- 7.1.4. The Applicant states in their Appeal Response that whilst there are approximately 25 no. houses within 500m of the appeal site only 8 no. of these are on the south side of the road that abuts the site. It is submitted that the proposal would not materially alter the character of the area, or its hinder ability to absorb the new development.
- 7.1.5. Having regard to this, Policy RH12 of the Development Plan seeks to discourage ribbon development and to avoid an excessive density of development from occurring in rural areas, which is described as five or more houses alongside 250m of road frontage. I note that there are no houses within 250m to the east of the appeal site. However, there are five dwellings present within roughly 250m to the west. There is also a strong presence of further one-off houses along this stretch of road further to the west, towards Donadra, and which further contributes to an emerging pattern of ribbon development in the vicinity and along the R409 Regional Road.
- 7.1.6. I also note that development pressure in this area has overflowed into small local roads and laneways, many of which provide access to agricultural fields. In some cases, these lanes are narrow and have a poor surface treatment. Whilst I acknowledge the proposed development would be directly accessed from a main regional road, I note also that the Council's Roads Department requested detailed further information in relation to sightlines, proposed access arrangements, and the potential setting back of adjoining properties to create a visibility splay to achieve safe access and egress, each of which are outstanding issues that have not been resolved. In this regard, I acknowledge the Applicant's Appeal Response where it is stated these issues could potentially be overcome, subject to implementing various design options, such as partial clearance of a section of existing hedgerow, the potential removal of the existing entrance gate and its replacement with a native hedge, widening of the site entrance, etc. However, notwithstanding this, I consider that it would be more appropriate for the Applicant to prepare a specific design solution as part of a revised application that addresses these issues upfront, rather than to apply a condition in this circumstance.

- 7.1.7. RH12 (iv) states that special regard will be given to the circumstances of immediate family members of a landowner on single infill sites in a line of existing dwellings with 5 or more houses along a 250 metres of road frontage. Given the appeal site is not an infill site, as per the above description, I do not consider that the proposal could be considered based on being an infill.
- 7.1.8. In summary, I consider that this form of development is unsustainable in rural areas, including at the appeal site, and that it would lead to an increased demand for the uneconomic provision of further public services and facilities in this rural area. In my opinion, the proposed development would exacerbate ribbon development in the area, which is characterised by a high level of rural one-off housing, and that it would not be in accordance with Policies RH9(iv) and RH12 of the Development Plan.
- 7.1.9. I also consider that the addition of this dwelling and the exacerbation of ribbon development would cumulatively contribute to the erosion of the rural character of the area. The proposed development would consolidate and contribute to the build-up of haphazard, piecemeal development in this rural area and would, therefore, be contrary to proper planning and development.

## **7.2. Wastewater Disposal**

- 7.2.1. The Planning Authority's second Reason for Refusal is that the site would not be suitable for the provision of onsite wastewater treatment due to the poor percolation of peat soils and the consequent risk of polluting waters. The proposed development would, therefore, contravene Policy RH9(vi) of the Development Plan and be prejudicial to public health.
- 7.2.2. I note that the EPA Code of Practice (2021) applies to site assessments and associated wastewater treatment installations carried out on or after 7<sup>th</sup> June 2021. The 2009 Code of Practice for Waste Water Treatment and Disposal System Serving Single Houses (i.e. ≤ 10) may, however, be used for site assessments and associated installations commenced before 7<sup>th</sup> June 2021, or where planning permission has been applied for before that date. This is as per the Explanatory Letter issued by the EPA in March 2021, which includes for a transition period between the 2009 and 2021 Codes of Practice.

- 7.2.3. As the application for the proposed development was made on 28<sup>th</sup> May 2021, the 2009 Code of Practice (CoP) is acceptable to be used in the assessment of the proposed development, and this is the CoP used by the Applicant.
- 7.2.4. The Geological Survey Ireland (GSI) confirms the appeal site is in an area with a locally important aquifer – bedrock which is moderately productive. The groundwater vulnerability is described as M (Moderate). The soil is cutaway peat and subsoil permeability is referenced as moderate according to the GSI online mapping system. The Site Characterisation Form notes that onsite vegetation predominantly comprises grass and that is possibly suitable for drainage, subject to testing.
- 7.2.5. During my site visit and visual assessment of the land, I noticed the presence of small rush outcrops indicating possible surface water ponding occurs during wet weather. I further note that the northern boundary of the site is adjoined by an existing roadside drainage ditch. The ditch was holding water which potentially stems from a combination of surface water runoff from the appeal site and adjacent road. The existing entrance gate to the site at this location, and associated timber pillars and fence posts, show evidence of subsidence and of sinking, which would typically indicate wet and soft ground conditions.
- 7.2.6. The submitted information implies that a Ground Water Protection response (GWPR) of R1 applies under Table B2 of the EPA Code of Practice (2009). This indicates that an onsite treatment system is acceptable, subject to normal good practice (i.e. system selection, construction, operation and maintenance in accordance with the CoP).
- 7.2.7. The Site Characterisation Form submitted with the application confirms that a trial hole was dug at a depth of 2.1m on the site and that the water table was encountered at 0.7m. It is indicated that bedrock was not encountered.
- 7.2.8. The Form indicates a T-value of 0. However, I note that a P-test has also been carried out as part of the Site Suitability Test. The P-Test result is recorded on the Form as 15.06, which would generally indicate that the topsoil may be suitable to perform as part of a polishing filter if installed with a secondary treatment system. Section 5.0 of the Form confirms that the proposal seeks to install a proprietary treatment unit with such a soil polishing filter system.

- 7.2.9. However, notwithstanding this, the ground conditions for the appeal site do not appear to be capable of accommodating an onsite wastewater treatment system. I note Page 68 of the CoP which states that peat soils when saturated are unsuitable for disposal of treated wastewater because they provide inadequate percolation and may result in ponding – particularly during the wintertime. In addition, the CoP notes that colour is a good indicator of the state of aeration of soil/subsoil. Free-draining soils/subsoils in an oxidised state exhibit brown, reddish brown and yellowish brown colours. Grey / black soils indicate poor drainage, however. I note that the photographs submitted as part of the Soil Characterisation Form show the soil is mainly dark and black in colour. This indication of poor drainage is consistent with the ground conditions observed during my site inspection and implies that surface ponding potentially occurs during wet conditions or wintertime.
- 7.2.10. In relation to the potential proliferation of domestic wastewater treatment systems in the surrounding vicinity, I note that there are approximately 25 houses in proximity of the appeal site. In the absence of a public sewer these houses would also potentially discharge directly to groundwater. The application provides no assessment of the cumulative impact on groundwater of this collection of houses.
- 7.2.11. It is further noted that the interdepartmental report completed by the Council's Environment Section states that the site is not suitable for provision of a wastewater treatment system. This is due to the presence of peat in the area and that the disposal of treated waste onsite would not be suitable due to the poor percolation qualities of the soil. The Environment Section recommended permission be refused for the proposed development.
- 7.2.12. The CoP (Table 6.1) specifies minimum setback distances from various sensitive receptors and key features, so that a new effluent treatment system can safely discharge to ground. This includes separation distances from private groundwater sources, surface water soakaways, watercourses, drains, dwellings, roads, site boundaries, etc. From viewing the information on file, I am satisfied that the required minimum separation distances, as set out in Table 6.1, have been met and the proposal is compliant with this part of the CoP.
- 7.2.13. However, I am not satisfied based on the information contained on file, together with my inspection of the site having regard to its drainage characteristics, that the site

would be suitable to accommodate an onsite wastewater treatment system such as that proposed. I consider that the proposed development would likely present a risk by way of groundwater pollution and be prejudicial to public health. In summary, the proposed development would not be in accordance with the proper planning and sustainable development of the area for this reason and I recommend that permission be refused.

### **7.3. Other Issues**

#### Design and Siting

- 7.3.1. I have no objection to the proposed siting and design of the dwelling and do not consider that it would adversely impact on the visual setting of the area. The proposed house is two-storeys and would have a maximum height of approximately 7m. The Applicant has sought to divide the development into different blocks or volumes in order to reduce its potential for visual impact on the surrounding vicinity. It is a relatively low structure and not located on high ground, such as along a ridgeline or on an elevated site, and is setback sufficiently from the public road at approximately 19m.
- 7.3.2. There is an existing mature hedgerow along the site frontage, which is proposed to be kept largely intact – apart from the section where the new vehicular entrance would be situated – and I consider this would help screen the development. I also note that the Applicant has submitted a detailed landscape plan that would assist in assimilating the proposed development with its surrounding area.
- 7.3.3. In my view, the proposed development would be in accordance with the rural design guidelines as per Chapter 17 of the Development Plan.

#### Compliance with Rural Housing Policy

- 7.3.4. The appeal site is located in an area designated as Rural Housing Policy Zone 1, as identified on Map 4.4 of the Development Plan. Table 4.3 of the Plan identifies the categories of housing need criteria, which are required to be met to demonstrate eligibility for a one-off rural house in this area. The Rural Housing Needs Assessment for the Applicant is based on Category 1 of Table 4.3, which 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 5km of the original family home may be considered.*

- 7.3.5. The Applicant does not own the site. However, there is a letter of consent on file permitting the application to be made in their name, which is from the Applicant's sister. The Applicant currently resides within the family home. The location of the house is denoted on an aerial photograph accompanying the Design Report and indicates that it is approximately 5.2km from the appeal site. Whilst this is slightly outside the 5km distance, I consider it to be sufficiently close, noting that the appeal site is also owned by a direct family member. The homes of immediate family members are also shown on the graphic and live in the surrounding vicinity, which provides further context of the Applicant's historical and familial roots with the area.
- 7.3.6. Proof of address is provided in the form of various bank statements, letters from service providers and other formal correspondence. A letter is appended to the application confirming her attendance at Newtown National School, which is approximately 5.8km to the north. I further note that the Applicant's son recently attended the local Gaeilscoil in Kilcock (Scoil Uí Riada) and that a letter from the school confirming this is appended to the application. I also note that there is no information available indicating the Applicant has applied for planning permission previously on the subject site.
- 7.3.7. In my view, the Applicant has provided evidence that demonstrates she has spent a substantial period of her life in the local area. I have examined the documentation on file, and considered the points made in terms of national policy as set out in the Sustainable Rural Housing Guidelines for Planning Authorities and the rural housing policy sections of the Development Plan. Having regard to the information submitted with the planning application and the appeal, I am satisfied that the Applicant complies with the provisions of Table 4.3(b) (Category 2(i)) of the Development Plan and that she has clear and established links to the area and a longstanding, personal and family connection to it.

## **7.4. Appropriate Assessment**

### Stage 1 Screening – Introduction

- 7.4.1. The Applicant submitted an Appropriate Assessment Screening Report (AA Screening) as part of their original application to the Planning Authority. The report was prepared by Eco Eireann and is dated 16<sup>th</sup> March 2021. I have considered the report as part of my assessment below.
- 7.4.2. The AA Screening Report contains an assessment of any likely significant impacts caused by the proposal on relevant Natura 2000 sites, both individually and in combination with other plans and projects. The Planning Authority reviewed the information received, carried out a screening assessment and determined, having regard to the proposed development and distance to the nearest Natura 2000 site, that the development will not have a significant effect on any European Site.
- 7.4.3. The Applicant's AA Screening Report was prepared in line with current best practice guidance and provides a description of the proposed development and identifies European Sites within a possible zone of influence of the development. The Applicant's Report concluded that based on the analysis provided, using currently available information, the proposed works will not result in any Likely Significant Effect (LSE) on the surrounding Designated Sites, or the hydrologically connected, Designated Sites.
- 7.4.4. Having reviewed the documents and submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.

### Screening for Appropriate Assessment – Test of Likely Significant Effects

- 7.4.5. The project is not directly connected with or necessary to the management of a European Site and, therefore, it needs to be determined if the development is likely to have significant effects on a European Site. The proposed development is examined in relation to possible interactions with European Sites, including designated Special Conservation Areas (SACs) and Special Protection Areas (SPAs), in order to assess whether it may give rise to significant effects on any European Site.

### Brief Description of Development

7.4.6. The applicant provides a description of the project on Pages 5 to 10 of the AA Screening Report and elsewhere in the Applicant's Planning Design Report. In summary, the development comprises:

- Subdivision of the site;
- Construction of a two-storey, detached dwelling and associated vehicular access;
- Provision of an onsite wastewater treatment system and drainage works; and
- Associated site works including landscaping.

7.4.7. The development site is described on Page 11 of the AA Screening Report as being situated in a rural setting within disused agricultural grassland. A roadside ditch is located along the L1010 to the north of the site which flows west - east into the Blackwater River. A small agricultural drainage ditch also flows west - east, approximately 50m to the south of the site boundary, along the perimeter of land within the Client's ownership. This small drainage ditch flows into the adjacent headwaters of the River Blackwater. From this confluence of the River Blackwater and the drainage ditch the River Blackwater then travels c.32km north/northeast to join with the River Boyne, where it flows into the Designated area of the River Boyne & River Blackwater SAC and SPA.

7.4.8. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

- Pollutants or sedimentation to ground or surface water (e.g. run-off silt, fuel oils, wastewater effluent) at construction and operational phases of the proposed development.

### Submissions and Observations

7.4.9. No submissions have been received from prescribed bodies or third parties relevant to this assessment.

## European Sites

- 7.4.10. No designations apply to the subject site.
- 7.4.11. The closest European Site is Ballynafagh Lake SAC (Site Code: 001387), which is approximately 4.9km to the south and the Ballynafagh Bog SAC (Site Code: 000391), which is approximately 5.6km to the south. There is no pathway or connection from the appeal site to these European Sites, however.
- 7.4.12. The River Boyne and River Blackwater SAC (Site Code: 002299) and SPA (Site Code: 004232) is approximately 16.2km to the northwest and there is a connection between it and the appeal site.

## Identification of Likely Effects

- 7.4.13. The Applicant's AA Screening Report shows that there are three designated sites and five proposed designated sites located within 15km of the site. These are shown in Appendix 2 of the report. The site is outside the 15km buffer of the River Boyne and River Blackwater SAC and SPA. However, it is hydrologically connected to the proposed development via adjacent watercourses and, therefore, has been included as part of the screening. The main elements of the proposal which may give rise to impacts on the European sites listed above, include both construction and operational activities. These are summarised below.
- 7.4.14. During the construction phase there is potential for surface water runoff from site works to temporarily discharge via land drains to the adjacent roadside ditch to the north and small agricultural drainage ditch to the south.
- 7.4.15. During the operational phase runoff from the site would be discharged via the same drains. The site is hydrologically connected to designated sites, including the designated area of the River Boyne & River Blackwater SAC and SPA, which is roughly 16.2km to the northwest. However, the hydrological connection is indirect and weak.
- 7.4.16. Given the separation distance involved it is not expected that the water quality pertinent to the European sites would be negatively affected by any contaminants, such as silt from site clearance and other construction activities given that if such an event were to occur dilution and settling out over such a distance would ensure no significant impact. Therefore, the construction phase would not result in any

significant environmental impacts that could affect European Sites within the wider catchment area notwithstanding the unsuitability of ground conditions for foul drainage and onsite wastewater disposal.

- 7.4.17. In relation to bird species connected with the River Boyne and River Blackwater SAC (Site Code: 002299), there is no direct connection to the SPA from the subject site. Due to the nature of the proposal, distance and lack of connectivity there are no significant negative impacts foreseen for SCIs connected with the site as a result of this proposal. Therefore, the construction phase will not result in significant environmental impacts that could affect this European Site. Impacts on water quality would also not be significant for the above reasons.

#### In-combination Impacts

- 7.4.18. Section 7 of the AA Screening Report addresses the potential for effects of the project in combination with other plans or projects. I do not consider that there are any specific in-combination effects that arise from the development in conjunction with other plans or projects.

#### **Screening Determination**

##### Finding of no Likely Significant Effect

- 7.4.19. The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended.
- 7.4.20. Having carried out Screening for Appropriate Assessment, it has been concluded that the proposed development individually or in combination with other plans or projects would not be likely to have a significant effect on the River Boyne and River Blackwater SAC (Site Code: 002299) and SPA (Site Code: 004232), or any other European site, in view of the sites' Conservation Objectives, and that Appropriate Assessment (and submission of a NIS) is not, therefore, required.
- 7.4.21. This determination is based on the following: distance of the proposed development from European sites, dilution factor and lack of any meaningful ecological connections to those sites.

## **8.0 Recommendation**

- 8.1. I recommend that planning permission be refused for the reasons and considerations set out below.

## **9.0 Reasons and Considerations**

- 9.1. Policy RH9(iv) of the *Kildare County Development Plan 2017-2023* seeks to ensure that, notwithstanding compliance with the local need criteria, applicants must comply with all other normal siting and design considerations, including the capacity of the area to absorb further development. The policy is considered reasonable. The proposed development would be in conflict with this policy because, when taken in conjunction with existing development in the vicinity of the site, it would consolidate and contribute to the build-up of ribbon development in an open rural area. This would militate against the preservation of the rural environment and lead to demands for the provision of further public services and community facilities. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
- 9.2. Policies RH10 and RH12 of the *Kildare County Development Plan 2017-2023*, seek to control the piecemeal and haphazard development of rural areas close to urban centres and settlements, and to discourage ribbon development, respectively. The Board considers that the proposed development would contribute to an increasing pattern of suburbanisation in a rural area that is under significant development pressure and that it would exacerbate further piecemeal residential development in the area. The proposed development would, therefore, contravene the provisions of Policies RH10 and RH12 of the Development Plan, and be contrary to the proper planning and development of the area
- 9.3. Having regard to the poor percolation characteristics of the site and high water table; the proliferation of domestic wastewater treatment systems in this rural area; and the Sustainable Rural Housing Guidelines for Planning Authorities (2005), which recommends avoiding sites in unsewered areas where it is inherently difficult to provide and maintain wastewater treatment and disposal facilities; the Board is not satisfied, notwithstanding the proposal to install a proprietary wastewater treatment plant on the site that the proposed development, in conjunction with existing

wastewater systems in the area, would not give rise to a risk of groundwater pollution. It is considered, therefore, that the proposed development would be prejudicial to public health.

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Ian Boyle  
Planning Inspector

5<sup>th</sup> January 2021